

Misbranding was alleged for the reason that the statements "Choc. Cov." and "Pure Chocolate Covered Candy", "Chocolate Covered Pops", "Chocolates", and "Choc. Cov. Jelly Frappe", "Chocolate M. M. Turkey Eggs" and "Choc-O", together with the design showing a chocolate-covered bar, borne on the labels of the various products, were false and misleading, and for the further reason that the articles were labeled so as to deceive and mislead the purchaser, since the said statements and designs represented that the articles were pure chocolate-covered candies and that the centers of the jelly frappe consisted of fruit jelly frappe; whereas they were not pure chocolate-covered candies, but were covered with a mixture consisting of chocolate and cocoa shell, and the centers of the jelly frappe consisted of an artificially colored and flavored imitation jelly. Misbranding was alleged with respect to most of the products for the further reason that they were offered for sale under the distinctive name of another article, namely, pure chocolate-covered candy. Misbranding of the jelly frappe was alleged for the further reason that it was an imitation of another article, namely, pure chocolate-covered fruit jelly frappe.

On May 15, 1935, the defendant entered a plea of guilty and the court imposed a fine of \$80.

W. R. GREGG, *Acting Secretary of Agriculture.*

24712. Misbranding of beer. U. S. v. Golden West Brewing Co. Plea of guilty. Fine, \$50. (F. & D. no. 33842. Sample no. 60461-A.)

This case was based on an interstate shipment of beer which contained 6.25 percent of alcohol, and which was misbranded because the case label bore the representation that the article contained not more than 4 percent of alcohol, and on the bottle the alcohol content was declared in proof spirits in a manner to create the impression that it contained 12½ percent of alcohol.

On October 30, 1934, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Golden West Brewing Co., a corporation, Oakland, Calif., alleging shipment by said company in violation of the Food and Drugs Act, on or about February 26, 1934, from the State of California into the State of Oregon of a quantity of beer which was misbranded. The article was labeled in part: (Case) "Golden Glow Beer * * * Does not contain more than 4.0 per centum of alcohol by volume"; (bottle) "Golden Glow Ale over 12½% alcohol american proof spirits * * * Golden West Brewing Co. Los Angeles—Oakland—San Francisco California."

The article was alleged to be misbranded in that the statement, "Does not contain more than 4.0 per centum of alcohol by volume", borne on the case, and the conspicuous isolated statement "12½%", together with the inconspicuous statement "over 12½% Alcohol American Proof Spirits", borne on the bottle label, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, in that the statement on the case represented that the article contained not more than 4 percent of alcohol, and the statements on the bottle represented that the article contained at least 12½ percent of alcohol; whereas it contained more than 4 percent of alcohol and contained less than 12½ percent of alcohol.

On May 17, 1935, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$50.

W. R. GREGG, *Acting Secretary of Agriculture.*

24713. Misbranding of canned peaches. U. S. v. California Packing Corporation. Plea of guilty. Fine, \$40. (F. & D. no. 33851. Sample no. 66727-A.)

This case was based on shipments of canned peaches which were found to be short weight.

On November 27, 1934, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the California Packing Corporation, San Francisco, Calif., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about August 29, 1933, and January 2, 1934, from the State of California into the State of Wyoming of quantities of canned peaches which were misbranded. The article was labeled in part: "Our Family Contents 1 lb. 14 oz. Halves Yellow Cling Peaches Distributed by Nash-Finch Co General Offices Minneapolis, Minn."

The article was alleged to be misbranded in that the statement "1 lb. 14 oz.", borne on the label, was false and misleading, and for the further reason that

it was labeled so as to deceive and mislead the purchaser, since the cans did not each contain 1 pound 14 ounces of the article, but did contain in each of a large number of the cans examined less than so declared. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement was incorrect.

On May 11, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$40.

W. R. GREGG, *Acting Secretary of Agriculture.*

24714. Adulteration of butter. U. S. v. Swift & Co. Plea of guilty. Fine, \$150 and costs. (F. & D. no. 33899. Sample no. 65164-A.)

This case was based on an interstate shipment of butter that contained less than 80 percent of milk fat.

On February 13, 1935, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Swift & Co., a corporation, trading at Kansas City, Kans., alleging shipment by said company in violation of the Food and Drugs Act on or about May 11, 1934, from the State of Kansas into the State of Illinois of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat, as required by the act of Congress of March 4, 1923, which the article purported to be.

On May 22, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$150 and costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

24715. Misbranding of bread. U. S. v. The Continental Baking Co. Plea of guilty. Fine, \$658.30. (F. & D. no. 33904. Sample nos. 66826-A, 71443-A, 71447-A to 71450-A, incl.)

This case was based on interstate shipments of bread that was short weight. On February 18, 1935, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Continental Baking Co., a corporation, trading at Pueblo, Colo., alleging shipment by said company in violation of the Food and Drugs Act as amended, in various consignments on or about May 16, May 22, May 23, and May 24, 1934, from the State of Colorado into the State of New Mexico of quantities of bread which was misbranded. The article was labeled in part: "Wonder-Cut * * * 15 Oz. [or "18 Oz.", "16 Oz. or Over", or "16 Oz."] Bread * * * Continental Baking Company."

The article was alleged to be misbranded in that the statements "15 Oz.", "18 oz.", "16 Oz. or Over", and "16 Oz.", borne on the labels, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since each of a large number of the packages examined contained less than so declared. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement was incorrect.

On May 2, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$658.30.

W. R. GREGG, *Acting Secretary of Agriculture.*

24716. Misbrading of canned cherries. U. S. v. Alton Canning Co., Inc. Plea of guilty. Fine, \$50 on each of two counts; fine suspended on one count. (F. & D. no. 33920. Sample nos. 44093-A, 58750-A.)

This case was based on interstate shipments of two lots of canned cherries. In one instance the product was short weight, and in the other it fell below the standard for canned cherries established by this Department with respect to color, uniformity of size, and sugar content of the liquid portion, and was not labeled to indicate that it was substandard.

On April 8, 1935, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Alton Canning Co., Inc., Alton, N. Y., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about July 26, 1933, from the State of New York into the State of Pennsylvania, and on or about January 2, 1934, from the State of New York into the State of Maryland, of quantities of canned cherries which were mis-