

which must contain not less than 80 percent by weight of milk fat as defined by the act of Congress of March 4, 1923, which the article purported to be.

Misbranding was alleged for the reason that the statement "Butter", borne on the label, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the said statement represented that the article was butter, as defined by law, whereas it was not butter as so defined, but was a product containing less than 80 percent by weight of milk fat.

On June 10, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$20 and costs.

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

24817. Adulteration of dried peaches and adulteration and misbranding of evaporated apples. U. S. v. Albert Asher (Albert Asher Co.). Plea of guilty. Fine, \$150. (F. & D. no. 33798. Sample nos. 23128-A, 23130-A, 47904-A.)

This case was based on interstate shipments of a lot of dried peaches which were in part moldy, dirty, and insect-infested, and of a lot of evaporated apples which contained excessive moisture.

On October 17, 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 Albert Asher, trading as the Albert Asher Co., San Francisco, Calif., alleging shipment by said defendant in violation of the Food and Drugs Act on or about April 8, 1933, from the State of California into the State of Nevada of a quantity of dried peaches which were adulterated, and on or about May 5, 1934, from the State of California into the Territory of Hawaii of a quantity of evaporated apples which were adulterated and misbranded. The articles were labeled, respectively: "Tree Ripened Peaches California"; "Paradise Brand Extra Choice California Evaporated Apples Packed by Albert Asher Co San Francisco California."

The dried peaches were alleged to be adulterated in that they consisted in part of a filthy, decomposed vegetable substance and a filthy animal substance.

Adulteration of the evaporated apples was alleged for the reason that apples containing excessive moisture, that is, apples insufficiently evaporated, had been substituted for evaporated apples, which the article purported to be.

Misbranding of the evaporated apples was alleged for the reason that the statement "Evaporated Apples", borne on the label, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since it did not consist of evaporated apples, but consisted of insufficiently evaporated apples. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article.

On May 20, 1935, a demurrer to the information, filed on behalf of the defendant, was argued and overruled. On September 28, 1935, a plea of guilty was entered and the court imposed a fine of \$150.

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

24818. Adulteration of evaporated apples. U. S. v. Gilbert Apple Products Co., Inc. Plea of guilty. Fine, \$200. (F. & D. no. 33817. Sample nos. 49104-A, 49405-A, 50527-A, 62103-A.)

This case was based on interstate shipments of apples which were in part insect-infested and dirty.

On December 10, 1934, 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 Gilbert Apple Products Co., Inc., Rochester, N. Y., alleging shipment by said company in violation of the Food and Drugs Act on or about October 14, October 31, November 23, 1933, and January 2, 1934, from the State of New York into the States of Virginia, Ohio, and Georgia of quantities of evaporated apples which were adulterated. A portion of the article was labeled in part: "Bake-Rite Brand Evaporated Apples Packed by Gilbert Apple Products Co., Inc. Rochester, N. Y."

The article was alleged to be adulterated in that it consisted in part of filthy vegetable and animal substances.

On June 5, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$200.

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