

On May 13, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against William Horowitz, trading under the aliases, W. Horwitz, F. Herbert, and Frank Herbert, New York, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act between the dates of November 28, 1933, and January 4, 1934, from the State of New York into the States of Illinois, Massachusetts, and Maryland of quantities of confectionery which was adulterated. The article was labeled in part: "Mlle Modiste" or "Palais Royal Confiserie Moderne."

The article was alleged to be adulterated in that it contained spirituous liquor.

On June 10, 1935, the defendant entered a plea of guilty and the court imposed a fine of \$50 on each of the 16 counts of the information. Fines were suspended on all counts but the first.

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

24837. Adulteration and misbranding of ginger ale and ginger ale sirup. U. S. v. Buffalo Rock Co. Plea of guilty. Fine, \$50. (F. & D. no. 33951. Sample nos. 61894-A, 11551-B.)

This case was based on interstate shipments of ginger ale sirup and ginger ale that contained added caffeine.

On April 6, 1935, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Buffalo Rock Co., a corporation, Birmingham, Ala., alleging shipment by said company in violation of the Food and Drugs Act on or about January 23 and July 14, 1934, from the State of Alabama into the State of Mississippi of quantities of ginger ale sirup and ginger ale, which were adulterated and misbranded. The articles were labeled in part: "Buffalo Rock Ginger Ale Syrup [or "Buffalo Rock Pale Ginger Ale"] * * * Buffalo Rock Company Birmingham, Alabama."

The articles were alleged to be adulterated in that caffeine had been substituted in part for the articles.

Misbranding was alleged for the reason that the unqualified statement, "Ginger Ale Syrup", with respect to the sirup, and the statement "Ginger Ale", unqualified by any word other than "Pale" and "Extra Dry" with respect to the ginger ale, borne on the labels, 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 represented that they consisted solely of ginger ale sirup or ginger ale; whereas they did not so consist, but did consist in part of caffeine.

On August 9, 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.*

24838. Misbranding of canned pears and canned black raspberries. U. S. v. Olympia Canning Co. Plea of guilty. Fine, \$30 and costs. (F. & D. no. 33969. Sample nos. 66582-A, 66735-A, 66755-A, 67796-A.)

This case was based on interstate shipments of canned pears and canned black raspberries which were short weight.

On April 27, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Olympia Canning Co., a corporation, Olympia, Wash., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about July 16, 1932, from the State of Washington into the State of Colorado of a quantity of canned black raspberries which were misbranded, and on or about November 6, 1933, and February 23, 1934, from the State of Washington into the States of Wyoming and New York, respectively, of quantities of canned pears which were misbranded. The articles were labeled, variously: "Yellowstone Brand Bartlett Pears Contents 1 lb. 14 oz. Packed for Paxton and Gallagher Co., Omaha"; "Solitaire Black Raspberries * * * Net Weight 1 lb. 5 ozs. 595 Grams The Morey Mercantile Company Distributors Denver, Colorado"; "Jes-so Bartlett Pears Contents 1 lb. 14 oz. * * * Distributed by Sweet Life Food Corp. New York."

The articles were alleged to be misbranded in that the statement, "Contents 1 lb. 14 oz.", with respect to the canned pears, and the statement, "Net Weight 1 lb. 5 ozs.", with respect to the canned black raspberries, borne on the labels, were false and misleading, and for the further reason that the articles

were labeled so as to deceive and mislead the purchaser, since the cans contained less than so declared. Misbranding was alleged for the further reason that the articles were foods in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages, since the statement was incorrect.

On May 17, 1935, a plea of guilty was entered on behalf of the defendant company and on June 1, 1935, the court imposed a fine of \$30 and costs.

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

24839. Adulteration and misbranding of butter. U. S. v. Carthage Creamery Co. Plea of nolo contendere. Fine, \$100. (F. & D. no. 33980. Sample nos. 5217-B, 6260-B.)

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

On April 17, 1935, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Carthage Creamery Co., a corporation, Carthage, Mo., alleging shipment by said company in violation of the Food and Drugs Act on or about July 9, 1934, from the State of Missouri into the State of Florida, and on or about July 11, 1934, from the State of Missouri into the State of Massachusetts, of quantities of butter which was adulterated and misbranded. A portion of the article was labeled in part: "Creamery Butter Pasteurized Distributors Wilson & Co. * * * Chicago, Ill." The remainder was labeled in part: "Riverdale * * * Brand Creamery Butter * * * Packed for John Morrell & Co. General Offices Ottumwa, Iowa."

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.

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

On June 10, 1935, a plea of nolo contendere was entered on behalf of the defendant company and the court imposed a fine of \$100.

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

24840. Misbranding of butter. U. S. v. Cloverleaf Butter Co. Plea of guilty. Fine, \$25. (F. & D. no. 33984. Sample nos. 61944-A, 61945-A.)

This case involved a shipment of butter that was short weight.

On April 26, 1935, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Cloverleaf Butter Co., a corporation, Birmingham, Ala., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about January 31, 1934, from the State of Alabama into the State of Louisiana of a quantity of butter which was misbranded. A portion of the article was labeled: (Carton) "Process Butter One Pound Net * * * Manufactured by Cloverleaf Butter Company"; (wrapper) "Net Weight 4 oz. When Packed." The remainder of the article was labeled: "Process Butter 1 Lb. Net Weight Cloverleaf Creamery Co. Birmingham, Ala."

The article was alleged to be misbranded in that the statements, "One Pound Net", "Net Weight 4 oz.", and "1 Lb. Net Weight", 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 the cartons and rolls did not contain 1 pound of the article, but did contain less than 1 pound, and the prints did not contain 4 ounces of the article, but did contain less than 4 ounces. 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 statements were incorrect.

On July 16, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$25.

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