

The article was alleged to be misbranded in that the statement, "Not A Confection", borne on the label, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since it represented that the article was not a confection, whereas in fact it was a confection. Misbranding was alleged further in that it 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, "Twenty-four Pieces", borne on the package, did not give accurate information as to the quantity in terms of weight.

On November 25, 1935, a plea of guilty was entered on behalf of the defendant corporation and the court imposed a fine of \$25 and costs.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

25273. Adulteration and misbranding of candy. U. S. v. Henry F. Schulze (Schulze Candy Co.). Plea of guilty. Fine, \$25. (F. & D. no. 34021. Sample nos. 41229-A, 41230-A, 41231-A, 41232-A, 66851-A.)

This case was based on interstate shipments of candy which contained spirituous liquor, and which was misrepresented as not being a confection, and the packages of which failed to bear a statement of the weight of the contents.

On June 6, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Henry F. Schulze, trading as Schulze Canning Co., Oak Park, Ill., charging shipment by said defendant, in violation of the Food and Drug Act, on or about January 16 and March 2, 1934, from the State of Illinois into the States of Minnesota and New Mexico, of quantities of candy, which was adulterated and misbranded. The packages of the article in the first of the two consignments were labeled, variously, as follows: (One lot) "Napoleon Cordials 18 Pieces Cordial—Not a Confection. All government taxes have been paid on this merchandise"; (a second lot) "Chokicks Cordial (Not a Confection) Five Pieces, 25¢ Made in U. S. A. All government taxes have been paid on this merchandise"; (a third lot) "1 Lb. Net." The packages in a fourth lot of this consignment were unlabeled except a rose design on the lid of the package. The packages of the article in the second consignment were labeled as follows: (One lot) "Cordials Cordial (Not a Confection) Twenty-four Pieces Made in U. S. A."; (a second lot) "Chokicks Cordials Not a Confection Tower Products 629 W. Marquette Road Chicago Phone Normal 1086 Twenty-four Pieces Made in U. S. A."

The article in both of the consignments was alleged to be adulterated within the meaning of the act, in case of confectionery, in that it contained spirituous liquor.

The article in the first and second lots of the first consignment and in both of the lots of the second consignment was alleged to be misbranded in that the statement "Not a Confection", borne on the labels, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since it represented that the article was not a confection; whereas in fact the article was a confection. Misbranding of the article in two consignments was alleged further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since a number of the packages (in the fourth and unlabeled lot of the first consignment) each bore no statement as to the quantity of the contents of the package, and the statement of the number of pieces in the labeled packages in the first and second lots of the first consignment and in both lots of the second consignment did not give accurate information as to the quantity in terms of weight.

On October 16, 1935, the defendant entered a plea of guilty and the court imposed a fine of \$25.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

25274. Adulteration and misbranding of candy. U. S. v. New Deal Wholesale Liquor Co. Plea of guilty. Fine, \$25. (F. & D. no. 34023. Sample nos. 50541-A, 65334-A, 65335-A, 65336-A, 65337-A, 65338-A, 65339-A.)

This case was based on interstate shipments of candy which contained spirituous liquor, and which was misrepresented as not being a confection, and the packages of which failed to bear a statement of the weight of the contents.

On June 6, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed an information against the New Deal Wholesale Liquor Co., a corporation, Forest Park, Ill., charging shipment by said corporation, in violation of the Food and Drug

Act, on or about February 1, 6, and 12, 1934, from the State of Illinois into the State of Ohio, and from the State of Ohio into the State of Illinois, of quantities of candy which was adulterated and misbranded. The packages of the article in the first of the three consignments were labeled, variously, as follows: (One lot) "All government taxes have been paid on this merchandise"; (on a card inside of package) "Bourbon Cordials (Not a Confection) 5¢ a Drink in a Chocolate Cup"; (a second lot) "Cordials 'Not a Confection' Fifteen Pieces Made in U. S. A."; (a third lot) "Assorted Flavors Creme De Menthe-Peach-Kummel Cordials 'Not a Confection' Twenty-four Pieces [or "Fifteen Pieces"] Made in U. S. A."; (a fourth lot) "Genuine Liquor Filled Chocolates Not a Confection Not to be Sold to Minors A Finger for A Nickel Real Tax Paid Whiskey [Designs: Glass containing liquor, man holding piece of chocolate candy] * * * Casterline Cordials." In a fifth lot of this consignment the packages, unlabeled, were accompanied by stickers to be placed thereon, each bearing the words and statements: "Chokicks Cordials Not a Confection Tower Products * * * Chicago." The packages of the article in the second and third consignments were labeled as follows: "Cordials (Not a Confection) Twenty-four Pieces Made in U. S. A."

The article in all three of the consignments was alleged to be adulterated within the meaning of the act, in the case of confectionery, in that it contained spirituous liquor.

The article in all three of the consignments was alleged to be misbranded in that the statement "Not a Confection", borne on the labels, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since it represented that the article was not a confection; whereas in fact the article was a confection. Misbranding of the article in all three of the consignments was alleged further in that it 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 packages bore no statement as to the quantity in weight, and the statement of the number of pieces in the packages in the second and third lots of the first consignment and in the second and third consignments did not give accurate information as to the quantity in terms of weight.

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

R. G. TUGWELL, *Acting Secretary of Agriculture.*

25275. Adulteration of butter. U. S. v. Walter J. McHenry (North Star Dairy). Plea of guilty. Fine of \$50 suspended. (F. & D. no. 34033. Sample no. 71322-A.)

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

On June 11, 1935, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Walter J. McHenry, trading as North Star Dairy, Kalispell, Mont., charging shipment by said defendant, in violation of the Food and Drug Act, on or about May 23, 1934, from the State of Montana into the State of Washington, 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 October 31, 1935, the defendant entered a plea of guilty and the court imposed a fine of \$50 which was suspended, and the defendant was placed on probation for 1 year.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

25276. Adulteration and misbranding of potatoes. U. S. v. Herman Hartwig. Plea of guilty. Fine, \$5. (F. & D. no. 34042. Sample no. 65158-A.)

This case was based on an interstate shipment of potatoes which were of a grade inferior to that represented on the label.

On August 13, 1935, the United States attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed an information against Herman Hartwig, Peshtigo, Wis., charging shipment by said defendant in violation of the Food and Drugs Act, on or about May 5, 1935, from the State of Wisconsin into the State of Illinois, of a quantity of potatoes which were adulterated and misbranded. The potatoes were contained in sacks each labeled: "U. S. No. 1 The Best of The Better Potatoes