

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1320.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF "TOMATO PUREE"; ADULTERATION OF "TOMATO PULP"; ADULTERATION OF "TOMATO CATSUP".

At the November term, 1910, of the United States District Court for the Western District of Kentucky the United States Attorney for said district, acting upon a report by the Secretary of Agriculture, filed information in four counts in said court against J. Ed. Guenther, trading as the New Blue Grass Canning Co., alleging shipments by him of adulterated and misbranded products, in violation of the Food and Drugs Act, on the dates and in the manner hereinafter set forth, to wit:

(1) Shipment on or about November 24, 1909, from the State of Kentucky into the State of Louisiana, was alleged of a quantity of "tomato purée" which was adulterated and misbranded. The product was labeled—"Superior Tomato (picture of red, ripe tomato). This package contains pure, ripe tomato juice condensed 3 to 1 Especially suited for dressing fish, oysters, meats, etc. Adapted to the making of homemade catsup. All goods bearing our names are guaranteed to conform to all pure food laws Blue Grass Brand—Packed by New Blue Grass Canning Co., Owensboro, Ky., U. S. A. The contents of this package contains three times in strength pure condensed tomato juice and will make three times as much tomato soup as a can three times as large will produce in pure canned tomatoes." Analysis and examination of a sample of said product, made by the Bureau of Chemistry of the United States Department of Agriculture, showed the following results: Yeasts and spores 209 per one-sixtieth cmm.; bacteria very numerous, estimated at 228,000,000 per cc.; molds were not well developed; about half the microscopic fields shows them present; does not appear as a whole pulp product, though there is some pulp tissue present; solids 9.60 per cent; reducing sugars before inversion, 3.14 per cent; reducing sugars after inversion, 3.10 per cent; polarization before inversion, -1.6° V.; polarization after inversion, -1.4° V.; ash, 2.60

per cent; total acids, 5.40 per cent; nitrogen 0.28 per cent; protein ($N \times 6.25$), 1.75. Adulteration was alleged in the first count of the information against this product for the reason that it consisted in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance. Misbranding was alleged in the second count against this product for the reason that the label contained statements which were false and misleading and calculated to deceive and mislead the purchaser in this, to wit, that the label represented the package upon which it appeared "contains pure, ripe tomato juice condensed three to one," and that the contents of said package "will make three times as much tomato soup as a can three times as large will produce in pure canned tomatoes," when, in fact, the product was not as represented, but consisted of ordinary tomato pulp, adulterated by filthy, decomposed, or putrid vegetable substance.

(2) Shipment on or about April 9, 1910, from the State of Kentucky into the State of Louisiana was alleged of a quantity of tomato pulp which was adulterated. The product was labeled: (On can) "Guenther's Tomato Pulp (picture of ripe tomato) This package contains pure ripe condensed tomato juice. Especially suited for dressing fish, oysters, meats, macaroni and spaghetti. Adapted to the making of homemade catsup. Blue Grass Brand—All goods bearing our name are guaranteed to conform to all pure food laws. Packed by New Blue Grass Canning Co. Owensboro, U. S. A." Chemical analysis and bacteriological examination of a sample of said product; made by the Bureau of Chemistry of the United States Department of Agriculture, showed the following results: Solids 11 per cent; reducing sugars before inversion, 1 per cent; reducing sugars after inversion, 1.85 per cent; total acid, 0.94 per cent; sodium benzoate, titration, 0.10 per cent; polarization after inversion $-6^\circ V$; yeasts and spores, 130 per one-sixtieth cmm.; Bacteria numerous, 85,000,000 per cc.; mold filaments in nearly every field. Adulteration was alleged in the third count of the information against this product for the reason that it consisted in part of a filthy and decomposed vegetable substance.

(3) Shipment on or about January 12, 1910, from the State of Kentucky into the State of Georgia was alleged of a quantity of catsup which was adulterated. The product was labeled: "Jumba Tomato Catsup. 190-71-119". Chemical analysis and bacteriological examination of two samples of this product, made by the Bureau of Chemistry of the United States Department of Agriculture, showed the following results: (Sample I. S. No. 3998-b) Yeasts and spores 90 per one-sixtieth cmm.; bacteria abundant, estimated at about 75,000,000 per cc.; molds were abundant, as were fragments

of decayed tissues; sodium benzoate, grams per 100 grams ketchup, titration, 0.63; organisms per cc developing on plain agar after three days at 25°C., 600; after three days at 37°C., 700. (Sample I. S. No. 3999-b) Yeasts and spores 95 per one-sixtieth cmm.; bacteria estimated at 20,000,000 per cc.; molds and decayed tissue abundant; sodium benzoate, grams per 100 grams of catsup 0.68; no living organisms. Adulteration was alleged in the fourth count of the information against this product for the reason that it consisted in part of filthy and decomposed vegetable substance.

On April 20, 1911, the defendant pleaded guilty and was fined \$25 and costs.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 24, 1912.*

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