

**24354. Adulteration and misbranding of canned tomatoes. U. S. v. Churchland Canning Corporation. Plea of guilty. Fine, \$25. (F. & D. no. 32132. Sample nos. 39854-A, 39855-A.)**

This case was based on the interstate shipment of canned tomatoes, samples of which were found to contain fruit flies, worms, larvae, and maggots. The product in one shipment fell below the standard established by this Department, because of excessive unsightly blemishes, and was not labeled to show that it was substandard.

On October 22, 1934, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Churchland Canning Corporation, Churchland, Va., alleging shipment by said company through and in the name of its agent, the Southgate Brokerage Co., Inc., in violation of the Food and Drugs Act as amended, on or about November 20 and November 21, 1932, from the State of Virginia into the State of North Carolina, of quantities of canned tomatoes which were adulterated, and a part of which were misbranded. The article was labeled in part: "Martin Brand \* \* \* Tomatoes \* \* \* Packed By Churchland Canning Corp. Churchland, Va."

The article was alleged to be adulterated in that it consisted in part of a filthy vegetable and animal substance, one lot showing evidence of infestation with fruit flies, worms, and larvae, and the other lot showing evidence of infestation with maggots and larvae.

Misbranding was alleged with respect to one lot for the reason that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, in that unsightly blemishes (mostly rot) had not been sufficiently trimmed from the article, and its package or label did not bear a plain and conspicuous statement prescribed by the Department indicating that it fell below such standard.

On November 7, 1934, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$25.

M. L. WILSON, *Acting Secretary of Agriculture.*

**24355. Misbranding of canned ripe olives. U. S. v. 998 Cartons of Canned Ripe Olives. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 33301. Sample nos. 390-B, 6754-B.)**

This case involved canned ripe olives which were labeled to convey the impression that they were large olives; but which were, in fact, small olives.

On August 29, 1934, 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 a libel praying seizure and condemnation of 998 cartons of canned ripe olives at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about July 13, 1934, by the Sylmar Packing Corporation, from Los Angeles, Calif., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Pastene Standard California Ripe Olives."

The article was alleged to be misbranded in that the pictorial representation on the can panel of the label showing olives of large size was false and misleading and tended to deceive and mislead the purchaser when applied to olives of much smaller size.

On March 9, 1935, P. Pastene & Co., Inc., New York, N. Y., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered by the court that the product be released under bond, conditioned that it be relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

**24356. Adulteration of canned shrimp. U. S. v. 500 Cases of Canned Shrimp. Decree of condemnation. Product released under bond for separation and destruction of unfit portion. (F. & D. no. 33685. Sample no. 11580-B.)**

This case involved canned shrimp that was in part decomposed.

On October 13, 1934, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 500 cases of canned shrimp at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about October 4, 1934, by the Lake Oyster & Fish Co., from New Orleans, La., and charging adulteration in violation of the Food and

Drugs Act. The article was labeled in part: "Lake-View Brand Shrimp \* \* \* Packed by Lake Oyster and Fish Co. Houma, La."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On February 14, 1935, Theo. Engeran, Houma, La., having appeared as claimant for the property and having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that the decomposed portion be segregated and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

**24357. Adulteration of apples. U. S. v. Daniel S. Gamble. Plea of guilty. Fine, \$50 and costs. (F. & D. no. 33767. Sample no. 48764-A.)**

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On October 31, 1934, 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 Daniel S. Gamble, Brewster, Wash., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about March 30, 1934, from the State of Washington into the State of California of a quantity of apples which were adulterated. The article was labeled in part: "Delicious D. S. Gamble Brewster Wash."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, lead and arsenic, in an amount which might have rendered it injurious to health.

On February 25, 1935, the defendant entered a plea of guilty and the court imposed a fine of \$50 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

**24358. Adulteration and misbranding of potatoes. U. S. v. Joseph L. Bushman (Joe Bushman). Plea of nolo contendere. Fine, \$10. (F. & D. no. 33772. Sample no. 65363-A.)**

This case involved an interstate shipment of potatoes which were below the grade designated on the label.

On October 4, 1934, the United States attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Joseph L. Bushman, trading as Joe Bushman, in Marathon County, Wis., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about March 20, 1934, from the State of Wisconsin into the State of Illinois, of a quantity of potatoes which were adulterated and misbranded. The article was labeled in part: "Potatoes U. S. Grade No. 1 Packed By Jos. Bushman Galloway, Wis. Fredman-Milw."

The article was alleged to be adulterated in that potatoes of a lower grade than U. S. grade No. 1 had been substituted for U. S. grade No. 1 potatoes, which the article purported to be.

Misbranding was alleged for the reason that the statement "Potatoes U. S. Grade No. 1", 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 potatoes were not U. S. grade No. 1, but were of a lower grade.

On January 15, 1935, the defendant entered a plea of nolo contendere and the court imposed a fine of \$10.

M. L. WILSON, *Acting Secretary of Agriculture.*

**24359. Misbranding of cottonseed screenings. U. S. v. Guthrie Cotton Oil Co. Plea of guilty. Fine, \$25 and costs. (F. & D. no. 33781. Sample no. 57540-A.)**

This case was based on an interstate shipment of cottonseed screenings that contained less than 43 percent of protein, the amount declared on the label.

On October 31, 1934, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Guthrie Cotton Oil Co., a corporation, Guthrie, Okla., alleging shipment by said company on or about October 28, 1933, from the State of Oklahoma into the State of Kansas of a quantity of cottonseed screenings which were misbranded. The article was labeled in part: