

label did not bear a plain and conspicuous statement prescribed by regulations of this Department indicating that it fell below such standard.

On October 3, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

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

25300. Adulteration of tomato sauce. U. S. v. 500 Cases of Tomato Sauce. Default decree of condemnation and destruction. (F. & D. no. 35841. Sample no. 37943-B.)

This case involved a shipment of tomato sauce that contained filth resulting from worm infestation.

On August 2, 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 a libel praying seizure and condemnation of 500 cases of tomato sauce at Tacoma, Wash., alleging that the article had been shipped in interstate commerce on or about June 8, 1935, by the Sutter Packing Co., from San Francisco, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Taste Tells Brand Tomato Sauce * * * Sutter Packing Company Palo Alto California."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On December 9, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

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

25301. Misbranding of graham crackers. U. S. v. Davidson Biscuit Co. Plea of guilty. Fine, \$100 and costs. (F. & D. no. 35881. Sample nos. 71464-A, 102-B.)

The majority of the packages examined from this lot of graham crackers were found to contain less than 1 pound, the weight declared on the label. The labeling also conveyed the misleading impression that the product had been "sunalized", that it could be relied upon to furnish the correct amount of vitamin D and had been made with appreciable amounts of milk and honey.

On August 21, 1935, the United States attorney for the Eastern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Davidson Biscuit Co., a corporation, Mount Vernon, Ill., alleging shipment by said company in violation of the Food and Drugs Act as amended on or about June 13 and July 3, 1934, from the State of Illinois into the State of Colorado, of quantities of graham crackers which were misbranded. One lot of the product was labeled: "Tastyflake * * * Davidson Biscuit Company." The remaining lot was labeled: "All-Crisp * * * Illinois Distributing Co." Both lots were labeled: "Sunalized Graham Crackers * * * Made with Milk and Honey * * * Net Weight 1 Pound."

The article was alleged to be misbranded in that the statements, "Net Weight 1 Pound", and "Ultra Sunalized Tested and Approved Contains Certified Vitamin D Sunalized * * * containing just the right proportion of Vitamin D * * * Made with Milk and Honey", borne on the package label, were false and misleading and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the packages did not each contain 1 pound of the article but did contain in each of a large proportion of the packages examined less than 1 pound, it was not sunalized and ultra sunalized, tested and approved to contain certified vitamin D in just the right proportion since the correct amount of vitamin D required by an individual is dependent upon age, other sources of vitamin D in the diet, and other factors, and the article was not made with milk and honey since it contained but a very slight amount, if any, of milk and honey.

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 each of a large number of the packages examined contained less than the amount declared.

On November 25, 1935, a plea of guilty was entered on behalf of defendant company and the court imposed a fine of \$100 and costs.

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

25302. Adulteration and misbranding of olive oil. U. S. v. Cosmos Food, Inc. Plea of guilty. Fine, \$10. (F. & D. no. 35885. Sample nos. 6992-B, 6993-B.)

This product was labeled to convey the impression that it consisted of imported Italian olive oil. Examination showed that it consisted of peanut oil having the odor and taste of olive oil.

On September 9, 1935, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Cosmos Food, Inc., Lynn, Mass., alleging shipment by said company in violation of the Food and Drugs Act, on or about August 7, 1934, from the State of Massachusetts into the State of Connecticut, of a quantity of salad oil which was adulterated and misbranded. The article was labeled in part: "Superfine Olivol Pure Edible Oil * * * Joseph Petro Marca Registrata Brand * * * Cosmos Food, Inc. Importers, Lynn, Mass."

The article was alleged to be adulterated in that peanut oil had been substituted in large part for olive oil which the article purported to be.

Misbranding was alleged for the reason that the statements, "Superfine Olivol", "Olio Puro Sopraffino", "Extra Quality Pure Olivol", and "This superfine product is guaranteed absolutely pure and of the finest quality. Highly recommended for all general purposes for which olive oil is used", together with the designs and devices of foreign coins and olive branches, borne on the can label, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the said statements and designs represented that it was composed wholly of olive oil, and that it was a foreign product, namely, olive oil produced in Italy; whereas it was a mixture composed in large part of peanut oil, and it was not an olive oil produced in Italy, but was a mixture composed in large part of peanut oil produced in the United States.

On October 14, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$10.

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

25303. Adulteration and misbranding of canned cherries. U. S. v. Western Oregon Packing Corporation. Plea of guilty. Fine, \$50. (F. & D. no. 35888. Sample no. 71223-A.)

This case was based on a shipment of canned cherries samples of which were found to contain maggots. Examination further showed that the product was substandard because of the presence of excessive pits and that it was not labeled to indicate that it was substandard.

On August 31, 1935, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Western Oregon Packing Corporation, Corvallis, Oreg., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about March 9, 1934, from the State of Oregon into the State of Idaho of a quantity of canned cherries which were adulterated and misbranded. The article was labeled in part: (Can) "Porto Brand * * * Sour Pitted Cherries Packed In Water * * * Mason, Ehrman & Co. Portland, Ore."

The article was alleged to be adulterated in that it consisted in whole and in part of a filthy vegetable substance.

Misbranding was alleged for the reason that the article was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture and its package or label did not bear a plain and conspicuous statement prescribed by regulations of this Department indicating that it fell below such standard.

On October 8, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$50.

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

25304. Misbranding of cottonseed meal. U. S. v. Temple Cotton Oil Co. Plea of guilty. Fine, \$25. (F. & D. no. 35890. Sample nos. 8166-B, 27408-B, 27411-B.)

This case was based on shipments of cottonseed meal, a part of which contained less protein than declared on the label and the remainder of which was short in weight.

On August 6, 1935, the United States attorney for the Eastern District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Temple Cotton Oil Co., a corporation, Little Rock, Ark., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about September 29, November 14, and November 19, 1934, from the State of Arkansas into the State of Kansas, of quantities of cottonseed meal which was misbranded. A portion of the article was labeled: "Quapaw Brand Cottonseed Meal—Cake Guaranteed Analysis Protein 41.00% * * * Manufactured by Temple Cotton Oil Company, Little