

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

25426-25525

[Approved by the Acting Secretary of Agriculture, Washington, D. C., August 12, 1936]

25426. Misbranding of salad oil. U. S. v. Import Oil Corporation and John Esposito. Pleas of guilty. Corporation fined \$400 on two counts. Remaining fines remitted. (F. & D. no. 33912. Sample nos. 52145-A, 52148-A, 52149-A, 67449-A, 67450-A.)

This case involved a product consisting essentially of cottonseed oil which was labeled to convey the impression that it was imported olive oil.

On March 5, 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 the Import Oil Corporation and John Esposito, New York, N. Y., alleging shipment by said defendants in violation of the Food and Drugs Act on or about November 6, 1933, and January 22, 1934, from the State of New York into the State of New Jersey, and on or about November 18, 1933, from the State of New York into the State of Connecticut of quantities of salad oil which was misbranded. The article was labeled in part: "Samaritana Brand Oil" [or "Cardinale Brand Oil"] * * * Packed by Import Oil Corp."

The article was alleged to be misbranded in that the statements in large, conspicuous type, "Samaritana * * * Oil * * * Lucca * * * Import Oil", the word "Tipo" preceding the word "Lucca", together with prominent designs showing crowns, shields, olive branches bearing olives, olive trees and a woman bearing away a vase, and design of medals, with respect to the Samaritana brand, and the following statement in large conspicuous type, "Cardinale * * * Oil * * * Lucca * * * Import Oil", and the word "Tipo" preceding the word "Lucca", together with prominent designs showing Roman cardinal, shields, olive branches bearing olives, Roman cardinal's hat and replica of medals, with respect to the Cardinale brand, 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 in that the said statements and designs represented that it consisted solely of olive oil, that it was a Lucca-type oil produced in Italy, and that it was imported from Italy; whereas it was not as so represented, but was a domestic product consisting almost entirely of cottonseed oil, and the false and misleading statements and designs were not corrected by the inconspicuous statement "Vegetable Oil" on the label of the Samaritana brand, and "High Grade Vegetable Oil with Flavor", on the label of the Cardinale brand, since olive oil is a vegetable oil.

On April 12, 1935, the defendants entered pleas of guilty and the corporation was fined \$200 on each of two counts of the information. A fine of \$1 was imposed against the corporation on the third count, which was remitted; and a fine of \$1 on each of the three counts imposed against John Esposito also was remitted.

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

25427. Adulteration of canned tomato puree. U. S. v. 995 Cases of Canned Tomatoes [Tomato Puree]. Default decree of condemnation and destruction. (F. & D. no. 34294. Sample no. 3590-B.)

This case involved canned tomato puree that contained excessive mold.

On November 6, 1934, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court

a libel praying seizure and condemnation of 995 cases of canned tomatoes, alleging that the article had been shipped in interstate commerce on or about September 7, 1934, by the Rush County Packing Co., from Glenwood, Ind., to Plattsmouth, Nebr., and charging adulteration in violation of the Food and Drugs Act.

On December 4, 1934, the Norfolk Packing Co., Plattsmouth, Nebr., filed an appearance and exceptions to the libel. On December 13, 1934, the exceptions of the claimant submitted on the question only of the validity of the petition as filed before seizure of the goods, were overruled without opinion.

On January 9, 1935, the libel was amended, and on June 19, 1935, a second amended libel was filed describing the product as canned tomato puree. It was alleged in the second amended libel that the article was adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On November 22, 1935, the case having come on for hearing and the claimant having failed to appear, judgment of condemnation was entered and it was ordered that the product be destroyed.

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

25428. Adulteration of tomato puree and tomato catsup. U. S. v. 319 Cases of Tomato Puree and 248 Cases of Tomato Catsup. Default decree of condemnation and destruction. (F. & D. nos. 35210, 35211. Sample nos. 22291-B, 22892-B.)

This case involved tomato puree and tomato catsup which contained excessive mold.

On March 4, 1935, the United States attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 319 cases of tomato puree and 248 cases of tomato catsup at Madison, Wis., alleging that the articles had been shipped in interstate commerce on or about December 5, 1934, by the Cicero Canning Co., from Cicero, Ind., and charging adulteration in violation of the Food and Drugs Act.

The articles were alleged to be adulterated in that they consisted wholly or in part of decomposed vegetable substances.

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

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

25429. Adulteration of tomato pulp. U. S. v. Bert Powers, Paul Powers, Mary M. Powers, and Rodney H. Koontz (Gaston Canning Co.) Plea of guilty. Fine, \$25. (F. & D. no. 35912. Sample no. 31821-B.)

This case involved canned tomato pulp that contained excessive mold.

On October 2, 1935, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Bert Powers, Paul Powers, Mary M. Powers, and Rodney H. Koontz, trading as the Gaston Canning Co., Gaston, Ind., alleging shipment by said defendants in violation of the Food and Drugs Act, on or about October 11, 1934, from the State of Indiana into the State of Illinois, of a quantity of tomato pulp that was adulterated. The article was labeled in part: "Fancy Heavy Tomato Pulp * * * Gaston Canning Company, Gaston, Indiana."

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

On October 22, 1935, a representative of the Gaston Canning Co., having authority to enter a plea, appeared and entered a plea of guilty on behalf of the company, and the court imposed a fine of \$25.

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

25430. Adulteration of prunes. U. S. v. Ben Greenbaum. Plea of guilty. Fine, \$50. (F. & D. no. 35939. Sample no. 31504-B.)

This case was based on a shipment of dried prunes which were in part decomposed.

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 Ben Greenbaum, Portland, Oreg., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about February 7, 1935, from the State of Oregon into the State of Washington of a quantity of prunes that were adulterated.