

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.