

26190. Adulteration of apple butter. U. S. v. 600 Cases, 33 Pails, and 15 Cases of Apple Butter. Default decrees of condemnation and destruction. (F. & D. nos. 36924, 36925, 37214. Sample nos. 39363-B, 39368-B, 48060-B.)

These cases involved interstate shipments of apple butter that was found to contain excessive arsenic and lead.

The United States attorney for the Eastern District of Wisconsin, acting upon reports by the Secretary of Agriculture, filed in the district court on January 9, 1936, two libels, and on February 17, 1936, one libel, praying seizure and condemnation of 600 cases, 33 pails, and 15 cases of apple butter at Milwaukee, Wis. alleging that the product had been shipped in interstate commerce on or about August 29 and 31 and October 18, 1935, and January 9, 1936, by the D. B. Scully Syrup Co., from Chicago, Ill., and that it was adulterated in violation of the Food and Drugs Act. The article in the lot of 600 cases, contained in jars, was labeled in part: "Silver Buckle Brand Pure Apple Butter Net Wt. 14 Ozs. Distributed by E. R. Godfrey & Sons Co. Milwaukee, Wis." The article in the lot of 33 pails was labeled in part: (Tops) "30 Lb. when packed Pure Apple Butter"; (sides) "Bright Spot Pure Apple Butter Distributed by O. R. Pieper Co. Milwaukee, Wis." The article in the lot of 15 cases, contained in cans, was labeled in part: "Bright Spot Brand Pure Apple Butter. Weight of Contents 7 Lbs. 5 Oz. Packed for O. R. Pieper Co. Milwaukee, Wis."

The article in each of the three lots was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered the article injurious to health.

On April 28, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26191. Adulteration and misbranding of olive oil. U. S. v. Edilio Penna (El. Penna). Plea of guilty. Fine, \$50. (F. & D. no. 36945. Sample no. 35284-B.)

This case involved olive oil that consisted mainly of corn oil or an oil similar thereto, probably flavored with olive oil, and which contained undeclared artificial coloring substances among them a nonpermitted coal-tar color.

On May 8, 1936, 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 Edilio Penna, trading as E. Penna, New York, N. Y., alleging that on or about June 24, 1935, the defendant shipped from the State of New York into the State of Ohio a quantity of olive oil that was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: (Can) "Pure Olive Oil El Toro * * * Packed in Spain by Hijos De Ybarra."

The article was alleged to be adulterated in that a product consisting mainly of corn oil or an oil other than olive oil, and containing added undeclared artificial coloring matter and an added undeclared nonpermitted dye, had been substituted for pure olive oil imported from Spain, which the article purported solely to be.

The article was alleged to be misbranded in that the statements, "Pure Olive Oil El Toro, * * * Packed in Spain by Hijos Ybarra", together with the design of a head of a bull and design of olive branches bearing olives, borne on the cans were false and misleading and tended to deceive and mislead the purchaser into the belief that the article was pure olive oil packed in Spain by Hijos Ybarra; whereas it was not pure olive oil; in that the article was an imitation of another article, namely, olive oil, which it purported to be; and in that it was offered for sale under the distinctive name of another article, olive oil.

On September 9, 1936, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$50.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26192. Misbranding of candy. U. S. v. Curtiss Candy Co., a corporation. Plea of guilty. Fine, \$50. (F. & D. no. 36951. Sample nos. 31890-B, 31891-B, 34102-B, 34103-B, 34105-B.)

This case involved shipments of candy that were short in weight.

On February 14, 1936, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the