

The article was alleged to be misbranded in that the term "Fancy" was false and misleading as applied to an article that was not of Fancy quality because of long stems, yellow leaves, a few roots, flowering heads, weeds or grass, and grit or sand.

On February 26, 1942, First National Stores, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

TOMATOES AND TOMATO PRODUCTS

3342. Misbranding of canned tomatoes. U. S. v. 57 Cases of Canned Tomatoes. Default decree of condemnation and destruction. (F. D. C. No. 6339. Sample No. 48970-E.)

Examination showed that this product was substandard in quality because the peel, per pound of canned tomatoes in the container, covered an area of more than 1 square inch.

On or about December 27, 1941, the United States attorney for the Eastern District of South Carolina filed a libel against 57 cases, each containing 24 No. 2 cans, of tomatoes at Columbia, S. C., alleging that the article had been shipped in interstate commerce on or about August 6, 1941, by Burke County Packing Corporation from Waynesboro, Ga.; and charging that it was misbranded. It was labeled in part: (Cans) "Briar Creek Tomatoes."

The article was alleged to be misbranded in that it purported to be a food for which a standard of quality had been prescribed by regulations as provided by law, but its quality fell below such standard and its label failed to bear in such manner and form as the regulations specify, a statement that it fell below such standard.

On January 21, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. It was disposed of as hog feed.

3343. Misbranding of canned tomatoes. U. S. v. 23 Cases of Canned Tomatoes. Default decree of condemnation and destruction. (F. D. C. No. 4940. Sample No. 53336-E.)

This product was substandard in that the drained weight was less than 50 percent of the water required to fill the container; and the peel, per pound of canned tomatoes in the container, covered an area of more than 1 square inch.

On June 17, 1941, the United States attorney for the District of Arizona filed a libel against 23 cases of canned tomatoes at Yuma, Ariz., alleging that the article had been shipped in interstate commerce on or about March 10 and 11, 1941, by California Sanitary Canning Co., Ltd., from Los Angeles, Calif.; and charging that it was misbranded. The article was labeled in part: (Cans) "Mariposa Brand California Tomatoes."

It was alleged to be misbranded in that it purported to be a food for which a standard of quality had been prescribed by regulations as provided by law, but its quality fell below such standard and its label failed to bear in such manner and form as the regulations specify, a statement that it fell below such standard.

On July 15, 1941, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

3344. Misbranding of canned tomatoes. U. S. v. 87 Cases of Canned Tomatoes. Consent decree ordering product released under bond to be relabeled. (F. D. C. No. 6886. Sample No. 80109-E.)

Examination showed that this product was not of Fancy or Grade A quality, as indicated by the labeling, but was standard or Grade C because of poor color and workmanship. Nearly all of the tomatoes were cut very deeply in coring, allowing more breakdown than found in Fancy or Grade A canned tomatoes.

On February 18, 1942, the United States attorney for the Northern District of Ohio filed a libel against 87 cases, each containing 24 cans, of tomatoes at Cleveland, Ohio, alleging that the article had been shipped in interstate commerce on or about October 14, 1941, by Butler Produce & Canning Co. from Butler, Ind.; and charging that it was misbranded. The article was labeled in part: (Cans) "Contents 1 Lb. 12 Oz. A-1 Tomatoes Packed Exclusively for A-1 Food Products Co. Cleveland, Ohio A-1 Brand is your guarantee of the Finest Quality."

The article was alleged to be misbranded in that the statements "A-1" and "Finest Quality" were false and misleading as applied to an article that was not of Fancy or Grade A quality because of poor color and workmanship.