

DISPOSITION: July 6, 1948. B. J. Fayette, trading as the Vermont Fruit & Grocery Co., Burlington, Vt., claimant, having consented to the entry of a decree, 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.

**13659. Misbranding of canned peas. U. S. v. 33 Cases \* \* \* (and 1 other seizure action).** (F. D. C. Nos. 22225, 22231. Sample Nos. 90727-H, 90728-H.)

**LIBELS FILED:** January 28 and 29, 1947, District of Columbia and District of Maryland.

**ALLEGED SHIPMENT:** On or about October 30 and 31, 1946, by the Mineral Point Co-Operative Packers, Inc., from Mineral Point, Wis.

**PRODUCT:** Canned peas. 33 cases at Washington, D. C., and 49 cases at Mount Rainier, Md. Each case contained 24 1-pound, 4-ounce, cans of the product

**LABEL, IN PART:** "Good Meal Brand Wisconsin Early June Peas."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the article was below standard in quality because of high alcohol-insoluble solids.

**DISPOSITION:** March 3, 1947. Default decrees of condemnation. The product was ordered delivered to charitable institutions.

**13660. Adulteration of frozen spinach. U. S. v. 1,992 Cases \* \* \*. (F. D. C. No. 24645. Sample No. 26053-K.)**

**LIBEL FILED:** May 20, 1948, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about December 30, 1947, by the Terminal Refrigerating Co., Los Angeles, Calif.

**PRODUCT:** 1,992 cases, each containing 24 14-ounce packages, of frozen spinach at St. Louis, Mo.

**LABEL, IN PART:** "Hemet Spinach \* \* \* Packed by Hemet Packing Co. Hemet, Calif."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product was unfit for food by reason of its unpleasant taste and odor, which rendered it unpalatable.

**DISPOSITION:** September 23, 1948. Default decree of condemnation and destruction.

**13661. Adulteration of canned spinach. U. S. v. 273 Cases \* \* \* (and 2 other seizure actions).** (F. D. C. Nos. 22328, 22387, 22445. Sample Nos. 38412-H, 67817-H, 67819-H.)

**LIBELS FILED:** December 27, 1946, and January 14 and 28, 1947, Eastern District of Oklahoma, Eastern District of Michigan, and Western District of Oklahoma.

**ALLEGED SHIPMENT:** March 20 and May 31, 1946, by Whiteside Cannery, Van Buren, Ark.

**PRODUCT:** Canned Spinach. 273 cases at Ardmore, Okla., 367 cases at Norman, Okla., and 49 cases at Ann Arbor, Mich. Each case contained 24 1-pound, 2-ounce cans.

**LABEL, IN PART:** "Nu Crest Brand Spinach \* \* \* Packed for Record Supply Corporation, Chicago, Illinois" or "Staff-O-Life Brand \* \* \* Distributed by Cannery Exchange Inc., Springfield, Mo."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination showed that the product was decomposed.)

**DISPOSITION:** February 13 and March 13 and 18, 1947. Default decrees of condemnation. The Ann Arbor lot was ordered delivered to a Federal institution, for use as fertilizer, and the remaining lots were ordered destroyed.

**13662. Misbranding of canned spinach. U. S. v. 433 Cases \* \* \*. (F. D. C. No. 21779. Sample No. 72571-H.)**

**LIBEL FILED:** December 17, 1946, Northern District of Texas.

**ALLEGED SHIPMENT:** On or about July 5, 1946, by the Hinton Food Products Co., from Rogers, Ark.

**PRODUCT:** 433 cases, each containing 24 cans, of spinach at Amarillo, Tex. Examination showed that the product was not fancy, because of the mushy character of the leaves, some of which were almost completely disintegrated.

**LABEL, IN PART:** "Laddie Brand Fancy Spinach Contents 1 Lb. 2 Ozs."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the designation "Fancy Spinach" was false and misleading as applied to a product that was not fancy spinach.

**DEPOSITION:** July 21, 1947. Walter Hinton, claimant, having admitted the facts set forth in the libel, judgment of forfeiture was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**1363. Misbranding of canned sweet potatoes. U. S. v. 780 Cases \* \* \*.**  
(F. D. C. No. 24459. Sample No. 26158-K.)

**LABEL FILED:** On or about March 12, 1948, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about November 23, 1945, by A. W. Sisk & Son, from Preston, Md.

**PRODUCT:** 780 cases, each containing 24 1-pound, 13-ounce cans, of sweet potatoes at Springfield, Mo.

**LABEL, IN PART:** "Kroger's Avondale Quality Brand Sweet Potatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (1), the product fell below the definition and standard of identity for canned sweet potatoes since it had not been processed by heat so as to prevent spoilage (the product was decomposed); and, Section 403 (g) (2), the product was represented as canned sweet potatoes, and its label failed to bear as required by the definition and standard of identity the optional form of units contained therein, i. e., mashed sweet potatoes.

**DEPOSITION:** On or about July 20, 1948. Default decree of condemnation and destruction.

#### TOMATOES AND TOMATO PRODUCTS\*

**1364. Misbranding of canned tomatoes. U. S. v. Manuel Mitchell Wohl (South Side Market). Motion to quash denied. Plea of nolo contendere. Fine, \$50. (F. D. C. No. 24223. Sample No. 22299-H.)**

**INFORMATION FILED:** April 16, 1948, Western District of Missouri, against Manuel Mitchell Wohl, trading as the South Side Market, St. Louis, Mo.

**ALLEGED VIOLATION:** Between the dates of April 9 and 11, 1947, the defendant caused a quantity of canned tomatoes to be misbranded while they were held for sale after shipment in interstate commerce. These tomatoes had originally been shipped from Westville, Okla., to St. Louis, Mo., bearing a standard label. They were, however, substandard and were seized at St. Louis, Mo., condemned as misbranded, and released under bond for relabeling. The tomatoes were relabeled by pasting a strip label bearing the substandard legend "Below Standard in Quality Good Food—Not High Grade" over the original label. On or about April 7, 1947, the defendant purchased 50 cans of these tomatoes, and subsequent to such purchase caused the substandard legend to be removed from a number of cans of the product and sold them to various purchasers as standard tomatoes.

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product failed to conform to the standard of quality prescribed by the regulations, because of poor color and excessive peel; and when sold by the defendant, the product was not labeled to show that it was substandard.

**DEPOSITION:** The defendant filed a motion to quash the information, alleging grounds, among others, that the product was no longer in interstate commerce at the time of the act of the defendant and therefore beyond the power of Congress to regulate, control, or punish. On June 4, 1948, the motion was denied. On August 24, 1948, a plea of nolo contendere having been entered by the defendant, a fine of \$50 was imposed.