

"My test more than confirmed Miss Laughton's good opinion of the cuts. She found 5 or 6 per cent inedible, whereas I ate all of my can, and felt that I was helped by it. There was one runty, tough piece and two or three slivers, but I treated them as de minimis.

"I agree with the Director of Mary Cullen's Cottage that this is an excellent product, particularly considering its low price. Not everybody in this country can 'keep up with the Joneses' and eat only asparagus tips. Indeed it seems strange to me that the Government should be interested in keeping from the market a moderately priced, wholly nutritious food product. I should think in this period of declining income the Government's interest would be the other way. If Mr. Prendergast will prepare appropriate findings, I will give his client's center cuts a clean bill of health. They deserve it."

On May 14, 1949, the court made findings of fact and conclusions of law to the effect that the fibrous and woody portions of the product were insignificant and de minimis and that the product was not adulterated or misbranded, and ordered that the libel be dismissed.

**15191. Misbranding of canned mushrooms. U. S. v. 24 Cases, etc. (F. D. C. No. 27248. Sample Nos. 40718-K, 40719-K.)**

**LIBEL FILED:** May 19, 1949, District of Montana.

**ALLEGED SHIPMENT:** On or about April 14, 1949, by the Olympia Mushroom Farms, Olympia, Wash.

**PRODUCT:** 24 cases, each containing 24 cans, and 11 cases, each containing 12 cans, of mushrooms at Butte, Mont.

**LABEL, IN PART:** "Dawn Fresh Fancy Button Mushrooms Net Drained Wt. 8 Oz. Avd." or "Dawn Fresh Pieces and Stems Mushrooms Net Drained Wt. 4 Oz. Avd."

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the product was in package form and failed to bear a label containing an accurate statement of the quantity of the contents since the cans were short-weight.

**DISPOSITION:** August 12, 1949. The Olympia Mushroom Farms, claimant, having admitted the allegations of the libel, judgment was entered and the court ordered that the product be released under bond to be relabeled, under the supervision of the Food and Drug Administration.

**15192. Adulteration and misbranding of canned spinach. U. S. v. 75 Cases, etc. (F. D. C. No. 27057. Sample Nos. 51421-K, 51422-K.)**

**LIBEL FILED:** April 20, 1949, Southern District of Indiana.

**ALLEGED SHIPMENT:** On or about January 6, 1949, by the Meyer Canning Co., from Edinburg, Tex.

**PRODUCT:** 75 cases, each containing 24 1-pound, 2-ounce cans, and 58 cases, each containing 6 6-pound, 6-ounce cans, of spinach at Muncie, Ind.

**LABEL, IN PART:** "Glendale Brand Spinach" and "Gold Inn Brand Spinach."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for canned spinach since the standard provides that canned spinach is sealed in a container and so processed by heat as to prevent spoilage, and the article had not been processed by heat so as to prevent spoilage.

**DISPOSITION:** August 8, 1949. Default decree of forfeiture and destruction.