

DISPOSITION: April 7, 1953. The shipper, claimant, having consented to the entry of a decree, judgment was entered ordering that the product be released under bond for the segregation and the destruction of the unfit portion and the reprocessing of the fit portion into strained or pureed spinach under the supervision of the Food and Drug Administration.

Pursuant to the decree, each can was opened and the contents removed and examined, resulting in the destruction of 3,454 pounds of spinach because of the presence of wood particles. The remainder of the product was reprocessed for use as strained spinach, and, as a result of the reprocessing operations, an additional 5,237 pounds of the product were discarded and destroyed. A total of 37,977 No. 2 cans of reprocessed strained spinach was released to the claimant as satisfactory.

TOMATOES AND TOMATO PRODUCTS

20329. Adulteration of canned tomatoes. U. S. v. 525 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 34460, 34652. Sample Nos. 3270-L, 39009-L.)

LIBELS FILED: January 12 and February 9, 1953, Southern District of Florida and the District of Columbia.

ALLEGED SHIPMENT: On or about December 4, 1952, and January 2, 1953, by the W. H. Killian Co., from Baltimore, Md.

PRODUCT: 623 cases, each containing 24 cans, of tomatoes at Jacksonville, Fla., and Washington, D. C.

LABEL, IN PART: (Cans) "Sultana Vine Ripened Tomatoes * * * Net Wt. 1 Lb. 3 Oz." and "Contents 1 Lb. 12 Ozs. * * * Killian's Quality Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: The W. H. Killian Co. appeared as claimant in each of the above-mentioned libel actions and filed answers denying that the product was adulterated. Thereafter, the libel action which had been instituted in the Southern District of Florida was removed to, and consolidated with the libel action in, the District of Columbia, pursuant to a court order entered on March 30, 1953. On June 5, 1953, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

20330. Adulteration and misbranding of canned tomatoes. U. S. v. 575 Cases * * *. (F. D. C. No. 33893. Sample No. 41755-L.)

LIBEL FILED: September 29, 1952, District of Delaware.

ALLEGED SHIPMENT: On or about August 22, 1952, from Syracuse, N. Y. This was a return shipment.

PRODUCT: 575 cases, each containing 24 1-pound cans, of tomatoes at Prime Hook, Del.

LABEL, IN PART: (Can) "Pine Cone Tomatoes."

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

Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of excessive peel, and the label failed to bear a statement that the article fell below the standard.