

It was alleged to be misbranded (1) in that it purported to be and was represented as a food for which a standard of quality had been prescribed by regulation promulgated pursuant to law, but its quality fell below such standard since the article was a smooth skin variety of peas and the alcohol-insoluble solids of the peas in the container were more than 23.5 percent, the maximum permitted by such regulation; and (2) its label failed to bear, in such manner and form as the regulation specify, a statement that it fell below such standard.

On May 19, 1943, D. C. Winebrenner & Son of Frederick, Md., having appeared as claimant and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling, under the supervision of the Food and Drug Administration.

MISCELLANEOUS VEGETABLES

5040. Adulteration of sweet relish and pepper relish. U. S. v. 24 Cases and 191 Cases of Sweet Relish and 14½ Cases and 72 Cases of Pepper Relish. Default decree of condemnation and destruction. (F. D. C. Nos. 9142, 9143. Sample Nos. 10792-F to 10795-F, incl.)

On January 11, 1942, the United States attorney for the Northern District of California filed a libel against 215 cases of sweet relish and 86½ cases of pepper relish at San Francisco, Calif., alleging that the articles had been shipped in interstate commerce on or about October 30, 1942, by B. F. Trappey's Sons, Inc., from New Iberia, La.; and charging that they were adulterated in that they consisted in whole or in part of filthy substances, insect fragments and rodent hairs, and in that they had been prepared under insanitary conditions whereby they might have become contaminated with filth.

On February 25, 1943, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

5041. Adulteration of red peppers. U. S. v. 88 Bags of Red Peppers. Consent decree of condemnation. Product ordered released under bond to be brought into compliance with the law or destroyed. (F. D. C. No. 9442. Sample No. 5788-F.)

This product had been stored under insanitary conditions after shipment in interstate commerce. Extensive rodent contamination was apparent throughout the entire lot. Rodent pellets were found on and between the bags and in the rodent-gnawed sacks, and most of the sacks had been cut by rodents. Examination showed the presence of rodent excreta, rodent hairs, insect- or rodent-damaged and moldy peppers.

On February 25, 1943, the United States attorney for the Eastern District of Missouri filed a libel against 88 bags of red peppers in the possession of David G. Evans Coffee Co., alleging that the article had been shipped in interstate commerce on or about September 22, 1942, from Florence, S. C.; and charging that it was adulterated in that it consisted wholly or in part of filthy and decomposed substances, and in that it had been held under insanitary conditions whereby it may have become contaminated with filth.

On March 20, 1943, the David G. Evans Coffee Co. having appeared as claimant and having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law or destroyed, under the supervision of the Food and Drug Administration.

5042. Adulteration and misbranding of dehydrated onion and garlic. U. S. v. 18½ Cases of Dehydrated Onion and 18½ Cases of Dehydrated Garlic. Default decree of condemnation and destruction. (F. D. C. No. 9025. Sample Nos. 18833-F, 18834-F.)

On December 21, 1942, the United States attorney for the District of New Jersey filed a libel against 18½ cases of dehydrated onion and 18½ cases of dehydrated garlic at Newark, N. J., alleging that the articles had been shipped on or about December 2, 1942, by C. F. Matilage Sales Co. from New York, N. Y.; and charging that they were adulterated and misbranded. The articles were labeled in part: "Dehydrated Onion [or "Garlic"] Matilage Brand."

The articles were alleged to be adulterated in that dehydrated onion and dehydrated garlic, both containing 50 percent of oatmeal, had been substituted for dehydrated onion and dehydrated garlic, respectively, which they purported to be, and in that oatmeal had been added to the articles and mixed and packed therewith so as to increase their bulk and weight and reduce their quality and strength, or make them appear better and of greater value than they were.

The articles were alleged to be misbranded in that the statements appearing on the labeling, "Dehydrated Onion * * * A Dry Granulated Concentration of Onion * * * Real Onion in Concentrated Form" and "Dehydrated Garlic * * * A Dry Granulated Concentration of Garlic * * * Real Garlic in Concentrated Form," were false

and misleading as applied to articles containing about 50 percent of oatmeal, and these misbrandings were not corrected by the inconspicuous statements "Onion Cereal and Salt" and "Garlic, Cereal and Salt," appearing at the bottom of the labels. They were alleged to be misbranded further in that they were fabricated from two or more ingredients and their labels failed to bear a statement of the common or usual name of each said ingredient.

On June 21, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

TOMATOES AND TOMATO PRODUCTS

5043. Adulteration of canned tomatoes. U. S. v. 1,997 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered released under bond for segregation and destruction of the unfit portion. (F. D. C. No. 8449. Sample No. 4800-F.)

This product contained decomposed material as evidenced by the presence of mold.

On October 3, 1942, the United States attorney for the Southern District of Ohio filed a libel against 1,997 cases of canned tomatoes at Cincinnati, Ohio, which had been consigned within the period from on or about August 18 to 31, 1942, alleging that the article had been shipped by the Shelby Packing Co. from Shelbyville, Ind.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Cans) "Shelby Brand Tomatoes with Added Tomato Juice."

On July 30, 1943, the Shelby Packing Co. having appeared as claimant and having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for separation of the fit portion from the unfit portion and destruction of the latter under the supervision of the Food and Drug Administration.

5044. Adulteration of canned tomatoes. U. S. v. 59 Cases of Canned Tomatoes (and 3 additional seizure actions against canned tomatoes). Default decrees of condemnation and destruction. (F. D. C. Nos. 9583, 9698, 9713, 9934. Sample Nos. 8682-F, 33746-F, 38125-F, 38136-F.)

Examination showed this product to be sour and decomposed.

Between March 22 and May 12, 1943, the United States attorneys for the Northern District of Illinois, the Western District of Pennsylvania, and the Eastern District of Wisconsin filed libels against 59 cases, each containing 24 cans, of tomatoes at Chicago, Ill., 188 cases, each containing 24 cans, at Pittsburgh, Pa., 65 cases, each containing 24 cans, at Oshkosh, Wis., and 41 cases, each containing 24 cans, of tomatoes at Racine, Wis., alleging that the article had been shipped in interstate commerce within the period from on or about September 3, 1942, to January 13, 1943, by the Gaston Canning Co. from Gaston, Ind.; and charging that it was adulterated in that it consisted wholly or in part of a decomposed substance. The article was labeled in part: (Cans) "Summer Sun Brand Tomatoes," "Monogram Brand Tomatoes * * * Distributed by the F. B. Ives Co., Oshkosh, Wis.," or "Dearborn Club Tomatoes * * * Franklin MacVeagh and Company Distributors Chicago, Ill."

Between May 8 and August 7, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5045. Misbranding of canned tomatoes. U. S. v. 898 Cases of Canned Tomatoes. Decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 9380. Sample No. 19662-F.)

On February 15, 1943, the United States attorney for the District of Massachusetts filed a libel against 898 cases, each containing 24 cans, of tomatoes at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about September 25, 1942, by Albert W. Sisk & Son, from Trappe, Md.; and charging that it was misbranded. The article was labeled in part: (Cans) "Pine Cone Brand 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 regulation as provided by law, but its quality fell below such standard because the peel per pound of canned tomatoes in the container covered an area of more than 1 square inch, and its label failed to bear, in such manner and form as the regulation specify, a statement that it fell below the standard.

On April 20, 1943, J. Roland Stewart of Trappe, Md., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.