

16489. Adulteration of canned spinach. U. S. v. 89 Cases * * *. (F. D. C. No. 29247. Sample No. 75008-K.)

LABEL FILED: May 26, 1950, District of Colorado.

ALLEGED SHIPMENT: On or about April 12, 1950, by the Larsen Co., Green Bay, Wis.

PRODUCT: 89 cases, each containing 24 15-ounce cans, of spinach at Denver, Colo.

LABEL, IN PART: "Larsen's Freshlike Brand Cut Spinach."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms and worm parts; and, Section 402 (b) (2), wood and grass had been substituted in part for spinach.

DISPOSITION: July 6, 1950. Default decree of condemnation and destruction.

16490. Adulteration of Mexicorn. U. S. v. 289 Cases * * *. (F. D. C. No. 28657. Sample No. 14721-K.)

LABEL FILED: January 16, 1950, Northern District of Indiana.

ALLEGED SHIPMENT: On or about August 25, 1949, by the Minnesota Valley Canning Co., from Montgomery, Minn.

PRODUCT: 289 cases, each containing 24 12-ounce cans, of Mexicorn at Michigan City, Ind.

LABEL, IN PART: (Can) "Niblets Brand Mexicorn Whole Kernel Corn Sweet Red and Green Peppers."

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

DISPOSITION: June 1, 1950. The Minnesota Valley Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Federal Security Agency. The segregation operations resulted in the destruction of 4 cases and 16 cans that were unfit.

TOMATOES AND TOMATO PRODUCTS*

16491. Adulteration and misbranding of canned tomatoes. U. S. v. 244 Cases * * *. (F. D. C. No. 28347. Sample No. 42945-K.)

LABEL FILED: On or about December 15, 1949, Northern District of Illinois.

ALLEGED SHIPMENT: On or about October 8, 1949, by Kennard Food Products, Inc., from Kennard, Ind.

PRODUCT: 244 cases, each containing 24 1-pound, 12-ounce cans, of tomatoes at Chicago, Ill.

LABEL, IN PART: (Can) "Elna Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality or strength.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for canned tomatoes since it contained added water, which is not a permitted ingredient of canned tomatoes.

*See also Nos. 16453, 16454.

DISPOSITION: August 14, 1950. Kennard Food Products, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

16492. Adulteration and alleged misbranding of tomato puree. U. S. v. Pleasant Hill Canning Co. and Garnet C. Amick. Pleas of not guilty; subsequently changed to guilty. Fine of \$1,200 against company and \$300 against individual. (F. D. C. No. 27483. Sample No. 42006-K.)

INFORMATION FILED: July 6, 1949, Southern District of Ohio, against the Pleasant Hill Canning Co., a partnership, Pleasant Hill, Ohio, and Garnet C. Amick, a partner.

ALLEGED SHIPMENT: On or about October 27, 1948, from the State of Ohio into the State of Illinois.

NATURE OF CHARGE: Count 1. Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance by reason of the presence of decomposed tomato material.

Count 2. Misbranding, Section 403 (e) (1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), it failed to bear a label containing an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; and, Section 403 (g) (2), it failed to conform to the definition and standard of identity for tomato puree in that it failed to bear a label bearing the name of the food specified in the definition and standard.

DISPOSITION: A motion for dismissal of the information was filed on behalf of the defendant, based on the grounds (1) that the partnership was not a legal entity and (2) that the defendant, Amick, was charged both in his capacity as a partner and as an individual, and was therefore being tried twice for the same offense. A motion to quash the misbranding charges in the information was filed also on the ground that there was no allegation that the article in package form was shipped for public consumption in the original containers. After consideration of the briefs of the parties, the court overruled the motions on or about January 11, 1950. A plea of not guilty was entered on behalf of the defendant on February 6, 1950, and on June 8, 1950, the case came on for trial.

Witnesses for the Government were heard on June 8 and 9, 1950, when the trial adjourned for the week end. When court reconvened on June 12, 1950, the defendants changed their pleas to guilty to count 1 of the information, after which, upon motion by the Government, count 2 was dismissed. On June 12, 1950, the court imposed a fine of \$1,200 against the partnership and \$300 against the individual.

MEAT AND POULTRY

16493. Adulteration of wild rabbits. U. S. v. Ozark Rabbit Co., a corporation, and Edward A. Biggs. Pleas of nolo contendere. Corporation fined \$300, plus costs; individual defendant fined \$3. (F. D. C. No. 29156. Sample Nos. 54464-K to 54466-K, incl.)

INFORMATION FILED: April 27, 1950, Western District of Missouri, against the Ozark Rabbit Co., Springfield, Mo., and Edward A. Biggs, vice president of the corporation.