

if not all of the area inside the plant. They were not trained pigeons and were not housebroken. The result of their habitation in the plant was what would reasonably be expected.

"It is defendant's theory of the law that these conditions cannot be presumed to have existed when the seized shipments were canned and shipped. As to the time they were canned there was evidence permitting the inference that the canning took place about the time of the shipments. There is no dispute that the shipments involved in Counts One and Two were made on May 3 and May 17, 1951, respectively. The evidence describing the conditions on May 21, 22, and 23, in some particulars justified an inference that those conditions had existed for a considerable period of time. But there was additional and more direct evidence of what the conditions were in the plant at the time the shipments in question were canned and shipped. The analysis of the contents of the seized shipments showed that the jars contained, in addition to pickle relish, fragments of a fly skin, part of a fly's leg, a number of mites, part of a beetle wing, a moth scale, fragments of feathers and fragments of rodent hair. The evidence was not insufficient to support the verdict.

"The judgment is affirmed."

TOMATOES AND TOMATO PRODUCTS

20044. Adulteration of canned tomatoes. U. S. v. 167 Cases * * *. (F. D. C. No. 34379. Sample No. 37077-L.)

LIBEL FILED: November 28, 1952, District of New Jersey.

ALLEGED SHIPMENT: On or about October 2, 1951, from Drawbridge, Md.

PRODUCT: 167 cases, each containing from 18 to 48 1-pound, 3-ounce cans, of tomatoes at Bayonne, N. J.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 26, 1953. Default decree of condemnation and destruction.

20045. Adulteration of canned tomatoes. U. S. v. 95 Cases * * *. (F. D. C. No. 34381. Sample No. 39449-L.)

LIBEL FILED: December 4, 1952, Eastern District of North Carolina.

ALLEGED SHIPMENT: On or about September 4, 1952, by Harwell Bros. & Gibbs, from Petersburg, Va.

PRODUCT: 95 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Weldon, N. C.

LABEL, IN PART: (Can) "Cypress Farm Brand * * * Tomatoes Packed By Garner Bros., Lewisetta, Va."

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

DISPOSITION: January 10, 1953. Default decree of condemnation and destruction.

20046. Misbranding of canned tomatoes. U. S. v. 87 Cases * * *. (F. D. C. No. 34276. Sample No. 43926-L.)

LIBEL FILED: On or about December 3, 1952, Western District of Missouri.

ALLEGED SHIPMENT: On or about September 24, 1952, by the Smith Canning Co., from Clearfield, Utah.

PRODUCT: 87 cases, each containing 24 cans, of tomatoes at Kansas City, Mo.

LABEL, IN PART: (Can) "Good Value Brand Contents 1 Lb. 1 Oz. Tomatoes."
NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "1 Lb. 1 Oz." was inaccurate. (Examination showed that the article was short weight.)

DISPOSITION: February 10, 1953. The Fleming Co., Inc., Kansas City, Mo., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

20047. Adulteration of tomato juice. U. S. v. 647 Cases * * *. (F. D. C. No. 34389. Sample No. 44740-L.)

LIBEL FILED: November 28, 1952, Western District of New York.

ALLEGED SHIPMENT: On or about November 7, 1952, from West Cambridge, Mass. This was a return shipment.

PRODUCT: 647 cases, each containing 12 cans, of tomato juice at Clyde, N. Y.

LABEL, IN PART: (Can) "Ken-More Brand Tomato Juice Contents 1 Qt. 14 Fl. Oz."

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

DISPOSITION: January 2, 1953. Default decree of condemnation and destruction.

20048. Adulteration of tomato juice. U. S. v. 98 Cases * * *. (F. D. C. No. 34380. Sample No. 4139-L.)

LIBEL FILED: On or about November 28, 1952, District of Maryland.

ALLEGED SHIPMENT: On or about September 24, 1952, by the Winorr Canning Co., from Circleville, Ohio.

PRODUCT: 98 cases, each containing 12 cans, of tomato juice at Baltimore, Md.

LABEL, IN PART: (Can) "Plee-Zing Tomato Juice * * * Net Cont. 1 Qt. 14 Fl. Oz."

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

DISPOSITION: December 29, 1952. Default decree of condemnation and destruction.

MISCELLANEOUS FOODS

20049. Misbranding of ice cream mix. U. S. v. 5 Cases * * *. (F. D. C. No. 34080. Sample No. 34715-L.)

LIBEL FILED: September 29, 1952, Eastern District of Arkansas.

ALLEGED SHIPMENT: On or about July 16, 1952, by Clyde Collins, Inc., from Memphis, Tenn.

PRODUCT: 5 cases, each containing 12 cartons, of 48 1-ounce packages of ice cream mix at Little Rock, Ark.

LABEL, IN PART: "Collins Mix Use With Sugar and Milk in Making Ice Cream * * * Net Weight One Ounce * * * Contains Dextrose CMC Vegetable Stabilizer, Artificial and True Vanilla Flavor, U. S. Certified Color."