

Applesauce. Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of rotten apple material.

Peach preserves. Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The cans contained less than the labeled 1 pound, 10 ounces.)

DISPOSITION: April 20, 1948. A plea of guilty having been entered to the first seven counts of the information and a plea of nolo contendere having been entered to counts 8, 9, and 10, involving one lot of the apple-strawberry jelly which was adulterated and misbranded and one lot of the peach preserves which was misbranded, the court imposed a fine of \$500 on count 1, \$200 on count 2, and \$100 on each of the remaining counts, making a total fine of \$1,500, plus costs.

13822. Adulteration of pineapple jelly. U. S. v. 15 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 25033, 25207. Sample Nos. 44060-K, 44081-K.)

LIBELS FILED: July 12 and 27, 1948, Southern District of Ohio.

ALLEGED SHIPMENT: On or about June 10, 1947, from Palm Beach, Fla.

PRODUCT: 22 cases, each containing 24 1-pound jars, of pineapple jelly at Cincinnati, Ohio.

NATURE OF CHARGE: The article was adulterated while held for sale after shipment in interstate commerce under Section 402 (a) (3), in that it was unfit for food by reason of the presence of large sugar crystals.

DISPOSITION: September 3 and 10, 1948. Default decrees of condemnation and destruction.

13823. Adulteration and misbranding of imitation raspberry preserves. U. S. v. 27 Tins * * *. (F. D. C. No. 25216. Sample No. 7238-K.)

LIBEL FILED: July 26, 1948, Northern District of Ohio.

ALLEGED SHIPMENT: On or about March 1 and April 27, 1947, by the Daniels Food Products Co., from Chicago, Ill.

PRODUCT: 27 unlabeled second-hand tins, each containing approximately 30 pounds, of imitation raspberry preserves at Youngstown, Ohio.

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 mold. (The product was adulterated while held for sale after shipment in interstate commerce.)

Misbranding, Sections 403 (e) (1) and (2), the product was in package form and it failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; Section 403 (i) (1), its label failed to bear the common or usual name of the food; and, Section 403 (i) (2), it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each active ingredient.

DISPOSITION: September 14, 1948. Default decree of condemnation and destruction.

VEGETABLES AND VEGETABLE PRODUCTS

13824. Adulteration of frozen asparagus. U. S. v. 129 Cases * * *. (F. D. C. No. 25265. Sample Nos. 43124-K, 43125-K.)

LIBEL FILED: September 13, 1948, Northern District of Illinois.

ALLEGED SHIPMENT: On or about June 21, 1948, by the Pennsylvania Frosted Foods Co., from Southampton, Pa.

PRODUCT: 129 cases, each containing 24 12-ounce packages, of frozen asparagus at Chicago, Ill.

LABEL, IN PART: "Libby's Frozen Fresh All Green Asparagus Spears."

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 insects.

DISPOSITION: October 5, 1948. Default decree of condemnation and destruction.

13825. Adulteration of frozen asparagus. U. S. v. 26 Cases, etc. (F. D. C. No. 25143. Sample Nos. 5125-K, 5126-K.)

LIBEL FILED: July 28, 1948, District of Massachusetts.

ALLEGED SHIPMENT: On or about May 24, 1948, by the Pennsylvania Frosted Foods Co., from New York, N. Y.

PRODUCT: 39 cases, each containing 20 2-pound, 8-ounce packages, of frozen asparagus at Quincy, Mass.

LABEL, IN PART: "Penn Pact Asparagus [or "Jumbo Asparagus"] Spears."

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 insects.

DISPOSITION: September 22, 1948. Default decree of condemnation and destruction.

13826. Adulteration of frozen lima beans. U. S. v. 1,950 Cases * * *. Government's motion to strike and to dismiss intervening petition of third party overruled. Fit portion of product ordered released; remainder condemned and ordered destroyed. (F. D. C. No. 24631. Sample No. 43416-K.)

LIBEL FILED: On or about May 18, 1948, Northern District of Illinois.

ALLEGED SHIPMENT: On or about February 26, 1948, by Ventura Farms Frozen Foods, Inc., from Oxnard, Calif.

PRODUCT: 1,950 cases, each containing 36 12-ounce packages, of frozen lima beans at Chicago, Ill.

LABEL, IN PART: "Ventura Farms Brand Fordhook Lima Beans."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), the product was unfit for food by reason of its disagreeable odor and flavor, rendering it unpalatable.

DISPOSITION: June 7, 1948. Ventura Farms Frozen Foods, Inc., filed an answer, not as owner but as the packer and shipper of the product, alleging that the owner was the Lakeside Fish and Oyster Co., and denying that the product was adulterated at the time it was packed and shipped. On June 10, 1948, the Lakeside Fish & Oyster Co. filed an intervening petition, alleging that it was the buyer and had an interest in the product not as owner but as the holder of a vendee's lien arising out of the rescinded contract of sale. The petitioner alleged that it had a cause of action against the seller for breach of warranty and prayed for judgment and attachment of the product, subject to the rights and claims of the United States of America.

On June 22, 1948, the Government's motion to strike and to dismiss the intervening petition was overruled in the following order of the court: