

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions when shipped.

DISPOSITION: 4-3-64. Consent—claimed by Trinidad Bean & Elevator Co., San Francisco, Calif. Segregated; 1,230 lbs. denatured for seed, 35 lbs. destroyed.

29682. Dried navy beans. (F.D.C. No. 48707. S. No. 29-192 V.)

QUANTITY: 350 100-lb. bags at Nebraska City, Nebr.

SHIPPED: 12-27-62, from Lowell, Mich.

LIBELED: 2-19-63, Dist. Nebr.

CHARGE: 402(a) (3)—contained rodent urine while held for sale.

DISPOSITION: 12-6-63. Consent—claimed by Morton House Kitchens, Inc., Nebraska City, Nebr., and reconditioned.

TOMATOES AND TOMATO PRODUCTS

29683. Tomato paste. (F.D.C. No. 46551. S. No. 46-070 T.)

QUANTITY: 1,148 cases of 6 cans each, at St. Louis, Mo.

SHIPPED: 9-21-61, from Patterson, Calif., by Patterson Canning Co.

LABEL IN PART: (Case) "Six #12 Patterson Tomato Paste * * * Patterson Canning Company, Patterson, California."

LIBELED: 11-22-61, E. Dist. Mo.

CHARGE: 402(a) (3)—contained *Drosophila* flies, *Drosophila* fly eggs, maggots and other insect parts; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: On or about 1-19-62, Patterson Canning Co., filed a claim to the article and an answer denying that the article was adulterated. On 4-16-62, the Government served written interrogatories on the claimant. Thereafter, the claimant objected to a number of the Government's interrogatories. On 5-11-62, the court heard oral argument on the claimant's objections. On 6-29-62, by agreement of the parties, the interrogatories were withdrawn in view of a stipulation to be filed on or before 7-13-62. Stipulations were filed and, on 12-3-62, the case was submitted for trial by the court. On 2-28-63, the court rendered the following findings of fact and conclusions of law:

MEREDITH, *District Judge*: "This case was submitted to the Court without a jury and the Court makes the following findings of fact:

FINDINGS OF FACT

"1. This case involves the seizure of 985½ cases of tomato paste, six cans to a case, which was seized by the United States Marshal for the Eastern District of Missouri under § 304 of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 334.

"2. On November 22, 1961, the United States filed a Libel of Information in the United States District Court for this district alleging that the quantity of tomato paste named therein was adulterated when introduced into and while in interstate commerce within the meaning of 21 U.S.C. 342(a) (3) in that it consisted wholly or in part of a filthy substance by reason of the presence therein of *drosophila* flies, *drosophila* fly eggs, maggots, and other insect parts, and also within the meaning of 21 U.S.C. 342(a) (4) in that the tomato paste had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

"3. Patterson Canning Company, a Nevada corporation, intervened as Claimant and filed answer to the Libel.