

8254. Misbranding of potatoes. U. S. v. Olathe Potato Growers Association, Inc. Plea of nolo contendere. Fine, \$150. (F. D. C. No. 15579. Sample Nos. 66999-F, 67000-F.)

INFORMATION FILED: July 31, 1945, District of Colorado, against the Olathe Potato Growers Association, Inc., Olathe, Colo.

ALLEGED SHIPMENT: On or about September 29, 1944, from the State of Colorado into the State of Missouri.

LABEL, IN PART: "Stampede Brand Potatoes [or "Banner Brand U. S. No. 2"] Sold by Colorado Potato Growers Exchange Denver, Colo. 100 Lbs. Net."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents in terms of weight since the sacks contained less than 100 pounds net of potatoes.

DISPOSITION: September 10, 1945. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$150.

8255. Alleged misbranding of potatoes. U. S. v. Fred L. Behling (F. L. Behling). Plea of not guilty. Tried to the court. Case dismissed. (F. D. C. No. 11376. Sample Nos. 9855-F, 9856-F.)

INFORMATION FILED: May 22, 1945, District of Minnesota, against Fred L. Behling, trading as F. L. Behling, at East Grand Forks, Minn.

ALLEGED SHIPMENT: On or about September 18 and 20, 1943, from the State of Minnesota into the State of Louisiana.

LABEL, IN PART: (Bags) "Red River Valley Call of the North Potatoes Grown and Packed by John P. Bushee East Grand Forks, Minn. 100 Pounds."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the label statement "100 Pounds" was false and misleading since the bags contained a smaller amount of potatoes; and, Section 403 (e) (2), the product did not bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: May 23, 1945. The defendant having entered a plea of not guilty, the case proceeded to trial before the court. At the conclusion of the government's case, the defendant moved for a dismissal of the case on the ground that the government had failed to sustain the allegations of the information. After consideration of the arguments of counsel, the court ordered the defendant discharged, and the case was dismissed.

8256. Adulteration and misbranding of sauerkraut. U. S. v. 145 Cases of Sauerkraut (and 2 other seizure actions against sauerkraut). Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 16184, 16157, 16321. Sample Nos. 6737-H, 6744-H, 6751-H.)

LIBELS FILED: Between May 12 and June 2, 1945, District of Connecticut.

ALLEGED SHIPMENT: Between the approximate dates of April 3 and 13, 1945, by the Union County Pickle Co., Inc., Elizabeth, N. J.

PRODUCT: 145 cases at Bridgeport, Conn., 200 cases at Waterbury, Conn., and 109 cases at Hartford, Conn., each case containing 12 1-quart jars, of sauerkraut.

LABEL, IN PART: "Mother May's Sauerkraut * * * Packed By Mrs. Warner's Preserving Co. Elizabeth, N. J."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), brine had been substituted in part for sauerkraut, which the article was represented to be.

Misbranding, Section 403 (d), the container was so filled as to be misleading since, due to the tendency of sauerkraut to disperse in the liquid packing medium, the jars appeared to contain more sauerkraut than was actually the case.

DISPOSITION: July 9, 1945. The Union County Pickle Co., Inc., claimant, having consented to the entry of a decree, and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond to be repacked under the supervision of the Food and Drug Administration.

8257. Adulteration and misbranding of canned sauerkraut. U. S. v. 398 Cases of Canned Sauerkraut. Default decree of condemnation and destruction. (F. D. C. No. 16026. Sample No. 9432-H.)

LIBEL FILED: May 9, 1945, Western District of New York.

ALLEGED SHIPMENT: On or about February 22, 1945, by the Morgan Packing Co., from Austin, Ind.

PRODUCT: 398 cases, each containing 12 2-pound jars, of sauerkraut at Elmira, N. Y. These jars contained an average of 21.01 ounces. Jars of this size should contain 25 ounces of drained kraut.

LABEL, IN PART: "Scott Co. Sauerkraut."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance; and, Section 402 (b) (2), brine had been substituted in part for sauerkraut.

Misbranding, Section 403 (d), the container was so filled as to be misleading, since the jars appeared to contain more sauerkraut than was actually the case.

DISPOSITION: June 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8258. Adulteration of canned turnip greens. U. S. v. 156 Cases of Canned Turnip Greens. Default decree of condemnation and destruction. (F. D. C. No. 16047. Sample No. 2288-H.)

LIBEL FILED: May 5, 1945, Eastern District of North Carolina.

ALLEGED SHIPMENT: On or about November 16, 1944, by Taylor and Sledd, Inc., from Cheriton, Va.

PRODUCT: 156 cases, each containing 6 No. 10 cans, of turnip greens at Wilmington, N. C. Examination showed that the article was undergoing progressive spoilage.

LABEL, IN PART: "Pocahontas Brand * * * Turnip Greens Packed For H. P. Taylor Jr. Inc. Sole Distributors Richmond, Va."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: June 18, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

TOMATOES AND TOMATO PRODUCTS

8259. Misbranding of canned tomatoes. U. S. v. 237 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15969. Sample No. 22036-H.)

LIBEL FILED: April 28, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about November 17, 1944, by the Michie-McNeill Brokerage Co., from Memphis, Tenn.

PRODUCT: 237 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at St. Louis, Mo.

LABEL, IN PART: "Pride of Halls Tomatoes * * * Halls Canning Co. Halls, Tenn."

VIOLATION CHARGED: Misbranding, Section 403 (h) (1), the quality of the product fell below the standard for canned tomatoes because of the presence of excessive peel.

DISPOSITION: May 21, 1945. The Halls Canning Co., claimant, 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.

8260. Misbranding of canned tomatoes. U. S. v. 110 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15939. Sample No. 22146-H.)

LIBEL FILED: April 20, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about December 28, 1944, by the General Warehouse Co., from Memphis, Tenn.

PRODUCT: 110 cases, each containing 24 cans, of tomatoes at St. Louis, Mo.

LABEL, IN PART: "Pride of Halls Tomatoes * * * Packed by Halls Canning Co., Halls, Tennessee."

VIOLATION CHARGED: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes prescribed by the regulations since it contained peel and blemishes per pound in excess of the maximum peel and blemishes permitted by the standard; and the label failed to bear, in such manner and form as the regulations specify, a statement that the product fell below the standard.

DISPOSITION: May 11, 1945. The Halls Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the