

packing ingredient, as specified in the definition and standard of identity. Further misbranding, Section 403 (g) (2), (remainder) the label failed to bear the name of the optional packing ingredient, since it bore the statement "In Light Syrup," whereas the article was packed in sirup designated as "slightly sweetened water" in the definition and standard of identity for canned apricots.

**DISPOSITION:** March 20, 1946. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$100.

**9315. Misbranding of canned cherries. U. S. v. 54 Cases of Canned Cherries. Consent decree ordering portion of product released; remainder released under bond for relabeling.** (F. D. C. No. 18763. Sample No. 30340-H.)

**LIBEL FILED:** January 4, 1946, District of Colorado.

**ALLEGED SHIPMENT:** On or about September 25, 1945, by the Blackinton and Son Canning Co., from Ogden, Utah.

**PRODUCT:** 54 cases, each containing 6 6-pound, 8-ounce cans, of cherries at Denver, Colo. Examination showed that a portion of the product, which was identified by a certain code, was light sweet cherries and not, as labeled, dark sweet cherries.

**LABEL, IN PART:** "Accepted Brand Unpitted Dark Sweet Cherries."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statement "Unpitted Dark Sweet Cherries" was false and misleading.

**DISPOSITION:** February 28, 1946. The Blackinton and Son Canning Co. having appeared as claimant, and the court having found that 34½ cases of the product were properly labeled, judgment was entered ordering that portion released to the claimant. The court further ordered that the remainder be released under bond, conditioned that it be relabeled under the supervision of the Food and Drug Administration.

**9316. Misbranding of canned fruit cocktail. U. S. v. 248 Cases of Canned Fruit Cocktail. Consent decree of condemnation. Product ordered released under bond to be relabeled.** (F. D. C. No. 18676. Sample No. 46606-H.)

**LIBEL FILED:** On or about December 19, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about November 1, 1945, by W. J. Withers, Oakland, Calif.

**PRODUCT:** 248 cases, each containing 24 1-pound, 13-ounce cans, of fruit cocktail at New York, N. Y. Examination showed that more than 20 percent by weight of the peach and pear units were excessively small or large.

**LABEL, IN PART:** "Pope Brand Fruit Cocktail."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product failed to conform to the standard of quality for canned fruit cocktail since more than 20 percent by weight of the peach and pear units in the container failed to meet the test for uniformity of size, as specified in the standard, and the product was not labeled as being substandard.

**DISPOSITION:** January 24, 1946. M. DeRosa, Inc., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

#### DRIED FRUIT

**9317. Adulteration of diced fruits and peels. U. S. v. 22 Cartons of Diced Fruits and Peels. Default decree of condemnation and destruction.** (F. D. C. No. 18939. Sample No. 142-H.)

**LIBEL FILED:** On or about January 15, 1946, Southern District of Florida.

**ALLEGED SHIPMENT:** On or about July 20, 1945, by H. Baron and Co., Inc., from Rahway, N. J.

**PRODUCT:** 22 50-pound cartons of diced fruits and peels at Lakeland, Fla.

**LABEL, IN PART:** "Baron's Fruits and Peels."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of insects, insect fragments, rodent hairs, and fermented fruits and peels.

**DISPOSITION:** February 5, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.