

oysters were adulterated by (1) excessive soaking of the oysters in fresh water to the extent that the oysters absorbed a large quantity of it, (2) the addition of water to the cans of oysters at the time of packing, (3) the inadequate draining of the oysters after washing so that a significant proportion of the washwater was retained and packed with the oysters, or (4) a combination of the above-mentioned factors.

The complaint alleged further that, since the time the defendant commenced business in 1951, the Food and Drug Administration had examined 44 interstate shipments of the firm's oysters; that 24 of these shipments (54 percent) contained excess drained liquid, as high as 33.7 percent; that 5 of the 24 lots were seized because of the presence of added water; and, that none of the seizures had been contested.

It was alleged also that the defendant corporation was well aware that its activities resulted in violations of the law; that, in addition to the warnings received as a result of the seizure proceedings, repeated warnings had been given to the management during factory inspections, as well as at administrative hearings; and, that, notwithstanding such warnings, the defendant would continue to introduce and cause to be introduced and deliver and cause to be delivered for introduction into interstate commerce, raw shucked oysters adulterated as aforesaid.

DISPOSITION: The Government filed a motion for preliminary injunction, and an answer to the complaint for injunction was filed by the defendant.

On 6-27-58, the parties stipulated to dismissal of the complaint without prejudice in order that the Food and Drug Administration might conduct additional investigational studies to collect further scientific evidence to clarify the standard for raw shucked oysters.

FRUITS AND VEGETABLES

CANNED FRUIT

24813. Canned cherries. (F.D.C. No. 41533. S. No. 35-444 P.)

QUANTITY: 363 cases, 24 15-oz. cans each, at Philadelphia, Pa.

SHIPPED: 2-21-58, from Rochester, N.Y.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 4-30-58, E. Dist. Pa.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 5-28-58. Default—destruction.

24814. Canned cherries and canned tomatoes. (F.D.C. No. 41509. S. Nos. 34-551 P, 35-553 P.)

QUANTITY: 113 cases, 24 15-oz. cans each, of cherries and 57 cases, 48 10-oz. cans each, of tomatoes at Philadelphia, Pa.

SHIPPED: 2-20-58 (cherries), from Rochester, N.Y., and, on an unknown date (tomatoes), from Federalsburg, Md.

LIBELED: 4-10-58, E. Dist. Pa.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 5-5-58. Default—destruction.