

**17175. Misbranding of canned cherries. U. S. v. 49 Cases \* \* \*. (F. D. C. No. 29791. Sample No. 68459-K.)**

**LABEL FILED:** October 5, 1950, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about August 28, 1950, by the Seufert Bros. Co., from The Dalles, Oreg.

**PRODUCT:** 49 cases, each containing 6 6-pound, 11-ounce cans, of cherries at Brooklyn, N. Y.

**LABEL, IN PART:** (Can) "Celilo Brand \* \* \* Light Sweet Royal Anne Pitted Cherries In Light Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the article purported to be and was represented as canned cherries, a food for which a definition and standard of identity had been prescribed, and its label failed to bear the name of the optional packing medium in the article since its label bore the statement "In Light Syrup," whereas the article was packed in sirup designated as "slightly sweetened water" in such standard; and, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned cherries because of an excessive number of cherry pits in the article, and its label failed to bear a statement that it fell below such standard.

**DISPOSITION:** April 18, 1951. Seufert Bros. Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Federal Security Agency.

#### FROZEN FRUIT AND FRUIT PRODUCT

**17176. Adulteration of frozen strawberries. U. S. v. 100 Cases \* \* \*. (F. D. C. No. 30252. Sample No. 81753-K.)**

**LABEL FILED:** On or about November 20, 1950, District of New Jersey.

**ALLEGED SHIPMENT:** On or about October 10, 1950, by Southland Frozen Foods, from Ontario Center, N. Y.

**PRODUCT:** 100 cases, each containing 24 12-ounce cups, of frozen strawberries.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rotten and moldy strawberries.

**DISPOSITION:** January 31, 1951. Default decree of condemnation and destruction.

**17177. Misbranding of frozen strawberries. U. S. v. 330 Cases \* \* \*. (F. D. C. No. 30177. Sample No 70421-K.)**

**LABEL FILED:** December 4, 1950, District of Kansas.

**ALLEGED SHIPMENT:** On or about May 13, 1950, by the Stilwell Canning Co., from Marionville, Mo.

**PRODUCT:** 330 cases, each containing 24 cartons, of frozen strawberries at Kansas City, Kans. Examination showed that the cartons were on the average 83 percent filled and that the article was short of the declared weight.

**LABEL, IN PART:** "Stilwell Fresh Frozen Strawberries Sliced—With Sugar Net Weight 1 Pound."

**NATURE OF CHARGE:** Misbranding, Section 403 (d), the container of the article was so made, formed, and filled as to be misleading; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

**DISPOSITION:** February 5, 1951. The Stilwell Canning Co., Stilwell, Okla., claimant, having consented to the entry of a decree, judgment of condemnation was entered, and the court ordered that the product be released under bond to be repacked into 30-pound cans and to be labeled correctly, under the supervision of the Federal Security Agency.

**17178. Adulteration of frozen cherry juice. U. S. v. 409 Unlabeled Cans, etc.** Claimant files answer and interrogatories. Government's objection to answering certain interrogatories overruled. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 28579. Sample No. 69038-K.)

**LIBEL FILED:** December 16, 1949, Western District of New York.

**ALLEGED SHIPMENT:** On or about November 14, 1949, by the La France Canning Co., from Sturgeon Bay, Wis.

**PRODUCT:** Frozen cherry juice. 409 unlabeled cans, each containing 30 pounds, and 319 unlabeled cans, each containing 50 pounds, at Webster, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of flies, maggots, and fly eggs.

**DISPOSITION:** On January 14, 1950, Roland La France, claimant, doing business as the La France Canning Co., Ontario, N. Y., filed an answer to the libel, denying that the product was adulterated; and on January 30, 1950, this claimant filed nine interrogatories. On February 16, 1950, the Government answered six of these interrogatories but filed objections to others, which required the Government (a) to reveal whether the analyses or tests were to determine the presence of mold or other contamination, and to describe the nature, amount, and extent of such mold or contamination; (b) to furnish a copy of each report showing the results of analyses or tests, the names of persons who prepared each report, and the dates of each report; and (c) to state whether each report related to samples collected before or after seizure. On March 20, 1950, however, the court overruled the Government's objections to answering the three interrogatories; and on or about March 30, 1950, the Government answered the interrogatories in question.

On June 9, 1950, the claimant filed an amended answer to the libel; and on June 27, 1950, the Government filed a motion to strike portions of the claimant's amended answer which motion by the Government was granted on October 18, 1950. On November 6, 1950, the Government filed interrogatories to which the claimant filed objections. On November 28, 1950, the claimant's objections were overruled; and on November 29, 1950, the claimant answered the Government's interrogatories. On December 14, 1950, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

Reconditioning operations resulted in the release of 240 50-pound cans which were fit and the destruction of 390 30-pound cans and 68 50-pound cans which were unfit.