

**ALLEGED SHIPMENT:** On or about March 7, 1952, by the Avoset Co., from San Francisco, Calif.

**PRODUCT:** 300 cases, each containing 24 7-fluid-ounce cans, of Qwip at Brentwood, Md.

**LABEL, IN PART:** (Can) "Qwip Guaranteed not to sour Contents 7 Fluid Ozs. Contains cream, sugar, artificial flavor (vanillin) stabilizer, sealed under pressure with nitrous oxide."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent of the article, milk fat, had been in part omitted therefrom.

Misbranding, Section 403 (g) (1), the article purported to be whipping cream, a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to the definition and standard, which requires that whipping cream contain not less than 30 percent of milk fat, since the article contained less than 30 percent of milk fat.

**DISPOSITION:** On June 2, 1952, the Avoset Co. filed a claim and answer denying that the product was adulterated or misbranded as alleged in the libel. However, on January 14, 1953, the court granted the claimant's petition for leave to withdraw its claim and answer, entered judgment condemning the product, without prejudice, and ordered it destroyed.

## FISH AND SHELLFISH

19787. Adulteration and misbranding of canned mackerel. U. S. v. 215 Cartons \* \* \*. (F. D. C. No. 34614. Sample No. 51593-L.)

**LIBEL FILED:** January 16, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about November 14, 1952, by Franco-Italian Packing Co., Inc., from Terminal Island, Calif.

**PRODUCT:** 215 cartons, each containing 48 15-ounce cans, of mackerel at Kearny, N. J.

**LABEL, IN PART:** (Can) "Sea Ace Brand California Mackerel Packed in Water, Salt Added."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), horse mackerel (jack mackerel) had been substituted in whole or in part for Pacific mackerel, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "Mackerel" and the vignette depicting Pacific mackerel were false and misleading as applied to the article, which was horse mackerel (jack mackerel); and, Section 403 (i) (1), the label failed to bear the common or usual name of the article.

**DISPOSITION:** May 25, 1953. Franco-Italian Packing Co., Inc., 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 Department of Health, Education, and Welfare.

19788. Adulteration of oysters. U. S. v. 224 Cans \* \* \*. (F. D. C. No. 34508. Sample No. 41809-L.)

**LIBEL FILED:** December 24, 1952, Eastern District of Tennessee.

**ALLEGED SHIPMENT:** On or about December 16, 1952, by F. F. East, Inc., from Mauricetown, N. J.

**PRODUCT:** 224 cans of oysters in 2 barrels at Elizabethton, Tenn.

**LABEL, IN PART:** (Can) "Oysters Standards Contents One Pint Sailor Boy Brand Oysters."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** February 10, 1953. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution for its use and not for sale.

On February 12, 1953, it having been suggested to the court that the oysters might not be fit for human consumption because of the lapse of time since they were packed, the court entered an amended order which provided that if the marshal should be in doubt as to the suitability of the oysters for human food, the marshal should destroy them in lieu of delivering them to a charitable institution.

**19789. Adulteration and misbranding of canned shrimp. U. S. v. 19 Cases**  
\* \* \*. (F. D. C. No. 33024. Sample No. 21359-L.)

**LABEL FILED:** On or about April 28, 1952, Southern District of Mississippi.

**ALLEGED SHIPMENT:** Between the approximate dates of July 10, 1951, and March 7, 1952, by the Morgan City Canning Co., from Houma, La.

**PRODUCT:** 19 cases, each containing 48 cans, of shrimp at Gulfport, Miss. Examination showed that code 5F20/SO of the article contained decomposed shrimp; that code OOSC/5181 consisted of oysters; and that codes 5F20/SO, 5F26/SO, and 5 2/SO failed to meet the standard of fill of container for canned shrimp and were short in drained weight.

**LABEL, IN PART:** (Can) "Bayou Rose Brand Wet Pack Shrimp Drained Wt. 5 Ozs."

**NATURE OF CHARGE:** Adulteration (cans coded 5F20/SO), Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

Misbranding (cans coded OOSC/5181), Section 403 (b), the product was offered for sale under the name of another food. Further misbranding (cans coded 5F20/SO, 5F26/SO, and 5 2/SO), Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "Drained Wt. 5 Ozs." was inaccurate; and, Section 403 (h) (2), the product fell below the standard of fill of container for canned wet pack shrimp in nontransparent containers since the containers of the product were so filled that the cut-out weights of shrimp taken from each can were less than 64 percent of the water capacity of the containers and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** June 2, 1952. Default decree of condemnation and destruction.

## FRUITS AND VEGETABLES

### DRIED FRUIT

**19790. Adulteration of prunes. U. S. v. 200 Cases** \* \* \*. (F. D. C. No. 32969. Sample No. 1969-L.)

**LABEL FILED:** March 21, 1952, Southern District of Florida.