

ordered that the product be released under bond to be relabeled under the supervision of the Department of Health, Education, and Welfare.

**20269. Adulteration of oysters. U. S. v. 1 Barrel \* \* \*. (F. D. C. No. 34559. Sample No. 26249-L.)**

**LIBEL FILED:** January 21, 1953, District of Minnesota.

**ALLEGED SHIPMENT:** On or about January 14, 1953, by J. B. Robinson & Co., from Seaford, Del.

**PRODUCT:** 1 barrel containing 104 pint cans of oysters at Mankato, Minn.

**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 product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

**DISPOSITION:** April 27, 1953. Default decree of destruction.

**20270. Misbranding of frozen breaded oysters. U. S. v. 148 Cases \* \* \*. (F. D. C. No. 33594. Sample No. 30664-L.)**

**LIBEL FILED:** October 6, 1952, Western District of Washington.

**ALLEGED SHIPMENT:** The product was delivered for shipment from Seattle, Wash., to Dallas, Tex., by Ivar Wendt, on or about May 23, 1952.

**PRODUCT:** 148 cases, each containing 12 packages, of frozen breaded oysters at Seattle, Wash.

**LABEL, IN PART:** (Package) "Willapoint Breaded Ready to Cook Oysters Quick Frozen Net Wt. 12 Oz. [over-stamped 10 oz.] Distributors Willapoint Oysters Inc. Seattle, Wash."

**NATURE OF CHARGE:** Misbranding, Section 403 (d), the container of the article was so filled as to be misleading since only approximately 10 ounces of breaded oysters were packed in a container capable of holding 12 ounces of breaded oysters; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short weight.)

**DISPOSITION:** June 26, 1953. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution for its use.

## FRUITS AND VEGETABLES

### CANNED FRUIT

**20271. Misbranding of canned peaches. U. S. v. 181 Cases, etc. (F. D. C. No. 34653. Sample Nos. 40882-L, 40883-L.)**

**LIBEL FILED:** February 10, 1953, District of Oregon.

**ALLEGED SHIPMENT:** On or about August 28 and October 31, 1952, by the Wapato Packing Co., from Wapato, Wash.

**PRODUCT:** 181 cases, each containing 24 1-pound, 14-ounce cans of "Chatter Box" brand peaches, and 158 cases, each containing 24 1-pound, 13-ounce cans, of "Freshie" brand peaches, at Portland, Oreg.

**LABEL, IN PART:** (Cans) "Chatter Box Elberta Peaches Halved Yellow Freestone In Extra Heavy Syrup" and "Freshie Brand Elberta Peaches Sliced Yellow Freestone in Heavy Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (2), the "Chatter Box" brand peaches purported to be and were represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and the label failed to bear, as required by regulations, the name of the optional packing medium present in the article since the label bore the statement "In Extra Heavy Syrup," whereas the article was packed in a medium designated as "Heavy Syrup" in the definition and standard.

Misbranding, Section 403 (a), the vignette appearing on the label of the "Freshie" brand peaches depicting an individual serving of evenly sliced peaches was false and misleading as applied to these peaches, which contained cut and broken peach slices. Further misbranding, Section 403 (h) (1), the quality of the "Freshie" brand peaches fell below the standard of quality for canned peaches since all peach units of the article were not untrimmed, or were so trimmed as not to preserve their normal shape, and more than 5 percent of the peach slices in the container of the article were cut and broken; and the label failed to bear a statement that the article fell below the standard.

**DISPOSITION:** April 6, 1953. The Wapato Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the "Chatter Box" brand peaches be released under bond for relabeling and that the "Freshie" brand peaches be disposed of by the marshal, pursuant to law. On May 14, 1953, the court ordered that the "Freshie" brand peaches under seizure, consisting of 13 cases, be released to the claimant for consumption and not for sale.

**20272. Misbranding of canned peaches. U. S. v. 249 Cases \* \* \*. (F. D. C. No. 34625. Sample No. 42403-L.)**

**LABEL FILED:** January 27, 1953, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about December 19, 1952, by the A. M. Beebe Co., from San Francisco, Calif.

**PRODUCT:** 249 cases, each containing 24 1-pound, 13-ounce cans, of peaches at East Rockaway, N. Y.

**LABEL, IN PART:** (Can) "Calirose Halved Yellow Freestone Peaches Packed in Light Syrup."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned peaches since the weight of the largest unit in the container was more than twice the weight of the smallest unit, and more than 20 percent of the units in the container were blemished with discoloration; and the label failed to bear a statement that the article fell below the standard.

Further misbranding, Section 403 (h) (2); the product fell below the standard of fill of container for canned peaches since there was not present in the container of the product the maximum quantity of the optional peach ingredient which could be sealed in the container and processed by heat so as to prevent spoilage without crushing or breaking the ingredient, and the label failed to bear a statement that the product fell below the standard.

**DISPOSITION:** April 28, 1953. The Pacific Grape Products Co., Modesto, Calif., 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 relabeled under the supervision of the Department of Health, Education, and Welfare.