

nificant portion of the wash water was retained and packed into the cans with the oysters, or (4) a combination of the above factors.

The complaint alleged further that since the time the defendant commenced business in 1952 the Food and Drug Administration had examined samples from 41 interstate shipments of the firm's oysters; that 20 of these shipments (48 percent) were found to contain drained liquid in excess of that permitted by the standards; that 9 of the sampled lots were seized in possession of the consignees, and that in these lots as much as 13.3 percent of free liquid was found with the average of the 9 samples being 10.08 percent; that the average of the solids found in the samples of the lots seized was 10.11 percent while the average solids of 6 authentic packs made of the firm's plant by Food and Drug Inspectors (oysters observed being prepared, shucked, and then washed and drained as specified in the standards) during the oyster seasons 1952, 1953, 1954, and 1956 was 14.14 percent; and that the difference between the solids content of the authentic packs and the solids content of the sampled lots indicated that the latter contained added water.

It was alleged also that the defendant was well aware that its activities resulted in violations of the law; and that repeated warnings given to the management during factory inspections, during the preparation of authentic packs, and at administrative hearings resulting from seizures and violative shipments encountered, had brought about a practice of packing "according to the book" only when Food and Drug Inspectors were present at the plant.

DISPOSITION: 1-18-57. The defendant having consented, the court entered a preliminary injunction enjoining and restraining the defendant (until the complaint filed by the Government was dismissed by the Government or set aside by the court upon hearing the complaint for permanent injunction) from causing to be introduced and delivering for introduction into interstate commerce, raw oysters or any other such articles of food which are packed in such manner that over 5 percent of drained liquid is found in the oysters at any time after 15 minutes after packing and are thus adulterated within the meaning of 402(b) (2) and (4).

FRUITS AND VEGETABLES

CANNED FRUIT*

24983. Maraschino cherries, cocktail cherries, and glace cherries (4 seizure actions). (F.D.C. Nos. 41255, 41342, 41346, 41380. S. Nos. 44-575 M, 64-564/5 M, 65-618 M, 88-225 M.)

QUANTITY: 5 cases, 4 1-gal. cans each, of maraschino cherries and 4 cases, 4 1-gal. cans each, of cocktail cherries at Albany, N.Y.; 9 barrels of maraschino cherries at Buffalo, N.Y.; 2 barrels of maraschino cherries at St. Louis, Mo.; and, 25 35-lb. cans of glace cherries at North East, Pa.

SHIPPED: Between 11-20-57 and 12-19-57, from North East, Pa., by Ohio Fruit Products, Inc. to Albany, and Buffalo, N.Y., Cleveland, Ohio, and St. Louis, Mo. On 12-10-57, the Cleveland shipment was returned to North East, Pa.

LABEL IN PART: (Cases) "Whole Maraschino Cherries" and "Cocktail Cherries"; (bbls.) "Whole Maraschino Cherries" and "Non-bleeding Maraschino Cherries"; (35-lb. cans) "Garden of Eden Whole and Broken Glace Cherries."

*See also No. 24990.

LIBELED: 1-2-58, N. Dist. N.Y.; 1-9-58, W. Dist. N.Y. and W. Dist. Pa.; and 1-23-58, E. Dist. Mo.

CHARGE: 402(a) (3)—contained insects, insect parts, fly eggs, and rodent hairs when shipped; and 402(a) (4)—the glace cherries, and the cherries at Albany, N.Y., had been prepared under insanitary conditions.

DISPOSITION: On 3-18-58, the libel actions in the N. Dist. N.Y., W. Dist. N.Y., and E. Dist. Mo., were ordered removed and consolidated with the action in the W. Dist. Pa. On 5-21-58, the Ohio Fruit Products, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the cherries were ordered released under bond for segregation of the unfit portions. Thereafter, 25 gals. of maraschino cherries, 189 lbs. of glace cherries, and 4½ gals. of cocktail cherries were segregated as unfit and destroyed.

MISCELLANEOUS FRUIT PRODUCTS

24984. Canned lemon juice, canned grape juice, and canned orange juice. (F.D.C. No. 40470. S. Nos. 32-905 M, 57-904/5 M, 78-414/5 M.)

INFORMATION FILED: 1-15-58, W. Dist. Mo., against Research Laboratories, Inc., d/b/a Dubl-Rich Products Co., St. Joseph, Mo., Darwin F. Aldrich, production manager, and W. C. Pollard, sales manager.

SHIPPED: On 1-9-57 and 5-13-57, from Missouri to Colorado, Florida, and Kansas.

LABEL IN PART: (Btl.) "dubl-rich brand processed California lemon juice 12 fluid ounces made from the juice of sun ripened California lemons . . . high in Vitamin C!" or "dubl-rich brand sweetened concord grape juice one gallon dubl-rich brand is a sweetened grape juice made from the juice of pure sunripened Concord Grapes. For a delicious Grape Drink, Use One Part dubl-rich Brand Grape Juice to Five Parts Water. No Sugar Necessary" or "dubl-rich brand California orange juice (sweetened) dubl-rich brand is a sweetened orange juice concentrate made from the juice of pure sun ripened California Oranges. For a Delicious Orange Drink, Use One Part dubl-rich Brand Orange Juice To Five Parts Water. No Sugar Necessary."

RESULTS OF INVESTIGATION: Analysis showed that the "lemon juice" consisted of a mixture of citric acid, artificial color, and from 5 to 10 percent lemon juice, and contained little or no vitamin C; that the "grape juice" consisted of a mixture of citric acid, artificial color, artificial flavor, and 2 percent grapejuice; and, that the "orange juice" consisted of a mixture of citric acid, artificial color, artificial flavor, and 25 percent orange juice.

CHARGE: Lemon juice. 402(b) (1)—when shipped, valuable constituents of the article, namely, lemon juice and vitamin C, had been in part omitted; and 402(b) (2)—a substance consisting of a mixture of citric acid, artificial color, and 5 to 10 percent lemon juice had been substituted for lemon juice.

Grapejuice. 402(b) (1)—when shipped, a valuable constituent of the article, namely, grapejuice, had been in part omitted; and 402(b) (2)—a substance consisting of a mixture of citric acid, artificial flavor, artificial color, and 2 percent grapejuice had been substituted for grapejuice.

Orange juice. 402(b) (1)—when shipped, a valuable constituent of the article, namely, orange juice, had been in part omitted; and 402(b) (2)—a