

Further misbranding, Section 403 (f), the common or usual name of each ingredient contained in the article was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices on the label) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use, since the name of each ingredient contained in the article was in small type and appeared inconspicuously on the side panel.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in the notices of judgment on drugs and devices, No. 1350.

DISPOSITION: March 10, 1944. The Maritime Milling Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

FISH AND SHELLFISH

8025. Adulteration of canned mackerel. U. S. v. B. A. Griffin Co., Inc., and Bennett A. Griffin. Plea of guilty on behalf of the corporation and plea of nolo contendere by the individual. Fines, \$400 and \$100 against corporation and individual, respectively. (F. D. C. No. 12514. Sample Nos. 47201-F to 47203-F, incl.)

INFORMATION FILED: June 21, 1944, District of Massachusetts, against the B. A. Griffin Co., Inc., and Bennett A. Griffin, president of the corporation, Barnstable, Mass.

ALLEGED SHIPMENT: On or about June 18, 1943, from the State of Massachusetts into the State of Tennessee.

LABEL, IN PART: "Griffin's Atlantic Ocean Mackerel * * * Packed for B. A. Griffin Co., Inc., Milwaukee, Wis."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid and decomposed substance, i. e., stale, putrid, and decomposed mackerel.

DISPOSITION: April 24, 1945. A plea of guilty having been entered on behalf of the corporation, and the individual defendant having entered a plea of nolo contendere, fines of \$400 and \$100, respectively, were imposed.

8026. Adulteration of salted mackerel. U. S. v. Covington Brothers & Co. (Covington Brothers & Co. of Mayfield, Inc.). Plea of guilty. Fine, \$500 and costs. (F. D. C. No. 12569. Sample No. 62923-F.)

INFORMATION FILED: September 23, 1944, Western District of Kentucky, against Covington Brothers & Co., a corporation, trading as Covington Brothers & Co. of Mayfield, Inc., at Mayfield, Ky.

ALLEGED SHIPMENT: On or about February 16, 1944, from the State of Kentucky into the State of Missouri.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed and putrid substance.

DISPOSITION: November 21, 1944. A plea of guilty having been entered on behalf of the defendant, a fine of \$500 and costs was imposed.

8027. Adulteration and misbranding of canned salmon. U. S. v. 171 Cases of Canned Salmon. Default decree of condemnation and destruction. (F. D. C. No. 13902. Sample Nos. 78926-F, 78927-F.)

LABEL FILED: October 16, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: On or about July 20, 1944, by the Keystone Storage Co., from East Liverpool, Ohio.

PRODUCT: 171 cases of canned salmon, at Chicago, Ill.

LABEL, IN PART: (Portion) "Canteen Cohoe Alaska Salmon * * * Distributed By Western Fisheries Company, Seattle, Wash."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (e), a portion of the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; and, Section 403 (i) (2), it was fabricated from two or more ingredients, salmon and salt, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: December 12, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8028. Adulteration of crab meat. U. S. v. Howard W. Shaw (Southern Crab Co.).
Plea of nolo contendere. Fine, \$100. (F. D. C. No. 14261. Sample Nos. 28873-F, 28875-F.)

INFORMATION FILED: February 26, 1945, Southern District of Florida, against Howard W. Shaw, trading as the Southern Crab Co., Fernandina, Fla.

ALLEGED SHIPMENT: On or about June 3 and 6, 1944, from the State of Florida into the State of New York.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance as evidenced by the presence of fecal *Escherichia coli*; and, Section 402 (a) (4), it has been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 4, 1945. The defendant having entered a plea of nolo contendere, a fine of \$50 on each of 2 counts was imposed.

8029. Adulteration of canned oysters. U. S. v. 673 Cases of Canned Oysters.
Tried to the court. Judgment ordering portion of product returned to the claimant; remainder condemned and released under bond. (F. D. C. No. 10068. Sample No. 42276-F.)

LIBEL FILED: June 8, 1943, Middle District of Tennessee.

ALLEGED SHIPMENT: On or about May 13, 1943, by the Mavar Shrimp and Oyster Co., from Biloxi, Miss.

PRODUCT: 673 cases, each containing 48 10-ounce cans, of oysters, at Nashville, Tenn.

LABEL, IN PART: "Oysters * * * New Style Pack More Oysters Per Can, Gibbs And Co., Inc. Distributors, Baltimore, Md. * * * Bull Head Brand."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: On July 30, 1943, the Mavar Shrimp & Oyster Co., Ltd., claimant, filed an answer denying that the product was adulterated. Thereafter, the claimant having submitted a list of five interrogatories requesting information in regard to the details of the examination of samples, and the government having filed objections, the matter came on for hearing, following which an order was entered on January 19, 1944, directing that the interrogatories be answered. Subsequently, a motion filed by the claimant for the release of a portion of the product under seizure, on the ground that it was fit for consumption, was overruled.

On May 28, 1945, the cause was submitted to the court upon the pleadings, evidence, exhibits, and argument of counsel for the Government and claimant, and, after due consideration thereof, the court, on May 30, 1945, entered its findings of fact and conclusions of law as follows:

DAVIES, *District Judge:*

FINDINGS OF FACT

"1. A Libel in Rem was filed herein by the United States of America on June 8, 1943, against 673 cases, more or less, each containing 48 cans of an article labeled in part (can) "OYSTERS, CONTENTS, 10 OZ. AVOIR. NEW STYLE PACK MORE OYSTERS PER CAN, GIBBS AND CO., INC., DISTRIBUTORS, BALTIMORE, MD., 7½ OZS. DRAINED WEIGHT, BULL HEAD BRAND," in the possession of H. G. Hill Company of Nashville, Davidson County, Tennessee; that said cases of oysters were processed, packed and owned by the co-partnership Mavar Shrimp and Oyster Company, Ltd., claimant, and that said oysters were shipped and transported on or about May 13, 1943 from the city of Biloxi, Mississippi, via Louisville and Nashville Railroad, to H. G. Hill Company in Nashville, Tennessee, and that said oysters were intended to be sold or offered for sale in the Middle District of Tennessee.

"2. That said shipment was composed of 673 cases, more or less, of oysters, consisting of 26 Codes designated by the following numbers: 2BCB 2BGB 2BGC 2BGD 2BGE 2BGF 2BGG 2BGH 2BGI 2BGJ 2BHB 2BHC 2BHD 2BHE 2BHF 2BHG 2BHH 2BHJ 2BIA 2BIB 2BIC 2BID 2BIH 2BII 2BIJ 2EE.

"3. That the plaintiff took a pre-seizure sample from said cases of oysters identified as sample 42276-F, and pursuant to an order entered in this cause