to meet those standards and that government inspectors inspected and passed upon the raisins so produced. Under these circumstances the court finds that there was an absence of deliberate violation of the statute and the court deems that a fine of $25 as to each defendant and as to each count, or a total fine of $100 as to each defendant, would be an appropriate punishment. Imposition of sentence will be made in the absence of the defendants if they will file with this court within 10 days from the date hereof their written consent that such imposition of sentence may be made in the absence of said defendants pursuant to Rule 43 of the Federal Rules of Criminal Procedure; if such consent is not filed within said period the matter of pronouncing sentence will be upon the calendar of this court on Monday, March 15th, 1948."

MISCELLANEOUS FRUIT PRODUCTS*

13642. Adulteration of applesauce. U. S. v. 548 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 22504, 22505. Sample Nos. 41303–H, 41304–H.)

LIBELS FILED: February 11 and 12, 1947, Eastern District of Missouri and Southern District of Illinois.

ALLEGED SHIPMENT: On or about September 23, 1946, by Stokely-Van Camp, Inc., Indianapolis, Ind., from Owosso, Mich.

PRODUCT: Applesauce. 548 cases at Canton, Mo., and 45 cases at Quincy, Ill. Each case contained 24 1-pound, 4-ounce cans.

LABEL, IN PART: "Our Favorite Brand Apple Sauce * * * Distributed By Fame Canning Company, Inc., Indianapolis, Ind."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of its having an offensive sulfide-like odor and taste.

DISPOSITION: May 24, 1948. The cases having been consolidated for trial in the Eastern District of Illinois, and Stokely-Van Camp, Inc., claimant, having withdrawn its answer and requested the entry of a decree of condemnation, judgment of condemnation was entered and the product was ordered destroyed.

13643. Misbranding of applesauce. U. S. v. 502 Cases * * *. Claimant's request for answer to interrogatories granted. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 22584. Sample No. 69925–H.)

LIBEL FILED: On or about March 11, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about September 6, 1946, by Stokely-Van Camp, Inc., from Owosso, Mich.

PRODUCT: 502 cases, each containing 24 1-pound, 4-ounce cans, of applesauce at Chicago, Ill.

LABEL, IN PART: "Our Favorite Brand Apple Sauce Sugar Added * * * Distributed By Fame Canning Company, Inc. Indianapolis, Ind."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Sugar Added" was misleading since the product contained little, if any, added sugar.

DISPOSITION: Stokely-Van Camp, Inc., having appeared as claimant and having filed interrogatories on November 5, 1947, the court ruled in favor of the claimant, as follows:

LABUY, *District Judge:* "In accord with the opinion of the Supreme Court of the United States in *443 Cans of Frozen Egg Products* v. *U. S.*, 226 U. S. 172 and *C. J. Hendry Co.* v. *Moore*, 318 U. S. 133, holding that district courts proceed as courts of common law and not as courts of admiralty regarding seizures on the land, this court holds the Federal Rules of Civil Procedure apply to these proceedings.

"The libel herein relates to misbranding in that the addition of the words SUGAR ADDED to the label is misleading 'as applied to an article containing little if any added sugar.' Interrogatories submitted by defendant request substantially the following information: type and description of tests used to determine sugar content and amount of sugar content in the product, when and by whom the tests were taken, number of samples tested, and amount of sugar disclosed by such tests. These are directed to the evidentiary facts underlying the allegation in the libel of 'little if any added sugar' and are directed to

*See also Nos. 13502–13504, 13509, 13510.

material evidence, disclosure of which at this time is objected to by the Government. Rule 33 of the Rules of Civil Procedure should be liberally construed for its purpose is to 'lift the veil of dark secrecy' incident to trials. The court believes the interrogatories to be proper and rules that answers be made thereto.

"An order has this day been entered in accord with the above, and plaintiff is ordered to make answer within 20 days."

Subsequent to the entry of above ruling, counsel for the claimant announced that in all probability the action would not be contested, and, consequently, the work of preparing answers to the interrogatories was not completed. On January 12, 1948, the claimant having requested the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be relabeled under the supervision of the Federal Security Agency.

13644. Adulteration of fig paste. U. S. v. 680 Cartons * * * (and 1 other seizure action). Cases consolidated and tried to the jury. Verdict for the Government. Decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 16106, 16132. Sample Nos. 5728–H, 5729–H, 11825–H.)

LIBELS FILED: May 4 and 11, 1945, Eastern District of New York and District of Massachusetts.

ALLEGED SHIPMENT: On or about February 7, 1945, by Jack Gomperts & Co., from Fresno, Calif.

PRODUCT: Fig paste. 1,883 80-pound cases at Brooklyn, N. Y., and 680 80-pound cartons at Boston, Mass.

LABEL, IN PART: "Concordia Brand Adriatic Fig Paste," "Matador Brand California Black Mission Fig Paste," or "Calif. White Fig Paste."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and larvae fragments.

DISPOSITION: On July 17, 1945, pursuant to agreement between the Government, and Jack Gomperts & Co., claimant, an order was entered for removal and consolidation of the cases for trial in the Southern District of California. The claimant also filed interrogatories, and objections thereto were filed by the Government, which objections were subsequently sustained by the court. The matter came on for trial before a jury, but no verdict was rendered due to the inability of the jury to agree. The matter was retried before another jury, beginning April 23, 1946, and on April 25 the jury rendered a verdict in favor of the Government. In accordance therewith, judgment of condemnation was entered on July 31, 1946, against the 680-case lot, and the product was ordered released under bond to the claimant on condition that the fig paste be used for distillation purposes, under the supervision of the Federal Security Agency. On April 10, 1947, the decree was amended to allow the claimant to dispose of the product for hog feed. On November 19, 1947, judgment of condemnation was entered against the 1,883-case lot and it was ordered that this lot be released under bond for use as cattle feed or for distillation purposes.

13645. Misbranding of blackberry jelly and blackberry preserves. U. S. v. Shuford Foods, Inc. Plea of nolo contendere. Fine, $125. (F. D. C. No. 24777. Sample Nos. 54865–H, 54872–H, 814–K, 817–K, 818–K.)

INFORMATION FILED: June 1, 1948, Northern District of Georgia, against Shuford Foods, Inc., Atlanta, Ga.

ALLEGED SHIPMENT: On or about June 11 and 17, September 26, and October 14 and 28, 1947, from the State of Georgia into the States of North Carolina, South Carolina, and Florida.

LABEL, IN PART: "Georgia Miss * * * Blackberry Preserves 16 Ounces," and "Georgia Miss * * * Blackberry Jelly 11 [or "16"] Ounces."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), (blackberry preserves) the product failed to conform to the definition and standard of identity prescribed by the regulations. There were 3 shipments of blackberry preserves involved, and in 2 shipments the soluble-solids content was less than 68 percent, the minimum prescribed by the standard; and the optional saccharine ingredient contained corn sirup, and the weight of the corn sirup solids consisted of