

DISPOSITION: February 8, 1949. Default decree of condemnation and destruction.

14261. Adulteration of tomato puree. U. S. v. 25 Cases * * *. (F. D. C. No. 26501. Sample No. 44237-K.)

LABEL FILED: February 7, 1949, Northern District of Ohio.

ALLEGED SHIPMENT: On or about December 13, 1948, by the Cravens Canning Co., from Acton, Ind.

PRODUCT: 25 cases, each containing 6 6-pound, 6-ounce cans, of tomato puree at Lima, Ohio.

LABEL, IN PART: "Red Chef Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: March 8, 1949. Default decree of condemnation and destruction.

14262. Adulteration of tomato sauce and misbranding of fruit cocktail and evaporated milk. U. S. v. Libby, McNeill & Libby. Motion to dismiss certain counts denied. Plea of nolo contendere to counts 1, 4, and 7; fine, \$400. Remaining counts dismissed. (F. D. C. No. 21461. Sample Nos. 29516-H, 45459-H, 45478-H, 45528-H, 46640-H.)

INFORMATION FILED: March 11, 1947, Northern District of California, against Libby, McNeill & Libby, a corporation, San Francisco, Calif.

ALLEGED VIOLATIONS: On or about December 14 and 18, 1945, and January 22 and May 4, 1946, the defendant company shipped in interstate commerce quantities of fruit cocktail, evaporated milk, and tomato sauce from the State of California into the States of New York and New Jersey, and the Territories of Puerto Rico and Hawaii. On July 31, 1940, the defendant gave a continuing guaranty to a firm doing business at San Francisco, Calif., which guaranteed that goods supplied to the latter firm would not be adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act. On January 21, 1946, the defendant delivered to the said firm, pursuant to the terms of the guaranty, a quantity of evaporated milk which contained less vitamin D than indicated on the label and which was subsequently shipped by the purchaser from the State of California into the Territory of Hawaii.

LABEL, IN PART: "Libby's [design] Fruit Cocktail In Light Syrup," "Libby's Homogenized * * * Evaporated Milk," or "Libby's [design] Tomato Sauce."

NATURE OF CHARGE: Fruit cocktail. Misbranding, Section 403 (g) (1), (counts 1 and 2) the product failed to conform to the definition and standard of identity for canned fruit cocktail since it contained more than 50 percent by weight of pitted, peeled, and diced peaches, the maximum permitted by the standard, and less than 25 percent by weight of peeled, cored, and diced pears, the minimum permitted by such standard. Further misbranding, Section 403 (h) (1), (count 1) the product failed to conform to the standard of quality for canned fruit cocktail since more than 20 percent by weight of the peach units and more than 20 percent by weight of the pear units in the container were more than $\frac{3}{4}$ inch in the greatest edge dimension or would pass through