6709. Misbranding of canned peaches. U. S. v. 149 Cases of Canned Peaches. Decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 10743. Sample No. 11946–F.)

LIBEL FILED: September 11, 1943, Western District of New York.

ALLEGED SHIPMENT: On or about August 24, 1943, by the Independent Grocers' Alliance Distributors, Inc., from Alameda, Calif.

PRODUCT: 149 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Rochester, N. Y.

LABEL, IN PART: (Cans) "Much-more Brand Packed in Light Syrup * * * Halves Yellow Cling Peaches * * * Packed For Food Products Co. of America Chicago, Ill."

VIOLATION CHARGED: Misbranding, Section 403 (a), the statements "Packed in Light Syrup," and "Halves Yellow Cling Peaches," were false and misleading as applied to the article, which consisted of mixed pieces of irregular sizes and shapes, packed in slightly sweetened water.

DISPOSITION: February 17, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. On March 20, 1944, Brewster Gordon & Co., Inc., Rochester, N. Y., having appeared as claimant, an amended decree was entered ordering the delivery of the product to the claimant under bond, for relabeling under the supervision of the Food and Drug Administration.

6710. Misbranding of canned pears. U. S. v. 87 Cases of Canned Pears. Decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 11518. Sample No. 40798–F.)

LIBEL FILED: January 4, 1944, District of Minnesota.

ALLEGED SHIPMENT: On or about February 1, 1943, by the Kuhn Cannery, from Pattonsburg, Mo.

PRODUCT: 87 cases, each containing 24 1-pound, 12-ounce cans, of pears at St. Paul, Minn.

LABEL, IN PART: (Cans) "Pattonsburg Pride Brand Kieffer Pears Halves."

VIOLATION CHARGED: Misbranding, Section 403 (h) (1), the article fell below the standard for canned pears since it failed to meet the test for tenderness prescribed in the regulations; all the pear units were not untrimmed or so trimmed as to preserve their normal shape; and the product did not bear the sub-standard legend, as required by the regulations.

DISPOSITION: March 6, 1944. The Kuhn Cannery, claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

6711. Adulteration of dried prunes. U. S. v. 2,400 Boxes of Dried Prunes. Portion ordered released; remainder condemned and ordered released under bond. (F. D. C. No. 8606. Sample No. 19320–F.)

LIBEL FILED: October 19, 1942, District of Massachusetts.

ALLEGED SHIPMENT: On or about September 17, 1942, by Guggenhime & Co., from San Jose, Calif.

PRODUCT: 2,400 26-pound boxes of dried prunes at Boston, Mass.

When this product was unloaded from the railroad car at destination, it was found that a heavy layer of coal dust covered the entire top tier of boxes. Coal dust had also sifted down between the boxes so that all were partially coated with coal dust. The boxes were stacked bottoms up and, since the bottoms consisted of two boards with space between, coal dust came in direct contact with the prunes in those cases in which the paper wrapper did not completely cover the prunes. Examination of a number of boxes showed that the surface of the prunes was covered with visible coal dust.

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

DISPOSITION: On November 16, 1942, re-examination having shown that a portion of the product was fit for human consumption, a decree was entered ordering the release of the fit portion to the consignee, the U. S. Quartermaster Depot, Boston, Mass. On August 20, 1943, James J. Ryan, Boston, Mass., claimant for the remainder, having admitted the allegations in the libel, judgment of condemnation was entered and the product was ordered released under