

**ALLEGED SHIPMENT:** On or about March 7, 1952, by the Avoset Co., from San Francisco, Calif.

**PRODUCT:** 300 cases, each containing 24 7-fluid-ounce cans, of Qwip at Brentwood, Md.

**LABEL, IN PART:** (Can) "Qwip Guaranteed not to sour Contents 7 Fluid Ozs. Contains cream, sugar, artificial flavor (vanillin) stabilizer, sealed under pressure with nitrous oxide."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (1), a valuable constituent of the article, milk fat, had been in part omitted therefrom.

Misbranding, Section 403 (g) (1), the article purported to be whipping cream, a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to the definition and standard, which requires that whipping cream contain not less than 30 percent of milk fat, since the article contained less than 30 percent of milk fat.

**DISPOSITION:** On June 2, 1952, the Avoset Co. filed a claim and answer denying that the product was adulterated or misbranded as alleged in the libel. However, on January 14, 1953, the court granted the claimant's petition for leave to withdraw its claim and answer, entered judgment condemning the product, without prejudice, and ordered it destroyed.

## FISH AND SHELLFISH

19787. Adulteration and misbranding of canned mackerel. U. S. v. 215 Cartons \* \* \*. (F. D. C. No. 34614. Sample No. 51593-L.)

**LIBEL FILED:** January 16, 1953, District of New Jersey.

**ALLEGED SHIPMENT:** On or about November 14, 1952, by Franco-Italian Packing Co., Inc., from Terminal Island, Calif.

**PRODUCT:** 215 cartons, each containing 48 15-ounce cans, of mackerel at Kearny, N. J.

**LABEL, IN PART:** (Can) "Sea Ace Brand California Mackerel Packed in Water, Salt Added."

**NATURE OF CHARGE:** Adulteration, Section 402 (b) (2), horse mackerel (jack mackerel) had been substituted in whole or in part for Pacific mackerel, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "Mackerel" and the vignette depicting Pacific mackerel were false and misleading as applied to the article, which was horse mackerel (jack mackerel); and, Section 403 (i) (1), the label failed to bear the common or usual name of the article.

**DISPOSITION:** May 25, 1953. Franco-Italian Packing Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

19788. Adulteration of oysters. U. S. v. 224 Cans \* \* \*. (F. D. C. No. 34508. Sample No. 41809-L.)

**LIBEL FILED:** December 24, 1952, Eastern District of Tennessee.

**ALLEGED SHIPMENT:** On or about December 16, 1952, by F. F. East, Inc., from Mauricetown, N. J.