

21157. Adulteration and misbranding of preserves and jelly. U. S. v. 10 Cases of Assorted Preserves, et al. Decrees of condemnation and destruction. (F. & D. nos. 30123, 30351, 30471. Sample nos. 38087-A to 38092-A, incl., 38094-A, 38095-A, 38179-A to 38182-A, incl., 38188-A to 38194-A, incl.)

These cases involved shipments of various preserves and one lot of cranberry jelly. With the exception of the blackberry and pineapple and portions of the cherry and raspberry, the preserves contained insufficient fruit to be designated as preserves. Some of the products that were deficient in fruit contained added pectin and water. Shortages in weight were found in the cranberry jelly, the blackberry and pineapple preserves, and many of the other products. One lot of strawberry preserves was packed in jars containing slightly over 30 ounces and was labeled, "Net Weight 12 Ozs."

On April 22, April 25, and May 15, 1933, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 34½ cases of various preserves and 14 cases of cranberry jelly, at Atlantic City, N. J., alleging that the article had been shipped in interstate commerce, between November 1, 1932 and April 15, 1933, by P. Herold & Sons, Inc., from Philadelphia, Pa., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The articles were labeled in part: (Jar) "Kulp's Pure Jelly Cranberry Contents 18 Ounces"; "Kulp's Pure Preserves * * * Blackberry [or Strawberry]", "Red Raspberry", "Cherry", "Peach", or "Pineapple"] Net Weight 16 Ozs. [or "Net Weight 32 Ozs."] Kulp Preserving Co., Philadelphia, Pa."

It was alleged in the libels that portions of the cherry, strawberry, and peach preserves were adulterated in that excess sugar had been mixed and packed with the articles so as to lower and injuriously affect their quality and strength. Adulteration of the strawberry, peach, and portions of the raspberry and cherry, was alleged for the reason that mixtures of fruit and sugar, with added pectin and water in certain of the lots, and containing less fruit than contained in preserves, had been substituted for the articles, and for the further reason that the said articles had been mixed in a manner whereby inferiority was concealed.

Misbranding of the strawberry and peach, and portions of the cherry and raspberry was alleged for the reason that the statements on the labels, "Pure Strawberry" [or "Red Raspberry", "Cherry", or "Peach"] Preserves", were false and misleading and deceived and misled the purchaser, and for the further reason that the articles were offered for sale under the distinctive names of other articles. Misbranding of the cranberry jelly, the blackberry, pineapple, and peach preserves, and portions of the cherry, raspberry, and strawberry preserves was alleged for the further reason that the statements on the labels, "Contents 18 Ounces", "Net Weight 16 Ozs.", or "Net Weight 32 Ozs.", were false and misleading and deceived and misled the purchaser, since the jars contained less than declared; and for the further reason that the articles were in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages, since the statements made were incorrect. Misbranding of the portion of the strawberry preserves in jars containing approximately 30 ounces and labeled, "Net Weight 12 ozs.", was alleged for the reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statements made were not correct.

On June 15, 1933, default was entered in the case instituted against 14 cases of cranberry jelly and 5 cases of preserves and the court ordered the products condemned and destroyed. On June 24, 1933, P. Herold & Sons, Philadelphia, Pa., having withdrawn claims which had been entered in the two other cases, and having consented to the entry of decrees, judgments were entered condemning the remaining products and ordering that they be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

21158. Misbranding of orange juice. U. S. v. 28 Cases of Orange Juice. Decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. nos. 30356, 30357. Sample nos. 42004-A, 42005-A.)

This case involved shipments of orange juice, sample cans of which were found to contain less than the declared volume.

On April 29, 1933, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 28 cases of orange juice at Denver,