

3874. Misbranding of jelly. U. S. v. Stetson-Barrett Co. Plea of nolo contendere. Fine, \$1 and costs. (F. & D. No. 3060. I. S. Nos. 11420-c, 11421-c.)

On May 28, 1912, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Stetson-Barrett Co., a corporation, Los Angeles, Cal., alleging shipment by said company, in violation of the Food and Drugs Act, on or about November 17, 1910, from the State of California into the then Territory, now State, of Arizona, of a quantity of jelly which was misbranded. Part of the shipment was labeled: "Blue Hussar Brand Apple Juice Jelly. Packed for Stetson-Barrett Co., Los Angeles, Cal. Contains 15 per cent Glucose. Slightly Colored with Harmless Color. Standard Quality." Another portion of the shipment was labeled: "Blue Hussar Brand Apple Juice Jelly Artificial Apricot Flavor. Packed for Stetson-Barrett Co., Los Angeles, Cal. Contains 15 per cent Glucose. Slightly colored with Harmless Color. Standard Quality."

Analyses of samples of the products by the Bureau of Chemistry of this department showed the following results:

Sample 1.

Solids by drying (per cent).....	50.81
Nonsugar solids (per cent).....	12.92
Sucrose, Clerget (per cent).....	8.74
Sucrose, by copper (per cent).....	8.98
Reducing sugars as invert before inversion (per cent).....	29.15
Commercial glucose (factor 163) (per cent).....	13.74
Polarization, direct, at 20° C. (°V.).....	18.0
Polarization, invert, at 20° C. (°V.).....	6.4
Polarization, invert, at 87° C. (°V.).....	22.4
Ash (per cent).....	0.68
Tartaric acid (per cent).....	0.30
Benzoates: Absent.	
Color: Ponceau 3 R.	
Sample of a sirupy consistency, not a jelly.	

Sample 2.

Solids by drying (per cent).....	53.92
Nonsugar solids (per cent).....	15.83
Sucrose, Clerget (per cent).....	6.79
Sucrose, by copper (per cent).....	7.08
Reducing sugars as invert before inversion (per cent).....	31.30
Commercial glucose (factor 163) (per cent).....	20.86
Polarization, direct, at 20° C. (°V.).....	29.0
Polarization, invert, at 20° C. (°V.).....	20.0
Polarization, invert, at 87° C. (°V.).....	34.0
Ash (per cent).....	0.84
Phosphoric acid (per cent).....	0.039
Tartaric acid (per cent).....	0.715
Benzoates: Absent.	
Color: Ponceau 3 R.	

Misbranding of the product labeled as first set forth above was alleged in the information for the reason that the label thereof would lead the purchaser of any cans so labeled to believe that the contents thereof consisted wholly of apple juice; and it was further alleged that the other label set forth above would lead the purchaser of any can so labeled to believe that the contents thereof was composed wholly of apple-juice jelly with artificial apricot flavor; whereas, in truth and in fact, both of said

products so labeled as aforesaid consisted of mixtures or compounds containing large amounts of a commercial glucose and a quantity of tartaric acid; that both of said products were further misbranded in that the statement "contains 15 per cent of glucose," borne on the labels of said products, as aforesaid, was so inconspicuous as to escape the attention of the average purchaser, and in consequence was false and misleading within the meaning of said act, and particularly of section 7 of said act; that the product labeled as set forth in the second mentioned label was further misbranded in that said label did not contain a statement informing the purchaser thereof that the product so labeled contained tartaric acid, which, in truth and in fact, said product so labeled did contain, said acid not being a normal constituent of apple-juice jelly.

On January 30, 1915, the defendant company entered a plea of nolo contendere to the information, and the court imposed a fine of \$1 and costs.

CARL VROOMAN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *May 26, 1915.*