4454. Adulteration and misbranding of black raspberry jam and misbranding of fruit marmalade. U. S. v. 85 Jars of Fruit Marmalade and 85 Jars of Black Raspberry Jam. Default decree of condemnation and destruction. (F. D. C. No. 8320. Sample Nos. 19719–F, 19720–F.)

On September 8, 1942, the United States attorney for the District of Massachusetts filed a libel against 85 jars of an article labeled in part: "Mactavish * * * fruit marmalade," and 85 jars of an article labeled in part: "Mactavish * * * Black Raspberry," at Springfield, Mass., alleging that the articles had been shipped in interstate commerce on or about July 8, 1942, by the Mactavish Preserves Co., Inc., from Long Island City, N. Y., and charging that they were adulterated and misbranded.

The product labeled "Black Raspberry" was alleged to be adulterated in that imitation black raspberry jam had been substituted in whole or in part for black raspberry jam which it purported to be. Both products were alleged to be misbranded (1) in that the statement, "1 Pound Net," on the labels was false and misleading as applied to articles that were short weight; and (2) in that they were in package form and did not bear labels containing an accurate statement of the quantity of the contents. The product labeled "Black Raspberry" was alleged to be misbranded further (1) in that the statement, "Black Raspberry Seedless Contains only selected wholesome fruit and cane sugar," was false and misleading since it was not black raspberry jam and contained other ingredients than fruit and cane sugar; (2) in that it was an imitation of another food, namely, black raspberry jam, and its label did not bear in type of uniform size and prominence the word "imitation" and immediately thereafter the name of the food imitated; and (3) in that it purported to be a food for which a definition and standard of identity had been prescribed by regulations promulgated pursuant to the law and it failed to conform to such definition and standard since it had not been concentrated by heat to such point that its insoluble solids content was not less than 68 percent as provided by such regulation and since its label did not bear the name of the food as specified therein.

On December 14, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

4455. Adulteration and misbranding of raspberry jam. U. S. v. 15 Pails of Raspberry Jam (and 2 additional seizure actions against raspberry jam). Consent decree of condemnation and destruction. (F. D. C. Nos. 6823, 6824, 7007. Sample Nos. 84319–E, 84875–E, 89304–E.)

Between February 6 and March 9, 1942, the United States attorneys for the District of Connecticut and the District of New Jersey filed libels against 15 50-pound pails of raspberry jam at Bridgeport, Conn., 5 30-pound pails at Asbury Park, N. J., and 10 50-pound pails at Newark, N. J., alleging that the article had been shipped in interstate commerce within the period from on or about December 30, 1941, to on or about January 8, 1942, in part by the Globe Products Co., Inc., and in part by Hudson Preserves, Inc., from New York, N. Y.; and charging that it was adulterated and misbranded. The article was labeled in part: "Blue Diamond Pure Raspberry Jam * * * Distributed by Henry Bresky & Sons Bridgeport, Conn," "S&S Brand Pure Raspberry Jam * * * Distributed by Steinberg & Spielfogel, Inc., Lakewood & Asbury Park, N. J."; or "Pure Raspberry Jam."

The article was alleged to be adulterated in that an imitation raspberry jam, deficient in fruit, had been substituted wholly or in part for raspberry jam.

It was alleged to be misbranded (1) in that the name "Pure Raspberry Jam" was false and misleading as applied to an article that was deficient in fruit; (2) in that it was an imitation of another food and its label failed to bear in type of uniform size and prominence the word "imitation" and, immediately thereafter, the name of the food imitated; and (3) in that it purported to be a food for which a definition and standard of identity had been prescribed by regulations as provided by law but it failed to conform to such definition and standard since it was deficient in fruit.

On March 9, 1942, the Globe Products Co., Inc., claimant, filed a petition in the District Court for the District of Connecticut for the removal of the case pending in that District to the District of New Jersey, and its consolidation with the cases in the latter District, and on May 7, 1942, an order for such removal and consolidation was entered. On December 7, 1942, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.