

PRODUCT: 18 cases of apple-grape jelly and 18 cases of apple-cherry jelly at Bristol, Va. Each case contained 24 12-ounce jars.

LABEL, IN PART: (Jar) "Keller's Pure Apple Grape [or "Cherry"] Jelly."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product of less than 65 percent soluble solids had been substituted for apple-grape jelly and apple-cherry jelly.

Misbranding, Section 403 (g) (1), the articles failed to conform to the definitions and standards of identity for apple-grape jelly and apple-cherry jelly, since the soluble solids content of the articles was less than 65 percent, the minimum permitted by the definitions and standards.

DISPOSITION: December 1, 1947. Default decree of condemnation. The product was ordered delivered to a charitable institution.

12557. Adulteration and misbranding of red raspberry jelly. U. S. v. 15 Cases * * * (F. D. C. No. 24287. Sample No. 4249-K.)

LIBEL FILED: On or about January 9, 1948, District of Rhode Island.

ALLEGED SHIPMENT: On or about October 10, 1947, by the Cape Cod Preserving Kitchens, from Medfield, Mass.

PRODUCT: 15 cases, each containing 24 10-ounce jars, of red raspberry jelly at Providence, R. I.

LABEL, IN PART: "Cape Cod Kitchens Old Fashioned * * * Red Raspberry Jelly Contains Raspberries, Sugar, Water, Apple Concentrate, Fruit Acid Net Weight 10 Ozs."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product deficient in fruit juice and containing added phosphoric acid or acid phosphate had been substituted for red raspberry jelly.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for jelly. The product had been made from a mixture composed of less than 45 parts by weight of the fruit juice ingredient to each 55 parts by weight of one of the saccharine ingredients specified in the definition and standard, and it contained phosphoric acid or acid phosphate, which are not permitted as ingredients in the standard. Further misbranding, Section 403 (a), the statement on the label "Apple Concentrate" was false and misleading as applied to a product which contained no apple concentrate.

DISPOSITION: February 11, 1948. No claimant having appeared, judgment of condemnation was entered and the product was ordered distributed to charitable institutions.

12558. Adulteration and misbranding of guava jelly. U. S. v. 13 Cases * * * (F. D. C. No. 24128. Sample No. 633-K.)

LIBEL FILED: December 11, 1947, Southern District of Georgia.

ALLEGED SHIPMENT: On or about September 11, 1947, by Grant-O Marmalades & Jellies, from St. Petersburg, Fla.

PRODUCT: 13 cases, each containing 24 16-ounce jars, of guava jelly at Eastman, Ga.

LABEL, IN PART: "Grant-O Home Made Guava Jelly."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product deficient in fruit juice had been substituted in whole or in part for guava jelly.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity prescribed for guava jelly, since it had been made from a mixture composed of less than 45 parts by weight of fruit juice to each 45 parts by weight of the saccharine ingredient.

DISPOSITION: January 27, 1948. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed or delivered to the American Red Cross.

VEGETABLES

12559. Adulteration of frozen green beans. U. S. v. 2,227 Cases, etc. (and 1 other seizure action). (F. D. C. Nos. 20830, 20876. Sample Nos. 44343-H, 70504-H to 70509-H, incl., 70520-H to 70523-H, incl., 70525-H.)

LIBELS FILED: September 3 and 12, 1946, Southern District of California.

ALLEGED SHIPMENT: Between the approximate dates of September 25 and October 12, 1945, by Midfield Packers, from Olympia, Wash.

PRODUCT: 2,227 cases, each containing 6 3-pound packages, and 8,930 20-pound cases, of frozen green beans at Los Angeles, Calif. Examination showed that the product was sour and decomposed.

LABEL, IN PART: "Cut Blue Lake Beans," or "Moon Winks Brand Cut Green Beans."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: October 31, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

12560. Adulteration of canned beans with pork. U. S. v. 133 Cases * * *
(F. D. C. No. 22930. Sample No. 74751-H.)

LIBEL FILED: On or about April 22, 1947, District of Rhode Island.

ALLEGED SHIPMENT: On or about March 12, 1947, by Stokely-Van Camp, Inc., from New Bedford, Mass.

PRODUCT: 133 cases, each containing 24 1-pound, 3¼-ounce cans, of beans with pork at Providence, R. I.

LABEL, IN PART: "Van Camp's New England Style California Pea Beans with Pork."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of rancid pork.

DISPOSITION: May 13, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

12561. Adulteration of dried mushrooms. U. S. v. 3 Bags, etc. Tried to the court. Judgment ordering product condemned and destroyed. (F. D. C. Nos. 14542, 14543. Sample Nos. 86547-F, 86548-F.)

LIBEL FILED: December 5, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: On or about November 1 and 3, 1944, by Mrs. T. Loda, from Weyerhauser, Wis., and by Mrs. Leonard Fikar, from Lyndon Station, Wis.

PRODUCT: 3 25-pound bags and 2 25-pound boxes of dried mushrooms at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and maggots.

DISPOSITION: H. Beitch, trading as the Russian-Polish Importing Company, Chicago, Ill., having appeared as claimant, and taking issue with the allegation that the product was adulterated, the case came up for trial before the court on May 25, 1945. On July 13, 1945, the court handed down findings of fact and conclusions of law in favor of the Government's position and entered a decree of condemnation and destruction. The claimant thereupon filed a motion for a new trial, which was overruled on October 11, 1945. Thereafter, an appeal was taken to the United States Court of Appeals for the Seventh Circuit, and on October 17, 1946, the following decision was handed down, dismissing the appeal for the reason that the product had been destroyed:

MINTON, Circuit Judge: "The United States filed a libel against three bags and two boxes of mushrooms shipped in interstate commerce, claiming they were adulterated within the meaning of the Federal Food, Drug and Cosmetic Act.¹ One H. Beitch, doing business as the Russian-Polish Importing Company, appeared as claimant and answered, taking issue among other things with the allegation that the mushrooms were adulterated. A trial was had before the court. The court found the mushrooms were adulterated within the meaning of the Act, and on July 13, 1945 entered a decree that the mushrooms be condemned, forfeited, and destroyed.

"The claimant filed a motion to vacate this judgment and for a new trial. This motion was overruled on the 11th day of October, 1945, at which time the claimant gave notice of appeal. In the meantime, no stay of the court's order or decree having been entered, the Marshal destroyed the mushrooms.

¹ 21 U. S. C. A., § 301 *et seq.*; 52 Stat. 1040 *et seq.*