

On October 27, 1949, the following supplemental opinion was rendered by the court:

DARR, *District Judge*: "On September 10, 1948, a memorandum for the judgment was announced and filed, but no judgment has been entered pursuant thereto. The delay has been caused by a desire of the plaintiff to make application for a change in a certain portion of the original memorandum for the judgment, which portion was obiter dicta and is as follows:

This was, indeed, a new venture in trying out a table food, and had the claimant plainly labeled the food by true description, the label being in bold type, recommending it for use in place of preserves, jam, or jelly, there could have been no objection.

"Upon consideration the Court feels that this statement might be misleading and the further consideration that this announcement had no merit insofar as the decision of the controversy is concerned, the same is deleted and taken from the original memorandum for the judgment and will not be considered a part thereof."

In accordance with the foregoing opinions, findings, of fact and conclusions of law were filed on November 10, 1949. On December 20, 1949, judgment of condemnation was entered and the court ordered that the products be delivered to the Salvation Army for its use and not for sale.

**15831. Adulteration of canned strained applesauce. U. S. v. 132 Cases * * *
(F. D. C. No. 28302. Sample No. 48613-K.)**

LIBEL FILED: November 17, 1949, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 25, 1949, by American Home Foods, Inc., from Rochester, N. Y.

PRODUCT: 132 cases, each containing 24 4¾-ounce cans, of strained applesauce at Philadelphia, Pa.

LABEL, IN PART: (Can) "Clapp's Strained Apple Sauce."

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

DISPOSITION: December 22, 1949. Default decree of condemnation and destruction.

15832. Adulteration of strawberry preserves. U. S. v. 15 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 28273, 28299. Sample Nos. 57277-K, 57279-K.)

LIBELS FILED: November 7 and 18, 1949, District of Connecticut.

ALLEGED SHIPMENT: On or about July 18 and August 15, 1949, by the Fruitcrest Corp., from Brooklyn, N. Y.

PRODUCT: Strawberry preserves. 15 cases at Bristol, Conn., and 31 cases at New Britain, Conn. Each case contained 24 1-pound jars.

LABEL, IN PART: (Jar) "Fruitcrest Pure De Luxe Strawberry Preserves."

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

DISPOSITION: On November 18 and December 1, 1949, on motions of the claimant, orders were entered by the court, releasing samples to the claimant. On January 23 and February 10, 1950, the claimant having consented thereto, decrees of condemnation and destruction were entered by the court.