17633. Adulteration of frozen strawberries. U. S. v. 106 Cases * * *. (F. D. C. No. 30925. Sample No. 3365–L.)

LIBEL FILED: On or about April 16, 1951, District of Maryland.

ALLEGED SHIPMENT: On or about February 26, 1951, by Southland Frozen Foods, Inc., from New York, N. Y.

PRODUCT: 106 cases, each containing 24 8-ounce cups, of frozen strawberries at Baltimore, Md.

LABEL, IN PART: (Cup) "Distributed By Cortley Frosted Foods Inc., N. Y. * * * Whole Strawberries."

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 strawberries.

DISPOSITION: June 8, 1951. Default decree of condemnation and destruction.

JAM AND JELLY

17634. Alleged misbranding of jam. U. S. v. 62 Cases * * *. Tried before district court; judgment ordering libel dismissed and seized articles returned to claimant. Appeal by Government to circuit court of appeals; judgment of district court reversed and case ordered remanded. Claimant's petition to Supreme Court for writ of certiorari granted; judgment of court of appeals reversed and judgment of district court approved, ordering products delivered to claimant (87 F. Supp. 735, 183 F. 2d 1014 and 340 U. S. 593). (F. D. C. No. 26635. Sample Nos. 49220–K to 49225–K, incl.)

LIBEL FILED: On or about March 11, 1949, District of New Mexico.

ALLEGED SHIPMENT: On or about January 1949, by the Pure Food Mfg. Co., from Denver, Colo.

PRODUCT: 62 cases, each containing 6 5-pound, 2-ounce jars, of fruit jam of assorted flavors, at Raton, N. Mex.

LABEL, IN PART: "Delicious Brand Imitation * * * Jam."

NATURE OF CHARGE: Alleged misbranding, Section 403 (g) (1), the articles purported to be and were represented as fruit jams and failed to conform to the definitions and standards of identity for such jams since they were made from mixtures composed of less than 45 parts by weight of the fruit ingredient to each 55 parts by weight of one of the optional saccharine ingredients specified in the regulations; and the soluble-solids content of the articles was less than that specified by the definitions and standards of identity for jams. The articles were alleged to be misbranded when introduced into, while in, and while held for sale after shipment in, interstate commerce.

DISPOSITION: The Pure Food Mfg. Co., Denver, Colo., claimant, intervened and filed an answer admitting that the various jams were made from mixtures composed of less than 45 parts by weight of the fruit ingredient to each 55 parts by weight of the saccharine ingredient, that the soluble-solids content of the grape, strawberry, and blackberry jams was less than 68 percent, and that the soluble-solids content of the apricot, peach, and plum jams was less than 65 percent, but denied that the jams purported to be and were represented as fruit jams, for which definitions and standards of identity had been established. As an

affirmative defense, the claimant alleged that the jams were "imitation jams" and were so labeled, and that the interstate distribution of such foods was provided for by the Federal Food, Drug, and Cosmetic Act, citing and quoting Title 21 of the United States Code, Section 343 (c).

On August 9, 1949, the case came on for trial before the court in a stipulation of facts. Decision of the district court was reserved until October 20, 1949, on which date the court entered judgment for the claimant and ordered the products released. The following findings of fact and conclusions of law and opinions were handed down by the courts:

FINDINGS OF FACT

HATCH, *District Judge:* "1. This action was filed by the United States of America for the seizure and condemnation of an article of food consisting of 62 cases, more or less, each containing six jars of an article of food, assorted flavors, the individual jars being severally labelled in part as follows:

Net wt. 5 lbs. 2 oz. Delicious Brand Imitation Grape Jam
Net wt. 5 lbs. 2 oz. Delicious Brand Imitation Strawberry Jam
Net wt. 5 lbs. 2 oz. Delicious Brand Imitation Apricot Jam
Net wt. 5 lbs. 2 oz. Delicious Brand Imitation Plum Jam
Net wt. 5 lbs. 2 oz. Delicious Brand Imitation Peach Jam
Net wt. 5 lbs. 2 oz. Delicious Brand Imitation Blackberry Jam

"2. That the Pure Food Manufacturing Company of Denver, Colorado, manufactured said articles of food and shipped the same in interstate commerce from Denver, Colorado, to Charles Ilfeld Company of Raton, New Mexico. by truck of Charles Ilfeld Company on or about January 14, 1949.

"3. That said articles were in the possession of Charles Ilfeld Company at Raton, New Mexico, which is within the jurisdiction of this Court, when seized by the U. S. Marshal for the District of New Mexico, pursuant to order issued March 11, 1949, in response to libel of information filed with the U. S. District Court at Albuquerque, New Mexico.

"4. That said articles seized by the United States Marshal were 'food' within the meaning of the Federal Food, Drug and Cosmetic Act of 1938.

"5. That said articles seized have food value and are wholesome and are in every way fit for human consumption.

"6. That the Federal Security Administrator has promulgated definitions and standards for fruit preserves and jellies, which definitions and standards of identity were published all as set forth in section 29 of Service Regulatory Announcements, Food, Drug and Cosmetic No. 2, Rev. 1, dated December 28, 1948.

"7. That said Federal Security Administrator has not promulgated definitions and standards of identity for imitation fruit preserves and jellies.

"8. That said claimant, Pure Food Manufacturing Company, has manufactured and marketed products similar to the articles seized, through the ordinary and usual channels of trade, for at least a period of fifteen years prior to the commencement of this action.

"9. That the good faith of the Pure Food Manufacturing Company, claimant, in the manufacturing and marketing of products similar to the ones seized herein, is not challenged in this proceeding.

"10. That said product in question was and is generally sold by wholesale dealers to retail markets and grocery stores and resold to the consuming public, and that to such purchasers the product bore the label identical with the label of the article seized.

"11. That retailers advertise jams, preserves and jellies for sale and in filling telephone orders for same from housewives or other consumers, do frequently fill such orders with imitation jams and jellies similar to the products seized in this action and that such products bore the imitation label as hereinbefore set forth.

"12. That the contents of the products seized are identical with that stated on the label with the possible qualification that the twenty per cent pectin as as stated on the label may more accurately be described as a twenty per cent pectin solution.

"13. That the imitation jams and jellies so manufactured by claimant, Pure Food Manufacturing Company, and similar to the items seized in this action, are sold to the consuming public substantially lower priced than the genuine fruit products, manufactured in accordance with standards fixed as aforesaid.

"14. That a majority of the 5 lb. 2 oz. containers of imitation jams are sold and consumed by large families in lieu of butter or butter substitutes.

"15. That the articles of food in question do not comply with the definition and standard of identity for fruit preserves and jams and do not purport and are not represented to so comply with such standards.

"16. That the articles of food seized purport to be and are represented as imitation fruit preserves and purport to be nothing else and are represented as nothing else.

"17. That the articles of food seized are sold in interstate commerce without deception.

"18. That products similar to those seized were sold to various wholesalers and retailers within the State of New Mexico, and that some of the same products were later resold to hotels, restaurants, ranches and logging camps within the State of New Mexico; that at least on one menu in a hotel in the State of New Mexico the menu carried the words 'Jellies or preserves served with above orders'; that patrons of the hotel requesting such jellies or preserves were served a product similar and identical to the product seized in this proceeding, without disclosure by the hotel to patron that the article was an imitation jelly or preserve; and the patron had no opportunity of seeing or observing the label or knowing that he was eating and actually consuming an imitation product.

"19. That some imitation jellies and preserves have been served by some ranches and logging camps and to employees thereof; and that such employees ate and consumed such products without being informed that the same were imitation products and without an opportunity to see or observe the labels on the container.

"20. That the article of food here involved has the appearance of grape jam, strawberry jam, blackberry jam, apricot jam, peach jam, and plum jam for which definitions and standards of identity have been established.

"21. That the food here involved is made to taste like and does taste like grape jam, strawberry jam, blackberry jam, apricot jam, peach jam, and plum jam for which definitions and standards of identity have been established.

"22. That the food which is the subject of this proceeding is used by the consumer in place of, and as a substitution for, the fruit jams, grape, strawberry, blackberry, apricot, peach, and plum, for which definitions and standards of identity have been established."

CONCLUSIONS OF LAW

"1. The articles seized in the instant action are not misbranded under the Federal Food, Drug and Cosmetic Law of 1938.

"2. The articles seized are imitations of pure food preserves and as such are sanctioned in interstate commerce under section 343 (c) of Title 21 U. S. C.

"3. The labels on the seized articles conform in all respects with the requirements of Section 343 (c), Title 21 U. S. C.

"4. From the evidence adduced, the claimant is manufacturing and selling an article of food which is an imitation of a real article, namely, fruit preserves and jellies, and purports to be nothing else.

"5. The product seized does not purport to be nor is it represented as pure fruit preserves and jellies.

"6. That the primary purpose of the Federal Food, Drug, and Cosmetic Act is to protect the consuming public, the ultimate consumer.

"7. That the Federal Food, Drug, and Cosmetic Act is not intended primarily to protect the ultimate purchaser as distinguished from the ultimate consumer.

"8. That the word 'purport' as used in Section 403 (g) of the Federal Food, Drug, and Cosmetic Act (21 U. S. C 343 (g)) should be construed to have its usual ordinary meaning.

"9. That where menus in public eating places and employer's private dining halls offer for sale or consumption a food which simulates a standardized food, without disclosing that such article is not the standardized food, such simulated food is represented to such patrons, guests and employees, as the standardized food.

"Since the articles seized are not misbranded, the government's action therefore cannot be maintained, and the articles of food seized under the decree of seizure dated March 11, 1949, must be restored to the claimant."

OPINION OF THE COURT

HATCH, *District Judge:* "The facts in this case are not in serious dispute. Practically all the findings made are based upon the agreements of counsel.

"Briefly, it may be stated that the article of food in question is an imitation jam. Jam is an article of food for which definitions and standards have been established.

"The question involved is mainly one of law. The government asserts that an article of food for which definitions and standards have been established cannot lawfully be imitated and sold as an imitation of such article of food, even though such imitation is properly labeled as an imitation. The contentions of the government are based upon Section 343 (g), Title 21 United States Code Annotated. This interpretation of sub-section (g) completely ignores sub-section (c). The statute reads in part as follows:

> Section 343. *Misbranded Food.* A food shall be deemed to be misbranded . . . .
>
> (c) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

"It will be observed that sub-section (c) contains no exception of an article of food for which definitions and standards have been established. It plainly and clearly states an article to be misbranded 'if it is an imitation of another food.' The product in question is an imitation of another food. It does not pretend to be anything else. Sub-section (c) continues, 'unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter, the name of the food imitated.' Again, the article involved meets this as well as every other requirement of this sub-section. The language is unequivocal, without exceptions, and is not obscured in doubt or ambiguity, unless there is read into it language and meaning not now therein contained.

"Any person reading sub-section (c) and even in connection with sub-section (g) would reasonably come to the conclusion that if the imitation of another food has a label bearing, in type of uniform size and prominence, the word 'Imitation' and immediately thereafter the name of the food imitated, such food so labeled would not be misbranded. Acting under such apparent, reasonable interpretation of the language of sub-section (c), the manufacturer has made and sold this article for years without any intent to violate the law. Claimant has sought to comply fully with every command of the statute. It is unnecessary to say that citizens have the right to rely upon the laws of the land as they are written and as reasonably interpreted. They should not be subjected to the hazards of administrative or judicial interpretation, extending restrictions of the law far beyond the plain meaning of the language used.

"If the law-making branch of government desires this particular statute to be given the construction for which the government contends, it would be a simple matter to insert in sub-section (c) an exception as to food for which definitions and standards have been established. No such appropriate language, indicating the legislative intention to make it impossible to imitate an article of food for which definitions and standards have been established, appears in sub-section (c).

"If sub-section (c) is to be amended to prevent imitation of an article of food for which definitions and standards have been established, the same should be done by legislative action in clear language easily read and understood by citizens, such as the claimant in this action, who seeks only to know the mandates of the statute in order that they may comply with the same. Such an extension of language should never be made by administrative action or judicial construction.

"Appropriate orders dismissing the libel and ordering the restoration of the articles seized may be prepared and entered."

The Government appealed to the Circuit Court of Appeals for the Tenth Circuit from the judgment of the district court, and on June 27, 1950, the circuit court of appeals, with one judge dissenting, reversed the district court and remanded the cause with instructions to enter a judgment for condemnation. The claimant petitioned the court of appeals for a rehearing, which was denied on July 22, 1950.

On October 16, 1950, the claimant filed a petition with the Supreme Court of the United States for a writ of certiorari, which was granted on November 27, 1950. The Supreme Court, agreeing in substance with the judgment of the district court, reversed the circuit court of appeals, and on March 27, 1951, with two judges dissenting, handed down the following opinion:

Mr. JUSTICE FRANKFURTER: "The Federal Food, Drug, and Cosmetic Act authorizes the United States to bring a libel against any article of food which is 'misbranded' when using the channels of interstate commerce. Act of June 25, 1938, § 304, 52 Stat. 1040, 1044, 21 U. S. C. § 334. The Act defines 'misbranded' in the eleven paragraphs of § 403. 52 Stat. 1047–1048, 21 U. S. C. § 343. The question before us is raised by two apparently conflicting paragraphs.

"One of them, subsection (c), comes from the original Pure Food and Drug Act of 1906. Act of June 30, 1906, 34 Stat. 768, 770–771, § 8 (first paragraph concerning 'food,' and second proviso). It directs that a food shall be deemed 'misbranded' if it 'is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.' The other, subsection (g), was added to the enlargement of the statute in 1938. It condemns as 'misbranded' a product which 'purports to be or is represented as a food,' the ingredients of which the Administrator has standardized, if the product does not conform in all respects to the standards prescribed. The Administrator has authority to promulgate standards when in his judgment 'such action will promote honesty and fair dealing in the interest of consumers.' § 401, 52 Stat. 1046, 21 U. S. C. § 341.

"The proceeding before us was commenced in 1949 in the District Court for the District of New Mexico. By it the United States seeks to condemn 62 cases of 'Delicious Brand Imitation Jam,' manufactured in Colorado and shipped to New Mexico. The Government claims that this product 'purports' to be fruit jam, a food for which the Federal Security Administrator has promulgated a 'definition and standard of identity.' The regulation specifies that a fruit jam must contain 'not less than 45 parts by weight' of the fruit ingredient. 21 C. F. R. (1949 ed.) § 29.0. The product in question is composed of 55% sugar, 25% fruit, 20% pectin, and small amounts of citric acid and soda. These specifications show that pectin, a gelatinized solution consisting largely of water, has been substituted for a substantial proportion of the fruit required. The Government contends that the product is therefore to be deemed 'misbranded' under § 403 (g).

"On the basis of stipulated testimony the District Judge found that although the product seized did not meet the prescribed standards for fruit jam, it was 'wholesome' and 'in every way fit for human consumption.' It was found to have the appearance and taste of standardized jam, and to be used as a less expensive substitute for the standard product. In some instances, products similar to those seized were sold at retail to the public in response to telephone orders for 'jams,' and were served to patrons of restaurants, ranches and similar establishments, who had no opportunity to learn the quality of what they received. But there is no suggestion of palming off. The judge found that the labels on the seized jars were substantially accurate; and he concluded that since the product purported to be only an imitation fruit preserve and complied in all respects with subsection (c) of § 403 of the Act, it could not be deemed 'misbranded.' 87 F. Supp. 735.

"The Court of Appeals for the Tenth Circuit, one judge dissenting, reversed this judgment. 183 F. 2d 1014. It held that since the product seized closely resembled fruit jam in appearance and taste, and was used as a substitute for the standardized food, it 'purported' to be fruit jam, and must be deemed 'misbranded' notwithstanding that it was duly labeled an 'imitation.' The

court therefore remanded the cause with instructions to enter a judgment for condemnation. We granted certiorari, 340 U. S. 890, because of the importance of the question in the administration of the Federal Food, Drug, and Cosmetic Act.

"1. By the Act of 1906, 34 Stat. 768, as successively strengthened, Congress exerted its power to keep impure and adulterated foods and drugs out of the channels of commerce. The purposes of this legislation, we have said, 'touch phases of the lives and health of people which in the circumstances of modern industrialism, are largely beyond self-protection. Regard for these purposes should infuse construction of the legislation if it is to be treated as a working instrument of government and not merely as a collection of English words.' United States v. Dotterweich, 320 U. S. 277, 280. This is the attitude with which we should approach the problem of statutory construction now presented. But our problem is to construe what Congress has written. While we must be faithful to the purpose of the statute, we must remember that Congress expresses its purpose by words. It is for us to ascertain—neither to add nor to subtract, neither to delete nor to distort.

"2. Misbranding was one of the chief evils Congress sought to stop. It was both within the right and the wisdom of Congress not to trust to the colloquial or the dictionary meaning of misbranding, but to write its own glossary of the term. Concededly we are not dealing here with misbranding in its crude manifestations, what would colloquially be deemed a false representation. Compare §§ 403 (a), (b), (d), 52 Stat. 1047, 21 U. S. C. §§ 343 (a), (b), (d). Our concern is whether the article of food sold as 'Delicious Brand Imitation Jam' is 'deemed to be misbranded' according to §§ 403 (c) and (g) of the Federal Food, Drug, and Cosmetic Act of 1938.

"3. The controlling provisions of the Act are as follows:

> Sec. 304. (a) [as amended by the Act of June 24, 1948, 62 Stat. 582] Any article of food, drug, device, or cosmetic that is adulterated or misbranded when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce, . . . shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found: . . .
>
> Sec. 401. Whenever in the judgment of the [Administrator] such action will promote honesty and fair dealing in the interest of consumers, he shall promulgate regulations fixing and establishing for any food, under its common or usual name so far as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container: . . . In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the [Administrator] shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label . . .
>
> Sec. 403. A food shall be deemed to be misbranded . . .
>
> (c) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated . . .
>
> (g) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 401, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

"4. By §§ 401 and 403 (g), Congress vested in the Administrator the far-reaching power of fixing for any species of food 'a reasonable definition and standard of identity.' In Federal Security Administrator v. Quaker Oats Co., 318 U. S. 218, we held that this means that the Administrator may, by regulation, fix the ingredients of any food, and that thereafter, a commodity cannot be introduced into interstate commerce which 'purports to be or is

represented as' the food which has been thus defined unless it is composed of the required ingredients. The administrator had prescribed the ingredients of two different species of food—'farina' and 'enriched farina.' The former was an exclusively milled wheat product; the latter included certain additional ingredients, one of which optionally could be vitamin D. The Quaker Oats Company marketed a product it called 'Quaker Farina Wheat Cereal Enriched with Vitamin D,' which did not conform to either standard. Because it contained an additional vitamin it was not 'farina'; because it lacked certain of the essential ingredients it could not be called 'enriched farina.' It was concededly a wholesome product, accurately labeled; but under the Administrator's regulations it could not be sold. We sustained the regulations, holding that Congress had constitutionally empowered the Administrator to define a food and had thereby precluded manufacturers—or courts—from determining for themselves whether some other ingredients would not produce as nutritious a product. 'The statutory purpose to fix a definition of identity of an article of food sold under its common or usual name would be defeated if producers were free to add ingredients, however wholesome, which are not within the definition.' 318 U. S. 232.

"5. Our decision in the Quaker Oats case does not touch the problem now before us. In that case it was conceded that although the Quaker product did not have the standard ingredients, it 'purported' to be a standardized food. We did not there consider the legality of marketing properly labeled 'imitation farina.' That would be the comparable question to the one now here.

"According to the Federal Food, Drug, and Cosmetic Act, nothing can be legally 'jam' after the Administrator promulgated his regulation in 1940, 5 Fed. Reg. 3554, 21 C. F. R. § 29.0, unless it contains the specified ingredients in prescribed proportion. Hence the product in controversy is not 'jam.' It cannot lawfully be labeled 'jam' and introduced into interstate commerce, for to do so would 'represent' as a standardized food a product which does not meet prescribed specifications.

"But the product with which we are concerned is sold as 'imitation jam.' Imitation foods are dealt with in § 403 (c) of the Act. In that section Congress did not give an esoteric meaning to 'imitation.' It left it to the understanding of ordinary English speech. And it directed that a product should be deemed 'misbranded' if it imitated another food 'unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.'

"In ordinary speech there can be no doubt that the product which the United States here seeks to condemn is an 'imitation' jam. It looks and tastes like jam; it is unequivocally labeled 'imitation jam.' The Government does not argue that its label in any way falls short of the requirements of § 403 (c). Its distribution in interstate commerce would therefore clearly seem to be authorized by that section. We could hold it to be 'misbranded' only if we held that a practice Congress authorized by § 403 (c) Congress impliedly prohibited by § 403 (g).

"We see no justification so to distort the ordinary meaning of the statute. Nothing in the text or history of the legislation points to such a reading of what Congress wrote. In § 403 (g) Congress used the words 'purport' and 'represent'—terms suggesting the idea of counterfeit. But the name 'imitation jam' at once connotes precisely what the product is: a different, an inferior preserve, not meeting the defined specifications. Section 403 (g) was designed to protect the public from inferior foods resembling standard products but marketed under distinctive names. See S. Rep. No. 361, 74th Cong., 1st Sess. 8–11. Congress may well have supposed that similar confusion would not result from the marketing of a product candidly and flagrantly labeled as an 'imitation' food. A product so labeled is described with precise accuracy. It neither conveys any ambiguity nor emanates any untrue innuendo, as was the case with the 'Bred Spred' considered by Congress in its deliberation on § 403 (g). See H. R. Rep. No. 2139, 75th Cong., 3d Sess. 5; House Hearings on S. 5, 74th Cong., 1st Sess. 46–47. It purports and is represented to be only what it is—an imitation. It does not purport nor represent to be what it is not—the Administrator's genuine 'jam.'

"In our anxiety to effectuate the congressional purpose of protecting the public, we must take care not to extend the scope of the statute beyond the point where Congress indicated it would stop. The Government would have

us hold that when the Administrator standardizes the ingredients of a food, no imitation of that food can be marketed which contains an ingredient of the original and serves a similar purpose. If Congress wishes to say that nothing shall be marketed in likeness to a food as defined by the Administrator, though it is accurately labeled, entirely wholesome, and perhaps more within the reach of the meager purse, our decisions indicate that Congress may well do so. But Congress has not said so. It indicated the contrary. Indeed, the Administrator's contemporaneous construction concededly is contrary to what he now contends. We must assume his present misconception results from a misreading of what was written in the Quaker Oats case.

"Reversed."

Mr. Justice DOUGLAS, with whom Mr. Justice BLACK concurs, dissenting: "The result reached by the Court may be sound by legislative standards. But the legal standards which govern us make the process of reaching that result tortuous to say the least. We must say that petitioner's 'jam' purports to be 'jam' when we read § 403 (g) and purports to be not 'jam' but another food when we read § 403 (c). Yet if petitioner's product did not purport to be 'jam,' petitioner would have no claim to press and the Government no objection to raise."

17635. Adulteration and misbranding of jelly. U. S. v. Dixie Preserves, Ltd. Plea of nolo contendere. Fine, $450. (F. D. C. No. 30581. Sample Nos. 57857–K to 57859–K, incl., 57863–K, 57864–K, 67756–K, 71053–K, 71054–K, 86184–K, 86419–K.)

INFORMATION FILED: June 18, 1951, Southern District of California, against Dixie Preserves, Ltd., a corporation, Los Angeles, Calif.

ALLEGED SHIPMENT: Within the period from on or about April 4 to September 21, 1950, from the State of California into the Territory of Hawaii and the States of Idaho and Arizona.

LABEL, IN PART: "Dixie Brand Pure Jelly Quince [or "Currant," "Loganberry," "Red Raspberry," "Blackberry," or "Strawberry"] Dixie Preserves Ltd. Los Angeles Calif. Net Wt. 12 Oz."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, fruit juices, had been in part omitted from the products; and, Section 402 (b) (2), articles deficient in fruit juice had been substituted in whole or in part for quince, currant, loganberry, red raspberry, blackberry, and strawberry jellies.

Misbranding, Section 403 (g) (1), the products failed to conform to the definition and standard of identity for quince, currant, loganberry, red raspberry, blackberry, and strawberry jellies since the products were made from mixtures composed of less than 45 parts by weight of the fruit juice ingredients to each 55 parts by weight of one of the optional saccharine ingredients specified in the definition and standard.

DISPOSITION: August 6, 1951. A plea of nolo contendere having been entered, the court imposed a fine of $450.

VEGETABLES

17636. Misbranding of canned asparagus. U. S. v. 74 Cases * * *. (F. D. C. No. 30904. Sample No. 1306–L.)

LIBEL FILED: April 9, 1951, Northern District of Georgia.

ALLEGED SHIPMENT: On or about January 31, 1951, by the A. & P. Tea Co., from Oakland, Calif.

PRODUCT: 74 cases, each containing 48 1-pound cans, of asparagus at Atlanta, Ga.