

PRODUCT: 1,050 28-pound cans of frozen blackberries at Elmira, N. Y.

LABEL, IN PART: "Olympic Blackberries Unsweetened 28 Lbs. Net."

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 rotten blackberries, and of a filthy substance by reason of the presence of worms.

DISPOSITION: November 18, 1948. The Fruitcrest Corp., claimant, having consented to the entry of a decree, judgment of condemnation was entered. The product was ordered released under bond, conditioned that it be manufactured by distillation into distilled spirits or a nonalcoholic blackberry flavor, under the supervision of the Federal Security Agency.

14047. Adulteration of frozen strawberries. U. S. v. 280 Cans * * *. (F. D. C. No. 25468. Sample No. 2064-K.)

LIBEL FILED: August 17, 1948, District of Columbia.

ALLEGED SHIPMENT: The product was in interstate commerce in the District of Columbia.

PRODUCT: 280 cans, each containing approximately 30 pounds, of frozen strawberries in the District of Columbia.

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: December 31, 1948. Default decree of condemnation. The product was ordered delivered to the National Zoological Park.

14048. Adulteration of frozen blueberries. U. S. v. 565 Boxes, etc. Tried to the court. Judgment for Government. Product released under bond, but subsequently destroyed. (F. D. C. No. 21199. Sample No. 19577-H.)

LIBEL FILED: October 12, 1946, District of Minnesota.

ALLEGED SHIPMENT: On or about June 8, 1946, by the Continental Fruit Distributors, from Chicago, Ill.

PRODUCT: 1,440 22-pound boxes of frozen blueberries at Minneapolis, Minn.

LABEL, IN PART: "Blueberries Product of Canada Canada Packers Quebec City."

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

DISPOSITION: The Continental Fruit Distributors, Toronto, Canada, claimant, filed an answer alleging that the Food and Drug Administration had issued a statement of conditions requiring the exportation or destruction of the product within three months from July 15, 1946; that before the expiration of the three-month period, the Administration had rescinded the right of exportation previously granted; and that the rights of exportation accruing to the claimant under Section 801 of the Act were violated by such rescission and filing of the libel.

The case came on for trial before the court on May 11, 1948, and at the conclusion thereof, the court took the matter under advisement for consideration of the evidence and briefs of the parties. On July 13, 1948, the court handed down its findings of fact and conclusions of law, to the effect that the product was shipped from Hamilton, Ontario, by the Continental Fruit Distributors, on or about May 6, 1946, and arrived in customs at Detroit, Mich., on May 9, 1946, when a sample was taken by the Food and Drug Administration; that

on or about May 9, 1946, verbal notice was given by the customs department to John V. Carr & Sons as agents for the shipper and importer, that samples had been taken and that the product should be kept intact until officially released; that the Continental Fruit Distributors shipped the product to Chicago, Ill., where it arrived on or about May 11, 1946; that the Meinrath Brokerage Co., Minneapolis, Minn., on or about May 23 and 29, 1946, sold various portions of the product to three firms in Minneapolis, Minn.; that the Continental Fruit Distributors, on or about June 3, 1946, and while the product was in storage at Chicago, Ill., transferred title to the product to the Sunshine Fruit Company; that the product was shipped from Chicago to Minneapolis on June 3, 1946, and upon arrival at Minneapolis, Minn., was placed in storage to the accounts of the purchasing firms; that further samples of the product were taken by the Food and Drug Administration at Minneapolis on June 14, 1946; that on June 6, 1946, in connection with the sample taken at Minneapolis, the Food and Drug Administration issued a Notice of Detention and Hearing; that subsequent to this notice, withdrawals were made from storage by two of the purchasing firms; that on July 15, 1946, pursuant to the above notice, a hearing was held at Chicago, Ill., after which the Food and Drug Administration issued a statement requiring the exportation or destruction under customs supervision of the product as an import within three months from July 15, 1946; that on October 10, 1946, the statement was rescinded and notice thereof, as well as notice of the institution of seizure action, was given to the Continental Fruit Distributors; that neither the Continental Fruit Distributors nor the Sunshine Fruit Company repaid during the year 1946 the sales price of the product to the purchasers thereof; that the product was shipped in interstate commerce, from Chicago to Minneapolis, by the Continental Fruit Distributors and the Sunshine Fruit Company; that the product was adulterated in interstate commerce; and that the Government was entitled to a decree of condemnation.

In accordance with these findings and conclusions, judgment was entered on July 13, 1948, providing for condemnation of the product and its release under bond for segregation of the unfit portion. On October 12, 1948, due to the default of the claimant in complying with the judgment of July 13, an order was entered providing that the product be disposed of for animal feed or destroyed.

049. Adulteration of frozen huckleberries. U. S. v. 117 Cans * * *. (F. D. C. No. 25486. Sample No. 2738-K.)

REBEL FILED: August 20, 1948, District of Columbia.

ALLEGED SHIPMENT: The product was in interstate commerce in the District of Columbia.

PRODUCT: 117 cans, each containing approximately 40 pounds, of frozen huckleberries in the District of Columbia.

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

DISPOSITION: December 28, 1948. Default decree of condemnation. The product was ordered delivered to a Federal institution, for use as animal feed.

1050. Adulteration of frozen grapes. U. S. v. 258 Baskets * * *. (F. D. C. No. 25824. Sample No. 5156-K.)

REBEL FILED: October 13, 1948, District of Massachusetts.

ALLEGED SHIPMENT: On or about September 13, 1948, by Ralph W. Emerson, from Wyoming, Del.