

DISPOSITION: July 19, 1950. Default decree of condemnation and destruction.

16384. Adulteration of canned corn. U. S. v. 72 Cases \* \* \*. (F. D. C. No. 28959. Sample Nos. 51488-K, 72109-K.)

LIBEL FILED: April 13, 1950, Southern District of Indiana.

ALLEGED SHIPMENT: On or about January 26, 1950, by Lansing B. Warner, Inc., Onarga, Ill.

PRODUCT: 72 cases, each containing 24 1-pound, 4-ounce cans, of corn at Anderson, Ind.

LABEL, IN PART: "Royal Star Brand Cream Style Country Gentleman White Sweet Corn."

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 worms and worm parts.

DISPOSITION: July 21, 1950. Default decree of forfeiture and destruction.

16385. Alleged adulteration of potatoes. U. S. v. 261 Bags, etc. Tried to the court. Complaint dismissed. (F. D. C. No. 24194. Sample Nos. 504-K, 642-K, 643-K.)

LIBEL FILED: On or about December 22, 1947, Northern District of Georgia.

ALLEGED SHIPMENT: On or about November 18, 19, and 25, 1947, by the Battleground Farms, from Freehold, N. J.

PRODUCT: 876 100-pound bags of potatoes at Atlanta, Ga.

LABEL, IN PART: (Bag) "Victory [or "Goldfinch"] Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of its musty odor and taste, which made it unpalatable.

DISPOSITION: Ernest F. Tark, trading as Battleground Farms, having appeared as claimant, the case was tried on February 7, 1950, before the court. On March 13, 1950, the court dismissed the complaint, handing down the following opinion:

ANDREWS, *District Judge*:

ORDER DISMISSING COMPLAINT FILED AS A LIBEL IN REM

"On February 7, 1950, the case came on for trial before the Court without a jury. Oral and documentary evidence was introduced, at the conclusion of which the Court inquired concerning the present location and condition of the res.

"It appeared that 872 of the 876 bags of potatoes originally seized were destroyed pursuant to a stipulation of the parties to avoid further expense of storage; and that the remaining four bags of the lot are no longer in existence. The material portion of the stipulations and orders follows:

That the cost of storage of the above-described product is considerable and increasing monthly, and that it does not appear practical because of the nature of the product and the long and unseasonable storage to longer keep the entire quantity of said potatoes upon cold storage.

It is stipulated and agreed that the issues in the case will be preserved and the interests of the claimant and the Government better served by reduction at this time in the amount of the res.

That the bags of each brand of said potatoes be continued in cold storage as the res in the said case, and that the remainder of said potatoes be withdrawn from the storage by the United States Marshal and destroyed in accordance with proper order of this Court, without prejudice to either the Government or the claimant herein.