

FRUITS AND VEGETABLES**CANNED FRUIT**

16884. Adulteration of canned black raspberries. U. S. v. 1,441 Cases * * * (F. D. C. No. 28960. Sample No. 61718-K.)

LIBEL FILED: May 29, 1950, Eastern District of Illinois.

ALLEGED SHIPMENT: On or about August 9 and 31, 1949, by Michigan Fruit Cannery, Inc.; from South Haven and Benton Harbor, Mich.

PRODUCT: 1,441 cases, each containing 24 15-ounce cans, of black raspberries at Danville, Ill.

LABEL, IN PART: "Dolly Madison Brand Black Raspberries."

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 moldy berries.

DISPOSITION: On September 5, 1950, Fred E. Butcher appeared and filed an answer as amicus curiae, pursuant to petition for leave to file such answer and an order of the court allowing such intervention. The answer of the intervenor denied that the product was adulterated as alleged. On December 1, 1950, on motion of the Government, the court vacated the order allowing the intervention of Fred E. Butcher and ordered the answer stricken from the record on the grounds that the intervenor had no actual interest in the case nor was he involved in a similar situation that might be affected by the decision of the court in the case; that the owners had not appeared in active defense; that the Government objected to the participation of the amicus curiae; and that the court could be fully advised by the proof submitted by the Government and did not require the assistance of amicus curiae.

On January 9, 1951, no claim or answer having appeared in the record and the court having heard the evidence both oral and documentary submitted by the Government, the court found that the product was adulterated as alleged in the libel. Accordingly, judgment of condemnation was entered and the product was ordered destroyed.

FROZEN FRUIT

16885. Adulteration of frozen strawberries. U. S. v. 218 Cans * * * (and 1 other seizure action). (F. D. C. Nos. 29702, 29733. Sample Nos. 74477-K, 74479-K, 74890-K.)

LIBELS FILED: August 26 and September 15, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about July 8 and August 31, 1950, by the Prime Canning Co., from Buffalo, N. Y.

PRODUCT: Frozen strawberries. 399 30-pound cans and 218 10-pound cans at Jersey City, N. J.

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 and moldy strawberries.

DISPOSITION: December 5, 1950. Default decrees of condemnation and destruction.