

LIBELED: 12-4-59, E. Dist. Ark.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 1-20-60. Default—delivered to a charitable institution for use as animal feed.

26251. Apple pomace. (F.D.C. No. 44148. S. No. 69-755 P.)

QUANTITY: 800 50-lb. bags at Gaithersburg, Md.

SHIPPED: 12-9-59, from Fleetwood, Pa., by Berks-Lehigh Cooperative Fruit Growers, Inc.

LABEL IN PART: "Red Creek Brand Apple Pomace * * * Packed by Berks-Lehigh Cooperative Fruit Growers, Inc., 130 East Locust Street, Fleetwood, Pa."

LIBELED: 1-5-60, Dist. Md.

CHARGE: 402(a)(2)—when shipped, the article contained an added poisonous and deleterious substance, DDT, which is unsafe within the meaning of 408 since the quantity of DDT contained on the article was greater than the tolerance fixed for such pesticide chemical on apples.

DISPOSITION: 1-28-60. Default—destruction.

26252. Seedless raisins. (F.D.C. No. 43967. S. No. 90-447 P.)

QUANTITY: 19 30-lb. ctns. at Fall River, Mass.

SHIPPED: 12-24-58, from Clovis, Calif.

LIBELED: 12-14-59, Dist. Mass.

CHARGE: 402(a)(3)—contained insects and mold while held for sale.

DISPOSITION: 1-25-60. Default—destruction.

FROZEN FRUIT

26253. Frozen strawberries. (F.D.C. No. 42238. S. No. 38-419 P.)

QUANTITY: 233 30-lb. tins at Rogers, Ark.

SHIPPED: 5-25-58, from Stilwell, Okla.

RESULTS OF INVESTIGATION: After the article was received by the consignee, the article was packed into 30-lb. cans and placed in storage for freezing.

LIBELED: 10-20-58, W. Dist. Ark.

CHARGE: 402(a)(3)—contained rotten berries while held for sale.

DISPOSITION: The Kelly Canning Co., Prairie Grove, Ark., claimant, filed an answer denying that the article was adulterated as alleged in the libel. The case came on for trial before the court without a jury on 7-1-59, and was concluded on the same day. The case was taken under advisement by the court and on 8-28-59, the following findings of fact and conclusions of law were handed down by the court:

MILLER, District Judge:

FINDINGS OF FACT

1.

"The libeled article of food, consisting of 233 tins labeled in part, 'Grove Brand * * * Whole Blakemore Strawberries Net Weight 30 lbs. Code 5258 Kelly Canning Co., Prairie Grove, Arkansas,' was shipped in interstate commerce on or about May 25, 1958, by the Adair County Commission Company from Stilwell, Oklahoma, to the Kelly Canning Company, Prairie Grove,