

"(3) With respect to imported, adulterated food released from the physical custody to the Collector of Customs under a redelivery bond pending examination of a sample, the Government has an election of remedies: (a) it may proceed by way of seizure and condemnation as it did here, or (b) it may request redelivery of the food to the Collector of Customs for export, though the importer is not required to redeliver the food but may elect to forfeit the bond.

"(4) The Government may properly elect that remedy which is best designed to protect the consuming public, rather than permit export of an adulterated food which might subsequently be commingled with good lots of the same food and again be offered for import in such a manner that the adulteration would be more difficult to detect.

"(5) Said imported Tullibees were 'introduced into interstate commerce' within the meaning of 21 U. S. C. 334 (a) when the Keystone Fisheries obtained their release from the physical custody of the Collector of Customs, and they further moved 'in interstate commerce' when they were shipped from Minneapolis, Minnesota, to Los Angeles, Calif.

"(6) Said Tullibees were adulterated within the meaning of 21 U. S. C. 342 (a) (3) when they were introduced into and while they were in interstate commerce in that they consist in part of filthy substances.

"(7) Said Tullibees are subject to condemnation pursuant to 21 U. S. C. 334 (a) and (d), and libellant is entitled to a decree ordering condemnation.

"(8) Libellant is entitled to its costs herein, pursuant to 21 U. S. C. 334 (e)."

On April 4, 1949, judgment of condemnation was entered and the product was ordered released under bond for conversion into fertilizer, under the supervision of the Federal Security Agency.

14598. Adulteration of frozen tullibees. U. S. v. 57 Boxes, etc. (F. D. C. No. 26095. Sample Nos. 10331-K, 10333-K to 10335-K, incl.)

**LIBEL FILED:** November 24, 1948, Southern District of New York.

**ALLEGED SHIPMENT:** On or about July 19, 1948, by Shapiro Fisheries, Inc., from Chicago, Ill.

**PRODUCT:** 69 boxes, containing a total of 8,666 pounds, of frozen tullibees at New York, N. Y.

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

**DISPOSITION:** December 14, 1948. Default decree of condemnation and destruction.

14599. Adulteration of tullibees. U. S. v. 148 Boxes \* \* \*. (F. D. C. No. 26326. Sample No. 42325-K.)

**LIBEL FILED:** March 5, 1949, Western District of Michigan.

**ALLEGED SHIPMENT:** On or about February 7, 1949, by Mat Bodnar, from Winnipeg, Manitoba, Canada.

**PRODUCT:** 148 125-pound boxes of tullibees at Grand Haven, Mich.

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

**DISPOSITION:** March 21, 1949. Default decree of condemnation and destruction. The decree was subsequently amended to provide for delivery of the product to a Federal institution, for use as fertilizer or animal feed.