

been substituted in part for cream, which it purported to be; and in that a foreign fat had been added thereto or mixed therewith so as to increase its bulk or weight, reduce its quality, or make it appear better or of greater value than it was.

On May 6, 1942, the defendant having pleaded not guilty, the case was tried to a jury which returned a verdict of guilty and the court imposed a fine of \$50.

3049. Adulteration of evaporated milk. U. S. v. 500 Cases of Evaporated Milk. Default decree of condemnation and destruction. (F. D. C. No. 6555. Sample No. 72131-E.)

This product was contaminated with filth.

On December 23, 1941, the United States attorney for the Southern District of California filed a libel against 500 cases each containing 48 14½-ounce cans of evaporated milk at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about November 28, 1941, by Pet Milk Sales Corporation from Richmond, Utah, to itself at Los Angeles, Calif.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance; and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth. The article was labeled in part: (Cans) "Pet Milk * * * Irradiated. Evaporated Vitamin D Content Increased * * * Distributed By Pet Milk Sales Corp."

On February 13, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

EGGS

3050. Adulteration of shell eggs. U. S. v. Lorin Clay May (Mountain Valley Produce). Plea of guilty. Fine, \$50. (F. D. C. No. 2873. Sample No. 13652-E.)

On November 9, 1940, the United States attorney for the District of Utah filed an information against Lorin Clay May, trading as Mountain Valley Produce at Salt Lake City, Utah, alleging shipment on or about April 10, 1940, from the State of Utah into the State of Washington of a quantity of eggs that were adulterated in that they consisted in whole or in part of a decomposed substance, or were otherwise unfit for food.

On November 23, 1940, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$50.

3051. Alleged adulteration of shell eggs. U. S. v. Isadore B. Rutstein, alias Israel B. Rutstein, alias Ben Rutstein, alias Benjamin Rutstein, alias Ben Ruthstein. Plea of not guilty. Case tried to the court and jury. Directed verdict of not guilty. (F. D. C. No. 2126. Sample No. 67480-D.)

This case was instituted on the charge that the product was filthy and decomposed.

On September 21, 1940, the United States attorney for the District of New Jersey filed an information against Isadore B. Rutstein, alias Israel B. Rutstein, alias Ben Rutstein, alias Benjamin Rutstein, alias Ben Ruthstein of Paterson, N. J., alleging shipment on or about October 6, 1939, from the State of New Jersey into the State of New York of a quantity of eggs that were alleged to be adulterated in that they consisted in whole and in part of a filthy, putrid, and decomposed substance.

On November 20, 1940, a plea of not guilty having been entered on behalf of the defendant, the court after conclusion of Government testimony, instructed the jury to return a verdict of not guilty as follows:

Watson, *Judge*. "The court had under consideration during the recess a motion made by counsel for the defendant. The court is satisfied that under the evidence the defendant in this case must be found to be not guilty for the reason that this court hasn't jurisdiction. In my opinion, the duty of the Government was to show that this man was transporting in interstate commerce the eggs which were bad. This, in my opinion, the Government has failed to show. The line, as I understand it, between New York and New Jersey, is not on the New York side, where the defendant was seen in the truck, we will say, according to the evidence, if that is found to be the fact by the jury. So that even though the jury should find that this defendant was on that truck on the ferry when it landed on the New York side, there is nothing to show that he was driving the truck when it was in the State of New Jersey or any State other than the State of New York.