

I fully recognize the need for speed so far as the stoppage of shipments of decomposed food is concerned. Clearly, if the Administration's inspectors were compelled to wait until they have made either an inspection of the source or the chemical or bacteriological tests before making a seizure, public health might be endangered. I recognize that it is not likely that any one chemical method can be developed to detect and evaluate the spoilage in eggs in view of the limited, well-defined biochemical task of the microbial species. However, this is not merely a question of seizure. This is a criminal case in which the Government is confronted with the burden of proving its case beyond a reasonable doubt. The seizure in this case was made in January 1941. The information was not filed until December 31, 1941. There was nothing to prevent the Government from having made certain as to the condition of these shipments by taking advantage of any one of the three additional tests.

"I am convinced from all of the testimony that the plaintiff has failed to sustain the burden that rests upon it in this case. To my mind, it has failed to overcome the presumption of innocence to which the defendant is entitled. Consequently, I must find that the defendant is not guilty of the violations charged in the two counts of the information and direct that this action must be dismissed."

**3509. Adulteration of frozen whole eggs. U. S. v. Highway Butter & Egg Co., Inc., and William Goldberg. Plea of guilty. Fine, \$300. (F. D. C. No. 6460. Sample No. 56909-E.)**

On June 16, 1942, the United States attorney for the Southern District of Indiana filed an information against Highway Butter & Egg Co., Inc., and William Goldberg, Indianapolis, Ind., alleging shipment on or about May 18, 1941, from the State of Indiana into the State of New York, of a quantity of frozen eggs which were adulterated in that they consisted in whole or in part of a putrid and decomposed substance.

On June 29, 1942, the defendants having entered a plea of guilty, the court imposed a fine of \$300 on defendants jointly.

**3510. Adulteration of frozen eggs. U. S. v. 800 Cans of Frozen Eggs. Consent decree of condemnation. Product ordered released under bond for segregation of good portion. (F. D. C. No. 7331. Sample No. 92274-E.)**

On April 13, 1942, the United States attorney for the Southern District of California filed a libel against 800 30-pound cans of frozen eggs at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about March 25, 1942, by Bradbury Produce from Woodward, Okla.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "Bradbury Produce \* \* \* A1 Whole Eggs Frozen."

On April 24, 1942, Bradbury Produce, claimant, having admitted the allegations of the libel as to a portion of the shipment, judgment of condemnation was entered and the product was ordered released under bond for segregation of the good portion under the supervision of the Food and Drug Administration. Subsequently the rejected portion was destroyed.

**3511. Adulteration of frozen eggs. U. S. v. 52 Cans of Frozen Eggs. Default decree of condemnation and destruction. (F. D. C. No. 7486. Sample No. 93121-E.)**

On May 14, 1942, the United States attorney for the District of Montana filed a libel against 52 30-pound cans of frozen eggs at Butte, Mont., alleging that the article had been shipped in interstate commerce on or about March 20, 1942, by Nelson Ricks Creamery Co. from Rexburg, Idaho; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance which might have rendered it injurious to health. The article was labeled in part: (Cans) "Banquet Idaho Eggs."

On June 29, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**3512. Adulteration of shell eggs. U. S. v. 14 Crates of Eggs. Default decree of condemnation and destruction. (F. D. C. No. 7138. Sample No. 90766-E.)**

Examination of this product showed the presence of mixed rots, heavy spot rots, and embryos.