On December 26, 1941, the United States attorney for the Western District of New York filed a libel against 150 bundles, each containing 10 2-pound boxes, of pimiento spread at Jamestown, N. Y., alleging that the article had been shipped in interstate commerce on or about December 9, 1941, by Clearfield Cheese Co. from Curwensville, Pa.; and charging that it was misbranded. It was labeled in part: (Boxes) "Clearfield Brand Chee-Zee Pimiento Spread."

The article was alleged to be misbranded in that the statement on the label, "It Contains Not More Than 46% Moisture And Not Less Than 24% Butterfat," was false and misleading as applied to an article that contained more moisture (average, 47.04 percent) and less butterfat (average, 22.79 percent) than was declared on the label.

On January 30, 1942, Clearfield Cheese Co., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

EVAPORATED MILK

3713. Adulteration of evaporated milk. U. S. v. 454 Cases of Evaporated Milk. Consent decree of condemnation and destruction. (F. D. C. No. 7478. Sample No. 98219-E.)

Examination showed that this product was in part decomposed.

On May 8, 1942, the United States attorney for the District of Maine filed a libel against 454 cases, each containing 48 13-fluid ounce cans, of evaporated milk at Portland, Maine, alleging that the article had been shipped in interstate commerce on or about April 16, 1942, by Sterling Sales Co. from Boston, Mass.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. It was labeled in part: (Cans) "Ward Brand Evaporated Milk."

On July 21, 1942, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

EGGS

3714. Adulteration of powdered egg yolk and conspiracy to violate the Federal Food, Drug, and Cosmetic Act. U. S. v. Max Neuhaus and Louis Perlstein. Pleas of guilty. Each defendant fined $250 and sentenced to 4 months' imprisonment and placed on probation for 2 years. (F. D. C. No. 2089. Sample Nos. 47395-D, 54945-D, 58483-D, 59086-D, 60260-D.)

On March 30, 1942, the grand jurors for the Southern District of New York presented an indictment against Max Neuhaus and Louis Perlstein, charging in the first 5 counts that within the period from on or about June 9 to August 3, 1939, the defendants with intent to defraud and mislead, delivered for introduction into interstate commerce from New York, N. Y., into the States of Ohio, Maryland, Wisconsin, and Pennsylvania, 8 barrels of powdered egg yolk which was adulterated in that it consisted of a decomposed substance, as the defendants well knew.

The indictment charged in the sixth count (1) that on or about January 1, 1936, and continuing up to and including the date of filing of the indictment, the defendants unlawfully, willfully, and knowingly, combined, conspired, confederated, and agreed together and with each other and other persons unknown, to commit an offense against the United States, which offense consisted of the introduction and delivery for introduction in interstate commerce, unlawfully, and with intent to defraud and mislead, articles of food which were adulterated, as the defendants well knew; (2) that it was a part of the conspiracy that the defendants would purchase egg yolks that were in fact decomposed and not fit for human consumption at a price approximately one-half of the market price for powdered egg yolk and would represent that the decomposed powdered egg yolks were wholesome and fit for human consumption and would sell them at the market price for powdered egg yolks; and (3) that in pursuance of the conspiracy and to effect its objects, on or about July 26, 1939, the defendants committed the overt acts (a) of removing from a certain barrel a tag bearing the letters N. F. F. H. C., (b) of removing from the side of a certain barrel by scraping therefrom the letters N. F. F. H. C., and (c) causing a barrel to be placed on a delivery truck.

On April 8, 1942, the defendants entered pleas of guilty on all 6 counts. On April 29, 1942, the court imposed total fines of $500, i. e., $50 against each defendant on each of the first 5 counts and also sentenced each defendant to serve 4 months in jail on the same counts, the jail sentences to run concurrently. The court suspended sentence on the sixth count and placed both defendants on probation for 2 years.