

7110. Adulteration of frozen egg mixture. U. S. v. 227 Cans of Frozen Egg Mixture. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 12663. Sample No. 82156-F.)

LIBEL FILED: June 9, 1944, Eastern District of New York. Amended libel filed July 20, 1944.

ALLEGED SHIPMENT: On or about April 26, 1944, from Minneapolis, Minn.
PRODUCT: 227 cans, each containing 30 pounds, of frozen egg mixture at Brooklyn, N. Y.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: August 28, 1944. Highway Butter & Egg Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction of the unfit portion, under the supervision of the Food and Drug Administration.

7111. Adulteration of Voltex (frozen egg mixture), frozen whole eggs, and frozen egg whites. U. S. v. 90 Cans of Voltex, 149 Cans of Frozen Whole Eggs, and 29 Cans of Frozen Egg Whites (and 1 other seizure action against Voltex). Decrees of condemnation. Portion ordered released under bond; remainder ordered destroyed. (F. D. C. Nos. 14054, 14392. Sample Nos. 63378-F to 63380-F, incl., 63389-F.)

LIBELS FILED: October 18 and November 6, 1944, Northern District of Georgia, and Southern District of Florida.

ALLEGED SHIPMENT: On or about August 2, September 13, and October 10, 1944, by Standard Brands, Inc., from Nashville, Tenn.

PRODUCTS: 90 30-pound cans of Voltex at Atlanta, Ga., and 12 30-pound cans of Voltex at Miami, Fla.; 149 30-pound cans of frozen whole eggs, and 29 30-pound cans of frozen egg whites at Atlanta, Ga.

LABEL, IN PART: (Can) "Frozen Voltex Made with Egg Yolk, Egg White Stabilizing Syrup and Salt [or "Frozen Whole Egg," or "Frozen Egg White"] Lomax Process Fleischmann's."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of decomposed substances.

DISPOSITION: October 27, 1944. Standard Brands, Inc., claimant for the lots at Atlanta, having admitted the allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond for segregation under the supervision of the Food and Drug Administration. The unfit portion was destroyed for food purposes. November 30, 1944. No claimant having appeared for the remainder, judgment was entered ordering that the products be destroyed.

7112. Adulteration of shell eggs. U. S. v. 550 Cases of Shell Eggs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14375. Sample No. 83064-F.)

LIBEL FILED: November 6, 1944, Southern District of New York.

ALLEGED SHIPMENT: On or about October 13, 1944, by Nelson Ricks Creamery Co., Salt Lake City, Utah.

PRODUCT: 550 unlabeled wooden cases of shell eggs at New York, N. Y.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: November 29, 1944. Nelson-Ricks Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed or denatured for technical and industrial purposes, under the supervision of the Food and Drug Administration.

FEEDS AND GRAINS

7113. Misbranding of alfalfa meal. U. S. v. Saunders Mills, Inc. Plea of guilty. Fine, \$150. (F. D. C. No. 11383. Sample No. 26288-F.)

INFORMATION FILED: May 10, 1944, District of Colorado, against Saunders Mills, Inc., Fort Lyon, Colo.

ALLEGED SHIPMENT: On or about February 16, 1943, from the State of Colorado into the State of Kansas.

LABEL, IN PART: (Tag) "Alfalfa Meal * * * Crude Fibre, not more than 33.0 Per Cent."

VIOLATION CHARGED: Misbranding Section 403 (a), the statement "Alfalfa Meal" on the label was false and misleading in that it represented and suggested that the article was alfalfa meal, a product obtained from alfalfa hay and defined by the American Feed Control Officials and accepted by established trade practice and understanding as containing not more than 33 percent of crude fiber, whereas it was stem meal, a product which by definition, trade practice, and understanding contains more than 33 percent of crude fiber; and the statement "Crude Fibre, not more than 33.0 Per Cent," borne on the label, was false and misleading since the article contained 37.78 percent of crude fiber.

DISPOSITION: June 21, 1944. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$150.

7114. Adulteration of wheat. U. S. v. 90,400 Pounds of Wheat. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 13512. Sample No. 40760-F.)

LIBEL FILED: September 7, 1944, District of Minnesota.

ALLEGED SHIPMENT: On about August 11, 1944, by Sully County Cooperative Association, from Onida, S. Dak.

PRODUCT: 90,400 pounds of wheat at Minneapolis, Minn.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product contained an added poisonous and deleterious substance, fluorine, which may have rendered it injurious to health.

DISPOSITION: September 21, 1944. Washburn Crosby Co., Minneapolis, Minn., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be scoured under the supervision of the Food and Drug Administration.

FISH AND SHELLFISH

7115. Adulteration of frozen whiting. U. S. v. 1,851 Cartons of Frozen Whiting. Tried to court; verdict for the defendant. District court judgment dismissing the libel reversed on appeal; final decree entered ordering the release of the fit portion and condemning the unfit portion, and ordering its release under bond to be sold for animal feed. (F. D. C. No. 11145. Sample No. 36478-F.)

U. S. v. 17,900 Pounds and 20 Boxes of Frozen Whiting. Default decrees of condemnation and destruction. (F. D. C. Nos. 12011, 12081. Sample Nos. 43280-F, 48194-F, 67123-F.)

LIBELS FILED: Between November 20, 1943, and March 29, 1944, District of Colorado, Western District of Kentucky and District of Nebraska.

ALLEGED SHIPMENT: Between the approximate dates of October 19, 1943, and February 26, 1944, by Pond Village Cold Storage Co., Provincetown and North Truro, Mass.

PRODUCT: 1,851 15-pound cartons of frozen whiting at Denver, Colo., 20 15-pound boxes at Omaha, Nebr., and 17,900 pounds at Louisville, Ky.

LABEL, IN PART: (Portion) "H & G Famous Booth Sea Foods Whiting * * * Booth Fisheries Corp Boston Mass."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: April 22 to May 10, 1944. No claimant having appeared for the Louisville and Omaha lots, judgments of condemnation were entered and the product was ordered destroyed. On or about May 6, 1944, Booth Fisheries Corporation, Denver, Colo., claimant for the Denver lot, having denied that the product was adulterated, trial of the case was had before the court. After the Government had presented its case, the claimant moved for a directed verdict and dismissal of the libel on the ground that the Government's proof did not sustain its charge of adulteration. The proceedings in the district court are set forth in the following opinion of May 22, 1944, granting the claimant's motion for a directed verdict and dismissing the libel:

MEMORANDUM OPINION ON DEFENDANT-CLAIMANT'S MOTION TO DISMISS THE LIBEL

FOSTER, *District Judge*: "The defendant-claimant at the end of the Government's case moved to dismiss the libel on the ground that the Government's evidence does not sustain the charge.

"After considerable argument the court granted the motion, stating its reasons, upon the condition that the claimant give bond that in the selling