

DISPOSITION: 5-20-60 and 5-25-60. Consent—97,200-lb. lot claimed by Cargill, Inc., Minneapolis, Minn., and 106,000-lb. lot claimed by Continental Grain Co., New York, N.Y. Both lots converted into animal feed.

26472. Hominy grits and chickpeas. (F.D.C. No. 43558. S. Nos. 57-789 P, 72-965 P.)

QUANTITY: 13 100-lb. bags of hominy grits, and 20 110-lb. bags of chickpeas, at Bronx, N.Y., in possession of T. J. Krikorian & Son, Inc.

SHIPPED: (Hominy grits) 3-3-59 and 3-28-59, from Mt. Vernon, Ind., and (chickpeas) 10-5-58, from Portugal.

LIBELED: 10-7-59, S. Dist. N.Y.

CHARGE: 402(a) (3)—hominy grits contained insects and chickpeas contained rodent urine; and 402(a) (4)—chickpeas held under insanitary conditions.

DISPOSITION: 11-13-59. Consent—claimed by T. J. Krikorian & Son, Inc.; chickpeas were reconditioned by cleaning and the hominy grits were denatured.

## DAIRY PRODUCTS

### MILK

26473. Condensed milk. (F.D.C. No. 44460. S. No. 42-045 R.)

QUANTITY: 125 cases, 24 14-oz. cans each, at Honolulu, Hawaii.

SHIPPED: 5-5-60, from San Francisco, Calif., by Nestle Co.

LABEL IN PART: (Can) "Eagle Brand Sweetened Condensed Milk Prepared for the Nestle Company, White Plains N. Y. Under Rights Acquired from the Borden Company."

LIBELED: 5-16-60, Dist. Hawaii.

CHARGE: 402(a) (2)—when shipped, the article contained added poisonous and deleterious substances, namely, DDT, DDE, and TDE, which are unsafe within the meaning of 406 since these are substances not required in the production of this food and can be avoided by good manufacturing practice.

DISPOSITION: 6-6-60. Consent—destruction.

26474. Evaporated milk. (F.D.C. No. 44120. S. No. 41-441 R.)

QUANTITY: 785 cases, 48 14½-oz. cans each, at Honolulu, Hawaii.

SHIPPED: 3-22-60, from Los Angeles, Calif., by Carnation Co.

LABEL IN PART: (Can) "Carnation Evaporated Milk \* \* \* Carnation Company, Los Angeles, Calif."

LIBELED: 4-12-60, Dist. Hawaii.

CHARGE: 402(a) (2)—when shipped, the article contained added poisonous and deleterious substances, namely, DDT, DDE, and TDE, which are unsafe within the meaning of 406 since these are substances not required in the production of this food and can be avoided by good manufacturing practice.

DISPOSITION: 5-3-60. Consent—destruction.

26475. Evaporated milk. (F.D.C. No. 44372. S. No. 44-041 R.)

QUANTITY: 615 cases, 48 12¼-oz. cans each, at Seattle, Wash.

SHIPPED: 2-10-60, from Newman, Calif., by Foremost Dairies, Inc.

LABEL IN PART: (Can) "Foremost \* \* \* Evaporated Milk Vitamin D Content Increased Carrageenin Added \* \* \* Foremost Dairies, Inc., San Francisco."

**LIBELED:** 3-23-60; W. Dist. Wash.

**CHARGE:** 402(a)(2)—when shipped, the article contained added poisonous and deleterious substances, namely, DDE, DDT, and TDE, which are unsafe within the meaning of 406 since these substances are not required in the production of this food and can be avoided by good manufacturing practice.

**DISPOSITION:** 5-31-60. Default—destruction.

## EGGS

26476. Frozen eggs (2 seizure actions). (F.D.C. Nos. 41916, 42184. S. Nos. 13-418/9 P, 13-424 P, 13-429 P.)

**QUANTITY:** 1,149 30-lb. cans and 272 30-lb. cans at Chicago, Ill.

**SHIPPED:** Between 5-21-58 and 7-28-58, from Nashville, Tenn., by Modern Egg Products, Inc.

**LIBELED:** 7-7-58 and 9-12-58, N. Dist. Ill.

**CHARGES:** 402(a)(3)—contained decomposed eggs when shipped.

**DISPOSITION:** Weinberg Bros. & Co., Chicago, Ill., claimant, having filed answers denying that the article was adulterated as alleged in the libels, and the libel actions having been consolidated, such actions came on for trial before the court without a jury. On 1-28-59, the court handed down the following findings of fact and conclusions of law:

*IGOE, District Judge:*

### FINDINGS OF FACT

"1. On or about May 21, 1958, June 16, 1958, and July 28, 1958, Modern Egg Products, Inc., Nashville, Tennessee, shipped from Tennessee to Chicago, Ill., consigned to Weinberg Bros. and Co., articles of food consisting respectively of 610, 539, and 272 30-lb. cans, more or less, of frozen whole eggs.

"2. On July 7, 1958, the United States of America filed a Libel of Information in civil action No. 58 C 1230 charging that the articles of food shipped on May 21, 1958, and June 16, 1958, were adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 342(a)(3), in that they consisted wholly or in part of a decomposed substance by reason of the presence therein of decomposed eggs.

"3. On September 12, 1958, the United States of America filed a Libel of Information in civil action No. 58 C 1694 charging that the article of food shipped on July 28, 1958, was adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 342(a)(3), in that it consisted wholly or in part of a decomposed substance by reason of the presence therein of decomposed eggs.

"4. Weinberg Bros. and Co., Chicago, Ill., filed a claim of ownership and answer in each of the Libel proceedings and denied the allegation of adulteration.

"5. The two causes were ordered consolidated and set for trial by the Court, without a jury.

"6. It was stipulated that from the date of shipment from Nashville, Tennessee, and up to the present time, all of the cans of eggs have continuously been in hard frozen form and their quality and condition is the same as it was when introduced into interstate commerce.

"7. Organoleptic examination by smell was made by inspectors of the Food and Drug Administration of: 74 cans randomly sampled from the shipment of May 21, 1958, and 21 of these gave off the odor of decomposed eggs; 20 cans randomly sampled from the shipment of June 16, 1958, and 9 of these gave off the odor of decomposed eggs; 20 cans randomly sampled from the shipment of July 28, 1958, and 15 of these gave off the odor of decomposed eggs.

"8. The cans randomly selected and examined by inspectors of the Food and Drug Administration and physical samples taken therefrom by them for