

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.

On April 2, 1942, the United States attorney for the District of Massachusetts filed a libel against 14 crates, each containing 30 dozen eggs at Revere, Mass., alleging that the article had been shipped in interstate commerce on or about March 27, 1942, by G. M. Shone from Brentwood, N. H.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance, or was otherwise unfit for food. The article was unlabeled.

On May 25, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

## FISHERIES PRODUCTS

### CRAB MEAT

**3513. Action to enjoin and restrain distribution in interstate commerce of adulterated crab meat. U. S. v. H. Wallace and Harold M. Wallace (Gulf Crabmeat Co.). Consent decree granting permanent injunction. (Inj. No. 13.)**

On July 29, 1941, the United States attorney for the Southern District of Alabama filed a complaint against H. Wallace and Harold M. Wallace, Mobile, Ala., individually, and doing business as the Gulf Crabmeat Co., alleging that from on or about May 1, 1940, to the date of filing the complaint, the defendants had been preparing and packing crab meat under insanitary conditions whereby it might have become contaminated by filth and might have been rendered injurious to health; that the food so prepared and packed consisted in whole or in part of a filthy animal substance that was unfit for food and was adulterated in violation of the law; and that the crab meat so prepared and packed was being offered for interstate shipment. The complaint alleged further that the defendants had failed to remedy the defects existing in their plant and in their method of operation and were continually preparing and packing adulterated crab meat; that they would continue to ship such adulterated crab meat in interstate commerce unless enjoined from doing so; and prayed that a preliminary injunction issue and that after due proceedings the preliminary injunction be made permanent.

On July 31, 1941, the court entered a temporary restraining order; and on February 5, 1942, the defendants having admitted the allegations of the complaint and having consented to the entry of a decree, judgment was entered permanently enjoining and restraining the defendants and anyone acting on their behalf from shipping in interstate commerce crab meat which they had manufactured or processed and that was adulterated within the meaning of the law.

**3514. Adulteration of crab meat. U. S. v. Augustus L. Lyons. Plea of guilty. Fine, \$25; fine remitted. (F. D. C. No. 2925. Sample No. 9777-E.)**

On March 8, 1941, the United States attorney for the Southern District of Alabama filed an information against Augustus L. Lyons, Heron Bay, Ala., alleging that on or about June 12, 1940, the defendant gave to Star Fish & Oyster Co., Inc., Mobile, Ala., a guaranty that all crab meat furnished by the defendant to said company would be neither misbranded nor adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act; that on or about June 20, 1940, the defendant sold and delivered to the Star Fish & Oyster Co., Inc., a quantity of crab meat; and that said crab meat was delivered by the purchaser for introduction in interstate commerce from the State of Alabama into the State of Maryland.

The information charged further that the defendant, in violation of said act, gave a guaranty which was false since the crab meat so sold and delivered 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.

On February 9, 1942, the defendant having entered a plea of guilty, the court imposed a fine of \$25, which was remitted.

**3515. Adulteration of crab meat U. S. v. John J. Illich (John's Fish Market). Plea of guilty. Fine, \$50 on each of 6 counts. Sentence suspended as to 5 of the 6 counts. Defendant placed on probation for 6 months. (F. D. C. No. 6434. Sample Nos. 50327-E to 50330-E, incl., 50849-E, 50850-E.)**

Inspection of the plant where this product was packed showed insanitary conditions. On May 27, 1942, the United States attorney for the Southern District of Mississippi filed an information against John J. Illich, trading as John's Fish Market, Biloxi, Miss., alleging shipment on or about July 10 and August 14 and 15, 1941, from the State of Mississippi into the State of Maryland c