

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent of fat had been substituted for oleomargarine, a product which should contain not less than 80 percent of fat.

Misbranding, Section 403 (g) (1), the article purported to be and was represented as a food for which a definition and standard of identity has been prescribed by regulations, but it failed to conform to such definition and standard.

DISPOSITION: May 1, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a local Army hospital, for consumption on the premises.

6906. Adulteration and misbranding of oleomargarine. U. S. v. 19 Cartons of Oleomargarine. Default decree of condemnation and destruction. (F. D. C. No. 11680. Sample No. 54609-F.)

LIBEL FILED: January 28, 1944, Northern District of Indiana.

ALLEGED SHIPMENT: On or about December 9, 1943, by the B. S. Pearsall Butter Co., Elgin, Ill.

PRODUCT: 19 cartons, each containing 20 1-pound packages, of oleomargarine at Hammond, Ind.

LABEL, IN PART: (Packages) "Elgin Vegetable Oleomargarine."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent fat had been substituted for oleomargarine.

Misbranding, Section 403 (g) (1), the article purported to be and was represented as oleomargarine, a food for which a definition and standard of identity has been prescribed by regulations, but it failed to conform to such definition and standard since it failed to contain 80 percent fat; and, Section 403 (k), the article contained artificial coloring and failed to bear labeling stating that fact.

DISPOSITION: May 1, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

EGGS AND EGG PRODUCTS

6907. Alleged adulteration of dried whole eggs. U. S. v. 4 Barrels and 103 Barrels of Dried Whole Eggs. Tried to the court. Judgment of dismissal entered; affirmed on appeal. (F. D. C. Nos. 8713, 9162. Sample Nos. 4097-F to 4100-F, incl., 32742-F.)

LIBELS FILED: December 29, 1942, and January 23, 1943, Southern District of Indiana.

PRODUCT: 107 175-pound barrels of dried whole eggs at Indianapolis, Ind., alleged to have been introduced into interstate commerce as the result of the following transaction: On or about March 31, 1942, the Mid-State Frozen Egg Corporation, Indianapolis, Ind., as vendor, contracted with the Federal Surplus Commodities Corporation for the Lend-Lease export sale of 406 175-pound barrels of dried whole eggs. Pursuant to the terms of the contracts, the vendor segregated and identified the eggs in the barrels for shipment, and submitted representative samples thereof to the vendee for analysis. The 107 barrels of eggs referred to above were rejected, and the remainder of the barrels were delivered for shipment.

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

DISPOSITION: On June 26, 1943, the Mid-State Frozen Egg Corporation having filed its claim and answer denying that the article had been introduced into interstate commerce, and the cases having been consolidated, the court handed down findings of fact and conclusions of law to the effect that the article had not been introduced into interstate commerce, nor was it in interstate commerce, either at the time of seizure or at any time prior or subsequent thereto. On the same day, judgments were entered ordering that the cases be dismissed for want of jurisdiction. Thereafter, the Government perfected an appeal to the United States Circuit Court of Appeals for the Seventh Circuit, and on March 15, 1944, a decision was handed down by that court, affirming the decision of the district court on the ground that no substantial differences of fact appeared in the records of the instant cases and the case of U. S. v. 7 Barrels of Dried Whole Eggs (Food Notice of Judgment No. 5677), and that the decision in the latter case was controlling in the instant cases.