

5485. Adulteration of dried whole eggs. U. S. v. 20 Barrels of Dried Whole Eggs. Consent decree of condemnation. Product ordered released under bond conditioned that the unfit portion be destroyed or denatured. (F. D. C. No. 9098. Sample No. 17784-F.)

On December 30, 1942, the United States attorney for the Southern District of New York filed a libel against 20 barrels of dried whole eggs at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about October 28, 1942, by the Joe Lowe Corporation from San Antonio, Tex.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance, decomposed eggs.

On February 15, 1943, the Joe Lowe Corporation, claimant, filed an answer denying that the product was adulterated as alleged in the libel, and on April 7, 1943, filed a list of 31 interrogatories. The Government having filed a notice of objection to certain interrogatories and subsequently a notice of objection to all interrogatories, on May 26, 1943, the court delivered the following opinion:

CLANCOY, *District Judge*: "Libellant's objection to the interrogatories propounded by the claimant are sustained because the interrogatories are not aimed to secure an amplification of the libel or to procure evidence in support of claimant's defense."

On September 11, 1943, the claimant having withdrawn its answer theretofore filed, and having admitted the allegations of this libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation of the fit portion from the unfit portion and destruction or denaturing of the unfit portion, under the supervision of the Food and Drug Administration.

5486. Adulteration of dried whole eggs. U. S. v. 162 Barrels of Dried Whole Eggs. Consent decree of condemnation. Product ordered released under bond for denaturing. (F. D. C. No. 10025. Sample No. 6245-F.)

On June 10, 1943, the United States attorney for the Southern District of Iowa filed a libel against 162 barrels, each containing 165 pounds, of dried whole eggs at Des Moines, Iowa, alleging that the article was introduced into and was in interstate commerce by reason of the following facts: That Priebe & Sons, Inc., Chicago, Ill., as vendor, made a series of three contracts within the period from on or about June 25, 1942, through July 30, 1942, with the Federal Surplus Commodities Corporation, as vendee, for the lease-lend export sale of 1,830,000 pounds of spray dried whole eggs; that pursuant to the terms of the contract, the vendor, through its agent, the Des Moines Cooperative Dairy of Des Moines, Iowa, which manufactured the dried eggs for the vendor, segregated and identified the eggs in 162 barrels, submitted representative samples thereof to the vendee for analysis, and tendered the said barrels to the vendee for delivery; that by the terms of the contract with respect to goods which were found to be acceptable to the vendee as a result of analysis, certificates of inspection were to be issued by the vendee to the vendor with delivery instructions; that the goods which were found to be unacceptable were to be rejected; and that in this instance the barrels above referred to were rejected.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed substance.

On October 15, 1943, Priebe & Sons, Inc., having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for denaturing under the supervision of the Food and Drug Administration.

5487. Adulteration of frozen whole eggs. U. S. v. 50 Cartons of Frozen Whole Eggs. Consent decree of condemnation and destruction. (F. D. C. No. 10164. Sample No. 45361-F.)

On June 30, 1943, the United States attorney for the Eastern District of New York filed a libel against 50 cartons, each containing 30 pounds, of frozen whole eggs at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about May 11, 1943, by Ralph Hurst & Co. from Kansas City, Mo.; 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: (Carton stencilled) "Oak-hurst Frozen Whole Eggs."

On October 20, 1943, Ralph Hurst & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.