

the Parkersburg cold storage plant until further order of the court. This order was modified on 3-10-45, so as not to restrain the defendants from shipping in interstate commerce shell eggs or frozen eggs which were not adulterated as alleged in the complaint. The defendants filed an answer, averring that the complaint failed to state a claim upon which relief could be granted and denying that they had violated or were about to violate the Federal Food, Drug, and Cosmetic Act.

On 7-14-45, the Government having declined to proceed with the trial, the court dismissed the action with prejudice.

23419. Frozen eggs. (Inj. No. 149.)

COMPLAINT FOR INJUNCTION FILED: 8-27-46, Dist. N. Dak., against Armour & Co., a corporation, operating as Armour Creameries, at Fargo, N. Dak.

CHARGE: The complaint alleged that the defendant was selling and delivering for sale in interstate commerce and introducing and delivering for introduction into interstate commerce frozen eggs which were adulterated under 402 (a) (3) in that they were sour, moldy, putrid, and unfit for human consumption, and that despite repeated warnings, the defendant had continued to utilize bad eggs in its frozen pack.

DISPOSITION: On 9-3-46, the court entered a restraining order enjoining the defendant, pending a hearing in the matter, against the introduction into interstate commerce of any frozen eggs adulterated within the meaning of the Act. Following this order, no further violation of the Act with respect to the defendant's Fargo plant was found; and on 12-9-47, the injunction proceedings were dismissed.

23420. Frozen eggs (2 seizure actions). (F. D. C. Nos. 33675, 36928. S. Nos. 53-019 L, 53-097 L, 72-763 L, 72-766 L.)

QUANTITY: 235 30-lb. cans (2 lots consisting of 176 cans and 59 cans) at National Stock Yards, Ill.

SHIPPED: On 7-24-52 and 7-25-52, quantities of shell eggs were shipped from Mark, Iowa, and St. Louis, Mo., to National Stock Yards, Ill., and on 7-28-54, 59 30-lb. cans of frozen eggs were shipped from St. Louis, Mo., to National Stock Yards, Ill. The latter shipment was a return shipment.

LABEL IN PART: (59-can lot) "Whole Eggs Distributed by Continent Frozen Foods Corp., National Stock Yards, Ill." and (176-can lot) "Frozen Egg Products * * * Egg Yolk and White."

RESULTS OF INVESTIGATION: The 176-can lot of frozen eggs was prepared from the above-mentioned shell eggs at the plant of the packer, Continent Frozen Foods Corp.

LIBELED: 9-5-52 and 8-26-54, E. Dist. Ill.

CHARGE: 402 (a) (3)—the 59-can lot contained plant fragments and decomposed eggs when shipped, and the 176-can lot contained insects, insect parts, and decomposed eggs while held for sale; and 402 (a) (4)—the 176-can lot was prepared under insanitary conditions.

DISPOSITION: On 9-17-52, Continent Frozen Foods Corp., National Stock Yards, Ill., filed an answer to the libel involving the 176-can lot, denying that the article was adulterated as alleged. The claimant and the Government served interrogatories upon each other, which interrogatories were answered.

On 2-21-55, the claimant having consented to the entry of a decree, the court entered a decree ordering that the article be released to the claimant under