

13429. Adulteration of Cheddar cheese. U. S. v. 77 Boxes * * *. (F. D. C. No. 23353. Sample No. 77485-H.)

LIBEL FILED: June 21, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about June 9, 1947, by the Perry Milk Products Co., Inc., from Perry, Iowa.

PRODUCT: 77 boxes, containing a total of 5,711 pounds, of Cheddar cheese at Freeport, Ill.

LABEL, IN PART: "Iowa Cheddar."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and manure fragments and by reason of the use of filthy milk in its preparation; and, section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 24, 1948. Default decree of condemnation and destruction. Subsequent to the entry of the decree, the Kraft Cheese Co., Freeport, Ill., the firm in possession of the cheese when seized, petitioned the court for permission to use the product for animal feed. On June 4, 1948, the court entered an order permitting such disposition of the cheese under the supervision of the United States marshal.

EGGS

13430. Adulteration of dried whole eggs. U. S. v. Joseph J. Giordano and Horace A. Gioia (Giordano & Gioia). Pleas of guilty. Fine of \$300 against each defendant. (F. D. C. No. 15572. Sample No. 92364-F.)

INDICTMENT RETURNED: May 29, 1945, District of New Jersey, against Joseph J. Giordano and Horace A. Gioia, trading as Giordano & Gioia, Jersey City N. J.

ALLEGED SHIPMENT: On or about March 22 and 24, 1944, from the State of New Jersey into the State of New York.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: February 20, 1948. Pleas of guilty having been entered, the court imposed a fine of \$300 against each defendant.

13431. Adulteration of dried whole eggs. U. S. v. Jacob J. Shevelove. Plea of not guilty. Tried to the court. Verdict of guilty. Fine, \$1,000. (F. D. C. No. 15571. Sample Nos. 82871-F, 5804-H.)

INDICTMENT RETURNED: May 29, 1945, District of New Jersey, against Jacob J. Shevelove, Newark, N. J.

ALLEGED SHIPMENT: On or about May 4 and August 30, 1944, from the State of New Jersey into the State of New York.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: A plea of not guilty having been entered, the case came on for trial before the court without a jury. At the conclusion of the testimony, the court found the defendant guilty, but postponed sentencing until a future date. On May 7, 1948, the court imposed a fine of \$500 on each of the two counts of the indictment.

13432. Alleged conspiracy to violate the Federal Food, Drug, and Cosmetic Act with respect to shipment and delivery of dried whole eggs. U. S. v. Joseph J. Giordano, Horace A. Gioia, Benjamin Schleifer, Jacob J. Shevelove, John W. Coyne, Gioia Macaroni Co., and Cocar, Inc. Pleas of not guilty. Trial of defendants John W. Coyne and Cocar, Inc., before a jury. Verdict of not guilty. Conspiracy indictment against other defendants dismissed. (F. D. C. No. 15571. Sample Nos. 82871-F, et al.)

INDICTMENT RETURNED: May 29, 1945, District of New Jersey, against Joseph J. Giordano, Horace A. Gioia, Benjamin Schleifer, and John W. Coyne, all of Rochester, N. Y., Jacob J. Shevelove, Newark, N. J., and the Gioia Macaroni Co. and Cocar, Inc., corporations located at Rochester, N. Y.

NATURE OF CHARGE: The indictment alleged that the defendants, in January 1944, and continuously thereafter to August 31, 1944, at Jersey City, N. J., willfully, knowingly, and unlawfully conspired and agreed together to commit offenses

in violation of Sections 301 (a) and 301 (c) of the Federal Food, Drug, and Cosmetic Act, with the purpose and object of introducing into interstate commerce, delivering for shipment, shipping between the States of New Jersey and New York, and after receipt in interstate commerce, delivering and proffering for delivery for pay, a quantity of spray dried whole eggs which were adulterated under Section 402 (a) (3), in that they consisted in whole or in part of decomposed eggs. It was alleged also that in pursuance of the unlawful conspiracy and for the purpose of effecting its object, the defendants did commit the following overt acts:

1. During the month of January 1944, but prior to January 26, 1944, in Rochester, N. Y., the defendants Coyne, Giordano, and Gioia entered into an arrangement to purchase approximately 96,000 pounds of adulterated spray dried whole eggs, being offered for sale by the War Food Administration, whereby the defendants Giordano and Gioia would advance the necessary funds for the purchase of the adulterated eggs by the defendant, Cocar, Inc.

2. On January 26, 1944, Cocar, Inc., submitted offers to the War Food Administration for the purchase of various lots of dried whole eggs, comprising approximately 96,000 pounds.

3. Within the period commencing January 1, 1944, and ending February 9, 1944, the Gioia Macaroni Co. loaned to Horace Gioia a sum of money to enable the latter to advance funds for the purchase of the dried whole eggs.

4. On February 9, 1944, John Coyne and Joseph Giordano procured the issuance of two certified checks payable to John Coyne.

5. On February 9, 1944, Joseph Giordano and John Coyne made payment for the eggs to the War Food Administration, at which time John Coyne endorsed and delivered the checks to the War Food Administration.

6. On February 10, 1944, John Coyne and Joseph Giordano called at the offices of a warehouse at Jersey City, N. J., and effected a transfer of storage of that portion of the eggs which was stored at the warehouse, from the account of the War Food Administration to the account of Giordano and Gioia.

7. On February 11, 1944, John Coyne, Joseph Giordano, Horace Gioia, and Cocar, Inc., entered into a written agreement at Rochester, N. Y., which provided, among other things, for the division of the profits to be derived from the sale of the eggs.

8. On or about March 22, 1944, Joseph Giordano accompanied by Benjamin Schleifer went to a warehouse at Jersey City, N. J., and inspected a number of barrels of the eggs stored there.

9. On or about March 22 and 24, 1944, Joseph Giordano and Horace Gioia, trading as Giordano and Gioia, shipped a number of barrels of the eggs from the Jersey City warehouse to Lyons, N. Y.

10. Sometime within the period commencing April 1 and ending May 31, 1944, at Rochester, N. Y., Benjamin Schleifer approached Horace Gioia and offered to sell the eggs which had been shipped from Jersey City, N. J., to Lyons, N. Y.

11. Within the period of April 1 to May 31, 1944, Benjamin Schleifer proposed to Horace Gioia that the latter negotiate with Jacob Shevelove for the sale and disposition of a portion of the eggs which had been shipped to Lyons, N. Y.

12. Sometime in the month of June 1944, Jacob Shevelove negotiated with Horace Gioia by long distance telephone relative to the purchase of a quantity of the eggs which had been shipped to Lyons, N. Y.

13. Between July 1 and August 15, 1944, Benjamin Schleifer caused the eggs which had been shipped to Lyons, N. Y., to be examined by an expert.

14. Between July 1 and August 15, 1944, Jacob Shevelove was instrumental in securing a purchaser for 42 barrels of the eggs.

15. On July 28, 1944, Horace Gioia sold 49 barrels of the eggs which had been shipped to Lyons, N. Y.

16. On or about August 25, 1944, the Gioia Macaroni Co. accepted the sum of \$3,000 paid for the balance of the purchase price of the 49 barrels of eggs.

17. On or about May 3, 1944, Jacob Shevelove shipped 20 barrels of the dried whole eggs from Jersey City, N. J., to Bronx, N. Y.

18. On or about May 4, 1944, Jacob Shevelove shipped one barrel of the eggs from Jersey City, N. J., to Brooklyn, N. Y.

19. On August 16, 1944, Cocar, Inc., acting by its president, John Coyne, directed the transfer of storage of 47 barrels of the eggs which were stored on the warehouse premises in Jersey City, N. J., to the account of Jacob J. Shevelove.

20. On or about August 31, 1944, Jacob Shevelove caused the shipment of 25 barrels of the eggs from Jersey City, N. J., to Bronx, N. Y.

21. On or about August 9, 1944, Jacob Shevelove offered to sell nine barrels of the eggs shipped from Jersey City, N. J., to Lyons, N. Y.

22. On or about August 9, 1944, Jacob Shevelove caused 9 barrels of the eggs to be shipped from Rochester, N. Y., to Brooklyn, N. Y.

23. Sometime in the month of May 1944, John Coyne, in the presence of Joseph Giordano, offered at New York, N. Y., to sell a number of barrels of the eggs.

DISPOSITION: Pleas of not guilty were entered on behalf of the defendants. For purposes of trial, the Government's attorney made a motion that the case be confined to John W. Coyne and Cocar, Inc.; the motion was granted. On or about September 17, 1947, the case came on for trial before the court and jury, and at the conclusion of the trial on October 1, 1947, the jury returned a verdict of not guilty with respect to defendants John W. Coyne and Cocar, Inc. On December 12, 1947, the conspiracy indictment was dismissed with respect to the other defendants.

13433. Adulteration of frozen whole eggs. U. S. v. 600 Cans, etc. (F. D. C. No. 25214. Sample No. 32299-K.)

LIBEL FILED: July 26, 1948, Northern District of California.

ALLEGED SHIPMENT: On or about May 12, 1948, by the Mitchell Produce Co., from Mitchell, S. Dak.

PRODUCT: 950 30-pound cans of frozen whole eggs at San Francisco, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: August 6, 1948. The Mitchell Produce Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. In accordance with the decree, the product was examined by drilling each can. A total of 5 cans were sorted out as unfit and were subsequently denatured.

13434. Adulteration of frozen whole eggs. U. S. v. 148 Cans * * * (F. D. C. No. 22436. Sample Nos. 67082-H, 67083-H.)

LIBEL FILED: January 24, 1947, Western District of Missouri.

ALLEGED SHIPMENT: On or about December 6, 1946, by the Franklin Ice Cream Co., Tonganoxie, Kans. (This was a returned shipment.)

PRODUCT: 148 30-pound cans of frozen whole eggs at Kansas City, Mo.

LABEL, IN PART: "Frozen Whole Eggs * * * Packed By Roberts Egg Products Co."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: March 3, 1947. The Franklin Ice Cream Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered with respect to the unfit portion. The product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration. Of the 132 cans seized, 10 cans were denatured as unfit for use.

13435. Adulteration of shell eggs. U. S. v. 42 Cases * * * (F. D. C. No. 24582. Sample No. 33314-K.)

LIBEL FILED: April 2, 1948, Northern District of California.

ALLEGED SHIPMENT: On or about March 13, 1948, by C. A. Larson, Salt Lake City, Utah.

PRODUCT: Eggs. 42 cases, each containing 30 dozen, at San Francisco, Calif.

LABEL, IN PART: "C Grade Fort Wayne Thirty Dozen Eggs Draper Producers Association, Inc., Draper, Utah."