

13252. Action to enjoin and restrain the interstate shipment of butter. U. S. v. Harold H. Sherwood and Everett H. Burley (Randolph Creamery). Consent decree granting injunction. (Inj. No. 155.)

COMPLAINT FILED: November 5, 1947, District of Nebraska, against Harold H. Sherwood and Everett H. Burley, trading as the Randolph Creamery, a partnership, Randolph, Nebr.

NATURE OF CHARGE: That the defendants were engaged in the business of processing cream in the manufacture of butter, buttermilk, and ice cream. Approximately 90 percent of the butter was shipped in interstate commerce. On November 16, 1945, an inspection of the defendants' plant at Randolph, Nebr., revealed that practically all of the cream received at the plant was dirty and filthy by reason of the presence of insect, rodent, and other filth; that the incoming cream was used in the manufacture of butter without first screening or filtering it; and that the plant did not use a recording thermometer in attempting to pasteurize the cream, and the cream was not being completely pasteurized. The plant was found to be manufacturing the products under filthy conditions, in that the floor was covered with dirt, trash, dead insects, and roach and rodent excreta, and a large number of roaches and flies were noted in the cream receiving room and on the cream vats.

Sampling of interstate shipments of the butter showed that it was adulterated as follows: Section 402 (a) (3), it consisted in whole or in part of a filthy substance by reason of contamination with insects, insect fragments, rodent hair fragments, and other foreign matter; and, Section 402 (a) (4), it had been manufactured under insanitary conditions whereby it may have become contaminated with filth.

A reinspection of the plant on August 1, 1946, disclosed no improvement in plant conditions. All cream received was being used in the manufacture of butter, without grading or rejecting any of it because of its filthy condition. Samples of cream were found to contain flies, nondescript dirt, and rodent hair fragments.

The complaint alleged further that the filthy conditions disclosed by inspections had been called to the attention of the defendants, but that they continued and would continue the acts complained of unless restrained.

PRAYER OF COMPLAINT: That a preliminary injunction issue restraining the defendants from the commission of the acts complained of, and that, after due proceedings, the preliminary injunction be made permanent.

DISPOSITION: November 5, 1947. The defendants having consented to the entry of a decree, the court issued an order perpetually restraining and enjoining the defendants from shipping butter in interstate commerce which was adulterated in that it consisted in part of a filthy substance and had been prepared under insanitary conditions whereby it had become contaminated with filth.

13253. Action to enjoin and restrain the interstate shipment of butter. U. S. v. South Mountain Dairies, Inc. Consent decree granting injunction. (Inj. No. 188.)

COMPLAINT FILED: February 10, 1948, District of Maryland, against South Mountain Dairies, Inc., Middletown, Md.

NATURE OF CHARGE: That the defendant had been and was at the time shipping in interstate commerce, butter which was adulterated as follows: Section 402 (a) (3), it consisted in part of filthy substances by reason of the presence of rodent hairs, rodent hair fragments, insect fragments, feather fragments, mold, and other filth, and by reason of the use of filthy cream in the manufacture of the butter; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions at the defendant's Middletown plant, whereby it may have become contaminated with filth.

The complaint alleged further that the insanitary conditions in the plant where the butter had been and was being prepared, packed, and held, resulted from and consisted of the presence of rodents, rodent excreta, bird excreta, and insects in and around places in the plant where butter had been and was being prepared, packed, and held, and in and around equipment and raw materials used for preparing, packing, and holding of butter, thereby contaminating the butter and subjecting it to contamination by rodents, birds, insects and their excreta, and other filth; that the defendant continued to ship in interstate commerce adulterated butter and would continue to ship such butter in interstate commerce, unless enjoined from so doing.