

The complaint alleged further that although the defendant had been informed of the conditions found during the inspections and warned to remedy such conditions, no material improvement had been effected. The complaint prayed that the defendant be permanently restrained from commission of the acts complained of, and that pending the entry of a final judgment, a preliminary injunction be issued restraining such acts.

DISPOSITION: May 17, 1945. The defendant having consented to the entry of a preliminary injunction, the court issued an order restraining the defendant from shipping in interstate commerce any cheese which was adulterated as alleged in the complaint, pending the entry of a final judgment or until further order of the court. No further proceedings have been reported.

17527. Action to enjoin and restrain the interstate shipment of adulterated cheese. U. S. v. Alfred Gunzenbeck and Albert Nef (Valley Queen Cheese Factory). Preliminary injunction granted; subsequently dissolved. (Inj. No. 83.)

COMPLAINT FILED: February 27, 1945, District of South Dakota, against Alfred Gunzenbeck and Albert Nef, trading as Valley Queen Cheese Factory, Milbank, S. Dak.

NATURE OF CHARGE: That the defendants had been and were introducing and delivering for introduction into interstate commerce, at Milbank, S. Dak., cheese which was adulterated under Section 402 (a) (3), in that it consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), in that it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

The complaint alleged further as a basis for the charge under Section 402 (a) (3), that examinations of various lots of the milk used by the defendants in the manufacture of cheese had showed the presence of various types of filth, such as houseflies, rodent hairs, moths, beetles, spiders, larvae, weevils, miscellaneous insect fragments, cow hairs, feather barbules, and various miscellaneous extraneous matter; and that examinations of cheese shipped in interstate commerce by the defendants showed that it was contaminated by insect fragments, straw fragments, larvae, mites, unidentified hairs, feather barbules, manure fragments, and miscellaneous dirt.

The complaint alleged further as a basis for the charge under Section 402 (a) (4), that inspections of the plant showed that it was infested with mice, roaches, and flies.

The complaint alleged further that although the defendants had been repeatedly advised by representatives of the Food and Drug Administration of the conditions disclosed by the inspections and had been requested and warned to bring about correction thereof, they had ignored such warnings. The complaint prayed that the defendants be permanently restrained from commission of the acts complained of, and that a preliminary injunction be granted during the pendency of the action.

DISPOSITION: On March 14, 1945, the petition for a preliminary injunction was heard before the court, and a decree was entered temporarily enjoining the defendants from introducing, or delivering for introduction, into interstate commerce any cheese which was adulterated as alleged in the complaint. On November 15, 1949, on motion of the defendants, the preliminary injunction was ordered dissolved and the action dismissed.