

DISPOSITION: June 25, 1945. The Lanesville Creamery Co. having appeared as claimant, judgments of condemnation were entered and the product was ordered released under bond, conditioned that it be reworked and brought into compliance with the law, under the supervision of the Food and Drug Administration.

9718. Misbranding of butter. U. S. v. 439 Cartons and 290 Cartons (23,328 pounds) of Butter. Consent decrees of condemnation. Products ordered released under bond. (F. D. C. Nos. 15779, 15780. Sample Nos. 5665-H, 5714-H.)

LIBEL FILED: On or about March 13, 1945, District of New Jersey.

ALLEGED SHIPMENT: On or about February 23 and 24, 1945, by the American Dairy Co., Scranton, Pa., from New York, N. Y.

PRODUCT: 729 cartons, each containing 32 1-pound prints, of butter at Jersey City, N. J. The product was short-weight.

LABEL, IN PART: "One Pound Net Creamery Butter Packed by Ben Goldenberg, Inc., New York, N. Y."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: March 14, 1945. Philip H. Bricker, trading as the American Dairy Products Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the butter was ordered released under bond for reprinting to the correct weight, under the supervision of the Food and Drug Administration.

CHEESE

9719. Action to enjoin and restrain the interstate shipment of adulterated cheese and cheese products. U. S. v. Conestoga Cream and Cheese Manufacturing Corporation and Snier Sam Silberman, also known as Sam Silberman. Tried to the court. Injunction granted. (Inj. No. 81.)

COMPLAINT FILED: March 21, 1945, Northern District of Ohio, against the Conestoga Cream and Cheese Manufacturing Corporation, Lima, Ohio, and Snier Sam Silberman, also known as Sam Silberman, plant manager.

NATURE OF CHARGE: That for several years, and particularly since October 6, 1942, the defendants had been preparing, packing, processing, and manufacturing, and offering for interstate shipment and shipping in interstate commerce, cheese and cheese products; that numerous investigations had been made by the Food and Drug Administration which disclosed the existence of insanitary conditions in the plant of the defendants by reason of the presence of insects, rodent excreta, and other foreign matter, and filthy and unwholesome substances in and around places in the plant where the foods were manufactured, in and around raw materials and substances from which the foods were manufactured, in and around places in the plant where the foods were packed, in and around machinery and equipment for manufacturing the foods and containers for the foods, and in and around the finished foods; that the investigations disclosed further that the buildings where the foods were prepared, packed, and held, were in a state of disrepair and dilapidation, and that the windows were unscreened, subjecting the foods prepared in the plant to contamination by insects, rodents, and other sources.

The complaint alleged further that the products prepared and packed under the aforesaid conditions were adulterated as follows: Section 402 (a) (3), they consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

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

DISPOSITION: June 6, 1945. The case having come on for hearing, and having been submitted to the court on the pleadings, statements of counsel, and stipulation of facts, the court made the following findings of fact and conclusions of law:

KLOEB, District Judge: