

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions.

**PRAYER OF COMPLAINT:** That the defendants, together with their agents, servants, and employees, be restrained from shipping and causing to be shipped food or food products which had been manufactured or stored at the plant of the defendants, and which were in violation of the law.

**DISPOSITION:** August 8, 1946. The defendants having failed to answer or otherwise plead to the complaint, judgment was entered enjoining and restraining them from shipping in interstate commerce food products which were in violation of the law, as set forth in the complaint.

**10270. Action to restrain the interstate shipment of Cheddar cheese and process cheese. U. S. v. The Fisher Dairy & Cheese Co., Charles W. Fisher, Harold L. Fisher, and Max R. Christian. Complaint dismissed. (Inj. 121.)**

**COMPLAINT FILED:** November 14, 1945, Northern District of Ohio, against the Fisher Dairy & Cheese Co., a corporation, Wapakoneta, Ohio, and Charles W. Fisher, president and treasurer of the corporation, Harold L. Fisher, vice president and general manager, and Max R. Christian, secretary. The complaint charged that the shipment of adulterated Cheddar cheese and process cheese had been made in interstate commerce by the corporate defendant since October 7, 1942, and by the individual defendants for a substantial period of time. Factory inspections disclosed the presence of insects, rodent excreta, and other foreign matter, and filthy and unwholesome substances around the plant and places where the cheese was manufactured and packed, and in and around the raw materials used in their manufacture. The inspections further disclosed that the equipment of the plant was in a state of disrepair and lacked adequate cleaning to maintain it in a sanitary condition, thereby subjecting the articles to contamination by insects, rodents, and other filthy and foreign matter.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been and were being 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 the commission of the acts complained of during the pendency of the action, and that, after hearing, the preliminary injunction be made permanent.

**DISPOSITION:** On December 21, 1945, a motion to make the complaint more definite and certain was filed on behalf of the defendants, together with the answer of Max R. Christian, one of the defendants, alleging that he had severed his connection with the corporate defendant as of December 7, 1945. On January 7, 1946, the court overruled the defendant's motion, and on January 21, 1946, it ordered that the complaint be dismissed with respect to Max R. Christian. On February 20, 1946, the other defendants in the case filed an answer admitting that in the past they had shipped quantities of cheese which may have been adulterated, but alleging that they had not violated any provisions of the law since August 16, 1945. The case came on for hearing before the court on May 16, 1946, and after consideration of the evidence and arguments of counsel, the court decided to retain the matter on its docket for several months to ascertain whether the defendants would continue to operate in compliance with the law. On October 23, 1946, the court having found that the corporate defendant was then operating in full compliance with the law, and that there was little probability that it would be in further violation, it was ordered that the complaint be dismissed without cost to that defendant, and with prejudice to a further action on the same state of facts.

**10271. Adulteration of Colby cheese. U. S. v. Leslie E. Chapin (Tampico Creamery). Plea of guilty. Fine of \$500 and costs and 6 months' imprisonment. Execution of jail sentence suspended and defendant placed on 1 year's probation. (F. D. C. No. 17807. Sample Nos. 22568-H, 22569-H.)**

**INFORMATION FILED:** On February 28, 1946, Northern District of Illinois, against Leslie E. Chapin, trading as the Tampico Creamery, Tampico, Ill. The defendant was charged with giving a false guaranty. The guaranty was given to

Armour & Co. on or about March 11, 1943. It provided that cheese shipped or delivered by the defendant to the latter firm would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act. On or about March 15 and 20, 1945, the defendant sold and delivered to Armour & Co. a quantity of Colby cheese which was adulterated, portions of which were shipped by Armour & Co., on or about March 17 and 20, 1945, from the State of Illinois into the States of Missouri and Tennessee.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the product bore and contained a poisonous and deleterious substance, *Salmonella typhi murium*, a pathogenic microscopic organism capable of causing enteric illness, which may have rendered it injurious to health; Section 402 (a) (3), the product was unfit for food by reason of the presence of viable *Salmonella typhi murium*; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have been rendered injurious to health.

**DISPOSITION:** On May 6, 1946, a plea of guilty having been entered, the defendant was fined \$500 and costs and sentenced to six months' imprisonment. On May 27, 1946, the court entered an order suspending execution of the prison sentence, and the defendant was placed on probation for a period of 1 year.

**10272. Adulteration of Provoloni cheese. U. S. v. 22 Bundles of Provoloni cheese. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16848. Sample No. 11553-H.)**

**LIBEL FILED:** July 13, 1945, District of Vermont.

**ALLEGED SHIPMENT:** On or about June 5, 1945, by the New York Cheese Co., from New York, N. Y.

**PRODUCT:** 22 bundles each containing 6 cheeses weighing about 10 pounds each at Northfield, Vt.

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

**DISPOSITION:** January 30, 1946. The sole intervener having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered sold for use as animal feed or for use other than human consumption.

#### MILK, CREAM, AND BUTTERMILK

**10273. Adulteration of milk. U. S. v. Golden State Co., Ltd. Plea of nolo contendere. Fine, \$400. (F. D. C. No. 16589. Sample Nos. 31941-H, 31944-H.)**

**INFORMATION FILED:** February 19, 1946, Southern District of California, against the Golden State Co., Ltd., a corporation, El Centro, Calif.

**ALLEGED SHIPMENT:** On or about February 22 and 23, 1945, from the State of California into the State of Arizona.

**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 digested vegetable fibers resembling manure; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

**DISPOSITION:** April 1, 1946. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$400 was imposed.

**10274. Adulteration of cream. U. S. v. 10 10-Gallon Cans of Cream (and 20 other seizure actions against cream). Decrees of condemnation and destruction. (F. D. C. Nos. 17361, 17362, 17375, 17376, 17380, 17382, 17384, 17385, 18281, 18282, 18286, 18288, 21080, 21082, 21288. Sample Nos. 10135-H to 10138-H, incl., 10143-H to 10150-H, incl., 10157-H, 10159-H, 10164-H to 10169-H, incl., 10181-H to 10186-H, incl., 10349-H, 10913-H, 10914-H, 59769-H, 59770-H, 59793-H.)**

**LIBELS FILED:** Between August 7, 1945, and September 17, 1946, Western District of Pennsylvania.

**ALLEGED SHIPMENT:** Between the approximate dates of August 1, 1945, and September 5, 1946, by Chesapeake Creameries, from, Martinsburg, W. Va., Harrisonburg, Va., Warrenton, Va., Luray, Va., Culpeper, Va., Leesburg, Va., Winchester, Va., Strasburg, Va., Louisa, Va., Fredericksburg, Va., and Frederick, Md.; on or about August 14, 1945, by John W. Sibert, from Winchester, Va.; on or about August 14, 1945, by A. T. Stickley, from Romney, W. Va.; on or