

On October 25, 1943, the case having come for final disposition and the parties having stipulated that the facts incorporated by the court in findings of fact Nos. 1 to 5, inclusive, and Nos. 7 and 8 were the facts in the case, the court ordered that the defendants be enjoined from introducing into interstate commerce the 69 boxes of dried eggs which had been found to be sour, and that the defendants be further enjoined from introducing into interstate commerce any sour dried eggs.

FISH AND SHELLFISH

17537. Action to enjoin and restrain the interstate shipment of adulterated fish and fish products and vegetables. U. S. v. J. Lowery Harrison and Else S. Harrison (Kent Packing Co.). Decree for temporary injunction entered by consent. (Inj. No. 144.)

COMPLAINT FILED: July 1, 1946, District of Maryland, against J. Lowery Harrison and Else S. Harrison, copartners, trading as the Kent Packing Co., Rock Hall, Md.

NATURE OF CHARGE: That the defendants from on or about May 16 and 17, 1946, to the date of filing the complaint had been brining, processing, and canning fish and fish products and vegetables under insanitary conditions, the result of the presence of flies, maggots, and rodents, and improper facilities and supervision; that the food products so processed by the defendants were adulterated within the meaning of Section 402 (a) (4) of the Federal Food, Drug, and Cosmetic Act; that the adulterated foods being so prepared and packed by the defendants were being shipped in interstate commerce from Rock Hall, Md., to other states; that various investigations and examinations made by representatives of the Food and Drug Administration had showed the existence of the insanitary conditions; and that the defendants had been warned to remedy the defects existing in their method of manufacture, but had failed to do so.

The complaint alleged further, on information and belief, that the defendants would continue to cause the introduction and delivery for introduction into interstate commerce of adulterated foods unless enjoined from so doing, and prayed the entry of a temporary restraining order, and that after due proceedings, the court enter an order enjoining the defendants from the acts complained of.

DISPOSITION: On July 1, 1946, the court entered an order that the defendants show cause why a temporary restraining order should not be entered as prayed by the complaint. On July 11, 1946, the defendants having consented, a temporary injunctive decree was entered enjoining the defendants, their agents, servants, and employees, and any and all other individuals or corporations in active concert or participation with them, from introducing, or delivering for introduction into interstate commerce, foods, and specifically, canned seafoods, adulterated within the meaning of the Act.

17538. Action to enjoin and restrain the interstate shipment of adulterated and misbranded oysters. U. S. v. Thomas B. Leonard and Elsie C. Leonard (I. L. Leonard & Co.). Preliminary injunction granted. (Inj. No. 208.)

COMPLAINT FILED: February 16, 1949, District of Maryland, against Thomas B. Leonard and Elsie C. Leonard, trading as I. L. Leonard & Co., Cambridge, Md.

NATURE OF CHARGE: That the defendants had been and were at the time shipping in interstate commerce fresh oysters at Cambridge, Md., which were adulterated under Section 402 (b) (2), in that excess water had been substituted in part

for oysters, and which were misbranded under Section 403 (g) (1), in that they failed to conform to the definition and standard of identity for oysters since they were not thoroughly drained as required by the standard.

The complaint alleged further that the defendants had been warned to correct their methods of operation and not to introduce, or cause the introduction or delivery for introduction, into interstate commerce of food which was adulterated and misbranded in the manner specified above; but that they had failed to correct their methods of operation and were continuously shucking, preparing, packing, and shipping adulterated and misbranded oysters in interstate commerce.

The complaint alleged further, on information and belief, that the defendants would continue to ship oysters in violation of the law unless enjoined, and prayed that they be perpetually enjoined from the commission of such acts and that a preliminary injunction be granted during the pendency of the action.

DISPOSITION: On April 7, 1949, the defendants having defaulted and failed to appear and the Government having moved the entry of a preliminary injunction, the court entered such preliminary injunction, enjoining and restraining the defendants and all persons acting on their behalf from introducing or causing the introduction, or delivering or causing to be delivered for introduction, into interstate commerce, oysters which were adulterated and misbranded as alleged in the complaint.

17539. Action to enjoin and restrain the interstate shipment of adulterated and misbranded oysters. U. S. v. Charles A. Neubert, Jr., and Milton B. Delcher, Jr. (W. H. McGee & Co.). Preliminary injunction granted. (Inj. No. 210.)

COMPLAINT FILED: February 16, 1949, District of Maryland, against Charles A. Neubert, Jr., and Milton B. Delcher, Jr., trading as W. H. McGee & Co., Baltimore, Md.

NATURE OF CHARGE: That the defendants had been and were at the time of filing the complaint engaged in the business of shucking, preparing, and packing fresh oysters; that during that time the defendants had been shipping in interstate commerce oysters which were adulterated within the meaning of Section 402 (b) (2), in that excess water had been substituted in part for oysters, and which were misbranded within the meaning of Section 403 (g) (1), in that they failed to conform to the definition and standard of identity for oysters selects and oysters standards since they were not thoroughly drained as required by the regulations; that despite warnings in December 1948 and January 1949, the defendants had failed to correct their methods of operation and were continuously shucking, preparing, and shipping adulterated and misbranded oysters in interstate commerce.

The complaint alleged further, on information and belief, that the defendants would continue to ship oysters in interstate commerce in violation of the law unless restrained from so doing, and prayed that they be perpetually enjoined from commission of such acts and that a preliminary injunction be granted during the pendency of the action.

DISPOSITION: On March 2, 1949, the defendants filed a motion for a more definite statement or bill of particulars and a petition for an extension of time to plead. The motion and petition were denied by the court. On March 21, 1949, the Government's motion for a temporary injunction came on for hearing. After hearing testimony and argument of counsel for both parties, it was agreed between the parties in open court that the entry of a restraining order