

The work done in collecting and transporting the milk from the various farms to the factory was, it was claimed, done by certain of the defendants' patrons, at the expense of the whole of the patrons who sent in their products, though paid by the company and deducted from each patron's cheque. Some of the patrons haul their own milk. Presumably the trucks used by those who hauled the cans of the others were the company's trucks, though I do not find any evidence as to this. It was argued by the defence that the work done by these haulers was not work done by the company nor by their employees as specified in sec. 15 of the Act.

Counsel for the prosecution claimed that:—

(1) The clauses and sections of the Act cited by the defence were not intended to relieve manufacturers of milk products, but to relieve the producer, the farmer, only.

(2) That there is a distinction between milk delivery for manufacture and delivery for consumption, the latter only being a work of necessity, as defined by the Act.

(3) That there is a distinction between avoidable and absolute necessity, and that this was a case of avoidable necessity according to the evidence.

The evidence of a considerable number of responsible farmers who milked large numbers of cows was to the effect that no necessity existed for milk being received at the factory on Sunday, as they themselves had had little or no loss and little or no trouble in caring for their milk at home over Sunday and disposing of it on Monday, either at defendants' factory or some other or by churning into butter or sending to a creamery, feeding refuse in some cases to the hogs, etc. These farmers were, I am satisfied, perfectly honest in their statements and conclusions. Some took every precaution to keep their cattle and those who milked them clean and healthy and the milk uncontaminated, covered, in exceptionally cool water and unshaken. Some who lived farther from the condenser, who had not such cool water wells, and some who were possibly less careful as to cleanliness of the cattle and their vessels, had their Sunday's milk sometimes returned to them, while some of the more careful class, who were not too far from the condenser and had good cool water, suffered little or no loss in this way.

The evidence of the analytical chemists is to the effect that milk is one of the most perishable, if not the most perishable of foods, that acidity begins and continues to increase from the time the milk is taken from the cow. Mr. McLaughlin, public analyst of St. Thomas, testified that fresh milk procured in weather at a temperature of sixty degrees and kept under favourable conditions at that temperature for twenty-four hours shewed more than twenty-two degrees of acidity. When it reaches more than