

132 Md. 473, 104 A. 186

Court of Appeals of Maryland.  
 MAYOR, ETC., OF BALTIMORE et al.  
 v.  
 GAMBLE et al.  
 April 3, 1918.

Appeal from Circuit Court, Baltimore County;  
 Frank I. Duncan, Judge.

“To be officially reported.”

Bill by Robert James Gamble and another against the Mayor and City Council of Baltimore and another. From an order granting the injunction prayed for, the defendants appeal. Reversed, and bill dismissed.

West Headnotes

### **Injunction 212 ↪110**

#### [212k110 Most Cited Cases](#)

The circuit court of Baltimore county has no jurisdiction to enjoin enforcement of a Baltimore city ordinance wholly within the city for inspection of dairies, under Code Pub.Civ.Laws, art. 16, § 86, confining jurisdiction in injunction suits to the circuit.

Argued before BOYD, C. J., and BRISCOE, THOMAS, URNER, and STOCKBRIDGE, JJ.

Alexander Preston, Deputy City Sol., of Baltimore (S. S. Field, City Sol., of Baltimore, on the brief), for appellants.

THOMAS, J.

The bill of complaint in this case is like the one filed in No. 25 Appeals, January term, 1918, [Creaghan v. Mayor, etc., of Baltimore, 104 Atl. 180](#), and prays that Ordinance No. 262 of the mayor and city council of Baltimore, approved June 1, 1917, “and each and every part thereof,” be declared null and void, and that the mayor and

city council of Baltimore and John D. Blake, commissioner of health, be enjoined from enforcing or attempting to enforce the same.

The bill was filed in the circuit court for Baltimore county on November 8, 1917, and on the same day that court granted a preliminary injunction as prayed. Thereafter the defendants appeared for the purpose of filing a plea to the jurisdiction of the court, and then brought this appeal from the order of the court granting the injunction.

Section 86 of article 16 of the Code provides:

“Each of the circuit judges may grant injunctions, or pass orders or decrees in equity, at any place in his circuit, to take effect in any part of his circuit, and may require in writing the original papers in any case, or abstracts and transcripts to be produced before him, wherever he may be in his circuit.”

The ordinance provides, among other things, that a producer of milk who desires to sell the same in Baltimore city must obtain a permit, and, as one of the conditions for obtaining the permit, he must consent to an inspection of his dairy herd and premises, etc., in order that the commissioner of health may determine whether the milk is produced under the sanitary conditions required by the ordinance and from healthy cows. But compliance with this condition is purely voluntary on the part of the dairyman, and the ordinance operates only in Baltimore city, and to prevent the sale therein of impure or unhealthy milk.

The bill does not seek to enjoin the inspection of the plaintiffs' herds or premises in Baltimore county; for that is not authorized by the ordinance except with the consent of the plaintiffs. But the object of the bills is to restrain the enforcement in Baltimore city of an ordinance regulating the sale of milk therein. The injunction prayed for and granted by the court below was not intended therefore to take effect in Baltimore county or any

part of that circuit, but only in Baltimore city.

The question of the jurisdiction of the court below to grant the injunction is so completely disposed of by the decision and reasoning of this court in [Graham v. Harford County, 87 Md. 321, 39 Atl. 804](#), that a further discussion of it would only lead to a repetition of what was there said. Following the construction placed upon the section of the Code referred to in that case, we must reverse the order appealed from and dismiss the plaintiffs' bill.

Order reversed, with costs above and below, and bill dismissed.

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