

"In the first place, you are the sole judges of the witnesses and the weight to be accredited to their testimony, of each and every witness who testified in this case. In determining the weight and credibility you should give the testimony of any witness, you should take into consideration his conduct and demeanor on the witness stand, his willingness or unwillingness to testify to what he is asked about, his knowledge of the facts, and the reasonableness or unreasonableness of his testimony, his interest, if any, in the result of the case, his bias or prejudice for or against any of the parties in the case, and any other facts or circumstances that may tend to throw light on such witnesses' testimony, and if you should find any witness has willfully sworn falsely to any matter or fact in the case you have a right to disregard all or any part of it and you may believe any part.

"The defendant testified in his own behalf. He is a competent witness. And you should take into consideration the fact that he is the defendant, and is on trial. The law presumes that he is innocent and not guilty. This presumption protects the defendant throughout the trial, until the Government has proven his guilt to your satisfaction, beyond a reasonable doubt. Now, while reasonable doubt does not mean notions, it means, as the word implies, a substantial doubt; that is, a doubt founded on reason, and one that would cause a reasonable, prudent man to hesitate before acting, and such a doubt as may arise on the testimony or from the lack of testimony. After all is said and done if it should exist in your mind, that is, a reasonable doubt as to the innocence or guilt of the defendant, it would be your duty to give the defendant the benefit of such doubt and acquit him."

A verdict of "not guilty" was returned by the jury.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

14120. Adulteration and misbranding of spirits of camphor and nitrous ether. U. S. v. 3 Barrels of Spirits of Camphor and 3 Barrels of Nitrous Ether. Default decree of condemnation, forfeiture, and destruction. (F. & D. Nos. 20637, 20638. I. S. Nos. 939-x, 940-x. S. No. W-1656.)

On November 21, 1925, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 3 barrels of spirits of camphor and 3 barrels of nitrous ether, remaining in the original unbroken packages at Seattle, Wash., alleging that the articles had been shipped by the Barclay Chemical Corp., from New York, N. Y., about September 9, 1925, and transported from the State of New York into the State of Washington, and charging adulteration and misbranding in violation of the food and drugs act.

Analysis by the Bureau of Chemistry of this department of samples of the articles showed that each of the articles contained alcohol and acetone, indicating that they had been prepared with specially denatured alcohol.

Adulteration of the articles was alleged in the libel for the reason that they were sold under names recognized in the United States Pharmacopœia, and differed from the pharmacopœial standards of strength and quality and purity, and their own standards of strength, purity, and quality were not stated upon the containers thereof.

Misbranding was alleged for the reason that the articles were imitations of and offered for sale under the names of other articles, and for the further reason that the packages failed to bear a statement on the label of the quantity or proportion of alcohol contained therein.

On February 12, 1926, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the products be destroyed by the United States marshal.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

14121. Adulteration and misbranding of butter. U. S. v. 18 Cases and 13 Cases of Butter. Consent decrees of condemnation and forfeiture. Product released under bond. (F. & D. Nos. 20384, 20406. I. S. Nos. 5717-x, 5718-x, 5720-x. S. Nos. E-5382, E-5383.)

On August 20 and 27, 1925, respectively, the United States attorney for the Western District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying the seizure and condemnation of 31 cases of butter, remaining in the original unbroken packages at Pittsburgh, Pa., alleging that the article had been shipped by the Paul A. Schulze Co., from St. Louis, Mo., in part

on or about August 8, 1925, and in part on or about August 15, 1925, and transported from the State of Missouri into the State of Pennsylvania, and charging adulteration and misbranding in violation of the food and drugs act as amended. A portion of the article was labeled in part: (Retail package) "One Pound Net. Mountain Grove Brand Fancy Creamery Butter 1 Lb. Net. * * * Net Weight One Pound. The contents of this package weighed one pound when packed." The remainder of the said article was labeled: (Retail package) "Park View Farms Creamery Country Roll * * * 2 Lbs. Net."

Adulteration of the article was alleged in the libels for the reason that a substance deficient in butterfat had been mixed and packed therewith so as to reduce or lower or injuriously affect its quality or strength and had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the article was an imitation of or offered for sale under the distinctive name of another article. Misbranding was alleged with respect to the alleged 1 pound packages of the product for the further reason that the statements, "One Pound Net," "1 Lb. Net," "Net Weight One Pound," and "The contents of this package weighed one pound when packed," borne on the label, were false and misleading and deceived and misled the purchaser, and for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On January 15, 1926, the Paul A. Schulze Co., St. Louis, Mo., claimant, having admitted the allegations of the libels and having consented to the entry of decrees, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be released to the said claimant upon the execution of good and sufficient bonds, conditioned in part that it be reworked, relabeled, or repacked under the supervision of this department and that the claimant pay the costs of the proceedings.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

14122. Misbranding of apples. U. S. v. Samuel Sloan Shields and Arthur Leroy Edwards (Shields Fruit Co.). Pleas of guilty. Fines, \$100.
(F. & D. No. 16007. I. S. No. 11177-t.)

On September 15, 1924, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Samuel Sloan Shields and Arthur Leroy Edwards, copartners, trading as Shields Fruit Co., Freewater, Oreg., alleging shipment by said defendants, in violation of the food and drugs act as amended, on or about November 9, 1921, from the State of Oregon into the State of Ohio, of a quantity of apples in boxes which were misbranded.

Misbranding of the article was alleged in the information for the reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On July 13, 1925, both defendants entered pleas of guilty to the information, and the court imposed a fine of \$50 against each defendant.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

14123. Adulteration and misbranding of prepared mustard. U. S. v. 23 Gallon Jars of Prepared Mustard. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 19993. I. S. No. 21106-v. S. No. W-1695.)

On April 14, 1925, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 23 gallon jars of prepared mustard, remaining in the original unbroken packages at Portland, Oreg., alleging that the article had been shipped by the Gladbrook Mustard Factory, from Wilmington, Calif., on or about January 27, 1925, and transported from the State of California into the State of Oregon, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Jar) "Gladbrook Prepared Salad Mustard * * * Gladbrook Mustard Factory Long Beach, Calif. & Gladbrook, Iowa."

Adulteration of the article was alleged in the libel for the reason that mustard bran had been mixed and packed therewith so as to reduce or injuriously