

beyond a reasonable doubt, as defined, your verdict should be guilty. If you are not satisfied of those facts beyond a reasonable doubt, if you are not satisfied with the identity of the butter, if you are not satisfied that it contained less than 80 per cent milk fat on the 27th of May, the date it was shipped and delivered at Boston, if you are not satisfied of those facts beyond a reasonable doubt, then your verdict will be not guilty. You won't need the complaint because there is just one charge."

The jury retired and after deliberating for several hours returned a verdict of not guilty.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18234. Adulteration of canned prunes. U. S. v. 100 Cases, et al., of Canned Prunes. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 25777, 25897. I. S. Nos. 12182, 12209. S. Nos. 3994, 4094.)

Samples of canned prunes from the shipments herein described having been found to be decomposed, the Secretary of Agriculture reported the matter to the United States attorney for the District of Colorado.

On or about January 24 and February 17, 1931, the United States attorney filed in the United States District Court aforesaid libels praying seizure and condemnation of 471 cases of canned prunes, remaining in the original unbroken packages in part at Pueblo, Colo., and in part at Lamar, Colo., consigned by the Ray-Maling Co., Hillsboro, Oreg., alleging that the article had been shipped in interstate commerce into the State of Colorado, a portion having been shipped from Hillsboro, Oreg., on or about October 8, 1930, and the remainder from Woodburn, Oreg., on or about October 11, 1930, and charging adulteration in violation of the food and drugs act. A portion of the article was labeled in part: (Cans) "Jordan Brand Italian Prunes, * * * Packed for J. S. Brown Mercantile Co." The remainder of the said article was labeled in part: (Case) "Bar-B-Q Brand Prunes Packed for the Jett and Wood Mercantile Co. Wichita and Hutchison, Kans."

Adulteration was alleged in the libel filed with respect to a portion of the product for the reason that it consisted in whole or in part of a filthy, decomposed, and putrid vegetable substance. Adulteration was alleged with respect to the remainder of the article for the reason that it consisted in part of a decomposed vegetable substance.

On April 20, 1931, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18235. Misbranding of tomato paste. U. S. v. 235 Cases, et al., of Tomato Paste. Decree adjudging product misbranded, and ordering its release under bond. (F. & D. No. 25805. I. S. Nos. 17506, 17507. S. No. 4039.)

Samples of canned tomato paste having been found to be short weight, the Secretary of Agriculture reported the matter to the United States attorney for the Southern District of Texas.

On January 27, 1931, the United States attorney filed in the District Court aforesaid a libel praying seizure and condemnation of 385 cases of tomato paste, remaining in the original packages at Houston, Tex., alleging that the article had been shipped by F. G. Favaloro (Inc.), from Harrington, Del., on or about October 11, 1930, and had been transported from the State of Delaware into the State of Texas, and charging misbranding in violation of the food and drugs act as amended. Seizure was effected of a portion of the article labeled in part: (Can) "Carmela Brand Tomato Paste * * * Net Weight Five Ounces Packed by F. G. Favaloro Sons, Inc., New Orleans La. Contenuto Netto Five Once."

It was alleged in the libel that the article was misbranded in that the statements on the labels of the containers were false and misleading as to the weight of the contents of said containers. Misbranding was alleged for the further reason that statements on the labels were false and misleading and deceived and misled the purchaser, since the container was falsely branded as to the State in which the article was manufactured and produced. Misbranding was alleged for the further reason that the article was in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.