presented that the butter contained in exhibits 4 and 5 was the butter of the defendant, your verdict will be not guilty.

The COURT: Yes; I think that is a fair instruction. If you are satisfied that this butter was not the butter that was manufactured and shipped by the defendant, then of course you will find the defendant not guilty.

On the other hand, if you are satisfied from the evidence beyond all reasonable doubt that this butter was manufactured by the defendant and shipped by him to Dubuque, and that it contained less than 80 percent butterfat, then of course your verdict will be otherwise.

Are there any other suggestions?

Mr. HANSON: None.

The COURT: The clerk may swear an officer. I have prepared, gentlemen, forms of verdict for you, which read as follows: After the title of the case,

"We, the jury, duly impaneled and sworn to try the issues in the above entitled action, for our verdict find the defendant guilty as charged in the information."

That is the one you will use if you find the defendant guilty.

If you find the defendant not guilty you will use the other verdict, which reads as follows: After the title of the case,

"We, the jury, duly impaneled and sworn to try the issues in the above entitled action, for our verdict find the defendant not guilty."

The jury retired and after due deliberation returned a verdict of guilty, and the court imposed a fine of $50 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

24191. Misbranding of cottonseed meal. U. S. v. The Clarksville Cotton Oil Co. Plea of guilty. Fine, $5 and costs. (F. & D. no. 31416. Sample no. 18928-A.)

This case was based on an interstate shipment of cottonseed meal but contained less than 43 percent of protein, the amount declared on the label.

On February 7, 1934, the United States attorney for the Eastern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Clarksville Cotton Oil Co., a corporation, Clarksville, Tex., alleging shipment by said company in violation of the Food and Drugs Act, on or about November 25, 1932, from the State of Texas into the State of Missouri of a quantity of cottonseed meal which was misbranded. The article was labeled in part: "43 Per Cent Protein Cotton Seed Meal, Prime Quality Manufactured By The Clarksville Cotton Oil Co. Clarksville, Texas Guaranteed Analysis: Crude Protein, not less than 43.00 Per cent."

The article was alleged to be misbranded in that the statement on the label, "Guaranteed Analysis: Crude Protein not less than 43.00 Per Cent", was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since it contained less than 43 percent of protein, namely, 39.57 percent of protein.

On January 7, 1935, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of $5 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

24192. Adulteration of apples. U. S. v. James C. Palumbo (J. C. Palumbo Fruit Co.). Plea of guilty Judgment against defendant for costs. (F. & D. no. 31417. Sample no. 25423-A.)

Examination of the apples in this case showed the presence of arsenic and lead in amounts that might have rendered them injurious to health.

On April 7, 1934, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court an information against James C. Palumbo, trading as the J. C. Palumbo Fruit Co.) at Payette, Idaho, alleging shipment by said defendant in violation of the Food and Drugs Act on or about February 24, 1933, from the State of Idaho into the State of Missouri of a quantity of apples which were adulterated. The article was labeled in part: (Basket) "La Paluma Brand * * * Winesap * * * J. C. Palumbo Fruit Co. Payette, Idaho."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On November 1, 1934 the defendant entered a plea of guilty. The judgment of the court was that the defendant pay costs of proceedings.

M. L. WILSON, *Acting Secretary of Agriculture.*