

"The Government has asked me to give a particular instruction to the effect that if you believe from the evidence that any one of the therapeutic statements upon the printed matter set out in the Government's information was partly true, but was so artfully worded as to convey a meaning as to its therapeutic properties which was wholly false, and that the printed matter was so worded for the purpose of deceiving the public, then that statement would be false and fraudulent, and you may find a verdict for the Government.

"That is the law as an abstract statement, but in giving it to you I wish to qualify it to the effect that you must still find, from the evidence on the whole case, beyond a reasonable doubt, that any false statement as stated in this instruction, if you find that such false statement was made, must have been knowingly made, and must have been made with the intent to defraud.

"The court submits you two forms of verdict:

"Form of verdict No. 1. 'We, the jury, find the defendant guilty as charged in the information.'

"If you agree upon such verdict, have your foreman sign it and return it into court.

"Form of verdict No. 2. 'We, the jury, find the defendant not guilty as charged in the information.'

"If you agree upon such verdict, have your foreman sign it and return it into court.

"You will take with you the exhibits that have been introduced in evidence and the forms of verdict, and accompany the officer and begin your deliberations.

"When you have agreed upon a verdict, return the same into court. You may pass out with the officer."

Mr. REDMOND: "The defendant excepts to such portion of the court's charge as might warrant the jury in finding the words 'Positive Cure' a misstatement of the therapeutic or medicinal value of the drugs and medicine included in the package. Otherwise than that, Your Honor, I guess I have no exceptions."

The jury then retired and after due deliberation returned, on April 5, 1923 a verdict of guilty, and the court imposed a fine of \$200 and costs.

W. M. JARDINE, *Secretary of Agriculture.*

12874. Adulteration of tomato catsup. U. S. v. 10 Cases and 10 Cases of Tomato Catsup. Default decree entered ordering product destroyed. (F. & D. No. 18492. I. S. No. 925-v. S. No. E-4754.)

On March 20, 1924, the United States attorney for the Southern District of Florida, 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 10 cases 8-ounce size, and 10 cases 14½-ounce size, of tomato catsup, remaining in the original unbroken packages at Jacksonville, Fla., alleging that the article had been shipped by the Lutz & Schramm Co., from Pittsburgh, Pa., on or about December 20, 1923, and transported from the State of Pennsylvania into the State of Florida, and charging adulteration in violation of the food and drugs act. The article was labeled in part: (Bottle) "Guaranteed Pure Food Products of Quality L & S 14½ Oz." (or "8 Oz.") "Net Wt. Avd."

Adulteration of the article was alleged in the libel for the reason that it consisted in part of a filthy, decomposed, or putrid vegetable substance.

On September 17, 1924, no claimant having appeared for the property, judgment of the court was entered, ordering that the product be destroyed by the United States marshal.

W. M. JARDINE, *Secretary of Agriculture.*

12875. Misbranding of Abbott Bros. compound for rheumatism. U. S. v. 31 Bottles of Abbott Bros. Compound For Rheumatism. Product adjudged misbranded and ordered destroyed. (F. & D. No. 16313. S. No. C-3627.)

On May 13, 1922, the United States attorney for the Eastern District of Tennessee, 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 31 bottles of Abbott Bros. compound for rheumatism, remaining in the original unbroken packages at Chattanooga, Tenn., alleging that the article had been shipped by the Abbott Bros. Co., from Berwin, Ill.

on or about March 25, 1922, and transported from the State of Illinois into the State of Tennessee, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: (Bottle, carton, and circular) "For Rheumatism"; (carton, additional) "Muscular, Articular, Inflammatory * * * Sciatica, Rheumatic Neuritis and Stiffness and Soreness of the Joints and Muscles * * * Lumbago and all Muscular and Nerve Pains of Rheumatic Origin."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted essentially of 8 per cent of potassium iodid, 1.5 per cent of extracts of plant drugs including colchicum, 16.9 per cent of alcohol, and approximately 73 per cent of water, flavored with small quantities of aromatics including methyl salicylate.

Misbranding of the article was alleged in substance in the libel for the reason that the above-quoted statements regarding the curative and therapeutic effects of the said article were false, fraudulent, and misleading, in that it contained no ingredient or combination of ingredients capable of producing the effect claimed.

On May 11, 1923, no claimant having appeared for the property, judgment of the court was entered, finding the product to be misbranded and ordering its destruction by the United States marshal.

W. M. JARDINE, *Secretary of Agriculture.*

12876. Adulteration of mineral water. U. S. v. 6 Cases of Crazy Water. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 19017. I. S. No. 23007-v. S. No. C-4494.)

On September 28, 1924, the United States attorney for the Western District of Oklahoma, 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 6 cases of Crazy Water at Oklahoma City, Okla., alleging that the article had been shipped by the Crazy Well Water Co., from Mineral Wells, Texas, on or about May 23, 1924, and transported from the State of Texas into the State of Oklahoma, and charging adulteration in violation of the food and drugs act. The article was labeled in part: (Bottle) "Crazy No. 2 * * * The Crazy Well Water Company, Mineral Wells, Texas."

Adulteration of the article was alleged in substance in the libel for the reason that it consisted wholly or in part of a filthy, decomposed, and putrid animal substance.

On November 28, 1924, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

W. M. JARDINE, *Secretary of Agriculture.*

12877. Adulteration of canned salmon. U. S. v. 6,000 Cases of Salmon. Consent decree of condemnation and forfeiture. Product released under bond to be reconditioned. (F. & D. No. 19018. I. S. No. 20231-v. S. No. W-1581.)

On September 26, 1924, 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 6,000 cases of salmon, consigned August 15, 1924, remaining in the original unbroken packages at Seattle, Wash., alleging that the article had been shipped by the Bank of Alaska, from Drier Bay, Alaska, and transported from the Territory of Alaska into the State of Washington, and charging adulteration in violation of the food and drugs act. The article was labeled in part: (Case) "4 Dozen 1-lb. Gorman's Alaska Pink Salmon Packed and Distributed by Gorman & Company, Seattle, U. S. A."

Adulteration of the article was alleged in the libel for the reason that it consisted wholly or in part of a filthy, decomposed, and putrid animal substance.

On November 1, 1924, Gorman & Co., Seattle, Wash., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$5,000, in conformity with section 10 of the act, conditioned in part that the bad portion be separated from the good portion under the supervision of this department, and the bad portion destroyed.

W. M. JARDINE, *Secretary of Agriculture.*