After the submission of evidence and arguments by counsel for the Government and defendant company, the court pronounced a judgment of not guilty, whereupon the defendant was discharged.

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

13697. Adulteration and misbranding of evaporated apples. U. S. v. 348 Cases, et al., of Evaporated Apples. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 19995. I. S. Nos. 16410–v, 16411–v, 16412–v, 16413–v. S. No. E–5287.)

On April 16, 1925, 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 533 cases of evaporated apples, remaining in the original unbroken packages at Tampa, Fla., alleging that the article had been shipped by E. B. Holton, from Webster, N. Y., on or about January 25, 1925, and transported from the State of New York into the State of Florida, and charging adulteration and misbranding in violation of the food and drugs act as amended. A portion of the article was labeled in part: "Sunset Brand" (or "Dixie Brand") "Fancy Evaporated Apples Packed By E. B. Holton Packer Of Evaporated Fruits Webster, N. Y." The remainder of the said article was labeled in part: "25 Lbs. Evaporated Apples Choice Daisy Brand Ring" (or "Whole") "Packed By E. B. Holton, Webster, N. Y."

Adulteration of the article was alleged in the libel for the reason that a substance, excessive moisture, had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength and had been substituted in part for the said article.

Misbranding was alleged for the reason that the statements borne on the labels, namely, "Fancy Evaporated Apples * * * Evaporated Fruits," "Evaporated Apples Choice," and "25 Lbs.," as the case might be, were false and misleading and deceived and misled the purchaser, and for the further reason that it was offered for sale under the distinctive name of another article. Misbranding was alleged with respect to 50 cases of the product 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 statement made was not correct.

On May 13, 1925, E. B. Holton, Webster, N. Y., having appeared as claimant for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon the execution of a bond in the sum of $3,653.50, in conformity with section 10 of the act, conditioned in part that it be reprocessed to comply with the law, and it was further ordered that the claimant pay the costs of the proceedings.

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

13698. Adulteration of evaporated apples. U. S. v. 26 Boxes, et al., of Evaporated Apples. Product released under bond to be reconditioned. (F. & D. Nos. 19399, 19400. I. S. Nos. 21951–v, 21952–v. S. No. C–4579.)

On December 18, 1924, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying the seizure and condemnation of 154 boxes of evaporated apples, at Memphis, Tenn., alleging that the article had been shipped by the Lincoln Fruit Co., from Lincoln, Ark., on or about September 30, 1924, and transported from the State of Arkansas into the State of Tennessee, and charging adulteration in violation of the food and drugs act. The article was labeled in part: "Evaporated Apples Packed By Lincoln Fruit Co., Lincoln, Ark."

Adulteration of the article was alleged in the libels for the reason that an excessive amount of water had been mixed and packed therewith so as to reduce, lower, or injuriously affect its quality and strength and had been substituted wholly or in part for the said article.

On May 26, 1925, the claimant of the property, the Lincoln Fruit Co., Lincoln, Ark., having theretofore taken the product down under bond for the purpose of drying it to the proper moisture content and having paid the costs of the proceedings, the bonds executed by the claimant were exonerated and the cases closed.

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