

to be the reply to it, but the letter itself was not offered in evidence. Whatever the reply shows, that, of course, you can consider. That is in evidence.

"There is an exhibit here which has something that is closed and you are not to consider, of course, anything that it is attempted to conceal. All that was in evidence was this color, the color alone. The other was not in evidence. They have attempted to conceal it, so do not consider anything but that. That is Exhibit No. 16. Consider only that color. The rest of it they have attempted to conceal.

"You understand, the letter you have in evidence purports to be in answer to the letter which you were speaking about. Now, insofar as the letter that you have in evidence refers to the terms of the other letter, why, that far, of course, you can go. You are not to speculate on the contents of the letter beyond what could be reasonably inferred from the letter you have in evidence. That is plain, isn't it?

Mr. HALLE. "And also the enclosure, that is part of that exhibit."

THE COURT. "Yes, whatever—consider all that is a part of the letter, but you cannot consider the letter which is not in evidence except insofar as that letter may be referred to in the answer and you can draw the terms of the first letter from the answer. To that extent you can consider it, of course.

"You may retire."

On May 17, 1938, the jury returned a verdict of not guilty.

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

30406. Adulteration of candy. U. S. v. Three Punchboard Deals of Candy. Default decree of condemnation and destruction. (F. & D. No. 43697. Sample No. 37994-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On October 20, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three punchboard deals of candy at Hattiesburg, Miss.; alleging that the article had been shipped on or about January 22, 1938, by Jacobs Candy Co. from New Orleans, La.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part "Pecan Heart."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On April 11, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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

30407. Misbranding of cottonseed screenings. U. S. v. Southland Cotton Oil Co. Plea of guilty. Fine, \$200. (F. & D. No. 42635. Sample No. 4151-D.)

This product was short weight and contained a smaller percentage of protein than that declared on the label.

On January 7, 1939, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Southland Cotton Oil Co., a corporation, Waxahachie, Tex., alleging shipment by said company in violation of the Food and Drugs Act, on or about August 18, 1938, from the State of Texas into the State of Kansas of a quantity of cottonseed screenings which were misbranded. The article was labeled in part: "Army Brand Prime Quality 43% Protein Cottonseed Cake and Meal Manufactured For And Guaranteed By Louis Tobian & Company Dallas, Texas."

Misbranding was alleged in that the statements, "100 Lbs. (Net)," "43% Protein," and "Crude Protein, not less than 43.00%," borne on the tag attached to the sacks containing the article, were false and misleading and were borne on the said tag so as to deceive and mislead the purchaser since the sacks contained less than 100 pounds net of the article, and it contained less than 43 percent, namely, not more than 41.75 percent of crude protein.

On February 20, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$200.

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