

**5623. Adulteration of milk. U. S. \* \* \* v. George C. Taylor. Tried to the court and a jury. Verdict of not guilty in one case. Verdict of guilty in one case. Fine, \$25 and costs. (F. & D. Nos. 7150, 7671. I. S. Nos. 11711-l, 11712-l, 21629-h, 21630-h, 21654 to 21672-h, 21634 to 21653-h, 21687 to 21697-h.)**

On February 25, 1916, and December 26, 1916, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district two informations against George C. Taylor, Smithboro, Ill., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about July 13, 1914, July 14, 1914, July 10, 1914, and September 8, 1915 (2 shipments), from the State of Illinois into the State of Missouri, of quantities of milk which was adulterated.

Examination of samples of the article in each of the shipments by the Bureau of Chemistry of this department showed that it contained added water and that in two of the shipments the product was filthy and decomposed.

Adulteration of the article in the shipments of July 13, 1914, July 14, 1914, and July 10, 1914, was alleged in the information for the reason that a certain substance, to wit, water, had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength. Adulteration of the article in one of the shipments on September 8, 1915, was alleged for the reason that a certain substance, to wit, water, 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 milk, which the article purported to be; and for the further reason that the article consisted in part of a filthy, putrid, and decomposed animal substance. Adulteration of the article in the other shipment on September 8, 1915, was alleged for the reason that it consisted in part of a filthy, putrid, and decomposed animal substance.

On June 7, 1917, the cases came on for trial before the court and a jury, and after the submission of evidence and argument by counsel for the defendant, the following charge was delivered to the jury by the court (Humphrey, D. J.):

Gentlemen of the jury: The United States attorney waives any argument.

The court charges you the matter you are considering is an information in two counts brought against this defendant by the United States attorney, charging him with a violation of section 2 of the Food and Drugs Act passed by Congress on the 30th of June, 1906. The purpose of that act is to save the people from adulterated food. Congress only has jurisdiction of those matters which go into interstate commerce, therefore, it only becomes a Government case when it passes from one State or Territory to another.

The two counts in this information charge, one, adulteration by the addition of water and the other by the presence of foreign matter—filthy matter as well.

If you believe from the evidence beyond a reasonable doubt that the defendant at the time and place in question did ship in interstate commerce milk adulterated, misbranded, as charged in the information, then you will find him guilty in either count of the information.

On the other hand, if you do not believe from the evidence beyond a reasonable doubt that the milk in question did contain foreign matter and the water so testified to by the Government officers, then you will find him not guilty.

The fact of the shipments is not disputed. The sole question is as to the presence of the foreign matter—the water and the filth. The intention of the defendant in the premises is not material. The law does not leave that to be settled by good intentions. I don't know what more I can say to you about it.

You have heard the evidence, the tests made by the officers, and the result of those tests. There is no testimony on the other side.

You have a right to take the information and the exhibits, all of them. There are two cases. They are numbered, respectively, 15674 and 15613. Two forms of verdict have been prepared in each case, one finding the defendant guilty; the other finding him not guilty, so you will return two verdicts. Go with the officer and consider of your verdict.

The jury thereupon retired, and after due deliberation returned a verdict of not guilty in one of the cases and a verdict of guilty in the other case, which was based on the shipments made September 8, 1915, and the court imposed a fine of \$25 and costs.

— C. F. MARVIN, *Acting Secretary of Agriculture.*