

governing the testimony of the other witnesses, taking into consideration the fact that he is the defendant and charged with the crime; and while for that reason alone you should not disregard his testimony, yet the fact that he is testifying in his own behalf may be considered by you, and you should fairly and impartially consider his evidence as you should that of all the witnesses. You should also consider whether the testimony of the defendant is true, and made in good faith or whether it is for the purpose of avoiding conviction; and in the light of all the facts and circumstances as presented by the evidence you should give to the testimony of each witness such weight as you believe it fairly entitled to.

Instruction No. 20. Two forms of verdict are here submitted to you. If you find the defendant guilty on any count or counts the form of your verdict will be: 'We, the jury, find the defendant Lester Tilton Guilty of the charge contained in (counts 1, 3, 4, 5, and 6 separately) of the information filed herein.'

"If you find the defendant not guilty on any count or counts, the form of your verdict will be: 'We, the jury, find the defendant Lester Tilton Not Guilty of the charge contained in (counts 1, 3, 4, 5, and 6 separately) of the information filed herein.'

"When you have agreed upon your verdicts, you will cause the same to be signed by one of your number, whom you may have chosen as foreman, and return the verdicts into court."

On November 3, 1933, the jury returned a verdict of guilty, and on November 27, 1933, the court imposed a fine of \$200 on each of the five counts of the information.

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

21802. Misbranding of Pabst's O.K. Specific. U. S. v. Fridolin Pabst (Pabst Chemical Co.). Judgment of guilty. Fine, \$100. (F. & D. no. 27566. I.S. nos. 36901, 38409.)

Examination of the drug preparation, Pabst's O. K. Specific, disclosed that it contained no ingredient or combination of ingredients capable of producing certain curative and therapeutic effects claimed in the labeling.

On May 6, 1932, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Fridolin Pabst, trading as the Pabst Chemical Co., Chicago, Ill., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about March 2, 1931, from the State of Illinois into the State of Texas, and on or about July 7, 1931, from the State of Illinois into Puerto Rico, of quantities of Pabst's O. K. Specific that was misbranded.

Analysis of a sample of the article by this Department showed that it consisted essentially of cubeb oil, copaiba oleoresin, extracts of plant drugs, including buchu and uva ursi, sugar, alcohol, and water.

It was alleged in the information that the article was misbranded in that certain statements, designs, and devices appearing in the circulars shipped with the article, regarding its curative and therapeutic effects, falsely and fraudulently represented that the article was effective in the treatment of and as a cure for gonorrhoea and gleet, either when used alone or in connection with "Okay Tonic", whereas it was not effective in the treatment of or as a cure for gonorrhoea and gleet, either when used alone or in connection with "The Okay Tonic."

On January 9, 1934, the defendant having entered a plea of not guilty to the information and a jury having been waived and the case submitted to the court, judgment was entered finding the defendant guilty and imposing a penalty of \$100.

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

21803. Misbranding of Ora-Noid Mouth Powder. U. S. v. 33 Packages of Ora-Noid Mouth Powder. Tried to the court. Judgment for the Government. Decree of condemnation, forfeiture, and destruction. U. S. v. 10 Packages of Ora-Noid. Default decree of condemnation, forfeiture, and destruction. (F. & D. nos. 28242, 28924. I.S. no. 53785. S. No. 6103. Sample no. 4963-A.)

Examination of the drug preparation, Ora-Noid Mouth Powder, disclosed that the article contained no ingredient or combination of ingredients capable of producing certain curative and therapeutic effects claimed in the labeling.

On April 25, 1932, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the