

other hand, if, after so considering all of the evidence in the case you are satisfied beyond a reasonable doubt and to a moral certainty that the defendant has committed the acts as charged and constituting the crime set forth in the Information, then it becomes your duty to render a verdict of guilty.

"After you retire to the jury room you will select one of your number to act as foreman, and you will proceed with your deliberation. After you had agreed upon a verdict you will have it signed by your foreman and return it to open court. And any verdict rendered, of course, will be the unanimous verdict of the jury.

"A form of verdict has been prepared for your guidance."

The jury thereupon retired and, after due deliberation, returned a verdict of guilty. On September 15, 1944, the court imposed a fine of \$250 on count 1 and suspended the imposition of sentence on count 2, placing the defendant on probation for 5 years.

1327. Misbranding of Tesano Tea. U. S. v. Tesano Tea Co., Inc., and Elmer H. Baden. Pleas of guilty. Corporate defendant fined \$50, which fine was remitted. Individual defendant fined \$200, which fine was paid. (F. D. C. No. 7313. Sample Nos. 79774-E, 90432-E.)

On July 18, 1944, the United States attorney for the Southern District of New York filed an information against the Tesano Tea Co., Inc., New York, N. Y., and Elmer H. Baden, alleging shipment of quantities of Tesano Tea on or about February 13 and 16, 1942, from the State of New York into the States of Ohio and Connecticut.

Analysis of a sample of the article disclosed that it consisted essentially of plant material, including senna leaves, Vaccinium leaves, yarrow herb, sweet clover, Malva flowers, chamomile flowers, fennel seed, and anise seed.

The article was alleged to be misbranded because of false and misleading statements in its labeling which misrepresented and implied that the article would be efficacious in the treatment, mitigation, and relief of diabetes and kidney and bladder disorders; that it would aid the regenerative forces of the human body in bringing about a more normal condition; and that it would improve the health and bring about a general improvement in the conditions of persons suffering from diabetes and kidney and bladder disorders. The article would not be efficacious for the purposes claimed.

On August 11, 1944, a plea of guilty having been entered on behalf of the corporate defendant, the court imposed a fine of \$50. On October 13, 1944, the individual defendant entered a plea of guilty and was fined \$100 on each of 2 counts, a total fine of \$200. The fine imposed on the corporation was remitted.

1328. Misbranding of Doradil. U. S. v. 19 Bottles of Doradil. Default decree of condemnation and destruction. (F. D. C. No. 12478. Sample No. 35263-F.)

On or about June 12, 1944, the United States attorney for the Southern District of Florida filed a libel against 19 bottles of Doradil at Tampa, Fla., alleging that the article had been shipped on or about December 11, 1943, and January 6 and 18, 1944, by the Ulrici Medicine Co., Inc., from New York, N. Y.

Examination disclosed that the article consisted essentially of rhubarb extract; sodium phosphate, approximately 1.3 percent; potassium iodide, approximately 0.23 percent; alcohol, 7 percent; and water.

The article was alleged to be misbranded because of false and misleading statements, appearing in an accompanying circular entitled "Doradil of Ulrici," regarding its efficacy in treating liver complaints, hepatitis, congestion, biliousness, bilious diarrhea, and constipation, and its efficacy in maintaining the correct hepatic activity, stimulating the biliary secretion, toning the liver, regulating the digestive process, and combating many causes of obstruction and flatulence. The article was alleged to be misbranded further in that the common or usual name of each active ingredient in the article, required by law to appear on the label, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, and devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use, since the information did not appear in the English language on the carton and did not appear at all upon the bottle label, and the names of the active ingredients, which were given in the Spanish language, were intermingled with the names of inactive ingredients so as