

14555. Adulteration of canned cherries. U. S. v. 49 Cases of Canned Cherries. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 19978. I. S. No. 14741-v. S. No. C-5011.)

On April 8, 1925, the United States attorney for the Eastern District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 49 cases of canned cherries, remaining in the original unbroken packages at Knoxville, Tenn., alleging that the article had been shipped by the Red Wing Co., Inc., from Fredonia, N. Y., on or about September 23, 1924, and transported from the State of New York into the State of Tennessee, and charging adulteration in violation of the food and drugs act. The article was labeled in part: (Can) "Red Wing Brand Red Sour Pitted Cherries * * * Manufactured And Guaranteed By The Red Wing Company Incorporated Fredonia, N. Y."

It was alleged in substance in the libel that the article was adulterated, in that excessive worms had been mixed and packed with the said cherries, and in that it consisted in whole or in part of a filthy, decomposed or putrid vegetable substance.

On April 3, 1926, the Red Wing Co., Inc., Fredonia, N. Y., having theretofore appeared as claimant for the property but having defaulted, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal, and that the said claimant be taxed with the costs of the proceedings.

W. M. JARDINE, *Secretary of Agriculture.*

14556. Misbranding of oysters. U. S. v. Robert W. Howeth and Charles W. Howeth, Jr. (Chas. W. Howeth Co.). Plea of guilty. Fine, \$25 and costs. (F. & D. No. 19791. I. S. No. 2029-x.)

On September 24, 1926, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Robert W. Howeth and Charles W. Howeth, jr., copartners, trading as Chas. W. Howeth Co., Crisfield, Md., alleging shipment by said defendants, in violation of the food and drugs act as amended, on or about December 17, 1925, from the State of Maryland into the State of Ohio, of a quantity of oysters which were misbranded. The article was labeled in part: "Minimum Volume 1 Gallon."

Examination by the Bureau of Chemistry of this department of 4 cans from the shipment showed an average volume of 0.97 gallon.

Misbranding of the article was alleged in the information for the reason that the statement, to wit, "Minimum Volume 1 Gallon," borne on the labels of the cans containing the said article, was false and misleading, in that the said statement represented that the cans contained at least 1 gallon of oysters, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that the said cans contained at least 1 gallon of oysters, whereas the said cans did not each contain 1 gallon of the article, but each of a number of said cans contained less than 1 gallon of oysters. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On October 8, 1926, a plea of guilty to the information was entered, and the court imposed a fine of \$25 and costs.

W. M. JARDINE, *Secretary of Agriculture.*

14557. Adulteration and misbranding of ether. U. S. v. 6 Cases, et al., of Ether. Decrees of condemnation and forfeiture. Product released under bond. (F. & D. Nos. 21043, 21045, 21051. I. S. Nos. 1572-x, 1573-x, 1576-x, 1577-x. S. Nos. C-5078, C-5079, C-5087.)

On June 4, 1926, the United States attorney for the Southern District of Texas, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying seizure and condemnation of 6 cases, each containing 100 cans, and 479 cans, of ether, remaining in the original unbroken packages at Houston, Tex., alleging that the article had been shipped by E. R. Squibb & Sons, from Kansas City, Mo., in various consignments, on December 1 and 28, 1925, and February 5 and March 29, 1926, respectively, and transported from the State of Missouri into the State of Texas, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "Ether For Anesthesia. It is superior in vital respects to the ether of the U. S. P." A portion of the article was further labeled, "E. R. Squibb & Sons, New York."