

It was alleged in the information that the article was adulterated, in that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance.

On November 8, 1926, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$50.

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

15349. Adulteration of scallops. U. S. v. Sidney F. Smith and Laura B. Smith (S. F. Smith & Co.), and U. S. v. Sidney F. Smith (S. F. Smith & Co.). Pleas of guilty. Fine, \$75. (F. & D. Nos. 19757, 19769. I. S. Nos. 4889-x, 5271-x, 7316-x, 7319-x, 8063-x, 8064-x.)

On October 22, 1926, the United States attorney for the Eastern District of Virginia, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Sidney F. Smith and Laura B. Smith, copartners, trading as S. F. Smith & Co., Oyster, Va., and on the same date an information against Sidney F. Smith, trading as S. F. Smith & Co., Oyster, Va., alleging shipment by said defendants, in violation of the food and drugs act, in various consignments, between the approximate dates of December 17, 1925, and March 3, 1926, from the State of Virginia into the States of Massachusetts, New York, and Maryland, and the District of Columbia, of quantities of scallops, which were adulterated.

Adulteration of the article was alleged in the informations for the reason that a substance, to wit, water, had been mixed and packed therewith so as to lower, reduce, and injuriously affect its quality, and had been substituted in part for scallops, which the said article purported to be. Adulteration was alleged for the further reason that a valuable constituent of the article, to wit, scallop solids, had been in part abstracted.

On November 12, 1926, the defendants entered pleas of guilty to the informations, and the court imposed a fine of \$75, which fine covered both cases.

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

15350. Adulteration of apples and pears. U. S. v. 798 Boxes of Apples, et al. Tried to the court and a jury. Verdict for the Government. Decree entered ordering portion of apples destroyed. Remainder of products ordered released under bond. (F. & D. Nos. 21334, 21355, 21356. I. S. Nos. 12308-x, 12309-x, 12310-x, 12311-x. S. Nos. C-5245, C-5254.)

On or about October 16, and November 3, 1926, respectively, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district 3 libels, and on November 17, 1926, amendments to the said libels, praying seizure and condemnation of 3,192 boxes of apples and 532 boxes of pears, at Chicago, Ill., alleging that the articles had been shipped by the Suncrest Orchards, Inc., from Voorhies, Oreg., in various consignments, between the dates of September 20, and October 6, 1926, and transported from the State of Oregon into the State of Illinois, and charging adulteration in violation of the food and drugs act.

It was alleged in the libels as amended that the articles were adulterated, in that they contained an excessive amount of poisonous substances, to wit, an arsenic compound or compounds and a lead compound or compounds, which might have rendered the said articles injurious to health.

On November 17, 1926, the Suncrest Orchards, Inc., Voorhies, Oreg., having appeared as claimant for the property, the cases came on for trial before the court and a jury. After the submission of evidence and arguments by counsel the court delivered the following instructions to the jury: (Cliffe, D. J.)

"Gentlemen of the Jury: I shall now endeavor to give you what I deem the law to be in these cases. You understand, it has been explained by counsel that there are three cases in the files of the Government before me, one case of 798 boxes more or less of apples, one of 2,394 boxes more or less of apples, and one of 532 boxes more or less of pears. These cases, the same evidence is adduced in each case. The cases have all been tried together and consolidated, but separate verdicts will be returned in each case.

"I shall now endeavor to give you what I deem to be the law in these cases. This proceeding is a civil action which commences with what is called a libel. The Government has seized under the food and drugs act, commonly called the pure food act, articles of food known as apples and pears for alleged failure to comply with the provisions of the statute. The purpose of the food and drugs act, or the pure food law so-called, is to conserve the public health by prevent-