

On March 26, 1930, the said United States attorney filed in the District Court of the United States aforesaid libels praying seizure and condemnation of thirty 1-pound tins of ether, remaining in the original unbroken packages in various lots at Baltimore, Md., alleging that the article had been shipped by Merck & Co. (Inc.), from Philadelphia, Pa., in various consignments on or about February 10, February 15, and February 25, 1930, respectively, and had been transported from the State of Pennsylvania into the State of Maryland, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "Ether For Anesthesia U. S. P. \* \* \* Merck & Co., Inc. Manufacturing Chemists, New York."

Analysis of a sample of the article by this department showed that the ether contained peroxide.

It was alleged in the libels that the article was adulterated in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of quality and purity as determined by the tests laid down in said pharmacopoeia, and in that its purity fell below the professed standard or quality under which it was sold.

Misbranding was alleged for the reason that a statement on the label, "Ether for Anesthesia U. S. P.," was false and misleading.

On August 11, 1930, the cases having been consolidated into one cause of action and Merck & Co. (Inc.), Rahway, N. J., claimant, having admitted the allegations of the libels and consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of costs and the execution of a good and sufficient bond, conditioned in part that it be relabeled in a manner indicating that it was not to be used or sold for medicinal purposes.

ARTHUR M. HYDE, *Secretary of Agriculture.*

**17610. Adulteration and misbranding of fluid extract of ergot. U. S. v. 3 Pint Bottles, et al., of Fluid Extract Ergot. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 24769. I. S. No. 033828. S. No. 3128.)**

Examination by this department of samples of fluid extract of ergot from the herein described interstate shipment showed that it had a potency approximately one-fourth of that required by the United States Pharmacopoeia, since the pharmacopoeia provides that each cubic centimeter of fluid extract of ergot should represent 1 gram of ergot of rye, and that each fluid ounce should represent 456 grains of ergot of rye, while each cubic centimeter of the article represented about one-fourth of a gram of ergot of rye, and each fluid ounce represented about 114 grains of ergot of rye. The Secretary of Agriculture reported the matter to the United States attorney for the Northern District of Ohio.

On May 15, 1930, the said United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 3 pint bottles and two 1-gallon bottles of fluid extract of ergot, remaining in the original unbroken packages at Cleveland, Ohio, alleging that the article had been shipped by the Burrough Bros. Manufacturing Co., Baltimore, Md., in various lots, on or about October 18, 1929, and March 7, March 14, and March 20, 1930, respectively, and had been transported from the State of Maryland into the State of Ohio, and charging adulteration and misbranding in violation of the food and drugs act.

Analysis of a sample of the article by this department showed that the fluid extract of ergot possessed one fourth the potency required by the United States Pharmacopoeia.

It was alleged in the libel that the article was adulterated in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength as determined by tests laid down in said pharmacopoeia, and its own standard of strength was not stated on the container. Adulteration of the article was alleged for the further reason that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged for the reason that the following statements borne on the label were false and misleading: "Fluidextract Ergot U. S. P. X. Each c. c. of this extract represents one gm. or each fluid ounce 456 gr. of Ergot of Rye."

On June 18, 1930, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*