30649. Adulteration and misbranding of ether U. S. P. 10 (ethyl oxide U. S. P. XI). U. S. v. 27 Cans of Ether U. S. P. 10 (and 4 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 45067, 45141, 45222, 45243, 45250, 45251, 45252. Sample Nos. 43477–D, 50197–D, 51423–D, 51424–D, 51426–D, 60417–D, 65666–D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. Ten cans were collected from each of the seven shipments. When examined, 51 of the 70 samples were found to contain peroxide; one also contained aldehyde.

On various dates between March 23 and April 29, 1939, the United States attorneys for the Eastern District of Louisiana, District of Connecticut, Northern District of Georgia, Northern District of California, and the Eastern District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 147 cans of ether in various lots at New Orleans, La., New Haven, Conn., Atlanta, Ga., San Francisco, Calif., and Philadelphia, Pa.; alleging that the article had been shipped in interstate commerce within the period from on or about December 10, 1938, to on or about February 15, 1939, from St. Louis, Mo., New York, N. Y., Rahway, N. J., and Brooklyn, N. Y., by Merck & Co., Inc.; and charging adulteration and misbranding in violation of the Food and Drugs Act. On May 11 and 19, 1939, the libels filed in the Eastern District of Louisiana and the Eastern District of Pennsylvania were amended in order to eliminate the allegations that the article was adulterated and misbranded at the time of shipment.

Adulteration was alleged in that the article was sold under names recognized in the United States Pharmacopoeia, namely, ether and ethyl oxide, but differed from the standard of strength, quality, and purity as determined by the tests laid down therein, and its own standard of strength, quality, and purity was not stated on the label. A further allegation of adulteration was that its strength and purity fell below the professed standard and quality under which it was sold, namely, "Ether U. S. P. 10," since the article did not conform to the specifications of the tenth revision of the United States Pharmacopoeia for ether in that it contained peroxide.

Misbranding was alleged in that the statement "Ether U. S. P. 10 * * * (Ethyl Oxide U. S. P. XI)," appearing in the labeling, was false and misleading, since the article did not conform to the specifications of the tenth revision of the pharmacopoeia for ether, nor to those of the eleventh revision for ethyl exide.

On May 11, 15, and 29, 1939, no claim having been filed, judgments of condemnation were entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30650. Adulteration of Equine Tonic Elixir, lobeline sulfate tablets, santonin and calomel tablets, and Thia-Sal, and misbranding of Reek's Capsules and arecoline hydrobromide tablets. U. S. v. Fort Dodge Laboratories, Inc. Plea of guilty. Fine, $50 and costs. (F. & D. No. 42633. Sample Nos. 15364-D, 15765–D, 15770–D, 24251–D, 24253–D, 24287–D, 24298–D.)

The offense charged in this case was the interstate shipment of quantities of Equine Tonic Elixir, lobeline sulfate tablets, santonin and calomel tablets, and Thia-Sal, that fell below the professed standard under which they were sold in that they were deficient in certain drugs; a lot of Reek's Capsules, some of which contained less and some of which contained more nux vomica than the amount declared; and arecoline hydrobromide tablets which contained arecoline hydrobromide in excess of the amount declared.

On June 13, 1939, the United States attorney for the Northern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Fort Dodge Laboratories, Inc., Fort Dodge, Iowa, alleging shipment by said company in violation of the Food and Drugs Act, within the period from on or about March 25, 1937, to on or about February 24, 1938, from the State of Iowa into the States of Nebraska and Indiana, of quantities of the above-named pharmaceuticals which were adulterated or misbranded.

The Equine Tonic Elixir was alleged to be adulterated in that its strength fell below the professed standard and quality under which it was sold, in that each fluid ounce of the article was represented to contain 2 grains of quinine sulfate and 2 grains of arsenous acid; whereas each fluid ounce of the article contained not more than 1.67 grains of quinine sulfate, and not more than 0.23 grain of arsenous acid.