

condemnation of forty 1-pound cans, one hundred and eighty ½-pound cans, and ninety ¼-pound cans of ether, remaining in the original unbroken packages at Hoboken, N. J., alleging that the article had been shipped by the Ohio Chemical & Manufacturing Co., Cleveland, Ohio, on or about August 30, 1929, and transported from the State of Ohio into the State of New Jersey, and charging adulteration with respect to a portion of the article, and adulteration and misbranding with respect to the remainder thereof, in violation of the food and drugs act. A portion of the article was labeled in part: "Ether for Anesthesia." The remainder of the said article was labeled in part: "CO₂ Ether."

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

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 purity as specified by that authority, in that it contained peroxide. Adulteration was alleged with respect to the product labeled "CO₂ Ether" for the further reason that its purity fell below the professed standard under which it was sold, namely, (label) "The exceptional purity of this Ether * * * The exclusion of air by carbon dioxid prevents the oxidation of ether to * * * peroxides by atmospheric oxygen."

Misbranding was alleged with respect to the product labeled in part, "CO₂ Ether," in that the statements on the labeling, "The exceptional purity of this Ether," and "The exclusion of air by carbon dioxid prevents the oxidation of ether to * * * peroxides by atmospheric oxygen," were false and misleading.

On October 31, 1929, 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.*

16874. Misbranding of Dr. J. H. McLean's tar wine cough balm. U. S. v. 22 Bottles of Dr. J. H. McLean's Tar Wine Cough Balm. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 23487. I. S. No. 05030. S. No. 1644.)

On March 4, 1929, the United States attorney for the District of Kansas, 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 22 bottles of Dr. J. H. McLean's tar wine cough balm at Atchison, Kans., alleging that the article had been shipped by the Dr. J. H. McLean Medicine Co., from St. Louis, Mo., on or about November 10, 1928, and transported from the State of Missouri into the State of Kansas, and charging misbranding in violation of the food and drugs act as amended.

Analysis of a sample of the article by this department showed that it consisted essentially of small amounts of extracts of plant drugs including glycyrrhiza, wood tar, sugar, alcohol, and water.

It was alleged in the libel that the article was misbranded in that the following statements regarding the therapeutic or curative effects of the said article, borne on the labels of the bottles, cartons, and in the circulars, (bottles) "For * * * Coughs * * * Influenza or La Grippe, Whooping Cough and Spasmodic Croup. * * * para * * * Toses, * * * Influenza, La Grippe, * * * Ferinay, Crup Espasmodico," (carton) "Coughs * * * Influenza or La Grippe, Whooping Cough and Spasmodic Croup," (small circular) "For * * * Coughs * * * Hoarseness, La Grippe or Influenza," (large circular) "Coughs * * * Influenza, La Grippe, Whooping Cough, Spasmodic Croup, * * * Coughs * * * If you have a Cough, take Dr. J. H. McLean's Tar Wine Cough Balm * * * Some people have old coughs which they have been troubled with for a long time. Dr. J. H. McLean's Tar Wine Cough Balm will tend to relieve them," were false and fraudulent in that the article contained no ingredient or combination of ingredients capable of producing the effects claimed, and in that the said statements were applied to the article knowingly and in reckless and wanton disregard of their truth or falsity, so as to represent falsely and fraudulently to the purchasers thereof and create in the minds of such purchasers the impression and belief that it was effective in the diseases and conditions named therein.

On June 15, 1929, 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.*