12246. Adulteration and misbranding of canned shrimp. U. S. v. Carl L. Shephard, Homer L. Oliver, and Samuel E. Montgomery (Acme Packing Co.). Nolle prossed as to Carl L. Shephard and Homer L. Oliver. Plea of nolo contendere by Samuel E. Montgomery. Fine, $25. (F. & D. No. 17239. I. S. Nos. 4054–v, 5429–v.)

On November 6, 1923, the United States attorney for the Northern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Carl L. Shephard, Homer L. Oliver, and Samuel E. Montgomery, copartners, trading as the Acme Packing Co., Apalachicola, Fla., alleging shipment by said defendants, in violation of the food and drugs act, as amended, on or about March 31, 1922, from the State of Florida into the State of Minnesota, and on or about May 19, 1922, from the State of Florida into the State of Wisconsin, of quantities of canned shrimp which was adulterated and misbranded. The article was labeled in part: (Can) "Wet contents 5¾ Oz. Harbor Brand * * * Fancy Shrimp * * * Packed By Acme Packing Co., Apalachicola, Florida."

Examination by the Bureau of Chemistry of this department showed that the average weight of 12 cans from one shipment was 5.23 ounces and that the average weight of 20 cans from the other shipment was 5.16 ounces.

Adulteration of the article was alleged in the information for the reason that a substance, to wit, excessive brine, had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and had been substituted in part for shrimp, which the article purported to be.

Misbranding was alleged for the reason that the statements, to wit, "Shrimp" and "Contents 5¾ Oz.," borne on the labels attached to the cans containing the article, were false and misleading, in that they represented that the article consisted wholly of shrimp, and that each of the said cans contained 5¾ ounces of the article, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted wholly of shrimp, and that each of said cans contained 5¾ ounces of the article, whereas, in truth and in fact, it did not consist wholly of shrimp but did consist in part of excessive brine, and each of said cans did not contain 5¾ ounces of the article but did contain a less amount. 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 January 7, 1924, a nolle prosequi having been entered with respect to Carl L. Shephard and Homer L. Oliver, a plea of nole contendere was entered by Samuel E. Montgomery, and the court imposed a fine of $25.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12247. Adulteration of shell eggs. U. S. v. Harry H. McNemar. Plea of guilty. Fine, $100. (F. & D. No. 16969. I. S. No. 1105–v.)

On April 3, 1923, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Harry H. McNemar, Petersburg, W. Va., alleging shipment by said defendant, in violation of the food and drugs act, on or about July 24, 1922, from the State of West Virginia into the State of Maryland, of a quantity of shell eggs which were adulterated. The article was labeled in part: "From H. H. McNemar * * * Petersburg, W. Va."

Examination by the Bureau of Chemistry of this department of 360 eggs from the consignment showed that 31, or 8.6 per cent of those examined, were inedible eggs, consisting of mixed or white rots, moldy eggs, and black rots.

Adulteration of the article was alleged in the libel for the reason that it consisted in whole or in part of a filthy and decomposed and putrid animal substance.

On April 1, 1924, the defendant entered a plea of guilty to the information, and the court imposed a fine of $100.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

12248. Misbranding of canned shrimp. U. S. v. 55 Cases of Shrimp. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 18498. I. S. No. 2914–v. S. No. E–3910.)

On March 19, 1924, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 55 cases of canned shrimp, remaining in the original