

On February 20, 1932, the Manatee County Growers Association, having appeared as claimant for the property and having admitted the allegations of the libel, and the court having found that a portion of the article was fit for human consumption and could be separated from the unfit portion, judgment was entered ordering that the product be released to the claimant upon the execution of a bond in the sum of \$1,000, conditioned that it should not be sold or otherwise disposed of contrary to the provisions of the Federal food and drugs act, or other existing laws, and it was further ordered that the unfit portion be destroyed and that claimant pay costs of the proceedings.

ARTHUR M. HYDE, *Secretary of Agriculture.*

19623. Misbranding of canned cherries. U. S. v. 25 Cases of Canned Cherries. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 27673. I. S. No. 32351. S. No. 5747.)

Examination of the canned cherries involved in this action showed that the article consisted of water-packed cherries, and consequently fell below the standard promulgated by the Secretary of Agriculture for canned cherries, and was not labeled to show that it was substandard.

On January 16, 1932, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 25 cases of canned cherries, remaining in the original unbroken packages at San Francisco, Calif., alleging that the article had been shipped by the C. S. Kale Canning Co., from Everson, Wash., on or about December 12, 1931, and had been transported from the State of Washington into the State of California, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: (Can) "Whatcom Brand Red Sour Pitted Cherries * * * C. S. Kale Canning Company, Everson, Washington."

It was alleged in the libel that the article was misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, since it consisted of water-packed cherries and its label did not bear a plain and conspicuous statement prescribed by the Secretary, indicating that it fell below such standard.

On February 1, 1932, Smith, Lynden & Co., San Francisco, Calif., claimant, having admitted the allegations of the libel and having 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 bond in the sum of \$64, conditioned that it be relabeled, and that it should not be sold or otherwise disposed of contrary to the provisions of the Federal food and drugs act, and all other existing laws.

ARTHUR M. HYDE, *Secretary of Agriculture.*

19624. Misbranding of potatoes. U. S. v. 87 Sacks of Potatoes. Product ordered released under bond to be relabeled. (F. & D. No. 27624. I. S. No. 41129. S. No. 5653.)

This action involved a shipment of potatoes, represented to be United States grade No. 1, which were found to be below grade.

On January 4, 1932, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 87 sacks of the said potatoes, remaining in the original unbroken packages at St. Louis, Mo., alleging that the article had been shipped by the Wesco Food Co., Wonewoc, Wis., on or about December 17, 1931, and had been transported from the State of Wisconsin into the State of Missouri, and charging misbranding in violation of the food and drugs act. The article was labeled in part: "U. S. Grade No. 1 Potatoes."

It was alleged in the libel that the article was misbranded in that the statement on the label, "U. S. Grade No. 1," was false and misleading and deceived and misled the purchaser, since the potatoes were not of United States grade No. 1, but were of a lower grade.

On February 17, 1932, Anthony Pupillo, trading as the Pupillo Fruit Co., having appeared as claimant for the property and having admitted the allegations of the libel, a decree was entered ordering that the product be released