

\$400, conditioned that it be relabeled under the supervision of this department, so as to show it was substandard. It was further ordered that claimant pay costs.

ARTHUR M. HYDE, *Secretary of Agriculture.*

19439. Misbranding of canned tomatoes. U. S. v. 78 Cases of Canned Tomatoes. Decree of condemnation and forfeiture. Product released under bond for relabeling. (F. & D. No. 27352. I. S. No. 37799. S. No. 5532.)

Examination of samples of tomatoes from the shipment herein described having shown that the article was substandard, and was not labeled to indicate such fact in manner required by law, the Secretary of Agriculture reported the matter to the United States attorney for the District of Maryland.

On December 10, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 78 cases of canned tomatoes, remaining in the original unbroken packages at Baltimore, Md., alleging that the article had been shipped from Sacket Harbor, N. Y., on or about August 26, 1931, and had been transported from the State of New York into the State of Maryland, and charging misbranding in violation of the food and drugs act. The article was labeled in part: "Fear's Best Brand Hand Packed Tomatoes. * * * Packed by J. C. Fears Locust Hill, Va."

It was alleged in the libel that the article was misbranded in that it was canned food and fell below the standard of quality, condition, and fill of container promulgated by the Secretary of Agriculture for such canned food, since the contents of some of the cans occupied less than 90 per cent of the volume of the closed containers; in that the product in some of the cans did not consist of whole or large pieces of tomatoes; in that some of the cans contained excessive amounts of peel; and in that some of the cans contained tomatoes with an excessive amount of blemishes, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On January 12, 1932, J. C. Fears, Locust Hill, Va., having appeared as claimant for the property, 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 \$100, conditioned that it be relabeled and that it should not be sold or disposed of contrary to the provisions of the food and drugs act or the laws of any State, Territory, district, or insular possession.

ARTHUR M. HYDE, *Secretary of Agriculture.*

19440. Misbranding of potatoes. U. S. v. 360 Sacks of Potatoes. Decree of forfeiture entered. Forfeiture set aside and product ordered released under bond to be relabeled. (F. & D. No. 27366. I. S. No. 47905. S. No. 5554.)

Samples of potatoes represented to be U. S. Grade No. 1 taken from the shipment herein described having been found to be below the declared grade, the Secretary of Agriculture reported the matter to the United States attorney for the Eastern District of Illinois.

On December 17, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 360 sacks of potatoes, remaining in the original unbroken packages at Cairo, Ill., alleging that the article had been shipped on or about December 1, 1931, by the Mahaffey (Commission) Co., from Amherst Junction, Wis., and had been transported in interstate commerce from the State of Wisconsin into the State of Illinois, and charging misbranding in violation of the food and drugs act. The article was labeled in part: (Sack) "100 pounds net when packed United States Grade No. 1, Wisconsin Potatoes Sun Brand, Leonard Crosset & Riley, Inc., Waupaca, Wisconsin."

It was alleged in the libel that the article was misbranded in that potatoes of a lower grade had been substituted for the declared grade and that the statement on the label, "United States Grade No. 1," was false and misleading and deceived and misled the purchaser.

On January 11, 1932, Mahaffey Commission Co., Chicago, Ill., having appeared as claimant for the property, judgment of forfeiture was entered. It was further ordered by the court that the forfeiture be set aside under the following conditions: That claimant deposit a cash bond in the sum of \$200 to insure payment of costs; that the label be obliterated and sacks relabeled according to