

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1154.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF BLUEBERRIES.

On March 13, 1909, the United States Attorney for the District of Utah, acting upon the report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 54 cases of blueberries in the possession of W. S. Henderson. The product was labeled: "5 Doz., 2 lb., Gold Label, Maine Blueberries, Edward T. Russell & Co., Boston."

Examination of samples taken from said consignment by the Bureau of Chemistry, United States Department of Agriculture, showed the individual cans containing the said blueberries to average 24 ounces each. The libel alleged that the blueberries, after shipment by Edward T. Russell & Co. from Massachusetts into Utah, remained in the original unbroken packages, and were misbranded in violation of the Food and Drugs Act of June 30, 1906, because the cans containing said blueberries represented the contents as 2 pounds, when, in fact, they were short measure, showing an average content of 24 ounces each; and that said product was, therefore, liable to seizure for confiscation.

On April 1, 1909, W. S. Henderson, claimant, filed answer to said libel. The court found the product to be misbranded, as alleged in said libel, and that the United States was entitled to a decree of condemnation, and accordingly, on said date, a decree was entered condemning and forfeiting the goods to the United States; with a proviso that the same should be released to said W. S. Henderson upon the payment by him of all costs of the proceedings and the execution of a bond in the sum of \$500 satisfactory to the court, that the said goods would not be sold or otherwise disposed of contrary to the provisions of law, and the said W. S. Henderson having paid the costs and executed bond as required by said decree, the said product was thereupon released to the said W. S. Henderson.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 3, 1911.*