

Earl, Pa., respectively, consigned by the Eastern Cotton Oil Co., in part from Edenton and in part from Hertford, N. C., alleging that the article had been shipped in various consignments, namely, on or about October 30, November 1, 2, 7, 15, and 16, 1923, respectively, and transported from the State of North Carolina into the State of Pennsylvania, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Tag) "Perfection Cotton Seed Meal 100 Lbs. Net Manufactured By Eastern Cotton Oil Company Elizabeth City, N. C. Guarantee Protein not less than 41.00% Equivalent to Ammonia 8.00%."

Misbranding of the article was alleged in substance in the libels for the reason that the packages containing the article bore the following statements regarding the said article and the ingredients and substances contained therein, "Perfection Cotton Seed Meal" and "Guarantee Protein not less than 41.00% Equivalent to Ammonia 8.00%," which statements were false and misleading, in that they indicated to the purchaser that the article contained 41 per cent of protein, the equivalent to 8 per cent of ammonia, when, in fact, it contained less than 41 per cent of protein.

On January 11 and 18, 1924, respectively, the Eastern Cotton Oil Co., Elizabeth City, N. C., having appeared as claimant for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of bonds in the aggregate sum of \$6,450, in conformity with section 10 of the act, conditioned in part that it be relabeled under the supervision of this department.

C. F. MARVIN, *Acting Secretary of Agriculture.*

12141. Adulteration and misbranding of canned tomatoes. U. S. v. 600 Cases of Canned Tomatoes. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. No. 18216. I. S. No. 15902-v. S. No. E-4678.)

On December 28, 1923, the United States attorney for the District of New Jersey, 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 600 cases of canned tomatoes, at Newark, N. J., alleging that the article had been shipped by the Delaware Packing Co., from Laurel, Del., on or about October 5, 1923, and transported from the State of Delaware into the State of New Jersey, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Can) "Delaware Brand" (cut showing red ripe tomato) "Tomatoes Contents 1 Pound 3 Ounces * * * Untouched By Hands In Process Of Peeling No Chemicals * * * Packed By Delaware Packing Co. Dover, Del."

Adulteration of the article was alleged in the libel for the reason that a substance, to wit, small pieces of tomato and tomato skins, had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the package containing the article bore statements regarding the said article and the ingredients and substances contained therein, to wit, "Tomatoes Contents 1 Pound 3 Ounces," together with the design or device of a red tomato, which were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, and for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was not correct.

On March 11, 1924, the Delaware Packing Co. having appeared as claimant for the property 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 might be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$1,000, in conformity with section 10 of the act, conditioned in part that it be relabeled, "Delaware Brand Machine Crushed Tomatoes with juice and some skin Contents 1 Pound Packed by Delaware Packing Co. Dover, Del."

C. F. MARVIN, *Acting Secretary of Agriculture.*