

24975. Misbranding of canned tomatoes. U. S. v. 200 Cases, et al., of Canned Tomatoes. Decrees of condemnation. A portion of product released under bond; remainder destroyed. (F. & D. nos. 35673, 35674, 35682, 35684. Sample no. 24348-B.)

These cases involved canned tomatoes which fell below the standard established by the Secretary of Agriculture with respect to color and which were not labeled to indicate that they were substandard. The labeling was further objectionable, since it conveyed the impression that the article was produced in Delaware; whereas it was produced and packed in Florida.

On June 24 and June 26, 1935, the United States attorney for the Eastern District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 300 cases of canned tomatoes at Philadelphia, Pa. On June 25 and June 26, 1935, libels were filed against 200 cases of canned tomatoes at Camden, N. J., and 392 cases at Trenton, N. J. The libels alleged that the article had been shipped in interstate commerce by the Frederica Packing Co. from Fort Pierce, Fla. in part to Philadelphia, Pa., and in part to Camden, N. J., on or about May 24, 1935; that a portion had been reshipped from Philadelphia, Pa. to Trenton, N. J. on or about June 13, 1935, and that it was misbranded in violation of the Food and Drugs Act as amended. The article was labeled in part: "Blue Hens Chicken Tomatoes * * * The Frederica Packing Co. Main Office Frederica, Del."

The article was alleged to be misbranded in that the statement on the label, "The Frederica Packing Co. Main Office Frederica, Del." in conjunction with the brand name, "Blue Hens Chicken", which is a recognized nickname of the State of Delaware, was misleading and tended to deceive and mislead the purchaser, since it created the impression that the product was produced in Delaware; whereas it was actually produced and packed in Florida. Misbranding was alleged for the further reason that the article was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, because it was not normally colored and its package and label did not bear a plain and conspicuous statement prescribed by regulations of this Department indicating that it fell below such standard.

On July 6 and July 15, 1935, the Frederica Packing Co., having appeared as claimant for a portion of the product seized at Philadelphia and the two lots seized at Camden and Trenton, N. J., respectively, judgments of condemnation were entered and it was ordered that the product be released under bond conditioned that it be relabeled. On July 25, 1935, no claimant having appeared for one lot seized at Philadelphia, judgment of condemnation was entered and it was ordered that the said lot be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

24976. Adulteration of dressed poultry. U. S. v. 20 Boxes of Poultry. Default decree of condemnation and destruction. (F. & D. no. 35677. Sample no. 12855-B.)

This case involved an interstate shipment of poultry which was in large part decomposed.

On June 24, 1935, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 boxes of poultry at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about June 13, 1935, by the Marion Creamery & Poultry Co., from Salem, Oreg., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On June 25, 1935, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

24977. Adulteration and misbranding of butter. U. S. v. 15 Cases, et al., of Butter. Default decrees of condemnation and destruction. (F. & D. nos. 35704, 35722, 35723. Sample nos. 22594-B, 22595-B, 22609-B, 22613-B.)

This case involved various shipments of butter which was adulterated because of the presence of mold and other extraneous matter, and a part of which was also misbranded because of failure to declare the quantity of the contents on the package.