

3549. Misbranding of macaroni. U. S. v. 65 Boxes of Macaroni. Tried to the court. Finding for the Government. Product ordered sold. (F. & D. No. 5543. I. S. No. 6795-h. S. No. 2103.)

On February 4, 1914, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 65 packages, each containing approximately 20 pounds of macaroni, remaining unsold in the original unbroken packages at Wilkes-Barre, Pa., alleging that the product had been transported from the State of New Jersey into the State of Pennsylvania, the shipments arriving on or about January 2 and January 19, 1914, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "Maccheroni Di Qualita-Sublime-Ventaglio-Neapolitan Style-Neapolitan Style-Quality, Guaranteed, Purity, Macaroni—Artificially Colored—Manifatturati Nel Piu Pulito ed igenico Pastificio del Mondo. Orzo Extra—20 lbs. Net—P. Nardone, Wilkes-Barre, Pa."

It was alleged in the libel that the labels on the product and the general appearance of the packages in which the macaroni was contained indicated that it was of foreign manufacture, when, in truth and in fact, it was not of foreign manufacture, but was made by the International Macaroni Co., in the city of Newark, in the State of New Jersey. It was further alleged that the said International Macaroni Co. neither receives, handles, nor deals in macaroni imported from a foreign country, but that, on the contrary, all macaroni in which said company deals consists of their own manufacture, branded and labeled similar to the food product against which the libel was directed. It was further alleged that the brand and labels on the packages of macaroni were false and misleading, and designed to deceive and mislead the purchaser by purporting and representing the contents of said packages to be of foreign manufacture, which, in truth and in fact, was not so.

On May 28, 1914, Pasquale Nardone, Wilkes-Barre, Pa., and Paul Smolian, proprietor of the International Macaroni Co., Newark, N. J., claimants, having filed their answer to the libel, and the case having come on for hearing, after submission of evidence and arguments by counsel, the court found the product misbranded as alleged in the libel, condemning it and forfeiting it to the United States and ordering that it should be sold by the United States marshal.

CARL VROOMAN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 13, 1915.*