

3552. Adulteration and misbranding of tomato conserve. U. S. v. 25 Cases of Tomato Conserve. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 5550. I. S. No. 7815-h. S. No. 2088.)

On January 22, 1914, the United States attorney for the Western 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 25 cases, each containing 100 cans of tomato conserve, remaining unsold in the original unbroken packages at Pittsburgh, Pa., alleging that the product had been shipped on or about October 27, 1913, and transported from the State of New York into the State of Pennsylvania, and charging adulteration and misbranding in violation of the Food and Drugs Act. The cans containing the product were labeled, in part: "Conserva Di Tomate—Packed by our special process—Rossa—Guaranteed by American Conserve Co. under the Food and Drugs Act June 30, 1906, Serial No. 9270—Containing 1/10 of 1% Benzoate of soda and 15% of salt—Trade mark—Marca Registrata—This can contains 15 oz net weight. Tomato Conserve—American Conserve Co. New York Directions: For one pound of macaroni use one teaspoonful dissolved in water. Add the same quantity for each pound of macaroni. The same is used for roast meats, stews, etc. etc. It flavors the meat and gives a nice coloring, I. G."

Adulteration of the product was alleged in the libel for the reason that it was composed, in whole or in part, of a filthy, decomposed, or putrid substance and unfit for food. Misbranding was alleged for the reason that the product was labeled and branded so as to deceive and mislead the purchaser, that is to say, it was labeled and branded, "This can contains 15 oz net weight," when, in fact, the cans did not contain this amount.

On June 15, 1914, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be destroyed by the United States marshal.

CARL VROOMAN, *Acting Secretary of Agriculture.*

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