

3624. Adulteration and misbranding of tomato conserve. U. S. v. 10 Cases, More or Less, of Tomato Conserve. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 5707. I. S. No. 7827-h. S. No. E-37.)

On April 29, 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 10 cases, each containing 100 cans, more or less, of a product purporting and represented to be tomato conserve, remaining unsold in the original unbroken packages at Pittsburgh, Pa., alleging that the product had been transported from the State of New York into the State of Pennsylvania, the shipment arriving on or about February 9, 1914, and charging adulteration and misbranding in violation of the Food and Drugs Act. The cases were labeled in part: "I. G." The cans 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. Tomato Conserve American Conserve Co. New York. Containing 1/10 of 1% of benzoate of soda and 15% of salt. This can contains 15 oz. net weight. 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." Directions also in Italian.

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. 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, was labeled and branded, "This can contains 15 oz. net weight," when, in truth and in fact, the cans did not contain this amount.

On October 16, 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.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *March 12, 1915.*