

3675. Adulteration of tomato catsup. U. S. v. 48 Cases \* \* \* Tomato Catsup. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 5822. I. S. No. 9383-h. S. No. W-13.)

On July 25, 1914, the United States attorney for the District of New Mexico, 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 48 cases, each containing one dozen cans of tomato catsup, remaining unsold in the original unbroken packages at Albuquerque, New Mexico, alleging that the product had been shipped on or about November 1, 1913, and transported from the State of Colorado into the State of New Mexico, and charging adulteration in violation of the Food and Drugs Act. The cases were labeled: "K. 1 dozen No. 10 Kuner's Tomato Catsup. The Kuner Pickle Co., Denver Colo., Net weight." Each of the cans was labeled: "Eagle Brand Tomato Ketchup—Made from pieces, trimmings, and small tomatoes—Preserved with 1/10 of 1% benzoate of soda—K,—The Kuner—K—Pickle Co., Denver. Average net weight of contents 6 lbs. 4 ozs. Remove contents of can as soon as opened."

It was alleged in the libel that said cases and cans, when so shipped in interstate commerce as aforesaid, contained an article of food which consisted in whole or in part of a filthy and decomposed vegetable substance, containing yeasts and spores, 17 per one-sixtieth cubic millimeter, bacteria, 57,000,000 per cubic centimeter, and mold filaments present in 77 per cent of the fields, and was adulterated within the meaning of said act of Congress and in violation thereof.

On August 28, 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.*