

4904. Adulteration of ketchup. U. S. 1. 350 Cans and 150 Cases of Tomato Ketchup. Consent decree of condemnation and forfeiture. Product ordered released on bond. (F. & D. Nos. 7082, 7144, 7153. I. S. Nos. 2039-1, 3527-1, 3531-1. S. Nos. E-489, E-515, E-523.)

On November 30, 1915, December 29, 1915, and January 11, 1916, the United States attorney for the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying for the seizure and condemnation of 350 cans, 75 cases, and 75 cases of tomato ketchup, remaining unsold in the original unbroken packages at New York, N. Y., alleging that the articles had been shipped on or about October 18, 1915, November 4, 1915, and November 17, 1915, by the Harbauer Co., Toledo, Ohio, and transported from the State of Ohio into the State of New York, and charging adulteration in violation of the Food and Drugs Act. The 350-can shipment bore no marks or labels; the 75-case shipments were labeled in part: "Harbauer Brand Tomato Catsup—Made by the Harbauer Co., Toledo, O."

Adulteration of the article in the 350-case [can] shipment was alleged in the first libel for the reason that it consisted in part of a filthy, decomposed, and putrid vegetable substance, to wit, decayed and moldy tomato. Adulteration of the article in one 75-case shipment was alleged in substance in the second libel for the reason that it consisted, in whole or in part, of a filthy, decomposed, and putrid vegetable substance. Adulteration of the article in the other 75-case shipment was alleged in the third libel for the reason that it consisted in part of a decomposed vegetable substance, to wit, decomposed tomatoes.

On September 14, 1916, the said Harbauer Co., claimant, having filed a stipulation admitting the truth of allegations contained in the libels, which had been consolidated into one proceeding, and consenting to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the articles in each shipment should be redelivered to said claimant upon the payment of the costs of the proceeding and the execution of a bond in the sum of \$900, conditioned in part that said article should be shipped by said claimant to itself at Toledo, Ohio, there to be inspected and sorted under the supervision of a representative of this department, and that the portion of the article which was found to be unfit for food should be destroyed or denatured, and that the balance thereof should be released to said claimant for food purposes.

R. A. PEARSON, *Acting Secretary of Agriculture.*