

3557. Adulteration of tomato pulp. U. S. v. 55 Cases, More or Less, of Tomato Pulp. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 5566. I. S. No. 889-h. S. No. 2099.)

On January 30, 1914, the United States attorney for the Southern District of Texas, 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 a certain article of food contained in 55 cases, more or less, purported and represented to be tomato pulp, remaining unsold in the original unbroken packages at Texas City, Tex., alleging that the product had been shipped on or about September 10, 1913, and transported from the State of Maryland into the State of Texas, and charging adulteration in violation of the Food and Drugs Act. The shipping containers were labeled: "4 doz. No. 1 Miller Bros. and Co. Jumbo Brand (Representation of elephant) Tomato Pulp Baltimore, Md." The retail packages were labeled: "Jumbo Brand Tomato Pulp—used for making soups, sauces, gravies and for seasoning purposes. Packed by Miller Bros. and Co. Baltimore, Md., U. S. A. Jumbo Brand (Representation of elephant's head)."

It was alleged in the libel that the product was adulterated by being decomposed and putrid, and that so being decomposed and putrid made the same deleterious¹ and might render the same injurious to health. It was further alleged that the decomposition and consequent adulteration of the tomato pulp was in violation of the sixth paragraph of section 7, under food, of the Food and Drugs Act of June 30, 1906.

On June 17, 1914, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, the court finding that the product by reason of its decomposed and putrid condition was unfit for human food and deleterious to human health, and it was ordered that the same should be destroyed by the United States marshal by burning or casting into the sea and that all costs of the proceedings be adjudged against Miller Bros. & Co., Baltimore, Md.

CARL VROOMAN, *Acting Secretary of Agriculture.*

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

¹ When this case was reported for action it was not claimed by this department that the product was deleterious or injurious to health.