

purchasing the product for cooking and baking purposes were so deceived, then your verdict will be not guilty.

Refused—would require government to establish actual deceit of purchasers. (Signed) Peck, J.

No. 10.

The court instructs the jury that in considering whether the product involved in this case is or is not a substitute for eggs for baking and cooking purposes, the question as to its own food value or the food value (so far as the question of nutrition is concerned) of the finished baked or cooked foods imparted to them by it, is immaterial and you should disregard all testimony relative to the same.

Refused—same ground as No. 8. (Signed) Peck, J.

The jury thereupon retired and after due deliberation returned a verdict of guilty, whereupon the court imposed a fine of \$200 and costs. Thereupon the defendant, by counsel, gave notice of appeal, and on May 10, 1921, the defendant's bill of exceptions was allowed and filed. The case is now pending on appeal in the Circuit Court of Appeals for the Sixth Circuit.

E. D. BALL, *Acting Secretary of Agriculture.*

9291. Adulteration of tomato catsup. U. S. * * * v. 500 Cases and 25 Barrels of Tomato Catsup. Default decree of condemnation, forfeiture, and destruction. (F. & D. Nos. 12127, 12128. I. S. Nos. 9501-r, 9502-r. S. No. C-1703.)

On February 2, 1920, the United States attorney for the Eastern District of Louisiana, 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 500 cases and 25 barrels of tomato catsup, remaining unsold in the original unbroken packages at New Orleans, La., alleging that the article had been shipped by R. C. Chances Sons, of Mount Holly, N. J., and Philadelphia, Pa., from Mount Holly, N. J., on or about September 20 and November 7, 1919, respectively, and transported from the State of New Jersey into the State of Louisiana, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Chances Table Talk Tomato Catsup * * * R. C. Chances Sons, Mount Holly, N. J. Philadelphia, Pa."

Adulteration of the article was alleged in the libel for the reason that it consisted wholly or in part of a filthy, decomposed, and putrid vegetable substance.

On or about April 26, 1921, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

E. D. BALL, *Acting Secretary of Agriculture.*

9292. Alleged adulteration and misbranding of macaroni. U. S. * * * v. Albert C. Krumm, Jr. (A. C. Krumm & Son). Demurrer to the information sustained. (F. & D. No. 12334. I. S. No. 15497-r.)

On February 28, 1920, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Albert C. Krumm, Jr., trading as A. C. Krumm & Son, Philadelphia, Pa., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about May 25, 1919, from the State of Pennsylvania into the State of Maryland, of a quantity of an article known as "Krumm's Continental Brand Macaroni," which was alleged to be adulterated and misbranded.

Adulteration of the article was alleged in the information for the reason that a substance, to wit, a product prepared from flour, had been substituted in whole or in part for macaroni, to wit, a product prepared from semolina, which the article purported to be.