

**4561. Adulteration of tomatoes. U. S. \* \* \* v. 1,088 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered released on bond. (F. & D. No. 6825. I. S. No. 1905-1. S. No. E-381.)**

On August 23, 1915, the United States attorney for the Southern District of New York, 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 1,088 cases of canned tomatoes, remaining unsold in the original unbroken packages at New York, N. Y., alleging that the article had been shipped, on or about August 7, 1915, by Thomas Roberts & Co., Jersey City, N. J., and transported from the State of New Jersey into the State of New York, and charging adulteration in violation of the Food and Drugs Act. The cases were branded: "½ Doz. Net Weight on Label No. 10 City Hall Brand Tomatoes packed by L. B. Towers, Star, Md." The cans were labeled: "City Hall Brand" (Picture of building) (Picture of whole tomatoes and stalk) "Tomatoes contents weigh six lbs. 7 oz. contents weigh 103 oz. L. B. Towers at Star Queen Anne Co., Md."

Adulteration of the article was alleged in the libel for the reason that about 15 per cent of the cans containing the article were swelled, and many of them were in an advanced stage of rusting and would soon become leaky, and further, in that the article of food consisted in particular [part] of a partially decomposed vegetable product and was sour and unfit for food purposes, contrary to the provisions of section 7, subdivision 6 under food, of the Food and Drugs Act.

On January 6, 1916, Thomas Roberts & Co., claimants, having filed their petition admitting that a part of the product was decomposed and that the same should be destroyed, but that a considerable quantity of the article was in proper condition to be used for human consumption, and praying that the tomatoes should be assorted, separating the good from the bad and destroying the bad, it was ordered by the court that the article should be delivered to said claimants upon payment of the costs of the proceedings and the execution of bond in the sum of \$1,500, in conformity with section 10 of the act, conditioned that the goods should be sorted out under the supervision of the Department of Agriculture, the unfit portion thereof to be destroyed at the expense of the claimants, and the balance thereof, if released for food purposes, to be retained by the claimants according to law as herein provided, otherwise to be destroyed by claimants.

CARL VROOMAN, *Acting Secretary of Agriculture.*