

## United States Department of Agriculture,

OFFICE OF THE SECRETARY.

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### NOTICE OF JUDGMENT NO. 455, FOOD AND DRUGS ACT.

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#### MISBRANDING OF CANNED TOMATOES.

(SHORT MEASURE.)

On or about July 22, August 10, and November 18, 1908, Isador Levin, trading as S. H. Levin's Sons, Leipsic, Del., shipped from the State of Delaware to the State of Pennsylvania 2,300 cases of canned tomatoes, each of which cases was labeled: "The Climax Tomatoes.  $\frac{1}{2}$  doz. gal. cans. S. H. Levin's Sons, Leipsic, Del." Examination of samples of this product made by the Bureau of Chemistry, United States Department of Agriculture, showed it to be misbranded within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the shipment was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the Eastern District of Pennsylvania.

On May 14, 1909, a libel was filed in the District Court of the United States for said District against said 2,300 cases, charging the above shipment, alleging the misbranding of the product in that the label above quoted represented each of the cans in said 2,300 cases to contain 1 gallon of the product, when, as a matter of fact, each can contained only  $\frac{8}{10}$  gallon, and praying seizure, condemnation, and forfeiture. On the next day Isador Levin, trading as S. H. Levin's Sons, filed a claim to said 2,300 cases.

On May 17, 1909, the court entered a decree declaring the product to be misbranded as alleged in the libel, and decreeing its condemnation and forfeiture to the United States, with a proviso, however, that said product be delivered to the above-mentioned claimant upon

his paying the costs of the proceedings and executing and delivering a good and sufficient bond in the sum of \$2,500, conditioned that the product be not sold or otherwise disposed of in violation of law. On the same date the claimant paid the costs and executed and delivered the required bond, and the product was restored to him in accordance with the terms of said decree.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *June 8, 1910.*

