

Issued July 8, 1911.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 904, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF TOMATO CATSUP.

On or about October 11, 1909, the Kansas City Preserving Company, Kansas City, Mo., sold and delivered to the Kansas City Wholesale Grocery Company, of said city, a quantity of a food product labeled "Congress Brand Tomato Catsup, 1/10 of one per cent benzoate of soda, Packed for Kansas City Wholesale Grocery Company, Kansas City, Mo.," with which product was furnished a guaranty of the former firm that the product complied with the requirements of the Food and Drugs Act of June 30, 1906. On or about October 19, 1909, the said Kansas City Wholesale Grocery Company shipped a consignment of the above product from the State of Missouri into the State of Kansas, in the identical condition in which purchased by said company from the Kansas City Preserving Company aforesaid. Samples from this shipment were procured and examined by the Bureau of Chemistry, United States Department of Agriculture, and the product was found to contain bacteria estimated at 75 million per cc., with yeasts at the rate of 52 per one-sixtieth cmm., some decayed tissues present, and molds abundant. As the findings of the analyst and report thereon indicated that the product was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the said Kansas City Preserving Company, the Kansas City Wholesale Grocery Company, and the party from whom the samples were procured, opportunities for hearings. As it appeared after hearings held that there had been a violation of the act on the part of the Kansas City Preserving Company, guarantor, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence upon which to base a prosecution.

On August 16, 1910, a criminal information was filed in the District Court of the United States for the Western District of Missouri against the said Kansas City Preserving Company, charging the said guaranty and shipment, and alleging that the said Kansas City Preserving Company knew that the said Kansas City Wholesale Grocery

Company purchased the product in question with the intent and purpose to sell the same in interstate commerce, and that the said Kansas City Preserving Company knowingly guaranteed said products as above set forth, charging the shipment of the product in interstate commerce by the Kansas City Wholesale Grocery Company as above set forth, and alleging that the product so shipped and guaranteed was adulterated because it consisted in large part of filthy, decomposed, and putrid vegetable substances, and also misbranded because it was labeled as above set forth, when in truth and in fact the product was not tomato catsup, but an imitation thereof, consisting in large part of a putrid, decomposed, and filthy animal or vegetable substance, offered for sale under the distinctive name of another article (tomato catsup).

On November 9, 1910, the defendant entered a plea of guilty to the above information and the court imposed a fine of \$50 and costs.

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., *May 23, 1911.*

