

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1163.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF TOMATO CATSUP.

On December 19, 1910, the United States Attorney for the Eastern District of Missouri, acting upon the report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 300 cases of tomato catsup in the possession of Reinhart Grocery Co. The product was labeled as follows: (On case) "2 Doz. 14 oz. Lucky Boy Catsup Reinhart Grocery Co., St. Louis." (On bottle) "Lucky Boy Brand Silicate Sodium Tomato Catsup Contains 1/10 of 1% Benzoate of Soda—Packed for Reinhart Grocer Co., St. Louis—Reinhart Smith Grocer Co., Marion, Ill." Two official samples were collected from this shipment, the first designated I. S. No. 2293-c, consisting of one case containing 24 bottles, octagon shape. The other was designated I. S. No. 2294-c, consisting of one case containing 24 bottles, champagne shape.

Examinations of said samples were made by the Bureau of Chemistry of the United States Department of Agriculture showing in the case of I. S. 2293-c, yeasts and spores 84 per one-sixtieth cmm., bacteria 96,000,000 per cc., mold filaments present in 76 per cent of the fields; and in the case of I. S. 2294-c, yeasts and spores 71 per one-sixtieth cmm., bacteria 72,000,000 per cc., and mold filaments present in 89 per cent of the fields. Both samples were also examined for a test of capacity and in the case I. S. 2293-c, the bottles were found to be full measure, but in case of I. S. 2294-c, 17 bottles showed an average shortage of 7.24 per cent. The libel alleged that the tomato paste after shipment by the Frazier Packing Co., Elwood, Ind., from the State of Indiana into the State of Missouri, remained in the original unbroken packages and was adulterated and misbranded in violation of the Food and Drugs Act of June 30, 1906, and was therefore liable to seizure and confiscation.

Adulteration was alleged because the product consisted in whole or in part of a filthy, decomposed, and putrid vegetable substance. Misbranding was alleged against the catsup contained in the champagne shaped bottles, I. S. No. 2294-c, for the reason that the capacity of said bottles was not correctly stated on the label, in this, to wit, that the label represented the contents to be 14 ounces, when in fact the aforesaid examination showed a shortage in 17 bottles of 7.24 per cent.

On March 6, 1911, the cause coming on to be heard and no answer being filed and no person appearing as claimant, and the marshal having reported the seizure of 248 cases of the tomato catsup mentioned in the libel, the court found the said product to be adulterated and misbranded as alleged in the libel, and that the United States was entitled to a decree of condemnation as prayed for. Accordingly a decree was entered on that date condemning and forfeiting the catsup to the United States and ordering its destruction by the marshal.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 9, 1911.*

