

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

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## NOTICE OF JUDGMENT NO. 1271.

(SUPPLEMENTARY TO NOTICE OF JUDGMENT NO. 1044.)

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

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### ADULTERATION OF TOMATO CATSUP.

On January 19, 1910, the United States Attorney filed a libel in the United States District Court for the Southern District of Ohio, praying condemnation and forfeiture of 275 cases of tomato catsup. The libel contained the usual jurisdictional averments, and charged the adulteration of the product on the ground that it consisted wholly or in part of a filthy, decomposed, or putrid vegetable substance and was unfit for food, as shown by the examinations of three samples of the product reported by the Bureau of Chemistry as follows: The first sample contained yeasts and mold spores 79 per one-sixtieth cmm., bacteria estimated at 24,000,000 per cc., with mold tissue in about two-thirds of the microscopic fields; the second sample contained yeast and mold spores 80 per one-sixtieth cmm., bacteria estimated at 70,000,000 per cc., with mold tissue in about two-thirds of the microscopic fields; the third sample contained yeast and mold spores 110 per one-sixtieth cmm., bacteria estimated at 30,000,000 per cc., with mold tissue in about two-thirds of the microscopic fields.

The case went to the Circuit Court of Appeals for the Sixth Circuit on the action of the District Court in sustaining the demurrer of the claimants, George Spraul Packing Co., which reversed the action of the lower court. The facts and proceedings of the case up to this point more fully appear in Notice of Judgment No. 1044, to which reference is made. Thereafter, to wit, October 18, 1911, claimants filed answer admitting the adulteration of the product and consenting to its destruction; and the court thereupon entered a decree condemning and forfeiting the product to the United States as adulterated, and ordering its destruction by the marshal, and that claimants should pay the costs, but with the proviso that the bottles and jugs containing the product should be returned to claimants when emptied.

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *January 6, 1912.*

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