

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

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## NOTICE OF JUDGMENT NO. 1863.

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

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### ADULTERATION AND MISBRANDING OF CATSUP.

On November 23, 1911, the United States Attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Otto Kuehne Preserving Co., a corporation. Topeka, Kans., alleging the shipment by said company, in violation of the Food and Drugs Act, on or about September 24, 1910, from the State of Kansas into the State of Oklahoma, of a quantity of catsup which was adulterated and misbranded. The product was labeled "Home Made Catsup." (Device: Picture of tomato.) "Prepared from Fresh Ripe Tomatoes. Contains 1/10 of 1 per cent Benzoate of Soda. Made by Otto Kuehne Preserving Co. Topeka, Kans."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Yeasts and spores, 180 per one-sixtieth cmm; bacteria, 180,000,000 per cc; mold filaments in 59 per cent of the fields; sand particles present. Adulteration was alleged in the information for the reason that the product consisted in part and to a material degree of filthy, decomposed, and putrid animal or vegetable substance, which substance contained excessive yeasts and spores, molds, sand, bacteria, and decayed tissue. Misbranding was alleged for the reason that the label on the product was misleading and deceptive, it being intended by said label and quotations to publish and have it understood that each of the bottles of the so-called catsup contained catsup prepared from fresh, ripe tomatoes and contained one-tenth of 1 per cent of benzoate of soda, while in truth and in fact each of the bottles contained so-called catsup with an amount of benzoate of soda in excess of the amount set forth and published upon the label, and each of the bottles of catsup consisted in part and to a material degree of filthy, decomposed, or

putrid animal or vegetable substance, which substances contained excessive yeasts and spores, molds, sand, bacteria, and decayed tissue, which said label and quotations were false and misleading.

On June 10, 1912, the defendant corporation entered a plea of guilty to the charge of adulteration in the information and the court imposed a fine of \$25 and costs. The charge of misbranding was dismissed.

W. M. HAYS,  
*Acting Secretary of Agriculture.*

WASHINGTON, D. C., *October 28, 1912.*  
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