

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

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## NOTICE OF JUDGMENT NO. 2442.

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

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**U. S. v. 75 Cases Tomato Pulp. Decree of condemnation by default. Product ordered destroyed.**

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### ADULTERATION AND MISBRANDING OF TOMATO PULP.

On June 7, 1912, 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 a libel for the seizure and condemnation of 75 cases of canned tomato pulp remaining unsold in the original unbroken packages and in possession of the Larson Bros. Wholesale Grocery Co. (Inc.), Kansas City, Kans., alleging that the product had been shipped on or about November 6, 1911, by D. E. Foote & Co., Baltimore, Md., and transported from the State of Maryland into the State of Kansas and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: (On cases) "Doz. No. Foote's Best Tomato Pulp. D. E. Foote & Co., Inc. Baltimore, Md." (On cans) "Foote's Best Condensed Tomato Pulp for Soup. Packed by D. E. Foote & Co., Incorporated, Baltimore, Md. Established 1870. made from trimmings and small tomatoes." (Label also bears the picture of a large red ripe tomato.)

Adulteration of the product was alleged in the libel for the reason that it consisted wholly or in part of filthy, decomposed, or putrid vegetable substances. Misbranding was alleged for the reason that the quotations, wording, and design on the label upon each of the cans of the product conveyed the impression that it was manufactured from superior stock and was of first quality when, in truth and in fact, each of the cans contained excessive amounts of molds, yeasts,

and spores and other bacterial organisms, and said label was calculated to mislead and deceive the purchaser and was therefore false and misleading.

On February 3, 1913, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered and it was further ordered that the product should be destroyed by the United States marshal.

WILLIS L. MOORE,  
*Acting Secretary of Agriculture.*

WASHINGTON, D. C., *March 3, 1913.*

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