

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 2642.

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

**U. S. v. Five Cases Tomato Sauce. Decree of condemnation by default.
Product ordered released on bond or to be sold.**

MISBRANDING OF TOMATO SAUCE.

On March 17, 1913, the United States Attorney for the District of Nebraska, 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 five cases, each containing 200 cans, of tomato sauce, remaining unsold in the original unbroken packages and in the possession of the Metropolitan Importing Co., Omaha, Nebr., alleging that the product had been shipped on or about February 10, 1913, by the Ignatius Gross Co., New York, N. Y., and transported in interstate commerce from the State of New York into the State of Nebraska, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "Contents 7 oz. Salsa concentrata—sanitas—sanitas—tomato sauce—Packed and guaranteed by Ignatius Gross Co. New York City, under the food and drugs Act June 30, 1906. Serial No. 9270. Sanitas."

Misbranding of the product was alleged in the libel for the reason that the statement on the label on each of the cans of the product, "contains 7 oz.," was false and misleading in that it conveyed the impression to the purchaser that each of the cans contained 7 ounces tomato sauce, whereas, in truth and in fact, each of the cans contained but 6.22 ounces tomato sauce; and further, said product was labeled so as to deceive and mislead the purchaser in that the statement on the label, "contains 7 oz.," was false and misleading in that each of the cans of tomato sauce did not contain 7 ounces but did in fact contain but 6.22 ounces of tomato sauce.

On April 30, 1913, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be delivered to said Ignatius Gross Co., the owner thereof, upon payment of the cost of

the proceedings and the execution of a bond in the sum of \$400, in conformity with section 10 of the Act, or in default thereof that the product should be sold by the United States marshal to the highest bidder.

B. T. GALLOWAY,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 26, 1913.*

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