

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 779, FOOD AND DRUGS ACT.

MISBRANDING OF SALT FISH.

During the month of September, 1910, the Gorton-Pew Fisheries Company, Gloucester, Mass., shipped from the State of Massachusetts to the State of Pennsylvania 250 drums of salt fish, each containing 100 pounds, 200 drums being labeled "No. 1 Prime Italian Fish, Brand * * * Reg. U. S. Pat. Off., Antonio Morano, Phila., Pa.", and 50 drums being labeled "100 lbs., Italian Codfish, Swinger & Binstock, Phila., Pa." Samples of these products were procured and examined by the Bureau of Chemistry, United States Department of Agriculture, and the former of said products found to be fish of the ordinary haddock variety, and those under the second label, of the common cod variety, both being native to American waters. As the findings of the analyst and report made indicated that the products were misbranded within the meaning of the Food and Drugs Act of June 30, 1906, and liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the Eastern District of Pennsylvania.

In due course libels were filed in the District Court of the United States for said district against the said 250 drums of salt fish, charging the above shipments, and alleging that the 200 drums first above mentioned were misbranded in that the label above set forth was such as to mislead and deceive the purchaser because the said statement upon the label in question indicated that the article of food therein contained, to wit, salt fish, was a product of Italy, whereas in truth and in fact the said article of food, to wit, salt fish of the ordinary haddock variety, was not the product of Italy or Italian waters, but was the product of North American waters, the said packages or drums being thus labeled and branded so as to deceive and mislead the purchaser thereof with reference to the kind of fish therein contained, and with reference to the locality from which the said fish came, and alleging that the latter of the above mentioned products, consisting of 50 drums, labeled "Italian Codfish", was misbranded in that said label purported that the article therein contained was a

foreign product, to wit, a product of Italy and Italian waters, when in truth and in fact said article of food, to wit, codfish, was not a foreign product, but was the product of North American waters, and of the United States. Thereupon the above mentioned Gorton-Pew Fisheries Company and Antonio Morano entered their appearance and filed their answers to the above libels, admitting the allegations of misbranding contained therein, but disclaiming any wrongful intention in respect thereto, and petitioning the court that they be allowed to execute and deliver a good and sufficient bond, conditioned that the above mentioned products should not be sold or otherwise disposed of contrary to law, and that upon payment by said petitioners of the costs of these proceedings, and the execution of such bond, that said products should be forthwith released to them.

The causes coming on for hearing, the court being fully informed in the premises, issued its decree finding the products in question to be misbranded, as alleged in said libels, and condemning and forfeiting the same to the United States with the proviso, however, that upon the execution and delivery by said claimants of the bonds above mentioned, and upon the payment by said claimants of the costs of said proceedings, the products in question should be delivered to them. Satisfactory bonds having been furnished by the claimants, and the costs paid in accordance with the terms of this decree, the products were forthwith delivered to the claimants.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *February 17, 1911.*

