

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1387.

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

MISBRANDING OF CHEESE.

On October 6, 1911, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 135 boxes of cheese owned by D. W. Whitmore & Co. and located in the Merchants' Refrigerating Warehouse, city of New York. The product was labeled: "D. W. Whitmore, New York, 5003," and was invoiced as "135 Flats, 4381# " and billed as "135 boxes cheese."

Examination of a sample of said product by the Bureau of Chemistry of the United States Department of Agriculture showed it was a sour skimmed milk cheese, very tough, full of pin holes, bad tasting, was made from gassy curds, and that the milk had been improperly handled, and that the product was too tough and too bad in taste to be used for human food, and that the fat content was below 2 per cent. The libel alleged the interstate shipment of the product by the Lake Zurich Creamery Co.; that it remained in the original unbroken packages, and was adulterated and misbranded in violation of the Food and Drugs Act of June 30, 1906, and was therefore liable to seizure for confiscation. Adulteration was alleged in that a valuable constituent of the cheese (butter fat) had been wholly or in part abstracted therefrom. Misbranding was alleged in that the article was in fact skimmed milk cheese and was branded in imitation of and offered for sale under the distinctive name of another article, to wit, cheese.

On November 29, 1911, the case coming on for hearing and the Lake Zurich Creamery Co. having appeared as claimant and filed answer to the libel, the court found the product misbranded as alleged in the libel and condemned and forfeited it to the United States and ordered its sale by the marshal, but authorized the release of said product to the Lake Zurich Creamery Co. upon the payment by it of all costs and the execution of a bond in the sum of \$500, conditioned that said property shall not be sold or otherwise disposed of contrary to law, and shall be relabeled in conformity with the Food and Drugs Act.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 10, 1912.*

