

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1492.

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

MISBRANDING OF CHEESE.

On September 23, 1911, the United States Attorney for the Southern District of Georgia, 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 117 boxes of cheese, each containing one cheese, in the original unbroken packages and in possession of the Waxelbaum Produce Co., Macon, Ga., alleging that the product had been shipped on or about September 11, 1911, by Crosby & Meyers, Chicago, Ill., and transported from the State of Illinois into the State of Georgia, and charging misbranding in violation of the Food and Drugs Act. Each of the boxes was branded: "Waxelbaum Produce Co., Macon, Ga.," and there was also a penciled figure on each box indicating the net weight according to the understanding and custom of the trade. The total of the weights indicated on these boxes amounted to 2,589 pounds, and the contents of no single box was of the weight indicated thereon.

Examination by the Bureau of Chemistry of this Department showed the following results: 117 cheeses weighed: sum of marked weights, 2,589 pounds; sum of actual weights, 2,455½ pounds; shortage 133½ pounds; shortage, 5.15 per cent. Misbranding was alleged in the libel for the reason that the pencil figures did not plainly and correctly state on the outside of the respective boxes the true or actual weight or measure of the contents of the same, and such marking or labeling was misleading as it did not show that the actual weight of the cheese was less than the weight indicated.

On January 26, 1912, judgment of condemnation was entered and after payment of costs by the Waxelbaum Produce Co., Macon, Ga., and the presentation of a bond by said claimants in conformity with section 10 of the Act, fixed by the court at \$500, the product was released and delivered to the claimants.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *April 25, 1912.*