

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

---

## NOTICE OF JUDGMENT NO. 1411.

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

---

### MISBRANDING OF FISH (SILVER HAKE).

On November 30, 1911, the United States Attorney for the District of South Carolina, 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 100 kegs of fish in the possession of R. E. Allen & Bro. Co., Greenville, S. C. The product was labeled: "New Ocean White Fish 7345. Packed by Davis Bros., Gloucester, Mass. 10-10."

Examination of a sample of said product by the Bureau of Fisheries, as reported by the Bureau of Chemistry of the United States Department of Agriculture, showed that it was not ocean white fish, as there is no such fish, but that the product was whiting or silver hake, *Merluccius bilinearis*. The libel alleged that the product, after transportation from the State of Massachusetts into the State of South Carolina, remained in the original unbroken packages, and was misbranded in violation of the Food and Drugs Act of June 30, 1906, and was therefore liable to seizure for confiscation. Misbranding was alleged in the libel in words as follows: "The said article of food was branded and labeled under the distinctive name of New Ocean White Fish, intending and pretending to show that the ingredients or substances contained in said package or keg were ocean white fish, whereas, in truth and in fact, said article of food so branded and labeled was not ocean white fish, but was whiting or silver hake, and said statement that the contents of said package or keg were ocean white fish was false and misleading."

On December 23, 1911, the case coming on for hearing and it appearing to the court that R. E. Allen & Bro. Co., a corporation, had filed a petition as claimants and answered, and further, that the marshal had seized 54 kegs of the product, the court found the product misbranded, as alleged in the libel, and entered a decree condemning and forfeiting it to the United States, but with a proviso that the

same might be released to the claimants upon the payment of all costs by them and the execution of a bond in the sum of \$200 conditioned that the said product should be properly labeled and should not be sold or otherwise disposed of contrary to law.

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *February 13, 1912.*

1411

