

Issued February 4, 1913.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1869.

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

MISBRANDING OF SUCCOTASH.

On May 18, 1912, and May 28, 1912, the United States Attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of 150 cases, each containing 2 dozen cans of succotash, remaining unsold in the original packages and in possession of Wilkinson, Gaddis & Co., Newark, N. J., alleging that the product had been shipped on or about November 9, 1911, by the Burnham & Morrill Co., Portland, Me., and transported from the State of Maine into the State of New Jersey, and charging misbranding in violation of the Food and Drugs Act. The cans in 100 cases of the product were labeled: "Paris Succotash. Burnham and Morrill Co., Portland, Me. net wt. 20 ozs. Paris Succotash Extra Quality Guaranteed by Burnham and Morrill Co. under the Food and Drugs Act, June 30, 1906, Serial No. 13107. This is a combination of Paris brand corn and lima beans soaked. Packed in Maine, U. S. A."

Misbranding was alleged in the libel for the reason that the product had been prepared from soaked lima beans, and while the label thereon contained an announcement to the effect in connection with the guaranty legend thereon, it was so inconspicuously placed as to escape ordinary observation, and in that the product was labeled "Extra Quality," as stated on the label, and the principal face of the labels contained pictorial representations of fresh corn and fresh lima beans so arranged that the same were calculated to convey the impression that all the constituents of the product were fresh and not soaked, whereas the product was so labeled as to deceive and mislead the purchaser; and the said labels and the design on the said

labels, to wit, the pictorial representations regarding the ingredients contained in the product, were false and misleading and intended to convey the impression that the product was fresh and not soaked, whereas the same was soaked. The cans in 50 cases of the product were labeled: "Paris Succotash. Burnham and Morrill Co., Portland, Me. net wt. 20 ozs. Paris Succotash Extra Quality Guaranteed by Burnham and Morrill Co. under the Food and Drugs Act, June 30, 1906, Serial No. 13107. This succotash is a combination of Paris sugar corn and dried lima beans. Packed in Maine, U. S. A." Misbranding of this portion of the product was alleged in the libel for the reason that the succotash had been prepared from and contained soaked lima beans and not dried lima beans, as stated on the label, and while the label contained an announcement to the effect that the beans were soaked in connection with the guaranty label thereon, it was so inconspicuously placed as to escape ordinary observation; and also in that the product was labeled "Extra Quality," and the principal face of the label contained pictorial representations of fresh corn and fresh lima beans so arranged that they were calculated to convey the impression that all of the constituents of the product were fresh and that the beans were not soaked, whereas the product was labeled so as to deceive and mislead the purchaser, and the label and the design thereon, to wit, pictorial representations regarding the ingredients contained in the product, were false and misleading and intended to convey the impression that part of the product, to wit, the beans, was fresh and not soaked, whereas the said lima beans were soaked lima beans and not dried lima beans.

On June 21, 1912, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was further ordered that the product should be sold by the United States marshal.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 28, 1912.*