

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 566, FOOD AND DRUGS ACT.

MISBRANDING OF NEUFCHATEL CHEESE.

On or about August 30, 1909, Walter A. Lawrence and Theodore F. Lawrence, doing business under the firm name of W. A. Lawrence & Son, Chester, N. Y., shipped from the State of New York into the State of Pennsylvania a consignment of a food product labeled "Cream Star Brand Neufchatel Cheese."

A sample from this shipment was procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture. As the findings of the analyst and report thereon indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the said W. A. Lawrence & Son and the dealer from whom the sample was procured were afforded opportunities for hearings. As it appeared after hearings held that the shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney-General, with a statement of the evidence upon which to base a prosecution.

In due course a criminal information was filed in the Circuit Court of the United States for the Southern District of New York against the said W. A. Lawrence & Son, charging the above shipment and alleging that the product was misbranded, in that the aforesaid label was false and misleading, because it would indicate that the product was Neufchatel cheese, whereas, in truth and in fact, it was not Neufchatel cheese but a cottage cheese; whereupon said defendants demurred orally to the above information and at the argument of such demurrer there was submitted to the court a copy of the label in question. The court examined it carefully and stated that the word "Neufchatel" would not mislead anyone and it was difficult to see that said word was on the label until it was particularly pointed out, and therefore dismissed the above-mentioned information.

Decisions of United States Circuit and District Courts and United States Courts of Appeal will not be considered final until acquiescence shall have been published.

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., *August 17, 1910.*