

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

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## NOTICE OF JUDGMENT No. 1620.

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

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### MISBRANDING OF MARASCHINO CHERRIES.

On August 28, 1911, the United States Attorney for the Western District of Missouri, 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 15 cases each containing 12 bottles of cherries remaining unsold in the original unbroken packages in possession of the Empire Transfer Co., a corporation, Kansas City, Mo., alleging that the product had been shipped by the Bettman-Johnson Co., Cincinnati, Ohio, and transported from the State of Ohio into the State of Missouri, and charging misbranding in violation of the Food and Drugs Act. Each of the cases was labeled: "This side up, with care. Artificially colored. Preserved with less than 1/10 of 1% Benzoate of Soda. Morrin-Powers Merc. Co., Kansas City. No. 120220. Frisco. Kansas City 7-19 Maraschino Cherries (Picture of Cherries)." Each of the bottles in the cases was labeled: "Ideal Brand Maraschino Cherries Ideal Brand (picture of fruit) Artificially Colored. Contains 1/10 of 1% Benzoate of Soda. Packed by The Bettman-Johnson Co., Cincinnati, O., U. S. A."

Misbranding was alleged in the libel for the reason that the brands or labels on the product were false and misleading in that, while they stated and represented that the cases or boxes and bottles contained maraschino cherries, thereby stating and intending to state that they contained maraschino cherries as known to the trade and commerce in the United States, which are cherries put up in a maraschino liquor or syrup, whereas, in truth and in fact, the product contained in said cases or boxes and bottles were not put up

in maraschino liquor or syrup, but in an imitation of such maraschino liquor or syrup, flavored with benzaldehyde or bitter almond product.

On September 25, 1911, the Bettman-Johnson Co., Cincinnati, Ohio, claimant, entered its appearance and the case was continued to October 12, 1911, on which latter date it was given until November 7, 1911, in which to plead. On the latter date said claimant filed its demurrer and bill of exceptions to the sufficiency of the libel. On March 30, 1912, the court found that the product was adulterated and misbranded and judgment of condemnation and forfeiture was entered. It was further ordered that, upon presentation of bond by said claimant in conformity with section 10 of the Act, fixed by the court at \$250, and the payment by it of all costs, the 12 cases of cherries that had been seized should be released and delivered to said claimant.

W. M. HAYS,  
*Acting Secretary of Agriculture.*

WASHINGTON, D. C., *June 20, 1912.*

