

On January 6, 1932, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 40 cases of figs at Reno, Nev., alleging that the article had been shipped on or about December 9, 1931, by Giebeler's Fig Gardens, from Merced, Calif., and had been transported from the State of California into the State of Nevada, and charging adulteration in violation of the food and drugs act. The article was labeled in part: "Black Mission Figs [or "White California Figs" or "Calimyrna Figs"] * * * Packed by Giebeler's Fig Gardens, Merced, Calif."

It was alleged in the libel that the article was adulterated in that it consisted in whole or in part of a filthy, decomposed, and putrid vegetable substance.

On March 22, 1932, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

19450. Misbranding of canned cherries. U. S. v. 46 Cases of Canned Cherries. Product released under bond for relabeling. (F. & D. No. 27643. I. S. No. 32249. S. No. 5683.)

The product involved in this action consisted of water-packed cherries labeled as cherries in juice. The article therefore fell below the standard promulgated by the Secretary of Agriculture for canned cherries, and failed to bear the statement required by the Secretary indicating that it fell below such standard.

On January 13, 1932, the United States attorney for the District of New Mexico, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 46 cases of canned cherries, remaining in the original packages at Clovis, N. Mex., alleging that the article had been shipped by Kuner Empson Co., from Brighton, Colo., on or about September 14, 1931, and had been transported in interstate commerce from the State of Colorado into the State of New Mexico, and charging misbranding in violation of the food and drugs act. The article was labeled in part: "Fort Collins Brand Red Pitted Cherries in Juice Packed by The Fort Collins Canning Co., Fort Collins, Colo."

It was alleged in the libel that the article was misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, since it was water-packed cherries, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard. Misbranding was alleged for the further reason that the statement "In Juice," borne on the label, was false and misleading and deceived and misled the purchaser, in that the product was water-packed cherries.

On March 25, 1932, the Kuner Empson Co., Brighton, Colo., having appeared as claimant for the property and having admitted the allegations of the libel, judgment was entered ordering that the product be released to the said claimant upon payment of costs and the execution of a good and sufficient bond, conditioned that it should not be sold or disposed of contrary to the Federal food and drugs act, or other existing laws, and further conditioned that it be relabeled to show that it was water-packed cherries instead of cherries packed in juice.

ARTHUR M. HYDE, *Secretary of Agriculture.*