

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1731.

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

ADULTERATION AND MISBRANDING OF MARASCHINO CHERRIES.

During the month of August, 1911, the United States Attorney for the District of Minnesota, 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 10 cases "petite" size, each containing 8 dozen bottles; 3 cases "medium" size, each containing 2 dozen bottles; 8 cases "small" size, each containing 4 dozen bottles; and 10 cases "large" size, each containing 1 dozen bottles, of so-called maraschino cherries remaining unsold in the original unbroken packages and in possession of J. H. Allen Co. (Inc.), St. Paul, Minn., alleging that the product had been shipped between July 14, 1910, and July 1, 1911, by the Bettman-Johnson Co., Cincinnati, Ohio, and transported from the State of Ohio into the State of Minnesota, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: (Petite size, on case) "Maraschino Cherries, containing harmless color. The contents of this package are guaranteed to comply with the National Pure Food and Drugs Act of June 30, 1906. Our general guarantee has also been filed with the Secretary of Agriculture, Washington, D. C. and number assigned to us is 2161. J. H. Allen & Co., St. Paul, Minn." (On bottles) "Ideal Brand. Artificially Colored. Contains 0.008% sulphur dioxide. Weight of contents 5 oz. J. H. Allen & Co., Distributors, St. Paul, Minn. Ideal Brand Maraschino Cherries." (Medium size, on cases) "2 Doz. Medium. Maraschino Cherries, containing harmless color. J. H. Allen & Co., St. Paul, Minn." (On bottles) "Ideal Brand. Artificially Colored. Contains 0.008% sulphur dioxide. Weight of contents 16 oz. J. H. Allen & Co., Distributors, St. Paul, Minn., Ideal Brand Maraschino Cherries." (Small size, on cases) "4 Doz. Small, Maraschino Cherries, containing harmless color. J. H. Allen & Co., St. Paul, Minn." (On bottles) "Ideal Brand. Weight of contents 8 oz. Artificially colored. Contains 0.008% sulphur dioxide. J. H. Allen & Co., Distributors, St. Paul, Minn., Ideal Brand Maraschino Cherries."

(Large size, on cases) "1 doz. Large Maraschino Cherries. Artificially Colored. J. H. Allen & Co., St. Paul, Minn." (On bottles) "Ideal Brand. Contains harmless color and less than 0.035% sulphur dioxide. Weight of contents 32 oz. J. H. Allen & Co., Distributors, St. Paul, Minn. Ideal Brand Maraschino Cherries. Contains Harmless cochineal color."

Adulteration was alleged in the libel for the reason that the product had been packed and mixed with a substance, to wit, a sugar syrup, which had been substituted wholly or in part for genuine maraschino liquor, and which said substituted substance reduced, lowered, and injuriously affected its quality and strength. Misbranding was alleged in the libel for the reason that said "Ideal Brand Maraschino Cherries" were an imitation of and offered for sale under the distinctive name of another article, to wit, genuine maraschino cherries, which had theretofore been packed and mixed with genuine maraschino liqueur, and were not maraschino cherries but cherries which had been packed with a syrup not flavored with maraschino liqueur, but with a sugar syrup flavored with benzaldehyde or bitter almond; that the cases of medium size maraschino cherries were further misbranded in that, as appeared from said label, each of them purported to contain 16 ounces, whereas in truth and in fact, each bottle contained a much less quantity, to wit, 2.56 per cent less than 16 ounces; that said 10 cases large size cherries were further misbranded in that, as appears from the label, each bottle purported to contain 32 ounces, whereas, in truth and in fact, each contained a much less quantity, to wit, 9.25 per cent less than 32 ounces; and the three cases medium size and the 10 cases large size cherries were further misbranded in that the contents of the bottles were not plainly and correctly stated on the outside of the package, as required by said Act.

On March 6, 1912, the said Bettman-Johnson Co., claimant, having consented to a decree, judgment of condemnation and forfeiture was entered, and it was further ordered that upon payment of all costs and the execution of bond in the sum of \$100 in conformity with section 10 of the Act by said claimant, the product should be released to said claimant.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *August 12, 1912.*