

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1370.

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

ADULTERATION AND MISBRANDING OF MARASCHINO CHERRIES.

On August 23, 1911, the United States Attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the District of Columbia, holding a district court, a libel praying condemnation and forfeiture of 15 cases of maraschino cherries in the possession of Wm. Muehleisen & Co. (Inc.), Washington, D. C. The product was labeled, on shipping containers: "1 doz. large bottles Maraschino Cherries—From International Fruit Products Co., 11 East Pearl St., Cincinnati, O—For Wm. Muehleisen Co., 916 Fifth St., Washington, D. C." In addition the containers bore a guarantee legend. The retail units were labeled: "I. F. P. Co.—Maraschino Cherries—Wm. Muehleisen Co., Distributors, Washington, D. C."; and a strip label on the neck of each bottle contained the following: "Containing 1/10 of 1% Sodium Benzoate—Harmlessly Flavored—Colored from Certified lot No. 154."

Analysis of a sample of said product, made by the Bureau of Chemistry of the United States Department of Agriculture, showed that said cherries were not packed in maraschino liqueur, but that there had been substituted for this a solution flavored with benzaldehyde or oil of bitter almonds, and that the product also contained a small percentage of glucose. The libel alleged that the product, after transportation from the State of Ohio into the District of Columbia, remained in the original unbroken packages, and was adulterated and misbranded in violation of the Food and Drugs Act of June 30, 1906, and was therefore liable to seizure for confiscation. Adulteration was alleged for the reason that certain substances, to wit, benzaldehyde or bitter almond, and glucose, had been mixed and packed with the product so as to reduce or lower or injuriously affect its quality or strength; and because said substance had been substituted wholly or in part for the article. Misbranding

was alleged for the reason that the label was false and misleading and calculated to mislead and deceive the purchaser, in that the product was represented on the label to be "Maraschino Cherries," that is to say, cherries mixed with a certain liqueur commonly known as maraschino, when in fact the product was not maraschino cherries but cherries packed in a solution flavored with benzaldehyde or oil of bitter almonds, and glucose, in place of genuine maraschino liqueur; and further because said article was an imitation of and offered for sale under the distinctive name of another article, to wit, "Maraschino Cherries."

On October 13, 1911, Mihalovitch Co. filed a petition for intervention and, by leave of court, filed on October 18, 1911, their answer, admitting the allegations of the libel; whereupon the court entered a decree finding the product adulterated and misbranded, as alleged in the libel, but authorizing its release to the said Mihalovitch Co. upon the payment of all costs and the execution of a bond in the sum of \$100 that the product should not again be sold contrary to law. The costs having been paid and bond filed, the property was forthwith released to the claimants.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 31, 1912.*

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