

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1580.

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

ADULTERATION AND MISBRANDING OF MARASCHINO CHERRIES.

On August 31, 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 145 cases or boxes and 10 barrels, 30 of which cases or boxes each contained one dozen bottles of cherries, 75 of which contained two dozen bottles of cherries, and 40 of which contained four dozen bottles of cherries, and the 10 barrels each contained 250 bottles of cherries, remaining unsold in the original unbroken packages and in the possession of the Newby Transfer Co., a corporation, Kansas City, Mo., alleging that the product had been shipped by the Bettman-Johnson Co., of Cincinnati, Ohio, a corporation (date of shipment not shown), and transported from the State of Ohio into the State of Missouri, and charging adulteration and misbranding in violation of the Food and Drugs Act. Thirty of the cases or boxes were labeled: "Glass. This side up with care. Artificially colored. Preserved with less than one-tenth of one percent. benzoate of soda. 1 Doz. large Liberty Maraschino Cherries (Design of Statue of Liberty and clusters of cherries). Ridenour-Baker Gro. Co. Kansas City, Mo." Seventy-five of the cases were labeled: "Glass. This side up with care. Artificially colored. Preserved with less than one-tenth of one percent. benzoate of soda. 2 doz. Medium Liberty Maraschino Cherries (design of Statue of Liberty and clusters of cherries). Ridenour-Baker Gro. Co. Kansas City, Mo." Forty of the cases were labeled: "Glass. This side up with care. Artificially colored. Preserved with less than one-tenth of one per cent. of benzoate of soda. 4 doz.

Small Liberty Maraschino Cherries (design of Statue of Liberty and cluster of cherries). Ridenour-Baker Gro. Co. Kansas City, Mo." The 10 barrels were labeled: "Glass. This side up with care. 250 bottles Liberty Maraschino Cherries. Artificially colored. Preserved with one-tenth of one per cent. benzoate of soda. Ridenour-Baker Gro. Co. Kansas City, Mo." The bottles in the 30 cases were each labeled: "Liberty (design of Statue of Liberty and clusters of cherries) And contains 1/10 of 1% benzoate of soda. Maraschino Cherries. Contains harmless color and harmless preservative. The contents of this package are guaranteed to comply with the National Pure Food and Drugs Act of June 30th, 1906. Serial No. 2161. Packed by the Bettman-Johnson Co., Cincinnati, O. U. S. A. Liberty (design of Statue of Liberty and clusters of cherries) Maraschino Cherries." The bottles in the 75 cases were labeled: "Liberty (design of Statue of Liberty and clusters of red cherries) Maraschino Cherries. Contains harmless color and harmless preservative. The contents of this package are guaranteed to comply with the National Pure Food and Drugs Act of June 30, 1906. Serial No. 2161. Artificially colored and preserved with less than 1/10 of 1% of benzoate of soda. Guaranteed by Serial No. 2161 to comply with the National Pure Food and Drugs Act of June 30, 1906. Liberty (design of Statue of Liberty and clusters of red cherries) Maraschino Cherries." The bottles in the 40 cases were labeled: "Liberty (design of Statue of Liberty and clusters of red cherries). Contains less than 1/10 of 1% benzoate of soda. Maraschino Cherries. Contains harmless color. The packers guarantee these cherries to comply with the National Pure Food and Drugs Act of June 30, 1906. Packed by The Bettman-Johnson Co., Cincinnati, O. U. S. A. Liberty (design of Statue of Liberty and clusters of red cherries). Maraschino Cherries." The bottles in the 10 barrels were labeled: "Liberty (design of Statue of Liberty and clusters of red cherries). Contains less than 1/10 of 1% Benzoate of soda. Maraschino Cherries. Contains harmless color. The packers guarantee these cherries to comply with the National Pure Food and Drugs Act of June 30, 1906. Packed by The Bettman-Johnson Co., Cincinnati, O. U. S. A. Liberty (design of Statue of Liberty and clusters of red cherries) Maraschino Cherries."

Adulteration was alleged in the libel for the reason that benzaldehyde or bitter almond product had been mixed and packed with the product so as to reduce, lower, and injuriously affect its quality and strength, said benzaldehyde or bitter almond product having been substituted wholly or in part for maraschino in the liquor or syrup in which the cherries were packed. Misbranding was alleged for the reason that the brands and labels on the boxes, barrels, and bottles were false and misleading, in that they stated and repre-

sented that said boxes, barrels, and bottles and each of them contained maraschino cherries, when in truth and in fact the cherries contained in said boxes, barrels, and bottles and each of them were not maraschino cherries or cherries put up and packed in maraschino liquor or in syrup flavored with maraschino, but were put up and packed in an imitation of maraschino liquor or syrup flavored with benzaldehyde or bitter almond product.

On November 7, 1911, the claimant, The Bettman-Johnson Co., Cincinnati, Ohio, filed a bill of exceptions to the sufficiency of the libel and also a demurrer. Thereafter the claimant company having admitted the averments in the libel and consented to a decree, on March 30, 1912, judgment of condemnation and forfeiture was entered and it was further ordered that upon payment of all costs by the claimant and the execution of bond by it in conformity with section 10 of the Act, fixed at \$2,500, the 151 cases of cherries seized by the marshal should be released to said claimant.

W. M. HAYS,

Acting Secretary of Agriculture.

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