

Issued May 17, 1912.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1383.

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

MISBRANDING OF MARASCHINO CHERRIES.

On October 19, 1911, the United States Attorney for the Middle District of Tennessee, acting upon a report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 30 cases of maraschino cherries found in Warehouse No. 1, Cummins Station, Nashville, Tenn., occupied by C. T. Cheek & Sons. The retail packages were labeled: "Bourbon Brand Maraschino Cherries—Superior Quality." The sticker on the reverse of each bottle contained the following statement: "1/10 of 1% Sodium Benzoate Harmlessly Flavored Certified color lot 154. Packed for C. T. Cheek & Sons, Nashville, Tenn."

Analysis of a sample of said product made by the Bureau of Chemistry of the United States Department of Agriculture showed that the cherries were not packed in maraschino liqueur or in a solution flavored with that substance. The libel alleged that the product, after shipment by the Cincinnati Extract Works, Cincinnati, Ohio, from the State of Ohio into the State of Tennessee, remained in the original unbroken packages and was misbranded in violation of the Food and Drugs Act of June 30, 1906, and was therefore liable to seizure for confiscation. Misbranding was alleged for the reason that the product was labeled in such a manner as to indicate that the cherries were packed in maraschino liqueur or in a solution flavored with that substance, when in fact said cherries were not so packed, and the label or brands on the packages containing said cherries were

therefore false and misleading and calculated to deceive and mislead the purchaser.

On November 13, 1911, the case coming on for hearing and it appearing to the court that C. T. Cheek & Sons had appeared as claimants of the property and filed answer, the court found the product misbranded as alleged in the libel and entered a decree condemning and forfeiting the same to the United States, but with a proviso that upon the payment of all costs by claimants and the execution by them of a bond in the sum of \$250, conditioned that the property should not be again sold contrary to law, that it should be released to the said C. T. Cheek & Sons.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *February 2, 1912.*

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