

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1454.

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

ADULTERATION AND MISBRANDING OF PEPPERMINT EXTRACT.

On November 25, 1910, the United States Attorney for the Southern District of Ohio, acting upon a report from the Secretary of Agriculture, filed information in the District Court for said district against the Bettman-Johnson Co., a corporation, Cincinnati, Ohio, alleging shipment by it, in violation of the Food and Drugs Act, on or about February 19, 1910, from the State of Ohio into the State of Texas of a quantity of peppermint extract which was adulterated and misbranded. The product was labeled: "Eclipse Extracts", "Distilled or extracted by modern and scientific methods from carefully selected and choicest leaves, herbs and roots. Guaranteed to comply with the National Pure Food and Drugs Act, June 30th, 1906." "Peppermint Extract."

Analysis of a sample of said product made by the Bureau of Chemistry of the United States Department of Agriculture showed the following results: Alcohol (per cent by volume), 33.7; peppermint oil (grams per 100 cc), 0.045; artificial color, Naphthol Yellow S. Adulteration of the aforesaid product was alleged in the information in form as follows: First, that another substance, to wit, a dilute solution of alcohol, containing an infinitesimal quantity of the oil of peppermint, the whole having added thereto an artificial coloring matter as hereinbefore set out, was then and there substituted wholly for what said article of food by its said brand and label purported to be, namely, "peppermint extract." Second, that said dilute solution of alcohol, containing an infinitesimal quantity of the oil of peppermint and having added thereto said artificial coloring matter as hereinbefore set out, was then and there mixed and packed as, for, and with said article of food so purporting to be "peppermint extract," so as to reduce and lower and injuriously affect the quality and strength of the same. Misbranding of said product was alleged in the information in form as follows: First,

that said article of food was then and there offered for sale and sold under the distinctive name of another article of food, to wit, "peppermint extract;" whereas said article of food was not then and there "peppermint extract," for the reasons and because of the facts hereinbefore set forth, but that said article of food was then and there an imitation of the genuine "peppermint extract" of the recognized standard of quality and strength. Second, that said article of food was labeled and branded as aforesaid, so as to deceive and mislead the purchaser thereof, in that said label and brand was calculated and intended to, and it did, create the impression and belief in the mind of the purchaser thereof that said article of food was then and there "peppermint extract," which conformed to the known and recognized standards of quality and strength; whereas in truth and in fact, it was not such "peppermint extract," for the reasons, and because of the facts hereinbefore more particularly set forth. Third, that said label and brand on said article of food did then and there bear a statement regarding said article of food and the ingredients and substances contained therein, which said statement, to wit, "peppermint extract," was then and there false, misleading, and deceptive, in that said statement purported and represented said article of food then and there to be genuine "peppermint extract"; whereas, such was not the fact, and said statement was untrue and false, for the reasons and because of the facts hereinbefore more particularly set forth.

On October 10, 1911, the defendant entered a plea of nolo contendere, and on February 2, 1912, the court fined the defendant \$25 and costs.

W. M. HAYS,
Acting Secretary of Agriculture.

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