

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 2222.

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

MISBRANDING OF BITTERS.

On November 8, 1912, the United States Attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said District an information against the Bettman-Johnson Co., a corporation, Cincinnati, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about June 13, 1911, from the State of Ohio into the State of Oregon of a quantity of bitters which was misbranded. The product was labeled: "Pepsin Magen Bitters Nicholas Holzbach Made in America This Bitters, which surpasses all others by its fine flavor and aromatic odor, is considered as a medicine and tonic, which, through its excellent qualities, ranks among the best means for the preservation of activity of the digestive organs. The morbid state of the digestive organs, generally called weakness of the stomach, is mainly due to the scanty secretion of Pepsin, in consequence of which the food is insufficiently digested. In such cases, the Physician always prescribes Pepsin, a substance secreted from the stomach during the process of digestion. A supply of Pepsin, as contained in these celebrated Bitters, in connection with some wholesome and strengthening bitter roots and herbs, will supply that deficiency and bring the stomach back to a normal condition. Try it and be convinced. Guaranteed by the manufacturers under Serial No. 2161 to comply with the National Pure Food and Drugs Act of June 30, 1906."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Extract by drying, 8.62 per cent; ash, 0.23 per cent; alcohol, per cent by volume, 28.44; methyl alcohol, none; sucrose by Clerget, 5.2 per cent; polarization,

direct temperature 20° C., 7.0° V.; polarization, invert temperature 20° C., 0.0; color, dark brown, mainly caramel; United States Pharmacopœia, pepsin, less than 0.0001 gram in 1 cc of the preparation.

Misbranding of the product was alleged in the information for the reason that it was labeled and branded as set forth above, so as to deceive and mislead the purchaser thereof, in that said label was calculated and intended to and did convey the impression and create the belief that the product was a pepsin bitters containing a substantial amount of pepsin, whereas in truth and in fact it contained only a trace of pepsin, and for the further reason that the label and brand on the product bore statements regarding it and the ingredients and substances contained therein which said statements, as set forth above, were false, misleading, and deceptive, in that they purported and represented the product to contain a substantial amount of pepsin, and were calculated and intended to convey the impression and create the belief that it contained an adequate amount of pepsin to supply a deficiency in the human stomach, whereas in truth and in fact it contained only an infinitesimal quantity of pepsin, and did not contain an amount of pepsin adequate to supply a deficiency in the human stomach. Misbranding was alleged for the further reason that the product contained 28.44 per cent by volume of alcohol, and the labels on the product concerning it failed to bear a statement thereon of the quantity or proportion of alcohol so contained therein.

On November 8, 1912, the defendant company entered a plea of nolo contendere to the information and the court imposed a fine of \$25, with costs of \$15.85.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *January 17, 1913.*

