

4570. Misbranding of "Benn Capsules." U. S. \* \* \* v. Joseph Arthur Bennett. Plea of guilty. Fine, \$25. (F. & D. No. 6855. I. S. No. 909-k.)

On February 26, 1916, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Joseph Arthur Bennett, Lowell, Mass., alleging shipment by said defendant, in violation of the Food and Drugs Act, as amended, on or about August 17, 1914, from the State of Massachusetts into the State of New Hampshire, of a quantity of "Benn Capsules," which were misbranded. The article was labeled: (On box label) "Benn Capsules For Pale and Weak Women Each Capsule contains: Ext. Nux Vomica 1-8 gr., Arsenous Acid 1-50 gr. This great preparation is unsurpassed as a specific for general and nervous debility, and all diseases caused by the above ailments. Price 50c, 6 Boxes for \$2.50 Manufactured for The Benn Chemical Co., Lowell, Mass. Serial No. 40,216 Guaranteed by the B. C. Co. under the Food and Drug Act, June 30th, 1906." (Similar statements in French.) The circular or pamphlet accompanying the article contained, among other things, the following: "Benn Capsules are highly recommended for all ailments peculiar to women, especially in cases of anaemia, general debility, loss of appetite, dyspepsia, headache, backache, pain in the loins and kidneys, insomnia, pains in the side, palpitation of the heart, dizziness, difficulty in breathing, leucorrhœa, falling of the womb, change of life. All these ills, Ladies, of whatever gravity or standing are promptly cured by the use of Benn Capsules." "Consumption Benn Capsules are without a peer as a preventative for consumption, as they keep the digestive organs in perfect working condition. And you very well know that consumption is not found in a perfect stomach coupled with a hearty appetite. Benn Capsules produce rich blood and increase your chances a hundred to one in warding off the curse of the White Plague." "Loins and Kidneys Benn Capsules are unequalled in all cases of disorders affecting the loins and kidneys."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Strychnine (per cent)-----	0.008
Ash (per cent)-----	47.40
Iron, as Fe <sub>2</sub> O <sub>3</sub> (per cent)-----	15.62
Sulphates, as SO <sub>3</sub> (per cent)-----	14.76
Average content of capsule (grains)-----	5.43
Arsenic, as As <sub>2</sub> O <sub>3</sub> (grain per capsule)-----	0.01

The capsules contained a mixture of powdered nux vomica, arsenous acid, an iron compound, and water-soluble sulphates.

Misbranding of the article was alleged in the information for the reason that the following statements regarding the therapeutic or curative effects thereof, included in the circular or pamphlet aforesaid, to wit, "Benn Capsules are highly recommended for all ailments peculiar to women, especially in cases of \* \* \* dyspepsia, headache, backache, \* \* \* insomnia, pains in the side, \* \* \* leucorrhœa, falling of the womb \* \* \*. All these ills, Ladies, of whatever gravity or standing are promptly cured by the use of Benn Capsules," "Benn Capsules are without a peer as a preventative for consumption. \* \* \* Benn Capsules \* \* \* increase your chances a hundred to one in warding off the curse of the White Plague," "Benn Capsules are unequalled in all cases of disorders affecting the loins and kidneys," were false and fraudulent in that they were applied to the article knowingly, and in reckless and wanton disregard of their truth or falsity, so as to represent falsely and fraud-

ulently to the purchasers thereof, and create in the minds of purchasers thereof the impression and belief, that the article was composed of, or contained, ingredients or medicinal agents effective, among other things, for the cure of all ailments peculiar to women, dyspepsia, headache, backache, insomnia, pains in the side, leucorrhœa, and falling of the womb; as a preventive of consumption, and as a remedy in all cases of disorders affecting the loins and kidneys, when, in truth and in fact, it was not, in whole or in part, composed of, and did not contain, such ingredients or medicinal agents.

On March 6, 1916, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$25.

CARL VROOMAN, *Acting Secretary of Agriculture.*