

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1182.

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

ALLEGED MISBRANDING OF HALL'S CATARRH CURE.

At the June term of the United States District Court for the Northern District of Ohio the United States Attorney for said district, acting upon a report by the Secretary of Agriculture, filed information in said court against F. J. Cheney, doing business as the Cheney Medicine Co. and F. J. Cheney & Co., alleging shipment by him, in violation of the Food and Drugs Act, on or about October 22, 1909, from the State of Ohio into the District of Columbia, of a quantity of a drug denominated "Hall's Catarrh Cure," which was misbranded. The drug was labeled as follows: (On bottle) "Hall's Catarrh Cure. F. J. Cheney & Co., Toledo, Ohio. Contains 14 per cent of alcohol (used only as a solvent and to prevent freezing). This valuable remedy has been thoroughly tried and proved itself a cure for catarrh. We offer it to the public with full confidence in its merits. Directions: A teaspoonful in two tablespoonsful of water after each meal, being particular not to omit its use, for its omission for a single day is equivalent to the loss of a week in the cure. Prepared from the original recipe by F. J. Cheney & Co., Toledo, O., Price 75 cents. Registered in U. S. Patent Office, Oct. 23, '79. Revised label Nov. 1st, 1906." (On carton) "\$100 Reward for any Case of Catarrh that can't be cured with Hall's Catarrh Cure. Full Directions inside. Manufactured by F. J. Cheney & Co., Toledo, Ohio, U. S. A. Price 75 cents. Hall's Catarrh Cure. Alcohol 14 per cent, used as a solvent and to prevent freezing. F. J. Cheney & Co., Toledo, Ohio. Hall's Catarrh Cure. Taken Internally, Toledo, Ohio. Serial No. 42, Guaranteed by F. J. Cheney & Co., under the Food and Drugs Act, June 30, 1906." A pamphlet accompanying the bottle, wrapped around it, and enclosed therewith inside carton, contained the following statements: "In curing the catarrh Hall's Catarrh Cure does

away with the other difficulties such as syphilitic and Scrofulous complaints" * * * "Catarrh often affects the sense of smell and sometimes totally destroys it. This is caused by its actions upon the olfactory nerve which is located just beneath the mucous lining of the nasal cavity. Hall's Catarrh Cure by acting directly upon the mucous surfaces through the blood, restores this nerve to its normal condition and renders it capable of performing its function."

* * * Hall's Catarrh Cure is an internal remedy, acting directly upon the blood and mucous surfaces of the system cleansing it from its impurities and causing the puriform matter to be carried off through the natural channels."

Analysis by the Bureau of Chemistry of the United States Department of Agriculture of a sample of said drug showed it to be a liquid preparation containing 15.11 per cent nonvolatile material (total dissolved solids), including 10.81 per cent potassium iodide, 3 per cent invert sugar, a small amount of the extract of some bitter drug, probably gentian, and a slight amount of resinous material. The volatile portion included 13.8 per cent alcohol by volume, cardamon and caraway in small quantity, and water. Misbranding was alleged for the reason that the statements appearing on the label and carton and in the pamphlet were false and misleading and calculated to deceive and mislead the purchaser because the said drug did not contain such ingredients or therapeutic properties capable of affording the relief or cure claimed therefor.

On March 31, 1911, the defendant appeared and filed a general demurrer to the information. On June 6, 1911, the said cause coming on for hearing on said demurrer the court rendered an opinion in which it said, among other things, that—"No charge is made that there is misbranding as to character and quantity of ingredients, but simply that a false deduction was made as to the therapeutic value of the remedy. The case presents no substantial difference from that of *U. S. v. O. A. Johnson*, decided by the Supreme Court of the United States on May 29, 1911, and it is plainly the duty of this court to consider that decision as an authority herein. The demurrer is, therefore, sustained, and the information dismissed."

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 30, 1911.*