

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 741, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF SOFT DRINKS.

(GINGER ALE AND COCA CREAM.)

On or about May 3, 1909, the American Beverage Company, a corporation, St. Louis, Mo., shipped from the State of Missouri into the State of Kentucky a consignment of two food products labeled, respectively: "Great American Ginger Ale Big Stock A carbonated beverage artificially colored and flavored. Guaranteed by American Beverage Co. under the Food and Drugs Act of June 30, 1906. American Beverage Co., sole owners, St. Louis, Mo.;" and "Great American Coca Cream A carbonated beverage artificially colored and flavored. Guaranteed by American Beverage Co., sole owners, St. Louis, Mo." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and the former was found to be an imitation of ginger ale containing benzoic acid, saccharine, capsicum, and caramel; and the latter was found to contain caffeine, cocaine, saccharine, and benzoic acid. As the findings of the analysts and report made showed that the products were adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the said American Beverage Company, Incorporated, an opportunity to be heard. As it appeared after hearings held that the shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney-General with a statement of the evidence upon which to base a prosecution.

In due course a criminal information was filed in the District Court of the United States for the Eastern District of Missouri against the said American Beverage Company, Incorporated, charging the above shipment and alleging that the ginger ale so shipped was adulterated in that said bottles did not contain ginger ale but contained a product made in imitation of ginger ale containing benzoic acid, saccharine, capsicum, and caramel; that said product, so manufactured, had been substituted wholly for ginger ale; and that said product was artificially colored whereby its inferiority was concealed, and further alleg-

ing the product to be misbranded in that the said bottles did not contain ginger ale, but contained a product made in imitation of ginger ale containing benzoic acid, saccharine, capsicum, and caramel; that said product so manufactured had been substituted wholly for the ginger ale; that the said product was artificially colored whereby its inferiority was concealed; that said article was an imitation of and offered for sale under the distinctive name of another article, and that the labels upon said bottles were false and misleading; that said bottles were so labeled as to deceive and mislead the purchaser; and alleging the coca cream so shipped to be adulterated in that said bottles contained a product with which had been mixed cocaine, caffeine, saccharine, and benzoic acid so as to injuriously affect its quality; and in that the contents of said bottles contained added poisonous and deleterious ingredients, to wit, cocaine and caffeine, which rendered said article injurious to health; and further alleging said product to be misbranded in that the product contained in said bottles had been mixed with cocaine, caffeine, saccharine, and benzoic acid so as to injuriously affect its quality and strength; that the contents of said bottles contained added poisonous and deleterious ingredients, to wit, cocaine and caffeine, which rendered said article injurious to health; that the label upon said bottles failed to bear a statement of the quantity and proportions of cocaine and benzoic acid contained therein and failed to bear a statement that said product contained cocaine; the labels upon said bottles were false and misleading, and that said bottles were labeled so as to deceive and mislead the purchaser into supposing that he was buying a pure product, whereas, in truth and in fact, he was buying a product which had been adulterated as aforesaid.

On November 10, 1910, the defendant entered a plea of guilty to the above information and the court imposed a fine of \$20 and costs.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *January 27, 1911.*