

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 785, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF "RED SEAL" COLA QUEEN SYRUP.

On or about August 26, 1909, the Warner-Jenkinson Company, a corporation, St. Louis, Mo., shipped from the State of Missouri into the State of Ohio a consignment of a product in jugs labeled "Cola Queen: Directions—Carbonate at 60 lbs. pressure, throwing one ounce to a half-pint bottle. Guaranteed by the manufacturer under the Food & Drugs Act of June 30, 1906. Serial No. 2008. Harmless color added. Warner-Jenkinson Company, St. Louis, Mo. Warner-Jenkinson Company Red Seal Trade Mark Manufacturers of high-grade bottlers' extracts." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and the product was found to be a syrupy liquid consisting essentially of caffeine 0.09 per cent, cocaine and cocaine derivatives, phosphoric acid, sugar, caramel, flavoring agents, and water. As the above analysis and report thereon indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the said Warner-Jenkinson Company, Incorporated, and the party from whom the samples were procured opportunities for hearings. 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 Warner-Jenkinson Company, Incorporated, charging the above shipment, and alleging that the product so shipped was adulterated in that said jugs contained a liquid consisting of caffeine, cocaine and derivatives of cocaine, phosphoric acid, sugar, caramel, flavoring agents, and water, but contained no substance derived from the cola nut or cola plant, as indicated by the label, which said liquid had been substituted for the article described upon

the label; in that the liquid in said jugs had been mixed and packed with an artificially compounded solution of caffein, cocain, cocain derivatives, phosphoric acid, sugar, caramel, flavoring agents, and water, so as to injuriously affect its quality and strength; in that the product contained added poisonous and deleterious ingredients, to wit, caffein and cocain and derivatives of cocain, which might render said article injurious to health; and in that said product was artificially colored whereby its inferiority was concealed. The information also alleged that the product so shipped was misbranded in that it was a liquid, as above stated, containing no substance derived from the cola nut or cola plant, and the label was calculated to mislead and deceive the purchaser into the belief that the product contained derivatives of the cola nut or cola plant; that said article was an imitation and was offered for sale under the distinctive name of another article; that the labels upon said jugs were false and misleading and said jugs were so labeled as to deceive and mislead the purchaser, and that said jugs failed to bear a statement upon the label of the quantity or proportion of cocain and derivatives of cocain contained therein, or to bear a statement on the labels that said product contained any cocain or derivatives of cocain.

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., *February 21, 1911.*