

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 742, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF SOFT DRINKS.

(COCA CREAM AND PEPSETTE.)

On or about April 28, 1909, the American Beverage Company, a corporation, shipped from the State of Missouri into the State of Tennessee a consignment of two food products labeled, respectively: "Great American Coca Cream 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 Pepsette. A pepsin and fruit drink for indigestion, heart burn, etc. A carbonated beverage artificially colored and flavored. Guaranteed by the American Beverage Co. under the Food and Drugs Act of June 30, 1906. American Beverage Co., St. Louis, Mo." On or about April 29, 1909, the said American Beverage Company, Incorporated, also shipped from the State of Missouri into the State of Kentucky a consignment of a food product labeled: "Great American Pepsette. A pepsin and fruit drink for indigestion, heart burn, etc. A carbonated beverage artificially colored and flavored. Guaranteed by the American Beverage Co. under the Food and Drugs Act of June 30, 1906. American Beverage Co., sole owners, St. Louis, Mo." Samples from these shipments were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and the coca cream was found to contain saccharine, benzoic acid, cocaine, and caffein, and the pepsette was found to possess none of the proteolytic activity of pepsin and to contain cocaine. As the findings of the analyst 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, and the parties from whom the samples were procured opportunities for hearings. As it appeared after hearings held that the shipments were 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 shipments and alleging that the pepsette contained in the aforesaid shipment of April 29, 1909, was adulterated in that the said bottles contained a dilute solution of sugar, colored and flavored; that it contained no pepsin; in that the said product contained cocaine, an added poisonous and deleterious ingredient which rendered said article injurious to health, and that it was artificially colored whereby its inferiority was concealed; and further alleging the product to be misbranded in that the contents of said bottles consisted of a dilute solution of sugar artificially colored and flavored and contained no pepsin; that it contained cocaine, and the label upon said bottles failed to declare the quantity and proportion of cocaine contained therein, or that said bottles contained any cocaine; in that the said bottles did not contain a pepsin and fruit drink; and that the contents of said bottles contained no pepsin; in that said bottles were so labeled as to deceive and mislead the purchaser, and that the labels upon said bottles were false and misleading; and alleging that the coca cream so shipped was adulterated in that the said jugs contained a product with which had been mixed cocaine, saccharine, benzoic acid, and a coal-tar dye, so as to injuriously affect its quality, and in that the contents of said jugs contained added poisonous and deleterious ingredients, to wit, cocaine, caffeine, and a harmful coal-tar dye, which rendered the said article injurious to health, and further alleging the product to be misbranded in that the said jugs contained a product which had been mixed with cocaine, saccharine, and benzoic acid and a coal-tar dye, so as to injuriously affect its quality; and in that the label of said jugs failed to declare the quantity and proportion of cocaine contained therein or that said jugs contained cocaine; and that the labels upon said jugs were false and misleading in that said jugs were so labeled as to deceive and mislead the purchaser, that said product contained in said jugs was not a coca cream, but was in fact a mixture of coca cream, cocaine, benzoic acid, and coal-tar dye. The information also alleged that the pepsette contained in the aforesaid shipment of April 28, 1909, was adulterated in that said bottles contained a dilute solution of sugar, colored and flavored; in that it did not contain either pepsin or fruit; and that it did contain cocaine; and that said product contained an added poisonous and deleterious ingredient which rendered said article injurious to health, to wit, cocaine; and that it was artificially colored whereby its inferiority was concealed; and that the product was misbranded

in that said bottles contained a dilute solution of sugar colored and flavored; that it did not contain either pepsin or fruit; that said product did contain cocaine; that said label failed to declare the quantity and proportion of cocaine contained therein, or that said product contained any cocaine; that said product contained an added poisonous and deleterious ingredient which rendered said article injurious to health, to wit, cocaine; that it was artificially colored whereby its inferiority was concealed; and that said label was false and misleading.

On November 10, 1910, the defendant entered a plea of guilty to the above information and the court imposed a fine of \$30 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 28, 1911.*