

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 784, FOODS AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF A DRUG PRODUCT—"KOLA" SYRUP.

On or about August 21, 1909, the Warner-Jenkinson Company, a corporation, St. Louis, Mo., shipped from the State of Missouri into the State of Michigan a consignment of a product in jugs labeled: "Dr. Don's Kola: Directions—Carbonate at 60 lbs. pressure, throwing one ounce to a half-pint bottle. Guaranteed by the manufacturer under Food & Drugs Act of June 30, 1906. Serial No. 2008. Harmless color added. Los Angeles Phosphate Company, Manufacturers of Dr. Don's Soluble Bottlers' Extracts, St. Louis, Mo." 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, phosphoric acid, sugar, flavoring and coloring agents, and water. As the above analysis and report thereon showed 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 the said jugs contained a liquid consisting essentially of caffeine, cocaine and derivatives of cocaine, phosphoric acid, sugar, flavoring and coloring agents, and water, and contained no substance derived from the cola nut or cola plant, which said liquid contained

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

