

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 345, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—EXTRACT OF DAMIANA.

On or about April 9, 1908, Frederick Stearns & Company, a corporation of Detroit, Mich., shipped from the State of Michigan to the State of Tennessee a consignment of a product labeled

NYAL'S COMPOUND EXTRACT OF DAMIANA.

Each fluid ounce represents, Alcohol, 50% Coca, 15 gr., Damiana 76 gr., Nux Vomica 4 gr., Phosphorus 35/1000 gr.

Useful as an aphrodisiac and for the restoration of virility in debility of the reproductive organs of both sexes.

Damiana is a non-irritating sexual tonic.

Coca exalts the intellectual faculties.

Prepared for the New York and London Drug Co. (incorporated), New York, U. S. A.

Samples of this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as it appeared from the findings of the analyst and report made that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded Frederick Stearns & Company, and the dealer from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, together 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 Michigan, charging the above shipment and alleging that the product was misbranded, in that it contained a quantity of cocaine, and did not show upon the label the quantity or proportion of said cocaine contained therein, and was further misbranded, in that the label contained the statement "NYAL'S Compound Extract of

Damiana," which statement was false, misleading, and deceptive, in that there was not sufficient damiana to justify the use of the name "Extract of Damiana," and was further misbranded, in that the label contained the statement "Useful as an aphrodisiac and for the restoration of virility in debility of the reproductive organs of both sexes," which statements were false, misleading, and deceptive, and tended to deceive and mislead the purchaser into the belief that the so-called Extract of Damiana was useful to restore virility in debility of the reproductive organs of both sexes, when, as a matter of fact, the said preparation did not contain the aphrodisiac qualities claimed for this product, and it had no value in that respect, and that such statement on the label as aforesaid was unwarranted.

On July 13, 1909, the defendant entered a plea of nolo contendere, and the court imposed a fine of \$5.

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

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *May 17, 1910.*

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