

United States Department of Agriculture,
OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 791, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG PRODUCT—"SPORTY DAYS INVIGORATOR."

On or about September 27, 1910, the Sporty Days Invigorator Company, St. Louis, Mo., shipped from the State of Missouri into the State of Texas two drums each containing 200 bottles of a drug product labeled: "Sporty Days Invigorator—A Compound—Guaranteed by serial No. 1512—The Sporty Days Invigorator Co., St. Louis, Mo.—Trade Mark Copyrighted—Price 35c. per Bottle—Alcohol 37.50 per cent." Samples of this product were procured and analyzed by the Bureau of Chemistry and the product was found to be 34.82 per cent alcohol and 8.7 per cent of nonvolatile material, of which 8.28 per cent was composed of sugar and flavoring material. As the findings of the analyst and report made indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, and liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the Eastern District of Texas.

In due course a libel was filed in the District Court of the United States for said district against the said two drums of the product, charging the above shipment and alleging that the product so shipped was misbranded in that it had no aphrodisiac properties, was not a cure for disease, and had none of the properties claimed for it in said label, and praying seizure and condemnation of the product. Thereupon J. Simon & Sons, of St. Louis, Mo., appeared by their attorneys, and filed a claim to the product involved, admitting that the product was misbranded as in said libel alleged, and agreeing that an order be entered condemning and confiscating said property to the United States. The case coming on for hearing and the court being fully informed in the premises issued its decree finding the product was misbranded, and forfeiting and confiscating the same to the United States, with a proviso, however, that upon payment by said J. Simon & Sons of all costs in these proceedings and the execution and delivery of a good and sufficient bond in the sum of \$400 to be filed with the clerk of said court, conditioned that the said product should not be sold or otherwise disposed of contrary to law, the marshal of said district should thereupon release said property to the above-mentioned

claimants, and further providing that in case said claimants should not within sixty days from date of said decree pay the costs assessed against them and execute and deliver the bond above referred to, the marshal of said district should destroy the aforesaid two drums of the product in question.

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 24, 1911.*

