

Coca-Cola Guaranteed Under What?

by Cecil Munsey

In America in 1906, the pure Food and Drug Act was passed. This historic legislation eventually had a great effect on the proprietary medicine industry of which, according to the U. S. Government, The Coca-Cola Company was very much a part.

During the Spanish-American War (1898-1900) the government taxed Coca-Cola as a proprietary (patent) medicine. Collectors occasionally find an 1898 pink "Battleship" U. S. Revenue Stamp overstamp "COCA-COLA" indicating proprietary medicine tax had been collected.

A number of firms, including The Coca-Cola Company, misused the new 1906 drug law by claiming that it guaranteed their products. Pictured here is a historic advertisement that I recently purchased on the eBay Internet Website. The ad is from a 1907 issue of the famous MUNSEY'S magazine. At the bottom of the ad is proclaimed, "Guaranteed under the Pure Food and Drug Act, June 30th, 1906, Serial 33324" [Figure 1].

As soon as the government found out about it, such advertising was stopped on the basis that it was misleading and

illegal.

[A mistaken association of Coca-Cola and alcohol was so prevalent that in 1907 the War Department banished Coca-Cola from Army posts. The injunction remained in effect for two years.]

In 1906, when the Pure Food and Drug Act was signed into law, Dr. Harvey W. Wiley was the head of the Bureau of Chemistry of the Department of Agriculture. It was his duty to enforce the new law that he had helped formulate. Wiley had a profound dislike for Coca-Cola and is quoted as having called its makers "dope peddlers." When questioned about this statement, he asserted that he would be glad to replace "dope peddlers" with "poisoners."

In 1909, Wiley, representing the government, formally accused The Coca-Cola Company of violating the Pure Food and Drug Act of 1906. The famous case is known as the "United States v. Forty Barrels and Twenty Kegs of Coca-Cola." The barrels and kegs of Coca-Cola syrup were impounded by federal agents while they were being transported from Atlanta to Chattanooga. Wiley's charges were adulteration and misbranding. More

specifically, the charge of adulteration was based on the portion of the new law which forbade the addition of caffeine to a product; the charge of misbranding was based on the government's opinion that Coca-Cola contained no coca and very little cola.

The historic case between the government and Coca-Cola dragged through the courts for nine years. The Coca-Cola Company won in two lower courts with the arguments (1) that caffeine was not an additive but an essential part of Coca-Cola and (2) that if such things as butternuts, pineapples, and Grape-Nuts, which contained no butter, pines, apples, grapes, or nuts, were not misbranded, then neither was Coca-Cola. But when the government pushed the case on to the U. S. Supreme Court, that body did not agree with the lower courts' decisions. Justice Charles Evans Hughes explained the Supreme Court's logic by pointing out that it would be illegal to produce and sell a product called "chocolate" that contained no chocolate or one called "vanilla" that contained no vanilla. His logic was further expanded when he concluded that if The Coca-Cola Company was right in its arguments, then it would be all right to label a product "chocolate-vanilla" when it contained neither substance.

The Supreme Court, upon making the final decision, remanded the case back to a federal district court in Chattanooga, where the original trial had been held, for disposition. Luckily for The Coca-Cola Company, however, Dr. Wiley had by then left government service, and his successor was just as anxious as The Coca-Cola Company to settle the nine-year-old fight. To settle the case, as ordered by the Supreme Court in 1918, The Coca-Cola Company agreed to make slight modifications in its syrup-manufacturing processes and paid all costs of the protracted trial.

Reference:

"The Illustrated Guide to the COLLECTIBLES OF COCA-COLA" by Cecil Munsey, Hawthorn Books, Inc., New York, 1972, pp. 28-30.



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