

4358. Misbranding of "Musterole." U. S. v. The Musterole Co., a corporation. Plea of nolo contendere. Fine, \$25 and costs. (F. & D. No. 5912. I. S. No. 6327-e.)

On March 13, 1915, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district, an information against The Musterole Co., a corporation, Cleveland, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, as amended, on or about February 21, 1913, from the State of Ohio into the State of Pennsylvania, of a quantity of "Musterole," which was misbranded. The article was labeled: (On bottle and carton) "Will Not Blister (Trade Mark) Musterole Will not Blister. The Musterole Co. Cleveland, O. Keep cover on tight and in a cool place. Directions: Apply by rubbing well to parts affected. Guaranteed by The Musterole Co., Cleveland, O. under the Pure Food and Drugs Act June 30, 1906. Serial No. 5042. For Coughs and Colds in the Chest, Pneumonia, Asthma, Bronchitis, Croup, Rheumatism, Pleurisy, Headache, Neuralgia, Sore Joints, and Muscles." The pamphlets or circulars accompanying the article contained, among other things, the following: "There is nothing like Musterole for Sore Throat, Tonsillitis, Stiff Neck, Neuralgia, Congestion, Rheumatism, Sore Muscles, Sprains, Bronchitis, Bruises, Croup, Asthma, Headache, Pleurisy, Lumbago, Pains and aches of the Back or Joints, Chilblains, Frosted Feet, Colds of the Chest (it prevents pneumonia)," "It relieves pain almost instantly," "Musterole is the best and most powerful external preparation ever discovered for the relief of inflammation, congestion and all nerve pain * * *."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it was essentially a combination of oil of mustard, menthol, and, evidently, camphor, in a fatty base such as lard.

Misbranding of the article was alleged in the information for the reason that the following statements regarding the therapeutic or curative effects thereof, appearing on the labels aforesaid, to wit, (On carton and bottle) "For * * * Pneumonia, Asthma, Bronchitis, Croup, Rheumatism, Pleurisy * * *," and included in the circulars or pamphlets aforesaid, to wit, "There is nothing like Musterole for * * * Tonsillitis, * * * (it prevents pneumonia)," "Musterole is the best and most powerful external preparation ever discovered for the relief of * * * all nerve pain * * *," were false and fraudulent in that they were applied to said article knowingly, and in reckless and wanton disregard of their truth or falsity, so as to represent falsely and fraudulently to purchasers thereof, and create in the minds of purchasers thereof the impression and belief, that it was, in whole or in part, composed of, or contained, ingredients or medicinal agents effective for the cure of pneumonia, asthma, bronchitis, croup, rheumatism, and pleurisy, and effective as a remedy for tonsillitis, as a preventive of pneumonia, and as the best and most powerful external preparation ever discovered for the relief of all nerve pain, when, in truth and in fact, it was not so composed, and did not contain such ingredients or medicinal agents.

On January 11, 1916, the defendant company entered a plea of nolo contendere to the information, and the court imposed a fine of \$25 and costs.

C. F. MARVIN, *Acting Secretary of Agriculture.*