

4478. Misbranding of "W. K. Sterline's Asthma and Hay Fever Remedy" and "W. K. Sterline's Bronchial Elixir." U. S. * * * v. Webster K. Sterline (National Chemical Co.). Plea of nolo contendere. Fine, \$75 and costs. (F. & D. No. 6561. I. S. Nos. 6376-e, 6377-e, 6378-e.)

On January 13, 1916, the United States attorney for the Southern 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 Webster K. Sterline, trading as National Chemical Co., Sidney, Ohio, alleging shipment by said defendant, in violation of the Food and Drug Act, as amended, from the State of Ohio into the District of Columbia, on or about May 15, 1913, of a quantity of "W. K. Sterline's Asthma and Hay Fever Remedy," and on or about July 26, 1913, of a quantity of said remedy and of "W. K. Sterline's Bronchial Elixir," which were misbranded.

The asthma and hay fever remedy was labeled, in part: (On shipping package) "Glass: Instructions to Express Agents. This package is plainly addressed and if you are unable to deliver or party does not respond to your notice ten days after arrival notify shipper. * * * From W. K. Sterline (National Chemical Company) Sidney, Ohio, U. S. A. Proprietor and manufacturer of Asthma Remedy. Cures Asthma by Removing the Cause. Bronchial Elixir Cures Bronchitis Korana An Instant Relief." (On bottle) "W. K. Sterline's Asthma and Hay Fever Remedy Directions. Shake well. In a wine glass of water take two teaspoonfuls before meals and before retiring. During an attack take an additional dose between meals. Children from one-fourth to a teaspoonful, according to age. Drink plenty of water between meals. Price \$1.00. Six for \$5.00. Guaranteed by W. K. Sterline under Pure Food and Drugs Act June 30, 1906. This compound contains 10 per cent. alcohol to each fluid ounce. Serial No. 11402. Manufactured only by W. K. Sterline, Proprietor National Chemical Co., Sidney, O., U. S. A." The circular or pamphlet accompanying this article in one of the shipments contained, among other things, the following: "Hay Fever is caused by the fine dust from flowers, which is pollen. It first comes when the fruit trees are in bloom in the spring and the early flowers appear. This attack is followed by the June or Rose Cold, and then by the July Cold, when other plants, flowers and weeds are in bloom. This pollen in the air poisons the mucous membrane, and the eyes water, the nose runs and the sufferer feels perfectly miserable. But these symptoms can be entirely prevented by using a \$5.00 case of Sterline's Hay Fever Medicine (six bottles). When the medicine is taken before the attack complete freedom is obtained the entire season and the least suffering avoided. It is a mistake to wait until Fall and just avoid the severest suffering when all of the inconvenience is so easily prevented. When Fall comes all plants and weeds are seeding, and this causes the most severe attack. It starts August 15th to 18th, according to the locality. The nose runs freely, the eyes water continuously, there is stinging sensation, and the sufferer feels completely stuffed up until the heavy frosts in late October when the plants stop seeding. Sterline's Hay Fever Remedy will check and overcome this trouble even when the attack has a full start, but no one should wait for it takes a little time to check and stop the inflammation when it has obtained great headway. The same amount of medicine which will stop the attack will, if used beforehand, entirely prevent Hay Fever and save all suffering." "Hay Fever Always Prevented. I have used your Hay Fever medicine for years, since 1908, and it has always prevented this trouble. I begin in advance of the Hay Fever season and have never lost a minute from my business. Last year I never felt as well in my life as right during the time I used to suffer the worst. W. H. Fondersmith, Elwood, Ind."

Analysis of a sample of this article by the Bureau of Chemistry of this department showed the following results:

Nonvolatile matter (per cent)-----	9.99
Ash (sulphate) (per cent)-----	3.93
Potassium salts (as potassium) (per cent)-----	0.65
Sodium salts (as sodium) (per cent)-----	0.81
Sugar (per cent)-----	1.53
Alcohol (per cent by volume)-----	7.62
Potassium, sodium, bromids, iodids, acetates, caramel, emodin, and vegetable extractive: Present.	
Alkaloids: Absent.	

Product is a hydroalcoholic solution containing potassium and sodium iodids, bromids, and acetates. Contains extractive matter from some laxative plant drug.

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 shipping package) “* * * Cures Asthma by Removing the Cause * * *.” (On bottle) “W. K. Sterline’s Asthma and Hay Fever Remedy * * *,” and included in the circular or pamphlet aforesaid, to wit, “Hay Fever * * * Sterline’s Hay Fever Remedy will check and overcome this trouble even when the attack has a full start, but no one should wait for it takes a little time to check and stop the inflammation when it has obtained great headway. The same amount of medicine which will stop the attack will, if used beforehand, entirely prevent Hay Fever and save all suffering,” “Hay Fever Always Prevented,” were false and fraudulent in that the same were applied to the article knowingly, and in reckless and wanton disregard of their truth or falsity, so as to represent falsely and fraudulently to the 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, among other things, as a cure for asthma and a remedy for hay fever and as a cure and preventive of hay fever, when, in truth and in fact, it was not, in whole or in part, composed of, and did not contain, such ingredients or medicinal agents.

The bronchial elixir was labeled, in part: (On shipping package) “Glass: Instructions to Express Agents This package is plainly addressed and if you are unable to deliver or party does not respond to your notice ten days after arrival, notify shipper. * * * From W. K. Sterline (National Chemical Company) Sidney, Ohio, U. S. A. Proprietor and Manufacturer of Asthma Remedy. Cures Asthma by Removing the Cause Bronchial Elixir Cures Bronchitis Korana An Instant Relief.” (On bottle) “W. K. Sterline’s Bronchial Elixir For Coughs, Colds, Bronchitis, Bronchial Asthma, and All Affections of the Mucous Membrane. Directions. Keep in a cool place, and shake well before using. Take two teaspoonfuls after meals. Children from 15 drops to one-half teaspoonful. Price \$1.00 Six for \$5.00 Guaranteed by W. K. Sterline under Pure Food and Drugs Act June 30, 1906. This compound contains 10 per cent. alcohol and 1-16 grain opium to each fluid ounce. Serial No. 11,402. Manufactured only by W. K. Sterline, Proprietor National Chemical Co., Sidney, O., U. S. A.”

Analysis of a sample of this article by said Bureau of Chemistry showed that it consisted essentially of a hydroalcoholic solution of potassium citrate, morphine, and aromatics, among which anise was indicated.

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 label aforesaid, to wit, (On shipping package) “* * * Cures Bronchitis * * *.” (On bottle “W. K. Sterline’s Bronchial Elixir For * * * All Affections of the Mucous Membrane * * *,” were false and fraudulent in that the same were applied to the article knowingly, and in reckless and wanton disregard of their truth or falsity, so as to represent falsely and fraudulently to the 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, among other things, as a cure for bronchitis, and a remedy for all affections of the mucous membrane, when, in truth, and in fact, it was not, in whole or in part, composed of, and did not contain, such ingredients or medicinal agents.

On January 17, 1916, the defendant entered a plea of nolo contendere to the information, and the court imposed a fine of \$75 and costs.

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