On September 28, 1937, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $25 and costs for violation of both acts.

M. L. WILSON, *Acting Secretary of Agriculture.*

27707. Adulteration and misbranding of Ophthalmic Ointment Yellow Oxide of Mercury, Ophthalmic Ointment Atropine Sulphate, and Lassar's zinc paste. U. S. v. Price Drug Co., Inc., Samuel Thomas, and Philip C. Thomas. Pleas of guilty. Corporation fined $300; individual defendants each fined $150. One-half of all fines remitted. (F. & D. No. 38670. Sample Nos. 8104–C, 8258–C, 8756–C.)

This case covered (1) a product sold under a name having the same meaning as "Yellow Mercuric Oxide Ointment," a name recognized in the United States Pharmacopoeia, which contained less mercuric oxide than required by the pharmacopoeia and less mercuric oxide than declared on the label; (2) Ophthalmic Ointment Atropine Sulphate which was represented to contain atropine sulphate but which contained no atropine sulphate; and (3) a product sold under a name having the same meaning as "Paste of Zinc Oxide," a name recognized in the National Formulary, which contained less zinc oxide than prescribed by the formulary and contained no starch, a prescribed ingredient.

On July 26, 1937, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Price Drug Co., Inc., New York, N. Y., and Samuel Thomas and Philip C. Thomas, officers of the corporation, alleging shipment by the defendants in violation of the Food and Drugs Act on or about June 3 and June 10, 1936, from the State of New York into the State of Pennsylvania, and on or about July 1, 1936, from the State of New York into the State of New Jersey, of quantities of drug preparations that were adulterated and misbranded. The articles were labeled variously: "Ophthalmic Ointment Yellow Oxide of Mercury 1%"; "Ophthalmic Ointment 1 Dram Atropine Sulphate, ½%"; "Lassar's Zinc Paste N. F." They were further labeled: "Price Drug Co., Inc., New York, N. Y."

The Ointment Yellow Oxide of Mercury was alleged to be adulterated in that it was sold under a name having the same meaning as "Yellow Mercuric Oxide Ointment," a name recognized in the United States Pharmacopoeia; it contained less than 0.9 percent of mercuric oxide, namely, 0.73 percent, the standard of strength, quality, and purity for yellow mercuric oxide ointment as determined by the test laid down in the pharmacopoeia required that it contain not less than 0.9 percent of mercuric oxide; and it therefore differed from the aforesaid standard of strength, quality, and purity. It was alleged to be adulterated further in that it fell below the professed standard and quality under which it was sold, since it was labeled "Ointment Yellow Oxide of Mercury 1%"; whereas it contained not more than 0.73 percent of mercuric oxide. It was alleged to be misbranded in that the statement on the carton label, "Ointment Yellow Oxide of Mercury 1%," was false and misleading since it contained not more than 0.73 percent of mercuric oxide.

The "Ophthalmic Ointment * * * Atropine Sulphate ½%" was alleged to be adulterated in that it fell below the professed standard and quality under which it was sold, since it contained no atropine sulphate. It was alleged to be misbranded in that the statement "Ophthalmic Ointment * * * Atropine Sulphate ½%," on the carton and tube, was false and misleading since the article contained no atropine sulphate.

Lassar's Zinc Paste, N. F. was alleged to be adulterated in that it was sold under a name having the same meaning as paste of zinc oxide, a name recognized in the National Formulary; it contained less than 25 grams of zinc oxide per 100 grams, namely, 19.6 grams, and no starch—the standard of strength, quality, and purity for paste of zinc oxide as determined by the test laid down in the formulary required that it contain 25 grams of zinc oxide and 25 grams of starch per 100 grams—and therefore the article differed from the aforesaid standard of strength, quality, and purity. It was alleged to be misbranded in that the statement on the jar, "Lassar's Zinc Paste, N. F.," was false and misleading since the article contained less than 25 grams of zinc oxide per 100 grams and no starch.

On October 4, 1937, pleas of guilty were entered on behalf of the defendants, and the court imposed a fine of $300 against the corporation—of which $150 was remitted—and fines of $150 each against Samuel Thomas and Philip C. Thomas, and remitted payment of $75 as to each.

M. L. WILSON, *Acting Secretary of Agriculture.*