

**4123. Misbranding of "Kinmonth's Diphtheria & Sore Throat Specific."
U. S. v. Hugh S. Kinmonth. Plea of guilty. Fine, \$25. (F. & D. No.
6049; I. S. No. 7745-e.)**

On June 22, 1915, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Hugh S. Kinmonth, Asbury Park, N. J., alleging shipment by said defendant, in violation of the Food and Drugs Act, as amended, on or about December 23, 1912, from the State of New Jersey into the State of New York, of a quantity of "Kinmonth's Diphtheria & Sore Throat Specific" which was misbranded. The product was labeled: (On carton) "Kinmonth's Diphtheria & Sore Throat Specific Contains 4% Alcohol by volume. Guaranteed by H. S. Kinmonth under the Food and Drugs Act, June 30, 1906. Serial No. 4363. For the Relief of Diphtheria, Sore Throat, Quinsy, Enlarged or Inflamed Tonsils, Ulcerated Mouth, Hoarseness and all the various forms of Throat Diseases. No medicine has given greater satisfaction, or met with greater success in the treatment of Diphtheria and Sore Throat. Physicians are using it in preference to all other remedies. It leaves no injurious effects on the system and can be taken by the most delicate and feeble. Directions Inside. Price 25 Cents. Proprietor H. S. Kinmonth, M. D. Asbury Park, N. J. Registered in the U. S. Patent Office." (On back of carton) "If you are troubled with Asthma or have a friend a sufferer from this disease, send for a trial or sample bottle of Kinmonth's Asthma Remedy. I will mail it to you free of charge. H. S. Kinmonth, M. D. Asbury Park New Jersey." (On sides of carton) "This Specific is being used with marked success in the treatment of Diphtheria and Sore Throat throughout the various States and Territories of the Union." (On bottle) "Kinmonth's Diphtheria and Sore Throat Specific Contains 4 per cent of Alcohol by Volume Guaranteed by H. S. Kinmonth under the Food and Drugs Act, June 30, 1906. Serial No. 4363. Directions: Dose for adults, 2 to 3 teaspoonfuls in half wine-glass of sweetened water; 2 hours apart. Dose for children, from 1 to 10 years of age, $\frac{1}{2}$ to 2 teaspoonfuls in sweetened water, 2 hours apart; or may be given in smaller doses at shorter intervals. Those old enough should gargle the throat with a small portion of the medicine in a teaspoonful of water, 1 to 2 hours apart. In the early stages of diphtheria the medicine should be given night and day until the patient is cured, when it should be given 3 or 4 times a day for a week or two. In severe cases of diphtheria a glassful of milk punch or eggnog should be given every four hours. Milk, beef tea and soups should be given liberally. If the medicine is taken in the earliest stages, it is almost sure to arrest quinsy. Persons suffering from hoarseness, swollen tonsils and dryness of the throat, will obtain great relief by taking 4 or 5 doses during the day; also by gargling the throat 4 or 5 times daily with a small quantity of the Specific. For children it is often necessary to make the medicine very sweet with sugar. Should the ordinary dose cause vomiting, reduce the dose to suit the case. Keep well corked where it will not freeze. Price 25 Cents Proprietor and Manufacturer H. S. Kinmonth, M. D. Asbury Park, N. J." (Blown in bottle) "Diphtheria & Sore Throat Specific H. S. Kinmonth, M. D. Asbury Park, N. J." The circular or pamphlet accompanying the product included, among other things, the following statement: "* * * The only medicine * * * that can be relied upon to relieve diphtheria and other forms of sore throat."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed this preparation to be essentially a dilute alcoholic solution of ferric chlorid and potassium chlorate; it contained 3.33 per cent by volume of alcohol.

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 carton) "For the Relief of Diphtheria * * * Enlarged * * * Tonsils * * * and all the various forms of Throat Diseases. No medicine has given greater satisfaction, or met with greater success in the treatment of Diphtheria * * *," "This Specific is being used with marked success in the treatment of Diphtheria and Sore Throat," were false and fraudulent in that the same 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 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 relief for diphtheria, enlarged tonsils, and all the various forms of throat diseases, and effective as a specific for the treatment of diphtheria and sore throat; when, in truth and in fact, said article was not in whole or in part composed of, and did not contain, ingredients or medicinal agents effective, among other things, as a relief for diphtheria, enlarged tonsils, or all the various forms of throat diseases, or effective as a specific for the treatment of diphtheria or sore throat. Misbranding was alleged for the further reason that the following statement regarding the therapeutic or curative effects of the article, included in the circular or pamphlet aforesaid, to wit, "* * * The only medicine * * * that can be relied upon to relieve diphtheria and other forms of sore throat," was false and fraudulent in that, by means of said circular or pamphlet, it was applied to said article knowingly and in reckless and wanton disregard of its 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, for the relief of diphtheria and other forms of sore throat; when, in truth and in fact, said article was not in whole or in part composed of, and did not contain, ingredients or medicinal agents effective, among other things, for the relief of diphtheria or other forms of sore throat. Misbranding was alleged for the further reason that the following statement, to wit, "It leaves no injurious effects on the system and can be taken by the most delicate and feeble," was false and misleading in that it purported and represented that said article of drugs was not injurious in its effect on the system and could be taken with safety by the most delicate and feeble; whereas, in truth and in fact, said article contained a deleterious substance, to wit, chlorate of potash, a drug, which rendered said article injurious in its effect on the system, and, therefore, could not be taken with safety by the most delicate and feeble.

On July 6, 1915, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$25.

CARL VROOMAN, *Acting Secretary of Agriculture.*