

4362. Misbranding of "Dr. Miller's Vegetable Expectorant." U. S. * * *
v. Lavinia A. Marsh (E. Morgan & Sons). Plea of nolo contendere.
Fine, \$20. (F. & D. No. 5956. I. S. No. 7723-e.)

On June 22, 1915, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Lavinia A. Marsh, trading under the firm name of E. Morgan & Sons, Providence, R. I., alleging shipment by said defendant, in violation of the Food and Drugs Act, as amended, on or about February 17, 1913, from the State of Rhode Island into the State of New York, of a quantity of "Dr. Miller's Vegetable Expectorant," which was misbranded. The article was labeled: (On wrapper) "Dr. Miller's Vegetable Expectorant. This invaluable medicine has stood the test a quarter of a century and is acknowledged by hundreds of thousands to be the best Cough Medicine in the world. For Coughs, Colds, Sore Throat, Hoarseness, Inflammation of the Throat and Mouth, Whooping Cough, Canker &c. There is no medicine now in use that has performed more cures. It is warranted not to contain any mineral substance; it is also free from laudanum or squills; it may be taken at any time with perfect safety; it has been the means of saving thousands from that dreadful disease—Consumption which is destroying hundreds of thousands of lives yearly. Any amount of certificates might be obtained from those who have tried it successfully. Prepared and sold by E. Morgan & Sons Sole Proprietors, Successors to J. Miller & Sons, Providence, R. I., U. S. A. Sold wholesale and retail by all the principal Druggists throughout the country. Also by all dealers in medicines. Beware of Counterfeits. None genuine without the facsimile of the signature of the proprietor, J. Miller. All orders promptly attended to. Price 35 Cents. Serial No. 601 Guaranteed under the Food and Drugs Act, June 30, 1906. Contains 5% Alcohol." (Additional statements in foreign language). (On bottle) "Dr. Miller's Vegetable Expectorant. This invaluable medicine has stood the test of nearly a quarter of a century, and is acknowledged by thousands and tens of thousands to be The Best Cough Medicine in the World. For Coughs, Colds, Sore Throat, Hoarseness, Inflammation of the Throat and Mouth, Whooping Cough, Canker Rash, etc., there is no medicine now in use that has performed more cures. It is warranted not to contain any mineral substance; it is also free from laudanum or squills; it may be taken at any time with perfect safety; it has been the means of saving thousands from that dreadful disease, Consumption, which is destroying hundreds of thousands of lives yearly. Do not pronounce this medicine a humbug before you test its virtues. Any amount of certificates might be obtained from those who have tried it successfully. Directions—The Expectorant may be given from three to six times a day, and this direction followed until a cure is effected. In some severe cases it is necessary to take two teaspoonfuls, and at other times half a teaspoonful is sufficient. The size of the dose is to be regulated by the character of the case. Give to children according to age. Serial No. 601. Guaranteed under the Food and Drugs Act, June 30, 1906. Contains 5% of Alcohol. Prepared and sold by the Sole Proprietors, E. Morgan & Sons (Successors to J. Miller and Sons). Providence, Rhode Island, U. S. A. Sold wholesale and retail by all the principal Druggists throughout the country. Also by all dealers in medicine generally. Beware of counterfeits. None genuine without the facsimile. Signature of J. Miller. All orders promptly attended to. Price 35 cents. Entered according to Act of Congress, in the year 1858, by J. Miller, of Sheldonville, in the Clerk's Office of the District Court of the District of Massachusetts." The circular or pamphlet accompanying the article contained, among other things, the following statements: "The best Medicine in the world for Coughs, Colds, Hoarseness,

Bronchitis, Asthma, Influenza, Soreness of the Throat, Chest and Lungs, Croup, Catarrh, Whooping Cough, Canker Rash, &c. * * * it has been the means of saving thousands from Consumption * * * It sells rapidly, because it cures. * * * Dr. J. Miller's Vegetable Expectorant cures and that is the remedy to purchase. * * * It does not dry up a cough and leave the cause behind, but it will loosen and cleanse the lungs, and allay irritation, thus removing the cause of the complaint. * * * The Expectorant will cure * * *."

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

Alcohol (per cent by volume)-----	5.86
Solids (per cent)-----	62.38
Ash (per cent)-----	5.50
Invert sugar (per cent)-----	37.63
Sucrose (per cent)-----	10.14
Ether extract from acid solution (fatty material) (per cent)	1.04
Alkaloids -----	Faint trace
Sulphuric anhydrid (per cent)-----	0.28
Chlorin (per cent)-----	0.53
Sodium, potassium, magnesium-----	Present
Iron and aluminum oxids (per cent)-----	0.22
Phosphoric anhydrid (per cent)-----	0.24
Lime (per cent)-----	0.32

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 wrapper) "For * * * Whooping Cough, &c. There is no medicine now in use that has performed more cures. * * * it has been the means of saving thousands from that dreadful disease—Consumption * * *." (On bottle) "For * * * Whooping Cough, * * * there is no medicine now in use that has performed more cures * * * it has been the means of saving thousands from that dreadful disease, Consumption * * *," and included in the circular or pamphlet aforesaid, to wit, "The best Medicine in the world for * * * Bronchitis, Asthma, Influenza, * * * Croup, Catarrh, Whooping Cough, * * * It has been the means of saving thousands from Consumption * * * It sells rapidly, because it cures. * * * Dr. J. Miller's Vegetable Expectorant cures and that is the remedy to purchase, * * * It does not dry up a cough and leave the cause behind, but it will loosen and cleanse the lungs * * * thus removing the cause of complaint. * * * The Expectorant will cure," 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 cure for whooping cough, and as a preventive of consumption, and for the cure of bronchitis, asthma, influenza, croup, and catarrh, when, in truth and in fact, it was not, in whole or in part, so composed, and did not contain such ingredients or medicinal agents.

On January 28, 1916, the defendant entered a plea of nolo contendere to the information, and the court imposed a fine of \$20.

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