

On January 10, 1939, the defendant entered a plea of nolo contendere and the court imposed a fine of \$50, but suspended payment thereof and placed the defendant on probation for 3 months.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30226. Adulteration and misbranding of Gilmore's Ointment of Mercury Oxide, and Gilmore's Ointment Holocain. U. S. v. Don Gilmore Laboratories, Inc. Plea of nolo contendere. Fine, \$25. (F. & D. No. 39802. Sample Nos. 37051-C, 37052-C.)

The former of these products was labeled to indicate that it was yellow mercuric oxide ointment, a product recognized in the United States Pharmacopoeia; whereas it contained less mercuric oxide than required by the pharmacopoeia for yellow mercuric oxide ointment and less than declared on its label. The latter product contained a smaller amount of holocain than declared on the label.

On November 26, 1937, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Don Gilmore Laboratories, Inc., Cleveland, Ohio, alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about May 11, 1936, and May 17, 1937, from the State of Ohio into the State of West Virginia of quantities of the above-named products which were adulterated and misbranded. They were labeled: "Gilmore's No. 2 Ointment Mercury Ox. Flav.," and "Gilmore's No. 29 Ointment Holocain 2%."

The No. 2 ointment was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia but differed from the standard of strength, quality, and purity as determined by the tests laid down therein, since it contained less than 0.9 percent, namely, not more than 0.66 percent of mercuric oxide; whereas the pharmacopoeia provides that yellow mercuric oxide ointment shall contain not less than 0.9 percent of mercuric oxide and the standard of strength, quality, and purity of the article was not declared on the container. It was alleged to be adulterated further in that its strength and purity fell below the professed standard and quality under which it was sold since it was represented to contain 2 percent of yellow mercury oxide; whereas it contained not more than 0.66 percent of yellow mercury oxide. Misbranding was alleged in that the statement on the label, "Contains Mercury Yellow Oxide 2%," was false and misleading.

The No. 29 ointment was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold since it was represented to contain 2 percent of holocain; whereas it contained less than represented, namely, not more than 1.45 percent of holocain. Misbranding was alleged in that the statement on the label, "Holocain 2%," was false and misleading.

On February 3, 1939, a plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$25.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30227. Adulteration and misbranding of Counts Kill-Germ. U. S. v. Abijah Henry Counts (Counts Chemical Co.). Plea of guilty. Penalty, \$25.01 in lieu of fine and costs. (F. & D. No. 39847. Sample Nos. 37068-C, 37069-C.)

The label of this product bore false and fraudulent representations regarding its curative and therapeutic effects, and false and misleading representations regarding its effectiveness as a germicide.

On December 27, 1937, the United States attorney for the Middle District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Abijah Henry Counts, trading as Counts Chemical Co., Nashville, Tenn., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about December 7 and December 31, 1936, from the State of Tennessee into the State of Kentucky of quantities of Counts Kill-Germ which was adulterated and misbranded.

Analysis showed that the article consisted chiefly of mineral oil, pine-needle oil, and a small amount of water. Bacteriological examination showed that it was not germicidal.

The article was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold in that it was labeled "Kill-Germ," whereas it was not a germicide.