

# FRAUDS AND QUACKERY AFFECTING THE OLDER CITIZEN

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## HEARINGS BEFORE THE SPECIAL COMMITTEE ON AGING UNITED STATES SENATE EIGHTY-EIGHTH CONGRESS FIRST SESSION

Part 3.—Washington, D.C.

JANUARY 17, 1963

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## FRAUDS AND QUACKERY AFFECTING THE OLDER CITIZEN

THURSDAY, JANUARY 17, 1963

U.S. SENATE,  
SPECIAL COMMITTEE ON AGING,  
*Washington, D.C.*

The committee met at 10 a.m., pursuant to recess, in room 4230, New Senate Office Building, Hon. Pat McNamara (chairman).

Present: Senators McNamara, Randolph, and Muskie (acting chairman, presiding).

Also present: Senator McCarthy.

Committee staff members present: William G. Reidy, staff director; Frank Frantz, professional staff member; Jack Moskowitz, counsel; John Guy Miller, minority counsel.

Senator MUSKIE. The committee will be in order.

We will proceed this morning with the witnesses scheduled.

Our first witness is Dr. Ethel Percy Andrus, president of the National Retired Teachers Association and the American Association of Retired Persons.

Is Dr. Andrus here?

Would you come forward, please?

### STATEMENT OF DR. ETHEL PERCY ANDRUS, PRESIDENT, NATIONAL RETIRED TEACHERS ASSOCIATION AND THE AMERICAN ASSO- CIATION OF RETIRED PERSONS, ACCOMPANIED BY WILLIAM C. FITCH, EXECUTIVE DIRECTOR, NATIONAL RETIRED TEACHERS ASSOCIATION AND AMERICAN ASSOCIATION OF RETIRED PERSONS

Senator MUSKIE. I notice that you have a prepared statement, Dr. Andrus.

Dr. ANDRUS. Yes, sir.

Senator MUSKIE. Is it your intention to read it?

Dr. ANDRUS. Not entirely.

Senator MUSKIE. You may present it in any way that you wish and in any case it will be printed in full in the record.

Dr. ANDRUS. Thank you, sir.

My name is Ethel Percy Andrus. I am president of the National Retired Teachers Association and the American Association of Retired Persons. These are two nonprofit, nonpolitical associations with a combined paid membership of more than 550,000 persons helping older persons help themselves.

I would like at this time to present my fellow worker, William C. Fitch, the executive director of both of our associations. Mr. Fitch.

Mr. FITCH. Than you, Dr. Andrus.

Dr. ANDRUS. I would like to commend the committee for its wisdom and vision in delving into the problem of exploitation of the aged. Nothing could be more invidious than the pressures that plague older persons and place their health in jeopardy and further deplete their reduced incomes.

I appreciate this opportunity to share the information that our members have brought to our attention and to discuss some of the situations we have here encountered in the administration of our own program.

The charlatans have been successful in the exploitation of older persons because many of the victims have been proud, have been embarrassed, too embarrassed and too proud to admit that they have been unwisely led or have delayed exposing the quackery or fraud until it was too late to prosecute the offender, and so save themselves.

The days of the medicine man are still very much with us in spite of all the research and scientific advances of our times.

We were never more certain of this and the extent to which older persons had become victimized in the health field than we were following the publication of an article in the August-September issue of our magazine *Modern Maturity* by the Commissioner of the U.S. Food and Drug Administration entitled "Cure-All Quackery." That was not the only article appearing. A page length and a little more than a page length was printed on food facts and food fallacies, and the mail fraud within the law, and another one in which we speak very definitely upon the administration of the food and drug services.

(The article referred to previously follows:)

OVER A BILLION DOLLARS A YEAR IS WASTED ON CURE-ALL QUACKERY—BEWARE  
(By George P. Larrick, Commissioner of U.S. Food and Drug Administration)

Mrs. Alice Hill—not her real name—is a grandmother past the age of 70 years and the wife of a retired farmer. She was a witness for the Government in recent criminal prosecution against the promoter of a fake cancer remedy and general cure-all, Millrue. This unlicensed practitioner had diagnosed Mrs. Hill's condition simply by examining her right foot. By examination of the joints and bones of her foot he was able to determine that Mrs. Hill was in generally bad health, that she had a tumor in the right breast, diabetes and arthritis, that her gall bladder was not working properly, and that she might have cancer of the colon.

Thoroughly frightened, Mrs. Hill gladly paid \$5 per bottle for a worthless herb tonic. Altogether she made 7 trips to the medical swindler's office—each one a journey of 165 miles—and bought a total of 37 bottles at a cost of \$185.

But Mrs. Hill was lucky—she got off with relatively light expense and is alive today.

The Reverend Dr. Bruce—likewise, not his real name—was a busy clergyman in a big city. During his middle sixties he noticed a persistent hoarseness in his throat and consulted a physician. The examination showed early cancer of the larynx and an immediate operation to remove the voice box was advised. Dr. Bruce was told that his chances of a cure were excellent.

Understandably, Reverend Bruce was hesitant. The operation would mean the end of his preaching activities.

Never was the truism of "he who hesitates is lost" more fitting. While Reverend Bruce was deliberating, a well-meaning friend told him about a place where cancer was being cured painlessly, without surgery or radiation.

The Reverend Bruce decided to investigate. He found what appeared to be a busy clinic staffed by seeming professionals who cheerfully informed him after examination that his condition most likely could be cured by the Hoxsey "treatment"—a pleasant-tasting liquid medicine.

Although Dr. Bruce knew that reputable physicians regarded the Hoxsey treatment as worthless—although it cost \$400—the temptation was too great and he began to take this tonic of roots and herbs. In spite of warnings, he continued to take the medicine. His condition worsened, and finally in desperation he returned to his former physician. It was too late. Reverend Bruce paid a high price for the treatment he had elected—his life.

For the record, I am glad to report that the Food and Drug Administration has been successful in court actions against both of these fake remedies.

The cost of medical care is a big social problem. Good medical care is expensive—the problem is how to pay for it.

But there is an element in the cost of medical care too often overlooked. I am speaking of the enormous waste of money, loss of health and human lives, due to incompetent, irrational treatment and medical frauds of various kinds.

At the National Congress on Medical Quackery in Washington, D.C., last October, with your association represented by Mr. Fitch, it was estimated, very conservatively in my opinion, that the American public is wasting at least \$1 billion a year on falsely promoted, worthless or dangerous products, or methods of treatment of disease.

Over \$500 million a year is wasted on falsely promoted vitamin products and so-called health foods.

Older persons, especially, are likely to be cheated or injured by medical fakes. Reason: chronic illnesses, such as arthritis, provide the richest market for fake treatments. A national survey by the Arthritis and Rheumatism Foundation showed that arthritic patients are duped into paying \$250 million a year on products falsely promoted for this painful disease.

It is easy to believe in quackery if you are sick. Another case—a man so crippled by arthritis that he could only sit by the stove in his little shack and, with great effort, keep the fire going with corn cobs placed nearby. His widowed sister waited on him. They were existing on old-age pensions. But he saw an ad in a local weekly newspaper. It read "Arthritis" in big black letters and asserted that the writer had been restored to an active life after being crippled for years with rheumatoid arthritis. Mr. S. eagerly embraced the promise. The ad was answered. Back came a letter telling about a wonderful series of medicines called Tri-Wonda. A 2-month supply cost \$10, a lot of money for Mr. S. and his sister. Somehow they managed to spare it and the medicine arrived. Shortly after, other letters came, urging Mr. S. to give the medicine a fair trial and not be discouraged if relief was slow in coming.

In spite of the fact that Tri-Wonda gave him no relief, Mr. S. stuck with it for a full year. He was then even more crippled, but had begun to receive proper treatment from a local physician.

Thousands of arthritics in the United States were cheated by this medicine of both money and proper treatment. And although the Food and Drug Administration took prompt action against it, clever attorneys prolonged the case nearly 7 years before the courts ordered the product off the market.

It can take a long time to prove legally that a medical product is worthless. Meanwhile the injury to the public continues. This is why the Department of Health, Education, and Welfare has recommended to Congress legislation requiring that drugs and medical devices be scientifically proved "effective" and safe "before" they are allowed to be distributed.

Just last month our New York office stopped the importation of a lot of necklaces from Israel claimed to insure good health. We also took action against an electric broiler claimed to permit one to live longer because in cooking foods it destroyed fats and cholesterol, and thus protected one against heart disease and strokes.

But biggest of all health swindles is the vitamin and health food racket. Literally there is more quackery today in foods than in drugs.

Vitamin and mineral food supplements are promoted by an army of door-to-door salesmen, through advertising and popular books.

Millions of people are encouraged to attempt self-medication for imaginary or real illnesses with a multitude of more or less irrational food items. Some of these weird mixtures contain as many as a hundred different ingredients. The idea seems to be that one can rely upon pills and capsules in place of the nutritious foods which are so abundant. The other day we seized some "geriatric vitamin capsules." The package circular said they were of special value in treating degenerative diseases, mental diseases, heart ailments, and many other conditions. These marvelous capsules were also described as "low cost health insurance," and they were said to be especially designed for everybody over 40.

This case is not unusual. We have had hundreds of court actions involving similar claims.

Actually, I am glad to say that, according to the best medical authorities, the nutritional requirements of older persons are essentially the same as for younger adults. If we consume a variety of foods there is ordinarily no special need for extra vitamins, minerals, proteins, polyunsaturates, lipotropic factors, amino acids, etc. And, generally true, overeating is likely to be more of a problem among those past 65, than undereating.

Beware of these four common myths of nutrition—the hallmarks of modern food quackery.

(1) All diseases are due to faulty diet. This is a false proposition.

(2) Our foods are nutritionally inferior because our soils have become impoverished through long use and because chemical fertilizers have "poisoned" the land. Likewise, a false proposition that has been scientifically disproved.

(3) Commercial food processes destroy the nutritional value of foods. The truth is that while processing reduces the nutritional value of some foods, it preserves nutritional values and adds to it in other foods.

(4) Most Americans suffer from nutritional deficiencies that cause all of the vague aches and pains and tired feelings that affect human beings. This, too, is medical nonsense.

All four myths have been debunked scientifically and in court proceedings. But they are the foundation for a vast amount of nonsense being peddled to the American public in the name of nutritional science.

Another common medical fake is the gadget or machine supposed to diagnose or treat various illnesses—and in some cases every illness. Very often these machines are found in the offices of health practitioners. Many such machines are claimed to detect different disease conditions by measuring minute electric currents from the body. Others are supposed to treat diseases through electricity. We recently seized one that played music from a tape recording to cure cancer and other diseases. The patient did not "hear" the music—he could only "feel" it—a tingling sensation from the electric current coming from the recording. These devices are fakes. But they should not be confused with legitimate medical devices such as the electrocardiograph for recording heart action.

Now, what can be done about this tremendous problem of misinformation and fraud in the health field? I know the American Association of Retired Persons is vitally interested in this. Otherwise you would not have invited me to speak about it.

Broadly speaking, there are three different, but related, answers to the problem. They are:

Stronger laws.

Stronger law enforcement.

Public information and education.

Your association can help greatly to achieve all three of these objectives.

I mentioned the legislation now pending in Congress requiring that drugs and devices be proved effective. This is one of a series of amendments designed to strengthen the Federal Food, Drug, and Cosmetic Act in several very important respects. President Kennedy summarized the objectives of the legislation in his message to Congress on consumer protection:

"\* \* \* existing laws in the food, drug, and cosmetic area are inadequate to assure the necessary protection the American consumer deserves. To overcome these serious statutory gaps, I recommend:

"(1) First, legislation to strengthen and broaden existing laws in the food and drug field to provide consumers with better, safer, and less expensive drugs, by authorizing the Department of Health, Education, and Welfare to—

"(a) Require a showing that new drugs and therapeutic devices are effective for their intended use—as well as safe—before they are placed on the market;

"(b) Withdraw approval of any such drug or device when there is substantial doubt as to its safety or efficacy, and require manufacturers to report any information bearing on its safety or efficacy;

"(c) Require drug and therapeutic device manufacturers to maintain facilities and controls that will assure the reliability of their product;

"(d) Require batch-by-batch testing and certification of all antibiotics;

"(e) Assign simple common names to drugs;

"(f) Establish an enforceable system of preventing the illicit distribution of habit-forming barbiturates and amphetamines;

"(g) Require cosmetics to be tested and proved safe before they are marketed; and

"(h) Institute more effective inspection to determine whether food, drug, cosmetics, and therapeutic devices are being manufactured and marketed in accordance with the law \* \* \*."

These improvements have been incorporated in two bills introduced by Representative Oren Harris, chairman of the Interstate and Foreign Commerce Committee of the House—H.R. 11581 and H.R. 11582. These are the "Drug and Factory Inspection Amendments of 1962" and the "Cosmetics and Therapeutic Devices Amendments of 1962."

In addition to legislation, it takes money to do a good job of law enforcement, especially in fields where successful court action requires painstaking and thorough investigation. I am happy to report that the Food and Drug Administration is expecting a \$5 million increase in its budget for next year—the largest increase ever received. This is very encouraging. It means we are well on our way in a 10-year expansion program recommended by the Citizens Advisory Committee in 1955.

A new citizen's committee is now studying our future needs. The pending legislation, if enacted, will not in general reduce the cost of enforcement, but it should greatly increase the efficiency of our operations and thus provide more protection per dollar invested.

In the field of education lies the greatest underdeveloped opportunity to protect public health. We know from experience that, while there are some contrary-minded individuals and people who are prejudiced, the great majority of the public will avoid quackery when informed and warned against it.

The problem is one of communication. It will take a great deal to offset the promotional activities of quackery. Just one company had 75,000 agents who were using pseudoscientific vitamin literature in their salesmanship. In the Chicago area alone authorities recently destroyed 50 tons of booklets and other literature containing false information on nutrition. Compare this with the efforts of the Government and the professional organizations who are trying to provide sound and correct information in this area!

The public is not well equipped to evaluate pseudoscientific information and products. This is demonstrated very well in the success of certain diet books which have become bestsellers overnight. It is particularly difficult for consumers, especially the sick, to make sound judgments about medical advice and treatment. Emotion and prejudice are involved, making a fertile field for fake practitioners, fanatics, unscrupulous promoters and well-meaning do-gooders.

Nevertheless, we know that information is a most powerful weapon when backed by truth. The health professions are showing increasing interest in the problem of quackery. All over this country doctors and teachers are becoming better informed, and are passing on their knowledge to the public.

Your association is taking an active interest in this area of health education. Following the National Congress on Medical Quackery, your affiliated organization, the Retirement Welfare and Research Association, set aside funds for an experimental project in health education against quackery. You called on us for advice on how this money could be used to best advantage. The FDA Division of Public Information is working with you to develop a circular that can be used to warn the public against the major forms of medical quackery now prevalent. It will be the first such publication we have issued.

Your willingness to undertake the job of disseminating this vital information to people who need it most is a very encouraging experience.

Your inspiration and your help are deeply appreciated.

So bitter was the return from many of our people from these articles that we finally contacted Mr. Larrick and sent them on to him, and I want to say this: that Mr. Larrick spoke at our convention in Denver this June, and was enthusiastically received, but the protests came from people who had read the articles and they accused us of making millions in the drug racket.

They suggested that the Communists set out to work through the chemical concerns to further destroy all Americans.

Some of them canceled their membership. Others indicated that they had lost confidence in us, and we were accused as "traitors to the older people in the country."

Oddly enough, the most bitter letters came to us from Texas, from the neighborhood of that charlatan who had advertised his cure of cancer, and whose advertisements had been proved to be false.

These letters confirmed for us the need of many persons for information to protect them from medical fakes and frauds. They also show the great difficulty in convincing persons with preconceived ideas about health matters.

We believe that the education to prevent medical quackery is so urgent that we have played a responsible role in the process.

The Retirement Research and Welfare Association affiliated with our two associations offered its first grant of a thousand dollars to the U.S. Food and Drug Administration to prepare and promote a pamphlet directed to the Nation's elderly, to alert and protect them from becoming unwitting tools of unscrupulous practices.

Although the Food and Drug Administration is not authorized to accept such grants, our association has reserved that money to purchase and distribute the pamphlet which is being developed as the "Catalog of Quackery". It will provide a checklist of the major kinds of deception that affect older persons.

We are hopeful that a widespread program, supported by our extensive membership, will serve not only to self-educate but to alert the public and guard against the introduction of such practices at the grassroots level.

In another somewhat related area, we have been aware of and deeply concerned about the extravagant offers made by the insurance companies.

Because of the insurance plans that have been made available to our members by the Continental Casualty Co., we have been restricted from calling attention to the weaknesses of those offers.

But the complaints charging the exploitation of older people are not confined to illegal practices or made by abused persons.

Here is a case in point.

In connection with my appearance here today, I became aware of charges being made against the administration of our insurance program in which we were accused of canceling policies, refusing to pay benefits earned, and resorting to fine print restrictions.

That such charges are proved to be utterly false does not protect us or other well-intentioned groups from the possibility of such charges and insinuations.

Our investigation of this particular accusation is made the more unique in that the complainant states that he is an officer in the United States Armed Forces, that he, as a physician, and his wife as a trained nurse, have given technical medical service to his father and mother, aged 90 and 91, respectively, much of the time in the complainant's own home. Such services and treatment are the basis of his complaint.

The reverse of the charges is actually true upon reviewing the file.

It shows that we have not only paid everything possible under the terms of the contract, we have even permitted a reinstatement of the policy for which premiums were overdue for 4 months and a claim for benefits filed.

It is true that we had asked for further clarification of bills submitted by the son for himself and his wife for medical and nursing care rendered to the parents in the claimant's home. We have also

requested a breakdown of proper expenses separately allocated to the father and the mother. This has been necessary because of the receipt of a combined drug and medical supply charge bill of \$1,030.01 for "attendants" care in the claimant's own home.

A further discussion of the claim is not necessary at this time; however, the file is available for review by proper authorities at any time.

I would add, if we are at fault, it may be because of our liberal policy under which we have done everything possible to pay legitimate claims and give the claimant the benefit of every reasonable doubt.

But many of the schemes which we report are not actually illegal but they are so questionable ethically and morally that they might well be challenged by your committee.

I would like to read a letter that came to my attention recently that could have been written by thousands of older persons around the country who have been lured by high pressure real estate operators.

For obvious reasons, I am omitting the developer's name from my testimony. However, a copy of the letter is included for the record.

GENTLEMEN: I am writing this on the advice of my physician. Two years ago I joined a tour to \_\_\_\_\_, Florida, in response to a glowing advertisement in the Cleveland Press, sponsored by this company. We were wined and dined and lodged extravagantly. Evidently this pays off, because I was told all members of the tour purchased homes. We were shown model houses expensively and tastefully furnished, with landscaping complete. I was told that "in case you are unhappy with your purchase, you can always sell it." I have literature picturing in glowing terms the possibilities of renting. You see, I believed all this.

My salesman told me that my house would not be ready for occupancy until November. It was finished within 4 months, May, 6 months before agreed. I lived down there 6 months. I placed it with a certain realty for sale 16 months ago. Later, about 10 months ago, I listed it with another realty, with no results from either.

I cannot continue to make payments of \$51.47 monthly from my meager income and if I don't make the payments I suffer foreclosure. When this happens I lose about \$4,000, which is a large portion of my live savings. I am forced to deny myself many comforts and pleasures because of these payments, plus taxes.

I am 71 years old and this is the last thing on my mind at night and the first thing in the morning. This is not good and something must be done.

The only encouragement I have had so far was, "If I see anyone who wants a house already built I'll refer him to you," but this has not solved my problem.

What do you suggest? Let me hear from you.

Respectfully,

To my knowledge, a study of real estate foreclosures in Florida, California, Arizona, and other avenues of great housing promotion for the elderly has never been made. I am convinced that such a study would have merit. It would not only be very interesting but it would also be a shocking revelation of what financial losses have been and are being suffered by older persons who could not afford to keep up their payments and are being forced to abandon their homes and forfeit their life savings.

Perhaps one of the fondest hopes of many individuals is to write a book. There are publishers who play on this dream and encourage the writer of limited talent to pay for the publication of his life story, experiences, poetry, or drama.

This practice was forcibly brought to our attention recently by one of our members who had advised us earlier that he was writing a book entitled "Modern Maturity." We advised him immediately that

the title had been copyrighted, and that he might not use the title without permission, which we did not grant.

Six months later, copies of the book "Modern Maturity" arrived in our office. We protested to the individual, who said he had been assured by the publisher it was all right, in spite of the notice that we had given him.

When confronted by the threat of legal action, the publisher promptly requested the client to purchase all of the copies that had been printed and remove them from the market.

Not all books written by older persons are published in violation of copyright restrictions but many of the elderly are paying dearly to see their names in print.

Perhaps this practice has always been in vogue to some extent, but the "laminated obituary notices" have become quite a business in areas with large concentrations of older persons.

The spouse and family of the deceased are deluged with every conceivable type of decorated newspaper clipping covering the death of the loved one. Religious and patriotic motifs flourish, although many are laminated with only deep borders of black. The receiver of such notices feels obligated out of reverence to keep them and pay the bills rendered for them.

This again is not illegal but another form of exploitation of the older members of the community.

It is difficult to single out any one type of exploitation as being the most serious or the most harmful unless it be those involving individuals with failing health who seek miraculous cures through the mail or from the door-to-door physician.

Then there is a growing type of exploitation that seeks to use the older person for purposes of political pressure. It is hard to understand how the older would be willing to give up his right as a citizen to succumb to the political opportunist who blatantly promises impossible increases in social security or welfare benefits and supports his activities from the contributions that these people make from their welfare check or meager incomes, frequently at the sacrifice of needed food and medical attention.

The fundraising activities of such groups should be investigated not only for ethical reasons but for income tax purposes.

One of our young women came to me recently and said, "What can I do? If I deny my parents money, I am heartless, but every cent I give them goes to one of these political promoters, who is living off the means of these very humble and trusting folk."

The purpose of my testimony is not only to highlight some of the areas of exploitation to come to our attention but also to pledge our support to the findings and recommendations of your committee.

We are prepared to undertake a major educational program of our members and through them and our publications to do everything possible to prevent or expose any practice or activity that is directed against their best interests and contrary to the Nation's concern for its elderly citizens.

This task might well be a major program to be undertaken by the proposed National Service Corporation as well as the many voluntary service organizations working in the field of aging, but you can count upon our support, for we welcome the challenge.



Senator MUSKIE. Thank you, Dr. Andrus, for your presentation. I do not believe the record shows the size of your membership. Do you have those figures?

Dr. ANDRUS. The size of our membership? 550,000.

Senator MUSKIE. Your membership is 550,000 in these 2 organizations, the National Retired Teachers and the American Association of Retired Persons?

Dr. ANDRUS. That is right. I think that is noted here in the end of the first paragraph.

Senator MUSKIE. Yes.

In your testimony you refer to political opportunists who promise possible increases in social security or welfare benefits. Could you identify any of these groups of persons?

Dr. ANDRUS. I think you know some of these groups that are particularly active in California.

Senator MUSKIE. Are there such groups active in other areas of the country, to your knowledge?

Dr. ANDRUS. In southern California.

Senator MUSKIE. But in no other States?

Dr. ANDRUS. Oh, no, throughout the United States, but particularly in southern California.

They have a national publication. They have chapters elsewhere, but their headquarters are in southern California.

Senator MUSKIE. In your testimony, you refer to the letters which you received protesting an article which appeared in "Modern Maturity" and you suggested a correlation between some of the letters you received and Texas, where the promoter of an alleged cancer cure was operating. Was there any such correlation between any other letters and any other promoters of quack cures?

Dr. ANDRUS. I am sorry, Senator, I did not get your question.

Senator MUSKIE. I wonder if Mr. Fitch could answer that question?

The question was whether or not in these hundreds of letters to which you refer and which were responsive to an article in "Modern Maturity" on the question of quackery there was any correlation between any of the letters and any other areas where specific promotions are being carried out.

Mr. FITCH. I think we were aware that many of our readers had read some of the popular publications on calories not counting and food faddism, and we could see very definitely that they were resentful of the factual information we were trying to give about such practices.

We knew they had read those popular publications.

Senator MUSKIE. But in the Texas case, Dr. Andrus seemed to feel that the indignation of the letterwriters stemmed from a specific personal experience.

Was there such a correlation in other matters?

Mr. FITCH. I am sure they were talking about the experience they had had over the many years. They did not relate it to a particular drug or medicine. They were saying they knew better, because they had been living many years on a certain kind of a vitamin, or a certain kind of combination of minerals, and that we just didn't know what we were talking about.

Senator MUSKIE. So these letters did come out of personal experiences?

Mr. FITCH. That is right, they were speaking in terms of personal experiences.

Dr. ANDRUS. And also their faith that the land was poor, the food was overprocessed, that artificial enrichment of the soil weakened the product of the soil, and that kind of thing. They were faddists in food.

Senator MUSKIE. Is it your feeling that elderly people are more susceptible to these quack approaches than other age groups, Mrs. Andrus?

Dr. ANDRUS. I think that they—well, remember the old story, "Convince a woman against her will and she is of the same opinion still." Well, I think that some of the women are old, and I think some of the men are like the women. If they have a notion that you must eat yogurt, and you must have brewer's yeast for breakfast, else all the world is black, we just can't convince them.

Senator MUSKIE. Do you have any view that older people are more sensitive to the appeals of the quacks because conventional medicine is so expensive?

Dr. ANDRUS. I think they have more time to be worked on, and I think the people who have something to sell and no conscience, direct themselves to these people.

Senator MUSKIE. You think the expense of conventional medicine is a stimulant to seek these quack cures?

Mr. FITCH. I don't think it is only a question of expense.

Many of them are aware of the cost of drugs and expense that goes with it. Tied in with that is the hope that even though maybe they have something more serious, the claims of the quacks along the way give them one last hope, and they are going where they can get a positive answer, even where they have reason to question whether it is a right one. I think it is this one last hope, plus the information of the cost of other medical care.

Dr. ANDRUS. And the fear of surgery.

Senator MUSKIE. Is it your feeling, Mr. Fitch, that elderly citizens are more susceptible to these promotions than other age groups?

Mr. FITCH. I would think that at least from our own experience that they are. I think it hasn't been until more recently that we have become aware of how much they have become victimized by it.

I think, as Dr. Andrus said in the testimony, that many of them have been too proud to let it be known. They do not want anyone to find out about it. As we have become more familiar with the kind of materials that have gone out, I would say that the older age group is more a target for this kind of activity than any other age group.

Senator MUSKIE. You say they are more susceptible.

Is it your view also that the promoters are aware of this and specifically direct their promotions particularly to the aged?

Mr. FITCH. I think this is very evident. I really do. I think that more and more they are becoming aware of the dollar value of the older persons and the potential.

I think this is a new market they have discovered and I think they are going to try to make the most of it before legislation is enacted or before too many people become aware of it.

Senator MUSKIE. Mr. Fitch, I understand that at one time you were

the Director of the Special Staff on Aging in the Department of Health, Education, and Welfare.

Mr. FITCH. Yes, sir; I was.

Senator MUSKIE. I wonder, then, if you can't give your reaction to the proposal of Senator McNamara which is found in a bill introduced by him creating a U.S. Commission on Aging.

Is this the kind of agency that would be helpful or necessary to protect our older people from fraud, or to coordinate Federal activities in the field of the aging?

Mr. FITCH. Not only because I had firsthand experience in the Department of Health, Education, and Welfare, but also at our convention in Denver in May, our associations went on record as endorsing the U.S. Commission on Aging as being the most hopeful answer to a program of aging at the Federal level.

The need for an independent-type group that could rise above the special interests of any one department, and where they could look at the problems, at the quackeries as an overall Government challenge, rather than any one department's; we are very enthusiastic about it, and are hopeful that there will be positive action on such a Commission during this session.

Senator MUSKIE. Thank you both very much for your testimony, and I particularly compliment Mrs. Andrus. I do not know whether I should mention her age in public.

Dr. ANDRUS. I am very proud of being old, you know.

Senator MUSKIE. I understand you are over 80.

Dr. ANDRUS. I am not, but I am edging that way.

Senator MUSKIE. Thank you very much.

(The prepared statement of Dr. Andrus follows:)

PREPARED STATEMENT OF DR. ETHEL PERCY ANDRUS, PRESIDENT, NATIONAL RETIRED TEACHERS ASSOCIATION, AND AMERICAN ASSOCIATION OF RETIRED PERSONS

My name is Dr. Ethel Percy Andrus. I am president of the National Retired Teachers Association and the American Association of Retired Persons. These are two nonprofit, nonpolitical associations with a combined paid membership of more than 550,000 persons helping older persons help themselves.

I would like to commend the committee for its wisdom and vision in delving into the problem of exploitation of the aged. Nothing could be more invidious than the pressures that plague older persons and place their health in jeopardy and further deplete their reduced incomes. I appreciate this opportunity to share information that our members have brought to our attention and to discuss some of the situations we have encountered in the administration of our programs.

The charlatans have been successful in the exploitation of older persons because many of the victims were too proud or too embarrassed to admit they had acted unwisely or had delayed exposing the quackery or fraud until it was too late to prosecute the offender or to save themselves.

The days of the medicine man are still very much with us in spite of all of the research and scientific advances of our times.

We were never more aware of the extent to which older persons had become victimized in the health field than we were following the publishing of an article in the August-September issue of our magazine, *Modern Maturity*, by the Commissioner of the U.S. Food and Drug Administration entitled "Cure-All Quackery." Letters by the hundreds were received from our readers accusing us as "being dupes for those who are making millions in the drug racket." They suggested that "the Communists had set out to work through the chemical concerns to further destroy all Americans."

Memberships were canceled, others indicated they had lost confidence in us and we were accused as "traitors to the older people in the country."

These letters confirm the need of many persons for information that may serve to protect them from medical fakes and frauds. They also show the great difficulty of convincing persons with preconceived ideas about health matters.

We believe that education to prevent medical quackery is an urgent need and that we have a responsible role to play in the process. The Retirement Research and Welfare Association affiliated with our Associations offered its first grant of \$1,000 to the U.S. Food and Drug Administration to prepare and promote a pamphlet directed to the Nation's elderly, to alert and prevent them from becoming unwitting tools of unscrupulous practices. Although the Food and Drug Administration is not authorized to accept such grants our association has reserved the \$1,000 to purchase and distribute the pamphlet which will soon be published under the title of "Catalog of Quackery." We are hopeful that a widespread program supported by our extensive membership will serve not only to self-educate but to alert the public and guard against the introduction of such practices at the grassroots level.

In another somewhat related area, we have been aware of and deeply concerned about the extravagant offers made by insurance companies.

Because of the insurance plans that have been made available to our members by the Continental Casualty Co., we have been restricted from calling attention to the weaknesses of the other insurances.

Complaints charging the exploitation of older folk are not confined always to illegal practices or made by abused persons. Here is a case in point. In connection with my appearance here today, I became aware of charges being made against the administration of insurance programs in which we are accused of canceling policies, refusing to pay benefits earned and resorting to fine print restrictions.

That such charges are proved to be utterly false does not protect us or other well-intentioned groups or persons from the possibility of such charges and insinuations.

Our investigation of this particular accusation is made the more unique in that the complainant states that he is an officer in the Armed Forces, that he, as a physician, and his wife, as a trained nurse, have given technical medical service to his father and mother, aged 90 and 91 respectively, much of the time in the complainant's own home, for which such services and treatment are the basis of his complaint.

The reverse of the charges is actually true upon reviewing the file.

It shows that we have not only paid everything possible under the terms of the contract, we have even permitted a reinstatement of the policies for which premiums were overdue for 4 months and a claim for benefits had been filed.

It is true that we have asked for further clarification of bills submitted by the son for himself and wife for medical and nursing care rendered to the parents in the claimant's home. We have also requested a breakdown of proper expenses separately allocated to the father and the mother. This has been necessary because of the receipt of a combined drug and medical supply charge plus a bill of \$1,030.01 "for attendants" care in the claimant's own home.

A further discussion of the claim is not necessary at this time; however the file is available for review by proper authorities at any time.

I could add only that if we are at fault it may be because of our liberal policy under which we do everything possible to pay legitimate claims and give the claimant the benefit of every reasonable doubt.

Many of the schemes are not actually illegal but are so questionable ethically and morally that they might well be challenged by your committee.

I would like to read a letter that came to my attention recently that could have been written by thousands of older persons around the country who have been lured by the high pressure real estate operator. For obvious reasons I am omitting the developer's name from my testimony. However a copy of the letter is included for the record:

"GENTLEMEN: I am writing this on the advice of my physician. Two years ago I joined a tour to ———, Florida in response to a glowing advertisement in the Cleveland Press sponsored by the ——— Co. We were wined and dined and lodged extravagantly. Evidently this pays off because I was told all members of the tour purchased homes. We were shown model houses expensively and tastefully furnished with landscaping complete. I was told that 'in case you are unhappy with your purchase you can always sell it.' I have literature picturing in glowing terms the possibilities of renting. You see I believed all this.

"My salesman told me that my house would not be ready for occupancy until November. It was finished within 4 months, May, 6 months before agreed. I lived down there 6 months. I placed it with the ——— Realty for sale 16 months ago. Later, about 10 months ago, I listed it with ——— Realty, with no results from either.

"I cannot continue to make payments of \$51.47 monthly from my meager income and if I don't make the payments I suffer foreclosure. When this happens I lose about \$4,000, which is a large portion of my life savings. I am forced to deny myself many comforts and pleasures because of these payments, plus taxes.

"I am 71 years old and this is the last thing on my mind at night and the first thing in the morning. This is not good and something must be done.

"The only encouragement I have had so far was, 'If I see anyone who wants a house already built I'll refer him to you,' but this has not solved my problem.

"What do you suggest? Let me hear from you.

"Respectfully,"

To my knowledge, a study of real estate foreclosures in Florida, California, Arizona and other areas of great housing promotion for the elderly has never been made. I am convinced that such a study would have merit. It not only would be very interesting but also a shocking revelation of what financial losses have been and are being suffered by older persons who could not afford to keep up their payments and are being forced to abandon their homes and forfeit their life savings.

Perhaps one of the fondest hopes of many individuals is to write a book. There are publishers who play on this dream and encourage the writer of limited talent to pay for the publication of his life story, experience, poetry, or drama.

This practice was forceably brought to our attention recently by one of our members who had advised us earlier that he was writing a book entitled "Modern Maturity." We advised him immediately that the title was copyrighted and that he could not use the title without permission which we did not grant.

Six months later copies of the book "Modern Maturity" arrived in our office. We protested to the individual who said he had been assured by the publisher that it was all right, in spite of the notice we had given him. When confronted by the threat of legal action the publisher promptly requested the client to purchase all of the copies that had been printed to remove them from the market.

Not all books written by older persons are published in violation of copyright restrictions but many of the elderly are paying dearly to see their names in print.

Perhaps it has always been practiced to some extent, but the "laminated obituary notices" have become quite a business in areas with large concentrations of older persons. The spouse and family of the deceased are deluged with every conceivable type of decorated newspaper clipping covering the death of the loved one. Religious and patriotic motifs flourish although many are laminated with only deep borders of black. The receiver of such notices feels obligated out of reverence to keep them and pay the bills rendered to them. This again is not illegal but another form of exploitation of the older members of our community.

It is difficult to single out any one type of exploitation as being the most serious or harmful unless it be those involving individuals with failing health who seek miraculous cures through the mail or from door-to-door physicians.

There is a growing type of exploitation that seeks to use the older person for purposes of political pressure. It is hard to understand how the oldster would be willing to give up his right as a citizen to succumb to the political opportunist who blatantly promises impossible increases in social security or welfare benefits and supports his activities from the contribution that many make from their welfare checks or meager incomes, frequently at the sacrifice of needed food and medical attention. The fundraising activities of such groups should be investigated not only for ethical reasons but for income tax purposes.

The purpose of my testimony is not only to highlight some of the areas of exploitation that have come to our attention but also to pledge our support to the findings and recommendations of your committee. We are prepared to undertake a major educational program of our members, and through them and our publications do everything possible to prevent or expose any practice or activity that is directed against their best interests and, contrary to the Nation's concern for its elderly citizens.

This task might very well be a major program to be undertaken by the proposed National Service Corps as well as the many volunteer service organizations working in the field of aging.

You can count on our support. We would welcome the challenge.

Senator MUSKIE. Our next witness is Mr. Paul Rand Dixon, Chairman of the Federal Trade Commission.

I notice Mr. Dixon is in the room.

We welcome you here this morning.

I notice that you have a prepared statement, Mr. Dixon. Is it your desire to read it, or would you prefer to highlight it and then answer questions?

**STATEMENT OF HON. PAUL RAND DIXON, CHAIRMAN, FEDERAL TRADE COMMISSION, ACCOMPANIED BY JOHN N. WHEELOCK, EXECUTIVE DIRECTOR; CHARLES A. SWEENEY, CHIEF, DIVISION OF FOOD AND DRUG ADVERTISING; JOHN VICTOR BUFFINGTON, ASSISTANT AND LEGAL ADVISER TO THE CHAIRMAN; AND FLETCHER G. COHN, ASSISTANT GENERAL COUNSEL, FEDERAL TRADE COMMISSION**

Mr. DIXON. I will read part of it for the sake of brevity and what I do not read, I request that you put in the record.

Senator MUSKIE. In any event, what you do not read will appear in the record.

Mr. DIXON. Yes, sir, and then I will submit myself for any questions that you may care to ask.

Senator MUSKIE. I see you have some people with you. I wonder if we might have them identified at this point?

Mr. DIXON. Yes, sir. On my left is the Executive Director of the Federal Trade Commission, John Wheelock. Next to him is Charles Sweeney. He is the Chief of our Division of Food and Drug Advertising. To my right is my assistant and legal adviser, John Victor Buffington, and to his right is Fletcher Cohn, assistant general counsel, one of our assistant general counsels who is in charge of legislation.

On behalf of the Federal Trade Commission, Senator, my I express to you our appreciation for having been invited to appear before this important committee.

I understand that the intent and purpose of this committee is, as expressed in Senate Resolution 33 of the 1st Session of the 87th Congress, "To discover what social and economic conditions will enable our older citizens to contribute to our productivity and to lead meaningful, satisfying, independent lives." The importance and laudability of this purpose is demonstrated by the fact, as was pointed out in Senate Resolution 33, that there are probably 16 million people 65 years of age or older in the United States and that this number will have increased to 20 million by 1975.

It is now recognized that the lifespan of man, especially those who are fortunate enough to be Americans, is constantly increasing. Medicine and science are developing various ways and means whereby all of us can look forward to many years more existence than was true of our progenitors.

If we at the Federal Trade Commission can contribute in any way to the accomplishment of the objectives of this committee and the welfare of our senior citizens, we are happy to do so.

I think that the ideal which probably prompted Senator McNamara to offer the resolution creating this committee, was that expressed by Browning in his famous poem, "Rabbi Ben Ezra," when he enunciated the immortal words:

Grow old along with me.  
The best is yet to be,  
The last of life, for which the first was made.  
Our times are in His hand.

I am informed that you have held hearings primarily devoted to investigating nursing homes, retirement income, housing for the elderly, and the extent, quality, and relation of Federal and State activities in the field of aging.

The resolution creating this committee said it should be your duty "To make a full and complete study and investigation of any and all matters pertaining to problems of older people, including but not limited to, problems of maintaining health, of assuring adequate income, of finding employment, of engaging in productive and rewarding activity, of securing proper housing, and, when necessary, care or assistance."

With this in mind, I pondered what to say to you, on behalf of the Commission, which might be of some help to the committee in attempting to reach its goal. I decided that a discussion of some of the orders the Commission has issued would perhaps be helpful to the committee in its work.

The Federal Trade Commission has as one of its primary functions, the protection (insofar as its jurisdiction will permit) of the right of consumers not to be misled or bilked by false and deceptive acts or practices or unfair methods of competition. This effort by the Commission is for the protection of all our citizens, for we all are consumers. While the activities of the Commission in this regard are not directed entirely to the millions of our elder citizens, they do affect and redound to their benefit, as they do to the rest of the citizens of this blessed country.

In the hope that it may furnish this committee with some information of value to it in considering the problems with which the committee is engaged, I shall cite some of the numerous cases in which the Commission has issued orders and which, we believe, have given and will continue to give protection to the aged from those who have engaged in acts and practices the Commission has found to be detrimental to the public interest.

One class of orders issued by the Commission in cases which benefit the aging, is the one in which the Commission enjoined the continuance of misrepresentations pertaining to the sale of eyeglasses by mail. The respondents in these cases were ordered by the Commission to cease and desist from advertising, directly or by implication, that eyeglasses sold by the respondents, made pursuant to the results of so-called do-it-yourself eye tests using respondents' devices—

will correct, or are capable of correcting, defects in vision of persons unless expressly limited to those persons approximately 40 years of age or older who do not have astigmatism or diseases of the eye and who require only simple magnifying or reducing lenses.

Senator MUSKIE. Mr. Dixon, would you say that those orders have been effective in reducing this kind of activity, or eliminating it?

Mr. DIXON. I think they have been considerably effective, sir. Of course, we occasionally see the same "disease" pop back up by a new person, and as soon as it comes to our attention, we promptly investigate it, and see if we have proper jurisdiction to move and perform in that direction.

Senator MUSKIE. How long does it take the Commission to press such an investigation to its final conclusion in the form of a cease and desist order?

Mr. DIXON. Senator, this is one of the never-ending questions in administrative law, and in law enforcement itself.

You remember President Kennedy, when he made his first state of the Union message, referred to the regulatory lag in these regulatory agencies.

Within the past 2 years, we at the Commission have reexamined ourselves and reorganized ourselves with a view within our present procedures and authority and practices so that we now have redesigned our organizational functions and rules of practice so that we are getting considerably more speed in our procedures, but we must remember this is a matter of law; we do have due process, and a respondent before us is entitled to a full and complete trial and review, and so I would say that, depending upon the seriousness of the claim we would be investigating at the moment, we should be capable of really moving quickly—for instance, we moved very quickly today.

Within the past 2 weeks, there has appeared in the public press representations pertaining to Bayer aspirin. Today, the Federal Trade Commission released a complaint pertaining to Bayer aspirin for what has been spread over the television and through the American newspapers. Now this is pretty fast action.

Beyond that point, though, they are entitled to a complete trial.

I would be hopeful that even if they availed themselves of our complete procedures—and now we call for a case to be set down, when issue is joined, at a time and a place and a date certain, and be heard until completed.

Then, of course, they are entitled to the time that it takes the hearing examiner to render the initial decision. They are entitled to review before the Commission. They are entitled to appeal to the appellate court, and to the Supreme Court. This will take some time, sir.

Now, in the realm of food, drugs, devices, and cosmetics, in our basic act, since 1938, we have in certain instances in those specific matters the right to go to a district court and seek an injunction pending the litigation.

In some instances, in many cases, we have sought the aid of the court for such an injunction. We are going to seek one, sir, in the complaint that we issued this morning. This is so recited in the press release.

Senator MUSKIE. To what extent would the courts cooperate in giving injunctive relief in cases of this kind?

Mr. DIXON. We are going to find out, sir, because the President has endorsed, and we know, that this agency created by the Congress, the arm of the Congress to carry out this regulatory grant of power by the Congress, has granted to us the right to issue the permanent



injunction upon the record. We think that we have enough expertise and should have the right to issue a temporary injunction on our own, without having to go to court, across the board, sir.

You must remember, we can only go to the courts in these limited areas, and the advertising is broad. We can see the complete consumer vista of many products, other than foods, drugs, devices, and cosmetics.

Senator MUSKIE. You mentioned, I think, in response to my questions, the action taken in connection with the Bayer aspirin ad. Does that relate also to that which appeared a few weeks ago for Excedrin?

Mr. DIXON. I think, sir, it may be to some extent of the result of that ad. That is involved in it. That is involved in another proceeding which we have, sir.

Senator MUSKIE. Which you have pending?

Mr. DIXON. Yes, sir.

Senator MUSKIE. This type of ad, which holds out that Excedrin is 50 percent stronger than aspirin.

Mr. DIXON. The very nature of those type claims, under our process—as it should be, and sir, I would not recommend any shortcut to it—the burden is upon us to prove that these are false or deceptive. This takes the highest type medical tests and opinion evidence, and this usually is vigorously opposed by similar but in opposite type clinical tests and evidence.

Senator MUSKIE. Well, the nub of the problem—and I think you and I have discussed this before—is that pending the determination of the substantive question, great harm, and in some instances irreparable harm can be done.

Mr. DIXON. Now we have at the Commission, usually with the power that is vested in section 13 of our basic act—now this came in 1938, with the so-called Wheeler-Lee amendment—we have in seeking injunctions in the past, historically, I believe the record will show, sought them only in cases of fraud or irreparable harm and injury, generally as to dangerous drugs, which practically per se fall in this category.

I think the very early cases were brought this way, and we have been fairly successful in those outrageous cases.

But the remedy we believe is there for deception itself, for a false and misleading statement itself. We are going to find out if the court will help us in the effort, at least in this limited area.

Senator MUSKIE. Would you say that now you are embarked upon a new series of cases which will spell out some new interpretations of law applicable to these situations which may be something less than the outrageous fraud?

Mr. DIXON. I would say yes, sir, because here, to be ready to try this type case is difficult. We must go into the medical world, and we must have moneys to pay for these tests, clinical tests. They are not too easy to obtain, sir, and we must have this type evidence before we can have reason to believe, very often, in the very beginning, or to even issue a complaint, and we must be ready and we are trying now to be ready to try the case completely before we start.

In these analgesic type cases, the type you held up here, the Excedrin case, this is a problem that has been wrestled with by both us and the Food and Drug Administration. We are readying ourselves

with the best type evidence that we can obtain to take a complete, across-the-board look.

Senator MUSKIE. I understand that the aspirin study was financed at least in part by a Federal Trade Commission grant. Is that so?

Mr. DIXON. Well, this is what apparently precipitated the ads with respect to Sterling and Bayer aspirin, and we had these tests made, sir, and the doctors were very anxious here to publish their results, and one of our officials—I think rather inadvertently—granted such a permission. It was published in the AMA Journal, and then I assume that Bayer said, "Well, here I go," and so they have made their claims based upon this grant, or this study, this report in AMA, and our complaint charges them with some deceptions, is what they have done.

Now, the Commission has not evaluated that study as yet, although we paid for the study.

We obtained and entered into a contract to get that study made.

We would intend and expect to use it at some time, and then it will be completely evaluated in the proper climate, but the study at this moment is a study that was made, and has been published now in a magazine, and these ads were predicated upon it.

Senator MUSKIE. Is that study technique one that is useful to you in your enforcement problem?

Mr. DIXON. Well, I can tell you this, sir, that there will be no more. There will be no more studies published until they have been evaluated completely at the Federal Trade Commission, because you can see exactly what happened here. I don't think they should be.

In other words, we have paid for something, we have obtained it, and we expect it to be produced in the proper climate of an adversary proceeding.

Senator MUSKIE. So the objective of the study, from your point of view originally, was to enable you to enforce your responsibilities under the law?

Mr. DIXON. This is correct, sir.

Senator MUSKIE. And it has been used for another purpose.

Mr. DIXON. We had several outstanding complaints in this area. We began to see new problems here, and we placed those complaints on suspense, and then we moved back to get more evidence, in effect to take a broader look at them. We have thus far obtained two such studies, the one that we have referred to here by Dr. Lasagna and Dr. DeKornfeld, and we have obtained another one. I shall not call the source that we have obtained it from, and we have a third one being made, sir, which shows you the difficulty of this little problem we are talking about here, because there are some pretty strong representations being made to the public as to what these products will do.

Senator MUSKIE. Could you use the Food and Drug Administration's laboratories to do this sort of work for you?

Mr. DIXON. This is clinical data, sir, that we are looking for. In other words, we do, very often, use the Surgeon General's facilities through NIH, and we go to the Veteran's Bureau. We have a very fine working liaison with Food and Drug Administration to obtain the expert knowledge that we need. But to prove these things, very often we are driven at the point of necessity to having actual clinical tests made, upon actual patients, because you see that is what we will

face as a defense, and we know that we need the strongest type evidence, other than just bare opinion evidence.

Senator MUSKIE. I did not mean the interruption of the prepared testimony to continue so long.

Why don't you proceed, Mr. Dixon, and we can take our other questions later.

Mr. DIXON. Now, the Commission issued several cease-and-desist orders restraining advertising which claimed that such eye testing devices could be used by purchasers to determine reliably what eye-glasses they needed to correct defects in their vision. We hope and believe that orders of this type will offer protection to those trusting souls who believe that they may save money by a self-examination of their eyes, without realizing that in doing this they may purchase improper glasses which could cause irreparable injury to their eyes.

In cases of a similar type, the Commission has issued cease-and-desist orders with reference to advertising for contact lenses which prohibited the respondents in such cases from advertising, directly or by implication, that—

- (1) All persons in need of visual correction can successfully wear said contact lenses;
- (2) There is no irritation or discomfort in wearing said contact lenses;
- (3) A person can wear said lenses all day, unless it is clearly disclosed that this is possible only after such person has become fully adjusted thereto;
- (4) Eyeglasses can be discarded upon the purchase of said contact lenses;
- (5) Said contact lenses will correct all defects in vision.

The beneficial effects to our elder citizens of these several orders applying to contact lenses are obvious.

There can be no question but that all of us have certain innate vanities and those who are hard of hearing—which is a rather common ailment among older people—wish, if possible, to conceal such a physical deficiency.

Recognizing this, many manufacturers have so worded their advertisements that consumers are led to believe that their hearing aid device can be worn without detection. To prevent the continuation of such deception, the Commission has issued several orders to cease and desist which enjoined the respondents from advertising, directly or by implication—

- (1) That said devices are cordless or do not require the use of a cord unless in close connection therewith and with equal prominence it is stated that a plastic tube runs from the device to the ear;
- (2) That said devices do not require a button or other accessory to be inserted in the ear;
- (3) That their hearing aids, or any of them are invisible.

As we grow older, all of us, in varied degrees, suffer from the pain attendant to aching joints, arthritis, sore muscles, and similar ailments; to apply a colloquialism prevalent in the South, "Our bones begin to ache." Preying upon this rather universal physical condition, and recognizing that frequently some relief can be secured by means of exercise, a plethora of mechanical devices has been created, which

are represented as giving one the benefits to be derived from exercising, without being put to the physical stress of going through the calisthenics required for proper exercising. Many massage devices have been created and then advertised as bringing the desired relief from aching muscles and joints; while some of these are efficacious, a number of them are not.

In an effort to prevent misrepresentations in the advertising of such massage devices, the Commission has issued orders against such machines as the "Gyro Massage and Heat Pillow," the "Vibra-King Actavator," and the "Mary-Mac Relax-O-Motor Motorized."

Senator MUSKIE. How do you determine whether or not such devices are efficacious?

Mr. DIXON. We have expert testimony, have to have them tested, sir, and by actually observing them ourselves. We are supposed to be some degree of an expert.

The orders of the Commission in such cases have required the advertisers to truthfully limit the claims of pain relief for their devices and have prohibited the respondents therein from advertising, directly or by implication, with reference to such devices that they "will relieve the pain of arthritis, bursitis, aching joints, sore muscles, or any other pains, unless expressly and clearly limited to the temporary relief of minor aches and pains, or that its use will have any effect upon the contour of the body," that such a device "is a competent or reliable means for treating diseases or abnormalities of the bones or joints of the body; or that said devices will provide any beneficial effect on the bones or joints of the body unless such is the fact," or "that the use of said devices will be of value in effecting a general or localized reduction in body weight," or that the use of said devices is a reliable means "for treating abnormalities or diseases of the organs or of the respiratory, digestive, or other systems of the body," and that the use of said devices "will tone the muscles or effect a firmer figure."

Your committee already has listened to representatives of those medical groups who are dedicated to the fight against arthritis, rheumatism, and similar dread diseases agonizing and even crippling millions of our citizens, particularly the elderly.

A part of this fight is against those sadists who have preyed upon the victims, tantalizing them with offers of cures, reaping untold millions of dollars in profits from the sale of drugs to the ailing made gullible by a frantic eagerness to try anything new which might ease their suffering—who are disillusioned sooner or later to discover that such products offer nothing more than simple analgesics which could be purchased at most drugstores for a small fraction of the cost charged by these hucksters.

In this respect the Federal Trade Commission has been able to offer a substantial contribution. The Commission has issued orders requiring advertisers promising relief from the excruciating pains of arthritis, rheumatism, and similar ailments, to cease and desist from representing that their products were effective in the treatment or cure of any kind of arthritic condition, or would do more than temporarily relieve the minor aches and pains thereof. Promoted only by such truthful advertising, such products have almost disappeared from the pharmacists' shelves.

But this fight continues. The Commission's monitoring staff is regularly detecting the appearance of advertising for new products. The Arthritis and Rheumatism Foundation and the American Rheumatism Association call attention to advertisements coming to their attention and stand ready at all times to supply medical testimony if needed to support corrective action. This vigilance is paying dividends, although it receives no publicity. Action is being taken while the promotions are still in their incipiency and they are effectively throttled before they acquire substantial stature or the public is appreciably affected. I assure you that this effort is high on the Commission's priority list and will be continued.

The Commission has also taken action against advertisers of books, who claim that their publications contain dietary and other instructions which enable the reader to cure arthritis and related conditions.

In one such book, the recommended treatment was a dietary regimen relying heavily on cod liver oil and orange juice, together with other foods and beverages, the basic secret being that they should all be consumed in a certain sequence.

Due to the continuous advertising, a belief apparently has arisen among many consumers, particularly those of a more or less advanced age, that many ills which beset them can be cured miraculously by the taking of vitamins. The information which I have is that, generally speaking, if we eat three square meals a day, it is only in very rare cases that we need any vitamins in addition to those which our body received through the consumption of food.

Many fantastic claims have been made as to the therapeutic effects of certain vitamins and minerals.

To protect the public from deceptive representations as to what symptoms or ailments will be relieved by the taking of vitamin preparations, the Commission has, in cases in which it had jurisdiction, issued orders to cease and desist, forbidding claims to be made through advertising that such preparations will be of benefit in the treatment of tiredness, weakness, nervousness, nervous disorders, restlessness, sluggishness, insomnia, lack of pep, energy, vigor or vitality, mental inactivity, headache, dizziness, constipation, digestive distress, dependency, poor complexion, rough dry skin, infection of the mucous membranes, sore lips, mouth sores, bleeding gums, ocular itching or burning, inflammations of tongue or mouth, muscular weakness, leg cramps, dermatitis, muscle stiffness, infection, weakened blood vessel walls, bad teeth, pale complexion, general rundown condition, brittle bones, wasting or fragility of the bones, or spasms.

Senator MUSKIE. All of these claims have been made at one time or another?

Mr. DIXON. They sure have, and they are still being made, sir.

If such claims are made, the effect of the orders of the Commission is to require that the advertisements expressly limit the claimed effectiveness of the preparation to those persons whose symptoms have been caused by an established deficiency of one or more of the nutrients provided by the preparation; further, that the advertisements clearly and conspicuously reveal the fact that in the great majority of persons these symptoms are caused by conditions other than those which may respond to treatment by the use of the preparation, and in such persons the preparation will not be of benefit.

It should be recalled that such orders have been issued because there had appeared advertisements or representations, over which the Commission had jurisdiction, which claimed that the use or consumption of the product containing the vitamins would bring about all of these wonderful and exceptional benefits.

There have been many nostrums offered for the purpose of preventing one who takes them from appearing or feeling older than one should. Obviously, they could have such effect only in the very few instances in which the physiological reason for such appearance or feeling is an established deficiency of one or more of the nutrients provided in the preparation; in the greater majority of the cases, these preparations would have no beneficial effect whatsoever. As a result, the Commission has issued orders to cease and desist against these manufacturers preventing their advertisement unless the conditions I have mentioned are made clear to the prospective purchaser.

In addition to orders of the types I have mentioned, whose purpose is to protect the uninformed and unwary from false and deceptive representations of varied medical and health nostrums—and I trust you understand that I have merely given you but a few of the many instances I could have mentioned where the Commission has acted in this field—the Commission also has issued orders to cease and desist to prevent advertisements falsely promising material, rather than healthful benefits to their purchasers. This class of orders unquestionably is a boon to the aged, for, as we grow older, we worry and fear the lack of security and loneliness which only too often plague us in our later years.

In this regard, the Commission has issued orders to cease and desist against parties who falsely promise steady employment, when as a matter of fact, the real intent and purpose of such offers are merely to secure money from the unsuspecting who fall victims to the false promises contained in the advertisements.

Cases of this sort, in which the Commission has issued orders, have been where deception advertisements have lured readers or listeners into the false belief that by completing a "course of study" prescribed by the advertiser, the student will then be assured of a steady employment.

Another bait contained in false and deceptive advertisements of this type is where one is promised steady and lucrative employment in selling and distributing various types of vending machines, with glowing promises made by the advertiser as to the profits which the operators of such machines receive; the truth in such cases is that those who are beguiled by such advertisements are merely buying vending machines, and thereafter they are entirely on their own, without having received the established routes which the advertisements promise them, and never receiving the profits they were told would result from the purchase of the machines.

Senator MUSKIE. Mr. Dixon, I have one illustration here in connection with these vending machines which I would like your comment upon.

The committee chairman received a letter on December 30 of last year with reference to one of these vending machines, outlining the writer's experience, which is unfortunate in the way that you described it, but also, enclosing an advertisement that appeared, I guess,

6 months or more after his experience or more, showing a continuation of the same kind of advertising with the identical machine.

We might do well to put this in the record as illustrative of the sort of things you are speaking about. (See p. 515.) I would like also to have your comment upon the fact that this practice continues, apparently, after it has been exposed.

Mr. DIXON. I don't know whether this matter is pending before us. I would not be surprised if it is, or is not. It may not be that particular company.

Senator MUSKIE. This is the Roadmaster Corp.

Mr. DIXON. I would be very happy to take it and look into it, sir, because it may be that we may be looking at it or it may not have come to our attention. But if it did come to our attention 6 months ago, I would not be too surprised if it is still being advertised.

You remember this: The mere fact that we start looking at something or we even serve a complaint, that advertising does not have to stop, if one keeps the case alive going through review to the Supreme Court. Until the Supreme Court stamps approval, and then our order becomes final, he has to stop, but until they stamp it approved and our order becomes final, the promoter can get himself about a 4-year period to reap a lot of money, sir, is what I am telling you.

Senator MUSKIE. In other words, the regulatory lag.

Mr. DIXON. This is correct, sir.

Now what I am talking about, if this kind of a practice is going on, I think it is disgraceful—if on its face it is that phony, and we can show upon the record the irreparable harm and injury that will come to the public—that we can't enjoin that practice while we are trying it. You see, the practice is that what is happening here is that we might say the runner here reaps the benefit. The public is not only the loser, but is going to lose while this goes on.

The enjoining, the temporary injunction is an extraordinary power. It should never be granted or used anywhere except where a record can be made, and where adequate judicial review is guaranteed.

Senator MUSKIE. I suppose that your files are replete with cases of this kind, if this is such a case.

Mr. DIXON. We have them all the time, sir, and I have seen many. I remember when I came to the Commission in 1938 as a young fellow, I walked in there and one of the first things that was handed me soon after I was there was a little old case, and it was an advertisement in one of these pulp magazines, and it had a picture of a cockroach there, and it said "Sure cure for cockroaches, send 50 cents."

I think that was about it, but the thing was given to me to follow up, and I inquired about it, "Send in what is your remedy for these cockroaches, and all of your organizational structure and your sales," and what-not, and do you know what the fellow sent in? He sent in two blocks of wood, sir, and his instruction was, "Get a cockroach, put it on one, and hit it."

He had a sure cure, and I think it may be one of the very best.

But I remember talking to that man and he came down there and he was doing right well. He was willing to stop it, he said, "but can't we put off me stopping it about 6 months? This is a pretty good deal," he said.

Senator MUSKIE. What can we do further to reduce this regulatory lag? Do we need more law, do you need more staff, or are we doing all we can with it?

Mr. DIXON. We need both, sir. We need both.

I think that if it should be the will of the Congress—because it must eventually be your decision as to whether we get this additional power or not—this additional power to issue cease-and-desist orders would certainly be helpful in eliminating some of the outrageous things that we see.

Then our ability to stay abreast of our load. I think now, sir, we are getting about 6,000 complaints a year—about 7,000, now, Mr. Wheelock reminds me—and we are not married to this mailbag; this just comes in. One complaint comes in and it may result in 200 cases, but these are coming.

We are a body of about 1,130 employees today, and we are required—really, our vista is the American free enterprise system, with only those narrow areas that have been whittled out for possible action by the true regulatory bodies.

This is a tremendous undertaking. I would not say that we ought to have so many people that the town is crowded, but I think that we have a far way to go.

Then you have got to discover some other procedure to keep these boys here in these agencies.

I was looking at my rolls yesterday. I was told that in the last 5 months, I had hired about 150, and had lost 148, so I am 2 ahead, sir.

Now, you have done a good job on the salaries. This will help. But when I have lawyers, and I get them trained in 2 or 3 years, and then a law firm or a corporation comes in and gives them \$25,000, I have trained them mighty fine boys.

Senator MUSKIE. Would you say that there is any truth to the suggestion that the promoters of these schemes and devices and plans rely upon the regulatory and judicial lag as a period when they can escape?

Mr. DIXON. Well, I wouldn't be surprised if they were not aware of it, and—

Senator MUSKIE. Sort of a predictable thing.

Mr. DIXON. I think they could nearly predict that if they wanted to pay a high-priced lawyer to file every motion that he can file, which any half-qualified lawyer can do, and they resolve to take every appeal that he can take, to engage in every legal shenanigan that a lawyer is capable of to get a complete judicial review, yes, he could keep one of these things alive for 2, 3, or 4 years, no matter how fast we do our job, sir.

Senator MUSKIE. It is a real challenge to the ingenuity of your lawyers to find an answer.

Have you specific legislation in mind for this session of the Congress?

Mr. DIXON. We have again come back to this, and I would hope and I would believe that the further additional power to issue the temporary cease-and-desist order in those cases of irreparable harm and injury where we can show that on the record would go farther toward eliminating this than anything, sir, that I have heard mentioned in this town in a long time.



I can tell you who recognized this. All the bars are lined up against it, the NAM, the chamber of commerce, everybody is against us having this power, I will tell you that, and they will be here too; the line will be twice around this Capitol the day you hear it.

Senator MUSKIE. I am sure of that, sir.

Mr. DIXON. Yes, sir.

Senator MUSKIE. Would you proceed?

Mr. DIXON. Yes, sir. Perhaps one of the cruelest types of deceptive practices with which the Commission has had to deal is that connected with the advertisements of dance studios.

I expect all of us at some time have received a telephone call informing us that for one reason or another, we have received "free lessons" in dancing. As was depicted in a recent episode of the television show, "The Real McCoys," these "free lessons" frequently are merely a bait to have the recipient enter into a contract, the fulfillment of which may cost him many thousands of dollars.

Investigations by the Commission disclosed that many of the victims of such schemes have been elderly people. In a desire for companionship and a possible substitution for the loneliness which frequently accompanies old age, these elder citizens are deluded into the belief that by taking dancing lessons and becoming a regular attendant of classes, they will be able to have an antidote for their cloistered existence.

Also, I might call to the committee's attention those insurance cases, over which the Commission had jurisdiction, where the Commission has issued orders to cease and desist against representations that the policies would indemnify and insure against loss due to sickness or injury without making it clear exactly what restrictions and limitations are attached to such indemnifications.

The Commission has met with State insurance commissioners in an attempt to work out a program whereby, through cooperation between the Federal Trade Commission and proper State officials, a feasible plan can be placed in effect which would give the maximum protection to the public against insurance frauds. This is of prime importance to our elder citizens, for many of the deceptive advertisements for insurance are directed primarily at those who have passed the meridian of life.

Apart from orders to cease and desist, which have been referred to, that in my opinion would be particularly beneficial to older people, as I have told you, we have many other types of cases in which the Commission has issued orders to cease and desist.

As an example, the U.S. Court of Appeals, Seventh Circuit, unanimously upheld an order of the Commission against a furnace company, the court specifically upholding the finding by the Commission that the company was guilty of engaging in deceptive acts and practices, in carrying out systematic sales program which—

(1) Represented that its employees were employees or representatives of Government agencies or of gas or utility companies;

(2) Represented that its employees were heating engineers;

(3) Misrepresented the condition of competitors' furnaces, or that the manufacturers of such furnaces were out of business or that parts therefor were unobtainable;

(4) Dismantled furnaces without permission of the owners;

- (5) Misrepresented the condition of dismantled furnaces;
- (6) Required owners of furnaces dismantled by the respondent to sign a release absolving the respondent of liability as a condition precedent to reassembling the furnaces; and
- (7) Refused to reassemble, at the request of the owners, furnaces which it had dismantled.

I think the public has become aware of the rash of advertisements which invite us to make a temptingly small downpayment, with correspondingly low monthly payments, to procure a lovely plot of land on which we may spend our vacations or live contentedly during our years of retirement.

Such advertisements obviously are directed primarily at our elder citizens. Likewise, it is rather apparent that much of such advertising frequently contains representations and exaggerations which smack of fraud. They usually are directed at prospective buyers who live many miles from the property to be sold; at people who have little or no idea whether the actual parcels of land differ from that glowingly described or pictured in the advertisements. Generally speaking, those tempted by such luring promises of owning land in salubrious surroundings, do not have the financial means to investigate personally the land before they purchase it. Therefore, the tempted buyer is forced to depend entirely upon the descriptions contained in the advertisement, not realizing that the representations contained in such advertisements frequently merely portray a promoter's dream of what he hopes the land will eventually become, rather than its present condition. An actual investigation in such instances would disclose that the land is now a vast wasteland without streets, water, sewers, and other modern conveniences to which we are accustomed.

To protect the unwary from this type of advertisements, the Commission has investigated a number of complaints, and has found that in some instances, where the Commission had jurisdiction, that the disclosed facts would justify the Commission issuing a complaint; as a consequence, such complaints are now in the process of preparation.

In addition, the Federal Trade Commission is cooperating with various local, State and governmental agencies in an attempt to prevent the continuance of false and deceptive advertisements of this type.

Also, within the last few months, a representative of the Commission participated in a national conference on interstate land sales in San Francisco. This conference was sponsored by the Western Conference of Attorneys General, the National Association on District Attorneys, and the Association of Better Business Bureaus. A total of 31 States were represented principally by attorneys general. In addition to the Federal Trade Commission, there were representatives from various other Federal agencies which have an interest in the problem of interstate land sales.

The principal subject discussed at the conference was the best method of protecting the public against fraud in the advertising and sale of interstate land. It was clearly and forcefully brought out that problems arising from interstate land sales are of national concern.

Hundreds of thousands of acres of remote, undeveloped desert or submarginal land in Western and Southern States and in foreign countries are being offered in small parcels to the public.

One participant estimated that over \$500 million was paid or committed last year through land-sales contracts for the purchase of small parcels. It was also clearly shown that most of the promotional literature is highly deceptive. The deception appears to result as much from the promoters' failure to give the full picture as from actual misrepresentations.

There were predictions that unless immediate action is taken to control interstate land sales, especially the false, misleading, and deceptive representations, there will be a national scandal comparable to the Mississippi Bubble of earlier days.

I do not mean to infer that all advertisements offering small investors lands for vacation or retirement sites are false; many are not. Several States have stringent laws pertaining to false or deceptive representations in the offering for sale of land within its borders. Nevertheless, there are unscrupulous operators attempting to capitalize on the desire of all to have a plot of land where they may spend their later years in perfect contentment; often this is done by means of false and deceptive advertising. I can promise you that the Federal Trade Commission will continue to do everything it can to put a stop to such reprehensible practices.

The jurisdiction of the Federal Trade Commission, under the Federal Trade Commission Act, is limited to acts "in commerce." Consequently, there are many deceptive acts or practices which must be corrected by actions of the various States. It is practically universal among the States that they have a so-called State Fair Trade Act applying to intrastate activities within the borders of that State.

The Commission has always worked, and will continue to work, in close cooperation with the States. If a matter, involving unfair or deceptive trade practices which are not "in commerce," is brought to the attention of the Commission, then it is referred, where possible, to the appropriate state agency.

With reference to these instances of deceptive acts and practices and unfair methods of competition, over which the Commission had jurisdiction, they are usually brought to the Commission's attention by citizens who have been adversely affected by their operation. The identity of the complaining party is never disclosed by the Federal Trade Commission.

Of course, the staff of the Commission works very closely with the better business bureaus throughout the country, and they are the source of many of the complaints which eventually result in the Commission issuing orders to cease and desist.

Therefore, may I, through this committee, invite our aged citizens as well as all the others, if they believe deceptive acts and practices over which the Federal Trade Commission has jurisdiction are taking place, and they have personal knowledge of this, to pass this information on to the Commission.

I trust that I may have given you members of the committee at least a slight insight into the manner in which the Federal Trade Commission operates in carrying out the authority which Congress has given it to prevent the continuance of deceptive acts and practices and unfair methods of competition, and what, at least to a small measure, the Commission has done to benefit our elder citizens.

Senator MUSKIE. Mr. Dixon, I wonder if you could sum up the remainder of your testimony?

Mr. DIXON. Yes, sir. I just referred to the insurance cases there. I think one little word should be made about the land purchases.

Recently we had a representative in California where some 31 States were represented, and all the Federal agencies, and it has been estimated that, I believe, \$500 million was paid or committed last year through land sale contracts for the purchase of small parcels. I have heard this mentioned and read in the papers of the reports of others commenting on this.

We are presently investigating several of these.

I know through our relationship with the Post Office Department that this is, and I am thankful to report to you it is self-evident that the States themselves are awakening to their responsibility in this area.

I do not mean by this that all of these things are wrong, but certainly some of them appear questionable.

I think that that, other than the mentioning to you that we work very closely with organizations such as the better business bureau, they send us many matters, and they make wide circulation of things that we perform in our public function, I think I would leave it there and submit myself for questions, sir.

Senator MUSKIE. I appreciate your statement, and I would like to say for the record that I have known of your longstanding interest in this problem which seems, from your point of view, to revolve about two specific points; one, monitoring the activities of these people, and, secondly, applying the applicable law to protect the public interest. This requires alertness and ingenuity and determination, and I would like to thank you for the statement you have presented today.

Mr. DIXON. Thank you for the opportunity of coming, sir.

Senator MUSKIE. Mr. Dixon, I wonder if I may nail down one point, to make it clear for the record.

Are you going to ask authority from the Congress to issue temporary cease-and-desist orders?

Mr. DIXON. Yes, sir; in the usual course of things, we have been asked to submit to the Budget Bureau those legislative matters that we would think we would need to strengthen our performance, and we have made such recommendation, and I am sure they will be reiterated, or believe they will be reiterated probably by the President. I am not certain, but I would hope so, sir.

Senator MUSKIE. In other words, your present statutory authorities do not give you this kind of power?

Mr. DIXON. This is correct, and the bills to amend our authority were introduced in the last Congress, and I am certain they will be reintroduced, and I would be hopeful that we will have further hearings on them, sir.

Senator MUSKIE. Thank you very much.

Mr. DIXON. Thank you, sir.

(The prepared statement of Mr. Dixon follows:)

PREPARED STATEMENT OF PAUL RAND DIXON, CHAIRMAN,  
FEDERAL TRADE COMMISSION

On behalf of the Federal Trade Commission, may I express to you our appreciation for having been invited to appear before this most important committee.

I understand that the intent and purpose of this committee is, as expressed in Senate Resolution 33 of the 1st Session of the 87th Congress, "To discover what social and economic conditions will enable our older citizens to contribute to our productivity and to lead meaningful, satisfying, independent lives." The importance and laudability of this purpose is demonstrated by the fact, as was pointed out in Senate Resolution 33, that there are probably 16 million people 65 years of age and older in the United States and that this number will have increased to 20 million by 1975.

It is now recognized that the lifespan of man, especially those who are fortunate enough to be Americans, is constantly increasing. Medicine and science are developing various ways and means whereby all of us can look forward to many years more existence than was true of our progenitors.

If we at the Federal Trade Commission can contribute in any way to the accomplishment of the objectives of this committee and the welfare of our senior citizens, we are happy to do so.

I think that the ideal which probably prompted Senator McNamara to offer the resolution creating this committee, was that expressed by Browning in his famous poem. "Rabbi Ben Ezra", when he enunciated the immortal words:

"Grow old along with me!  
The best is yet to be,  
The last of life, for which the first was made.  
Our times are in His hand."

I am informed that you have held hearings primarily devoted to investigating nursing homes, retirement income, housing for the elderly, and the extent, quality, and relation of Federal and State activities in the field of aging.

The resolution creating this committee said it should be your duty, "To make a full and complete study and investigation of any and all matters pertaining to problems of older people, including but not limited to, problems of maintaining health, of assuring adequate income, of finding employment, of engaging in productive and rewarding activity, of securing proper housing, and, when necessary, care or assistance."

With this in mind, I pondered what to say to you, on behalf of the Commission, which might be of some help to the committee in attempting to reach its goal. I decided that a discussion of some of the orders the Commission has issued would perhaps be helpful to the committee in its work.

The Federal Trade Commission has as one of its primary functions, the protection (insofar as its jurisdiction will permit) of the right of consumers not to be misled or bilked by false and deceptive acts or practices or unfair methods of competition. This effort by the Commission is for the protection of all our citizens, for we all are consumers. While the activities of the Commission in this regard are not directed entirely to the millions of our elder citizens, they do affect and redound to their benefit, as they do to the rest of the citizens of this blessed country.

And so, in the hope that it may furnish this committee with some information of value to it in considering the problems with which the committee is engaged, I shall cite some of the numerous cases in which the Commission has issued orders and which, we believe, have given and will continue to give protection to the aged from those who have engaged in acts and practices the Commission has found to be detrimental to the public interest.

One class of orders issued by the Commission in cases which benefit the aging, is the one in which the Commission enjoined the continuance of misrepresentations pertaining to the sale of eyeglasses by mail. The respondents in these cases were ordered by the Commission to cease and desist from advertising, directly or by implication, that eyeglasses sold by the respondents, made pursuant to the results of so-called do-it-yourself eye tests using respondents' devices, "will correct, or are capable of correcting, defects in vision of persons unless expressly limited to those persons approximately 40 years of age or older who do not have astigmatism or diseases of the eye and who require only simple magnifying or reducing lenses."

The Commission issued several cease-and-desist orders restraining advertising which claimed that such eye-testing devices could be used by purchasers to determine reliably what eyeglasses they needed to correct defects in their vision. We hope and believe that orders of this type will offer protection to those trusting souls who believe that they may save money by a self-examination of their eyes, without realizing that in doing this they may purchase improper glasses which could cause irreparable injury to their eyes.

In cases of a similar type, the Commission has issued cease-and-desist orders with reference to advertising for contact lenses which forbade the respondents in such cases from advertising, directly or by implication, that—

1. All persons in need of visual correction can successfully wear said contact lenses;
2. There is no irritation or discomfort in wearing said contact lenses;
3. A person can wear said lenses all day, unless it is clearly disclosed that this is possible only after such person has become fully adjusted thereto;
4. Eyeglasses can be discarded upon the purchase of said contact lenses;
5. Said contact lenses will correct all defects in vision.

The beneficial effects to our elder citizens of these several orders applying to contact lenses are obvious.

There can be no question but that all of us have certain innate vanities and those who are hard of hearing—which is a rather common ailment among older people—wish, if possible, to conceal such physical deficiency.

Recognizing this, many manufacturers have so worded their advertisements that consumers are lead to believe that their hearing-aid device can be worn without detection. To prevent the continuation of such deception, the Commission has issued several orders to cease and desist which enjoined the respondents from advertising, directly or by implication—

1. That said devices are cordless or do not require the use of a cord unless in close connection therewith and with equal prominence it is stated that a plastic tube runs from the device to the ear;
2. That said devices do not require a button or other accessory to be inserted in the ear;
3. That their hearing aids, or any of them are invisible.

As we grow older, all of us, in varied degrees, suffer from the pain attendant to aching joints, arthritis, sore muscles, and similar ailments; to apply a colloquialism prevalent in the South, "our bones begin to ache." Preying upon this rather universal physical condition, and recognizing that frequently some relief can be secured by means of exercise, a plethora of mechanical devices has been created, which are represented as giving one the benefits to be derived from exercising, without being put to the physical stress of going through the calisthenics required for proper exercising. Many massage devices have been created and then advertised as bringing the desired relief from aching muscles and joints; while some of these are efficacious, a number of them are not.

In an effort to prevent misrepresentations in the advertising of such massage devices, the Commission has issued orders against such machines as the "Gyro Massage and Heat Pillow," the "Vibra-King Actavator," and the "Mary-Mac Relax-O-Motor Motorized."

The orders of the Commission in such cases have prohibited the respondents therein from advertising, directly or by implication, with reference to such devices that they "will relieve the pain of arthritis, bursitis, aching joints, sore muscles or any other pains, unless expressly and clearly limited to the temporary relief of minor aches and pains, or that its use will have any effect upon the contour of the body," that such a device "is a competent or reliable means for treating diseases or abnormalities of the bones or joints of the body; or that said devices will provide any beneficial effect on the bones or joints of the body unless such is the fact," or "that the use of said devices will be of value in effecting a general or localized reduction in body weight," or that the use of said devices is a reliable means "for treating abnormalities or diseases of the organs or of the respiratory, digestive, or other systems of the body," and that the use of said devices "will tone the muscles or effect a firmer figure."

Your committee already has listened to representatives of those medical groups who are dedicated to the fight against arthritis, rheumatism, and similar dread diseases agonizing and even crippling millions of our citizens, particularly the elderly. A part of this fight is against those sadists who have preyed upon the victims, tantalizing them with offers of cures, reaping untold millions of dollars in profits from the sale of drugs to the ailing made gullible by a frantic eagerness to try anything new which might ease their suffering—who are disillusioned sooner or later to discover that such products offer nothing more than simple analgesics which could be purchased at most drugstores for a small fraction of the cost charged by these hucksters.

In this respect the Federal Trade Commission has been able to offer a substantial contribution. The Commission has issued orders requiring advertisers promising relief from the excruciating pains of arthritis, rheumatism, and

similar ailments, to cease and desist from representing that their products were effective in the treatment or cure of any kind of arthritic condition, or would do more than temporarily relieve the minor aches and pains thereof. Promoted only by such truthful advertising, such products have almost disappeared from the pharmacists' shelves.

But this fight continues. The Commission's monitoring staff is regularly detecting the appearance of advertising for new products. The Arthritis and Rheumatism Foundation and the American Rheumatism Association call attention to advertisements coming to their attention and stand ready at all times to supply medical testimony if needed to support corrective action. This vigilance is paying dividends, although it receives no publicity. Action is being taken while the promotions are still in their incipiency and they are effectively throttled before they acquire substantial stature or the public is appreciably affected. I assure you that this effort is high on the Commission's priority list and will be continued.

The Commission has also taken action against advertisers of books, who claim that their publications contain dietary and other instructions which enable the reader to cure arthritis and related conditions. In one such book, the recommended treatment was a dietary regimen relying heavily on cod liver oil and orange juice, together with other foods and beverages, the basic secret being that they should all be consumed in a certain sequence.

Due to the continuous advertising, a belief apparently has arisen among many consumers, particularly those of a more or less advanced age, that many ills which beset them can be cured miraculously by the taking of vitamins. The information which I have is that, generally speaking, if we eat three square meals a day, it is only in very rare cases that we need any vitamins in addition to those which our body received through the consumption of food.

Many fantastic claims have been made as to the therapeutic effects of certain vitamins and minerals.

To protect the public from deceptive representations as to what symptoms or ailments will be relieved by the taking of vitamin preparations, the Commission has, in cases in which it had jurisdiction, issued orders to cease and desist, forbidding claims to be made through advertising that such preparations will be of benefit in the treatment of tiredness, weakness, nervousness, nervous disorders, restlessness, sluggishness, insomnia, lack of pep, energy, vigor or vitality, mental inactivity, headache, dizziness, constipation, digestive distress, despondency, poor complexion, rough dry skin, infection of the mucous membranes, sore lips, mouth sores, bleeding gums, ocular itching or burning, inflammations of tongue or mouth, muscular weakness, leg cramps, dermatitis, muscle stiffness, infection, weakened blood vessel walls, bad teeth, pale complexion, general rundown condition, brittle bones, wasting or fragility of the bones, or spasms. If such claims are made, the effect of the orders of the Commission is to require that such advertisements expressly limit the effectiveness of the preparation to those persons whose symptoms have been caused by an established deficiency of one or more of the nutrients provided by the preparation; further, that the advertisements clearly and conspicuously reveal the fact that in the great majority of persons these symptoms are caused by conditions other than those which may respond to treatment by the use of the preparation, and in such persons the preparation will not be of benefit.

It should be recalled that such orders have been issued because there had appeared advertisements or representations, over which the Commission had jurisdiction, which claimed that the use or consumption of the product containing the vitamins would bring about all of these wonderful and exceptional benefits.

It further should be noted that the orders to cease and desist of the Commission, with reference to these vitamin advertisements, require that it be made clear in the advertisement that the preparation will only be effective on those persons whose symptoms have been caused by "an established deficiency" of one or more of the vitamins provided in the preparation and, further, that the ad must make it clear that in the greater majority of persons such symptoms are caused by other conditions, and as to these persons, the preparation will not be of any benefit.

A recent initial decision was issued by a hearing examiner with reference to a well-known preparation containing iron, in addition to vitamins; likewise, just a short time ago, the Commission issued a complaint against another vitamin-mineral combination.

In the initial decision, the examiner found, and in the complaint it is alleged, that the advertised preparations will not have an beneficial effect in a majority of cases of so-called iron deficiency, in that this condition is due to causes other than those which can be relieved or cured by any of the ingredients of the advertised preparation.

With reference to the initial decision issued in the iron tonic case, some of the advertisements which the examiner found to be false, and on the basis of which he issued his order to cease and desist are:

"If winter colds have been getting you down \* \* \* if you feel all dead part of the time and half dead all of the time \* \* \* you need a spring tonic \* \* \* New Super Hadacol blood tonic!"

"If you suffer from iron and mineral deficient blood, your first spoonful of New Super Hadacol will start your blood surging with new internal get-up-and-go! You'll feel like doing things you haven't done in years! And, like I said Hadacol will help prevent winter colds because Hadacol gives you new energy \* \* \*."

"\* \* \* the vitamin tonic that revitalizes your blood, adds new pep and energy \* \* \*"

"Remember right now is the time to start building yourself up to resist the miseries of winter colds, aches, and pains \* \* \*"

"Can't sleep? Nervous? Tired? Put an end to your agonies from overexhaustion, sleepless nights, and excessive nervousness caused by iron and mineral deficient blood."

"The vitamin tonic that supplements your diet and gives you energy and pep to get more fun and joy from life."

In this case, because the product contains vitamins, the disclosures as to infrequency of need are required by the initial decision. But, in addition, because of the claims that the product is efficacious in its treatment of iron deficiency, the hearing examiner in his initial decision would require that the advertising disclose that this condition of iron deficiency is also relatively infrequent in adults, and that when it occurs in men or women beyond the usual childbearing age, it is almost invariably due to bleeding from some serious disease or disorder, which disease or disorder may be masked by the use of the advertised product, and the disease or disorder actually progresses in intensity while the product is being used.

The Commission also issued a cease and desist order against a book publisher enjoining it from representing, directly or by implication, with the offering for sale or sale or distribution of a book, that the regimen in said book would prevent or cure "sickness, maintain good health or prolong the life span," or will give "vigor to young and old or is a guide to good health."

There have been many nostrums offered for the purpose of preventing one who takes them from "appearing or feeling older than one should." Obviously, they could have such effect only in the very few instances in which the physiological reason for such appearance or feeling is an established deficiency of one or more of the nutrients provided in the preparation; in the greater majority of the cases, these preparations would have no beneficial effect whatsoever. As a result, the Commission has issued orders to cease and desist against their manufacturers preventing their advertisement unless the conditions I have mentioned are made clear to the prospective purchaser.

In addition to orders of the types I have mentioned, whose purpose is to protect the uninformed and unwary from false and deceptive representations of varied medical and health nostrums—and I trust you understand that I have merely given you but a few of the many instances I could have mentioned where the Commission has acted in this field—the Commission also has issued orders to cease and desist to prevent advertisements falsely promising material, rather than healthful benefits to their purchasers. This class of orders unquestionably is a boon to the aged, for, as we grow older, we worry and fear the lack of security and loneliness which only too often plague us in our later years.

In this regard, the Commission has issued orders to cease and desist against parties who falsely promise steady employment, when as a matter of fact, the real intent and purpose of such offers are merely to secure money from the unsuspecting who fall victims to the false promises contained in the advertisements.

Cases of this sort, in which the Commission has issued orders, have been where deceptive advertisements have lured readers or listeners into the false belief that by completing a "course of study" prescribed by the advertiser, the student will then be assured of a steady employment.



Another bait contained in false and deceptive advertisements of this type is where one is promised steady and lucrative employment in selling and distributing various types of vending machines, with glowing promises made by the advertiser as to the profits which the operators of such machines receive; the truth in such cases is that those who are beguiled by such advertisements are merely buying vending machines, and thereafter they are entirely on their own, without having received the established routes which the advertisements promise them, and never receiving the profits they were told would result from the purchase of the machines.

Perhaps one of the cruelest types of deceptive practices, with which the Commission has had to deal, is that connected with the advertisements of dance studios.

I expect all of us at some time have received a telephone call informing us that for one reason or another, we have received "free lessons" in dancing. As was depicted in a recent episode of the television show, "The Real McCoy," these "free lessons" frequently are merely a bait to have the recipient enter into a contract, the fulfillment of which may cost him many thousands of dollars.

Investigations by the Commission disclosed that many of the victims of such schemes have been elderly people. In a desire for companionship and a possible substitution for the loneliness which frequently accompanies old age, these elder citizens are deluded into the belief that by taking dancing lessons and becoming a regular attendant of classes, they will be able to have an antidote for their cloistered existence.

To prevent such practices, the Commission issued an order to cease and desist against a dance organization and its officers enjoining them from—

1. Representing, directly or by implication, by means of radio or television broadcasts, newspaper advertisements, contracts, telephone quizzes, crossword, dizzy dance or zodiac puzzles, "Lucky Buck" contests, or any certificates relating thereto, or any other means, that a course of dancing instruction or a specified number of dancing lessons, or any other service or thing of value, will be furnished free of charge, at a reduced price, or for any price, unless the period or periods of bona fide dancing instruction or other service or thing of value is in fact furnished as represented.

2. Using (a) by telephone any quiz, puzzle, contest, or other device which purports to involve, or is represented as involving, skill, competition or special selection; (b) by other means any promotion which purports to be a bona fide quiz, puzzle, contest or other device involving skill, competition or special selection when skill, competition or special selection is not involved; or (c) any bona fide quiz, puzzle, contest, or similar device when a purpose of such promotion is to obtain leads to prospective customers and such purpose is not fully and conspicuously disclosed in the announcement or description of such promotion.

3. Requesting pupils or prospective pupils to sign uncompleted contracts or agreements; evading or refusing to answer inquiries concerning amounts due or payable on proposed or completed contracts or agreements; or misrepresenting to pupils or prospective pupils what is or will be due or payable.

4. Falsely representing to or assuring pupils or prospective pupils that a given course of dancing instruction will enable him or her to achieve a given standard of dancing proficiency.

Also, I might call to the committee's attention those insurance cases, over which the Commission had jurisdiction, where the Commission has issued orders to cease and desist against representations that the policies would indemnify and insure against loss due to sickness or injury without making it clear exactly what restrictions and limitations are attached to such indemnifications.

The Commission has met with State insurance commissioners in an attempt to work out a program whereby, through cooperation between the Federal Trade Commission and proper State officials, a feasible plan can be placed in effect which would give the maximum protection to the public against insurance frauds. This is of prime importance to our elder citizens, for many of the deceptive advertisements for insurance are directed primarily at those who have passed the meridian of life.

Apart from orders to cease and desist, which have been referred to, that in my opinion would be particularly beneficial to older people, as I have told you, we have many other types of cases in which the Commission has issued orders to cease and desist.

As an example, the U.S. Court of Appeals, Seventh Circuit, unanimously upheld an order of the Commission against a furnace company, the court specifically upholding the finding by the Commission that the company was guilty of engaging in deceptive acts and practices, in carrying out a systematic sales program which—

1. Represented that its employees were employees or representatives of Government agencies or of gas or utility companies ;
2. Represented that its employees were heating engineers ;
3. Misrepresented the condition of competitors' furnaces, or that the manufacturers of such furnaces were out of business or that parts thereof were unobtainable ;
4. Dismantled furnaces without permission of the owner ;
5. Misrepresented the condition of dismantled furnaces ;
6. Required owners of furnaces dismantled by (the respondent) to sign a release absolving (the respondent) of liability as a condition precedent to reassembling the furnaces ; and
7. Refused to reassemble, at the request of the owners, furnaces which it had dismantled.

I think the public has become aware of the rash of advertisements which invite us to make a temptingly small downpayment, with correspondingly low monthly payments, to procure a lovely plot of land on which we may spend our vacations or live contentedly during our years of retirement.

Such advertisements obviously are directed primarily at our elder citizens. Likewise, it is rather apparent that much of such advertising frequently contains representations and exaggerations which smack of fraud. They usually are directed at prospective buyers who live many miles from the property to be sold ; at people who have little or no idea whether the actual parcels of land differ from that glowingly described or pictured in the advertisements. Generally speaking, those tempted by such luring promises of owning land in salubrious surroundings, do not have the financial means to investigate personally the land before they purchase it. Therefore, the tempted buyer is forced to depend entirely upon the descriptions contained in the advertisement, not realizing that the representations contained in such advertisements frequently merely portray a promoter's dream of what he hopes the land will eventually become, rather than its present condition. An actual investigation in such instances would disclose that the land is now a vast wasteland without streets, water sewers, and other modern conveniences to which we are accustomed.

To protect the unwary from this type of advertisements, the Commission has investigated a number of complaints, and has found that in some instances, where the Commission had jurisdiction, that the disclosed facts would justify the Commission issuing a complaint ; as a consequence, such complaints are now in the process of preparation.

In addition, the Federal Trade Commission is cooperating with various local, State, and governmental agencies in an attempt to prevent the continuance of false and deceptive advertisements of this type.

Also, within the last few months, a representative of the Commission participated in a national conference on interstate land sales in San Francisco. This conference was sponsored by the Western Conference of Attorneys General, the National Association of District Attorneys, and the Association of Better Business Bureaus. A total of 31 States were represented principally by attorneys general. In addition to the Federal Trade Commission, there were representatives from various other Federal agencies which have an interest in the problem of interstate land sales.

The principal subject discussed at the conference was the best method of protecting the public against fraud in the advertising and sale of interstate land. It was clearly and forcefully brought out that problems arising from interstate land sales are of national concern. Hundreds of thousands of acres of remote, undeveloped, desert or submarginal land in Western and Southern States and in foreign countries are being offered in small parcels to the public. One participant estimated that over \$500 million was paid or committed last year through land sales contracts for the purchase of small parcels. It was also clearly shown that much of the promotional literature is highly deceptive. The deception appears to result as much from the promoters' failure to give the full picture as from actual misrepresentations. There were predictions that unless immediate action is taken to control interstate land sales, especially the false, misleading, and deceptive representations, there will be a national scandal comparable to the Mississippi Bubble of earlier days.

I do not mean to infer that all advertisements offering small investors lands for vacation or retirement sites are false; many are not. Several States have stringent laws pertaining to false or deceptive representations in the offering for sale of land within its borders. Nevertheless, there are unscrupulous operators attempting to capitalize on the desire of all to have a plot of land where they may spend their later years in perfect contentment; often this is done by means of false and deceptive advertising. I can promise you that the Federal Trade Commission will continue to do everything it can to put a stop to such reprehensible practices.

The jurisdiction of the Federal Trade Commission, under the Federal Trade Commission Act, is limited to acts "in commerce." Consequently, there are many deceptive acts or practices which must be corrected by actions of the various States. It is practically universal among the States that they have a so-called State Fair Trade Act applying to intrastate activities within the borders of that State.

The Commission has always worked, and will continue to work, in close cooperation with the States. If a matter, involving unfair or deceptive trade practices which are not "in commerce," is brought to the attention of the Commission, then it is referred, where possible, to the appropriate State agency.

With reference to those instances of deceptive acts and practices and unfair methods of competition, over which the Commission had jurisdiction, they are usually brought to the Commission's attention by citizens who have been adversely affected by their operation. The identity of the complaining party is never disclosed by the Federal Trade Commission.

Of course, the staff of the Commission works very closely with the better business bureaus throughout the country, and they are the source of many of the complaints which eventually result in the Commission issuing orders to cease and desist.

Therefore, may I, through this committee, invite our aged citizens as well as all the others, if they believe deceptive acts and practices over which the Federal Trade Commission has jurisdiction are taking place, and they have personal knowledge of this, to pass this information on to the Commission.

I trust that I may have given you members of the Committee at least a slight insight into the manner in which the Federal Trade Commission operates in carrying out the authority which Congress has given it to prevent the continuance of deceptive acts and practices and unfair methods of competition, and what, at least to a small measure, the Commission has done to benefit our elder citizens.

May I again thank you on behalf of both myself and the Commission as a whole for having had the opportunity of appearing before you this morning.

Senator MUSKIE. Now my distinguished colleague in the Senate from the land of sky blue waters, where I would think the purity of the water and the air would minimize the need for any medicines, quack or otherwise. We welcome Senator McCarthy of Minnesota for the purpose of presenting a statement.

#### STATEMENT OF HON. EUGENE J. McCARTHY, A U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator McCARTHY. Mr. Chairman, I commend the committee for taking up this special problem of the aged.

I am pleased to transmit to the committee a statement of Attorney General Walter Mondale of Minnesota, together with supporting data which he has prepared and developed. Attorney General Mondale has made a strong effort to give protection to the consumers and this, of course, includes the aged people in our State.

The burden of his statement relates to the problem of the interstate sale of real estate lots and I would like to submit his statement, together with the supplemental material and his recommendations for the consideration of the committee.

Senator MUSKIE. Senator McCarthy is going to be shorter winded than Senators usually are.

I appreciate getting this statement, Senator, your statement and the statement of Attorney General Mondale of Minnesota, and the attached materials, which relate to a subject with which the attorney general has been in correspondence with this committee, as I understand it.

(The statements referred to follow :)

PREPARED STATEMENT OF SENATOR EUGENE J. MCCARTHY

I wish to commend the committee for taking up this problem. It is the work of government to secure justice for all citizens, but government must have a special concern for the needy—for the young and the weak and the sick and the poor.

Some elderly and retired citizens, of course, have sufficient resources to meet all their needs. Some are fully capable of holding their own in any financial exchange. This is not, however, the normal situation.

Many of our elderly citizens can barely subsist on their pensions. Many suffer from ill health and from fear that their condition will get worse. It is these who are especially susceptible to wasting their money and even going into debt on fraudulent schemes which promise to seek relief from pain and to restore health.

In other cases they respond to "get rich" propositions, hoping to increase their limited retirement income but, in fact, losing all their savings to those few who live by exploiting the aged, by exciting them to unfounded fear or to false hope.

I believe it is important that the committee investigate this situation, first of all, in order to make the facts familiar to the Congress and to the public. Certainly some forms of exploitation of our aged can be prevented or greatly reduced by publicity and by educational efforts.

It is important, secondly, to determine those areas in which legislation should be enacted. Proper legislation serves to protect the aged. It also protects the legitimate businesses and professional people who provide reliable materials and honest service. The testimony about enforcement of existing legislation and about new problems which are emerging will assist Congress in determining whether additional Federal legislation is required.

On this point, I am pleased to transmit for the record the statement of Attorney General Walter F. Mondale, of Minnesota.

Attorney General Mondale is particularly qualified to testify on these problems. When he took office in 1960 he established the first consumer protection unit in Minnesota. He is chairman of the Committee on Consumer and Investor Protection of the National Association of Attorneys General. Last year President Kennedy appointed him as 1 of the 12 members of the President's Consumer Protection Advisory Council.

Attorney General Mondale has gained national recognition for his efforts to protect the public from fraudulent sales of worthless subdivided lots, and it is to this problem that he principally directs his remarks in his prepared statement.

He has also included in his materials for the committee a statement by the Consumer Protection Advisory Council of Minnesota and a bill the group proposed to combat fraud in sales of subdivided lots. Attorney General Mondale goes on to state, however, that improvement in State laws will not fully solve the problem. In addition, he recommends enactment of an amendment to the Securities and Exchange Commission Act to give the Commission authority to require registration of land promotions in interstate commerce. It would give the Commission the authority to require registration of land promotions in interstate commerce to protect the investor in land as they are now protected in connection with securities or investment contracts.

As you know, another Minnesota official, Elmer A. Borgschatz, director of the Minnesota Real Estate Department and past president of the National Association of License Law officials, testified on this subject before the committee yesterday. I share the concern of Attorney General Mondale and Director Borgschatz about the welfare of elderly citizens. I am confident that the members of the committee will give careful consideration to their views and recommendations.

PREPARED STATEMENT BY ATTORNEY GENERAL WALTER F. MONDALE OF MINNESOTA

I wish to congratulate this committee on including, in its investigations of rackets affecting elderly persons, fraudulent interstate sales of subdivided lots. Most of the victims of such sales are persons already elderly, or younger persons seeking a comfortable old age, who buy lots with the intention of either building retirement homes on the lots, or of making investments of their savings which will provide a good yield after the working years are over. I am happy to find that this committee has undertaken to study measures to prevent persons from being fleeced of their savings through the purchase, induced by fraud, of valueless lots.

Such frauds are approaching a national scandal. The thousands of such frauds, many of them in interstate commerce, present a severe threat to the savings of American senior citizens. The extent of the scandal is vividly described in the Wall Street Journal for Thursday, January 3, 1963.

My work in consumer protection on the State level has caused me to make a thorough study of such fraud. In May of 1962, I told the National Association of License Law Officials, meeting in Minneapolis, that the problem of misrepresentation in fraud in interstate real estate transactions was one of the utmost importance which must be attacked on all levels of government. I attach as appendix A to this statement my speech to the association. In addition, I advised my consumer protection advisory council, here in Minnesota, that steps would have to be taken on a State level to combat fraud in sales of subdivided lots. The council responded by recommending a bill for adoption by the Minnesota Legislature. Appendix B contains the council's reports as well as, the bill recommended by the council. Finally, as chairman of the committee on Consumer and Investor Protection of the National Association of Attorneys General, I called a first national conference on interstate land sales, held at the Fairmont Hotel, San Francisco, Calif., on October 1 and 2, 1962, with Attorney General Stanley Mosk of California as chairman and host of the conference. I told the conference that our consumer protection unit had found indications of an astounding increase in attempted sales of lots located outside Minnesota to residents of Minnesota in the last 2 years. I told the conference that Minnesota's concern was not only to protect its own citizens from purchase of land located outside of Minnesota, but also to protect the reputation of the State in sales of lots located in Minnesota, often most attractive to persons living in warmer, more arid States. I enclose, as appendix C, my remarks to that conference.

I have repeatedly emphasized that improvement in State laws on the subject will not fully cover the problem. Jurisdictional problems often prevent State officials from fully protecting the people of their State. Moreover, current Federal laws, which Federal authorities, I am happy to say, are attempting to enforce vigorously, will not be adequate. Nathaniel E. Kossack, Chief of the Fraud Section of the Criminal Division of the Department of Justice, told the National Conference on Interstate Land Sales that the Justice Department in cooperation with the Chief Postal Inspector is increasing its emphasis on the mail fraud investigations in prosecutions of land sale swindlers. But, Mr. Kossack told the conference, "Time-consuming criminal investigations and prosecutions are not the total 'cure.' Too often we are too late to prevent the victimizing of a large group of our public. Even the preventatives of postal fraud orders and cease-and-desist orders by the Federal Trade Commission do not provide complete protection. In the end it is little solace to the public who has lost millions of dollars that the culprit is now in jail or, that he can no longer operate under his present business label."

It is the inadequacy of existing legislation, State and Federal, that led me to recommend, both to the conference last May of the National Association of License Law Officials, and to the National Conference on Interstate Land Sales, that legislation be enacted to give the Securities and Exchange Commission the authority to require registration of land promotions in interstate commerce. The Commission should have jurisdiction to require full disclosure, in any brochure prepared in connection with any sale or offer for sale, of facts which would enable a prospective buyer to determine whether the purchase of the land involved is a good investment. This would put the investor in land on the same footing with an investor in a security or investment contract, offered in interstate commerce or through the mail. The Securities and Exchange Commission already has jurisdiction over certain types of sales of land in interstate commerce or through the mail which come within the definition of "investment contract" in section 2(1) of the Securities Act of 1933 (48 Stat. 74; 15 U.S.C.

77b(1)). There seems no reason why such protection should not be extended to all persons who invest in subdivided lots, either for pure investment or with the intention of eventually living on the lot. Mere prosecution of fraudulent operators, will not provide the full answer. Requiring all interstate dealers in land to register with the Commission, and to disclose fully the facts needed by an investor to make an intelligent judgment on the proposed investment, would greatly enhance the security of thousands of elderly persons in this country. I urgently request that the committee consider thoroughly my recommendations in this regard.

I wish to thank the committee for considering my views, and Senator McCarthy, our distinguished Senator from Minnesota, for presenting them to the committee.

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APPENDIX A.—SPEECH BY ATTORNEY GENERAL WALTER F. MONDALE BEFORE THE NATIONAL ASSOCIATION OF LICENSE LAW OFFICIALS, MAY 10, 1962, HOTEL LEAMINGTON, MINNEAPOLIS, MINN.

The excesses of the promotion of securities in the stock markets of the 1920's led to a public outcry which culminated in the passage of the Securities Exchange Act in 1933. The major abuse occurring during this period was the failure on the part of the promoters of securities to disclose all information requisite to an intelligent decision as to the desirability of purchasing the securities in question. So long as the promoters did not actually misrepresent the facts in connection with the offering of securities, they violated no law prior to the enactment of the Securities Exchange Act. Public outcry, however, became more and more vocal when the bubble of 1929 broke and those who had purchased without knowledge soon learned of their folly. At the urging of President Roosevelt, Congress gave force to public opinion and through the Securities Exchange Act adopted a unique device for the protection of the public. The Securities Exchange Act required that all offerings of securities made to the public be accompanied by a statement of facts which fully disclosed the data relevant to a decision to buy or not to buy. The statement of facts, called a prospectus, had to be registered with the Securities Exchange Commission, established by the act, prior to approval of the offering by the Commission. Failure to obtain approval of the offering would subject the promoters to criminal penalties and, possibly more important, civil liability to those who had lost their funds in the promoter's venture. In effect, all that Congress did was to create a duty by statute which went beyond the common law and statutory duties under traditional concepts of fraud not to misrepresent the facts. The expanded duty required not only the elimination of false statements, but also the addition of all facts whether beneficial to the promoter or not in the selling material distributed by the promoters.

The 1920's also saw a small boom in real estate developments in the South, principally in Florida. There was much speculation in the shares of real estate companies as well as in the land being sold by such companies. Eventually the crash of 1929 brought disappointment and disaster to the land speculators as well as to the stock speculators. Congress, however, did not see fit to include regulation of such subdivision schemes in the new philosophy of required full disclosure.

In the late 1940's and throughout the 1950's, and with still increasing volume, the land subdividers are again selling their stocks and real estate to the public. The securities of these companies are now subject to the duty of full disclosure in connection with their offering not only under the Securities Exchange Commission, but under the securities commissions of a large majority of the States which have since adopted statutes similar to the Securities Exchange Act.

Swampland, arid desert, and pipedreams can still be sold to the public, however, without informing the buyer of the facts which he needs to know in order to make a wise investment decision. The real estate promoter attacks a particularly vulnerable segment of our society. His target usually is the man or woman who is nearing the age of retirement and who has managed to put together some small part of his lifetime income accumulated during his productive years. To him are offered yearly thousands of acres of nearly valueless land at prices showing in some instances a thousandfold increase over the real value of the land. The skillful promoter will paint a glowing picture of the future development of his tract. He will omit to reveal the negative characteristics of the land and will confine himself to predictions of future development. As

a result, thousands of our older citizens have invested their funds in these worthless properties. There is no effective tool that Government now may use against these promoters.

A few States have attempted to deal with this problem. The National Association of License Law Officials has recommended a draft of a statute designed to regulate the sale of subdivided lands. There is, however, no national regulation which covers sales in interstate commerce. The few States which have adopted the full disclosure statute pertaining to real estate subdivisions must obtain jurisdiction of those who sell within the State before they can apply their legislation. In many instances, as you know, this is extremely difficult to do. I have recommended to my Consumer Protection Advisory Council that it consider in its program for legislation a statute which would apply the full disclosure duties now traditional in securities offerings to the offerings of subdivided lands located not only outside of Minnesota, but also those located within the State. Such legislation would require that the offerer register a prospectus subject to the approval of the Securities Commission and that the prospectus be delivered to the prospective purchaser prior to his purchase. In addition, the offerer would be required to pay a fee which would cover the expense necessary to an on-the-spot inspection of the offered lands by a member of the staff of the Securities Commission. Failure to obtain the approval of the Securities Commission of the facts disclosed in the prospectus and the subsequent sale of lands without such approval would subject the offerer to criminal as well as civil penalties. In order to supervise oral representations which may be made by agents of the offerer, all agents selling registered lands would be required to be licensed by the Securities Commission. In the event of discovery of false representations being made by any such agent, his discharge could be ordered by the Commission of Securities after notice and hearing. All advertising distributed by the offerer would also have to be approved by the Commissioner of Securities prior to its publication. Failure to obtain such approval would be grounds for revocation of the offerer's registration. The proposed Minnesota statute here outlined would also govern sales within Minnesota or outside of Minnesota of lands located in Minnesota. We in Minnesota are now faced with the problems which you in the Southern States have had for years, although on a much more limited scale. A group of Arizona promoters have for some months past been negotiating with officials of Aitkin County, Minn., as well as with officials of the State government for purchase of 50,000 acres in north central Minnesota. At present we are without statutory equipment to regulate the future development of this land. Therefore, we have a pressing need for the legislation which I have outlined.

The ultimate solution to the problem, however, I feel would be the enactment by Congress of an amendment to the securities exchange act which will include the sale of subdivided lands in the full disclosure provisions of the securities exchange act. Such Federal legislation would, of course, have the usual effect of accomplishing regulation throughout 50 States immediately. It would avoid the slow process of consideration of such legislation by 50 separate legislative bodies. The jurisdiction of the Federal Government is obvious, since promoters must sell in interstate commerce in order to obtain the volume of prospects necessary to their operation. Second, such Federal legislation will solve the jurisdictional problems which even now exist in those States which have local full disclosure statutes applicable to land subdivisions. Third, Federal regulation will be less burdensome to the regulated, since it will involve filing with one agency rather than with many. I assume that many States will exempt land offerings which have been registered with the Federal Government just as federally registered securities are now exempt from registration in many States.

I feel that the gravity of the problems is growing; the number of land promotions increases substantially each year.

I want to emphasize that along with the unethical and dishonest land promoters there are also several which do an excellent job, sell fairly and give value for value.

#### APPENDIX B—REAL ESTATE SUBDIVISIONS

A problem of increasing importance in recent years involves the sale to residents of this State of lots situated both within the State and in other States and countries. The typical example of the lots under consideration is the arid desert plot of ground that is staked off and called a lot situated somewhere in the

Arizona or Nevada desert, miles from other communities and sold at a price which may run as high as 30 times the value of the land. The problem is not confined to this type of promotion however. Promoters also have sold swamp-land in Florida and jungle lands in Brazil with astounding ease.

The State of Minnesota has no law which regulates the sale of this type of real estate. Other States have some regulation. For example, California requires registration of certain information by those who would sell their subdivisions within the State of California. From their records we know that the sale of subdivided lands situated outside the State of California to residents of California is a \$100 million annual business, and in the last 3 years the acreage registered for sale to California residents has increased 30-fold.

During the past 2 years there has been a substantial increase in inquiries and complaints concerning the sale of subdivided lands filed in the Consumer Protection Unit of the Attorney General's office and in the real estate division of the Securities Commission. Typically, the promoters of the sun country lots prey upon the citizens of the State who have retired and have a sum of money set aside for their support during their retirement years. If the funds available are small, being victimized by these promoters can be truly tragic.

There is another class of real estate promotion that is on the increase in Minnesota which the attached bill is designed to cover. Promoters in Minnesota, perhaps taking a lead from those in the Southern States, have in the past few years begun to promote the sale of lots in the northern areas of Minnesota. Typically, these promoters send mailings both to residents of the State and to citizens of other States which describe in glowing terms the lots available and the future hopes for the development. The promoters avoid making any overt representation, but through skillful use of language, leave the impression that the lots available are lakeshore lots and that substantial improvements have been or will be made.

The Attorney General's office learned recently that a group of promoters from Arizona were negotiating for the purchase of some 50,000 acres of land in Aitkin County at a price of about \$2.70 per acre. This land is, for the most part, marginal peat land. It is true that there is some lakeshore included in the land purchased. An investigation by the Attorney General disclosed very little. The promoters of the development were questioned, but would reveal nothing with respect to their plans for the area. It is certainly not proper to presume that the land in question will be sold fraudulently. It is felt, however, that the State of Minnesota should have some control over the method of sale used by the promoters of such a large operation not only to prevent possible injury to the purchaser, but also to preserve the reputation of the State.

The Attorney General's Consumer Protection Advisory Council recommends as a solution to this problem the passage of the attached bill. The bill requires registration with the Commissioner of Securities prior to the commencement of sale within the State of property situated outside the State. Further, the bill requires registration prior to sale of property situated within the State when sold either within or without the State.

Registration, when required, can be obtained only after submission of all facts required by the Commissioner of Securities pertaining to the land to be sold. Further, the Commissioner of Securities has investigative powers by which he can obtain additional information and check that submitted by the promoter. After completion of investigation, the Commissioner files a public report which then acts in the nature of a prospectus. The promoter is required to give to prospective purchasers a copy of the public report prior to the signing of any agreement of purchase. Agents of the promoter are required to be registered and registration may be revoked, after hearing, upon a finding that they have used misrepresentation in the sale of lots.

Certain persons and certain interests in real estate are exempt from the application of the bill, since there already exists adequate regulation of them.

There are several additional exemptions that might be included in the statute, if it is the feeling of the legislature after hearings that regulation is not needed in these areas. First, subdividers who sell substantially improved property, i.e., with houses already built on the lots being sold, sell to buyers who because of the large commitment being made will usually inspect the offered property thoroughly and thereby fully inform themselves. Second, subdividers who sell unimproved lots in close proximity to urban areas usually sell to buyers in the immediate area who come to inspect the property. Such an exemption might, for example, exclude all subdivisions within 15 miles of



a city of the first class and within 3 miles of a city of the second class. These exemptions should probably be limited to Minnesota subdivisions if they are included in the legislation.

It is the opinion of the council that passage of this legislation would go far to solve this growing problem. It is understood that there are still means by which promoters can get around the operation of the statute. If they can confine their solicitations to methods exempted by the Federal Constitution from State jurisdiction, they can avoid the effect of the act. This is a Federal constitutional problem that cannot be solved by the State. The ultimate solution is for Federal legislation similar to the bill which we now propose.

A BILL FOR AN ACT RELATING TO THE REGISTRATION OF OFFERINGS OF SUBDIVIDED REAL ESTATE

*Be it enacted by the Legislature of the State of Minnesota:*

Section 1. [DEFINITIONS.] Subdivision 1. For the purposes of this act the terms defined in this section have the meanings ascribed to them.

Subd. 2. [Commissioner.] "Commissioner" means the commissioner of securities of the state of Minnesota or his authorized delegate.

Subd. 3. [Person.] "Person" includes a firm, a partnership, an association, a corporation, a trust, or estate.

Subd. 4. [Subdivision.] "Subdivision" means improved or unimproved lands divided or proposed to be divided for the purpose of sale or lease, into five or more lots or parcels.

Subd. 5. [Agent.] "Agent" means a person who acts as an agent, solicitor, broker, salesman, independent contractor, owner or another aiding in the sale, offer for sale, or attempt to sell lands within a subdivision.

Subd. 6. [Blanket encumbrance.] "Blanket encumbrance" means a trust deed or mortgage or any other lien or encumbrance, securing or evidencing a debt, and affecting land to be subdivided or more than one lot in a subdivision, or an agreement by which an owner or subdivider holds such land, lots, or subdivision under an option, contract for deed, purchase agreement, or trust agreement. Taxes and assessments levied by a public authority shall not be included in "blanket encumbrance."

Sec. 2. [EXCEPTIONS.] Subdivision 1. [Persons.] This act does not apply to persons acting:

- (a) As an actual bona fide owner of real estate, selling for his own account in a single transaction and not in repeated or successive transactions;
- (b) As an attorney at law, attorney in fact, or under an order of court;
- (c) As an owner, operator, officer, or employee of a cemetery, selling lots therein solely for use as burial plots;
- (d) As an auctioneer bonded in conformance with Minnesota Statutes 1961, Section 330.02, and such auctioneer may engage in the sale of real estate incidental to his work as an auctioneer.

Subd. 2. [Transactions.] This act does not apply to:

- (a) Evidences of indebtedness secured by a mortgage on real estate;
- (b) Securities issued by a bank or title guarantee trust company as trustee or co-trustee;
- (c) Securities issued by a regulated real estate investment trust.

Sec. 3. Subdivision 1. [Registration required.] No interest in any subdivision or lots or parcels therein shall be offered for sale or for lease or sold or leased unless such subdivision has been registered pursuant to this act.

Subd. 2. [How registered.] Application for registration shall be made to the commissioner on forms prescribed by him. The application shall contain the following information:

- (a) The name and address of the owner;
- (b) The name and address of the subdivider;
- (c) The legal description and total area of the subdivision proposed for registration, together with a map showing the division proposed, topography, and relation to existing streets and roads;
- (d) A true statement of the condition of the title to the land, including all encumbrances thereon;
- (e) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of all forms of conveyance to be used;
- (f) A true statement of the present condition of legal access, sewage disposal facilities, and public utilities in the proposed subdivision, including water, electricity, gas, and telephone facilities;

(g) Such other information as the applicant may wish to submit.

Subd. 3. [Additional information.] The commissioner may require the submission of additional information prior to approval of the application for registration and in investigating the proposed subdivision, may:

(a) Use and rely upon any information obtained from any federal or state agency when such information pertains to the subdivision described in the application for registration or to the persons making such application;

(b) Require reports prepared by competent authorities as to any hazard to which the subdivision may be subject or any factor which might affect the value or utility of lots or parcels within the subdivision;

(c) Require evidence of compliance with the requirements of appropriate authorities;

(d) Require an inspection of the subdivision to be made by his delegate. The applicant shall pay to the commissioner an amount equal to the actual cost of the inspection, including costs of travel, meals, and lodging.

Subd. 4. [Fees and term of registration.]

(a) An application for initial registration shall be accompanied by a filing fee of \$25.00.

(b) All registrations shall expire on December 31 of each year. Each application for renewal shall be accompanied by a fee of \$10.00.

(c) All fees collected by the commissioner under this act shall be retained by him for the administration of this act.

(d) Each renewal application shall contain all information contained in an initial application, and the commissioner may refuse to issue a renewal registration for the same reasons he might refuse to issue an initial registration. Application for renewal of registration shall be made on or before December 1 of each calendar year.

Sec. 4. [PUBLIC REPORT.] Subdivision 1. [Content, waiver.] The commissioner shall prepare and file in his office a public report concerning the subdivision for which application for registration is made. The public report shall contain all information gathered by the commissioner under section 3 which the commissioner considers necessary to inform prospective purchasers fully. The commissioner may waive the requirement that a public report be filed. Such waiver shall be in writing and filed in the office of the commissioner.

Subd. 2. [Unlawful sales.] No lot or parcel of subdivided lands shall be sold or leased or offered for sale or lease before the filing of a public report or a waiver thereof.

Subd. 3. [Furnish copy.] If the commissioner has not waived the filing of a public report, each prospective purchaser or lessee of lands within a subdivision shall be furnished with a copy of the public report before the execution of a contract or agreement for the sale or lease of any lot or parcel within any subdivision.

Subd. 4. [Failure to furnish copy.] Failure to furnish a purchaser or lessee of lands within a subdivision with a copy of the public report pertaining thereto is a violation of this act, and any contract or agreement for the purchase or lease of such lands may be treated as void by such purchaser or lessee.

Subd. 5. [Use in advertising.] No public report shall be used in any advertisement, oral or written, unless it is used in its entirety, without partial change in emphasis or partial change in style or size of type.

Sec. 5. [Blanket encumbrance.] Subdivision 1. No owner, subdivider, or agent of an owner or subdivider shall sell or lease any lot or parcel within a subdivision against which there is a blanket encumbrance unless one of the following conditions is complied with:

(a) All consideration paid by purchasers or lessees are deposited with an escrow agent or other depository acceptable to the commissioner until the interest contracted for is delivered to such purchaser by valid instrument together with a release from any blanket encumbrance or until a party to any agreement for purchase or lease defaults on such agreement and a determination is made as to the disposition of such consideration;

(b) A bond guaranteeing the release of such blanket encumbrance to the state of Minnesota is furnished to the commissioner for the benefit of purchasers or lessees of lots within the subdivision. The commissioner shall set the amount and terms of such bond.

Subd. 2. [Public report.] The public report, when issued, shall state the method by which subdivision 1 of this section will be complied with.

Sec. 6. [ADVERTISEMENT.] No circular prospectus, advertisement, printed matter, document, pamphlet, leaflet or other matter (hereinafter referred to as

advertising matter) containing or constituting an offer to sell any subdivision or lands therein required to be registered in compliance with the provisions of this act or rendering advice with relation thereto, shall be published, circulated, distributed or caused to be published, circulated or distributed in any manner, unless and until such advertising matter shall have been submitted in duplicate to the commissioner and approved by him. The commissioner shall have power to disapprove any such advertising matter which he deems in conflict with the purposes of this act.

All such advertising matter shall carry the name and address of the owner, subdivider or agent circulating, publishing or distributing the same and make no reference to the registration of the subdivision.

Sec. 7. [APPLICATION.] Subdivision 1. [Land outside state.] Compliance with the provisions of this act shall be required of all persons owning or acting in behalf of owners of any subdivision located outside the boundaries of the state of Minnesota and who sell, offer for sale or attempt to sell lots or parcels within such subdivisions to residents of the state of Minnesota.

Subd. 2. [Land within state.] Owners or subdividers of any subdivision located within the state or agents acting in behalf of such owners or subdividers shall comply with the provisions of this act before any sale, attempt to sell or offer for sale of lands within such subdivision.

Subd. 3. [Action in rem.] Penalties established by the provisions of this act may be collected against property, real, personal, or mixed, located within this state by levy of execution, attachment, and garnishment. The commissioner may authorize the filing of a notice of lis pendens with respect to any action taken by him for the collection of penalties.

Sec. 8. [PERMITS FOR AGENTS.] Subdivision 1. [Required.] An agent representing an owner or subdivision subject to the provisions of this shall obtain an agent's permit by application to the commissioner before selling or offering for sale any lot or parcel of a subdivision.

Subd. 2. [Application for Permit.] The application for such permit shall state the full name, address, and age of the applicant with such other information as the commissioner may require. Every permit shall expire on December 31 following the date of issuance. Application for renewal of permit shall be made on or before December 1 of each calendar year.

Subd. 3. [Refusal of permit.] No permit shall be issued unless:

(a) The applicant first files with the commissioner a surety bond to the state of Minnesota in such sum as the commissioner shall require but not less than the sum of \$1,000. The bond shall be conditioned for the faithful performance of all contracts and agreements and for compliance with the provisions of this act;

(b) The commissioner is satisfied that the applicant is of honest and of moral character.

Subd. 4. [Fee.] The initial and renewal applications for a permit shall be accompanied by a fee of \$10.00.

Sec. 9. [RULES AND REGULATIONS] The commissioner shall make and enforce reasonable rules and regulations to carry out the intent and purposes of this act. Such rules and regulations shall be adopted according to the procedures provided by Minnesota Statutes 1961, Chapter 15, the Minnesota Administrative Procedures Act.

Sec. 10. [FALSE STATEMENT.] No owner, subdivider or agent shall advertise falsely or misrepresent in any manner to any person any matter material to land sold or offered for sale.

Sec. 11. [REFUSAL OR REVOCATION OF REGISTRATION OR PERMIT.] Subdivision 1. [Grounds.] The commissioner may refuse to issue, to allow or to renew or may revoke any registration or agent's permit upon any one or any combination of the following grounds:

(a) Willful violation of any provision of this act;

(b) Furnishing to the commissioner any false, misleading, or incomplete information;

(c) Presenting to prospective purchasers of lots or parcels within a subdivision false, fraudulent, or misleading information;

(d) The existence of any circumstance which would be grounds for refusal of an initial or renewal registration or permit.

Subd. 2. [Notice and hearing.] Such refusal to issue or to renew or such revocation of a registration or agent's permit shall be ordered only after notice and hearing.

Subd. 3. [Appeal.] An order refusing or revoking a registration or agent's permit is appealable to the district court within 30 days after notice thereof to the holder of, or applicant for, registration or permit upon the following grounds:

- (a) That the commissioner abused his discretion in making such order;
- (b) That the commissioner's order is arbitrary, capricious, or unreasonable;
- (c) That the commissioner's order is not based on substantial evidence.

Subd. 4. [No trial de novo.] The district court shall review the order of the commissioner considering only the evidence presented to the commissioner and shall not determine the issues upon a trial de novo.

Sec. 12. [INSPECTION.] The commissioner or his delegate may inspect the books and records, plats, plans, advertising material, and land of any owner, subdivider or agent who has registered a subdivision under this act. The commissioner may require the submission of such information as he deems necessary at any time.

Sec. 13. [INJUNCTION.] Subdivision 1. Upon application of the commissioner the district court shall have jurisdiction to enjoin any violation of this act.

Subd. 2. Each day of continued violation of an order enjoining any conduct in violation of this act shall constitute a separate violation subject to penalty of \$1,000 per violation.

Sec. 14. [GROSS MISDEMEANOR.] Violation of any provision of this act shall be a gross misdemeanor, punishable by a fine not exceeding \$500, or by imprisonment for a period not exceeding one year, or both.

Sec. 15. [CIVIL PENALTY] The commissioner may bring a civil action in the district court in personam or in rem to collect a penalty of not more than \$1,000 per violation of any rule or regulation of the commissioner or any provision of this act.

Sec. 16. [EFFECTIVE DATE.] This act shall be effective July 1, 1963.

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APPENDIX C.—ADDRESS OF ATTORNEY GENERAL WALTER F. MONDALE TO THE NATIONAL CONFERENCE ON INTERSTATE LAND SALES, OCTOBER 2, 1962, FAIRMONT HOTEL, SAN FRANCISCO, CALIF.

The excesses of the promotion of securities in the stock markets of the 1920's led to a public outcry which culminated in the passage of the Securities Exchange Act in 1933. The major abuse occurring during this period was the failure to the part of the promoters of securities to disclose all information requisite to an intelligent decision as to the desirability of purchasing the securities in question. So long as the promoters did not actually misrepresent the facts in connection with the offering of securities, they violated no law prior to the enactment of the securities exchange act. Public outcry, however, became more and more vocal when the bubble of 1929 broke and those who had purchased without knowledge soon learned of their folly. At the urging of President Roosevelt, Congress gave force to public opinion and through the Securities Exchange Act adopted a unique device for the protection of the public. The Securities Exchange Act required that all offerings of securities made to the public be accompanied by a statement of facts which fully disclosed the data relevant to a decision to buy or not to buy. The statement of facts, called a prospectus, had to be registered with the Securities Exchange Commission, established by the act, prior to approval of the offering by the Commission. Failure to obtain approval of the offering would subject the promoters to criminal penalties and, possibly more important, civil liability to those who had lost their funds in the promoter's venture. In effect, all that Congress did was to create a duty by statute which went beyond the common law and statutory duties under traditional concepts of fraud not to misrepresent the facts. The expanded duty required not only the elimination of false statements, but also the addition of facts whether beneficial to the promoter or not in the selling material distributed by the promoters.

The 1920's also saw a small boom in real estate developments in the South, principally in Florida. There was much speculation in the shares of real estate companies as well as in the land being sold by such companies. Eventually the crash of 1929 brought disappointment and disaster to the land speculators as well as to the stock speculators. Congress, however, did not see fit to include regulation of such subdivision schemes in the new philosophy of required full disclosure.

In the late 1940's and throughout the 1950's, and with still increasing volume, the land subdividers are again selling their stocks and real estate to the public. The securities of these companies are now subject to the duty of full disclosure in connection with their offering not only under the Securities Exchange Commission, but under the securities commissions of a large majority of the States which have since adopted statutes similar to the Securities Exchange Act.

Swampland, arid desert, and pipedreams can still be sold to the public, however, without informing the buyer of the facts which he needs to know in order to make a wise investment decision. The real estate promoter attacks a particularly vulnerable segment of our society. His target usually is the man or woman who is nearing the age of retirement and who has managed to put together some small part of his lifetime income accumulated during his productive years. To him are offered yearly thousands of acres of nearly valueless land at prices showing in some instances a thousandfold increase over the real value of the land. The skillful promoter will paint a glowing picture of the future development of his tract. He will omit to reveal the negative characteristics of the land and will confine himself to predictions of future development. As a result, thousands of our older citizens have invested their funds in these worthless properties. There is no effective tool that government now may use against these promoters.

A few States have attempted to deal with this problem. The National Association of License Law Officials has recommended a draft of a statute designed to regulate the sale of subdivided lands. There is, however, no national regulation which covers sales in interstate commerce. The few States which have adopted the full disclosure statute pertaining to real estate subdivisions must obtain jurisdiction of those who sell within the State before they can apply their legislation. In many instances, as you know, this is extremely difficult to do. I have recommended to my consumer protection advisory council that it consider in its program for legislation a statute which would apply the full disclosure duties now traditional in securities offerings to the offerings of subdivided lands located not only outside of Minnesota, but also those located within the State.

Our host, Attorney General Stanley Mosk, has informed us in his letter of invitation to this conference of some of the statistics which the California registration law makes available for our consideration. These figures indicate that in the past 3 years the acreage registered for sale to California residents has increased thirtyfold and that the volume of business done by promoters of real estate situated outside the State of California with residents of California amounts to about \$100 million per year.

Now, I want to emphasize, as I always do when speaking of consumer protection activities, that there are many ethical promoters of real estate in business throughout the United States. This applies to Florida, Arizona, and Nevada, as well as to the other States; and they are the ones who might have the most valid objection to the passage of laws which would regulate the real estate industry. To them it seems that only more red tape is being proposed which, as far as they are concerned, will not benefit the consumer, since they already conduct an ethical business. The enlightened among these ethical businessmen will consider, however, the fact that governmental regulation of their business will eliminate the unethical operator and in fact enhance their competitive position.

I have examined the record of the NALLO Convention in Minneapolis last May, and it certainly indicates that a large segment of the industry of real estate sale is not among this class of ethical businessmen and does require governmental regulation.

Unfortunately, it is not possible to legislate against the unethical and leave the ethical unaffected by the legislation. Our legislators cannot write into a statute a provision that certain reputable subdividers will not have to comply with the requirements of the statute.

I can well believe the statistics quoted by Attorney General Mosk. Although we in Minneapolis have no requirement that out-of-State real estate be registered for sale in the State of Minnesota, the records of my consumer protection unit indicate that the volume of attempted sales to residents of our State has increased astoundingly over the last 2 years.

In Minnesota we have a dual problem; not only are we faced with the problem of protecting prospective purchasers of the sun-country lots, but we must also protect the reputation of our State and the consumers throughout

the Nation who may be asked to purchase property backed by promoters of land in Minnesota. Minnesota, of course, does not have the warm winter climate that blesses our Southern States, but we do have a large number of lakes and excellent fishing and hunting throughout the spring, summer, and fall months.

We now have numerous promotions of lakeshore land and land near lakes by promoters who do not reveal the facts concerning the property and who paint glowing pictures of future development to prospects. Last summer a group of promoters from Arizona who had been involved in the promotion of desert lots came to Minnesota and negotiated for the purchase of a 50,000-acre plot in north central Minnesota. We talked to them, but they could not give us any indication of their future plans for the development of this area. We have no statute in Minnesota that allows us to require disclosure to the public. We of course do not know that the promotion of this land will be unethical or that the promoters will attempt to mislead prospective investors, but neither do we know that they will not. The only way that we can be certain that the least harm will be done is by obtaining from our legislature adequate regulation of the sale, not only of Minnesota lands to Minnesota residents, but also to residents of other States, and also with respect to sale of out-of-State land to Minnesota residents. We therefore have proposed to a council of citizens of our State who represent a cross section of the community, a registration statute which would control land promotions. I have available for you a copy of this bill which I will now discuss with you.

The bill requires registration with the State commissioner of securities prior to the commencement of sale within the State of property situated outside the State. Further, the bill requires registration prior to sale of property situated within the State, when sold either within or without the State.

Registration, when required, can be obtained only after submission of all facts required by the commissioner of securities pertaining to the land to be sold. Further, the commissioner of securities has investigative powers by which he can obtain additional information and check that submitted by the promoter. After completion of investigation, the commissioner files a public report which then acts in the nature of a prospectus. The promoter is required to give to prospective purchasers a copy of the public report before he signs any purchase agreement. Agents of the promoter are required to be registered, and registration may be revoked after hearing upon a finding that they have used misrepresentation for the sale of lots.

Enforcement is obtained by three methods. The commissioner may seek injunctive relief in the courts. Criminal enforcement is possible through prosecution by county attorneys.

A civil penalty may be sought in the courts and the commissioner may seek such penalty by action in personam or in rem. If he cannot obtain personal jurisdiction, he can still control the sale of Minnesota land by asserting jurisdiction over it.

This legislation will provide only a partial solution.

The ultimate solution to the problem, however, I feel, would be the enactment by Congress of an amendment to the Securities Exchange Act which will include the sale of subdivided lands in the full disclosure provisions of the Securities Exchange Act. Such Federal legislation would, of course, have the usual effect of accomplishing regulation throughout 50 States immediately. It would avoid the slow process of consideration of such legislation by 50 separate legislative bodies. The jurisdiction of the Federal Government is obvious, since promoters must sell in interstate commerce in order to obtain the volume of prospects necessary to their operation. Second, such Federal legislation will solve the jurisdictional problems which even now exist in those States which have local full disclosure statutes applicable to land subdivisions. Third, Federal regulation will be less burdensome to the regulated, since it will involve filing with one agency rather than with many. I assume that many States will exempt land offerings which have been registered with the Federal Government just as federally registered securities are now exempt from registration in many States.

I feel that the gravity of the problem is growing; the number of land promotions increases substantially each year.

Senator MUSKIE. We will proceed, then, to our next witness, Commissioner George P. Larrick of the Food and Drug Administration.

Mr. Larrick, would you come forward, please?

Mr. LARRICK. Thank you, sir.

**STATEMENT OF HON. GEORGE P. LARRICK, COMMISSIONER; ACCOMPANIED BY W. B. RANKIN, ASSISTANT COMMISSIONER; AND MR. KINSLOW, FOOD AND DRUG ADMINISTRATION**

Senator MUSKIE. I notice you have staff with you. Would you identify them for the record?

Mr. LARRICK. This is Assistant Commissioner Rankin on my right, and Mr. Kinslow on my left.

Senator MUSKIE. I notice that you have a prepared statement.

Mr. LARRICK. Yes, I have a prepared statement which I have boiled down and condensed, and I have some material with information that I would like to submit for the record, to save you time.

Senator MUSKIE. This material is all attached to the prepared statement?

Mr. LARRICK. That is right, sir.

Senator MUSKIE. And you would like that all included in the record?

Mr. LARRICK. If you will.

Senator MUSKIE. Without objection, it will be included in the record, whether or not you read it all here this morning.

Mr. LARRICK. I won't take up your time by reading it.

We are very happy, Mr. Chairman, to appear before this committee, to discuss the work of the FDA, particularly the work that we are trying to do to protect the older members of the population.

Like the Federal Trade Commission, all of our activities are designed to safeguard consumers and thus all have a bearing on the health and well-being of elderly people.

So a very brief statement of our total operation is in order to give a picture of our efforts with respect to the particular group with whom you are most concerned this morning.

The Food and Drug Administration watches over commerce in foods, in drugs, in therapeutic devices, and in cosmetics, to try to insure that the foods are safe, that they are pure, and they they are wholesome; that the drugs are safe and that they are effective; the cosmetics are harmless, and therapeutic devices are safe and likewise effective, and that all of these products, foods, drugs, devices, are honestly and informatively labeled.

In addition, we have the responsibility to see to it that household products carry adequate warnings against harm from their misuse.

To accomplish these missions, the FDA inspects factories, warehouses, distributors; we sample and examine interstate and imported shipments of foods, drugs, and cosmetics.

Senator MUSKIE. Do you have food tasters, wine tasters?

Mr. LARRICK. We do.

Senator MUSKIE. There are opportunities for careers there.

Mr. LARRICK. We clear new drugs for safety and effectiveness before they are marketed. We check prescription drugs to assure that they are sold only upon prescription. We test every batch of insulin, colors, and antibiotics for humans before they are sold. We establish safety tolerances for food additives, for pesticide residues on our fruits and vegetables. We review and evaluate the labeling of household products which contain hazardous substances.

In all of this, we work very closely with the Department of Justice to prosecute violators, to check claims for therapeutic devices, vitamins, miracle cures, and to take legal action against false claims and bogus devices.

It is our responsibility to conduct research, to evaluate short- and long-range effects of ingredients in the foods and drugs and in cosmetics and hazardous household chemicals, and to develop methods and techniques of analysis.

We work with industry to try to promote voluntary compliance with the law.

We conduct an extensive program of consumer information and education, and work closely with State and local agencies in all of the aspects to which I have referred.

The aging segment of our population undoubtedly has special needs and special consumption habits differing from those of other groups. This is the largest group of consumers of vitamins, nutritional supplements, and of special dietary products, such as salt-free, sugar-free, special calorie and high- or low-protein containing foods.

In addition, older consumers require special consideration because the degenerative diseases, which are predominantly diseases of old age, cause this group to rely more heavily than any other on medications. There has grown up in the United States a business of promoting products especially to the older person, and while many firms do an honest job, and I should like to emphasize that fact, too large a segment of this business is carried on by promoters who try to take advantage of the older persons by making extravagant claims.

Senator RANDOLPH. Mr. Chairman, may I interrupt?

Senator MUSKIE. Yes, Senator Randolph.

Senator RANDOLPH. Commissioner Larrick, you said, "many firms." Do you mean many or most firms?

Mr. LARRICK. I mean most firms are honest. There are many that are dishonest, because the total is so great, but the great majority of business firms in this country, percentagewise, are just as honest as you and I.

Senator MUSKIE. I notice you did not include the rest of us.

Senator RANDOLPH. I want to take a moment, since we are relaxed for a second. This will not add too much to the time of the hearing.

I remember as a boy the medicine show which came to our town each summer and the medicine man brought with him, of course, a pseudo-Indian, and the headgear attracted the younger people. I remember the man that played the banjo. The medicine man in those days had, as he came to our community, just two items: one called "High Pylorem" and the other "Low Pylorem." One was in a red bottle or a red-labeled bottle; the other was in a blue-labeled bottle.

And finally, one man who had some spirits in him at the time questioned the medicine man and said, "What is the difference in these two remedies? The one in the blue label and the one in the red label?"

"Well," he said, "Brother, in that High Pylorem, we skin the bark of the cherry tree, which is used in the preparation, from the top to the bottom, and in the low Pylorem, we skin the bark from the bottom to the top. It doesn't matter which way we skin the bark, we skin the customer every time."



This is a true story, and I can remember it from my early boyhood days in Salem, W. Va.

I sometimes think that the medicine men were more honest, may I say to Mr. Larrick, than some of the firms today. At least they realized that they were in a business of perhaps taking in the gullible, and they rather made fun of it, as it were.

Today it is a conniving, it is a scheming, isn't it?

Mr. LARRICK. It is a far more sophisticated business, Senator.

Senator MUSKIE. Would you say that the medicine man of that day has gone into politics today? I wanted to ask that question.

Senator RANDOLPH. Forgive me, Mr. Chairman, but we were relaxed for a moment, and it was only for a moment.

Mr. LARRICK. I think you have added a point to this subject, Senator.

Senator RANDOLPH. I am grateful if I could make a point. Thank you, sir.

Mr. LARRICK. Publicity which would have no appeal and little meaning to young persons, athletes, youthful workers or business people, becomes most attractive when addressed to older folks. These oldsters need little more than a vagrant suggestion to lead them to believe in the restorative powers of various nostrums. They are longing to read or hear about some wonder cure for the particular ailment that afflicts them, and with pathetic eagerness they embrace and employ it. It has been reliably estimated, in my opinion, that consumers waste \$500 million a year on medical quackery and another \$500 million annually on misrepresented vitamins, so-called health foods and nutritional supplements.

Senator MUSKIE. Is that a firm figure?

Mr. LARRICK. No, it is not a firm figure, Senator. It is a figure estimated from the total sales of many firms that we have inspected and added together. Additionally, we have talked to other people who investigate in this area, but in the sum total, it is definitely an estimate rather than a firm figure.

Senator MUSKIE. Well, it is an educated guess. Would you say it is conservative?

Mr. LARRICK. I think it is a conservative estimate.

Senator MUSKIE. You say that more than a billion dollars is spent.

Mr. LARRICK. I would say more than a billion dollars. The Food and Drug Administration has long recognized the special problems that confront America's older citizens and has been quite active in dealing with them. I have attached to this statement and submit for the record, Mr. Chairman, a tabulation showing the enforcement activities that have been brought in the Federal courts in the 18 months' period ending December 31, 1962, against products that have particular appeal to the older population. Very briefly, there were 97 seizures of food supplements, 13 seizures of therapeutic devices and 49 seizures of drugs; 6 criminal prosecutions of firms that promoted foods or drugs illegally and 10 injunction actions to restrain unwarranted promotion of foods, drugs, and therapeutic devices. While time does not permit coverage of each of these actions, I believe you would be interested in hearing about some of them.

A 71-year-old woman who was an arthritic flew to Canada to see Robert E. Liefmann, promoter of a secret arthritis "remedy" called

"Liefcort" after she read about the product in a national magazine last May. She returned to her California home with a year's supply of the drug. After taking it, she developed severe internal bleeding for which she was hospitalized on July 10, 1962. Following an operation to stop uterine bleeding, she developed pneumonia and died on August 9, 1962.

I have here a sample of the drug that was involved in that episode.

No request was ever made by Liefmann to distribute "Liefcort" in the United States. Our scientists found that Liefcort contains potent hormones capable of causing severe toxic effects and that its use would be hazardous. We detained importations by persons who obtained the drug in Canada and seized stocks in the United States which were brought in under the subterfuge that they were for "investigational purposes."

When the magazine article was published, we at once received inquiries about Liefcort and Dr. Liefmann. It was clear that arthritics would be attempting to go to Canada and get this prescription. We issued releases about this.

Later, when we determined that people were attempting to get the drug in Canada, we issued another release, reporting that the drug was dangerous, and could not be imported into the United States.

This release was widely carried in this country, and we believe the story headed off many arthritics who were planning to go to Canada.

I have here the two press releases for possible inclusion in the record.

Senator MUSKIE: They will be included in the record at this point. (The press releases referred to follow:)

[For release May 20, 1962]

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

U.S. marshals are holding warrants for the arrest of Robert E. Liefmann, M.D., promoter of a secret arthritis "remedy" spotlighted by the current issue of Look magazine, on charges of interstate distribution of a "cure" for baldness. The Food and Drug Administration said today.

Liefmann's so-called arthritis remedy, "Liefcort," is the subject of an article in the May 22 issue of Look magazine, a nationally distributed publication.

Responding to queries from professional groups and individuals as a result of the magazine article, FDA Commissioner George P. Larrick issued the following statement:

"A warrant for the arrest of Liefmann, now living in Canada, on charges of introducing misbranded drugs into interstate commerce in violation of the U.S. Federal Food, Drug, and Cosmetic Act has been outstanding since December 10, 1957.

"On September 10, 1956, FDA inspectors found a quantity of a hairdressing preparation at Frommes Method, Inc., Minneapolis, Minn. Analysis showed it contained estradiol—a potent female sex hormone—and isopropyl alcohol. It was being promoted as 'an effective therapy for male baldness,' although it has no known properties for restoring hair.

"FDA traced it to Liefmann, trading as Dermal Research at Rouses Point, N.Y., although living in Montreal, Canada. The drug, called R-20, was seized and criminal prosecution started, largely because of the dangers involved when estradiol is used without the supervision of a physician.

"Liefmann was charged with the unlawful delivery of the drug into interstate commerce. The charges grew out of the failure of the drug's label to bear required information such as adequate directions for use, adequate warnings against use when it may be dangerous to health and failure to bear the statement 'Caution: Federal law prohibits dispensing without prescription.'

"Liefmann failed to appear at the Federal district court in Syracuse, N.Y., for arraignment several times and an arrest warrant was issued. He has avoided arrest in this country ever since.

"Information from Canada shows drugs manufactured by Liefmann have been seized twice by that country's Food and Drug Directorate. A number of bottles of Scalp Antizyme RX-200 and RX-20 were seized in 1959 because the estradiol content exceeded the labeled potency by 35 times. Two lots of a vitamin and mineral preparation called Vita VO-25 were also seized during that year."

Mr. Larrick said FDA has no record of any request by Liefmann to distribute "Liefcort" in the United States.

[For release October 9, 1962]

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Sufferers of arthritis were warned today by the Food and Drug Administration that the drug Liefcort, which is being obtained from Canada, is imminently dangerous and may not legally be imported into the United States.

FDA Commissioner George P. Larrick said that Federal officers are detaining importations by persons who are obtaining the drug in Canada as a result of reading about it in a national magazine article last May. He said that reports of serious reactions to the drug are reaching the Food and Drug Administration. These include severe uterine bleeding.

Liefcort contains potent hormones including estradiol, prednisone, and testosterone. FDA analysis showed the product contains 10 times the therapeutic dose of estradiol, Commissioner Larrick said.

According to the FDA Bureau of Medicine the hormones are capable of causing severe toxic effects. Prednisone has and is being used in the treatment of arthritis but there are hazards in its use and the dosage must be carefully regulated. In some patients, the drug causes severe symptoms of toxicity. Testosterone and estradiol have never been observed to exert any beneficial effect in arthritis and may also produce serious side effects.

Liefcort was developed by and is being promoted by Robert Liefman, M.D., who is wanted by U.S. marshals for selling a baldness "cure." Liefman fled to Canada before he could be apprehended and is not licensed to practice medicine there. The drug is labeled as being distributed by Endocrine Research Laboratories, Beaufort, Quebec, Canada. It is compounded in Liefman's home, FDA said.

One severe adverse reaction involved a 71-year-old woman who flew to Canada to see Liefman after she read about Liefcort last May. She returned to her California home with a year's supply of the drug. After taking the product, she developed severe internal bleeding for which she was hospitalized on July 10, 1962. Following an operation to stop the uterine bleeding, she developed pneumonia and died on August 9, 1962.

The FDA physicians urgently warn arthritis patients not to use Liefcort and not to consent to use of the drug as part of an "investigation" because there are no qualified investigators in the United States authorized to use it. They said the facts available about the manufacture of the drug and the lack of laboratory control to insure its composition and safety are such that its use even for experimental purposes is hazardous.

Following publication of the magazine article on Liefman's so-called arthritis remedy, the FDA on May 20, 1962, made public the fact that Liefman was a fugitive from justice and raising questions about "Liefcort."

Mr. LARRICK. Another product promoted nationally with false and misleading claims for the treatment of arthritis was Specifex Adrenal Hormone Cream. It contained epinephrine hydrochloride which is of no help to victims of rheumatic diseases. The product was falsely represented to be adequate and effective for a host of ailments ranging from arthritis to skin blemishes associated with old age. We obtained a Federal injunction last June to eliminate the mail-order promotion of this product.

Senator MUSKIE. Was that a temporary or permanent injunction?

Mr. LARRICK. That is a permanent injunction.

Senator MUSKIE. How long did that proceeding take from the time it was initiated until the time it was successfully concluded?

Mr. LARRICK. I don't have the precise time that this one took. I can get that and supply it for the record.

Ordinarily, once you have your evidence, and are ready to go to court, the courts hear the injunction proceedings promptly. They are one of the faster types of legal proceedings. I would say a matter of months.

If you wish, though, I will get the time schedule on this particular case.

Senator MUSKIE. Let me ask you this, so that the record may be complete on that point.

Are you able to get temporary injunctions?

Mr. LARRICK. We very often do. We get either a temporary restraining order or a temporary injunction.

Senator MUSKIE. And how long does that take?

Mr. LARRICK. If you have an imminent danger situation, a temporary restraining order can be obtained in a matter of days, or of hours; it is just a matter of how fast you can get your papers prepared and get a court hearing. Courts are extremely cooperative in that type of a situation.

Senator MUSKIE. Thank you, Mr. Larrick.

Mr. LARRICK. Sea salt and sea brine have both been widely promoted for the treatment and prevention of many diseases including cancer and insanity. In July of last year a Texas salt company and its general manager were convicted of shipping "sea salt" with false and misleading claims. Literature accompanying the product, Admiral National Mineral Sea Salt, falsely claimed or implied that the product was effective in treating and preventing the following ailments: Cancer, diabetes, multiple sclerosis, myesthesia gravis, muscular dystrophy, epilepsy, asthma, arthritis, insanity, Parkinson's disease, arteriosclerosis, cataracts, cirrhosis, high blood pressure, pernicious anemia, dental caries, baldness, sterility, goiter, acne, gray hair, and others. These are examples of these two products.

Senator RANDOLPH. Commissioner Larrick, what would this product sell for, say, the salt?

Mr. LARRICK. Salt, if I bought it at the supermarket would cost about 12 cents. This retailed for a dollar and a half.

Senator MUSKIE. Was that the cure for gray hair, too?

Mr. LARRICK. Oh, yes.

Senator MUSKIE. How did it work?

Mr. LARRICK. I don't know about that.

Fortunately, Mr. Chairman, you don't seem to need it.

Products in the vitamin and nutritional supplement category offer another lucrative field when unscrupulously misrepresented to the aging person. Geriatric vitamin capsules which we seized last year were falsely represented as being of special value to the aged.

Nutri-Bio vitamin and mineral tablets, a product distributed by an estimated 75,000 door-to-door agents, represented and suggested among a vast array of other claims, that the tablets were adequate and effective for the prevention and treatment of heart trouble, rheuma-

tism, impotency, senility, arthritis, premature death, to feel young and full of pep, and to stay young and vital. The product is a mixture of 31 ingredients, including vitamins and minerals known to be needed in human nutrition and a variety of other substances of no nutritional value. It is a food supplement and is of no value in the treatment or prevention of any of the diseases which commonly occur in this country. We seized stocks of the product which were misbranded because of false and misleading labeling claims.

Senator MUSKIE. This apparently is a massive operation.

Mr. LARRICK. This was a tremendous operation.

Senator MUSKIE. What media of advertising were used?

Mr. LARRICK. Mostly door-to-door salesmen.

The crux of this operation was for the salesman to knock on the door and to sell the product in the privacy of the person's living room. To sit down on a very confidential basis, talk to the elderly people about what their aches and pains were, and then, after a heart-to-heart talk, sell them a 6-month supply of this material. It was a very successful operation, and this is just one of a number of similar operations.

Senator MUSKIE. Was television used in this?

Mr. LARRICK. I do not recall that television was used in this particular operation. There were various advertising media used in this series of products, but the principal way that they sold their merchandise was the door-to-door operation.

Senator RANDOLPH. Commissioner Larrick, what would be the price on that one?

Mr. LARRICK. This particular item was not as expensive as some others. A 6-month supply sold for \$24. You can buy a good vitamin and mineral mixture in your neighborhood drugstore for substantially less.

Senator MUSKIE. Is that package a 6-month supply?

Mr. LARRICK. Yes, sir, it is a 6-month supply, and it does have vitamins and minerals in it.

Senator RANDOLPH. What could that be purchased for in your drugstore, approximately?

Mr. LARRICK. Around \$5. The price would vary, depending on what is in it, but that is the order of magnitude, I would say.

Senator RANDOLPH. Did these salesmen work on commissions?

Mr. LARRICK. Yes, the whole operation was a pyramid of commissions.

The man who headed the operation would have people working for him and would get commissions from them; he would get the most commissions, and the people down the line would build up commissions. It was a very successful sales operation.

Senator RANDOLPH. Thank you.

Mr. LARRICK. One of the country's leading sources of nutritional quackery was curbed by Federal court action last year. Royal Lee, president of the Vitamin Products Co., was sentenced to a 1-year suspended prison term with 3 years probation and the Vitamin Products Co. was fined \$7,000 on charges of interstate shipment of misbranded vitamins and proprietary remedies. Lee also consented to a permanent injunction covering all of his enterprises which prohibited the false

claims for his products, which included over 115 special dietary products.

Lee's products and misbranding labeling were widely distributed through health practitioners. The claims covered the gamut of human diseases and symptoms from acne and arteriosclerosis to cancer, cataracts, cirrhosis of the liver, and virus infections. His "health food" business took in an estimated \$3 million per year. His therapeutic food manual, which was involved in the case, covers all ailments alphabetically from abortion to X-ray burns, and the book is too long for insertion in the record.

A rosy prospect was offered recently to those aging persons with an excess weight problem by the theory that "calories don't count." CDC capsules of safflower oil were falsely represented in their labeling as being effective, among other things, for weight control without regard to caloric intake. Unfortunately for the overweight, calories do count. The capsules were destroyed last year upon the order of a district court.

A great majority of the quack devices we encounter are represented as preventing, curing, or diagnosing ailments suffered primarily by the aging. A nationwide seizure campaign was instituted last summer to stop the use of a fake diagnostic machine, the Micro-Dynameter, found in the offices of hundreds of health practitioners. The device was supposed to be effective for detecting scores of serious diseases, including cancer, arthritis, heart trouble, and kidney disorder, by measuring electric currents generated by metal plates applied to areas of the body.

Our investigation showed that Ellis Research Laboratories, Inc., the distributor, had conducted no reliable clinical investigations before it marketed the Micro-Dynameter device. (See p. 319.) We had clinical testing of the device performed by three different researchers in addition to work by a physiologist and by an electrical engineer. This took about 3 years—to answer your question about the length of time it takes on some of these cases—but it was necessary to establish to the satisfaction of the court that the device had no diagnostic value.

Senator MUSKIE. Is that device similar to another one that has been described as the Hubbard Electrometer, sort of a lie detector, to cure the ills of mankind?

Mr. LARRICK. It is based on the same principle. This particular machine is a little bit more pretentious than the other one.

Senator MUSKIE. This is the one to which your testimony goes?

Mr. LARRICK. This is the one I have just referred to. The other one I will refer to later. This machine sold for \$800. Can you work it?

Mr. KINSLOW. Yes, sir; I can do it in just a second.

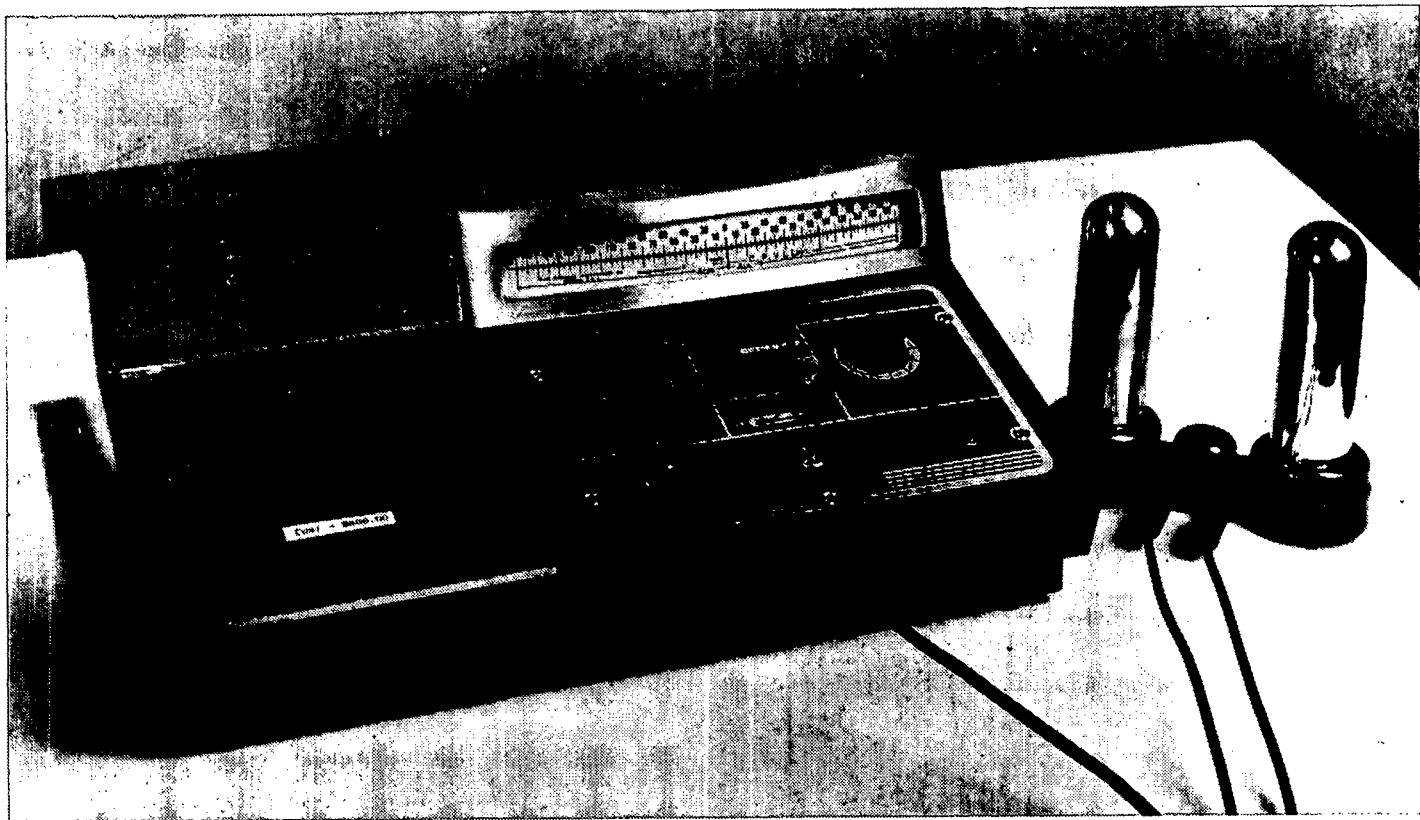
Mr. LARRICK. We can give you a demonstration.

Senator MUSKIE. Senator Randolph, would you like a demonstration of this device?

Senator RANDOLPH. I am sure we would all be benefited, the audience as well as the committee members.

Mr. KINSLOW. Gentlemen, this is technically a string galvanometer. The basic principle behind it is that you hold these, this device, in your hands, and the knobs on the front are manipulated to give different readings here across the scale.

This electrode is used to determine the general state of health by adjusting this dial, and getting a reading on there.



MICRO-DYNAMETER

After you get this basic index of health, there are other instruments which are attached to these wires and applied over various parts of the body to diagnose areas of disease.

Our investigation revealed that essentially, all this device would measure was the basic galvanic reaction. If you have perspiration on your hands, as I have right now, it would make quite a difference in the reading. If your hands are dry, then you would get a different response on it. That is about all that it did. It was of no value whatsoever in diagnosing diseases.

Senator MUSKIE. And you say people bought this thing?

Mr. LARRICK. For \$800. It was used mostly by practitioners of the various healing arts.

Senator MUSKIE. In other words, the practitioners were as fake as the machine. Is that right?

Mr. LARRICK. I think that the device is a complete fraud.

We have released to the press statements about all of the cases that I have referred to and, as of possible interest to the committee, I have attached copies of these series of press releases for your information.

Senator MUSKIE. They may be included in the record at this point. (The press releases referred to follow:)

[For release June 14, 1962]

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

A Federal court has banned further sales of Specifex Adrenal Hormone Cream, nationally promoted with false and misleading claims for the treatment of arthritis and many other ailments, the Food and Drug Administration announced today.

Promoters of the product consented to an injunction which Judge James H. Meredith of the district court at St. Louis, Mo., ordered effective June 1. The ban on sales of the epinephrine hydrochloride ointment, which is of no help to victims of rheumatic diseases, brought comment by FDA Commissioner George P. Larrick:

"There are millions of arthritics in this country who will grasp at any straw. Many are led to believe in so-called cures because of the remissions which naturally occur in the disease. By taking advantage of this, unscrupulous promoters can profitably sell any product falsely claimed to offer cure or relief. This injunction action is part of FDA's continuing efforts to stop dealers from making money by preying on the hopes of the suffering through false and misleading claims."

FDA said mail-order sales of Specifex Adrenal Hormone Cream had soared in recent years because of false claims in promotional literature titled:

"Read First. How Enclosed Sample May Help Relieve Pain in Stiff, Sore Muscles and Joints."

"For Stiff, Sore Muscles or Joints \* \* \* The Treatment of Chronic Rheumatism."

"Specifics Drug Co. \* \* \* Rush by Return Mail \* \* \* Works Like a Shot!"

FDA said the product was falsely represented to be adequate and effective for the following:

"Relieving or overcoming rheumatic and other arthritic pains; pains of fibrositis due to sprains, strains, fractures, postoperative adhesions; knots and swellings; arthritis, chronic fibrositis; rheumatism and arthritic afflictions; lumbago; relief of the pain of shingles; skin blemishes—keratoses of the aged; gout; painful skin and nerve conditions; obstinate and painful conditions; lameness; migraine headaches; trifacial neuralgia; rheumatoid arthritis or serositis; frozen nerves; neuritis; sciatica; Charley horse; gouty neuritis; chronic rheu-



matism, neuralgia; relief from pain and stiffness; osteoarthritis; stiff and painful fingers and capsulitis."

Court papers show the product has been packaged in containers bearing labeling which reads in part, "Specifex Adrenal Hormone Cream \* \* \* Epinephrine Hydrochloride U.S.P. \* \* \* For External Use \* \* \* Specifics Drug Co., No. 44 Montague, St. Louis 23, Mo."

The injunction complaint was entered against the Specifics Drug Co., of Affton, Mo.; the Kantol Packaging Co., of St. Louis, Mo.; Monte C. and Frank L. Etherton, partners in the Specifics firm, and Gustav C. Schuricht, who does business as Schuricht's in Affton.

FDA said Specifics arranged for the manufacture of the drug by the Kantol firm and for its labeling and distribution. Schuricht mailed promotion leaflets and drug samples to persons on Specifics mailing list and filed the orders of persons who responded to the mail-order solicitation, the agency said.

[For release August 3, 1962]

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

A Texas salt company and its general manager have been convicted of shipping "sea salt" with false or misleading claims for the treatment and prevention of many diseases from cancer to insanity, the Food and Drug Administration announced today. The false claims included some which originated with a syndicated health columnist, the agency said.

Judge Joseph Ingraham, of the Federal district court at Houston July 13, fined the United Salt Corp. of Houston and Lorne F. Van Stone, general manager, \$1,000 each.

FDA charged that literature accompanying Admiral Natural Mineral Sea Salt—some of which was written by George W. Crane, M.D.—falsely claimed or implied that the product was effective in treating and preventing the following ailments:

Cancer, diabetes, multiple sclerosis, myesthenia gravis, muscular dystrophy, epilepsy, asthma, arthritis, insanity, deficiency ailments, allergies, Parkinson's disease, arteriosclerosis, cataracts, cirrhosis, high blood pressure, pernicious anemia, dental caries, baldness, sterility, goiter, acne, gray hair, and others. It sold for \$1.50 for a 1-pound 10-ounce package.

FDA said that Dr. Crane, in at least one reprint accompanying the "sea salt," called it a "chemical smorgasbord." He said it supplies significant amounts of minerals necessary for body glands and organs to provide good health and has a "possible 'vaccinative' effect" against many so-called deficiency ailments.

Dr. Crane, in a reprint from the publication CAL, distributed by Coe Laboratories, Inc., Chicago, Ill., listed the United Salt Corp. as a source of sea salt containing the "44 soluble chemicals in the ocean."

"Be sure all 44 elements are in it," Dr. Crane wrote, "for if a few were omitted, those few might be the very ones essential to protect one against cancer." Sea salt with its 44 elements, he said, is a "chemical smorgasbord" which "may be of vital help in thwarting our most dreaded scourge; namely, cancer, plus all the host of other ailments now listed as probably a result of chemical deficiency."

Salt, when used as directed by Dr. Crane, can be hazardous in certain conditions involving the heart and circulatory system, FDA warned. The agency added that the recommendations in the literature encouraged the product's use for such conditions. One injury case was reported during the investigation leading to the seizures.

U.S. marshals seized over \$8,000 worth of the sea salt and \$1,000 worth of the false literature in March 1961 from dealers in Columbus, Ohio. Later that year a Federal court condemned the product and U.S. marshals placed the salt in storage for use to deice areas around Federal buildings during the winter.

[For release May 5, 1961]

## U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## FOOD AND DRUG ADMINISTRATION

Using its multiple seizure powers, the Food and Drug Administration has moved to break up what Commissioner of Food and Drugs George P. Larrick calls "a nationwide sea water swindle."

Acting on facts reported by FDA medical advisers, Commissioner Larrick found:

"\* \* \* That there is probable cause for me to believe, and I do believe, that the labeling of the article, 'Sea Brine Concentrated Natural Sea Water' \* \* \* would be, and is, in a material respect misleading to the injury and damage of the purchaser or consumer."

Based on this finding FDA inaugurated a six-State roundup by U.S. Marshals of Atlantic ocean water bottled by Florida Sea Brine Laboratories, Inc., at Lakeland, Fla. It usually sold for \$1.69 for a 1-pint bottle.

Literature which usually accompanies this product, some of which was seized in the multiple actions, includes a reprint of a syndicated column by George W. Crane, M.D., which reports the "rejuvenation" of his 97-year-old father-in-law after taking sea water.

The columnist also alleged that 44 chemicals present in sea water are "reduced seriously or totally missing from our farms so that our meat and potatoes, vegetables and fruits are often sadly lacking in vital chemicals."

Commissioner Larrick said that sea water has no therapeutic value, especially in treating the disease conditions mentioned in Dr. Crane's articles, and may be harmful to persons suffering from cardiac illness.

The seizure actions instituted by FDA in Federal District courts are the latest and most far-reaching of a recent series against plain or concentrated sea water in bottles, or boiled-down sea salt in boxes distributed by a number of companies. Truckloads have been seized. The labels filed in the courts charged that claims for the bottled sea water were false and misleading under the Federal Food, Drug, and Cosmetic Act.

Some 2,000 1-pint bottles of "Sea Brine Concentrated Natural Sea Water," are involved in seizures at—

Health Food Center, Dallas, Tex.  
 Top Notch Nutrition, San Jose, Calif.  
 Hook Drug Store, Indianapolis, Ind.  
 Florida Sea Brine Co., Wooster, Ohio.  
 Lackzoom Co., Pittsburgh, Pa.  
 John Hartig, Saginaw, Mich.

The bottle label and reprints of Crane columns which accompanied it contained statements which represented and suggested that the sea water was effective in the treatment or prevention of cancer; diabetes; leukemia; multiple sclerosis; myasthenia gravis; sterility; Parkinson's disease; arthritis; goiter; deficiency ailments; dental caries; and their conditions. It was further claimed that it is a "chemical smorgasbord" for body glands, to help the proper function of the pancreas, liver, spleen, bone marrow, thyroid adrenals, and other organs to guard health and prevent sickness. Use of the sea water, it was stressed, would result in achieving better health. These claims, according to medical consensus, are false and misleading, since sea water is worthless for any therapeutic or special dietary purpose.

Commenting on the actions, Mr. Larrick said:

"Considered in the light of the false statements which have been broadcast to the public concerning the purported medical value of sea water, we think that any commercial offering of a sea water product is bound to mislead the public. In brief, we think that any distribution of sea water would be intended to take advantage of the misinformation previously disseminated to the public concerning the alleged medical value of the article."

[For release February 2, 1962]

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Seizure at a Holland, Mich., firm of over 136,000 tablets falsely claimed to be of special value to the aged, was announced today by the Food and Drug Administration.

U.S. Marshals seized the product, Geriatric Vitamin Capsules, and accompanying promotional material at the DePree Co. in Holland after court papers were filed in the Federal District Court, Grand Rapids, Mich.

FDA said the tablets contained vitamins, minerals and lipotropes, desiccated liver, dried yeast, safflower oil, and other ingredients.

Also seized were various pieces of literature titled "Which is best for You, \* \* \*" "Facts About the Vitamins," "Basic Concepts of Health," and counter cards titled, "Low Cost Health Insurance," "This Doesn't Need To Happen," "Vitamin Shortages Shocked These Doctors," and others.

FDA said the literature included false claims that nutritional requirements of people over 40 are different from adults generally and that the tablets are of value for special dietary supplementation and therapeutic use because of the presence of lipotropic and protein factors, the desiccated liver, dried yeast and safflower oil. The tablets were also falsely claimed to be a complete, balanced vitamin and mineral formula.

The Agency said other false assertions included statements the product is good for treating and preventing mental depression, common colds, degenerative diseases, cardiovascular diseases, rheumatic diseases, diabetes, loss of appetite, diminished ability, and others.

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[For release October 27, 1961]

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Two lots of Nutri-Bio, a vitamin-mineral product, have been seized by U.S. marshals on charges growing out of a sales agent's promotion of the product for cancer, alcoholism, ulcers, arthritis, and numerous other diseases, the Food and Drug Administration announced today.

The product was seized at Atlanta, Ga., in possession of Frank B. Wiggs, the sales agent (6 packages) and Sherwood J. Gillespy, doing business as the V & S Sales Co., local distributor of Nutri-Bio (152 packages). Retail value of the seized goods was \$3,800.

The Government charged that the product violated the Food, Drug, and Cosmetic Act because the labeling failed to bear adequate directions for use in the treatment and prevention of the various diseases for which it was recommended by Wiggs. FDA takes the position that it is not possible to write adequate directions for use in conditions for which the product would not be effective. Nutri-Bio is labeled as a food supplement and cannot be used safely or effectively by the layman for the prevention or treatment of any diseases commonly found in this country, FDA said.

Nutri-Bio is a product of the Nutri-Bio Corp. of Beverly Hills, Calif. It is distributed through house-to-house salesmen. Salesmen pyramid their commissions in a chain-letter type operation in which they get a percentage from the sales of other agents they recruit. Wiggs was recruited as a salesman by Gillespy.

[For release November 27, 1961]

## U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## FOOD AND DRUG ADMINISTRATION

The Food and Drug Administration today announced seizure last Friday in Washington, D.C., of Nutri-Bio Vitamin and Mineral Tablets and three other products of the Nutri-Bio Corp. that it charged to be promoted by false and misleading labeling claims. The other products seized were Nutri-Bio Protein Tablets and Protein Instant Mix, and Nutri-Bio Baby-Bio Natural or Organic Vitamins-Minerals-Protein.

Papers filed in the Federal district court alleged that the products were in violation of the Federal Food, Drug, and Cosmetic Act when shipped, while in, and while held for sale after shipment in interstate commerce.

Labeling literature charged to contain the misleading claims included the book, "Stay Young and Vital," by Bob Cummings, a vice president of the Nutri-Bio Corp.; a "General's Manual" used by top-level distributors; Nutri-Bio sales manuals; sales and recruiting kits; Nutri-Bio program kits; and various other leaflets and books, reprints, records, and filmstrips used in the sales promotion plan.

FDA charged that the various labeling items "represent and suggest that the vitamin and mineral tablets and the Baby-Bio article are adequate and effective for the prevention or treatment of heart trouble, hardening of the arteries, rheumatism, respiratory infections, impotency, frigidity, nervousness, loss of weight, loss of appetite, anemia, pyorrhea, chronic diarrhea, palpitation of the heart, mental imbalance, senility, premature death, arthritis, eczema, virus infections, lung cancer, kidney diseases, diabetes, high blood pressure, tuberculosis, lack of normal intelligence, for reducing, to promote health, beauty, radiant living, growth, strength, and athletic ability, to feel young and full of pep, to be calm and vibrant and have a zest for living, to stay young and vital, promote growth, prevent juvenile delinquency, and for other purposes, which statements are false and misleading, since the articles are not adequate and effective for such diseases, conditions, and purposes."

The Government also charged that the labeling of these articles "contains statements which represent and suggest that they are of significant value for special dietary supplementation or therapeutic use by reason of the presence therein of unsaturated fatty acids, inositol, paraminobenzoic acid, rutin, biotin, bio-flavonoid complex, hesperidin complex, choline; and (vitamin and mineral tablets) alfalfa juice and powder concentrate, potassium, sulfur, chlorine, copper, zinc, manganese, magnesium, montmorillonite, other nutritive factors and trace elements; and (Baby Bio) protein; (both lots) that all ingredients in the articles are essential in human nutrition, that the articles are complete and balanced vitamin and mineral food supplements, that everyone needs food supplements, that the American people are the most undernourished people in the world even though overfed, and that the articles are of special significance for special dietary supplementation or therapeutic use because the ingredients are of natural or organic origin; which statements are false and misleading, since they are contrary to fact."

It was also charged that the labeling for protein instant mix and protein (meatless) tablets "represent and suggest that the articles are adequate and effective for the treatment and prevention of abnormal blood pressure, constipation, poor digestion, mental deterioration, and to be young and full of pep, promote vim, vitality, vigor, athletic ability, energy, growth, health and well-being, long life, to keep muscles, tissues, blood, and organs strong and healthy; to be alert; to attain and maintain normal body weight; for zestful living; and for other purposes; and that malnutrition is near universal; that the ordinary diet is deficient in protein and requires supplementation with protein; that the minimum daily requirement for protein has been established; that the need for protein is increased by physical activity; and (Nutri-Bio food supplement protein (meatless) tablets) that all ingredients of the article are natural or organic; that the article is practically all protein; and that the article is of significant value for special dietary supplementation and for therapeutic use as a source of protein; which statements are false and misleading, since the articles are not adequate and effective for such diseases, conditions, and purposes, or since they are otherwise contrary to fact."

The products were shipped by the Nutri-Bio Corp., Beverly Hills, Calif., from various points in California and a warehouse in Elk Grove Village, Ill. They were seized in possession of R. B. Andrews, of Washington, D.C., a distributor of Nutri-Bio.

[For release December 7, 1961]

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

The Food and Drug Administration today cautioned an estimated 75,000 distributors of products of the Nutri-Bio Corp., Beverly Hills, Calif., that the legality of the basic sales promotion materials used by the parent firm has been challenged by a November 24 seizure action against Nutri-Bio in the District of Columbia.

FDA warned the Nutri-Bio distributors that continued use of Nutri-Bio sales material alleged by the Government to be false and misleading may subject them to Federal prosecution and their merchandise subject to seizure. The material includes the Nutri-Bio general's manual, sales manual, and other literature furnished by the corporation.

FDA said it was making this statement because a letter issued on November 27 to top-level sales personnel—called generals and group coordinators—by the company erroneously states that the District of Columbia seizure action is based solely on the unauthorized action of a local distributor and in no way involves the parent company.

The FDA case, filed in the District of Columbia Federal court on November 24 charged that four Nutri-Bio food supplements were misbranded by false and misleading claims for treating and preventing a long list of serious disease conditions. The labeling material containing the alleged false statements included sales manuals, program kits, testimonials, records, filmstrips, and Nutri-Bio newsletters shipped by the Nutri-Bio Corp., Beverly Hills, Calif.

Commenting on the company's letter, Malcolm R. Stephens, Chief of FDA's Bureau of Enforcement, said:

"The District of Columbia seizure action has still not been adjudicated, and the Government must prove its case in court if the action is contested. While this matter is pending it would be unfortunate if a misunderstanding of the nature of the Government's charges should result in widespread violation of the law by sales personnel."

Mr. Stephens said the cautionary statement is intended to answer the many inquiries being received from Nutri-Bio sales agents who are concerned about the legality of their operation.

Nutri-Bio vitamin and mineral tablets, the firm's principal product, are a mixture of 31 ingredients, including vitamins and minerals known to be needed in human nutrition and a variety of other substances of no nutritional value. It is a food supplement and is of no value in the treatment or prevention of any of the diseases which commonly occur in this country.

A 6 months' supply for one person costs \$24. The product is distributed by door-to-door sales agents. Any customer can become an agent and in return receive commissions from other agents he recruits.

[For release May 4, 1962]

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

One of the country's leading sources of nutritional quackery has been curbed by Federal court action, the Food and Drug Administration announced today.

FDA said that sentencing of Royal Lee, president of the Vitamin Products Co., Milwaukee, Wis., will stop distribution of over 115 special dietary products promoted by false claims for treating more than 500 different diseases and conditions.

Federal Judge Robert Tehan sentenced Lee to a 1-year suspended prison term with 3 years probation and fined the Vitamin Products Co. \$7,000 on charges of interstate shipment of misbranded vitamins and proprietary remedies. Lee

also consented to a permanent injunction covering all of his enterprises which prohibits the false claims of his products.

Lee's products and quack literature have been widely distributed through health practitioners, FDA said. The claims covered the gamut of human diseases and symptoms from acne and arteriosclerosis to cancer, cataracts, cirrhosis of the liver, and virus infections.

FDA said the injunction also stops Lee from claiming the products are necessary adjuncts to the diet. Some of the claims banned by the court include: "All disease conditions are the result of malnutrition," "some 700,000 people a year die of preventable and curable heart disease caused by deficiency of natural vitamins," and "arthritis and tooth decay are caused by the eating of cooked foods."

The Lee enterprises enjoined by the court included the Vitamin Products Co., Lee Foundation for Nutritional Research, Endocardiograph, Inc., and Leeland, Inc.

Lee holds a degree in dentistry, FDA said, but he has not been known to practice that profession. Instead he became one of the country's leading health faddists and a regular speaker on the subject. His "health food" business is estimated at some \$3 million a year.

Through nationwide distribution of leaflets and other literature by his Lee Foundation for Nutritional Research, Lee has incessantly attacked such well-recognized public health measures as water fluoridation, milk pasteurization, and vaccinations.

Lee was first prosecuted by FDA in December 1934, for misbranding one of the same products involved in the current action. A jury found him guilty in a verdict sustained by a court of appeals.

The Federal Trade Commission entered an order against him in February 1945, that he stop disseminating advertising that certain of his products are useful nutritional treatments for diseases. The U.S. Post Office proceeded against the Lee Foundation for Nutritional Research in 1956, charging it was receiving money through the mails as a result of false and fraudulent misrepresentations for a book titled "Diet Prevents Polio." The foundation executed an affidavit of agreement discontinuing these representations.

[For release January 23, 1962]

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Capsules of safflower seed oil are not effective as an aid in reducing, the Food and Drug Administration has charged in two misbranding cases involving the best-selling diet book "Calories Don't Count."

FDA said the book, by Herman Taller, M.D., an obstetrician and gynecologist, was being used to make false and misleading claims for CDC (Calories Don't Count) capsules marketed by Cove Vitamin & Pharmaceutical, Inc., Glen Cove, N.Y., and sold in many areas, and of Whelco safflower oil capsules sold in United Whelan Drug Stores. The two products are identical in the declared composition, FDA said.

More than 58,000 capsules of the Whelco product and approximately 1,600 copies of "Calories Don't Count" were seized by U.S. marshals at the United Whelan warehouse in Brooklyn and one of its retail stores, and at a repacker, Halsey Drug Co., Brooklyn, N.Y. Also seized were window posters reading: "Doctor Finds Dieters Must Eat Fat to Lose Fat," and counter placards reading "Dr. Taller recommends that you use safflower oil capsules Whelco brand. \* \* \* book 'Calories Don't Count,' on sale here."

Also seized were over 283 cases of CDC capsules and the book "Calories Don't Count," with other tie-in sales literature referring to the book at the S. P. Drug Co., Brooklyn, and at E. J. Korvette, a retail store at Brooklyn, N.Y. FDA said the material had been embargoed by the New York State Board of Pharmacy pending the Federal seizure.

The labeling material for the CDC product reads in part "CDC capsules for use as directed with the CDC weight control program, a product of Cove Vitamins & Pharmaceutical, Inc., Glen Cove, N.Y. \* \* \*" Window streamers with pictures of the Taller book read in part, "We've got it, CDC capsules 'Calories Don't Count.'"

Seizure papers in both cases charge that the book and other labeling material represent the safflower oil capsules as effective for weight control without regard

to caloric intake, that they are effective in lowering the cholesterol level of the blood, for treating arteriosclerosis and heartburn, improving the complexion, increasing resistance to colds and sinus trouble, promoting health, increasing sexual drive, and for other purposes. Actually, FDA said, the articles supply only 5.5 grams of safflower oil daily, an amount which is insignificant for any purpose.

Malcolm R. Stephens, FDA Director of Enforcement, said, "Both of these promotions are based directly on the main idea of Dr. Taller's book, 'Calories Don't Count,' which is that obese persons can eat thousands of calories a day and still lose weight by including unsaturated fats in the diet, especially such fats as safflower oil. The book mentions by name the manufacturer of CDC capsules as a mail-order source for safflower oil.

"Our nutritionists have pointed out that there are basic inconsistencies in this reducing program. Contrary to its premise that calories don't count, the typical diet included in the book by Dr. Taller is actually quite restricted as to calories when compared to the usual diet of an obese person."

Mr. Stephens emphasized that books as such are not subject to the Federal Food, Drug, and Cosmetic Act unless they are used as labeling material for products covered by the law. He said that the two cases which FDA has filed are similar to many other FDA actions involving false claims in point-of-sale promotion material for foods, drugs, and cosmetics.

[For release July 6, 1962]

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
FOOD AND DRUG ADMINISTRATION

A default decree entered by the U.S. district court in Brooklyn, N.Y., has established that "Calories Don't Count" capsules are misbranded by false and misleading health and diet claims in the book "Calories Don't Count," by Herman Taller, M.D., the Food and Drug Administration announced today.

The agency said Cove Vitamin & Pharmaceutical, Inc., of Glen Cove, N.Y., withdrew its answer contesting seizure of CDC (Calories Don't Count) capsules, stopped the distribution of the safflower oil product, and is recalling it from the market on a refund basis. According to representatives of Cove, the decision to withdraw was made because Simon & Schuster, Inc., publishers of "Calories Don't Count" and Dr. Taller have refused to come to the defense of the health and diet claims in the book. Nearly 2 million copies have been printed.

Judge George Rosling signed an order, filed by U.S. Attorney Joseph P. Hoey, condemning the seized lot and ordering destruction of the capsules. The court also ordered the books which were seized as promotional labeling turned over to the FDA.

FDA said Cove's action came after testimony by depositions was taken by Assistant U.S. Attorney Martin Pollner from officials of Simon & Schuster and after partial completion of similar testimony from Dr. Taller. Mr. Pollner has filed an order calling on Dr. Taller to show cause why the physician should not be held in civil contempt of court for refusal to answer over 50 questions about his financial relationship with Cove's CDC capsule promotion.

U.S. marshals last January seized more than 280 cases of CDC (Calories Don't Count) capsules with copies of the book "Calories Don't Count" on charges that the book and other labeling material falsely represents the safflower oil capsules are effective for weight control without regard to caloric intake, and that they are effective in lowering the cholesterol level of the blood, for treating arteriosclerosis and heartburn, improving the complexion, increasing resistance to colds and sinus trouble, promoting health, increasing sexual drive, and for other purposes.

FDA said the default decree represents a court finding that the claims made in promoting the safflower oil capsules are false. The agency said that Cove contended it had relied upon the regimen offered in the book "Calories Don't Count" as basis for its promotion of CDC capsules. This regimen had been attacked by leading nutritional authorities in many articles in both professional and non-professional publications as being scientifically unsound and unsupported.

FDA Commissioner George P. Larrick commented:

"The investigation of the case has brought to light a surprising story of how this bestselling book was deliberately created and used to promote and sell these

worthless safflower oil capsules for the treatment of obesity, cardiovascular diseases, and other serious conditions.

"Dr. Taller prepared a draft of the book. Simon & Schuster ordered it revised 'in more of a mail-order inspirational technique'—it was too scientific sounding. The job of revision fell to a freelance sports writer, Roger Kahn, who completely rewrote the manuscript and devised its catchy title—'Calories Don't Count'. The manuscript then went to the office of General Development Corp., apparently for the purpose of inserting references to Cove as a source of safflower oil capsules—safflower oil being one of the main features of the so-called Taller regimen. When the manuscript was returned, it contained changes on four pages. These changes mentioned safflower oil capsules, and one mentioned Cove Pharmaceuticals specifically.

"Cove then established a closed corporation, CDC Corp., to produce the capsules for which the book would create a demand. Financial interests in the new corporation were acquired by a limited group including, Cove, Dr. Taller, two vice president of Simon & Schuster, and officials of the General Development Corp.

"The freedom to publish 'health' books is a constitutional guarantee. But the courts have held that books used to promote the commercialization of drugs become labeling under the Federal Food, Drug and Cosmetic Act. False statements in the books misbrand the drugs. What is shocking about this episode is that the public has been led to believe that Dr. Taller, a licensed medical doctor, prepared the book to advance a revolutionary new dieting idea that he had developed and proved by sound scientific observations. The facts now show that the book is mainly the work of laymen and one of its main purposes was to promote the sale of a commercial product in which Dr. Taller had a financial interest.

"The book is full of false ideas, as many competent medical and nutritional writers have pointed out. The Government's action has stopped its use in the promotion of 'Calories Don't Count' capsules and actions are being taken against all other products that are promoted by the book."

Mr. Larrick said the CDC capsules supplied only 5.5 grams of safflower oil daily, an amount which is insignificant for any purpose. He noted that the theme of Dr. Taller's book is that obese persons can eat thousands of calories a day and still lose weight by including unsaturated fats in the diet, especially such fats as safflower oil. "The plain fact is that, contrary to the book's basic premise that calories don't count, weight reduction requires the reduction of caloric intake," Mr. Larrick said. "There is no easy, simple substitute. Unfortunately, calories do count," he added.

[For release June 21, 1962]

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
FOOD AND DRUG ADMINISTRATION

A nationwide seizure campaign to stop the use of a fake diagnostic machine found in offices of hundreds of health practitioners was announced today by the Food and Drug Administration.

The announcement follows a refusal by the U.S. Supreme Court June 11 to review actions of lower courts banning the device from interstate shipment.

FDA Commissioner George P. Larrick called the machine "a peril to public health because it cannot correctly diagnose any disease." He said "thousands of patients are being hoodwinked by its use into believing they have diseases which they do not have, or failing to get proper treatment for diseases they do have."

The machine, known as the Micro-Dynameter, is supposed to be effective for detecting scores of serious diseases by measuring electric currents generated by metal plates applied to areas of the body. FDA scientists proved that the only condition measured by the device is the amount of perspiration on the skin of the patient.

Commissioner Larrick said FDA would undertake to seize the devices "wherever we can find them" but because of the large number in use it would not be possible to do this in a short time. He said that FDA district offices throughout the Nation would seek the cooperation of State and local authorities in rounding up the devices.



FDA action against the microdynamometer device began with an injunction suit in the Federal district court at Chicago. In June 1961 after a 5-day trial, that court ordered Ellis Research Laboratories, Inc., and Robert W. Ellis, the president, of Chicago, and all persons associated with them, to stop making false and misleading claims for the electrical device which has been distributed to hundreds of local health practitioners throughout the United States. Further distribution of the device was prohibited and the defendants enjoined from further use of numerous leaflets, booklets, and reprints representing and suggesting that the machine is adequate and effective for diagnosing practically all disease conditions, as well as the health status of man. The court found that claims that the machine is capable of diagnosing disease are false and misleading.

The case was appealed on the grounds that the device was exempt from the Federal Food, Drug, and Cosmetic Act because it was used only by licensed practitioners. On March 22, 1962, the U.S. court of appeals at Chicago ruled that "under the findings of fact in the instant case, the microdynamometer is not safe for use in the hands of a licensed practitioner." The court said: "a device whose labeling claims it to be an aid in diagnosing as many diseases as this one, when in fact it is not, is unsafe for use no matter who uses it."

In technical terms, the microdynamometer is a string galvanometer—a rather simple device for measuring electric currents, which has been put into an impressive cabinet. Over 5,000 of the machines have been sold with some 300 known to have been distributed during the past 3 years. They sold for as much as \$875 each.

The firm promoted the sale of the device by direct distribution of literature, by advertisements, by "seminars" held to demonstrate the device, and by nationwide sales efforts.

It was claimed that the machine determines the presence of disease by measuring the weak electric current generated from two metal plates applied to various parts of the body. FDA scientists proved, and the court agreed, that current flowing between the electrodes is not dependent on the health or diseased condition of the body but on the amount of moisture present on the skin.

In the district court trial Government witnesses testified that the readings on the device were influenced, among other things, by washing the hands in water, alcohol or acetone and drying them; by clapping or spanking the hands; by holding the hands over the head; or by placing the localizing electrode near a large vein or artery.

The electrodes are connected by wires to the body of the device, contained in a metal housing which bears on its face a numbered scale and several knobs. Electric currents passing through the device cause a light playing on the scale to deflect with varying degrees of magnitude. The knobs on the face of the device, when turned, change the electrical circuits within the device so that the scale reading is changed. But the FDA medical scientists found no relationship whatever between the positions of the knobs and the health of the person to whose skin the electrodes are applied.

During the trial, evidence was introduced as to use of the machine on two cadavers. The readings given by the microdynamometer showed little or no differences between a cadaver and a living body.

The promotional literature claimed that the microdynamometer was capable of diagnosing practically all diseases including the following:

- |                           |                           |
|---------------------------|---------------------------|
| Spinal nerve impingements | Kidney disorder           |
| Cancer                    | Optic neuritis            |
| Colitis                   | Rheumatism                |
| Sinusitis                 | Low basal metabolism      |
| Tooth infection           | Ptomaine poisoning        |
| Recuperative ability      | Nephritis                 |
| Abscess                   | Arteriosclerosis          |
| Tuberculosis              | Meniere's disease         |
| Inflamed colon            | Hidden disease            |
| Infected gallbladder      | Chronic appendix          |
| Anemia                    | Abscess of tonsil         |
| Arthritis                 | Drug addiction            |
| Cerebral tumors           | Ulcer                     |
| Epilepsy                  | Infection of the bladder  |
| Heart trouble             | Post nasal catarrh        |
| Low blood pressure        | Acute and chronic toxemia |
| Insanity                  | Infantile paralysis       |

Mr. LARRICK. State and local food and drug programs also are very important in combating the exploitation of older citizens.

Senator RANDOLPH. Commissioner Larrick, I do not want to interrupt too often, but Dr. Cecil of the rheumatism and arthritis group, indicated that the Oxydonor, as he called it, which had been sold, I believe, from about 1892 to 1958, was barred by the Food and Drug Administration, yet the product continued to be sold. It was of no value.

Now you are saying that you do this job of policing—and certainly I commend you for the effort—but how could this continue after your agency had barred it?

Mr. LARRICK. Is this a device?

Senator RANDOLPH. A device, yes, a fraudulent device.

Mr. LARRICK. Well, there is a practical problem involved with such an article. As a matter of fact, the laws have been progressively improved by the Congress over the years, and our ability to cope with these problems has increased over the years, but an article that has been sold that long may be in the possession of literally thousands of different practitioners throughout the country.

Now, our practical problem is whether we should go out and clear every one of these off the market from one end of the country to the other, or to give our time and attention to some new ones.

What we hope to do is to build stronger, better State food and drug facilities, and the people are willing, so that once we have established, for example, the principle through a trial in the Federal court that this device is worthless, that from then on the State food and drug people can pick it up and will have a machinery that will really clear the market of these articles as they are progressively found to be wanting.

As I was saying, State and local food and drug programs also are very important in combating the exploitation of older citizens. For example, just last month the State of California convicted Adolphus Hohensee, a well-known health lecturer, for conspiracy to commit fraud by selling "Ambrosia of the Gods" which he claimed was a cure for a variety of ailments.

During his trial it was proved that "Ambrosia of the Gods" was nothing but honey. He was sentenced to a 2- to 6-year prison term and fined \$9,000.

Following his conviction in 1955 for violation of the Federal Food, Drug, and Cosmetic Act, Hohensee had attempted to avoid acts that would subject him to Federal control.

In addition to our enforcement activities, we engage in a number of educational activities including the publication and distribution of pamphlets and other materials designed to educate the consumer against the pitfalls of medical and nutritional quackery.

As Dr. Andrus pointed out earlier, we in collaboration with her group have in process of preparation a catalog of Quackery, which we think should be quite helpful to our older citizens, and I have an advance copy of that here. No, I have here a statement about the publications that we have issued, particularly for older people, dealing with quackery in this field.

Senator MUSKIE. Do you want that made a part of the record?

Mr. LARRICK. I would like to; yes, sir.

Senator MUSKIE. It will be made a part of the record.

(The material referred to follows:)

U. S. DEPARTMENT OF  
HEALTH, EDUCATION, AND WELFARE  
Food and Drug Administration

### FOOD FACTS Vs. FOOD FALLACIES

THE AMERICAN FOOD SUPPLY is unsurpassed in volume, variety, and nutritional value. By patronizing all departments of a modern food store we can easily supply all of our nutritional needs. In fact, Americans have to go out of their way, nutritionally speaking, to avoid being well nourished. Deficiency diseases which have plagued our nation in the past are now almost unknown. Overweight has become a more common problem than underweight.

Notwithstanding the abundance and quality of the American food supply a persistent campaign is being carried on to undermine public confidence in the nutritional value of staple foods. False ideas about food are circulated by food faddists and by fringe promoters of vitamin and mineral products. Such products are sometimes offered as cure-alls for serious disease conditions. This may be dangerous to health, especially if ailing people are led to put off getting proper medical attention.

Modern as well as ancient myths and superstitions about food are utilized by faddist promoters. Such notions as the old idea that fish and celery are "brain foods," or that oysters increase fertility, are harmless, but when garlic pills are promoted for high blood pressure, or grapes for the treatment of ulcers and cancer, the price of ignorance may come high. There is quackery in the field of nutrition as well as in the field of medicine.

Today the Food and Drug Administration is especially concerned about the promotion of "food supplements" as cure-alls for conditions which require medical attention.

Misleading promotion of food supplements violates Federal law. It is commonly carried on in two different ways:

(1) One method is by so-called "health food lecturers" who claim, directly, or by inference, that the products they are promoting are of value in preventing or curing disease, when in fact they are ineffective for such purposes. Some of these lecturers put on a program that has the emotional appeal of a "revival" meeting. Others pose as highly

qualified scientists. Their talks are a blend of science and superstition concerning nutrition, right living, psychology, sex, and, of course, salesmanship for the products which the particular lecturer happens to be pushing. Usually an ad is placed in a local newspaper announcing several free lectures. These are the "come-on" for the paid series which follows.

(2) A second and widespread method is by door-to-door selling. While this may be carried on as a legitimate business, there are, unfortunately, agents who take advantage of the privacy of the home to prescribe high-priced food supplements for any disease or condition which an ailing customer may mention.

Both kinds of sales agents use a scare technique in selling their vitamin, mineral, and herbal preparations. False ideas about food are their stock in trade. Four of these ideas are very common and are used by practically all operators in the field. Each of these ideas contains an element of truth which forms the basis for unwarranted conclusions. They can easily be debunked by making sure certain facts are not overlooked.

**1. Myth that all diseases are due to faulty diet.**

There are numerous variations of this theme. One is that all diseases are caused by chemical imbalance in the body, which in turn is due to faulty diet. According to this false premise, it is almost impossible for the average person to eat a completely adequate diet. The premise further assumes that something is sure to be missing which can only be supplied if a certain food supplement is taken. The product usually contains a long list of ingredients, including those which are known to be necessary in human nutrition as well as others which are supposed to possess secret benefits which nutrition scientists have not yet discovered. Of course, there are some diseases that are caused by dietary deficiencies, but these are rarely found in the United States.

**2. The myth that soil depletion causes malnutrition.**

This is the theory that repeated cropping has so impoverished our soil that foods grown on it are nutritionally inferior. Promoters of this theory also attack the use of chemical fertilizers, claiming they "poison" the land and the crops grown on it. They preach that the only salvation from these supposed evils is by so-called organic farming and by eating so-called "natural" foods and supplementing the diet with various special products.

There is no scientific basis for the theory that crops grown on poor soil with the help of chemical fertilizers, are nutritionally inferior. Some soils have been so depleted that they produce poor yields of crops. However, rather than being depleted, most of our soils are capable of providing abundant supplies of food. There is no significant difference in the nutritive value of foods for human use produced on different soils, except in the case of iodine. The only disease in man that is known to be associated with any deficiency of soil or water is simple goiter due to lack of iodine in certain areas. The deficiency of this essential element is remedied by the use of iodized salt.

### 3. The myth of overprocessing.

The food supplement promoters very commonly exaggerate the fact that some methods of food processing and cooking do result in removing or reducing some of the vitamins and minerals contained in foods. Some "food quacks" cash in on this by false claims for various types of cooking utensils sold at greatly inflated prices. Overlooked is the fact that modern food processing methods have been devised to preserve nutritional values or to restore them to foods. Good examples are the canning or freezing of fruits and vegetables at the peak of nutritional perfection, and the nutritional improvement of flour, bread, milk, and oleomargarine with added vitamins and minerals.

The amounts of such additions have been carefully calculated by scientific authorities to supply known dietary requirements. How well this scientifically guided food-improvement program has succeeded is shown by the fact that once-prevalent deficiency diseases such as rickets and pellagra are now so rare that it is difficult to find a case for clinical study.

### 4. The myth of subclinical deficiencies.

According to the subclinical deficiency myth, anyone who has "that tired feeling" or an ache or pain in almost any part of the body, is probably suffering from a "sub-clinical deficiency" and needs to supplement his diet with some concoction. A "sub-clinical vitamin deficiency" is defined as a condition in which it is not possible to obtain any observable evidence of a vitamin deficiency, but a deficiency is proposed as a theoretical explanation of the symptoms.

Of course, no normal person can go through even a small part of his life without experiencing some of these symptoms. There is no basis for believing that they are usually

due to subclinical deficiencies. Such symptoms may have many other causes. Advice of a competent physician is needed to identify vitamin or mineral deficiencies and to prescribe their proper treatment. The competent physician will not overlook such "musts" as calcium during pregnancy, or vitamins C and D for babies and young children.

Nutrition authorities agree that the best way to buy vitamins and minerals is in the packages provided by nature—vegetables, fruits, milk, eggs, meats, fish, and whole grain, or enriched bread and cereals. The normal American diet now includes such a variety of foods that most persons can hardly fail to have an ample supply of the essential food constituents. The public should distrust any suggestion of self-medication with vitamins or minerals to cure diseases of the nerves, bones, blood, liver, kidneys, heart, or digestive tract, except in certain cases which only a physician is competent to recognize and treat.

# Read *the* Label

*on*

**FOODS**

**DRUGS**

**DEVICES**

**COSMETICS**

*and*

**HOUSEHOLD**

**CHEMICALS**

**E**NFORCEMENT of the Federal Food, Drug, and Cosmetic Act is a service to protect the health and pocketbook of the consumer and the operations of the law-abiding industries. The large majority of American food, drug, device, and cosmetic manufacturers are producing the safest, cleanest, most informatively labeled items ever available to the public.

A new law, the Federal Hazardous Substances Labeling Act, is intended to prevent accidental death or injury from misuse or careless handling of household chemical products.

By labeling their products in compliance with these laws manufacturers are furnishing consumers with the information they need to be intelligent purchasers and to protect the health of their families.

But the final and necessary step for the consumer to benefit from these activities of industry and Government is to make use of the information provided in the label.

**THE LABEL** can help you get your money's worth and guard your family's health. It contains information required by the law for your protection—but if you fail to read the label, you are losing that protection.

The Federal Food, Drug, and Cosmetic Act sets the rules for labeling foods, drugs, and cosmetics that move from one State to another or are imported into the United States. It is the job of the Food and Drug Administration, operating under the Department of Health, Education, and Welfare, to make certain that such products are labeled according to these rules. The enforcement of labeling regulations protects this country's large majority of honest manufacturers as well as consumers from unfair practices.

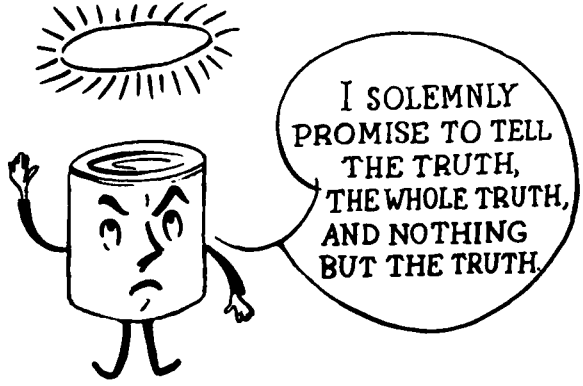
In the label the manufacturer is required to tell you what is inside the package. And you as a consumer need to know what is on the label in order to use a product correctly and safely. The label information put there for your benefit will not protect you or serve you if you do not read it.

**READ THE LABEL!**

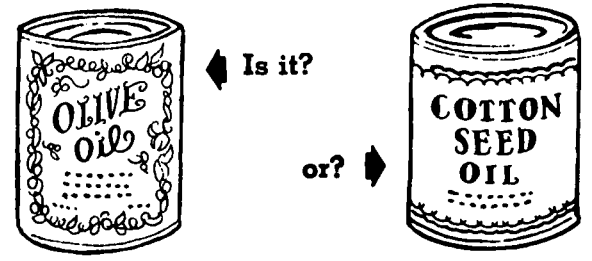


# the Food Label

**B**ACK in the days of open cracker barrels in grocery stores, the purchaser could inspect the wares and often even sample them. Today we have many more types of manufactured products and almost every processed food is packaged to protect it from dust and insects and facilitate handling. The buyer cannot examine the contents and must depend upon the label as his guide to the inside of the package. First of all the label must be truthful. It is not enough to avoid untruthful statements. The label must tell about the product in a way which will not mislead the purchaser.

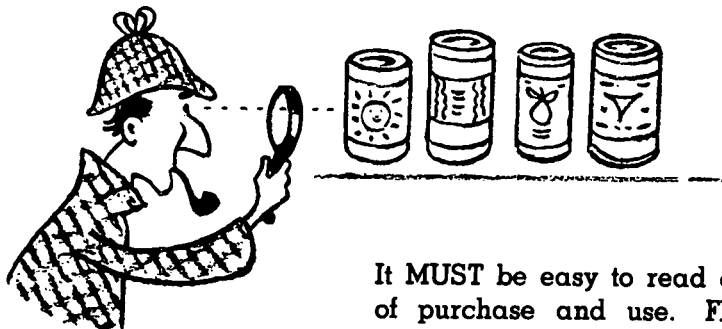


It must not use the name of another food.



The label must not be false or misleading in any particular.

Labels like this are misleading and illegal because no olive has been near the oil and it is not imported from an olive-oil area as implied.



It MUST be easy to read and understand under ordinary conditions of purchase and use. Flashlight and magnifying glass are not required shopping equipment.

The common or usual name of the food must be on the label.



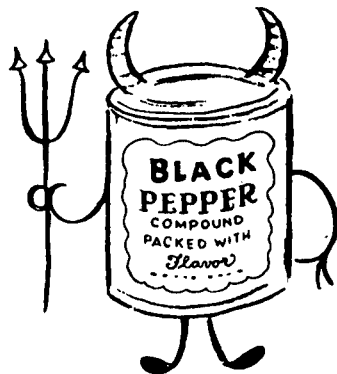
is  
not to be  
labeled



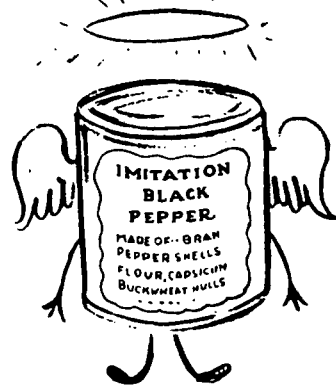
Imitations must be prominently labeled.

If the food is made of two or more ingredients they must be listed by their common or usual names.

wrong



right

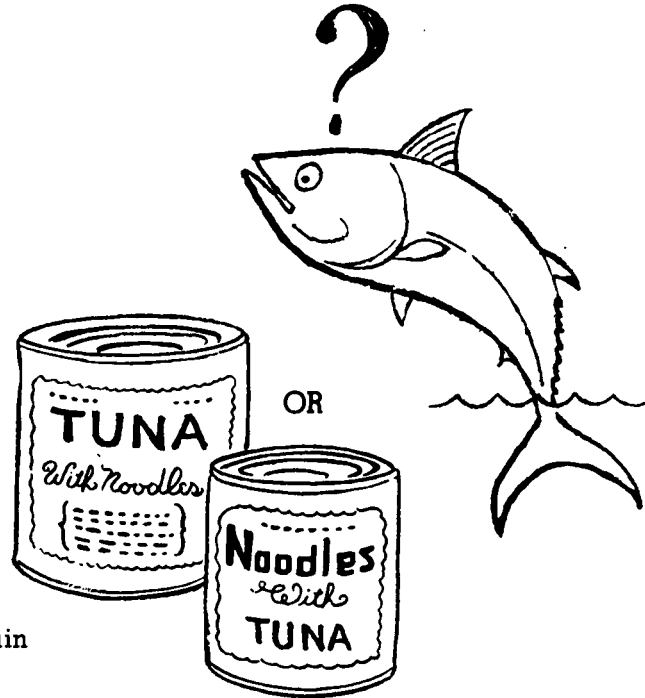


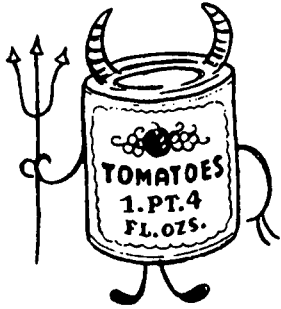
The ingredients must not be named or listed in a misleading way. They should be named in the order of their predominance in the food.

ARE YOU BUYING A CAN OF

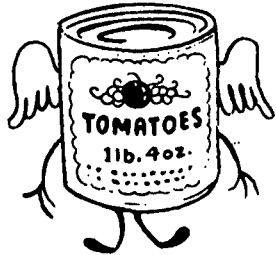
More tuna than noodles

Mostly noodles, but must contain enough tuna to be worth mentioning.





wrong



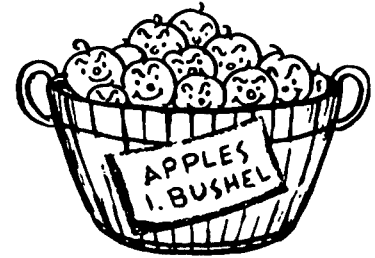
right

The net contents must be stated. This must not be misleading either. Common units of weight, measure, and content must be used, and the number of the largest units in the package given.

If the food is liquid, it must be labeled in terms of liquid measure.

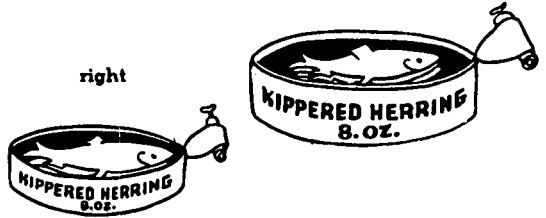
If the food is solid or a mixture of solid and liquid it must be labeled in terms of weight.

But fresh fruits and vegetables may be labeled in terms of dry measure.



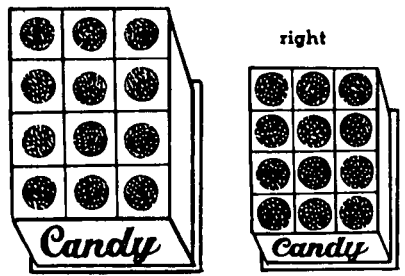
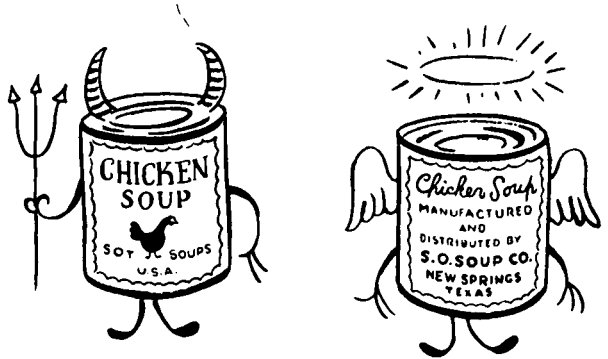
If the packer wishes to he may add a statement in terms of the metric system of weight or measure.

This can is too large for the fish



right

The container must not be misleading. Even though the correct quantity of contents is on the label the product must fill the package.



right

too much cardboard

The label must give the name and place of business of the manufacturer, packer, or distributor. This lets you know with whom you are dealing.

## FOOD STANDARDS

For some foods, standards of identity, quality, and fill of container have been set. Standards are fixed by order of the Secretary of Health, Education, and Welfare to promote honesty and fair dealing in the interest of the consumer.

After a standard goes into effect, a food defined in the standard is misbranded under the law if it fails to comply with the specifications established for it. This protects honest manufacturers and dealers as well as consumers.

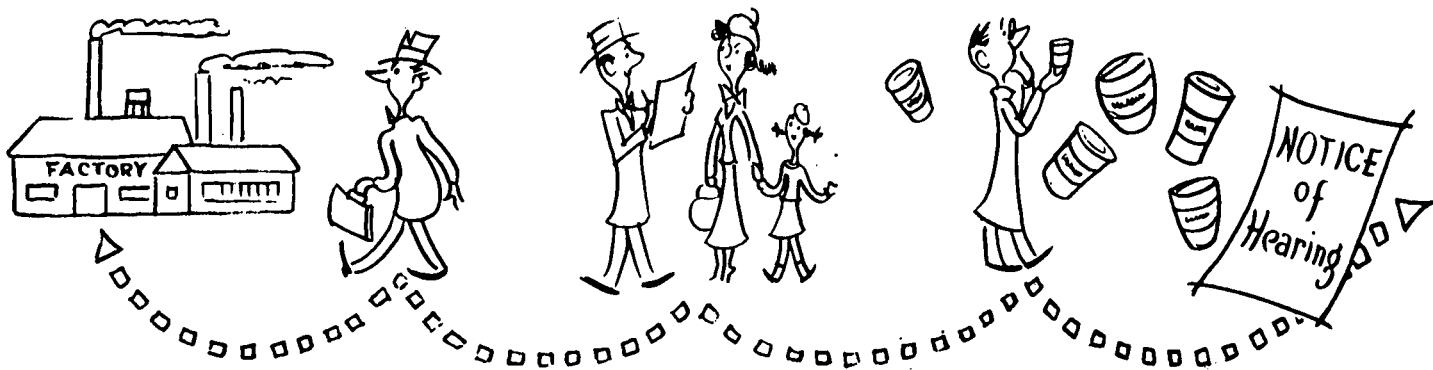


### Recipe

10 gallons water  
40 pounds sugar  
pectin  
strawberry flavoring  
1 quart of strawberries

Would you call this strawberry jam? This product cheats the consumer and is unfair competition with real strawberry jam made by honest manufacturers.

But how much strawberry should the jam contain? What is strawberry jam? To find out current practices and opinions inspectors went into factories; housewives were questioned; cookbooks studied. Experimental packs of preserves, jams, and jellies were made in factories and laboratories by skilled chemists and inspectors. Hundreds of samples of preserves were examined. The Secretary announced to fruit preserve and jelly manufacturers, consumers, and all others interested that a public hearing would be had on his proposal to set standards for fruit preserves and jellies.





**At the hearing table representatives of the fruit preserve and jelly industry, consumers, home economics specialists, and Food and Drug Administration experts presented evidence on what the standards should be. All the evidence was recorded and made available to anyone.**



After the hearing, time was permitted for interested parties to study the record and recommend what the standard should be. After studying these recommendations and the record, the Secretary published the proposed standards, allowed time for comment, and finally published the final order in the Federal Register, to become effective in 90 days. The standards for fruit preserves and jellies require 45 parts by weight of the fruit ingredient to 55 parts by weight of sugar.

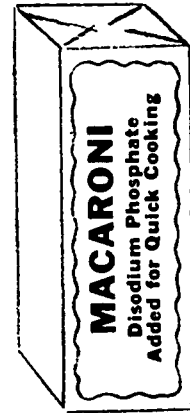
Hearings were required for all food standards until 1954, when a simplified procedure was adopted. Under this procedure, proposals for new standards and amendments to old standards are published in the Federal Register. Any interested party may make the proposals or comment on them before the final order is issued by the Secretary. Today hearings are held when controversial issues arise concerning a proposed food standard and additional information is needed.

**A definition and standard of identity** tells of what ingredients a food is made, and sometimes specifies the proportions. The standards require that certain basic ingredients must be used, and designate other ingredients which may be used at the packer's option. No other ingredient may be added.



Although this label is honest the catsup is illegal. The standard for catsup does not name a preservative as one of the ingredients which may be used in tomato catsup, so its use is contrary to the law. Don't look for a full list of ingredients on the label of a food for which a definition and standard of identity has been set. The ingredients are named in the standards and need not be listed on the label. But when the interests of the consumer require it, optional ingredients must be named.

Some people might prefer plain macaroni, so the optional ingredient, disodium phosphate, must be named.



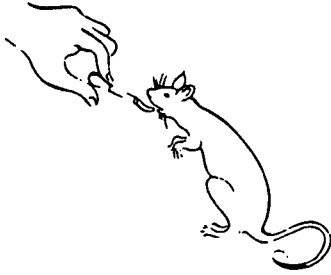
For some foods standards of quality are set. Standards of quality do not grade foods as "fancy," "select," or "medium," or "A," "B," or "C." They set a minimum quality below which the foods must not fall unless appropriately labeled. If canned tomatoes are not red enough, if peas are overmature, if canned peaches are discolored and broken, they must be labeled in bold letters of a size specified according to the size of the can:

**BELOW STANDARD IN QUALITY**  
GOOD FOOD—NOT HIGH GRADE

In some cases the reason for failure of the food to meet the standard may be given.

**BELOW STANDARD IN QUALITY**  
NOT WELL-PEELED, UNEVENLY TRIMMED

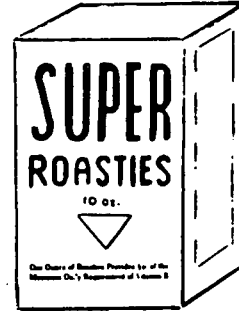
**BELOW STANDARD IN QUALITY**  
EXCESSIVE DISCOLORED PEAS

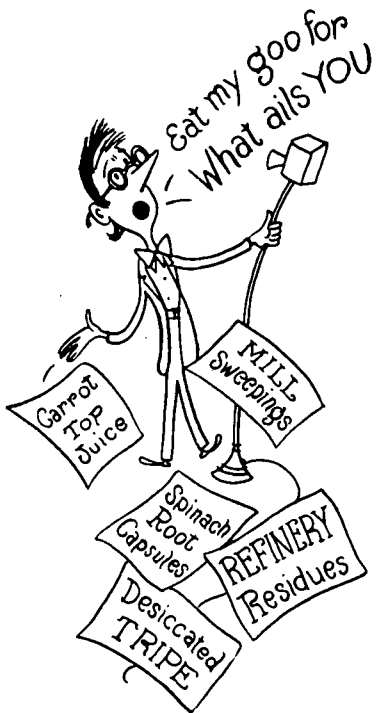


If vitamin content is claimed on the label the food must contain the amount stated. Each year the Food and Drug Administration vitamin experts analyze over 1,000 samples of vitamin-enriched foods. White rats and baby chicks are still used for testing the vitamins that cannot be tested accurately by the newer, streamlined methods.

From this label you know that eating all the Roasties in the package would give you all the B<sub>1</sub> you need for the day, unless your physician prescribes a larger quantity. The label of a food with an added vitamin, or of a food for special dietary use, must state the percentage of the minimum daily requirement of the vitamin that a reasonable daily amount of the food will furnish.

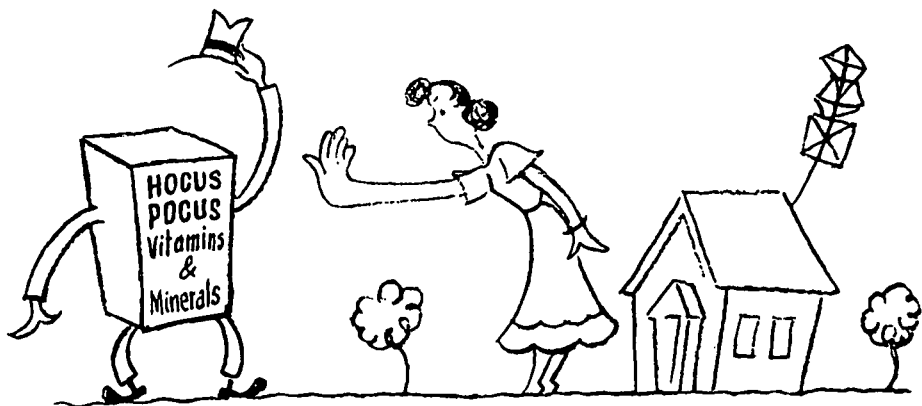
One Ounce of Roasties Provides  $\frac{1}{10}$  of the  
Minimum Daily Requirement of Vitamin B





The American food supply is the best in the world. Daily use of common foods such as vegetables, fruits, milk, eggs, meats, fish and whole grain or enriched bread and cereals, will supply all nutritional needs of the majority of persons. Yet millions of Americans are wasting money on various special foods and vitamin mixtures.

High pressure selling frightens people into false belief that their diets lack necessary vitamins and minerals. Phony "nutrition experts" frequently quote reliable scientific authorities in a misleading way. Many products called "health foods" or "dietary supplements" are falsely promoted as fountains of youth and general cure-alls for every kind of disease. This can be dangerous—especially if ailing people are led to put off getting proper medical attention.



Beware of door-to-door sales agents who recommend high-priced food supplements as the answer to your health problems. Especially beware the agent who claims more than is stated on the label of his product. Some vitamins are harmful if you take too much for too long. It is not true that the average person needs additional vitamins if he is getting a well-balanced diet. By patronizing all departments of a modern food store we can easily supply all our nutritional needs. But if you don't feel well tell your doctor what you are eating before you pay big money for vitamins. He can tell if you need them.

## read the **Drug Label**

**F**OR YOUR own protection you should read the drug label with care. It is required to tell you certain things so that you may use the drug safely.

The label must give adequate directions for use. It must indicate for what purpose the medicine is to be taken, how much to take, how often, and for how long. Follow the directions—doubling up on the dose may endanger your health. The label must also warn when the drug must not be taken. The directions must be adequate for the treatment of any sickness for which the drug is recommended on the label, in accompanying printed matter, or in any type of sales promotion.

Do not expect any more of a drug than is claimed on the label or accompanying circular, even if your next-door neighbor, best friend, or a salesman recommends it for other diseases. Labels or accompanying printed matter are required by law to bear only truthful statements about what the drug will do.

### **DIRECTIONS FOR USE AS A LAXATIVE**

*When Needed Take One Tablet at Bedtime*

### **WARNING**

Do not use when abdominal pain, nausea, or vomiting are present. Frequent or prolonged use of this preparation may result in dependence on laxatives.



Heed the warning statements on drug labels. Typical warnings tell you:

. . . how to use a medication safely

Don't apply to broken skin.  
Do not exceed recommended dosage.

. . . when not to use it

Do not drive or operate machinery  
while taking this medication.

. . . when to stop taking it

Discontinue use if rapid pulse, dizziness,  
or blurring of vision occurs.

They also help you answer  
the important question:

Should I see a doctor?

### WARNING

If pain persists for more than 10 days  
or redness is present, or in conditions  
affecting children under 12 years of age,  
consult a physician immediately.

**Be Skeptical!**



**Be Smart!**

**Gold Medal Elixir**  
Marvelous Discovery

Cures Cancer, Tuberculosis, Arthritis,  
High-Blood Pressure, Low-Blood Pressure,  
and Diseases Hitherto Unknown.

**PREVENTS PREMATURE DEATH!**



Most drugs are truthfully labeled but not all. It is wise to be skeptical of medicines and curative devices offered to the public for the treatment of serious diseases. It is foolish to postpone proper treatment by finding out for yourself that the medicine is no good.

Wild claims on labels of worthless medicines are much less frequent than they were years ago. Today's medical frauds are often more sophisticated and difficult to detect. Beware of the glib talk that promises more than you find on the label. Beware of those who say you can throw off serious diseases or regain lost youth, beauty, and pep merely by eating some outlandish food (frequently bad-tasting) or taking some simple vitamin and mineral mixture.

Old-time quack remedies have a way of turning up in new disguises. Sometimes the labels are perfectly "clean," but in an attempt to dodge the law the wild claims are made in booklets or advertising rather than on the label. False claims may also be made orally by salesmen and "health lecturers." The courts have held in many cases, however, that such statements result in misbranding the product.

Remember that the drug label (unless it is on a prescription drug) should tell what the product is for, as well as give directions on how to use it.

**BLATT'S TINCT.  
IODINE U. S. P.**

MEETS SAME STANDARDS AS

**HOSTETTER'S  
TINCT. IODINE U. S. P.**

The standards for some drugs are set by the United States Pharmacopeia, the Homeopathic Pharmacopoeia, or the National Formulary, published by leaders in the fields of medicine, pharmacy, chemistry, and dentistry. If a drug is described in one of these official books, it is called an official drug and no list of ingredients is required on the label. If it purports to be an official drug it must contain the exact ingredients specified in the official text. If the drug differs from the official drug in strength, quality, or purity, the difference must be plainly stated on the label. The ingredients must remain the same.

**MILK OF MAGNESIA**

Difers from U. S. P. Strength  
Contains only 5%  
Magnesium Hydroxide  
U. S. P. Requires  
7 to 8.5% Magnesium Hydroxide

Thousands of drug samples are examined by the Food and Drug Administration every year to make sure that official drugs conform to the Pharmacopeia and National Formulary and that all others meet their labeled statements of identity, quality, and strength.

The label must bear either the official name or the common or usual name of the drug. If a nonofficial drug is composed of two or more ingredients, the common or usual names of the active ingredients must be stated.

The drug label is also required to tell the name and address of the manufacturer, packer, or distributor.

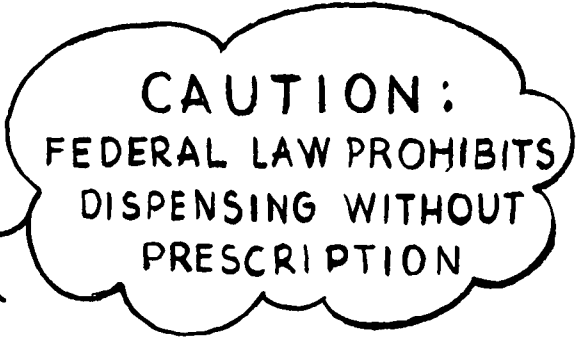
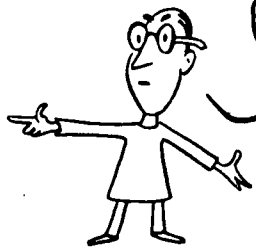
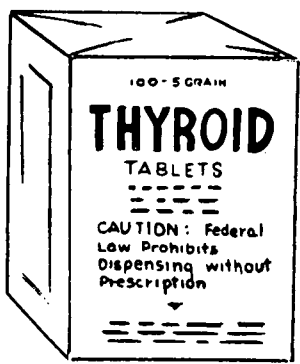
It must also give a plain statement of the quantity of the contents in common units of weight or measure, or numerical count. This may be in terms of metric measure or weight.

right



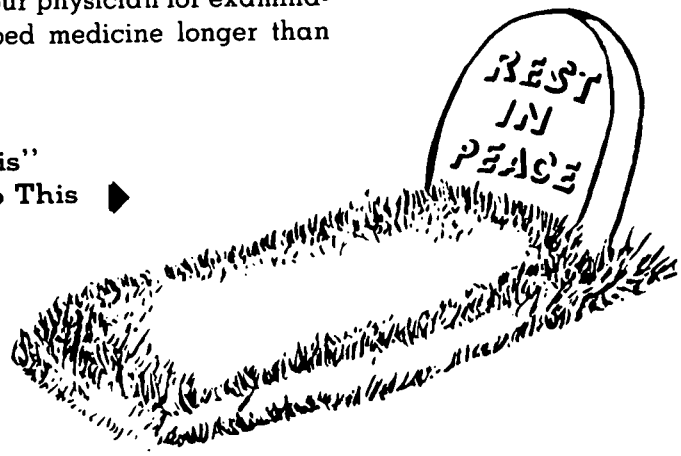
wrong

Many drugs may be harmful if used without a physician's supervision. These can be sold only on a physician's prescription. They are not labeled with the disease conditions, directions, and warnings which appear on drugs we buy and use on our own. Your physician is your safeguard in the use of prescription drugs.



Don't get angry with your druggist if he refuses to sell you a potent drug without a prescription, or if he refuses to refill your prescription without authorization from the prescribing physician. One druggist convicted of violating the law continuously refilled an original prescription for only 25 sleeping pills. Altogether he sold the customer 7,000 pills without further orders from her doctor. She finally died of an overdose, after becoming a hopeless addict. There are sound medical reasons why you should return to your physician for examination before continuing to take the prescribed medicine longer than originally planned.

**"Please Refill This"  
May Lead to This** ▶



## *the* Device Label



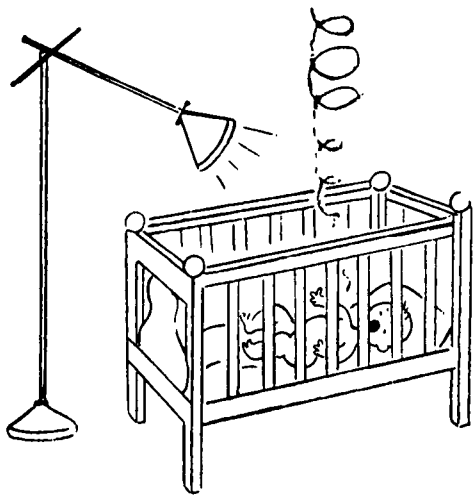
**Q**UACK DOCTORS and other charlatans have always preyed upon the hope of the sick to find a cure. After the turn of the century electricity opened a rich, new field to them. The "medicine men" threw away their snake oil and hastened to build weird machines that they claimed would cure anything. Some of the early devices simply gave the gullible sufferer a harmless jolt of electricity. As people became more familiar with electricity, and the novelty of being shocked wore off, the more progressive quacks dreamed up machines said to generate unknown forces. By 1938, when Congress passed the present law giving the Food and Drug Administration control over all devices used in the diagnosis or treatment of disease, such things as electromagnets, neon lights, and gas generators were easy to obtain.



The quacks were flourishing, busily shocking sick people, shining colored lights on them, setting up magnetic fields around them, and gassing them with ozone and chlorine.

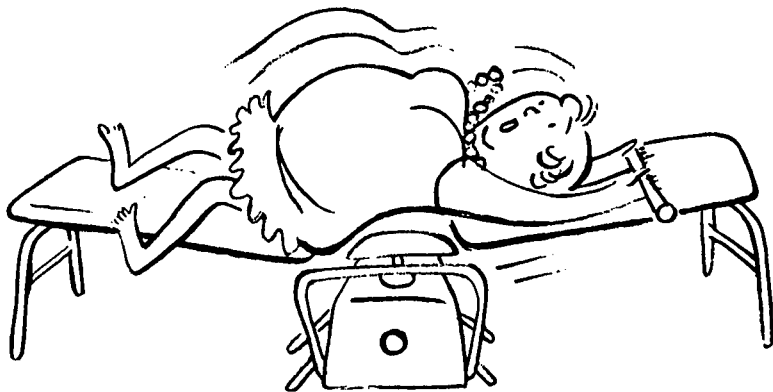
Such heartless charlatans know that people who rely on these "treatments" are in danger because they should be getting proper medical attention. But the quack will continue to "treat" the patient until his money runs out or he dies of his disease. Some promoters honestly believe the absurd claims they make for their machines, but their worthless devices are dangerous to people suffering from serious diseases, whatever the motive of the promoter. As we all know, reputable physicians use many valuable and effective devices, such as X-ray and heat machines. But be wary of the smooth talker who wants to sell or lease a machine to you for use in your own home. The hallmarks of the quack are testimonial letters, promises of miraculous cures of such diseases as arthritis and cancer, and quiet but persistent reference to your pocketbook.

Jan 12, 1951  
 Dear Dr. Gagliardi  
 Your wonderful  
 machine cured my  
 mother in law's sister  
 of cancer. Since she  
 died last week, I  
 would like to lease it  
 from you now to treat  
 my arthritis.  
 Joe Gagliardi

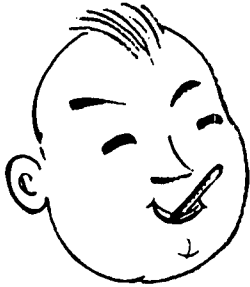


There are no devices or machines recognized for cure of a disease by the patient in his home. Only a few devices, such as ultraviolet lamps ("sun lamps"), infrared lamps, heating pads, and thermometers, should be used at home. None of them is a treatment for the underlying cause of any disease. Infrared lamps, "sun lamps," and heating pads are beneficial only for temporary relief. Pay close attention to the caution labeling on these devices. Infrared or ultraviolet lamps may cause severe burns or other injury if misused. Always protect your eyes from ultraviolet rays.

No matter what they look like, electric vibrator devices have one thing in common: their ability to shake or massage you by vibration. Often they are claimed to be good for "passive exercise," "spot reducing," "breaking up fatty deposits," and "slimming and trimming the figure." This nonsense appeals to people who are looking for an easier way to reduce than pushing themselves away from the table and avoiding between-meal snacks.



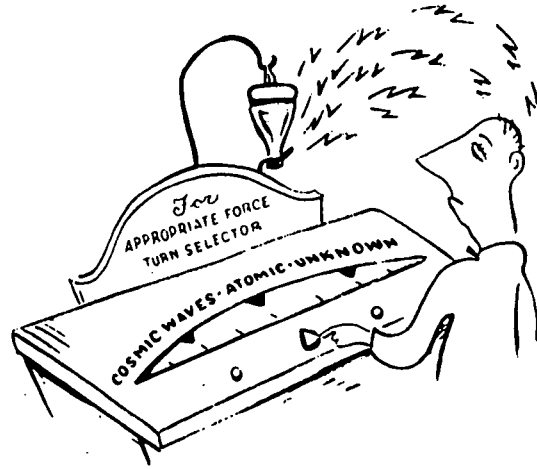
Vibrators give a pleasant sensation and make tired muscles feel better, but about all they can rightfully claim on their labels is temporary relief from minor aches and pains. It is dangerous to use vibrators on inflamed or irritated areas of the body. Thousands of such gadgets have been taken off the market because of false claims that they were good for treating arthritis and other serious diseases.



Read carefully the circular that comes with your thermometer. It will give you valuable help in using the thermometer properly.

Labeling on legitimate devices can be of great help to you, but labeling accompanying fake devices is designed only to snare you. The atomic age had hardly started when atomic quacks sprang up. The Administration has seized many devices claimed to give off atomic waves and cosmic waves.

Other machines are said to radiate "forces unknown to science" which will cure anything from athlete's foot to brain tumor. These machines often look plausible because the promoters deliberately try to make them look like legitimate medical equipment. There are no machines that will diagnose or treat different diseases by applying electrical contacts to the body and turning a knob. Such devices are fakes! If you think that you are being victimized, write to the U.S. Department of Health, Education, and Welfare, Food and Drug Administration, Washington 25, D.C., giving the name of the machine, its manufacturer, and where you bought it or received treatments with it.



## *read the* **Cosmetic Label**



**E**VERY YEAR American men and women use tons of toothpaste, hand cream, hair dressing, after-shave lotion, and other cosmetics. The law defines cosmetics as those articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance.

Cosmetics are often colored with dyes made from coal tar. Only specifically permitted colors may be used, and manufacturers must send a sample of each batch of a color to the Food and Drug Administration for testing before it can be sold. Safe limits of the amount of a color that can be used in foods, drugs, and cosmetics are set by FDA regulation.

**CERTIFIED COLOR**  
Not For Use in Coloring Foods  
DC RED #6  
Lot No. 469508  
Certified by U. S. Food and Drug Administration



Some colors are safe for use in all foods, drugs, and cosmetics; others may be used in drugs and cosmetics, and some may be used only in drugs and cosmetics for external use. And don't worry about your lipstick—the fact that you may swallow some of your lipstick is taken into account in determining whether the permitted colors are safe in the amounts allowed. Such a cosmetic as hair dressing may contain a coal-tar color dye that is safe only for external use.



Don't fall for this!

Cosmetics properly used can help greatly to improve one's appearance. But don't fall for products that claim to "restore youthful skin," "grow hair on bald heads," or other far-fetched promises that appeal to natural desires to be young and attractive. The promoters are only interested in your money.

Beware especially of cosmetics claimed to have some mysterious miracle ingredient, such as "royal bee jelly," "turtle oil," or something equally outlandish. The cosmetic label is not required to list the ingredients. When they are played up it's for promotional reasons. Some cosmetics contain drug ingredients and they must be labeled according to the drug requirements of the law. Generally speaking cosmetics are made of safe materials and the law forbids any poisonous or harmful substances that may injure the normal user if he follows the directions on the label.



If your hair needs touching up take a good look at the label on your hair dye. If you have it dyed at a beauty parlor, ask the operator to show you the bottle label. The law exempts coal-tar hair dyes from the provision that a cosmetic may contain no poisonous or deleterious substance. If the hair dye does contain such a substance the label must warn that the skin of some people may be irritated by the dye and must caution you to make a preliminary test. Safety demands that you make this test every time the dye is used. Some people develop a sensitivity after months or years of using certain hair dyes. The label also warns you not to use the dye on your eyelashes or eyebrows. Even coal-tar colors safe for use in other cosmetics may not be used in cosmetics applied on or near the eyes. Before this law went into effect many persons had serious eye injuries from coal-tar eyelash and eyebrow dyes.

*Ace of Spades Hair Dye*

*Caution: This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows. To do so may cause blindness.*

## Safeguard Your Children

Each year some 600,000 children accidentally swallow drugs and household chemical aids such as polishes, cleaning agents, detergents, and solvents. About 500 of them die and many are seriously injured. These accidents can be prevented!

Federal law now requires warning labels on hazardous household items. The label must tell users what the hazards are, how to avoid them, and what to do if accidental injury occurs. This information must be in a place on the container where anyone can see it under normal circumstances. A specific warning **KEEP OUT OF THE REACH OF CHILDREN** is required when appropriate. Read the label and observe all warnings and handling information.



**Keep all dangerous substances  
out of the reach of children**

## BE YOUR OWN CONSUMER PROTECTOR

The Food and Drug Administration is your "consumer protection agency" in the Federal Government. Its job is to take legal action against those products which are impure, unsafe, or improperly labeled. It does what the individual consumer cannot do. But, as a consumer you have a job, too.

Under our American system you have your choice of a vast variety of wholesome, truthfully labeled products to suit your tastes and needs. You, yourself, have a voice in determining the kind, style, and variety of products you receive.

Every time you make a purchase of foods, drugs, or cosmetics you are casting your "vote" for the kind of merchandise you want. Manufacturers are guided by your buying decisions. So—

**Be an intelligent voter**

**READ THE LABEL**

# Public Beware!

## WARNING AGAINST THE HOXSEY CANCER TREATMENT

Sufferers from cancer, their families, physicians, and all concerned with the care of cancer patients are hereby advised and warned that the Hoxsey treatment for internal cancer has been found worthless by two Federal courts.

The Hoxsey treatment costs \$400, plus \$60 in additional fees—expenditures which will yield

nothing of value in the care of cancer. It consists essentially of simple drugs which are worthless for treating cancer.

The Food and Drug Administration conducted a thorough investigation of the Hoxsey treatment and the cases which were claimed to be cured. Not a single verified cure of internal cancer by this treatment has been found.

Those afflicted with cancer are warned not to be misled by the false promise that the Hoxsey cancer treatment will cure or alleviate their condition. Cancer can be cured only through surgery or radiation. Death from cancer is inevitable when cancer patients fail to obtain proper medical treatment because of the lure of a painless cure "without the use of surgery, x-ray, or radium" as claimed by Hoxsey.

Anyone planning to try this treatment should get the facts about it.

For further information write to:  
U. S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
Food and Drug Administration  
Washington 25, D. C.

For Release Upon Receipt

FOULKE--WO 3-3525

U. S. DEPARTMENT OF  
HEALTH, EDUCATION, AND WELFARE  
Food and Drug Administration  
Washington 25, D. C.

SEPTEMBER 1962 REPORT ON ENFORCEMENT AND COMPLIANCE

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EXCESSIVE PESTICIDE RESIDUES  
FOUND IN FRESH VEGETABLES

Shipments of fresh mustard greens and turnip greens were seized in two actions on charges they contained residues of pesticides not permitted for use on these commodities.

The mustard greens were found to contain residues of chlordane, the turnip greens to contain endrin. No tolerance or exemption from the requirement of a tolerance for either of these pesticides on either of these commodities has been prescribed by Federal regulation. A commodity bearing any amount of pesticide residue not specifically permitted by a tolerance or exemption is illegal for shipment across State lines.

Shippers of the seized foods were:

Mustard Greens, shipped by Ciruli Brothers, Pueblo, Colo., seized at El Paso, Tex.

Turnip Greens, shipped by E. W. Lignon Produce Co., Pueblo, Colo., seized at Little Rock, Ark.

In the enforcement of the safe tolerances for pesticide residues, FDA surveys practices of growers, collects and examines samples from shipments going to market, and conducts research to improve analytical methods for detecting and measuring residues on crops. An educational program emphasizing the importance of reading and following pesticide labels is carried on in cooperation with the Department of Agriculture and with farm and industry groups.

- FDA -

#### FOOD ADDITIVE VIOLATIONS CHARGED IN THREE SEIZURES

A dietary supplement containing folic acid, dry milk containing inorganic bromides, and coumarin destined for use in imitation vanilla flavoring, were seized in August on charges of being in violation of the Food Additives Amendment of the Federal Food, Drug and Cosmetic Act.

Cellepacbin-Regular, dietary supplement capsules shipped by Arthrins, Inc., Mt. Vernon, N. Y., was seized at Stamford, Conn., on charges that it contained folic acid in excess of the amount permitted in non-prescription items.

Spray Process Nonfat Dry Milk, shipped by Forrest Nutting Co., Stillwater, Minn., was seized at Aurora, Mo., on charges it contained inorganic bromides, the result of use of fumigants, in excess of the permitted safe level of 50 parts per million.

Coumarin, an artificial flavoring agent not permitted for use in foods, was seized at Austin, Tex., where it was being used to make an imitation vanilla product. Following seizure of the additive, the firm voluntarily destroyed almost 11 tons of the flavoring which had been made with coumarin. The coumarin was shipped by Fritzsche Bros., Inc., New York, N. Y.

Coumarin was withdrawn from permitted use in foods in 1953 when pharmacological tests showed it caused liver damage in rats.

ACNOTABS WON'T CURE ACNE,  
FEDERAL COURT RULES

Acnotabs, nationally promoted to teenagers as "medical science's latest discovery" for treating pimples, will not cure acne and has been misbranded by false claims, a Federal court ruled last month.

Judge Robert Shaw of the District Court at Newark, N. J., said the product is not effective for treating acne vulgaris despite labeling claims that a person suffering from acne will be cured in a short time.

Acnotabs, which sold for \$6.95 per bottle or more for a 24-day supply, was promoted by Pannett Products, Inc., New York, N. Y. A shipment was seized in June, 1961, in California. A second seizure was made at Vernon Laboratories, Inc., Mt. Vernon, N. Y., last April after FDA Commissioner George P. Larrick made a formal conclusion that the labeling of Acnotabs was "in a material respect misleading to the injury or damage of the purchaser or consumer." The two actions were consolidated and removed to Newark for trial. Mr. Larrick ordered multiple seizure proceedings when the company stepped up its promotional campaign while awaiting trial on the first seizure.

Promotion literature directed at teenagers made such claims as:

"Remarkable new tablets work internally as no lotion, no ointment possibly can! Pimples clear up beautifully -- AND YOU DON'T GIVE UP SWEETS!

"In doctors' tests teenagers saw thrilling improvements begin in as little as 7 days!"

Acnotabs contain pancreatin, bile salts, pepsin, and Vitamins A and C. The Government's expert testimony that such a formula is not effective for acne, and that there is no recognized cure for acne, put the burden of proving Acnotab's claims on the manufacturer, according to Judge Shaw. He said that as a result of the Government testimony "it became incumbent upon claimant to demonstrate otherwise by its proofs. Claimant has not done this to the satisfaction of the Court."

ADVERSE RULING IN PHYSICIANS' SAMPLE CASE

FDA's program to correct abuses in the handling of physicians' samples has run into a third adverse ruling by a Federal District Court.

The latest ruling was made by Judge Frederick P. Bryan of the Southern District of New York, in the case of physicians' samples seized in the possession of I. Zonana, Bronx, New York. Zonana was repacking the drugs for sale to drug stores.

Judge Bryan held that label phrases such as "physician's sample - not to be sold," "professional sample," "complimentary" and "sample - not for sale," did not cause the drugs to be misbranded, and indicated his agreement with earlier decisions by Judge Meany on October 9, 1961 in the U. S. District Court at Newark, N. J. A similar ruling was made by Judge Lane in the District Court at Trenton, N. J., last December.

The decisions by Judges Meany and Lane are on appeal by the Government. Whether to appeal Judge Bryan's decision is under consideration.

Judge Bryan's decision applied entirely to unopened packages of physicians' samples. FDA will continue to initiate Federal court actions against lots of physicians' samples that have been repackaged or partially repackaged.

- FDA -

COURT RULES ON REACH OF INJUNCTION;  
REVERSES CONVICTION IN UREX CASE

The question of what constitutes "active concert and participation" of parties as the term is used in Federal court injunctions has been explored by the U. S. Circuit Court of Appeals for the First Circuit, in a decision reversing the contempt conviction of United Pharmacal Corporation of Boston, Mass., and two of its officers.

United Pharmacal Corporation is partially owned by Metabolic Products Corp., also of Boston, and had entered into a contract to distribute the product Urex, manufactured by the latter firm.

The Food and Drug Administration charged that Urex was misbranded by false and misleading labeling representing it for prostatic hypertrophy and other conditions. A preliminary injunction to stop the distribution of misbranded Urex by Metabolic Products Corp., or by "all other persons in



active concert or participation" therewith was obtained in the District Court at Boston. A copy of the injunction order was served on United Pharmacial because of the interlocking stock ownership and the contractual arrangement for distribution.

United Pharmacial sought court interpretation of the applicability of the injunction order to it. While this litigation was in process United made a shipment of Urex. This resulted in the filing of the contempt action. The Urex involved in this shipment was not obtained from Metabolic Products but had been purchased by United from another manufacturer.

The Federal District Court found United and two of its officers guilty of contempt, and fined the corporation \$2, 000 and the officers \$1, 000 each.

Reversing this conviction, the Circuit Court found that Metabolic and United were separate and independent corporations, linked together only by Metabolic's minority stock ownership of United, and by the distributor-ship agreement. The Court pointed out that Metabolic did not violate the injunction, that the specific shipment involved did not come from Metabolic, and that United was "not identified with Metabolic in the sense of being its agent, servant, subsidiary, tool, cat's paw, or alter ego."

- FDA -

#### FALSE CLAIMS FOR DIETARY SUPPLEMENTS CHARGED IN TWO SEIZURES

Two dietary supplements have been seized on charges that they were falsely promoted for the prevention and cure of many serious diseases including arthritis and nephritis.

One action involved "Ellis Vivo-Tone" containing lecithin and safflower oil, and "Vivo-Tone Alfalfa Tablets," distributed by Ellis Research Labs, Inc., Chicago, Ill. The tablets were intended for use with the Micro-Dynameter, a diagnostic and therapeutic device formerly distributed by Ellis. The device was recently banned from use after the courts found it to be worthless for its intended purposes.

The tablets, seized in the possession of Ellis Research Labs., were described in accompanying literature as effective for treatment of arthritis asthma, bursitis, eczema, hayfever, hepatic congestion, lumbago, nephritis, rheumatism, sciatica and other serious diseases and conditions. FDA charged that the claims were false and misleading since the supplements were not adequate and effective as treatments for such diseases and conditions.

In the other action FDA charged that Ritrain Tablets, seized in the possession of Noble Massey Co., Memphis, Tenn., were promoted with false claims that they were effective for the treatment of headache, neuralgia, neuresthenic syndromes, for relief of pain of certain peripheral vascular disturbances, osteoarthritis, bursitis, and others. The tablets contained numerous vitamins.

- FDA -

IMPROVED FOOD CONTROLS NEEDED. BIOLOGIST SAYS



Left: An FDA Scientist takes a sample of a colony of Salmonella for growth in other media to check identification. Right: The serological precipitation test is used to identify types of salmonella. Organisms are grown in cultures of known sugars and the results compared with cultures of the sample.

The need for improved measures to identify and prevent foodborne disease was pointed out by Dr. Glenn G. Slocum at a Conference on Microbiological Quality of Foods held Aug. 27 at Franconia, N. H. Reported cases of food poisoning in 1951-60 ran from 7,000 to 12,000 per year but estimates of total cases run from 300,000 to one million annually. Reported Salmonella infections rose from 882 in 1948 to 6,929 in 1960. Dr. Slocum, Director of FDA's Division of Microbiology, said that changes in methods of food preservation, processing and packaging may involve unanticipated hazards. Production of an increasing variety of non-sterile prepared foods makes it imperative to judge safety and sanitary quality of food production on a microbiological basis. FDA has a program for this purpose.

**"DOCTOR" AGAIN CONVICTED FOR  
DRUG SALES; BAIL REVOKED**

Ronald G. Shawver, self-styled "doctor" from Rochelle, Ga., has been convicted of illegal sales of prescription drugs while out on bail pending appeal of his previous conviction for the same offense.

Shawver was convicted in January of selling barbiturates and tranquilizer drugs in the guise of a practicing physician. He was sentenced to 2 years in jail, but filed notice of appeal and was released on \$5,000 bond. In granting the appeal, Judge William A. Bootle (Middle District of Georgia, Americus Division) specifically admonished Shawver not "to prescribe or dispense or sell or give away drugs" unless and until the ruling in his court was reversed by a higher court.

Notwithstanding this warning by the Court, investigations by FDA inspectors disclosed numerous instances of violations of the provisions under which the bail was granted. On June 11, 1962 a large quantity of prescription drugs was seized in Shawver's possession. On August 14, Shawver was again convicted of dispensing phenobarbital, hormones, adrenalin, nitroglycerin, and other drugs which can legally be dispensed only by or on prescription of a licensed physician. In revoking Shawver's bail, Judge Bootle commented that Shawver had in 1960 been convicted of violation of the Georgia Medical Practices Act, and stated:

"Every indication, therefore, is that if the defendant remains at large under bail he is going to continue to dispense drugs which he is not, under the law, permitted to dispense. Obviously this practice holds danger for the community, and therefore, in my judgment, in the language of the Supreme Court 'the community may be threatened by the applicant's release.'"

- FDA -

**FINED FOR SHIPPING UNFIT FOODS**

Two food firms -- the Sugar Creek Creamery, Evansville, Ind., and the Pepsi-Cola Bottlers of St. Louis -- have been heavily fined in Federal courts for shipping unfit products.

The Sugar Creek Creamery, Division of National Dairy Products Corp. operating independently, pleaded guilty to 8 counts charging interstate shipment of decomposed cream. Judge Cale J. Holder, Evansville, Ind., fined

the corporation \$500 on each of the counts, totaling \$4,000. In 1952, the Sugar Creek Creamery was prosecuted in a Federal court for shipping butter made from decomposed cream; subsequent seizures of their cream and butter products had been made by State and Federal authorities. The Evansville plant has closed since the prosecution.

The Pepsi-Cola Bottlers of St. Louis, Inc., Reginald H. Coe, President, and Melvon M. Millsap, Superintendent, pleaded nolo contendere to 3 counts charging them with shipping bottled cola in improperly cleaned bottles. Judge John K. Reagan fined the corporation a total of \$2,000, and Coe and Millsap each \$700, totaling \$3,400 in fines.

- FDA -

#### WORTHLESS DIAGNOSIS AND TREATMENT DEVICES SEIZED IN AUGUST ROUNDUP

"Magic" magnetic bracelets for the treatment of rheumatism and high and low blood pressure, bath water swirling devices for arthritis and multiple sclerosis and air purifiers to prevent lung cancer were seized during August. FDA charged that therapeutic claims for these devices were false and misleading.

Additional seizures involved 66 Micro-Dynameter devices, manufactured by the Ellis Research Laboratories, Inc., Chicago, Ill., and 10 Neurolinometer and Research Model devices, manufactured by the Electronic Instrument Co., Tiffin, Ohio. The devices were used by health practitioners for the diagnosis and treatment of many serious diseases. Both were found worthless and banned from interstate shipment by court orders this year.

The "super magic" Oriental Mystic Health Bracelet was an expansion type bracelet containing 8 magnetic bars (cubes about 1/2 inch on a side) separated by 3 or 4 expansion links. A brass colored thin metal sheet with decorating design covered the outer surface of each unit. The bracelets were promoted with a window display consisting of a mounted clipping of a newspaper advertisement reading "Mystery centuries old... oriental health mystery comes to Las Vegas." The promotional material claimed the bracelets were effective for treatment and prevention of high and low blood pressure, neuralgia, rheumatism, change of life, stiff shoulders, fatigue, insomnia, headache, diminishing vigor and other conditions. The bracelets were shipped by Chip Quon, owner of Quon Importing Co., Los Angeles. They were seized in the possession of David Ming Store, Las Vegas, Nev.

- 8 -

The Whirlpool Geyser Bath device was a large plastic tube approximately 4 feet long with a fitting for a vacuum cleaner exhaust at one end, and simple valve fitting at the other, connecting two smaller hoses. Air from the vacuum cleaner blown through the hoses placed in bathtub water gave the water a swirling motion. The accompanying literature claimed that the device was effective for relief and treatment of gout, arthritis, cuts and breaks, cerebral palsy, polio, multiple sclerosis and others. The devices were shipped by Sholin Manufacturing Corp., Oconomowoc, Wis., and seized at Milton, Wash.

The Trion Air Purifier was an electric air filter, consisting of ionizing wires, collector plates, a power supply and a water spray system housed in a heavy steel cabinet. Labeling for the device claimed that it was effective to prevent lung cancer and other harm to the lungs, reduce the germ content of the air 90 to 94 percent; that users of the device would lead more clean and healthful lives; that victims of airborne allergies would be relieved of such allergies; and that the device extracted virtually all pollen, dust, dirt, smoke and other airborne particles from the air. The air purifiers were manufactured by Trion, Inc., McKees Rocks, Pa., and were seized at Buffalo, N. Y.

- FDA -

INDUSTRY ACTS VOLUNTARILY TO  
IMPROVE CONSUMER PROTECTION

Foods

Over 62 tons of contaminated foods were voluntarily removed from human food channels in 66 actions during August. The largest single destruction involved 38, 000 pounds of contaminated bulk vinegar.

Approximately 115 gallons of raw whole milk and 130 gallons of raw cream were denatured with blue dye and voluntarily disposed of for non-food use after the milk was found high in sediment content and foreign material was found in the cream.

Drugs and Devices

Over \$18, 000 worth of drugs damaged in a drug store fire were voluntarily destroyed to prevent unfit products from reaching consumers.

Drugs and devices totaling \$109, 311 in selling-price were removed from commercial channels in 114 voluntary actions.

Plant Improvements

Over \$154, 000 was spent by firms in 14 voluntary plant improvements.

A bakery in Puerto Rico replaced conventional flour handling equipment with a more sanitary bulk pneumatic system at the cost of \$65, 000.

A Pennsylvania tomato packer spent \$13, 000 to install fan systems to prevent fly penetration into the plant, constructed ducts where conveyors enter the plant, bought new webbed conveyor sorting tables and hired consultants to train mold counters and to make periodic unannounced inspections to detect any insanitary conditions.

A Connecticut tea packing firm installed two automatic scales valued at \$5, 000, to assure that the declared net weight would be accurate.

The bakery division of a chain food store spent a total of \$46, 000 to improve its sanitation program. Improvements included employing additional janitorial help and sanitation consultants, putting fumigation on a regular schedule, resurfacing tables and floors, and training employees on sanitary techniques.

-FDA-

FOODS CONTAMINATED AFTER  
INTERSTATE SHIPMENT SEIZED IN 8 ACTIONS

Over 101 tons of foods contaminated by insects and rodents after shipment across State lines were seized in 8 actions during August. Three shipments became contaminated while in warehouses as a result of insanitary storage. Federal law prohibits the movement of filthy foods across State lines, insanitary storage, and the sale of foods contaminated after interstate shipment.

Foods and dealers involved were:

Minced Onions, seized at Fidelity Warehouse, New York, N. Y.  
Soya Flour, seized at Zanes-Ewalt Warehouse, Dallas, Texas  
Peanuts, seized at Sunny Jim, Inc., Dallas, Tex., and  
Alford Ref. Warehouse, Dallas  
Rice, seized at Daffin Mercantile Co., Tallahassee, Fla.  
Flour, seized at Liberty Cash Grocers, Inc., Memphis, Tenn.  
Breeding, seized at Alexander Grocery Co., Savannah, Ga.  
Flour, seized at American Beauty Macaroni Co., Dallas, Tex.  
Meal, seized at H. Sunshine & Sons., Inc., Atlanta, Ga.

PACKAGING VIOLATIONS CHARGED  
IN NINE FOOD SEIZURES

Short weight, slack fill and inconspicuous labeling charges were made in the seizures of nine food products during August.

Canned shrimp and canned peaches were charged with violating the official standards for fill of container established for them. Canned tuna fish and canned beer were charged short of the net weight declared on the label. Mandatory labeling information was charged to be inconspicuous on two brands of marshmallows and on canned tuna and two beverage mixes.

Charged with violating standards for fill of container were:

Raggedy Ann Elberta Peaches Shortcake Slices, shipped by Sun Garden Packing Co., San Jose, Calif., seized at Chicago, Ill.

Sultana and Louisiana Brands Shrimp, shipped by Robinson Canning Co., Inc., seized at Yeadon, Pa. (the label statement "Net drained wt. 5 oz." was also charged as inaccurate).

Charged as short of the net content declared on the label were:

Moisha's Tuna, Fancy Solid Pack, shipped by Pacific Reefer Fisheries, Seattle, Wash., seized at Bronx, N. Y.

Carling's Black Label Beer, shipped by the Carling Brewing Co., Natick, Mass., seized at Providence, R. I. (short volume)

Seized on inconspicuous labeling charges were:

Riva Screwdriver and Collins Mixes, shipped by Riva Distributing Co., San Francisco, Calif., seized at Reno, Nevada. Mandatory information printed in gold colored ink on a highly reflective colored background.

Lily of the Valley White Tuna and Mrs. Lane's Brand White Tuna, shipped by Whitney & Co., Seattle, Wash., seized at Newport, Rhode Island. Mandatory information printed in small black letters obscured by a background of red and green lines.

Good Pals Marshmallows, shipped by Greylock Confectionery Co., Cambridge, Mass., seized at Hartford, Conn. Mandatory information printed in white ink against white background of marshmallows in a clear cellophane bag.

Pleasmore Miniature Marshmallows, shipped by Doumak, Inc., Elk Grove, Ill., seized at St. Cloud, Minn. Mandatory information printed in white ink against white background of marshmallows.

- FDA -

#### SUMMARY OF SEIZURE ACTIONS

Food Seizures -- Foods seized during August on charges of contamination or decomposition totaled 528 tons (1,075,575 pounds), about 1/3 of July's total of 1,657 tons. Approximately 458 tons of the total was bulk wheat contaminated by insects and rodents while in transit. Other foods seized included decomposed eggs, moldy preserves, tuna and black-eye peas with an "off" odor and flavor.

Over 210 tons of foods were seized on charges involving danger to health. Approximately 180 tons of this total were made up by three seizures of wheat contaminated by small amounts of seed wheat treated with a poisonous mercury seed treating agent. A seizure of dry milk contaminated with inorganic bromides used for fumigation totaled 25 tons. Other seizures included raw vegetables containing non-permitted pesticide residues and a shipment of coumarin, an illegal food additive being used in flavorings.

A shipment of vitamins for over-the-counter sale was seized because it contained folic acid in excess of the amount permitted in non-prescription items. Three vitamin and dietary supplement products were seized because they failed to contain the amount of vitamins mentioned on the label.

Over 26 tons of substandard, short weight, or inadequately labeled foods were seized, including such items as marshmallows, seafood, and canned peaches.

Drug and Device Seizures -- Adulterated and misbranded drugs and devices were seized in 63 actions. Among them were substandard drugs, uncertified antibiotics, repackaged physicians' samples, and a "new drug" being marketed without prior safety clearance.

Seventy-six electronic devices promoted for diagnostic and therapeutic purposes were seized in the possession of health practitioners. Other devices seized on false claims charges included an air purifier, a magnetic bracelet, and a bathtub water swirler.

Attachment:  
List of Prosecutions and Injunctions



AUGUST 1962 CRIMINAL CASES CHARGING  
 VIOLATION OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

-----  
 DEFENDANT PRODUCT, PRINCIPAL VIOLATION  
 CHARGED, AND SENTENCE  
 -----

UNFIT FOODS

Meyer's Bakery of Hope, Inc., and Felix Cottle, and Russell Leonard Hope, Ark.	Filthy bakery product prepared and packed under insanitary conditions. Corporation fined \$300; charges dismissed against individuals.
Western Food Products Co., Inc. and Newton H. Benschmidt, pres., George Benschmidt, vice pres., Hutchison, Kansas; and Western Canning Co., of which both Benschmidts are partners, LaJunta, Colo.	Shipping filthy pickle products. Firms each fined \$600; Newton Benschmidt fined \$750; imposition of sentence suspended for George Benschmidt, and both partners placed on 2-year probation. Total fine \$1,950.
Chitty & Co., Inc. Jacksonville, Fla.	Rice, beans, and grits prepared under insanitary conditions. Sentence deferred.
Filler Products, Inc., Atlanta, Ga.	Storing food products under insanitary conditions. Fined \$200.
Peter Pan Baking Co., Inc. and Ernest Earl McClure Atlanta, Ga.	Filthy bakery products prepared and packed under insanitary conditions. Company fined \$200; McClure, \$20.
Neptunalia Seafood Co., and William F. Mullis, pres. Thunderbolt, Ga.	Filthy hush puppies and stuffed shrimp prepared under insanitary conditions. Firm and Mullis each fined \$50; Mullis placed on 2-year probation.
Sugar Creek Creamery, and Leonard P. McCoun, and Warren G. Girton Evansville, Ind.	Shipping decomposed cream. Corporation fined \$4,000; charges dismissed against individuals.

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 DEFENDANT  
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PRODUCT, PRINCIPAL VIOLATION  
 CHARGED, AND SENTENCE  
 -----

General Mills, Inc., t/a  
 General Mills Purity Oats  
 Sidney A. Griffith  
 Keokuk, Iowa

Oat flour and rolled oats contaminated with insect and rodent filth. Firm fined \$800 plus \$24 costs; Griffith fined \$400.

Idilio Nunes, t/a  
 Broadway Bakery  
 Taunton, Mass.

Filthy flour. Fined \$300.

Pepsi-Cola Bottlers of St. Louis, Inc  
 Reginald W. Coe  
 Melvon M. Millsap  
 St. Louis, Mo.

Shipping filthy Pepsi-Cola. Corporation fined \$2,000; Coe and Millsap, each \$700.

Warehouse Market, Inc., and  
 Clint V. Cox, Jr., and  
 Charlie R. Smith  
 Tulsa, Okla.

Filthy flour held under insanitary conditions. Corporation fined \$1,000; charges dismissed against individuals. (Terminated in June but not previously reported.)

Carnation Co., t/a  
 Albers Milling Co., and  
 F. Bradley MacKenzie, director  
 William R. Lacy, supt.  
 James A. White, chemist  
 Seattle, Wash.

Filthy flour products prepared under insanitary conditions. Corporation fined \$2,000; MacKenzie, Lacy, and White each fined \$100.

ILLEGAL SALES OF  
 PRESCRIPTION DRUGS

Carl Simmons Ellis, t/a  
 Ellis Drug Store  
 Nahunta, Ga.

Selling tranquilizers without a physician's prescription. Fined \$250 and placed on 5-year-probation.

Ronald G. Shawver  
 Rochelle, Ga.

Selling barbiturates and tranquilizers without physician's prescription. Sentenced to 2 years in jail.

Ralph Baratta, t/a  
 Palmer's Rexall Drug Store, and  
 Richard Swedlow, pres. -pharm.  
 Howard Schlinger, secy. -treas.  
 -pharm.  
 Brooklyn, N. Y.

Selling and refilling of prescriptions without physicians' authorization. Corporation fined \$45; Baratta, \$500; Schlinger, \$700 Swedlow, \$300; total fines \$1,545.

DEFENDANT	PRODUCT, PRINCIPAL VIOLATION CHARGED, AND SENTENCE
Phillip Leroy Twiddy, formerly t/a Shell Truck Stop Restaurant Elizabeth City, N. C.	Illegal sale of amphetamine. Sentenced to 27 months in jail, beginning when Twiddy finished serving his State sentence term. (Four months to go.)
Broad's Pharmacy Inc., and Louis Broad, and August Pusateri, pharmacists Wilkinsburg, Pa.	Selling amphetamine, antibiotics, barbiturates, and sedatives without a physician's prescription. Pusateri fined \$200 plus \$35 costs; jail sentence suspended. (Case against other defendants terminated previously)
Walter Church Princeton, W. Va.	Peddling amphetamine. Sentenced to 1 year in jail.

For Release Upon Receipt

FOULKE--WO 3-3525

U. S. DEPARTMENT OF  
HEALTH, EDUCATION, AND WELFARE  
Food and Drug Administration  
Washington 25, D. C.

OCTOBER 1962 REPORT ON ENFORCEMENT AND COMPLIANCE

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PUBLIC WARNED AGAINST  
DANGEROUS ARTHRITIS DRUG

Sufferers of arthritis were warned October 9 that the drug Liefcort, which is being obtained from Canada, is imminently dangerous and may not legally be imported into the United States.

FDA Commissioner George P. Larrick said that Federal officers are detaining importations by individual arthritic victims and by "investigators" who are using the drug to treat patients. He said reports of serious reactions to the drug are reaching FDA. These include severe uterine bleeding.

Liefcort contains potent hormones including estradiol, prednisone and testosterone. FDA analysis showed the product contains 10 times the therapeutic dose of estradiol.

According to the FDA Bureau of Medicine the hormones are capable of causing severe toxic effects. Prednisone has been and is being used in the treatment of arthritis but there are hazards in its use and the dosage must be carefully regulated. In some patients, the drug causes severe symptoms of toxicity. Testosterone and estradiol have never been observed to exert any beneficial effect in arthritis and may also produce serious side effects.

Liefcort was developed and is being promoted by Robert Liefman, M. D. , who is wanted by U. S. Marshals to answer charges concerning his promotion of a baldness "cure." Liefman fled to Canada before he could be apprehended and is not licensed to practice medicine there. The drug is labeled as being distributed by Endocrine Research Laboratories, Beaurepare, Que. , Canada, but is actually compounded in Liefman's home.

One severe reaction involved a 71-year-old woman who flew to Canada to see Liefman after reading about Liefcort in a national magazine last May. She returned to her California home with a year's supply of the drug. After taking the product, she developed severe internal bleeding for which she was hospitalized. Following an operation to stop the uterine bleeding, she developed pneumonia and died.

FDA physicians urgently warn arthritis patients not to use Liefcort and not to consent to use of the drug as part of an "investigation" because there are no qualified investigators in the United States authorized to use it. They said the facts available about the manufacture of the drug and the lack of laboratory control to insure its composition and safety are such that its use even for experimental purposes is hazardous.

-FDA-

#### LOW POTENCY, UNCERTIFIED ANTIBIOTICS RESULT IN HEAVY FINES

Philadelphia Laboratories, Inc. , and two of its principal officers were fined a total of \$6,300 for shipping penicillin and bacitracin which were below potency or contained excess moisture or which had not been certified by the Food and Drug Administration as required by law.

The corporation and officers were each charged with 12 counts of illegal shipments. Judge John S. Lord, Jr. , fined the corporation \$3,600 and principals Theodore Harmatz \$1,800, and Clifford Price \$900.

During the trial the court inquired whether these types of violations were usual among drug companies. The representative for the Government replied that it was quite unusual. The defendants then quoted

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figures from recent testimony before Congress to the effect that over a two-year period more than 200 lots of antibiotics had failed to pass certification. The Court commented that there was a great deal of difference between having a lot fail to pass certification and shipment of a drug even before certification was requested.

The Federal Food, Drug and Cosmetic Act has since 1949 required government certification prior to shipment of every batch of 5 antibiotic drugs, including penicillin and bacitracin. Such certification of penicillin has been required since 1945.

New legislation just enacted will extend this certification requirement to all antibiotic drugs for human use except where the Secretary of Health, Education and Welfare finds that certification is not necessary to insure safety and efficacy.

-FDA-

**TAXI DRIVER, DRUG FIRM SENTENCED FOR  
ILLEGAL "BENNIE" SALES; THREE SEIZURES MADE**

Illegal sales of amphetamine drugs were charged in two prosecution cases completed and three seizure actions instituted in September.

William A. Gabbard was sentenced to sixty days in jail by Judge Mac Swinford at Lexington, Ky., for selling amphetamine pills to teenagers in Newport, Ky. The lead to the violation came from Cincinnati Police Vice Squad officials who reported to FDA that a taxi driver known as "Gabby" was peddling drugs to teenage girls. FDA inspectors were able to identify and locate the driver, and to make a series of five "buys" of the drugs. In the meantime, Gabbard had continued to sell drugs to his teenage clientele.

In passing sentence, the court commented that it was being lenient because Gabbard had heavy financial commitments.

Physicians' Drug and Supply Co., Philadelphia, Pa., and William Steinberg, president, and Bernard Herman, treasurer, were fined a total of \$8,550 by Judge John W. Lord, Jr., for shipping both amphetamine and barbiturate drugs to unauthorized persons.

The defendants had been warned in 1959 to tighten up their procedures to assure that dangerous drugs did not get into illegal distribution channels. Investigation had shown that the firm was supplying

Ronald G. Shawver, a naturopath, who was then under investigation for the illegal dispensing of drugs. Shawver was convicted in January for the illegal sales of prescription drugs and again in August on the same charge while out on bail pending appeal of his previous conviction.

Further evidence was developed to show that the defendants had supplied illegal peddlers who had represented themselves to the firm as veterinarians, and a postal clerk who had represented himself as a physician. FDA inspectors checking up on the firm's distribution controls had no trouble getting the drugs without any showing that they were entitled to have them.

Two amphetamine seizures in Missouri resulted from investigation of sales by a peddler at a truck stop in East Prairie, Mo. It was determined that the peddler was receiving the drugs from a doctor who was buying in wholesale quantities and having the drug repackaged. More than 500,000 tablets of the repackaged drugs were seized in St. Louis in possession of a transportation firm while they were enroute back to the doctor.

The third seizure, also in Missouri, involved 76,200 tablets in possession of two employees of an automobile dealer in Springfield, at their place of employment.

Amphetamine drugs (known as "bennies" in the illegal market) are stimulants and their excessive use may lead to serious physical injury and behavioral changes. The Food, Drug and Cosmetic Act prohibits the dispensing of these and other dangerous drugs without prescription. Manufacturers are urged to make sure that firms and individuals to whom they sell these drugs are within legitimate distribution channels.

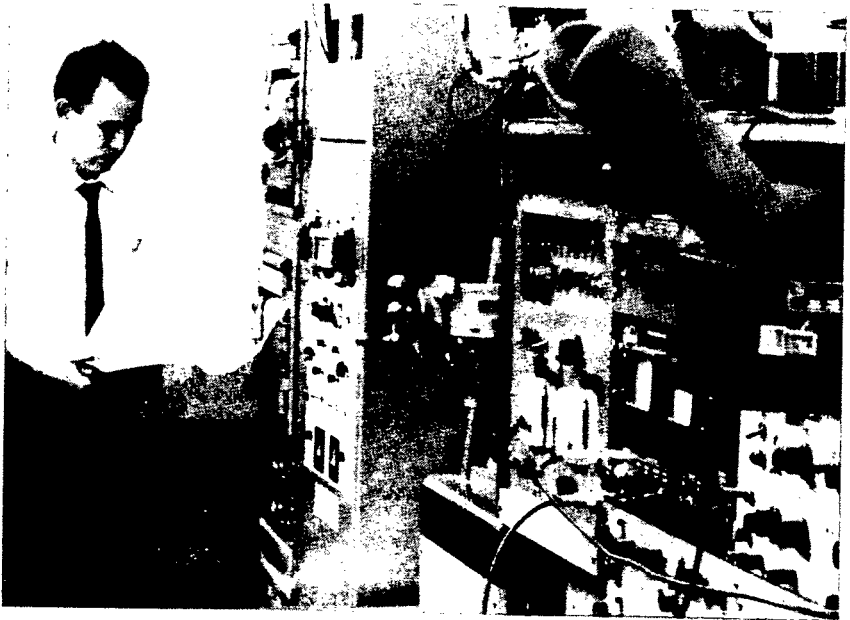
-FDA-

#### INACCURATE FEVER THERMOMETERS SEIZED

Examination of two shipments of clinical fever thermometers showed them to give inaccurate readings. Since these thermometers failed to meet the requirements for accuracy established by the National Bureau of Standards, both shipments -- 85 dozen each -- were seized on charges that they were adulterated and misbranded under the Federal Food, Drug and Cosmetic Act in that their quality fell below that which the article purported or was represented to possess.

Shippers were Cornell Instrument Co., Inc., Ridgewood, N. Y., and Ipc Hospital Supply Corporation, New York, N. Y., respectively.

LABORATORY SLEUTHS RELY  
INCREASINGLY ON AUTOMATION



An FDA chemist reads a chromatogram -- chemical fingerprint produced by gas chromatograph. Alongside is a mass spectrometer, another "automation" instrument used in food analysis and research.

The extent to which today's Sherlock Holmeses of the food laboratory rely on advanced instrumentation to detect illegal tampering with the food supply is pointed up by the papers presented at the Annual Meeting of the Association of Official Agricultural Chemists, held in Washington during the week of October 15.

The A. O. A. C. is the 76-year-old organization of government scientists who develop official methods of examination of foods, drugs, cosmetics, animal feeds, and fertilizers. These standard methods are used by scientists throughout the world when the last word in reliability is desired.

One of the new "automated" methods of analysis most frequently discussed at the meeting was gas chromatography. A big recording gas



chromatograph is about as large and looks almost as complicated as one of the instruments used to track a space satellite. This machine will take an astonishingly small amount -- perhaps a few millionths of a gram -- of a liquid mixture, vaporize it, identify the various components by their chromatograph "fingerprints," and measure the amount of each.

One recent application of the instrument was to determine whether certain types of fats contain a toxic factor which has killed millions of chickens in several outbreaks. The method appears to be more sensitive than the more usual method of feeding the fat to the chicks, and shortens the time required from weeks to hours.

Another application promises to enable rapid identification and measurement of residues of all organic phosphate type insecticides, as well as their potentially toxic metabolites, on raw agricultural products.

Examples of other types of adulteration which can be detected by the gas chromatograph are the addition of vegetable oil to butter; substitution of cheaper oils for peanut or olive oil, and food spoilage which is accompanied by breakdown products such as volatile amines and fatty acids.

-FDA-

#### "FOOT HEALTH" CLAIMS FOR WOODEN-SOLED SANDALS CHARGED FALSE AND MISLEADING

Wooden-soled sandals, promoted as a treatment to insure foot health and strength, were seized in California on FDA charges that the therapeutic claims for them were false and misleading.

The sandals, imported from West Germany, had rubber bottoms under the wood sole and wide leather straps to hold them on the foot. Promotional leaflets printed by the dealer, including some entitled "Happy Feet," "Happiness Afoot," and "Here Are Some Startling Facts," claimed the sandals were adequate and effective as a treatment for giving better foot health, regaining foot strength and suppleness, eliminating soreness of the feet, strengthening weak arches, eliminating splay-foot and pain in the upper leg and back regions, relieving and preventing varicose veins, and stimulating the flow of blood to the heart.

Over 27,170 pieces of literature and 767 pairs of sandals were seized in the possession of the dealer, the Berkemann California Co., Long Beach, Calif.

THERAPEUTIC CLAIMS FOR "NEGATIVE  
ION GENERATORS" CHALLENGED

One hundred eighty-seven units of five different brands of negative ion generator "air purifiers" have been seized on charges of false and misleading claims of therapeutic benefit.

The claims challenged included prevention or relief from asthma, hay fever and other allergies, lung cancer, high blood pressure, and impaired sexual activity.

Seized were:

Tribotron Negative Ion Generator, manufactured by the Tribotron Corporation, Petaluma, Calif. The device is a portable electrostatic type negative ion generator, using a needle point type generator unit, with blowers to dispel the charged air. Labeling literature claimed that breathing air from the device was effective for treating or preventing hay fever, bronchial asthma, arthritis, peptic ulcers, airborne allergies and lung cancer, reducing the suicide and crime rates, and enabling faster healing and less need for grafting in burns. Forty-seven devices and 10,200 pieces of literature were seized in possession of the manufacturer after having been returned by dealers in Maryland and Virginia.

Tubin Ion-O-Matic Air Improver, shipped by Tubin Electronics, Los Angeles, Calif. The device is a small open-ended box containing a high voltage power supply, corona discharge ionizer and a fan. Labeling literature including a Reader's Digest reprint titled "Ions Can Do Strange Things to You," and a leaflet "Science Pulls Health Magic Out of Air," claimed the device to be effective for relieving and overcoming hay fever, asthma and other respiratory ailments, reducing high blood pressure caused by hypertension or nervous tension, exhilarating the mentally depressed, preventing mucous-block in throat and nasal passages, reducing pain, healing wounds, and that negative ions have a beneficial effect on vision, emotional stability and sexual activity. Ten devices and 1,500 pieces of literature were seized at Newport, Ark.

Vornado Auto Air Conditioner, shipped by Automatic Radio Manufacturing Co., of Boston, Mass. The device is an automobile air conditioner with corona discharge type negative ion generator attached. Labeling literature claimed it to be effective for the treatment or prevention of mental sluggishness, physical fatigue, dizziness, abdominal cramps, blurred vision, hay fever, bronchial asthma, sinusitis, migraine, loss of depth perception, short temper, and other diseases and conditions. Over 1,000 pieces of literature and 118 devices were seized at Vornado Warehouse at Phoenix, Ariz.

Dustronic Air Purifier, distributed by the Dustronic Sales Co., of Cincinnati, Ohio. The device is housed in a metal cabinet and contains a charcoal filter, aluminum mesh filter, a circulating fan, ionizing wires and eight louvered aluminum collector plates. Labeling literature which told of the benefits of negative ions claimed the device would provide relief from asthma and hay fever, remove contaminants blamed for over 85 percent of all respiratory problems; eliminate the bacilli and viral causes of tubercle, meningitis, and pneumonia; reduce and eliminate pain; make burns dry out faster, heal faster, with less scarring; and for other diseases and conditions. Four devices and approximately 450 pieces of labeling literature were seized in the possession of salesmen representing Dustronic Sales Co.

Vita-Aire Units, shipped by Vita-Aire Process Co., Inc., St. Petersburg, Fla. The device contains an ultra-violet ozone generator, a heating element, and an air blower. Labeling for the device, a leaflet entitled "Vita-Aire Negative Ionizer Air Purifier" claimed it would generate negative ions using ultraviolet rays which would oxidize and destroy most air-borne bacteria; provide relief from hay fever, asthma and other respiratory conditions, and would eliminate unwanted air-borne contamination. Eight devices and 35 pieces of literature were seized in Tampa, Fla.

-FDA-

#### PESTICIDE RESIDUES RESULT IN SEIZURES OF POTATOES, WHEAT, BARLEY, CABBAGE

Excessive or non-permitted residues of agricultural chemicals on crops have resulted in 14 seizures totaling over a half million pounds of food during September and early October. Aldrin and dieldrin on potatoes, dieldrin on bulk barley, toxaphene on cabbage, and milling wheat contaminated with mercury-treated seed wheat were involved.

Eleven shipments of new crop potatoes from the Northwest -- Washington, Oregon and Idaho -- contained residues of the pesticides aldrin and dieldrin in excess of the 0.1 part per million safe tolerances established for potatoes by regulations under the Federal Food, Drug and Cosmetic Act. Six shipments have been seized; five others are in process, making a total of 346,000 pounds that will be involved in the 11 actions.

One shipment involving 104,650 pounds of bulk barley from South Dakota was seized in Minneapolis, Minn. The barley contained residues of dieldrin in excess of the amount permitted by regulation.

Approximately 600 pounds of fresh green cabbage from North Carolina was seized at Forest Park, Ga. The cabbage contained residues of toxaphene in excess of the tolerance.

Small amounts of mercury-treated seed wheat were found mixed in a 94,000 pound shipment of bulk wheat from South Dakota. The shipment was seized at Minneapolis, Minn. There is no tolerance for mercury in food grains, hence any amount of treated seed wheat in milling wheat constitutes adulteration.

These actions were developed by FDA's pesticide program in which raw agricultural products moving in interstate commerce are routinely sampled. The number of samples examined is being stepped up and by the end of the year will reach the rate of 25,000 samples annually.

-FDA-

#### INDUSTRY ACTS VOLUNTARILY TO IMPROVE CONSUMER PROTECTION

##### Foods

Over 75 tons of contaminated foods were voluntarily removed from human food channels in 82 actions during September.

One of the largest destructions involved 19,500 pounds of prepared dough rolls in tins. During their long journey, these rolls were exposed to temperatures which activated the yeast in the product. Since there was a possibility of bacterial contamination, the firm voluntarily destroyed the entire lot.

Another action taken voluntarily was the destruction of over 30,000 pounds of various food products which were exposed to insect-infestation at a Tennessee warehouse.

##### Drugs and Devices

Drugs and devices totaling \$78,190 in retail value were removed from commercial channels in 91 voluntary actions.

In addition, two firms destroyed quantities of thalidomide with an anticipated market value of over \$360,000. The drug did not get on the commercial market in this country as a result of reports of malformations in babies in countries where it had been marketed.

Over \$4,000 worth of drugs damaged in an Iowa drugstore fire were voluntarily destroyed to prevent unfit products from reaching consumers.

Health practitioners voluntarily destroyed 82 worthless and potentially dangerous diagnostic and treatment machines, in the cooperative campaign begun in August to get these devices out of circulation.

#### Plant Improvements

Industrial firms spent over \$242,000 to improve their sanitation programs.

A dairy in Ohio enlarged its building at a cost of \$110,000 to provide for separation of the various manufacturing processes. The new equipment includes all-steel churns.

A Delaware canning company installed \$35,000 worth of new equipment, including husking machines, tanks, a boiler, and conveyors.

Another Delaware firm spent \$25,000 for new cleaning equipment and sorting lines to assure the best of sanitary conditions.

A food plant in Iowa invested \$15,500 toward a better and more sanitary consumer service by installation of a new whole-can milk testing and cooling system.

A California food firm spent \$15,500 on a new acid-resistant floor and stainless steel equipment designed to make cleaning easier.

A Nebraska creamery built an addition to its plant to make space for a covered, weather-protected loading dock, at a cost of \$10,000.

-FDA-

#### DEALER BOOKLETS CONTAINING FALSE CLAIMS RESULT IN VITAMIN, DRUG SEIZURES

Vitamins with safflower oil and "royal jelly" for preventing heart attacks, linament for arthritis and swollen glands, mineral bath salts for insomnia, and yeast for anemia and weight control -- these were among products seized in September on charges of false promotional claims.

The false claims in most instances were not in original manufacturers' labeling but in booklets prepared and printed by the dealer for promotional purposes.

Seized were:

ViViBx Formula Vitamins and Rojelan Improved Formula, bulk goods shipped by various manufacturers to Frederick Herrschner, Chicago, Ill., where they were repackaged and relabeled. FDA charged that the dealer's catalogue and folders entitled "Is Royal Jelly a Miracle Substance," "3 Powerful Reasons to Buy Rojelan Royal Jelly Capsules," and "Medical Research Proves Value of Royal Jelly," contained false and misleading claims for the products.

Claims charged to constitute misbranding included the following:

ViViBx Formula No. 190 containing Safflower with Vitamin B<sub>6</sub>, for lowering cholesterol, treating and preventing hardening of the arteries and coronary artery disease; ViViBx Formula No. 152-A, containing Vitamin B<sub>6</sub>, Niacin, Vitamin E and Safflower Oil, for controlling blood cholesterol, preventing heart attacks, arteriosclerosis; averting problems of the aging; ViViBx Formula No. 80-A, containing Lecithin with Vitamins A and D, for digesting and metabolizing fats, reducing serum cholesterol, for treating and preventing hardening of the arteries and cardiovascular disease; ViViBx Formula No. 160, and Rojelan Improved Formula, containing "Double Strength Royal Jelly", for sexual potency, prolonging life, promoting the vital functions of life, rejuvenation, general vitality; and representations that the article is a super food for the very tired, fatigued, convalescent and depressed individual.

Akni-Tabs Special Formula Vitamins, repacked by the distributor and dealer, Atkinson Laboratories, Excelsior, Minn. Dealer's promotional booklets entitled "The Relation of Diet and Health to Pimples and Acne and the correctional value of Akni-Tabs Special Formula Vitamins" charged to contain statements which falsely represented the product as effective for the treatment and prevention of pimples, acne, constipation, endocrine imbalance, allergies, emotional disorders, poor health, and for other purposes.

Red Star Nutritional Yeast, repacked by the dealer, Mrs. Mildred Hatch, St. Johnsbury, Vt. Dealer's promotional booklets entitled "Answers to Some Questions About Yeast" charged to contain statements which falsely represented the product as effective for the treatment and prevention of anemia, tiredness, constipation, to reduce and gain weight, to build up tissue and improve assimilation, promote health and nerve function, and for other purposes.

Lix-Pain Cream Liniment, shipped by Oglesby Chemical Company, Kinston, N. C., to dealer Martin's Service, Sonoma, Calif. Booklets prepared by the shipper and dealer charged to contain statements which falsely represented the product as effective for relieving muscular soreness, rheumatic pains, swollen glands, arthritis, sinus, neuralgia, backache, headache, bruises and sprains, neuritis, burns, swollen joints; quieting nerves, and promoting sleep, rest, and enjoyment of life.

Batherapy, Mineral Bath Salts, shipped by Vitamin-Quota, New York, N. Y. Leaflets prepared by the dealer, package inserts and carton labels charged to contain statements which falsely represented the product as an effective treatment for all pains of arthritis and rheumatism; body fatigue; tired, aching, swollen feet; athletic aches and pains; insomnia; and nervous tension.

-FDA-

PACKAGING AND OTHER ECONOMIC  
VIOLATIONS RESULT IN NINE SEIZURES

Short weight, deficiency in milk fat, and inconspicuous labeling were responsible for seizures of nine products during September.

Charged as short of the net content declared on the label were:

Miller's Best Kosher Cucumber Chips, shipped by Kaplan & Zubrin, Camden, N. J., seized at Philadelphia, Pa.

Mushroom Buttons by Frangella, shipped by Fran Mushrooms Co., Inc., Ravenna, N. Y., seized at Nashua, N. H.

Petit Fours by Hills of Westchester, shipped by Hills of Westchester, Brentwood, Md., seized at Alexandria, Va.

Snow Crest Pineapple Topping, shipped by Snow Crest Beverages, Inc., Salem, Mass., seized at So. Gardiner, Me.

Seized on inconspicuous labeling charges were:

Dixie Chocolate Star Candy and Nonpareils, shipped by Peanut Specialty Co., Chicago, Ill., seized at Dayton, Ohio. Mandatory information printed in very small type making it difficult to read.

Judson's Candy Pralines, shipped by Judson's Candies, Inc., San Antonio, Tex., seized at Oklahoma City, Okla. Mandatory information is inconspicuous as compared with the rest of the label.

Pleasmore French Burnt Peanuts and Jellies, shipped by Fresh-Pak Candy Co., Moline, Ill., seized at Minneapolis (Hopkins), Minn. Mandatory information printed in small type, in ink similar to color of candies in clear cellophane bags.

Charged with violating the statutory standard for butter were:

Hotel Bar Salted Creamery Butter, shipped by Consolidated Shippers, Worthington, Iowa, seized at New York. The product contained less than the 80 percent by weight of milk fat established by law as the minimum for butter.

Potomac Butter, shipped by Potomac Creamery Co., Inc., Hagerstown, Md., seized at New York. Deficient in butter fat.

-FDA-

#### SUMMARY OF SEIZURE ACTIONS

Food Seizures -- Over 230 tons (461,662 pounds) of food were seized on charges of contamination or decomposition during September.

Approximately 100 tons of this total was made up of raw agricultural commodities containing non-permitted pesticide residues, such as aldrin and dieldrin in barley and potatoes, toxaphene in cabbage, and a mercury seed treating agent in wheat.

A dietary food supplement was seized because of insecticide contamination arising from use of the same machinery for the handling of insecticides and the supplement raw materials. A strawberry topping was seized when found to contain an illegal color additive.

Filthy and spoiled foods included insect- and rodent-contaminated wheat, corn meal, butter, and fish fillets containing parasitic worms.

Seized as economic cheats, on various charges of labeling violations, were butter, candies, a pineapple topping, mushroom buttons, and cucumber chips.



Drugs and Devices -- Misbranded and adulterated drugs and devices resulted in 90 Federal court actions.

Among the products seized were 97 devices (61 actions) falsely promoted for diagnostic and therapeutic purposes, repackaged physicians' samples, a misbranded medicated feed differing in ingredient amounts from label statement, substandard thermometers, non-certified new drugs and prescription drugs sold without prescription.

One device, the "Bioelectrometer," was seized because of claims that it was a "diagnostic aid in detecting organic pathology, spinal lesions, glandular malfunction," etc. Another device, the "Aqua-Laxer," was claimed to be effective for poor circulation, arthritis, and rheumatism.

Hazardous Substances -- A furniture polish was seized for failure to bear precautionary labeling required by the Federal Hazardous Substances Labeling Act.

Attachment:  
List of Prosecutions and Injunctions

SEPTEMBER 1962 CRIMINAL CASES CHARGING  
 VIOLATION OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

DEFENDANT	PRODUCT, PRINCIPAL VIOLATION CHARGED, AND SENTENCE
UNFIT FOODS	
Chitty & Co., Inc., and Vernon E. Harby, v. pres., Jacksonville, Fla.	Storing food products under insanitary con- ditions. Firm fined \$2, 000; charges dis- missed against Harby.
Jefferies Market, and George A. Jefferies, Jr., Jacksonville, Fla.	Storing food products under insanitary conditions. Firm fined \$1, 500; indivi- dual, \$500.
Alterman Foods, Inc., and Max Alterman, v. pres., Atlanta, Ga.	Storing flour under insanitary conditions. Corporation fined \$750; individual placed on 2-year probation.
Sugar Creek Creamery, Div. of Nat'l. Dairy Products, Inc., and Leonard P. McCoun Cecil T. Cline Oscar C. Condon, Louisville, Ky.	Butter made from decomposed cream. Corporation fined \$2, 000; charges dis- missed against individuals. (Terminated in June but not previously reported.)
Louisiana Rice Growers, Inc., and Michel W. Muller Crowley, La.	Rice prepared under insanitary conditions. Corporation fined \$2, 000 of which \$1, 000 was suspended; Muller fined \$400 and sentenced to 30 days in jail, suspended, and placed on 1-year probation.
Prince-Michigan Macaroni Manufacturing Co., Detroit, Mich.	Filthy noodles prepared under insanitary conditions. Fined \$2, 000.
Laurinburg Milling Co., Laurinburg, N. C.	Filthy flour and monocalcium phosphate held under insanitary conditions. Fined \$600.

DEFENDANT	PRODUCT, PRINCIPAL VIOLATION CHARGED, AND SENTENCE
National Food Stores of Louisiana, Charles Abel Memphis, Tenn.	Filthy food products held under insanitary conditions. Corporation fined \$3,000; charges dismissed against Abel.
Frontier Baking Co., and George N. Pagliasotti Cheyenne, Wyo.	Filthy bakery products prepared under insanitary conditions. Firm and Pagliasotti each fined \$100.
<b>ILLEGAL SALES OF PRESCRIPTION DRUGS</b>	
Roy D. Clifton, t/a Ideal Drug Co., Sylacauga, Ala.	Selling tranquilizers and cortisone without a physician's prescription. Fined \$250. (Terminated in July but not previously reported.)
Theodore A. Wheaton, t/a Wheaton's Pharmacy, and Paul B. Ringham, pharm. Mt. Vernon, Ind.	Selling tranquilizers and sedatives without a physician's prescription. Wheaton fined \$450; Ringham, \$300.
William A. Gabbard, Taxi driver Newport, Ky.	Peddling amphetamine to teenagers. Sentenced to 60 days in jail.
Warren W. Brown, t/a Court House Drug Store Meridian, Miss.	Selling amphetamine, barbiturates, cortisone, and Diuril without a physician's prescription. Fined \$150.
Rose M. Guastello, t/a Cillis Drug Sundries, and Carmelo J. Guastello Kansas City, Mo.	Selling amphetamine without a physician's prescription. Case dismissed against Rose Guastello. Carmelo Guastello fined \$750 in June, 1962. (Not previously reported.)
Milo A. Gooding, t/a Mi Ru Truck Stop, and Shirley Gooding Norton, Ohio	Peddling of amphetamine. Milo Gooding fined \$1,000, and sentenced to 6 months in jail, suspended, and placed on 2-year probation. Shirley Gooding fined \$300.

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 DEFENDANT  
 -----

PRODUCT, PRINCIPAL VIOLATION  
 CHARGES, AND SENTENCE  
 -----

Physicians Drug & Supply Co., and  
 William Steinberg, pres.,  
 Bernard B. Herman, treas.  
 Philadelphia, Pa.

Shipping of prescription drugs to unauthorized persons without a physician's prescription. Corporation fined \$4,500; Steinberg, \$2,700; Herman, \$1,350. Total fine \$8,550.

McCaffrey's Inc., and  
 William H. McCaffrey, pres.,  
 Eugene M. McCaffrey, secr.-treas.  
 Providence, R. I.

Unauthorized refills of prescriptions and sales of amphetamine and barbiturates without a physician's prescription. Corporation fined \$500; McCaffreys each fined \$300. Total fine \$1,100.

Carl Holzschuher, and  
 Walter E. Martin  
 (Sommers Drug Stores)  
 Alamo Heights (S. Antonio), Tex.

Selling amphetamine and sulfonamide drugs without a physician's prescription. Holzschuher and Martin each fined \$200.

Troy T. Sumpter, employee  
 (Huffman Oil Co.)  
 Huntsville, Tex.

Peddling amphetamine. Fined \$300 and sentenced to 6 months in jail, suspended, and placed on 5-year probation.

Marshall Miller  
 Mt. Pleasant, Tex.

Peddling amphetamine. Sentenced to 2 years in jail, suspended, and placed on 3-year probation.

MISBRANDED DRUGS & DEVICES

Catherine E. Harmon, D. C., t/a  
 Sound Control Development Co.,  
 Alhambra, Calif.

Misbranding of device with false and misleading claims for effectiveness in treatment of arthritis, asthma, etc. Fined \$500.

Fred N. Haas, t/a  
 Haas Mineral Distributing Co.,  
 Omaha, Nebr.

Misbranding of homeopathic drugs in sales spiel with false and misleading claims for their effectiveness in the treatment of cancer, goiter, and Bright's disease. Placed on 1-year probation. Assessed \$23.20 court costs.

DEFENDANT	PRODUCT, PRINCIPAL VIOLATION CHARGES, AND SENTENCE
Philadelphia Laboratories, Inc., and Theodore Harmatz Clifford Price, Philadelphia, Pa.	Misbranding of uncertified antibiotics of low potency and excess moisture. Cor- poration fined \$3, 600; Harmatz, \$1, 800; Price, \$900. Total fine \$6, 300.

\*\*\*\*\*

INJUNCTION

Robinson Grain Co., and  
Clyde D. McNeil, and  
T. T. Robinson, partners, and  
William Sauer, elevator mgr.,  
Thomas, Okla.

Permanently enjoined from shipping filthy  
wheat, until all of the wheat on hand is  
properly disposed of, and sanitary con-  
ditions restored.

For Release Upon Receipt

FOULKE-- WO 3-3525

U. S. DEPARTMENT OF  
HEALTH, EDUCATION, AND WELFARE  
Food and Drug Administration  
Washington 25, D. C.

NOVEMBER 1962 REPORT ON ENFORCEMENT AND COMPLIANCE

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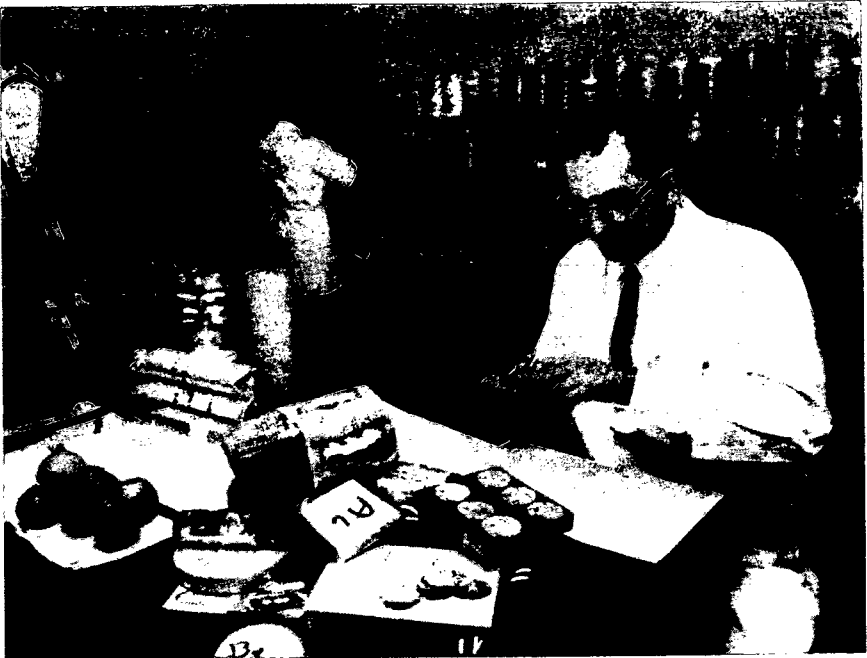
SURVEY SHOWS TOTAL DIET  
SAFE, NUTRITIOUS

The American food supply is both safe and nutritious, according to results of "total diet studies" just completed by the Food and Drug Administration.

FDA scientists analyzed market basket samples of foods for pesticide residues and vitamin content.

Pesticide residue content was found well within safe tolerance limits set for specific pesticides on individual foods.

Levels of Vitamin A, thiamin, riboflavin and niacin were found to be more than two times the Recommended Dietary Allowances of the Food and Nutrition Board of the National Research Council. Vitamins



Foods in a normal 19-year old boy's diet - from soup to nuts, with a generous sampling of hamburgers and soft drinks - are being separated into meal portions for FDA's "total diet" studies.

B<sub>6</sub> and B<sub>12</sub> were well above the amounts estimated as required for good nutrition. Recommended allowances for B<sub>6</sub> and B<sub>12</sub> have not been established. The studies did not include vitamins C and D because the method of sample preparation results in destruction of these vitamins. But FDA nutritionists point out that other studies have shown that these vitamins are adequately supplied by food sources.

The samples analyzed represented the total diet of a 19-year old boy - the biggest eater in the U. S. population. "Market basket" samples consisting of about 60 pounds of groceries -- a one week's supply -- were obtained every 3 months from chain groceries in the Washington, D. C., area beginning

in May 1961. Beginning in May 1962, similar samples were collected also in Atlanta, Minneapolis, St. Louis and San Francisco.

Commodities and quantities sampled were from the "moderate income" meal planning list furnished by Household Economics Research Division of the Department of Agriculture. The Clinic Kitchen at the National Institutes of Health assisted in preparation of foods normally cooked before consumption.

Determinations were made for residues of 20 chlorinated hydrocarbons including DDT, and for organic phosphate type insecticides. Most of the samples contained no residues or mere traces of chlorinated hydrocarbons; a few contained measurable amounts. In most cases, no organic phosphate residues were found. FDA scientists interpret the findings as an assurance of confidence in the public protection provided by the Pesticides Amendment of the Federal Food, Drug and Cosmetic Act.

The survey findings also support the conclusion that foods readily available at supermarkets contain ample quantities of vitamins.

Findings in the Washington, D. C., samples for the first four quarters are summarized in the following table, with corresponding Recommended Dietary Allowances:

	Vitamin Content -- One Day's Food Supply (Average for 12 mos.)	Recommended Dietary Allowance (Per day)
Vitamin A	11,200 Int. Units	5,000 Int. Units
Thiamin	2.9 milligrams	1.2 milligrams
Riboflavin	4.1 "	1.9 "
Niacin	33.9 "	16.0 "
Vitamin B6	2.7 "	--
Vitamin B12	21.1 micrograms	--

Preliminary results on samples collected in other cities in May and August of 1962 are consistent with these findings.

Experimental procedures and detailed analytical findings are being prepared for publication.



**PHENYLPROPANOLAMINE HELD WORTHLESS  
AS WEIGHT REDUCING AGENT**

Twelve brands of "weight-reducing" and "appetite depressant" products containing phenylpropanolamine (PPA) as the claimed active ingredient have been held worthless by a Federal District Judge.

All of the drugs involved were manufactured by Nysco Laboratories, Inc., Long Island City, New York, and were distributed by retailers under such trade names as Unitrol (Republic Drug Co., Inc., Buffalo, N. Y.); Superdreen (Super Products, Chicago, Ill.); Nycaps TD (Preston National Drug Co., Dallas, Texas); Weydex (Jason Pharmacal Co., Washington, D. C.); Leen (The Ray Drug Co., Oakland, Calif.); Trimadon (United Pharmaceuticals, Inc., Oakland, Calif.); Prescription 812 (Lloyd-Owen Drug Co., Inc., New York, N. Y.); Leen Plan (The Ray Drug Co., Oakland, Calif.); Ajem's Formula 12 (Ajem Drug Co., Oakland, Calif.); Offat (Rojel Co., Baltimore, Md., Division of the Barre Drug Co.); Sleek (Mistretta & Co., Inc., Washington, D. C.); Spanorex (White Shield Corp., New York, N. Y.).

The product on which evidence was heard specifically was Unitrol. The Court held that the findings of fact and conclusions of law also applied to the other products, seizures of which were also pending in that court.

The first issue involved in the case was whether or not phenylpropanolamine in a dosage of 75 milligrams per day is adequate and effective as an appetite depressant for weight control, or in the treatment, control or management of obesity.

Testimony covering extensive clinical and animal trials of phenylpropanolamine to determine its appetite-depressing and weight reducing properties was heard. Results of the various experiments were evaluated for the Court in testimony by professional statisticians.

The Court concluded that an evaluation of all the evidence presented compelled the conclusion that a daily dosage level of 75 milligrams of PPA has no significant pharmacological value as a weight reducing agent.

The second issue to be determined in the trial was the meaning to the purchaser of the labeling involved in the case.

The Government contended that the Unitrol labeling represented and suggested that Unitrol was all that is needed to carry out successfully a weight-reducing program.

Claimant argued that the product labeling represented only that the use of that product along with a reduced caloric intake was all that one needs to do to reduce weight. Claimant pointed to an 1180 calorie chart inserted by the manufacturer with each bottle of Unitrol capsules.

The Court pointed out that the bottle insert was not available to the prospective purchaser until after the purchase had been made, and that the prospective purchaser in fact was given no hint that he must diet in order to lose weight. The Court found the labeling deceptive and ordered the article condemned as misbranded.

The Court said "the prospective purchaser is given no hint, by the labeling available to him, that he must diet in order to lose weight and that 'Unitrol - that's all' is not really all but merely a part of a dietary regimen. The Court finds, therefore, that the labeling is deceptive in that it fails to inform the public of the nature of the product which it describes until after the product has been purchased."

The seizure case against Unitrol is one of 11 other seizure actions which were instituted against the same drug manufactured by the same firm, Nysco Laboratories, Inc., Long Island City, N. Y. The products are marketed by different retail concerns under a variety of trade names.

All of the seizure cases were transferred to the District of New Jersey for disposition. The Unitrol case was contested as a representative case with the agreement that the others be held in abeyance pending the outcome.

Settling all of the pending cases, Judge Meaney said: "Since the Court has considered the biological and physiological effects of PPA, and the general character of the labeling which represents that PPA depresses the appetite with a consequent significant loss of weight, not confining its opinion to the greater claims made by Unitrol's labeling such as a loss of 14 pounds in 14 days, it feels that its conclusions are dispositive of all of the cases involving this product which are presently before the Court."

- FDA -

#### PROTECTION FROM POISONS IN FOODS

A proposal to require that food grain seeds treated with agricultural poisons such as fungicides, be prominently colored so as to be easily distinguished from grain or seed for food use, was published in the Federal Register of October 27, 1962. Under the proposal any interstate shipment of food seed so treated and not denatured by a suitable color would be regarded as a violation of the Federal Food, Drug and Cosmetic Act.

In recent years there has been increasing use of poisonous seed treatments for fungicidal and other purposes. Treated seeds are often highly toxic and present a hazard to humans and livestock if they get into food or animal feed.

FDA has encountered many shipments of wheat, corn, oats, rye, barley, sorghum, and alfalfa seed in which stocks of treated seed left over after the planting seasons have been mixed with grains and sent to market for food or feed use. Injury to livestock is known to have occurred.

Numerous Federal court seizure actions have been taken against lots of such mixed grains on charges they were adulterated with a poisonous substance. Criminal cases have been brought against some of the shipping firms and individuals.

Most buyers and users of grains do not have the facilities or scientific equipment to detect the presence of small amounts of treated seed grains if the treated seed is not colored. The FDA proposal would require that all treated seed be colored in sharp contrast to the natural color of the seed, and that the color be so applied that it could not be readily removed. The buyer could then easily detect a mixture containing treated seed grain, and reject the lot.

- FDA -

PROSECUTION FILED AGAINST  
NYSKO LABORATORIES, INC.

Nysco Laboratories, Inc., Long Island City, New York drug firm has been charged with selling food and drugs adulterated with a potentially harmful synthetic hormone, Attorney General Robert F. Kennedy announced on Nov. 8.

United States Attorney Joseph B. Hoey filed a criminal information in United States District Court in Brooklyn, charging Nysco and four of its officials with violations of the Federal Food, Drug and Cosmetic Act, Mr. Kennedy said.

The firm and three of its officials, Milton Sacks, president, Eugene J. Yoss, treasurer, and Robert Goldman, director of laboratories were named as defendants in 11 counts. Harry E. Gimbel, Nysco production supervisor, was named as a defendant in nine of the counts.

Mr. Kennedy said that the assertedly contaminated drugs were traced by the Food and Drug Administration of the Department of Health, Education and Welfare in cooperation with state health officials and private doctors.

The information charged that the defendants sold diet supplements, prescription drugs for tuberculosis, tablets for acid stomach, and an anti-histamine for cold and hay fever which were unlawfully adulterated because they contained the synthetic hormone, diethylstilbestrol. These products assertedly were prepared under unsanitary conditions which would be injurious to humans, Mr. Kennedy said.

The information charged a separate offense in different shipments of the assertedly contaminated drug in each of the 11 counts. Contaminated shipments were assertedly sent to the states of New York, New Jersey, Massachusetts, California, Minnesota and Ohio.

The Food and Drug Administration described diethylstilbestrol as a powerful synthetic compound which has many of the biological and medical properties of female hormones. The FDA said it can cause feminization in young boys and harmful effects in young girls.

All of the suspected products have been taken off the market, the FDA reported.

Maximum penalties for the violations are a \$1,000 fine and a year in prison.

- FDA -

**NEED FOR CAREFUL HANDLING  
OF MAILED DRUGS EMPHASIZED**

The need for care by both shippers and receivers in the handling of drugs and chemicals sent through the mail was emphasized by the Post Office Department and FDA in a joint announcement. A survey recently completed by FDA pointed up the hazards which could result from careless handling of drugs.

The survey was prompted by the death of an 18-month old girl from strychnine pills sent through the mail. The prescription, mailed by a physician, was intended for a neighbor but was picked up by the mother of the child at a shared rural mail box and placed on a dresser pending the neighbor's return.

When the mother returned from an errand she found her daughter and three-year-old son playing with the pills on the floor. Both children were rushed to the hospital. The boy survived but the girl died.

To determine the frequency of accidents arising from mail shipments FDA polled its 18 field Districts. No other accidents of a similar nature

and seriousness were disclosed but circumstances that might lead to such accidents were reported in several cases.

One District reported a complaint from a Detroit woman that a free bleach sample containing 12 percent chlorine was too large for the mailbox and had been left on the doorstep by the postman. While no misuse of the bleach occurred the woman pointed out that children had access to it and could have been injured. This product was prominently labeled with consumer protection information, including the legend "Toxic: Keep Out of the Reach of Children." Unfortunately, some mailboxes are accessible to children in the absence of parental supervision. The possibility of accident is of course increased if the package will not go into the mailbox. Packages that are "tamper-proof" against children should be used for any mailing of drugs and hazardous chemicals.

A drug mailed to the home of a professor of medicine was picked up by one of the neighbor's children who swallowed several of the tablets. The child became unconscious and had to be hospitalized.

In another case an 11 year-old boy, mistaken for a medical doctor by the same name, was placed on a medical mailing list. The boy received a number of physicians' samples which he secretly kept in his home and took from time to time. While under the influence of the drugs, he broke church windows and committed other delinquent acts which brought him to the attention of local authorities. This led to an FDA investigation which disclosed the mailing list mix-up.

One District reported having received protests from others about receiving through the mail free samples of cough medicines and other drug products which were opened and used by children without parental consent.

Another District reported having observed, in connection with the policing of destruction of unfit food and drugs at city dumps, that many families apparently dispose of out-dated or unused drugs by simply throwing them in the trash can, in their intact containers.

The potential dangers of this practice are evident. Children sometimes go into trash cans to recover discarded toys, etc., and may get hold of the drugs. And children also sometimes play on city dumps, and might get the drugs at that point.

Discarded drugs should be removed from their container, flushed down the drain or consigned immediately to the incinerator.

INDUSTRY ACTS VOLUNTARILY TO  
IMPROVE CONSUMER PROTECTION

Foods

FDA inspectors encountered 89 instances in which food industries had voluntarily destroyed or denatured a total of 118,657 pounds of foods which had become unfit for human consumption. These voluntary actions involved cream rejected as contaminated or otherwise unsuitable for butter-making; insect-infested flour and other cereal products; and tomatoes intended for canning but which had become infested with maggots.

Drugs and Devices

Health practitioners reported voluntary destruction of sixty Micro-Dynamometer devices held worthless and potentially dangerous by the courts.

Drug products, originally valued at \$5,400 were voluntarily removed from the market in other industry actions in the interest of good compliance. Products involved included repacked physicians' samples in which certain label information had been lost; veterinary drugs which had passed the expiration date; and intravenous solutions found contaminated and non-sterile.

Plant Improvements

Other firms made substantial investments in plant improvements to maintain and up-grade sanitation standards.

A Minnesota milling company began construction of a grain elevator at \$365,000 as part of a remodeling program expected to cost \$1 million.

A Minnesota creamery spent \$90,000 for a new dust collection system to prevent airborne contamination of its products.

A Colorado creamery invested \$100,000 in new cheese vats and compresses, a bulk milk storage tank, and a new water storage facility and well house.

Two Tennessee bakeries each reported expenditures of \$200,000 in extensive plant improvements. One added new raw material storage space and a new laboratory, as well as shipping and office space. The other added new flour bins and an automatic dough-handling system.

A Florida grocer spent \$65,000 on new construction specially designed to protect against rodent infestation.

**THREE DRUGS SEIZED  
ON FALSE LABELING CHARGES**

A Safflower Oil-Vitamin B-6 product for weight reducing, a vitamin-hormone mixture for sex-linked diseases, and a "tonic" for all diseases of the blood, liver, kidneys and stomach, were among products seized in October on false and misleading labeling charges.

Welton Safflower Oil with Vitamin B6 -- packaged by Welton Laboratories, Inc., Newark, New Jersey, was promoted with claims on bottle labels and in accompanying booklets and store window banners suggesting that they were effective for reducing and controlling weight even though the user consumed thousands of calories daily without regard to caloric intake; and for lowering cholesterol levels of the blood.

An 8,000-capsule shipment was seized at Harlingen, Texas.

Bio-Atric Elixir and Tablets, distributed by Bio-Factor Laboratories, Marshville, N. C., were labeled as effective for the treatment of "metabolic failure associated with pediatric, climacteric and geriatric growth, and sex-linked or stress-linked diseases occurring at any age of life." FDA charged that these claims were false and misleading, that the products contained less than the labeled amounts of the vitamins and folic acid ingredients, and that the labeling failed to bear adequate directions and warnings. The products were further charged to be dangerous to health when used for pediatric purposes as recommended in the labeling.

The products were seized in possession of the distributor.

Dr. Durham's No. 1 Tonic, distributed by Walker H. Durham, M. D., Atlanta, Ga., was promoted by claims on bottle labels and in placards which represented the tonic as effective for treating all diseases of the blood, liver, kidneys and stomach; and for arthritis, rheumatism and other chronic diseases of men and women. The bottle label listed the ingredients as triticum, macrotys, yellow root, cascara amarga, sarsaparilla, yellow dock, prickly ash bark, stillingia, phytolacoa and fringe tree bark. It was charged that these ingredients would not be effective for the diseases named, and that the labeling claims were false and misleading.

The tonic was seized in possession of the distributor.

DISEASE CLAIMS CAUSE DEVICE SEIZURES

Chlorine gas and violet ray generators, magnetic bracelets, mud discs, "life meters" and "household analysis sets" were seized during November on charges the devices were promoted with false and misleading health claims.

Seized were:

Halox Therapeutic Generator, shipped by Anthony Caporaso, Summit, N. J., seized in possession of the dealer and at Menlo Park, Calif.

The device consisted of equipment to produce chlorine gas from table salt by means of electrolysis, housed in a portable cabinet. Labeling included a book, written by Anthony Caporaso, entitled "The Miracles of Father Aull." The book related how a hermit priest in New Mexico came to the conclusion that chlorine gas had restored him to good health and would cure many diseases. He devised a simple machine to produce chlorine for "therapeutic" use. The book quoted Father Aull as often having remarked "My treatment will expel all impurities from the human body."

FDA charged that the labeling failed to bear adequate directions for use in overcoming various disease conditions for which the device was recommended, and that adequate directions cannot be written since the device is worthless for any medical purpose.

Herb Blackschleger's Vivicosmic Disc, Radiant Life Meter, and Household Analysis Set, shipped by Radiant Laboratories, Tum Tum, Washington, seized in possession of Herb Blackschleger, doing business as Dominion-American Corporation, Northridge, Calif.

The Vivicosmic disc was a porous molded disc of dried mud of various diameters and thicknesses intended to contain bacteria; the Radiant Life Meter consisted of a small handle suspended by a small beaded strip of metal; and the Household Analysis Set was a 6-ply piece of wood with 18 numbered holes, each hole containing 1 corked glass vial. The devices were labeled: "Herb Blackschleger's Vivicosmic Disc. Sold only for experimental use by ESP and Metaphysical Enthusiasts. The Living Essence \*\*\* The enclosed vivicosmic disc contains: Organic Cereals and Mineral Elements, Natural Organic Positive Yeast, Phyballoomm, Psyterra and the blessing of Herb Blackschleger. Modern Science is rather uninformed in matters pertaining to the Divine Mind and Divine Healing. The contents of this package can increase the harmonious interrelationship thereof."



Various pieces of accompanying labeling literature claimed that the "life meter" and "household analysis set" had value and were useful in detecting toxins, radiation, poisons, fallout, pesticides; and the absence of needed elements of the body in man, animals, fowls, soils, plants, food, and water which cause sickness, sterility, insanity, loss of vitality, health and happiness. The literature claimed that water treated with the vivicosmic disc was effective for reducing abscesses, removing pesticides, fallout and radiation contamination from fruits and vegetables, calming the nerves, preventing tiredness, pain, tooth decay, and galling of the armpits, improving the complexion, and causing pregnancy to be more pleasant.

These labeling claims were charged false and misleading.

Violetta Violet Ray Generator, shipped by Arrow Glass Co., Chicago, Ill., seized at New Orleans, La. The device was a plastic cylinder with a detachable glass electrode at one end and an electric cord for house current at the other. Electrical energy was transmitted through application of the electrode to the body. Leaflets accompanying the device claimed it was effective as a treatment for aiding one's health and beauty, assisting in bringing and keeping good health, relieving muscular aches and pains, and improving circulation to overcome or prevent scalp diseases.

These labeling claims were charged false and misleading.

Magnetic Bracelets, imported from Japan, seized at Miami, Fla. The bracelets were gold-colored expansion type with slightly magnetic links, containing the word "Relax" on the silver-colored inner side of every other link. FDA charged the bracelets were misbranded in that they were intended for use in benefiting the health of the user, that its labeling failed to bear adequate directions for use, and that it is not feasible to devise such directions since the device is not effective for the intended purpose.

- FDA -

#### PROTECTION FOR VETERINARY REMEDIES

An animal feed growth-promoter below its labeled strength, a mineral-sulpha drug combination charged worthless for its labeled purpose, and a poultry drinking water additive not properly cleared for safety were seized during October. The actions continued FDA's program to assure that veterinary drugs are effective for their intended uses and that human foods derived from treated animals will be safe.

Fleming Arsanilic Acid, manufactured by Fleming Laboratories, Inc., Charlotte, N. C., was charged to be misbranded because it contained less arsanilic acid than claimed on the label. The drug was intended for further manufacturing. Arsanilic acid is commonly used in chicken, turkey and swine feeds for promoting growth and for increasing the efficiency of the feed. It is also used in swine feed for treating swine dysentery. The 400-pound shipment was seized in Kansas City, Mo.

Milk-A-Way, combination of minerals with sulphur drugs, manufactured by Kenyon Vet Supply, Kenyon, Minn., was charged misbranded by label claims for overcoming mastitis in cattle. FDA charged that the product was not adequate for this purpose when used as directed in the labeling. Label statements that the drug when used as directed would leave no residue in the milk were also challenged on the grounds that the dosage levels called for would not provide therapeutically effective amounts of the drug, and that if effective amounts were used, milk of the treated animals would contain drug residues. A further charge was that required label warnings were omitted.

Eastrone, a poultry drinking water additive, manufactured by Eastern Laboratories, Inc., Vineland, N. J., was charged adulterated in that it contained diethylstilbestrol and was not covered by an effective safety clearance under the Food Additives Amendment.

- FDA -

#### KEEPING FOOD CLEAN

Distribution of food contaminated with filth, and storage of food under insanitary conditions were charged in 10 prosecution cases completed and 24 seizure actions instituted during October.

The heaviest penalties of the ten prosecution cases were imposed against the Prince Michigan Macaroni Manufacturing Co., Detroit, Mich., and Rodenbergs, chain store grocery warehouse, and Ernest A. Rodenberg, Sr., Charleston Heights, S. C. Fines of \$2,000 were imposed in each of the cases. Prince Michigan was fined for shipping macaroni and egg noodles contaminated with filth because of insanitary manufacturing conditions, and for shipping egg noodles deficient in eggs. Rodenbergs was fined for operating a rodent-infested chain store grocery warehouse which caused the contamination of stored rice.

The eight other firms prosecuted under similar charges are listed in the attachment to this Report under "Unfit Foods."

Approximately 411 tons of unfit foods were seized. Charged contaminated when introduced into interstate commerce or while in transit were shipments of butter made in an insanitary creamery from filthy raw material; rice, wheat and flour containing rodent or insect filth; and frozen whole eggs, canned okra, tomatoes and corn, and pizza sauce, decomposed.

Foods charged contaminated while held for sale in warehouses or groceries after shipment in interstate commerce were shipments of flour, egg noodles, cornmeal, rice, popcorn, pickles, salt and coriander seed.

- FDA -

#### POCKETBOOK PROTECTION

Economic violations--short weight and slack fill of container, substandard quality, and missing or inconspicuous required labeling--were charged in 12 seizures of 13 food products during October. Foods seized included canned tomatoes, shrimp, and dietetic tuna, bottled orange juice, butter, cheese corn chips, licorice candy, peanuts, butterscotch chips, grated cheese, syrup and cider.

Seized were:

Bluebrook Tomatoes, shipped by Jaqua Canning Company, Union City, Ind., seized at Melrose Park, Ill., charged misbranded because it failed to conform to the standard of quality for canned tomatoes due to excess peel.

Rogers Canned Tomatoes, shipped by Rogers Vinegar Co., Rogers, Ark., seized at Joplin, Mo., charged misbranded because it failed to conform to the standard of quality for canned tomatoes due to excess peel, and adulterated because it was contaminated by filth and produced under insanitary conditions.

Gulf Central Canned Shrimp, shipped by Gulf Central Sea Foods, Inc., Biloxi, Miss., seized at McKeesport, Pa., charged adulterated because broken shrimp had been substituted in part for whole shrimp, and misbranded because the label statement "Shrimp" and vignette depicting whole, unbroken shrimp were false and misleading.

Monarch Brand Canned Dietetic Tuna, shipped by McGovern & McGovern, Seattle, Wash., seized at Somerville, Mass., charged misbranded because it failed to conform to the standard of fill of container for canned tuna.

Creamery Butter, shipped by Randolph Creamery, Randolph, Neb., seized at Sioux City, Iowa, adulterated because it failed to conform to the statutory standard for butter which requires that butter contain 80% milk fat.

Rex Cheese Corn Chips, shipped by the New England Popcorn Company, Lincoln, R. I., seized at Haverhill, Mass., charged misbranded because it was short of the net weight declared on the label.

Ver-e-best Red Twist Licorice and Ver-e-best Burnt Peanuts, re-packed by Singers Ver-e-best Candies, Minneapolis, Minn., seized in possession of the repacker, charged misbranded because information required by law was inconspicuously placed on the label. (The products were packaged in clear cellophane bags, upon which the quantity of contents and ingredients statements were printed in ink of a color similar to the color of the products.)

Sunshine Chilled Orange Juice, shipped by Sunshine Juices, Inc., Chicago, Ill., seized at Waukesha, Wis., charged misbranded because required information was inconspicuously placed on the label. (The net contents statement was blown into the glass bottle at the bottom edge against a background of rough glass and orange juice.)

Ruby's Cherry Cider, manufactured by Ruby's Jams & Jellies, Van Buren, Ark., seized in possession of the manufacturer, charged misbranded because the label failed to bear the ingredients statement, and label statement cherry cider is false and misleading as applied to a product consisting of cherry juices, water and sugar.

Food Club Syrup, shipped by General Syrup Corp., Oakland, Neb., seized at Columbus and Dayton, Ohio, charged misbranded because the label failed to declare the presence of artificial maple flavor, and to bear the ingredients statement.

Value Pack and Quality Pak Butterscotch Chips, shipped by United Packaging Co., Minneapolis, Minn., seized at Minneapolis and Newport, Minn., charged misbranded because the label failed to bear the ingredients statement.

Frigo Grated Fancy - Genuine Italian Cheese, shipped by Frigo Bros. Cheese Corp., Lena, Wisc., seized at Chicago, Ill., charged misbranded because the name "Fancy Genuine Italian Cheese" was misleading as applied to a product which consisted of cheeses of domestic origin, and for which no fancy grade had been established.

SUMMARY OF SEIZURE ACTIONS

Foods -- Over 589 tons (1, 178, 748 pounds) of adulterated foods were seized during October. Of this total, more than 411 tons (822, 948 pounds) was filthy or decomposed. Excessive or non-permitted residues accounted for the remainder. In the latter category were potatoes containing excess aldrin and dieldrin (seizures reported in the October Report as in process) and milling wheat containing seed wheat treated with a poisonous mercury compound.

Insanitary storage conditions, decomposition and/or contamination with extraneous materials were charged in seizures of 105 tons of pizza sauce, 58 tons of salt, and 32 tons of flour.

Fifteen food seizures involved misbranding charges.

Drugs and Devices -- A total of 50 seizure actions were brought against drugs and devices charged to be adulterated or misbranded, or both. Products seized included therapeutic devices charged falsely promoted for diagnostic and treatment purposes; repackaged physicians' samples; "new drugs" marketed without prior safety clearance; uncertified antibiotics; adulterated and misbranded veterinary products; and drugs contaminated with the pesticide, lindane.

Hazardous Substances -- A kitchen drain cleaner was seized on charges of failure to bear the precautionary labeling statements required by the Federal Hazardous Substances Labeling Act.

- FDA -

Correction - October 1962 Report

Page 8 - last sentence - make read:

"The barley was contaminated with mercury - treated seed barley."

- FDA -

Attachment

List of Prosecutions and Injunctions

- 16 -

OCTOBER 1962 CRIMINAL CASES CHARGING  
 VIOLATION OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

DEFENDANT	PRODUCT, PRINCIPAL VIOLATION CHARGED, AND SENTENCE
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UNFIT FOODS

<p>Stephens Grocer Co., Inc., and                      Herbert M. Stephens                      Hope, Ark.</p>	<p>Flour held under insanitary conditions.                      Firm fined \$200; charges dismissed                      against individual.</p>
<p>United Biscuit Co. of America,                      t/a Bowman Biscuit Co., and                      Bernard H. Velzen                      Wilbur V. Sprenger, Sr.,                      Denver, Colo.</p>	<p>Cookies prepared under insanitary con-                      ditions. Firm fined \$600; Velzen and                      Sprenger, each \$300; total fine \$1,200.</p>
<p>Westman Commission Co., Inc.,                      and Robert L. Weil                      Denver, Colo.</p>	<p>Food stored under insanitary conditions                      Firm fined \$800; Weil, \$400.</p>
<p>Griffin Grocery Co., t/a                      Happyvale Flour Mills                      Fort Valley, Ga.</p>	<p>Flour and sodium bicarbonate held under                      insanitary conditions. Fined \$1,000.</p>
<p>Central Cotton Oil Co.                      Macon, Ga.</p>	<p>Cottonseed oil produced under insanitary                      conditions. Fined \$500.</p>
<p>John B. Sanfilippo &amp; Son, Inc.,                      and Jasper B. Sanfilippo, treas.,                      Chicago, Ill.</p>	<p>Pecans shelled under insanitary condi-                      tions. John Sanfilippo fined \$750 plus                      \$20 costs; charges dismissed against                      Jasper Sanfilippo.</p>
<p>DeMartini Macaroni Co., Inc.,                      and Edward J. King                      Philip Polimeni                      Brooklyn, N. Y.</p>	<p>Macaroni products prepared, packed, and                      held under insanitary conditions. Firm                      fined \$1,000; charges dismissed against                      individuals. (Firm has gone out of busi-                      ness.)</p>
<p>Sniderman Bros., Inc., and                      Harvey Sniderman, v. pres.,                      Youngstown, Ohio</p>	<p>Storing food products under insanitary                      conditions. Firm and individual each                      fined \$125.</p>

DEFENDANT	PRODUCT, PRINCIPAL VIOLATION CHARGED, AND SENTENCE
Amore-Aurora Bakery, Inc., Providence, R. I.	Bakery products prepared under insanitary conditions. Fined \$100.
Rodenberg's (warehouse) Ernest A. Rodenberg, Sr., pres., Charleston Heights, S. C.	Rice stored under insanitary conditions. Rodenberg sentenced to 1 year in jail, suspended, provided he pays \$2,000 fine.

MISBRANDED FEED

Specifide, Inc., and  
John O. Beasley  
Charles H. Pickard  
Indianapolis, Ind.

Medicated feed concentrate deficient in penicillin. Firm fined \$751 plus \$22.80 costs; charges dismissed against individuals.

ILLEGAL SALES OF  
PRESCRIPTION DRUGS

John A. Thomas, t/a  
P & J Pharmacy  
Albertville, Ala.

Selling amphetamine and prednisone without a physician's prescription. Fined \$250.

Joseph J. Krzanowski, t/a  
Krzanowski Pharmacy  
Hartford, Conn.

Selling and refilling prescriptions for amphetamine and tranquilizers without physicians' prescriptions. Fined \$1,100 and sentenced to 6 months in jail, suspended, and placed on 6-month probation.

James Earl Simpson, t/a  
Simpson Drug Co.,  
Buford, Ga.

Selling tranquilizers without a physician's prescription. Fined \$50.

Gloron Pharmacy, and  
Myron Warner, pharm.  
Chicago, Ill.

Selling amphetamines and barbiturates without a physician's prescription. Warner fined \$500, suspended, and placed on 6-month probation; charges dismissed against firm. Warner is to pay \$20 costs.

DEFENDANT	PRODUCT, PRINCIPAL VIOLATION CHARGED, AND SENTENCE
Norman S. Kaplan, t/a Lathrop Drugs, and Kalman Kadish, pharm. Chicago, Ill.	Selling amphetamines and barbiturates without a physician's prescription. Kaplan fined \$300 plus \$23. 60 costs; Kadish, \$200. Both were placed on 3-month probation.
Anthony A. Contarino, t/a Contarino's Pharmacy Methuen, Mass.	Selling antibiotics and tranquilizers without physician's prescription. Fined \$2,500, sentenced to 1 year in jail, suspended, and placed on 2-year probation.
Lawrence Drug Co., and Kimsey K. Lawrence Laurel, Miss.	Selling barbiturates, hormones, and tranquilizers without a physician's prescription, and dispensing a counterfeit tranquilizer. Corporation and individual each fined \$250.
Ronald V. Mink Wilbur J. Reynolds Springfield, Mo.	Peddling amphetamines. Mink and Reynolds each sentenced to 6 months in jail, and fined \$500.
James T. Hough, Sr., t/a Independence Drug Store Charlotte, N. C.	Selling antibiotics, hormones, and amphetamines without a physician's prescription. Hough fined \$500, sentenced to 18 months in jail, suspended, and placed on 3-year probation, provided that he refrains from alcohol.
George Lingas Portland, Ore.	Illegal sale of amphetamines and barbiturates. Sentence suspended, and defendant placed on 5-year probation.
John P. De Pasquale, t/a De Pasquale's Pharmacy, and James Paola, pharm. Providence, R. I.	Selling and refilling prescriptions for amphetamines, barbiturates, hormones, and tranquilizers without physician's prescription. De Pasquale fined \$1,000; Paola, \$600.
Jack E. Johnson, t/a Washington Pike Pharmacy Knoxville, Tenn.	Selling hormones without physician's prescription. Fined \$300. (Terminated in February but not previously reported.)



DEFENDANT	PRODUCT, PRINCIPAL VIOLATION CHARGED, AND SENTENCE
Manton M. Miller, t/a Miller's Pharmacy Cooper, Tex.	Selling antibiotics and thyroid tablets without physician's prescription. Fined \$700.
Mitchell's Phillips 66 Truck Stop, and Albert L. Chadwick William O. Kilcrease Henrietta, Tex.	Peddling amphetamine. Firm fined \$900; individuals each placed on 2-year probation.
Harry S. Ward, Sr., pharm. (Ward & Sons Drug & Grocery) Klondike, Tex.	Selling antibiotics and amphetamines without physician's prescription. Fined \$500.
John Clifton Bramlett, t/a Bramlett's Pharmacy, and Tillman E. Ethridge, pharm. Texarkana, Tex.	Selling amphetamines, antibiotics, and tranquilizers without physician's prescription. Bramlett fined \$400, and sentenced to 6 months in jail, suspended for 1 year. Ethridge fined \$300, sentenced to 6 months in jail, suspended, and placed on 2-year probation.

MISBRANDED AND COUNTERFEIT DRUG

Lazar Drugs, Inc., and Bernard S. Lazar, pres., Chicago, Ill.	Selling counterfeit hydrodiuril. Corporation fined \$100; individual, \$50 and costs.
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INJUNCTION

John F. Grisez, t/a Valley Bean & Grain Co., and Stephen J. Perkins, mgr. Murtaugh, Idaho Magic Valley Bean Co., Inc., and Donald L. Berger, pres., Francis J. Lewis, vice pres. Cleo H. Barth, t/a C. H. Barth Co., Twin Falls, Idaho	Permanently enjoined from shipping beans and peas processed and held under insanitary conditions until the articles are brought into compliance with the law.
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For Release Upon Receipt

Brooks-- WO 2-4171

U. S. DEPARTMENT OF  
HEALTH, EDUCATION, AND WELFARE  
Food and Drug Administration  
Washington 25, D. C.

DECEMBER 1962 REPORT ON ENFORCEMENT AND COMPLIANCE

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**AMPHETAMINE ROUNDUP  
FDA'S LARGEST**

Nearly one million amphetamine tablets were seized November 30 in multiple raids over three states which also resulted in the arrest of a man who offered to sell FDA and Tennessee investigators a half million tablets at one time. The amphetamine seizures were the largest in the history of the Food and Drug Administration.

Amphetamines are stimulant drugs which can legally be sold only on prescription.

This move against illegal traffic in "pep pills" was called on 24 hours notice after a five-month-long investigation by Food and Drug Administration Inspectors and the police of Alabama and Tennessee.

The investigation began last June when an Alabama county official reported the arrest of a "pill pusher" with over 20,000 amphetamine tablets in his possession. A few weeks later a number of inspectors were

sent to an FDA Criminal Investigative Course where specialists in the Federal Bureau of Narcotics and in state and local agencies gave instruction in undercover work. FDA inspectors who received this training participated in the investigations which led to the amphetamine seizures and arrests.

The FDA and the Alabama state authorities began investigations to uncover all links in the distribution chain. Through the small peddlers, contact was made with Luke Taylor of Cullman, Ala., who sold the inspectors some 46,000 amphetamine tablets in 10 transactions. Purchases from Taylor led them to a man and wife team, Arlie and Ruby Turner, from whom they started buying 20,000 tablets at a time.

Information then pointed toward John A. McGee, manager of Rex Laboratories in Nashville, Tenn., as a supplier. At about the same time, the Tennessee Bureau of Criminal Identification obtained information on other cases which also pointed to McGee. Further investigation linked Al Rock of Perry, Ga., who owns and runs a truck stop. Rock was still on probation imposed after he pleaded guilty to a charge of illegally selling amphetamines two years ago. Some 67,000 tablets were seized in his possession at the time.

On November 29 McGee told FDA inspectors and Tennessee investigators that if they wanted a "big buy" -- half a million tablets -- they had only two days to make the deal because he was going to Bermuda for a long vacation. United States Attorneys in the three state area rushed preparation of the necessary legal papers. On the afternoon of Friday, November 30, U. S. Marshals, FDA inspectors and state authorities converged at a number of points.

McGee brought 514,000 amphetamine tablets to a Nashville motel. The tablets were seized and McGee was arrested by the U. S. Marshal and charged with nine counts of selling amphetamines without a prescription. An associate, Jack C. Hailey, a produce trucker, was arrested and charged with two similar counts.

Marshals then went to Rex Laboratories where they seized 280,250 amphetamine tablets in the building and 59,500 in one of McGee's delivery cars.

In Alabama, the Turners were arrested and 82,000 amphetamine tablets were seized. Taylor, associated with the Turners in the sales of the tablets, was also arrested. Meanwhile Alabama state authorities arrested four smaller peddlers and seized a total of 15,000 tablets.

U. S. Marshals went to Rock's truck stop in Perry, Ga., arrested him and seized some 6,000 tablets.

MAXIMUM FINES IMPOSED  
IN ROTTEN EGG CASE

A Federal judge fined L. Meyer and Company, Inc., Jersey City, N. J., a total of \$20,000 on two counts of shipping rotten eggs in interstate commerce. The \$10,000 fines were the maximum for a second offense under the Federal Food, Drug, and Cosmetic Act.

A jury acquitted three officers of the firm after a five-week trial in Brooklyn, N. Y. They are Morris Meyer, president, Samuel Greenbaum, secretary-treasurer, and Irving Edelstein, foreman of the company's Jersey City plant. The company and officers were indicted in July 1960, but the trial was delayed because of Meyer's health.

The indictment charged the defendants with shipping two lots of frozen whole eggs which were adulterated because they contained rotten eggs. The eggs were sent to a Brooklyn bakery and were destined for use in human food when they were seized. The Meyer firm was convicted on a similar charge in 1947.

- FDA -

SANITORIUM PROPRIETOR FINED

The head of the Radium Springs Sanitorium, Salina, Okla., was fined \$6,000 and placed on three years probation after he pleaded guilty to 15 charges of illegally dispensing prescription drugs.

Federal Judge Allen E. Barrow of the Northern District of Oklahoma sentenced James A. Nolen for selling penicillin tablets, antidiabetic medicines, tranquilizers and various other prescription drugs without a doctor's prescription. Nolen had obtained the services of a licensed doctor to practice at his sanitorium, but FDA inspectors made "buys" of prescription medicines from Nolen during the doctor's absence.

At the time of Nolen's arrest, U. S. Marshals seized an estimated \$40,000 worth of prescription drugs. Nolen pleaded no contest in 1951 to charges of distributing worthless cancer and diabetes remedies and was fined \$2,000 at that time. The Oklahoma State Board of Medical Examiners then obtained an injunction prohibiting Nolen from practicing medicine.

The investigation leading to the present case began in the spring of 1958 when a Tulsa, Okla., newspaper man reported that Nolen was back in business again treating a number of patients.

**NEW LABORATORY BARN FOR  
VETERINARY DRUG RESEARCH**



In FDA's new laboratory barn, white container takes milk from cow's treated quarter to be checked for drug residue.

A new large animal laboratory barn is making it possible for the Food and Drug Administration to carry out necessary research to improve veterinary drug protection.

The laboratory at Beltsville, Md., is now being used for studies to assure that veterinary drug uses will not result in residues in milk, meat and eggs. Various drugs are being administered to animals in accordance with their label directions to see whether residues remain and if so for how long. Such studies could lead to modification of label directions or even to withdrawal of a drug for certain uses if unexpected residues are discovered.

The laboratory will also enable studies to aid in the evaluation of the effectiveness of new veterinary drugs. The Drug Amendments of 1962 require manufacturers of new veterinary drugs as well as other new drugs to get FDA approval of effectiveness as well as safety before the drugs are marketed. Manufacturers of new drugs previously cleared for safety will generally have a 2-year period during which to obtain and present to FDA the evidence to establish effectiveness.

FDA soon will increase its activity in another area -- the evaluation of the validity of labeling claims for veterinary products. It will be the first time FDA has had the facilities to study some of these products in detail to determine whether or not claims for their effectiveness are exaggerated.

The \$80,000 barn provides laboratory and office space plus housing for large animals used in tests and research projects. It contains autopsy and specimen collection rooms, animal pens, seven stanchions for cows, scales for weighing animals and a storage room for supplies.

An automatic dial scale registers weight from 0 to 2,800 pounds in quarter pound graduations. Animals ranging in size from baby pigs to adult cows can be weighed on this scale.

Laboratory rooms include all equipment necessary for compilation, recording and filing of data. A darkroom is set up to make microphotographs of tissue sections, internal parasites and micro-organisms. Analytical equipment, a refrigerated centrifuge, dry heat sterilizers, incubating ovens and other instruments have been installed.

- FDA -

#### "ON" AND "OFF" PRODUCTS SEIZED

A product claimed to add weight and one claimed to reduce weight were seized in November in two actions against false and misleading drug labeling.

U. S. Marshals seized quantities of Wate-On (liquid and tablets) and Super Wate-On (liquid) on charges that container labels and accompanying folders titled "Why Be Skinny?" represented the products could cause weight gain up to 33 pounds and were good for the treatment and prevention of lack of appetite, fatigue, respiratory disease, poor endurance, sleeplessness, low resistance, nervousness and poor eating habits. Court papers also charged the products were represented for special dietary use as a means

of regulating the intake of protein, fat and carbohydrates to control body weight, but failed to bear consumer information required for such products.

The articles were shipped by the Fleetwood Company of Chicago, Ill.

The second seizure involved over 10,500 cans of La Lanne's Instant Breakfast plus 4,000 pamphlets titled "Weight Control," 1,800 pamphlets titled "Instant Breakfast," and 6,000 brochures titled "It's Fun to Live." The seizure was made in Los Angeles.

The cans were labeled in part "Jack La Lanne's Instant Breakfast. The Delicious New Way to Enjoy a Nutritious Low Calorie Breakfast in Just Seconds \*\*\* Formulated for La Lanne, Inc., Home Office, Hollywood 27, California \*\*\*"

FDA charged the product was misbranded while held for sale after shipment in interstate commerce because of labeling representing that the product is of special value for weight reduction due to its unusual quantity of protein; that it appeases hunger and satisfies the appetite; and that it furnishes in one can seven complete breakfasts each being more nutritional than a breakfast consisting of four ounces of orange juice, two eggs, two slices of bacon, a cup of black coffee, a slice of whole wheat bread and one pat of butter.

- FDA -

DEVICE SEIZURE MADE  
IN FDA INSPECTOR'S HOME

A Pulse-A-Rythm vibrating mattress with literature making therapeutic claims for arthritis and rheumatism was seized at the home of a Food and Drug Administration Inspector in Georgia. The claims were charged false and misleading.

The inspector answered a mail advertisement from Pulsnation Enterprises, Tampa, Fla., in May 1961. Last September, the Division Sales Manager of the Silent Daddy Corp., St. Petersburg, Fla., telephoned the inspector to say he had been selected as a prospective sales director because of his neat handwriting. The inspector hung up without committing himself. In October 1962 when the inspector returned from travel duty, he found the mattress and a sales kit.

The inspector submitted the literature from the sales kit and a seizure was approved. The U. S. Marshal accompanied the inspector to his house to effect the seizure.

In Seattle, a Federal judge signed a consent decree of condemnation against 121 "Beautylift" and "Scalp Stimulator" devices. The decree provides that the claimant, the Gabrielle Contouring Equipment Company, Fullerton, Calif., may salvage the product by relabeling under FDA supervision.

False therapeutic claims for the devices included statements that they were an adequate and effective treatment for the prevention of baldness, improvement of muscle tone, firming of skin tissue, prevention of stretching and sagging of the skin.

- FDA -

**DRAIN CLEANERS SEIZED;  
INADEQUATE LABELING CHARGED**

Large quantities of a drain opener and a drain cleaner were seized at Seattle, Wash., and St. Louis, Mo., on charges of violation of the Federal Hazardous Substances Labeling Act.

U. S. Marshals seized over 1,400 cases of Swish Drain Opener in labeled and unlabeled bottles, and quantities of Mr. Plumber (a drain opener) and Septic-Cure (a drain cleaner) at three establishments in the Seattle area, and a quantity of Mr. Plumber and Septic-Cure at a dealer near St. Louis.

Court papers said the products were manufactured by the Septic-Cure Co. of Visalia, Calif. The Swish product had been originally packed as Mr. Plumber and removed from the containers and repacked because of leakage. FDA said the products contain a high percentage of sulfuric acid, and were packaged in fragile plastic containers with poor closures which could reasonably be expected to leak.

FDA said the labels failed to bear all or part of the information required by law, such as the common or usual name or the chemical name of the hazardous substance, an affirmative statement describing the hazard, precautionary measures describing action to be followed or avoided, instructions for first aid treatment, the statement "Keep out of the reach of children," and the word "Poison."



INDUSTRY ACTS VOLUNTARILY TO  
IMPROVE CONSUMER PROTECTION

Foods

In November, 274,775 pounds (137 tons) of unfit foods were removed from human consumption channels in 133 voluntary compliance actions.

More than 67,000 pounds of insect-contaminated or fire-damaged wheat and flour, and over 18,000 pounds of poor quality milk and cream were converted to animal feed.

Some of the largest voluntary destructions involved rodent-contaminated macaroni, dry beans, popcorn, and candy (30,000 pounds), insect-infested mustard seed (17,300 pounds) cabbage containing non-permitted endrin residues (17,000 pounds), partly rotten tomatoes (15,600 pounds), and cereal products (10,419 pounds) that had become insect-infested in storage.

Drugs and Devices

In the interest of consumer protection the drug industry voluntarily withdrew from the market \$110,000 worth of products. Included were antibiotics which had lost potency due to unrefrigerated storage; old stock vitamin and mineral tablets; a water-damaged medicated feed premix; an antibiotic ointment that had been recalled because it was subpotent; reducing tablets contaminated with penicillin; new drugs marketed without clearance; outdated antibiotics; and injectable solutions found contaminated and nonsterile.

Health practitioners continued to respond to the roundup call, and voluntarily turned in or destroyed 48 more of the worthless Micro-Dynameters that sold for a total of \$36,683.

Plant Improvements

A number of firms made notable advances in their sanitation standards, and their investments reached \$1,569,262 in actual or estimated costs. These were the result of FDA inspection recommendations and the firms' own policies of continuous steps toward improved operations.

A Massachusetts manufacturer of bulk, food-grade gelatin made necessary repairs and installed stainless steel equipment at every point of contact with gelatin solutions. He spent \$1/2 million over a period of a year or so to improve sanitary operations.

An Indiana bakery invested a similar sum to replace old machinery and improve loading facilities for better handling of raw materials and finished bakery products.

Extensive changes were made throughout a large flour mill in Minneapolis to modernize the building and install equipment that will facilitate sanitary operations. The owners invested \$142,740 for the project.

A Massachusetts cheese manufacturer spent \$53,500 for building repairs such as new, easier to clean tile walls and replacement of old vats, tanks, and machinery, to protect against contamination of the cheese.

In order to improve sanitary storage facilities, a Virginia Extract Corporation is constructing a new building equipped with new sanitary facilities.

A New York State canner installed sorting and trimming equipment costing \$40,000 to prevent the canning of unfit raw stock.

An Ohio canner also installed new sorting and trimming equipment, new, more accurately controlled cooking units, and a better washing unit, at a cost of \$35,000.

A Connecticut candy manufacturer spent \$25,000 to install new filters in sirup tank filling lines, and a protective coating of the inner surfaces of the tanks to prevent contamination.

A Maryland drug firm purchased new laboratory equipment, repaired old facilities, and set up control systems which required the hiring of additional personnel at \$15,500 a year. Capital improvements cost \$45,900.

- FDA -

#### COCOA BEAN SEIZURE ONE OF FDA'S LARGEST

A half million bags of cocoa beans, valued at an estimated \$16.6 million, were seized at warehouses in Philadelphia and New York on charges of insect infestation and storage under insanitary conditions (Philadelphia lots) and insect infestation and mold (New York lots). The Philadelphia seizure was one of the largest in FDA's history.

U. S. Marshals seized 451,592 bags averaging 140 pounds apiece at Philadelphia Piers, Inc., Philadelphia, and 31,166 bags averaging 141 pounds apiece at the Pouch Terminal, Inc., warehouse at Staten Island, New York.

The insect contamination of the cocoa beans at Philadelphia was discovered after FDA inspected a New Jersey candy manufacturer and found infested beans which were traced to the Philadelphia warehouse. The New York lots were discovered by a routine inspection.

After proper fumigation, cleaning and separation of unfit stocks, FDA will recommend the release of the good material for processing and sale. The seizures will insure prompt action to clean and fumigate the beans and the warehouses, preventing further damage to the infested beans and preventing spread of the infestation to other lots of beans which were in good condition.

- FDA -

### POCKETBOOK PROTECTION

Economic violations such as short weight, substitutions and sub-standard quality were charged in 11 seizures of ten food products during November. The products included canned mushrooms, canned peaches and applesauce, a bakery pan coating, potato salad, cole slaw, frozen shrimp and wafer sticks, and an animal feed.

Seized were:

Richelieu Mushroom Sauce with Sliced Mushrooms, shipped by Kennett Canning Company, Kennett Square, Pa., seized at River Grove, Ill. Charged that small mushroom pieces were substituted for mushroom slices, and that the name, vignettes depicting mushroom slices, and label copy falsely suggest the article contains sliced mushrooms.

Gold Crest Canned Peaches, shipped by Gold Crest Canning Co., Concord, Ga., seized at Ashtabula, Ohio. Charged that its quality falls below the definition and standard of quality prescribed by regulations.

Corbett's Polly Peach Brand Canned Peaches, shipped by Corbett Sales Co., Tabor City, N.C., seized at Raleigh, N.C. Charged that it does not conform to the standards for canned peaches in that it is labeled as being packed in heavy syrup but is actually packed in light syrup, and it contains peaches of excessive hardness and units varying too much by weight.

Colony Bakery Pan Coating USP, manufactured by Colony Products Company, Los Angeles, Calif., seized at Chicago, Ill. and Portland, Oregon. Charged that mineral oil was substituted wholly or in part for vegetable oil, and that the label fails to bear the common name of each ingredient.

Comstock Peach Pie Filling, manufactured by Comstock Foods, Inc., Newark, N.J., seized at Pittsburgh, Pa. Charged short weight.

Manor Hill Potato Salad and Manor Hill Cole Slaw, manufactured by Manor Hill Salad Co., Inc., Baltimore, Md., seized at Elizabeth, N.J. Charged short weight.

Frozen Shrimp, shipped by Gulf Stream Quick Frozen Foods, Inc., Miami, Fla., seized at New Orleans, La. Charged decomposed and short weight.

Dutch Twins Creme Wafer Sticks, manufactured by Holland American Wafer Company, Grand Rapids, Mich., seized at Chicago, Ill. Charged short weight.

Miller Dehydrated Alfalfa Meal, manufactured by The Miller Feed Co., Defiance, Ohio, seized at Taunton, Mass. Charged crude fiber substituted for crude protein.

Tast-D-Lite Canned Pink Applesauce, manufactured by Fruit Growers Coop., Inc., Sturgeon Bay, Wis., seized at Richmond, Ind. Charged misbranded in that it contains an undeclared artificial color.

- FDA -

#### SUMMARY OF SEIZURE ACTIONS

Food Seizures -- Over 31,770 tons (63,610,049 pounds) of adulterated food were seized in 35 actions during November. Filth, spoilage and unsanitary handling accounted for most of the food seizures except for 22.5 tons of potatoes and over 10 tons of cabbage which contained nonpermitted chemical residues. Insect-contaminated cocoa beans made up the bulk - 31,711 tons - in the first group.

Eleven economic violations seizures totaled 31.8 tons. (See story on page 10.)

Drug and Device Seizures -- Charges of adulteration, substandard quality, and misbranding with false and misleading therapeutic claims resulted in 40 seizures. Included were a number of food supplements and vitamins claiming to be of value for dietary purposes; medical turpentine failing to bear adequate warnings; devices falsely promoted for diagnosis and treatment; "new drugs" marketed without prior safety clearance; a

veterinary product containing a nonpermitted food (feed) additive (diethylstilbestrol); and repacked physicians' samples.

Hazardous Substances -- Four drain cleaners were seized on charges of failing to bear the precautionary labeling statements required by the Federal Hazardous Substances Labeling Act.

Attachment:

List of Prosecutions and Injunctions

- 12 -

NOVEMBER 1962 CRIMINAL CASES CHARGING  
 VIOLATION OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

DEFENDANT	PRODUCT, PRINCIPAL VIOLATION CHARGED, AND SENTENCE
UNFIT FOODS	
Anthony G. Skoulas, t/a Universal Sweetheart Candies Loveland, Colo.	Candy prepared under insanitary conditions. Fined \$200.
H. V. Kell Co., Cairo, Ga.	Flour held under insanitary conditions. Fined \$250.
Dixie Egg Co., of Georgia, and Meyer Klempf Donalsonville, Ga.	Shipping decomposed eggs. Firm fined \$500; Klempf, \$250.
The Merchants Co., Inc., and James B. Powers Jackson, Miss.	Flour and cornmeal held under insanitary conditions. Firm and individual each fined \$225; total fine \$450.
P. P. Williams Co., and Edward H. Russell Vicksburg, Miss.	Flour and cornmeal held under insanitary conditions. Firm and individual each fined \$250; total fine \$500.
L. Meyer & Co., Inc., and Morris Meyer, pres., Samuel Greenbaum, secr.- treas. Irving Edelstein, mgr., Jersey City, N. J.	Shipping decomposed eggs. Firm fined \$20,000; individuals acquitted.
Associated Grocers Coop. of N. Mex., and Alfred G. Arthun Albuquerque, N. Mex.	Flour held under insanitary conditions. Firm fined \$250; charges against individual dismissed.
Frederick J. D. Felder, t/a Orangeburg Pecan Co., and Marion H. Felder, gen. mgr. Orangeburg, S. C.	Pecan products prepared and packed under insanitary conditions. Felders each fined \$250; total fine \$500.

DEFENDANT	PRODUCT, PRINCIPAL VIOLATION CHARGED, AND SENTENCE
Novelty Peanut Co., and Charles C. Bennett William R. Wilkins Dallas, Tex.	Candy prepared under insanitary conditions. Firm fined \$500; individuals, \$250 each; total fine \$1,000.
El Paso Macaroni Co., Inc., and Ernest Ponce El Paso, Tex.	Noodle products prepared under insanitary conditions. Company and Ponce each fined \$400.

**SHORT-WEIGHT FOODS**

Dixie Cookie Co., Inc., and Albert C. Dildy Jackson, Miss.	Shipping short-weight cookies. Firm and Dildy each fined \$250; fine suspended against individual.
Jas. H. Forbes Tea and Coffee Co., St. Louis, Mo.	Shipping short-weight spices. Fined \$850.

**ILLEGAL CHEMICALS IN FOOD**

DeKalb Agricultural Assn., Inc., and Archie R. Campbell Lubbock, Tex.	Shipping milo maize containing non-permitted pesticide chemical residues. Corporation fined \$500; Campbell placed on 1-year probation.
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**ILLEGAL SALES OF PRESCRIPTION DRUGS**

Goidel Drug Store, and Tillman G. Crane Edward E. Wells Ramon Lee Norris, Jr., Decatur, Ala.	Selling amphetamine and tranquilizers without physicians' prescription. Firm fined \$250; charges against individuals dismissed.
Julian B. McConnell, t/a McConnell's Pharmacy, and Wendell Lee Boatwright Atlanta, Ga.	Refilling of prescriptions for antibiotics and tranquilizers without physicians' authorization. McConnell fined \$200; trial date for Boatwright not yet set.
Paul Lee Parker, taxi driver Savannah, Ga.	Peddling amphetamine. Fined \$100 and placed on 2-year probation. (Terminated in November 1961 but not previously reported.)

440 FRAUDS AND QUACKERY AFFECTING THE OLDER CITIZEN

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 DEFENDANT  
 -----

PRODUCT, PRINCIPAL VIOLATION  
 CHARGED, AND SENTENCE  
 -----

ILLEGAL SALES OF  
 PRESCRIPTION DRUGS

Marvin Whitehead  
 Toccoa, Ga.

Peddling amphetamine. Sentenced to  
 12 months in jail.

Arthur C. Prewitt, t/a  
 Prewitt Drug Store  
 Kansas City, Mo.

Selling antibiotic without a physician's  
 prescription. Fined \$300.

James A. Nolen, t/a  
 Radium Springs Sanatorium  
 Salina, Okla.

Dispensing amphetamine, antibiotics,  
 hormones, and sedatives without  
 physicians' prescriptions. Fined \$6,000  
 and placed on 3-year probation.

Harrell's Gaston Ave.  
 Pharmacy, and  
 Eldridge C. Harrell  
 Ernest N. Stayton  
 Thomas M. Chastain  
 Ray Foster McCormick  
 Dallas, Tex.

Selling amphetamine, hormones, and  
 tranquilizers without physicians' pre-  
 scription. Defendants each fined \$200;  
 total fine \$1,000.

Need H. McGown, and  
 Clyde Wayne Carpenter,  
 pharmacists  
 Dallas, Tex.

Selling antibiotics, barbiturates, hormones,  
 and tranquilizers without physicians' pre-  
 scription. McGown and Carpenter each  
 fined \$300.

Delphine Waller, employee  
 (State Line Clinic)  
 Waskom, Tex.

Dispensing amphetamine without a  
 physician's prescription. Fined \$100.

Ernest E. Cline, t/a  
 Deadeye's Grill & Truck Stop  
 Glade Springs, Va.

Peddling amphetamine. Fined \$1,000  
 and placed on 5-year probation.



DEFENDANT	PRODUCT, PRINCIPAL VIOLATION CHARGED, AND SENTENCE
	MISBRANDED COUNTERFEIT DRUGS
Herman Michelson, t/a Dixie Drugs Louisville, Ky.	Selling counterfeit diuril. Fined \$200.
Elmer L. Phipps, t/a Phipps Drug Co., Oklahoma City, Okla.	Selling counterfeit reserpine. Fined \$500.

Mr. LARRICK. Thank you, sir.

In October 1961, the American Medical Association and the Food and Drug Administration were joint sponsors of a National Congress on Medical Quackery. This meeting provided a focal point for both Government and private organizations engaged in combating medical quackery. Participating in the meeting in addition to the cosponsors were several Federal agencies, representatives of State licensing and enforcement agencies, a number of individuals who are experts in the field of medical quackery, and representatives of about 60 other national organizations. The meeting stimulated an unusual amount of interest which has resulted in similar conferences being held at State and local levels throughout the country.

We maintain close liaison with agencies and organizations interested in curbing quackery. We work with these groups to coordinate our efforts in the areas of special interest to them and to promote consumer education programs.

There are areas in which the protection afforded elderly citizens could be strengthened only by new legislation. President Kennedy in his consumer protection message last March recommended a number of changes which would strengthen consumer protection under the Federal Food, Drug, and Cosmetic Act. Some of these recommendations were enacted last October as the Kefauver-Harris drug amendments. They will benefit the older consumer as well as the rest of the population by providing us with additional legal tools to assure that drugs are safe and effective.

The amendments also establish new safeguards for drug research, manufacture, and distribution; provide for more adequate information on drug labeling and advertising; and set up procedures for standardizing drug names.

Certain other recommendations by the President will need to be considered in the present Congress. There should be safety and effectiveness requirements for new therapeutic devices similar to those applying to new drugs.

Senator MUSKIE. Would that include premarket testing?

Mr. LARRICK. That would mean that before a therapeutic device was put on the market, the manufacturer would have to bring to the Department of Health, Education, and Welfare or more specifically the Food and Drug Administration proof that the machine is safe, and proof that it will do what its labeling says it will do.

This would eliminate, in the long run, these delays that you are concerned about, and would provide in this area of the health field that the proof of the pudding should occur before the eating.

There should also, in our opinion, be a requirement for premarket-testing safety testing of cosmetics; there should be an enforceable system to curb the illegal distribution of habit-forming sleeping pills and pep pills; and to institute more effective inspection of food, nonproprietary drug, cosmetic, and therapeutic device firms. These would strengthen consumer protection in general, including protection of our older citizens.

Exploitation of these citizens by health frauds and cheats is a despicable practice. It not only drains the resources of those least able to afford economic waste, but also jeopardizes the health of those who most need reputable medical advice and treatment.

To the extent that our facilities will permit, the Food and Drug Administration will continue the fight against products which victimize our elderly citizens.

We appreciate the opportunity of appearing here today.

Thank you very much.

(The documents referred to follow :)

RECENT ENFORCEMENT ACTIONS IN FEDERAL COURTS INVOLVING FOOD SUPPLEMENTS

[July 1, 1961 to December 31, 1962]

PRODUCTS SEIZED UNDER COURT ORDERS (CLOSED CASES)

*Product.*—Revco Vitamins and Minerals.

*Shipper.*—Regal Drug Co., Detroit, Mich.

*Charges.*—False and misleading therapeutic claims and labeling.

Vitamin A: Labeling and price list contain statements: "adequate and effective for treatment and prevention of infection, retarded growth, loss of vigor, to promote growth and vitality necessary for reproduction."

Vitamin C: "for prevention of improper formation of bones and teeth, tooth decay, hemorrhage, and muscular weakness."

Vitamin E: "for prevention of sterility, muscular dystrophy, failure of reproduction."

Formulas 101 and 202: "article supplies all the vitamins and minerals the ordinary diet does not furnish sufficiently. For treatment and prevention of nervousness, irritability, tenseness, to promote energy and pep, help maintain healthy skin, hair, and nails."

*Disposition.*—Consent decree. Literature destroyed. Portion of shipment of product released to claimant May 23, 1961. Remaining portion destroyed July 3, 1961.

*Product.*—Lem-O-C-Wafers.

*Shipper.*—Private Formulae, Inc., St. Louis, Mo.

*Charges.*—The product was represented as a food for special dietary use, but it failed to bear the special labeling for such foods prescribed by law. The label statement "Helps Build Resistance to Colds—Sinus Conditions—Allergies—Tooth Decay—Hay Fever," was false and misleading since the product was not effective for such purposes.

*Disposition.*—Default decree. Destroyed July 6, 1961.

*Product.*—"He-Man" Hematinic Tonic.

*Shipper.*—Registered Pharmaceuticals Ltd., Portland, Ore.

*Charges.*—False and misleading claims. Statements suggest that article is effective as a tonic for increasing the sexual potency and/or virility of man.

*Disposition.*—Default decree. Destroyed July 21, 1961.

*Product.*—Y-Min tablets and Vitamin C tablets, Granular Y-Min, Mineral-Vitamin tablets, concentrated dietary supplement.

*Shipper.*—Thurston Labs., Los Angeles, Calif.

*Dealer and Repacker.*—Yensen Mineral Co., Perma, Utah.

*Charges.*—False and misleading claims and labels; failure to bear common name of each ingredient, and information regarding its vitamin properties.

*Disposition.*—Default decree. Destroyed August 7, 1961.

*Product.*—Sacro-Disc-30 tablets.

*Dealer.*—Armisyl Products Co., Baltimore, Md.

*Charges.*—The name of the article and statements in the brochure which claim that the product is effective for treatment of backache, slipped disc, arthritis, rheumatism, etc., are false and misleading. The label fails to bear the name of the active ingredient thiamine hydrochloride.

*Disposition.*—Consent decree. Article and brochures destroyed August 8, 1961.

*Product.*—Ocean Aid (Sea Water).

*Shipper.*—Ocean Concentrate, Inc., Vero Beach, Fla.

*Charges.*—The labeling of the product, namely the bottle label and the placard entitled "Ocean Aid to Better Health Concentrated Ocean Water," contained statements which falsely suggested that the product was effective for better health, essential to health and well-being, and was effective for the treatment of disease of man. The label also falsely suggested that ordinary foods as consumed are lacking in all the trace minerals that are found in the product.

*Disposition.*—Default decree. Placards and article destroyed August 10, 1961.

*Product.*—Formula 13 protein supplement.

*Dealer.*—Nu-Age Corp., Minneapolis, Minn.

*Charges.*—The label contained statements which falsely suggested that the article supplied a sufficient amount of protein for special dietary supplementation. The label also falsely suggested that the article was effective to promote growth in children, to build vitality and endurance for all age groups, to develop athletic physiques, and to lose and gain weight.

*Disposition.*—Default decree. Article destroyed August 12, 1961.

*Product.*—Hadacol capsules.

*Shipper.*—Plough, Inc., (Hadacol, Inc.), Memphis, Tenn.

*Charges.*—Labeling of product made false claims of effectiveness for treatment of tiredness, constipation, headaches, grouchiness, washed-out appearance, wornout condition, iron deficiency anemia, etc.

*Disposition.*—Default decree. Destroyed August 23, 1961.

*Product.*—Worthall multiple vitamins; Worthall vitamin C; Worthall vitamin E; Worthall vitamin B; Magnivil vitamins and minerals; daily ration with minerals; Soluvil Ovalettes multiple vitamins; daily ration multiple vitamins.

*Shipper.*—Preston-National Drug Co., Dallas, Tex.

*Charges.*—False and misleading therapeutic claims in the labeling literature for the prevention and treatment of many diseases and conditions including arthritis, colds, sterility, liver diseases, and alcoholic overindulgence.

*Disposition.*—Consent decree. Misbranding labels and literature destroyed, article relabeled August 8, 1961.

*Product.*—Honeymalt.

*Shipper.*—The Honeymalt Co., Philadelphia, Pa.

*Charges.*—False and misleading name and label statement, "The Goodness of Malt" since the product does not contain malt; false and misleading label statements which suggest that the product is effective to promote health, supply quick energy without sugar, and promote digestion with enzyme action; and that the honey and maltose of the article supplies all vitamins and minerals in significant amounts for special dietary use.

*Disposition.*—Default decree August 29, 1961. Destroyed September 29, 1961.

*Product.*—Coldene vitamin tonic with iron.

*Shipper.*—Pharma-Craft Corp., Cranbury, N.J.

*Charges.*—False and misleading labeling claims for rundown conditions, and for use in convalescence from colds, flu, and similar illness; and other charges.

*Disposition.*—Default decree July 6, 1961. Destroyed October 4, 1961.

*Product.*—Concentrated pure Atlantic water.

*Shipper.*—The Florida Sea Brine Labs, Inc., Lakeland, Fla.

*Charges.*—False and misleading therapeutic claims for a number of serious diseases including cancer, arthritis, and diabetes; labeling literature (reprints of "Worry Clinic" by Dr. George Crane) makes false and misleading statements that the product is a "chemical smorgasbord" for body glands, providing for the proper function of the pancreas, thyroid, stomach, bone marrow, and other

organs and glands to guard health and prevent sickness, and that the user may achieve better health by use of the product.

*Disposition.*—Condemned by court order September 29, 1961. Destroyed October 18, 1961.

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*Product.*—Family plan Vita-Food supplement.

*Shipper.*—Mace Laboratories, subsidiary of T. A. Rawson, Inc., Fort Worth, Tex.

*Charges.*—False and misleading claims in the labeling literature that the product will maintain the body balance; promote health, the reproductive processes, and growth; tone the body; promote assimilation; that it is impossible to obtain adequate amounts of vitamins and minerals in the ordinary food supplies for proper nutrition; that the product contains every known vitamin and mineral needed by growing children; and that the article complies with the U.S. food and drug laws. Also charged that required information regarding special dietary properties was in part omitted.

*Disposition.*—Condemned by court order October 23, 1961. Destroyed October 26, 1961.

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*Product.*—Haug's Safflor (safflower oil) capsules.

*Dealer (Repacker).*—Haug Drug Co., Milwaukee, Wis.

*Charges.*—False and misleading labeling claims for controlling the cholesterol level of the blood, and for the treatment and prevention of heart disease and atherosclerosis; and other charges.

*Disposition.*—Default decree October 10, 1961. Destroyed October 26, 1961.

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*Product.*—Protorulis tablets (torula yeast).

*Dealer (Repacker).*—Beacon Products, Chicago, Ill.

*Charges.*—False and misleading labeling claims that the product will promote body building and that the product will supply significant amounts of protein, cobalt, chloride, nickel, lead, aluminum, manganese, zinc, sodium, silicon, and other factors for special dietary supplementation; failure to bear required special dietary use information.

*Disposition.*—Default decree July 28, 1961. Destroyed November 7, 1961.

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*Product.*—National Lecitabs (Lecithin) tablets.

*Shipper.*—National Lecithin, Inc., Chicago, Ill.

*Charges.*—False and misleading therapeutic labeling claims for promoting utilization of fat and lowering blood cholesterol; and other charges.

*Disposition.*—Default decree October 31, 1961. Destroyed December 6, 1961.

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*Product.*—Nutri-Kings food supplement (vitamins and minerals).

*Shipper.*—Universal Nutritions, Inc., New York, N.Y.

*Charges.*—Listing on the label of 23 ingredients, including watercress, Pacific coast kelp, parsley, and alfalfa leaves falsely suggests that the ingredients are present in nutritionally significant quantities for special dietary purposes, which is not true; labeling claims for treatment and prevention of many ailments including weak blood, poor eyesight, and poor teeth, and that the product would bolster health, increase energy, stimulate alertness, etc., are false and misleading.

*Disposition.*—Consent decree December 7, 1961. Destroyed December 14, 1961.

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*Products.*—Honey, vinegar, and sea kelp (health food).

*Dealer.*—Health Food Sales Co., Denver, Colo.

*Charges.*—That all products were misbranded by false and misleading claims in accompanying labeling which included the books, "Folk Medicine" and "Arthritis and Folk Medicine" by D. C. Jarvis, M.D. Therapeutic claims alleged to be false and misleading included high blood pressure, heart disease and

heart attacks, stomach and intestinal ulcers, arthritis, obesity, diseases of the gall bladder, and infections of the lungs and kidneys.

*Disposition.*—Consent decree. Relabeled December 19, 1961.

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*Product.*—Cernelle Pollitabs.

*Dealer.*—Poll-N-Co., Inc., Maitland, Fla.

*Charges.*—False and misleading labeling for pernicious anemia, retarded growth in children, loss of appetite, weakness neurological disorders, ailments of the skin, nutritional anemia, strengthening the blood, growth and health, and producing energy; also that pollen is the richest, most potent plant source of vitamin B<sub>12</sub> and is superior to the synthetically produced vitamin and that the article contains significant amounts of various vitamins and minerals for special dietary use.

*Disposition.*—Consent decree. Destroyed December 21, 1961.

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*Product.*—Mineral Life Capsules.

*Shipper.*—Nutritional Progress Scientific Co., Logan, Utah.

*Charges.*—False and misleading therapeutic claims in labeling leaflets for treatment and prevention of over 40 diseases and conditions, including cancer, heart trouble, rheumatoid arthritis, and overweight. The product is a drug made from more than one ingredient and the label fails to bear the common or usual name of each active ingredient.

*Disposition.*—Consent decree September 13, 1961. Destroyed December 27, 1961.

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*Product.*—Sears Approved Liver, Iron, Folic Acid Vitamin B-12 and C Formula.

*Shipper.*—Rexall Drug & Chemical Co., St. Louis, Mo.

*Distributor (label).*—Sears, Roebuck & Co., Chicago, Ill.

*Charges.*—The label statement, "a dietary supplement fortified with elements to aid red blood cell formation" is false and misleading since the article is not adequate and effective for such purpose. Label statement that each capsule is a rich source of B-complex factors is false and misleading since the article contains an insignificant amount of liver for special dietary use. Product contains folic acid, a food additive not cleared for safety under the food additive amendment.

*Disposition.*—Default decree. Destroyed January 10, 1962.

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*Product.*—"Sea Brine" concentrated sea water.

*Shipper.*—Florida Sea Brine Laboratories, Inc., Lakeland, Fla.

*Charges.*—Misbranded by false claims on the label and the accompanying labeling namely a leaflet entitled "Sea Brine \* \* \* from ocean to you," that the label was a "U.S. court approved label" and that the article was of significant value, by reason of its iodine content, for special dietary and therapeutic use for promoting the activity of the thyroid gland and the production of the hormone thyroxin.

*Disposition.*—Default decree. Articles and leaflets destroyed July 24, 1962.

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*Product.*—Super Plenamins Junior Liquid, Super Plenamins Multivitamins.

*Shipper.*—Rexall Drug Laboratory, St. Louis, Mo.

*Charges.*—

Super Plenamins Junior Liquid: False and misleading labeling claims for nervous irritability, constipation, indigestion, and loss of energy in children; and other charges.

Super Plenamins Multivitamins with Minerals: False and misleading labeling claims for lack of appetite, loss of energy, nervous irritability, insomnia, constipation, indigestion, run-down condition, and listlessness; and other charges.

**Super Plenamins Junior tablets:** False and misleading labeling claims for lack of appetite, loss of energy, listlessness, nervous irritability, insomnia, constipation, indigestion, and run-down condition in growing children; and other charges.

**Disposition.**—Consent decree July 28, 1961. Misbranding labeling destroyed, goods relabeled January 11-12, 1962.

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**Product.**—Johnson's 16-Vitamins-16 With 6-Minerals-6 tablets.

**Dealer.**—Lura-Glo Products, Inc., Oakland, Calif.

**Charges.**—False and misleading labeling for retarded growth, respiratory infections, nervous disorders of all types, colitis, anemia paralysis, degeneration of sex glands, tuberculosis, cholesterol in the blood, and loss of hair.

**Disposition.**—Condemned by court order January 10, 1962. Destroyed January 15, 1962.

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**Product.**—Alfa-Kelp Tablets.

**Shipper.**—Randal Nutritional Laboratories, Santa Rosa, Calif.

**Charges.**—False and misleading label statements suggest that the product is of significant benefit for special dietary use because it contains dehydrated alfalfa juice, dehydrated alfalfa seed sprouts, chlorophyll, trace minerals, enzymes, and vitamins generally natural to alfalfa.

**Disposition.**—Default decree. Destroyed January 30, 1962.

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**Product.**—El Molino Kitchens mineralized molasses cookies and wheat germ cookies.

**Shipper.**—El Molino Mills, Alhambra, Calif.

**Charges.**—The name of the product and statements appearing in its labeling (display case) falsely represented that the products were of special benefit for special dietary use by reason of the addition of organic natural minerals, and that all such minerals were present in significant amounts for special dietary use. The accompanying leaflets and product labels falsely represented the product as effective for treating and preventing borderline conditions with indefinite symptoms, instability of the nervous system, lack of energy, lowered resistance to disease, aches, and pains; for regaining and maintaining health; and for promoting vigor, proper growth, and repair of tissues.

**Disposition.**—Consent decree. Products destroyed November 7, 1961.

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**Product.**—Torrance's 19 Aminos Tablets; Torulose tablets and powder (yeast); JerOtene capsules.

**Dealer and Repacker.**—Jerico Laboratory, Division of the Torrance Co., Kalamazoo, Mich.

**Charges.**—Misbranded by false and misleading claims in labeling. Products and claims included:

Torrance's 19 Aminos Tablets: for supplying a significant amount of protein for special dietary supplementation after severe injury, for promoting growth in children, for use during pregnancy and lactation.

Torulose Tablets and Powder: for promoting radiant health and for developing champions.

JerOtene Organic Carotene A Capsules: for promoting growth, appetite, and digestion; for maintaining a healthy appearance of hair and fingernails, and a healthy balance of epithelial and nerve tissues; and for preventing infection of the respiratory system.

**Disposition.**—Consent decree. Articles relabeled in compliance with the law, December 19, 1961.

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**Product.**—Protectomine Tablets (high potencies of all the needed vitamins with minerals and other factors).

**Shipper.**—American Diet aids Co., Inc., Yonkers, N.Y.

*Charges.*—Misbranded by false claims on bottle labels and in accompanying literature that the products were effective for treating and preventing rundown and wornout conditions, nervousness, listlessness, half-alive feeling, lowered resistance, tension, irritability, premature aging, eye troubles, teeth cavities, and pyorrhea.

*Disposition.*—Consent decree. Product destroyed January 12, 1962.

*Product.*—Mirandol (Multi vitamin and mineral tablets).

*Dealer.*—National Health Products, Chicopee, Mass.

*Charges.*—Misbranded by false and misleading claims in leaflets and folders that the product was effective for treating and preventing arthritis, anemia, poison in the body, kidney troubles, insomnia, premature old age, and other diseases and conditions.

*Disposition.*—Consent decree. Misbranding literature destroyed, product relabeled January 24, 1962.

*Product.*—Hilcoa Food Supplement

*Shipper.*—The Hilcoa Co., Oakland, Calif.

*Charges.*—The label statement "Protein with Lecithin Food Supplement" suggested that the protein and lecithin in the product were present in significant amounts for special dietary use. This statement was false and misleading since the protein in the product was present in insignificant amounts for such purposes, and lecithin has no special nutritional significance.

The label statement "Twice, three times, or even more than the recommended daily intake may be desirable to augment your normal diet" was misleading since it suggested that a daily intake of over 108 tablets of the product was nutritionally desirable and that the normal diet requires supplementation with protein and lecithin.

Labeling literature, including sales manuals, contained statements which suggested that the "Vitamins and Minerals" product was significantly more effective for special dietary use when consumed with the "Protein With Lecithin" and that the combination of both products resulted in a complete program for special dietary use; that the products, under the directions for use, would supply the minimum daily requirement for protein; that most individuals do not get enough proper wholesome food because of nutritional losses resulting from storage, processing, cooking, and selection practices; that the products supplied an abundance of high quality protein to correct improper protein intake; that the average consumption of protein is less than 50 percent of the minimum daily requirement; and that the lecithin in the products would supply for special dietary use a significant amount of essential unsaturated fatty acids and an abundance of important elements found in all living cells. These statements were charged false and misleading.

*Disposition.*—Consent decree. Products destroyed, May 1, 1962.

*Product.*—All-In-One Capsules (Dietary supplement).

*Distributor.*—State Pharmacal Co., Chicago, Ill.

*Charges.*—Misbranded by false claims in accompanying literature that the product was effective for treating obesity, controlling the appetite, giving the feeling of a full, contented stomach when reducing, and keeping its consumer feeling fine while losing weight. Statement "Malt diastase 25.00 mg." and "with \* \* \* Digestive Ferments" were charged misleading because they suggested that the product, as a special dietary food, would supply significant amounts of malt diastase and digestive ferments to promote digestion. The addition of enzymes to the diet is of no value for special dietary food purposes.

*Disposition.*—Default decree. Product destroyed, February 1, 1962.

*Product.*—Nemco Vitamin Products.

*Dealer.*—George Nemiroff and Co., Inc., New York, N. Y.

*Charges.*—Misbranded by false and misleading claims that products containing a specific vitamin would provide special benefits as follows:

Vitamin A: For preventing night blindness; maintaining resistance, promoting cell growth, and assuring normal reproductive function;



**Vitamin B<sub>1</sub>:** For aiding in the digestion of starches and sugar, health and motility of the intestinal tract, vital support for the liver, proper function of the nervous system, and in various forms of neuritis;

**Vitamin B<sub>2</sub>:** For guarding against sore mouth and tongue, and granular eyelids;

**Vitamin B<sub>6</sub>:** For supporting the digestion of fats and proteins, and aiding in certain skin and nervous disorders;

**Vitamin B<sub>12</sub>:** For aiding in maturing of blood cells, metabolizing nerve tissue, and promoting growth of the underdeveloped child;

**Vitamin C:** For guarding against gum diseases, aiding in the function of certain glands, helping to build and strengthen the cement-like substances in the blood vessels, treating physiological and psychological stress, inflammatory conditions, virus and infectious diseases, and allergies; healing wounds and severe burns; and preventing simple colds;

**Vitamin E:** For helping cell metabolism and fertility and treating and preventing coronary artery disease, threatened abortion, and muscular atrophy;

**Vitamin K:** For forming blood clotting substances originating in the liver, and correcting an increased tendency to bleed;

**Folic acid:** For improving the utilization of proteins and amino acids;

**Niacinamide:** For guarding against skin disorders, and promoting utilization of some of the protein factors.

It was charged that the diseases, symptoms, and conditions mentioned are rarely, if ever, caused by a dietary deficiency of the vitamins mentioned, and use of the products would not prevent or correct such conditions.

The products were further misbranded by false and misleading claims that practically everyone in this country is suffering from, or is in danger of suffering from, a serious dietary deficiency of vitamins and minerals which is likely to result in specific deficiency diseases including rickets, pellagra, scurvy, and goiter, as well as a great number of nonspecific symptoms and conditions; that such dietary deficiency is due to loss in the nutritive value of foods caused by the growing of foods on depleted soils and by the storage, processing, refining, shipping, and cooking of foods; that there are increased needs for nutrients by the ordinary individual, due to physical and psychological stress, increased intakes of starches and sugars, and the limitation of diet below adequate levels because of a sedentary mode of life; and that it is considered by health authorities to be advisable and even essential to supplement the diet with vitamins and minerals in order to prevent deficiencies of vitamins and minerals.

Claims for specific products charged false and misleading were—

**Nemco-Vite multivitamins:** For preventing and treating anemia and liver damage essential to blood formation, better nutrition and health; for prolonging life and causing one to live a useful, zestful, and comfortable life; for skin conditions because of the vitamin F ingredient.

**Nemco-Vite and Vitascorbic:** For treating pernicious anemia (misleading since the amount of intrinsic factor provided by the products is an insignificant fraction of the necessary daily amount of the substance needed when the body fails to produce its own supply in pernicious anemia).

**Vitascorbie:** For preventing and treating anemia, grayish pallor of the skin, lassitude, mental depression, digestive upsets; beneficial effect on the intestinal flora; building new red blood cells; and adding years to one's life.

**Nem-B-Globin:** For treating all types of anemia, including pernicious anemia, headaches, listlessness, poor appetite, shortness of breath, frequent bleeding, general washed-out feeling; promoting better absorption and utilization of protein, and growth in the underdeveloped child; and aiding in maturation of blood cells and metabolism of nerve tissues.

**Nemco Geriatric Elixir:** For adding years to one's life, prolonging virility, retarding the complaints of later years, preventing tiredness and insomnia, and speeding up recovery after exertion.

**Nemco-Bild:** For body building, appetite boosting and treating retarded growth, improving protein utilization; and aiding in converting vegetable protein to the equivalent of the energy-building meat protein.

*Disposition.*—Consent decree. Products given to charity, April 24, 1962.

*Product.*—Norris (brand of vitamins, minerals, and lecithin).

*Dealer.*—Textile Mart (Jay Norris Co., and Norris Nutritions), New York, N.Y.

*Charges.*—Claims on bottle labels and in dealer's catalog that certain diseases, symptoms, and conditions are usually and frequently caused by deficiencies of certain vitamins or minerals, and that use of one of the firm's products would correct and prevent such conditions, charged false and misleading.

Products and claims were—

Vitamin B<sub>12</sub>: For poor growth, poor appetite, nutritional anemia.

Vitamin A: For poor growth, unhealthy skin, poor eyesight, infections, and colds.

Vitamin B<sub>1</sub>: For loss of appetite and muscle tone and vague aches and pains.

Vitamin B complex with iron and vitamin C: For tired washed-out feeling, tense and unsteady nerves, lost vitality; and unhealthy gums, teeth, bones, and blood vessels.

Vitamin E: For sterility, nonpregnancy, and muscular and nervous disorders.

One daily small vitamins; one small fortified multiple vitamins and minerals; therapeutic vitamins and minerals; superpotency vitamins and minerals; and prenatal capsules; (all products were combinations of vitamins A, B<sub>1</sub>, B<sub>2</sub>, B complex, E and C and were promoted with the same claims as for each vitamin separately.)

Further charges of false and misleading claims were brought against the products included claims that they were effective for treating and preventing a number of diseases:

Therapeutic vitamins and minerals: for insomnia and loss of weight.

Superpotency vitamins and minerals: For nervous tension, lowered resistance to illness, help in metabolizing fat, fighting stress and digestion, and relaxing nerves.

Prenatal capsules: for leg cramps, anemia, tooth decay, weak blood vessels, nervous tension, combating nausea; for maintaining the health of pregnant women and their unborn babies.

Lecithin capsules: for aiding in the utilization and transportation of fat, preventing and removing fatty deposits, preventing and eliminating the cholesterol deposits of arteriosclerosis, and controlling hypercholesteremia.

Citrus bioflavonoids with vitamin C: for common colds, unhealthy gums, teeth, bones, and blood vessels; fatigue, healing wounds, and preventing anemia.

*Disposition.*—Consent decree. Products destroyed May 18, 1962.

*Product.*—Coldene Vitamin Tonic with Iron.

*Shipper.*—Pharma-Craft Corp., Cranbury, N.J.

*Charges.*—Misbranded by false claims representing the product as effective for preventing and treating rundown conditions and for use in convalescing from colds, flu, and similar illness. The name of the product "Coldene Vitamin Tonic with Iron" and label statement "Therapeutic tonic" was misleading since the product was not adequate and effective as a "vitamin tonic," and it contained only the vitamin B grouping and methionine, and not vitamins in general.

*Disposition.*—Decree of condemnation. Product destroyed April 26, 1962.

*Products.*—Proten A tablets and powder, Proten V tablets and powder, geriatric liquid and tablets.

*Shipper.*—Wm. T. Thompson Co., Los Angeles, Calif., and St. Louis, Mo.

*Charges.*—Misbranded by false claims in accompanying labeling including placards, leaflets, bottle labels, and window display banners. Products and claims included:

Proten V and Proten A tablets and powder: products are three and four times higher in protein content than meat (misleading since the products did not supply a significant amount of protein under the recommended directions for special dietary uses and since the products were compared with meat on a basis other than as such foods are consumed); products are a low-calorie food and will supply significant amounts of energy for heavy physical workers and athletes and additional reserve for light physical

workers, elderly people, and children. It was further claimed that the products were adequate and effective for developing athletes, weight reducing, supplying pep through increased protein intake, restoring those mentally and physically fatigued, making the user feel and look better, appeasing appetite, and building healthy bodies, and new tissue, promoting growth in children, repairing tissues after wasting illness; and supplying protein in instances of tissue wastage, anemia, bone atrophy, and edema.

Geriatric liquid and tablets: special ingredients of the products are of significance for special dietary use; products provide digestive and nutritional factors to restore and maintain, at high levels, physiological processes which tend to slow down with aging; a digestive nutritional tonic and a therapeutic aperitif; a "fountain of youth" formula; minerals are more effective in solid rather than liquid formulation; products are effective for treating and preventing premature aging, sickness, indigestion, poor appetite, fatigue, nervousness, irritability, low resistance to simple infections, frequent colds, pains and weakness in limbs, bleeding gums, headaches, listlessness, loss of weight, lack of energy, insomnia, dry, itching skin, and "old-age slowdown;" will restore useful normal lives and ability to keep up with younger people, will promote vigor, vitality, and a feeling of general well-being for people over 40; will cause users to be youthful appearing, vigorous, and healthy at 70.

*Disposition.*—Consent decree of condemnation. Products destroyed May 22, 1962.

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*Product.*—Alfa-Lite alfalfa tablets

*Distributor.*—Pasco Products, Inc., Forest, Miss.

*Charges.*—Misbranded by false claims in repack package labels and accompanying labeling that the product was effective for treating arthritis, rheumatism, sciatica, bursitis, body aches and pains, and joint swellings.

*Disposition.*—Default decree. Products destroyed March 8, 1962.

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*Product.*—Nutri-Plex food supplement

*Dealer.*—Nutri-Foods & Products Co., Sarasota, Fla.

*Charges.*—Misbranded by false and misleading claims in leaflets and lectures by Dr. Jonas E. Miller, owner of Nutri-Foods, that the product was effective for treating and preventing heart conditions, thrombosis, bleeding, nervous disorders, skin troubles, mental aberration, cretinism, cancer, poor teeth, flu, hardening of the arteries, strokes, stomach ulcers, and other conditions and diseases. The labeling failed to bear adequate directions for the recommended uses.

*Disposition.*—Default decree. Products destroyed August 13, 1962.

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*Product.*—Washburn's special dietary foods

*Shipper.*—L. Washburn, Inc., Boulder, Colo.

*Charges.*—Misbranded by false and misleading claims on carton labels. Products and claims included:

Vitality cereal: An unusual balance of bodybuilding elements, vitamins, minerals, proteins, carbohydrates, and enzymes for promoting vitality; rich in biologically perfect protein.

Millet meal pancake and muffin mix with sesame seed: A protein mix containing complete cell-building proteins equal in food value to meat, non-fattening, the only grain containing all 10 essential amino acids; effective for lowering the cholesterol level of the blood.

Protein cookie mix and protein doughnut mix: High in complete protein and nonfattening; effective for building energy without weight gain.

Fenugreek tablets and seed: labeling failed to bear adequate directions for use in dissolving excess mucus, cleansing kidneys, gallbladder, liver, and bloodstream; cleansing, energizing the system; controlling weight; hastening healing of skin wounds and irritations; reducing fevers, treating inflamed mucous tissues in colds, diarrhea, and prostate infections, conditions for which the products were offered for sale.

*Disposition.*—Consent decree. Products destroyed May 21, 1962.

*Product.*—Special 10 with vitamin B<sub>12</sub>, geriatric formula

*Dealer.*—East Vitamin Products, Rochester, N.Y.

*Charges.*—Misbranded by false and misleading statements in accompanying leaflets, order forms, and reprints that the products were effective for treating and preventing loss of pep and vigor, premature aging, colds, heart disease, gastroenteritis, senile dementia, inflamed eyes, feebleness; for sound teeth, nerves, bones; and muscle tissue; and by additional claims that food supplies generally available and as consumed are incapable of meeting all requirements for essential vitamins, and that most people require vitamin supplementation for the normal diet.

*Disposition.*—Consent decree to be relabeled. Dealer violated consent decree, bond forfeited May 31, 1962.

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*Product.*—Nutri-Health Products (dietary supplements)

*Dealer.*—World-Wide Nutri-Health, Inc., Pittsburgh, Pa.

*Charges.*—Misbranded by false claims in accompanying labeling, including sales manuals and folders, film strips, and books, that the product was effective for treating and preventing cancer, heart attacks, mumps, measles, and chicken pox; for promoting youth virility, radiant health, sound eyesight, and keeping the user attractive until an old age; and that it would provide nutrients which would make the American diet equivalent to that of the long-lived people of the Hunza area in the Himalaya Mountains.

*Disposition.*—Consent decree. Misbranding literature destroyed, vitamin and mineral tablets given to charity, March 28, 1962.

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*Product.*—Biplex B<sub>12</sub>.

*Dealer.*—Daw Drug Co., Inc., Rochester, N.Y.

*Repacker.*—Vitamin Capsules Corp., Buffalo, N.Y.

*Charges.*—Misbranded by accompanying literature used to promote the product through false claims that it was effective for treating tiredness, rundown condition, and nervousness; building blood rapidly and its use resulted in feeling better, stronger, and more alive.

*Disposition.*—Consent decree. Products relabeled, February 23, 1962.

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*Product.*—Numanna Nutritional Supplement (Vitamins).

*Dealer and repacker.*—Associated Nutritional Labs, Jefferson, Ill.

*Charges.*—Misbranded by repack carton labels and accompanying leaflets which represented the product as significantly valuable for special dietary supplementation because of its protein and enzyme content; that it contained vitamins P and H and was scientifically balanced the natural way; that nutritional requirements of people over 40 years of age are different from adults generally; and that the product had special effect in conditions of extraordinary physical and mental stress.

*Disposition.*—Consent decree. Product destroyed, March 30, 1962.

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*Product.*—Nutri-Bio Food Supplement Products.

*Dealer.*—Warren S. King, Grand Prairie, Tex.

*Charge.*—Misbranded by false claims made in dealer's sales talk at a private home in which the products were represented as effective for treating and preventing asthma, heart conditions, overweight and underweight, enlarged heart, sore throat, colds, baldness, fatigue; for building up resistance to all kinds of diseases; and for preventing the loss of teeth.

*Disposition.*—Default decree. Products destroyed, June 19, 1962.

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*Product.*—DePree Geriatric Capsules.

*Dealer and repacker.*—The DePree Co., Holland, Mich.

*Charges.*—Misbranded by false claims in the repack label and accompanying promotional literature that the product was a complete balanced vitamin and mineral formula; and was effective for treating and preventing mental depression, common colds, low energy, conditions due to stress and strain, poor health, degenerative diseases, cardiovascular diseases, rheumatic disorders, gastroin-

tetinal disturbances, loss of appetite, diabetic and varicose ulcers, improper clotting of the blood, heart muscle deterioration, dropsy, and retarded growth.

*Disposition.*—Consent decree, February 16, 1962, products to be relabeled. Misbranding literature destroyed February 21, 1962.

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*Product.*—Hayden's Wheat Germ.

*Shipper.*—Kynamic Kernels Foundation, Inc., Tecumseh, Mich.

*Charges.*—Misbranded by false claims in the label that the product was effective for treating neuritis and arthritis and for promoting regularity.

*Disposition.*—Consent decree. Products relabeled, April 6, 1962.

*Product.*—National Lecitabs, Lecithin Tablets.

*Shipper.*—National Lecithin, Inc., Chicago, Ill.

*Charges.*—Misbranded by false claims that the product was of significant value for special dietary supplementation because it contained lipotropic factors, cephalin, and linoleic and linolenic acids; and that it was effective for promoting utilization of fat, and for lowering blood cholesterol.

*Disposition.*—Default decree. Products destroyed, April 20, 1962.

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*Product.*—Vitamin B<sub>12</sub>, B<sub>1</sub>; King's Elixer Vinivita.

*Shipper.*—E. W. Heun Company, St. Louis, Mo.

*Charges.*—Misbranded by false and misleading claims in bottle labels that the products were effective for the following:

Vitamin B<sub>12</sub>, B<sub>1</sub>: for promoting appetite and growth in a child who does not eat adequately or well, as an adjunct in treating the chronically ill or undernourished child, as a nutritional supplement in chronic diarrhea and celiac diseases, for shortening convalescence through increasing the appetite.

Elixer Vinivita: for treating or preventing chronic fatigue, poor appetite, and iron and vitamin deficiencies.

*Disposition.*—Default decree. Products destroyed, February 13, 1962.

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*Product.*—Benson's Viritabs.

*Shipper.*—Benson Pharmacal Corp., Newark, N.J.

*Charges.*—Misbranded by false claims on the bottle label that the product was effective for treating sexual impotence, lack of virility and vigor, weakening of sexual potency, hypogonadism, benign prostatic hypertrophy; and for stimulating energy and rejuvenating youth.

*Disposition.*—Default decree. Products destroyed January 10, 1962.

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*Product.*—Biotto Vegetable Juices.

*Dealer.*—Kahn and Lessin, Los Angeles, Calif.

*Charges.*—Misbranded by false and misleading claims in accompanying reprints of magazine articles and posters which represented the products as effective for treating and preventing fatigue, chronic disturbances of the gastrointestinal tract, unspecified dermatoses, nervous, and over-strained conditions, anemia, improper blood pressure, rheumatism, cardiac conditions, and cancer. The labeling failed to bear adequate directions for the recommended uses.

*Disposition.*—Default decree. Delivered to charity home, June 26, 1962.

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*Product.*—Over 40 Vitamin and Mineral Tonic.

*Shipper.*—The Vitarine Co., Inc., New York, N.Y.

*Dealer.*—Over 40 Health Products Co., Kansas City, Mo.

*Charges.*—Misbranded by false and misleading claims in labels and accompanying leaflets that the product was effective for treating and preventing premature aging, weakness, tiredness, rundown condition, irregularity, digestive upset, irritability, "half-alive" feeling; building up the blood; and an additional claim that  $\frac{3}{4}$  of the people are not getting the quality and quantity of food required to prevent vitamin and mineral shortages.

*Disposition.*—Default decree. Product destroyed July 19, 1962.

*Product.*—Nutri-Bio Food Supplement Products.

*Shipper.*—Nutri-Bio Corp., Beverly Hills, Calif.

*Dealers.*—Laura H. Nocero, Ben Schulz, and Ralph Tatro, all of Buffalo, N.Y.

*Charges.*—Misbranded by false claims in accompanying promotional literature that products would cause the user to be alert, pleasant, calm, vibrant, feel well, and have a zest for living. They also bore false claims for promoting mental and physical health, happiness, sociability, enthusiasm, liveliness, vigor, awareness; and that they were of significant value for special dietary supplementation and therapeutic use because of the ingredients of unsaturated fatty acids, inositol, paraminobenzoic acid, rutin, biotin, bioflavonoid complex, hesperidin complex, choline, alfalfa, potassium, sulfur, copper, zinc, manganese, magnesium and montmorillonite; and that everyone needs a food supplement. The products were further misbranded in that the labeling failed to bear adequate directions for use in treating and preventing hemorrhage of the eyes, diabetes, high blood pressure, arthritis, and bursitis, for which they were offered in a sales talk at a private home.

*Disposition.*—Products destroyed, May 28, 1962.

*Products.*—Blake Vitamin and Mineral Tablets and Capsules.

*Shipper.*—L. Perrigo Co., Allegan, Michigan.

*Charges.*—Misbranded by false and misleading claims in the accompanying labeling booklet that the products were effective for treating and preventing colds, infections, pernicious anemia, faulty bone and tooth development, cramps in calf muscles, nervousness, heart trouble, insomnia, constipation, vaginitis, sore tongue, lack of appetite, difficulty in walking, cutaneous hemorrhages, muscle degeneration, stunted growth, susceptibility to infection, and enlargement of wrists, knees, and ankles.

*Disposition.*—Consent decree. Articles relabeled, October 8, 1962.

*Product.*—Hesperidin + C and Hesperin A-C Tablets.

*Dealer.*—Biopharmaceuticals, Inc., Warrenton, Oreg.

*Charges.*—Misbranded by false claims in accompanying labeling that the products were effective for treating disease states having capillary involvement, respiratory infections, habitual abortion, rheumatic disease, gastrointestinal hemorrhage, arthritis, little strokes, duodenal ulcer, retinitis, and viral infections, and that they possessed greater anti-inflammatory capacity than cortisone and ACTH.

*Disposition.*—Default decree. Articles destroyed, February 3, 1962.

*Product.*—Biotta Vegetable Juices (Carrot, Beet, and Celery).

*Dealer.*—Dorwin Cook, Seattle, Wash.

*Charges.*—Misbranded by false claims in accompanying reprints and leaflets that the products were effective for treating and preventing fatigue, constipation, chronic disturbances of the gastrointestinal tract, unspecified dermatoses, nervous and overstrained conditions, obesity, liver and gall-bladder conditions, anemia, improper blood pressure, rheumatism, cardiac conditions, and cancer. The labeling fails to bear adequate directions for use in treating these conditions.

*Disposition.*—Default decree. Products distributed to charity, misbranding literature destroyed, February 7, 1962.

*Product.*—Vegefruit.

*Dealer.*—Vitul Products Co., Lansing, Mich.

*Charges.*—Misbranded by false claims in repack labels which contained statements representing the product as of special value for dietary supplementation by reason of the presence of 58 concentrated fortified vegetables, seaweeds, herbs, fruits, and other substances.

*Disposition.*—Default decree. Product destroyed, September 9, 1961.

**Product.**—C-V Fresh Vitamin C Tabs.

**Dealer.**—Vitamin Council, Inc., St. Paul, Minn.

**Charges.**—Misbranded by false claims on label that the article was effective to build strong body cells and blood vessels; develop gums, teeth and bones; relieve thirst, heal wounds; prevent heat prostration; promote the body's response to stress; and that the American diet is generally deficient in vitamin C.

**Disposition.**—Consent decree. Articles relabeled on December 5, 1962.

**Product.**—Safflower Oil with Vitamin B-6 Capsules.

**Shipper.**—Welton Laboratories, Inc., Newark, N.J.

**Charges.**—Misbranded by false claims on label and carton label and on accompanying literature, namely, "Diet Guide" booklets and wall banners that the article is significantly valuable for special dietary supplementation by reason of the presence therein of safflower; and that it is effective to reduce and to control weight, even though consuming thousands of calories daily without regard to the total caloric intake; and to lower cholesterol levels of the blood.

**Disposition.**—Default decree. Articles and literature destroyed September 29, 1962.

**Product.**—Health Foods.

**Defendants.**—McCollum Laboratories, Inc., Hollywood, Calif., and Edward McCollum and Florence McCollum.

**Charge.**—Inadequate directions for treatment of serious disease for which the products were recommended in talks given by Florence McCollum in Cleveland, Ohio, and in Philadelphia, Pa.

**Disposition.**—Guilty plea. Defendants fined a total of \$500, February 20, 1962.

**Product.**—Nutri-Bio Food Supplement Products.

**Dealers.**—Sherwood J. Gillespy, distributor, and Frank B. Wiggs, sales agent, Atlanta, Ga.

**Charges.**—Misbranded in that the labeling failed to bear adequate directions for use in the treatment and prevention of alcoholism, stomach ulcers, cancer, arthritis in the spine, tiredness, gray hair, gout, overweight and underweight, and imbalance, for which the products were offered in oral statements made by Wiggs in a sales talk in a private home.

**Disposition.**—Default decree. Released to FDA for exhibit purposes, December 6, 1962.

**Product.**—Nutri-Bio Food Supplements and Nutri-Bio Protein Mix.

**Shipper.**—Nutri-Bio Corp., Beverly Hills, Calif.

**Dealers.**—Marvin A. Minzel, Alf Kvinge, and Mary Krause, salesmen, all from Seattle, Wash.

**Charges.**—Misbranded by false and misleading claims in promotional material including salesmen's kit, leaflets, and carton and bottle labels, and by oral claims of the salesmen that the products were effective for treating and preventing loss of appetite, constipation, hemorrhage of mucous membranes, palpitation of the heart, nervousness, dental caries, anemia, colds, flu, arthritis, heart disease; for rebuilding tissues broken down by cancer; and for preventing cancer's spread.

**Disposition.**—Default decree. Products destroyed, May 31, 1962.

**Products.**—Menzyme, Femzyme, Penezyme, Homale Dietary Supplements.

**Dealer.**—Central Drug Co., Portland, Oreg.

**Charge.**—Misbranded by false claims in accompanying reprints and bottle labels that the products were effective for treating and preventing cancer, high blood pressure, diabetes, leukemia; dissolving blood clots; building muscles; and staying the aging process. Homale was further misbranded by false and misleading claims that it was of significant value for special dietary supplementation by reason of the presence of proteolytic enzyme, glycine, alanine, glutamic acid, stomach substance, liver substance, methionine. Menzyme, Femzyme, and Penezyme were falsely claimed to be of value because they contained enzyme X, amyolytic, proteolytic, and cellulolytic enzymes.

**Disposition.**—Consent decree. Products relabeled August 2, 1962.

*Products.*—Nutri-Bio Food Supplements.

*Shipper.*—Nutri-Bio Corp., Beverly Hills, Calif.

*Dealer.*—Penny Hostetter, saleswoman, Corvallis, Oreg.

*Charge.*—Misbranded by false claims in accompanying labeling prepared by the shipper and dealer that the products were effective for treating and preventing constipation, hemorrhage of mucous membrane, palpitation of the heart, nervousness, excessive bleeding, rundown feeling, toxic elements in the digestive system, polio, allergies, mumps, colds, colitis, corneal ulcers, boils, carbuncles, muscular dystrophy, eye infections, cancer, degenerative conditions, alcoholism, rheumatism, and many other diseases and conditions.

*Disposition.*—Default decree. Products destroyed, September 14, 1962.

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*Product.*—Nutri-Bio Food Supplement Products.

*Dealer.*—T & G Enterprises, and Anchor Serum Co., both of Charlotte, N.C.

*Charges.*—Misbranded in that the labeling fails to bear adequate directions for use in the treatment and prevention of cancer, diabetes, gray hair, and incurable diseases, 75 percent of all diseases, arthritis, tooth decay, and for prolonging life 10 to 20 years, for which the products were offered in a sales talk by dealer in a private home.

*Disposition.*—Default decree. Some products delivered to FDA for exhibit purposes, the rest destroyed, February 1, 1962.

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*Product.*—Ketovite Dietary Supplement (made from liver and other meats, vitamins and minerals from food sources).

*Dealer.*—Professional Foods, Kansas City, Kans.

*Charges.*—Misbranded by false and misleading label statements that the product was significant in value for special dietary supplementation because of the liver, enzymes, protein, and other ingredients it was purported to contain.

*Disposition.*—Default decree. Products given to charity, August 23, 1962.

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*Product.*—DePree PanA-C Capsules (Vitamins A and C, and pantothenic acid).

*Shipper.*—The DePree Co., Holland, Mich.

*Charges.*—Misbranded by false label claims that the product was an effective nutritional supplement for treating severe burns and extensive sunburn, allergic conditions, hay fever, ivy poisoning, contact dermatitis, urticaria, hives, inflammation and injury; and for treating metabolic disorders, severe or prolonged pain, physical exhaustion, emotional distress, conditions requiring or due to surgery, and during therapy with ACTH, cortisone, and related hormones.

*Disposition.*—Default decree. Products destroyed, June 11, 1962.

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*Product.*—Lucerne Water Extract of Alfalfa.

*Shipper.*—Lucerne Laboratories of Utah, American Fork, Utah.

*Charges.*—Misbranded by false claims in accompanying leaflets that the product was the richest source of valuable minerals and that it was effective for treating and preventing tiredness and promoting the proper functioning of the nervous system.

*Disposition.*—Default decree. Products destroyed, February, 19 1962.

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*Product.*—Kelpettes.

*Dealer.*—Nelson's Natural Foods, Hobart, Ind.

*Charges.*—Misbranded by false and misleading claims in label and accompanying leaflets which represented the product as unusually beneficial for special dietary supplementation; that the product could be consumed with safety in any amount; that the ordinary individual requires daily food supplementation; that the product was effective for treating and preventing cirrhosis of the liver, dizziness, lack of coordination, thyroid conditions, overweight and underweight, tiredness, rundown feeling, and for promoting health, vigor, and long life.

*Disposition.*—Consent decree January 24, 1962, products were to be relabeled; however, the claimant violated the conditions of the decree, and the bond was forfeited, October 31, 1962.



*Product.*—Viritabs (drug and vitamin combination).

*Shipper.*—Benson Pharmacal Corp., Newark; N.J.

*Charges.*—Misbranded by false claims that the article was effective for the treatment of sexual impotence; lack of virility and vigor; weakening of sexual potency; hypogonadism; benign prostatic hypertrophy; and to stimulate energy and rejuvenate youth; and since it was a prescription drug and its label failed to bear the statement "Caution—Federal law prohibits dispensing without a prescription."

*Disposition.*—Default decree. Destroyed January 10, 1962.

*Product.*—Natural tablets.

*Dealer.*—Ruth Pfahler, Decatur, Ill.

*Charges.*—Misbranded by false claims on label and in accompanying leaflets and circulars, that the article was effective for the treatment of constipation; hypomotility resulting from fiber deficiency; ulcers; for faster weight reduction; to promote peristalsis and regularity; and that it was of significant value for everyone with a heart condition and on a diet.

*Disposition.*—Default decree. Literature and goods destroyed July 27, 1962.

*Product.*—Kneipp Herb Teas.

*Dealer.*—Alfred L. Ettliger, Inc., New York, N.Y.

*Charges.*—Misbranding by false claims in accompanying leaflet that articles were effective for diseases of the nerves, kidney, bladder, liver, gall bladder, arteries, heart, circulatory system, and stomach; rheumatism, insomnia, colds and flu, asthma, hemorrhoids; reducing body weight, purifying the blood, promoting health and appetite, and controlling the uric acid in the body.

*Disposition.*—Consent decree. Accompanying leaflets destroyed April 24, 1962; new labels applied and articles repacked into new cartons.

*Product.*—"Lucerne" Extract of Alfalfa.

*Shipper.*—Lucerne Laboratories of Utah, American Fork, Utah.

*Charges.*—Misbranded by false claims in accompanying labeling that the article was the richest source of valuable minerals; that it was effective for the treatment and prevention of tiredness; and to promote proper functioning of the nervous system.

*Disposition.*—Literature and goods destroyed February 19, 1962.

*Product.*—"Menzyme" and various other drug and vitamin preparations.

*Dealer.*—Central Drug Co., Portland, Oreg.

*Charges.*—Misbranded by false statements in label and accompanying magazine article reprints and placards as follows:

Menzyme, femzyme, penezyme, and homale: that the articles were of significant value for special dietary supplementation by reason of their content of proteolytic enzyme, glycine, alanine, glutamic acid, stomach substance, liver substance, and methionine (homale), enzyme-containing amyolytic, proteolytic and cellulolytic enzymes (menzyme, femzyme, penezyme) and that the articles were effective for the treatment and prevention of cancer; high blood pressure; diabetes and leukemia, and to dissolve blood clots; build muscles and to stay the aging process.

Prostaid: that the article was effective for the treatment of the diseases and enlargement of the prostate gland.

Gestran: that the article was effective for the treatment of stomach distress due to hypermotility.

*Disposition.*—Consent decree. Magazine article reprints and placards destroyed and goods relabeled August 2, 1962.

*Product.*—Red Rooster Pills (drug and vitamin combination).

*Shipper.*—Manhattan Drug Co., Brooklyn, N.Y.

*Charges.*—Misbranded by false claims on label and accompanying window streamers that the article was effective as a stimulant and tonic, to cause get up and go; and as a hematinic and bitter tonic for use in iron deficiency anemia.

*Disposition.*—Default decree. Bulk and repacked goods and window streamers destroyed January 13, 1962.

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*Product.*—Nutri-Plex Food Supplements (Nutri-Plex E, Nutri-Plex C-1, Nutri-Plex A, Nutri-Plex F).

*Dealer.*—Nutri-Foods and Products Co., Sarasota, Fla.

*Charges.*—Misbranded by false claims in accompanying literature that the articles were effective for the treatment and prevention of heart conditions; thrombitis; bleeding; nervous disorders; poor digestion; skin troubles; mental aberrations; anemia; cretinism; unregulated cholesterol and fatty deposits in blood vessels; and since their labeling failed to bear adequate directions for use in the treatment and prevention of heart conditions; premature death; improper growth; cancer; poor teeth; flu and other conditions due to bacteria, viruses, and germs; arthritis; rheumatism; aches and pains; gland trouble; nosebleed; hardening of the arteries; stomach ulcers; insomnia; and strokes for which they were prescribed, recommended, and suggested in oral statements made by the owner of the dealer firm during a public lecture given at the dealer's place of business.

*Disposition.*—Default decree. Articles and literature destroyed August 13, 1962.

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*Product.*—Hyperchol tablets (vitamins and safflower oil).

*Dealer.*—Gramse Products Co., North Muskegon, Mich.

*Charges.*—Misbranded by false claims on the label and accompanying leaflet that the article was effective to protect the heart, promote fat utilization; maintain proper cholesterol levels and circulatory efficiency; prevent heart attacks, strokes, and circulatory troubles; and to promote health and longevity.

*Disposition.*—Default decree. Goods and leaflets destroyed, June 18, 1962.

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*Product.*—"Ritran" dietary supplement.

*Dealer.*—Noble Massey Co., Memphis, Tenn.

*Charges.*—Misbranded by false claims in accompanying labeling (physician's detail card) that the article was effective for tension headache; neuralgia; neuresthenic syndromes; as adjunctive therapy for relief of pain associated with certain peripheral vascular disturbances; chronic osteoarthritis; and for bursitis and fasciitis.

*Disposition.*—Consent decree. Article relabeled on November 27, 1962.

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*Product.*—Miscellaneous food supplements.

*Dealer.*—Tri-County Organic Cooperative, Denver, Colo.

*Charges.*—Misbranded by false claims, in accompanying leaflets and pamphlets, as follows:

Alfacon and alfalfa tablets: That the articles were effective for the treatment and prevention of aching joints; swelling; stiffness; backache; arthritic and rheumaticlike conditions; hypertrophic arthritis; sciatica, rheumatoid arthritis; and fatigue.

Lecithin granules: That the article was effective for the treatment and prevention of arthritis; hardening of the arteries; high blood pressure; rheumatic pains; coronary thrombosis; and to control the cholesterol level of the blood.

Comfrey root herb tea : That the article was effective for the treatment of asthma ; insomnia ; eczema, and other skin troubles ; digestive disorders, rheumatic complaints ; boils ; varicose ulcers ; to promote health ; and to promote bone healing.

*Disposition.*—Default decree. Goods, leaflets, and pamphlets destroyed January 9, 1962.

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*Product.*—"Biotta" vegetable juices (carrot and beet).

*Shipper.*—Dorwin Cook, Seattle, Wash.

*Charges.*—Misbranded by false claims in accompanying labeling ; namely magazine article reprints that the articles were effective for the treatment and prevention of fatigue ; obstipation ; chronic disturbances of the gastrointestinal tract ; unspecified dermatosis ; nervous and overstrained conditions ; obesity ; liver and gall bladder conditions ; anemia ; improper blood pressure ; rheumatism ; cardiac conditions, and cancer ; and since the labeling failed to bear adequate directions for use in the treatment and prevention of those conditions.

*Disposition.*—Default decree. Magazine article reprints destroyed and article delivered for use by charitable institution on June 26, 1962.

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*Product.*—"Biotta" vegetable juices (carrot and beet).

*Shipper.*—Dorwin Cook, Seattle, Wash.

*Charges.*—Misbranded by false claims in accompanying labeling, namely magazine article reprints, that the articles were effective for the treatment and prevention of fatigue ; obstipation ; chronic disturbances of the gastrointestinal tract ; unspecified dermatosis ; nervous and overstrained conditions ; obesity ; liver and gall bladder conditions ; anemia ; improper blood pressure ; rheumatism ; cardiac conditions and cancer ; and since the labeling failed to bear adequate directions for use in the treatment and prevention of those conditions.

*Disposition.*—Default decree. Magazine reprints destroyed February 7, 1962. Article delivered to Federal prison February 15, 1962, for use by inmates.

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*Shipper.*—Cove Vitamin & Pharmaceutical, Inc., Glen Cove, N.Y.

*Charges.*—Misbranded by false claims in accompanying literature ; namely, a book entitled "Calories Don't Count" by Dr. Herman Taller, and package inserts that the article was effective to control body weight ; to reduce and maintain slimness even while consuming many thousands of calories daily ; to lower and control the cholesterol level of the blood ; for the treatment of arteriosclerosis and heartburn ; to improve the complexion ; to increase resistance to colds and sinus trouble ; to promote health ; and to increase sexual drive.

*Disposition.*—Default decree. Article and package inserts destroyed July 12, 1962. The book "Calories Don't Count" was not destroyed.

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*Product.*—Elixir Vinivita.

*Shipper.*—E. W. Heun Co., St. Louis, Mo.

*Charges.*—Misbranded by false claims that the article was effective for the treatment and prevention of chronic fatigue, poor appetite, and iron and vitamin deficiencies, and since it is an article which could have been sold without prescription, although its label bore the statement "Caution : Federal law prohibits dispensing without prescription."

*Disposition.*—Default decree. Destroyed February 13, 1962.

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*Product.*—"Sea-Con" concentrated ocean water.

*Shipper.*—Sea-Con, Inc., Columbia, S.C.

*Charges.*—Misbranded by false claims that the article was of significant value for therapeutic use by reason of its content of 44 trace elements ; and that it was adequate and effective to prolong life ; prevent premature aging ; and to promote health ; and by its label's failure to bear adequate warnings against its misuse when abdominal pain, nausea, or vomiting were present and that its frequent use may have resulted in dependence on laxative, since the article was labeled for use as a laxative.

*Disposition.*—Default decree. Destroyed February 5, 1962 (except 24 bottles retained for exhibit purposes by FDA.)

*Product.*—Cholester-Sol tablets (vitamins, liver, and unsaturated fatty acids).  
*Dealer.*—Merit Pharmaceutical Co., Houston, Tex.

*Charges.*—Misbranded by false claims in accompanying file cards that the article was adequate and effective for the control of hypercholesterolemia and atherosclerosis; to reverse fatty infiltration of the liver and to prevent hepatic cell destruction; stimulate regeneration of new liver cells and generally improve liver functions; increase protein utilization (make animal protein of cereal protein); for the treatment of cirrhosis of the liver; jaundice; alcoholism; obesity; coronary disease and as an adjunct therapy in diabetes.

*Disposition.*—Consent decree. File cards, loose labels, bulk, and repack goods destroyed May 9, 1962.

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*Products.*—Herb tablets.

*Dealer.*—Nu Vita Foods, Portland, Oreg.

*Charges.*—Misbranded by false claims in accompanying catalog, order blank and price list that the articles were an adequate and effective treatment for all liver and gallbladder conditions; high blood pressure; to tone, cleanse, and nourish the liver, kidneys, stomach, and bowels; act as an astringent healer; purify the blood stream; act as an aid to indigestion; subdue inflammation; strengthen and cleanse gallbladder; give natural mineral to the body; increase the flow of glandular secretions; aid glandular function; benefit dropsy; be an adequate and effective treatment for diabetes; reduce blood sugar count; reduce albumin in urine; feed pancreatic glands; clean and stimulate mucous membranes to a healthy active condition; allow for free flow of glandular secretion; cleanse and clear urinary channel; be an adequate and effective treatment for heart conditions; strengthen and aid heart function; assist in regulating rapid and feeble heart action, and valvular insufficiency and heart oppressions; remove accumulations of mucous; reduce hypertension; relieve nervous strain; relieve nerve spasm due to excess acid in the bloodstream; were an adequate and effective treatment for rheumatism, gout, ringworm; antidote for poison from inflammation, colds, catarrh, and fever; for bleeding and hemorrhages of lungs; for hysterical and nervous conditions; and for eruptive diseases, running ears, itch and ulcerations.

*Disposition.*—Consent decree. Relabeling proposal not satisfactory. Accompanying literature and goods destroyed, November 8, 1961.

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*Product.*—Pluraxin high potency multiple vitamin capsules.

*Shipper.*—Winthrop Laboratories, Dallas, Tex.

*Charges.*—Misbranded by false label claims that the article was the "Therapeutic Stress Formula" and the "Formula of the Food and Nutrition Brand National Research Council, Plus Vitamins A and D."

*Disposition.*—Default decree. Destroyed, November 7, 1961.

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*Product.*—Cider vinegar.

*Shipper.*—Sterling Cider Co., Inc., Sterling, Mass.

*Charges.*—Misbranded by false claims in accompanying leaflet that the article was adequate and effective for the treatment and prevention of cough; chronic bronchitis; serious lung infections; bronchiectasis; resistant infections due to *Pseudomonas aeruginosa*; cavities in lungs; ear infections, and underweight conditions.

*Disposition.*—Decree of condemnation, July 13, 1961. Articles returned to dealer by the court order after the distributor signed an affidavit of destruction of the leaflets and certification that the goods were no longer accompanied by any literature, books, pamphlets, leaflets, or advertising matter.

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*Product.*—Renson Altocaps capsules (vitamin and drug combination).

*Shipper.*—Benson Pharmacal Co., New York, N.Y.

*Charges.*—Misbranded by false claims on the label that the article was adequate and effective as a treatment for habitual abortion, ovarian failure; muscular dystrophies, and amyotrophic lateral sclerosis.

*Disposition.*—Default decree. Goods destroyed, August 1, 1961.

*Product.*—Cobasal tablets.

*Shipper.*—Brewer & Co., Inc., Worcester, Mass.

*Charges.*—Misbranded by false claims in the labeling, namely a leaflet entitled "Cobasal," that the article was effective for the treatment of neuritis; pruritis; pruritis due to penicillin sensitivity, chronic venous insufficiency; renal and gall bladder colics; pneumonia; meningeal inflammations; cholelithiasis; iritis, and herpes; and to promote growth and body development; and since the labeling failed to bear adequate directions for use including relevant hazards, contraindications, side effects and precautions under which practitioners licensed by law to administer the drug could have used it safely and for the purposes for which it was intended.

*Disposition.*—Default decree. Leaflets and product destroyed, January 10, 1962.

*Product.*—Cobaden tablets.

*Shipper.*—Taylor Pharmacal Co., Decatur, Ill.

*Charges.*—Misbranded by false claims in the carton inserts that represented the article as effective for the treatment of bursitis; osteoarthritis; pruritis ani, vulvae and scroti; pruritis associated with penicillin reaction; and chronic venous insufficiency.

*Disposition.*—Default decree. Inserts and product destroyed, January 10, 1962.

*Product.*—"Sea-Con" concentrated ocean water.

*Shipper.*—Sea-Con, Inc., Columbia, S.C.

*Charges.*—Misbranded by false claims on the bottle and carton labels that the article possessed special properties for therapeutic and dietary supplementation to "add life to years" and "add years to life"; that it contained 44 water soluble trace elements beneficial to the user; and that the statement "not intended as a substitute for professionally prescribed medication" implied that the product had certain medical properties.

*Disposition.*—Default decree. The article was destroyed, October 19, 1962.

*Product.*—Coach aid products.

*Shipper.*—Health Research, Inc., Little Rock, Ark.

*Charges.*—Misbranded by false claims on labels as follows:

"Coach Aid Stim-O-Stam" tablets: that the article was effective for adding physical endurance; lessening muscle soreness; improving physical efficiency; and aiding in preventing fatigue.

"Coach Aid Special" tablets: that the article was effective to improve resistance to bruising and bleeding; improve capillary resistance; overcome normal capillary permeability and fragility; prevent bleeding; strengthen capillary walls; reduce healing time and severity of bruises; improve formation of connected tissue and red blood cells; promote absorption of iron from foods; and promote resistance to the common cold and virus, and respiratory infections.

*Disposition.*—Default decree. Articles destroyed November 13, 1961.

*Product.*—Coach aid products.

*Shipper.*—Health Research, Inc., Little Rock, Ark.

*Charges.*—Misbranded by false claims on label as follows:

"Coach Aid Stim-O-Stam" tablets: that the article was effective for adding physical endurance; lessening muscle soreness; improving physical efficiency; and aiding in preventing fatigue.

"Coach Aid Special" tablets: that the article was adequate and effective to improve resistance to bruising and bleeding; improve capillary resistance; overcome normal capillary permeability and fragility; prevent bleeding; strengthen capillary walls; reduce time and severity of bruises; improve formation of connected tissue and red blood cells; promote absorption of iron from food; and promote resistance to the common cold and virus, and respiratory infection.

*Disposition.*—Default decree. Articles destroyed December 13, 1961.

*Product.*—"Admiral" sea salt.

*Shipper.*—United Salt Corp., Houston, Tex.

*Charges.*—Misbranded by false claims in labeling; namely, a booklet entitled "The Ocean's 44 Trace Chemicals," that the article was effective in the treatment or prevention of cancer, diabetes, multiple sclerosis, myasthenia gravis, muscular dystrophy, epilepsy, asthma, arthritis, insanity, deficiency ailments, allergies, Parkinson's disease, arteriosclerosis, schizophrenia, cataract, cirrhosis, leukemia, pernicious anemia, psoriasis, dental caries, baldness, sterility, goiter, acne, and grey hair; and that the article was a "chemical smorgasbord" supplying significant amount of minerals necessary for body glands and organs to provide good health, that it would rejuvenate endocrine glands, reactivate pigment cells in the skin, act as a "vaccinate" against so-called deficiency diseases, that it was beneficial for growth, lactation, and reproduction, that it was a complete and balanced salt supplying significant amounts of all trace minerals and essential minerals for special dietary and therapeutic purposes, that all of the trace minerals had been established as essential and important to good health, and that foods as consumed lacked all of these trace minerals.

*Disposition.*—Default decree. Booklets destroyed October 20, 1961, and article diverted for use to aid in removal of snow and ice.

*Product.*—"Sea Brine" concentrated sea water.

*Shipper.*—Florida Sea Brine Laboratories, Lakeland, Fla.

*Charges.*—Misbranded by false claims in labeling; namely, leaflets, window streamers, counter display cards, and posters that the article was effective in the treatment of cancer, diabetes, multiple sclerosis, leukemia, myasthenia gravis, Parkinson's disease, arthritis, goiter, deficiency ailments, sterility, dental caries, ailments and infections of the eye, hangover, gray hair, and baldness; that it provided for rejuvenation, prolongation of youth, improvement of mental health, was effective in providing for proper functioning of body glands and organs, and that it contained significant amounts of essential minerals necessary to health not found in ordinary foods.

*Disposition.*—Default decree. Articles and literature (leaflets, streamers, cards, and posters) destroyed June 2, 1961.

*Product.*—"Sea Brine" concentrated sea water.

*Shipper.*—Florida Sea Brine Laboratories Inc., Lakeland, Fla.

*Charges.*—Misbranded by false claims in that the label statement "Natures Own 44 Chemicals of the Sea" suggested in the manner of display on the label, that the article was a complete and balanced salt supplying chemicals found only in sea water which are important to good health and which have a therapeutic value; and since the labeling fails to bear adequate directions for use for the conditions intended.

*Disposition.*—Default decree. Articles destroyed July 28, 1961.

*Product.*—"Sea-Min" sea water concentrate.

*Shipper.*—Sea-Min Co., Grove City, Ohio.

*Charges.*—Misbranded by false claims on the label that the article contained nutritionally significant amounts of essential minerals; and that all of the elements it contained were necessary for health.

*Disposition.*—Default decree. Articles destroyed June 21, 1961.

*Product.*—Hoffman's hi-protein dietary foods.

*Shipper.*—York-Barbell, York, Pa.

*Charges.*—Misbranded by false claims on carton labels, in accompanying leaflets and hard-cover books written by Robert "Bob" Hoffman. Products and claims included:

Ten-in-one powder: containing soya powder, for prolonging life up to 30 years; preventing and treating loss of appetite, inefficient digestion, assimilation and elimination, functional heart disease, and bodily ills; for building strength and endurance; and for helping user to gain or lose weight.

**Protein from the sea powder:** containing a blend of fish proteins and sea vegetation, for treating and preventing malnutrition; building, maintaining, and repairing the body; promoting super health and well-being, an extraordinary physique, a vigorous mind, perfect teeth, endurance, youthful vitality, long life, and handsomeness.

**Super hi-proteen powder:** containing soy bean, casein of milk, and white of egg, for treating and preventing scrawny necks, and sunken, sagging wrinkled faces; for promoting growth in children, for body maintenance and repair, for healing wounds, and for producing larger heavier, stronger, healthier babies.

**Brewer's yeast:** for promoting a good appetite, normal digestion, growth, fertility, lactation, and normal blood clotting; for building and strengthening the bones and teeth, and regulating the heart beat; for maintaining muscle tone; and for treating and preventing nervous conditions, skin diseases, muscular weakness, eye troubles, dementia, and insanity.

**Super gain weight tablets:** containing a liver, iron, vitamin combination, for treating and preventing lack of endurance, "washed out" feelings, lack of strength; and for gaining weight, building the body, and increasing growth.

**Special gain weight powder:** containing gelatin, peanut flour, cotton seed protein, wheat germ, lecithin, egg albumen, dried milk solids, caseinate of milk, and soya powder, for treating and preventing underweight condition, deficiency diseases generally, thin, scrawny bodies, lack of reserve against sickness or physical emergency; and for strengthening muscles, and developing athletes.

**Energol:** a blend of wheat germ oil, soy oil, and rice germ oil, for producing athletes, promoting growth in children; and for providing unusual energy for hard working men and women; for treating and preventing cholesterol deposits of the blood, arteriosclerosis, eczema, high blood pressure, heart and arterial diseases, cirrhosis of the liver, hemorrhages of the kidneys, stomach ulcers, rheumaticcarditis, anemia, and metabolic disturbances of the skin.

**Super C Complex tablets:** for treating and preventing decreased heart activity, brittle bones, colds, improper healing of wounds, poor teeth, loss of elasticity of blood vessels, stiff, sore joints, swollen and bleeding gums, gingivitis, stomach ulcers, rheumatic fever, pulmonary tuberculosis, diphtheria, and pneumonia.

**Hi-Protein cookies:** for building strong muscles, an athletic physique, and rich blood; melting away fat deposits; and for normalizing the body, and gaining or losing weight.

**Gain Weight Hi-Protein tablets:** for building nerve, muscles, and tissues, strength, and the strong physique of an athletic champion, and for gaining weight and growing rapidly.

**Super Hi-Protein tablets:** for promoting growth in children, energy, healthy tissue, rich, red blood, muscles, and strength in hard-working individuals, athletes, and older people.

**Hi-Protein Food of Champions tablets:** in chocolate, vanilla, and plain flavors for satisfying the appetite, unusual energy, more endurance, overcoming physical and mental fatigue, sleepiness, or letdown feeling.

**Hi-Protein instant powder:** for producing super health and providing unusual amounts of energy; living longer, happily, and successfully; for relaxing, sound useful sleep, satisfying the appetite, and refreshing the body and mind.

**Hi-Protein Honey Fudge:** for preventing disturbances resembling those caused by other pathogenic agents, and building a strong, well-developed body.

**Physical fitness special:** for building an expectancy of life 10, 20, 30 years longer; gaining or losing weight; and treating and preventing anemia, cirrhosis of the liver, stomach ulcers, rheumatic carditis, kidney disorders, psoriasis, and many other diseases and conditions.

**Disposition.**—Partial decree of condemnation, November 8, 1961, providing for relabeling of some products. Products inadvertently destroyed. Order of dismissal of seizure, August 15, 1962.

## CRIMINAL PROSECUTIONS TERMINATED

*Product.*—Various health foods.

*Defendants.*—Nature Food Centres, Inc., Cambridge, Mass., and Henry K. Rosenberger, president and treasurer, and Andrew G. Rosenberger.

*Charge.*—Inadequate directions for use in conditions ranging from thrombosis through diabetes, impotency and skin blemishes, for which the products were recommended in talks given by Andrew Rosenberger in Philadelphia, Pa., and in Chicago, Ill.

*Disposition.*—Not guilty plea. All defendants found guilty and sentenced as follows: \$10,000 fine on the corporation; \$5,000 fine and 6 months in jail on Henry K. Rosenberger; \$5,000 fine and 6 months in jail on Andrew G. Rosenberger. The jail sentences were suspended and each individual was placed on probation for 2 years, June 8, 1962.

*Product.*—Various vitamin products and proprietary remedies.

*Defendants.*—Royal Lee, Vitamin Products Co., Lee Foundation for Nutritional Research, Endocardiograph Co., Inc.; Leeland, Inc., all of Milwaukee, Wis.

*Charge.*—Misbranding of over 115 special dietary products by false claims for treating over 500 diseases and conditions.

*Disposition.*—Nolo contendere. Vitamin Products Co., fined \$7,000, Royal Lee placed on 3 years probation (1 year imprisonment suspended), April 23, 1962. All defendants enjoined by consent decree from interstate shipment of misbranded vitamins and proprietary remedies, and prohibited to claim that the products are of value for cancer, arteriosclerosis, or that they are necessary adjuncts to the diet, January 15, 1962.

*Product.*—Calcium tablets and five other vitamin, mineral, and drug preparations.

*Defendant.*—William L. Abt, Detroit, Mich.

*Charges.*—Misbranded by false claims made in oral statements by the defendant during a series of lectures in a Detroit hotel and by accompanying literature; namely, a book entitled "The Key to Good Health and Longevity," written by the defendant; the articles failed to bear adequate directions for use for the treatment and prevention of diseases and conditions as follows:

Calcium from eggshells: improper growth of bones; improper functioning of bone marrow, bones, thyroid, and parathyroid glands; improper pH of the blood; longevity; and for lack of strength and firmness of the articles.

Soy-Hi protein: poor health, shortened life, ulcers, cancer, poisons and infections of the body, sterility, improper growth and regeneration of hemoglobin, and for liver and gall bladder conditions.

Vegetable seasoning: hardening of the arteries, arthritis, and for poor eyesight and hearing.

Herb laxative tablets: piles, hemorrhoids, abnormal functioning of veins, bad breath, tumors, gall bladder conditions, pathological functioning of organs of the body, aches and pains, improper eyesight, and for poor memory.

Vitamin E capsules: poor health, liver and gall bladder conditions, male impotency, heart failure, aging skin, and kidney conditions.

Vitamin A capsules: cataracts, hardness of hearing, blood vessels breaking in the brain, ulceration, constipation, and glaucoma.

*Disposition.*—Plea of "not guilty" March 14, 1962. Guilty count 1, September 24, 1962. Sentence of 1 year suspended, placed on probation for 2 years and fined \$1,000 on December 21, 1962.

## INJUNCTIONS FILED

*Product.*—"Formula B-13" ulcer tablets.

*Defendant.*—Emmett F. Stockton, doing business as Stockton Laboratories & Co. and Wise Laboratories & Co., Albuquerque, N. Mex.

*Charges.*—Misbranded by false claims on label that the article is effective in the treatment of duodenal and gastric ulcers.

*Disposition.*—Consent decree of permanent injunction granted December 1, 1961.



*Product.*—All-Vite Tabs and 47 miscellaneous other vitamin-mineral and drug preparations.

*Defendants.*—General Nutrition Corp.; Nutrition Square, Inc.; Lackzoom, Co., Inc.; Nato Labs, Inc.; Stylex, Inc.; Modern Foods, Inc.; Natural Sales Co.; and Vitamin Sales Co., all of Pittsburgh, Pa.

*Charges.*—Charges included misbranding by false claims in labels and accompanying literature for growth promotion, fatigue, nervous tension, proper tooth and bone development, strong fingernails, repair of body tissue, and for a variety of other physical complaints and disease conditions; representation of the articles as "high potency," "geriatric formula, or balanced formula"; label failure to bear information required by the special dietary food regulations; label bearing false or erroneous special dietary food information; inconspicuous printing on labels; and adulteration with unsafe food additives.

*Disposition.*—Consent decree of permanent injunction granted October 9, 1961.

*Product.*—"Jenasol" Royal Jelly Capsules.

*Defendant.*—Marvin Schere and the Jenasol Co., Brooklyn, N.Y.

*Charges.*—Misbranded by false claims in accompanying labeling that the article was an effective treatment for increasing sexual vitality, for irritability, headache, insomnia, physical and spiritual convulsions, depressions, restoring vitality, alleviating ills of old age, improving memory, stimulating the appetite, normalizing growth of underdeveloped children, extension of human life, digestive disturbances, activating glands of the body, physical and mental symptoms of approaching old age, tired eyes, and that it was a "natural super tonic" which produced "a pleasing state of relaxed well being."

*Disposition.*—Court order executed February 21, 1962, enjoining the defendants from misbranding the article by claims similar to the above on accompanying literature. The court declined to enjoin the defendants from making similar claims in their advertising.

#### ENFORCEMENT ACTIONS INVOLVING THERAPEUTIC DEVICES

[July 1, 1961, through Dec. 31, 1962]

##### PRODUCTS SEIZED UNDER COURT ORDER (CLOSED CASES)

*Device.*—Violet ray generator. (Sold Organization for Trade Cooperation.) A black grain leatherette case, containing a control panel, three electrodes, and a plastic tubular-shaped applicator connected to the control panel by an electric cord. The three electrodes, made of metal and glass, are in the shape of a tube, bulb, and rake, which plug into the ends of the applicator.

*Shipper.*—Renulife Electric Co., Ferndale, Mich.

*Dealer.*—New Life, Inc., Sandusky, Ohio.

*Action and charges.*—Seizure. False and misleading labeling claims for arthritis, bursitis, dandruff, eczema, rheumatism, acne, nervous conditions, neuralgia, neuritis, sciatica, and poor circulation; and that the article functions as an aid to nature in performing various bodily responsibilities.

*Disposition.*—Consent decree November 14, 1961. Device turned over to the Food and Drug Administration.

*Device.*—Glass electrode applicators. (Sold Organization for Trade Cooperation.) An assortment of sealed glass tubes of various sizes and shapes with a metal cap attached at one end. Some of the electrodes contain internal rods, wires, or disks.

*Dealer.*—Renulife Electric Co., Ferndale, Mich.

*Action and charge.*—Seizure. False and misleading claims which suggest that the articles are adequate and effective as a treatment for relieving fallen hair; dandruff; tonsillitis; goiter; prostrate trouble; spinal conditions; eye, ear, and nose conditions; deafness; vaginal inflammation; and for removing blemishes, scars, and warts.

*Disposition.*—Condemned by court order. Samples delivered to the Food and Drug Administration November 21, 1961; remainder of electrodes destroyed.

*Device.*—Juice vegetable and fruit juice extractor. (Sold Organization for Trade Cooperation.)

*Shipper.*—Drachenberg Products Manufacturing Co., Detroit, Mich.

*Dealer.*—Southern Juicer Co., Kenner, La.

*Action and charge.*—Seizure. Device was promoted with claims that it is effective as a health aid in that its use will provide vegetable juices which are beneficial to health where other healing methods fail, thus relieving suffering and despair of illness; that the device is of medical significance because it "is recommended by many doctors for results"; that the device is beneficial "when you get sick of getting sick"; that "raw fresh vegetable juices are full of health-sustaining nutrients whereas cooked foods are dead foods," thus the device, when it is used to extract raw vegetable juices, serves as a health aid in the treatment of diabetes, arthritis, heart conditions, bladder tumors, eye trouble, leukemia, brain tumors, botulism, epilepsy, Hodgkin's disease, and many others.

*Disposition.*—Consent decree of condemnation. Labeling literature destroyed, devices given back to dealer, December 5, 1961.

*Device.*—Super Health Magnetic Bracelet. (Sold Organization for Trade Cooperation.)

*Shipper.*—Patricia Watch Band Co., New York, N.Y.

*Action and charge.*—Seizure. False and misleading labeling claims for arthritis, rheumatism, sexual impotency, and high and low blood pressure.

*Disposition.*—Default decree. Some bracelets turned over to the Food and Drug Administration; other destroyed, January 6, 1962.

*Device.*—Exercycle. (Sold Organization for Trade Cooperation.) A bicycle-like frame device equipped with an electric motor which provides power and rhythmic motions individually or collectively, to the pedals, handlebars and seat.

*Shipper.*—Exercycle Corp., care of the Little Products Co., Hartford, Conn.

*Action and charge.*—Seizure. False and misleading labeling claims for increasing circulation of the body thus helping vital organs to function more efficiently; helping to counteract an increasing death rate from circulatory disorders; helping to overcome or prevent failing eyesight, intestinal disorders, nervousness, body pains and aches, heart attacks, lack of energy and vitality, brain stroke; helping to prevent ailments not presently evident; that exercise derived from use of the device will reduce the blood cholesterol thus lowering incidence of hardening of arteries and possibly other conditions; that exercise derived from use of the Exercycle aids in regaining lost youth and health, controlling asthma, recovering from tuberculosis, reducing need for insulin in diabetics, and reducing complications of pregnancy; and that exercise derived from limited daily use of the device contributes significantly to weight reduction.

*Disposition.*—Consent decree. Literature destroyed, devices disassembled, January 16, 1962.

*Devices.*—Auto Electronic Radioclast, model 20, and Electronic Analysis Instrument, model F (sold Rx and OTC).

*Shipper.*—L. L. Roby Manufacturing Corp., Tiffin, Ohio.

*Manufacturer.*—Electronic Instrument Co., Tiffin, Ohio (Radioclast, model 20) and L. L. Roby Manufacturing Corp., Tiffin, Ohio (Electronic Analysis Instrument, model F).

*Action and charge.*—Seizure. Radioclast—a wood cabinet containing a combination of electronic circuits. The control panel contained pilot lights, line switch, heater switch, and a series of dials intended for use in determining the identity of diseased organs. Three other dials allegedly identified the disease conditions present, and additional dials allegedly determined the intensity of the disease. An attached detector plate purported to locate the point of maximum reaction and thus determine the location of the disease in the body. Electronic Analysis Instrument—a wood console cabinet fitted with a control panel containing a direct current milliammeter, two pilot lights, switches, and 12 dials. The device purported to measure electrical impulses allegedly emanating from diseased tissue. A detector plate attachment was used to diagnose the location and extent of disease. Both devices failed to bear adequate directions for use.

*Disposition.*—Condemned by court order, September 4, 1962, and delivered to the Food and Drug Administration.

*Device.*—Moser Feinstrom S4 (Sold Rx). A leatherette covered wood case enclosing a 24-volt battery. The case displayed a control panel containing a milliammeter, switches, rheostat control, and electrode terminals. A variety of electrodes accompanied the device.

*Shipper.*—J. Erich Moser A.G., Erlangen, Germany.

*Action and charge.*—Seizure. False and misleading claims in accompanying labeling which represented the device as effective for alleviating or overcoming angina pectoris, anorexia, arteriosclerosis, arthritis, asthma, spinal disk injuries, catarrh, paralysis of the bladder, bronchitis, high and low blood pressure, constipation, epilepsy, cold, inflammation of the joints, rheumatism, gout, heart disease, cancer, varicose veins, headaches, liver disease, ulcers, multiple sclerosis, and poliomyelitis; and that use of the device in giving the "galvanic complete bath" acted as a preventive against numerous health impairments.

*Disposition.*—Default decree. Delivered to FDA for exhibit purposes, July 11, 1962.

*Device.*—Oxygen Air-Aid Inhaler (sold OTC).

*Dealer and Packager.*—Val-U-Air Products, Inc., New York, N.Y.

*Action and charge.*—Seizure. Device, a small cylinder-shaped inhaler designed to hold a replaceable oxygen cartridge, was falsely claimed to be effective for relieving athletic exhaustion, swimming distress, overindulgence, strain, breathlessness, smoke nausea, morning indisposition, headaches, asthma, croup, coronary discomfort, anginal pains, driver fatigue, and respiratory difficulties.

*Disposition.*—Consent decree. Misbranding literature destroyed, devices brought into compliance with the law, May 7, 1962.

*Device.*—Jacuzzi Whirlpool Bath (sold OTC). A portable unit used to swirl water in a tub or pool.

*Shipper.*—Jacuzzi Brothers, Inc., Hackensack, N.J.

*Action and charge.*—Seizure. Misbranded by false labeling claims which represented the device as an adequate treatment for relieving pain of arthritis, bursitis, rheumatism, and other muscular disorders; relieving varicose veins, hemorrhoids, restricted circulation of the extremities, and nervous tension; reviving muscular and skin tissues, and accomplishing bone regeneration.

*Disposition.*—Consent decree March 26, 1962. Device to be relabeled in compliance with the law.

*Device.*—Beautypower (sold OTC). A plastic box containing an electric motor with hand unit attachments. Two sponge pieces, soaked in water or contact solution to establish an electrical contact between the device and the face, placed in the hand units.

*Dealer.*—Beauty Power, Inc. (Contour Chair Lounge Corp.), New York, N.Y.

*Action and charge.*—Seizure. False and misleading labeling claims represented the device as effective for revitalizing and restoring resiliency to facial muscles; irradiating facial lines, sagging facial contours and double chin; toning flabby muscles and making them stronger, more elastic, and younger; stimulating circulation in the facial area; relieving tension, removing crepiness of the skin and "dowager's hump"; and improving skin texture.

*Disposition.*—Default decree. Devices turned over to the Food and Drug Administration, May 3, 1962.

*Device.*—Acme Supreme Brand Juicers (sold OTC).

*Shipper.*—Acme Manufacturing Co., Lemoyne, Pa.

*Action and charge.*—Seizure. False and misleading claims which represented the device as the answer to having vitality and good health; that the juicer was a gold mine investment in good health; that it made (juice) cocktails rich in vitamins; that it was the most valuable appliance in the home; and thus by reason of its health significance and its use in extracting raw fruit and vegetable juices, the device was beneficial in the treatment of colds, cancer, ulcer, arthritis, intestinal complaints, and other disease conditions.

*Disposition.*—Consent decree. Misbranding literature destroyed, April 3, 1962.

*Device.*—Microdynameter. Essentially a galvanometer for measuring electrical currents and electrical potentials of small magnitude. The unit is mounted in a metal or wood cabinet on the face of which is a meter intended to measure the flow of current, together with a number of dials to be set at numbered or lettered positions. The electrical current which is measured by the meter is generated by closing the circuit between two metal probes. The circuit is closed by placing the probes at different points on the human body, or by placing the probes together or by immersing the probes in water.

*Shipper.*—Ellis Research Labs, Inc., Chicago, Ill.

*Dealer.*—In possession of several score practitioners throughout the United States.

*Action and charges.*—Seizure. False and misleading claims for the diagnosis of most disease conditions, including cancer, tuberculosis, rheumatism, nephritis, nerve impigments and so forth. Further misbranded by failure of the labeling to bear adequate directions for use.

*Disposition.*—Default decrees were entered in most cases (involving in excess of a total of 150 microdynameter devices) providing for destruction under court order.

*Device.*—Neurolinometer and research models (revised version of the original Neurolinometer). An electrical device housed in a small suitcase-type container. The control panel consists of an assortment of dials, switches, and control knobs. A bakelite plate is also present to be used for the alleged detection of electrical signals from the body. An electrode in the form of a metal probe was to be applied to the body along the spinal column and from this a diagnostic signal consisting of a pull or stickiness indicating the presence and degree of nerve interference was to be detected by the fingers of the operator.

*Shipper.*—Toftness Chiropractic Clinic, Cumberland, Wis.

*Dealer.*—In possession of several score practitioners throughout the United States.

*Action and charges.*—Seizure. Misbranded for failure of the labeling to bear adequate directions for use for conditions for which intended; namely, for the diagnosis of most diseases in men. The device was alleged to be worthless for any medical purpose. The research model version of the neurolinometer was additionally misbranded in that the device had no valid research purpose in medicine.

*Disposition.*—Default decrees were entered (seizure actions accounted for approximately 50 Neurolinometers and research model devices) in most of the seizure actions providing for destruction under court order.

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#### INJUNCTIONS FILED

*Device.*—Mercier radioactive device. A box shaped device in which blood from the patient's arm was placed and exposed for 24 hours to radiation from the radioactive materials in the device, then the plasma reinjected into the patient.

*Shipper.*—A. F. Mercier, Santa Fe, N. Mex.

*Action and charge.*—Injunction. Falsely claimed to be an adequate and effective treatment for any physical or mental disease or abnormality. Also charged misbranded and adulterated in that its labeling failed to state all of the diseases, conditions, and purposes for which it was orally represented by the defendant; that it was dangerous to health when used in the dosage, or with the frequency or duration prescribed in its labeling; and that its external surfaces bore significant radioactive contamination and its construction permitted continued escape of hazardous radioactive substances.

*Disposition.*—Consent decree of injunction, February 28, 1962, prohibited defendant Andrew F. Mercier and all persons in active concert or participation with him from shipping the devices in interstate commerce in its misbranded or adulterated form.

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*Devices.*—Radioclast, Electron-O-Ray, Neurolinometer, and Quto-Electronic Instrument. Devices varied in size and shape but in general consisted of panels of lights, rows of switches, control knobs, and electrodes. Treatment was given through a high-frequency electric current in harmony with the allegedly measured frequency. The patient felt a tingling sensation from the current.

*Shipper.*—Electronic Instrument, Inc., Tiffin, Ohio.

*Action and charge.*—Injunction. Falsely claimed to be effective in diagnosing and treating many different diseases by measuring alleged electrical frequencies emanating from diseased areas of the body.

*Disposition.*—Consent decree of permanent injunction, April 18, 1962, prohibiting defendants Electronic Instrument, Inc., Dale C. Mowery, and Helen R. Mowery, from shipping the devices in interstate commerce.

*Device.*—Micro-Dynameter (described under "Seizure" tabulation).

*Shipper.*—Ellis Research Labs, Inc., Chicago, Ill.

*Action and charge.*—Injunction. False and misleading claims for the diagnosis of most disease conditions, including cancer, tuberculosis, rheumatism, nephritis, nerve impigments, etc. Further misbranded by failure of the labeling to bear adequate directions for use.

*Disposition.*—Permanent injunction issued on June 14, 1961, prohibiting distribution of the device in interstate commerce. Defendants appealed and on March 22, 1962 U.S. Circuit Court of Appeals at Chicago affirmed the district court decision. Certiorari was denied by the Supreme Court on June 11, 1962, and the defendants discontinued business.

ENFORCEMENT ACTION INVOLVING DRUGS

[July 1, 1961, through Dec. 31, 1962]

PRODUCTS SEIZED UNDER COURT ORDER (CLOSED CASES)

*Product.*—New Instant Medi-Quik First-Aid Spray.

*Shipper.*—Lehn & Fink Products Corp., Bloomfield, N.J.

*Charge.*—The label and an insert leaflet bore false and misleading representations that the article combated established infection and was an effective treatment for skin rashes when in fact the composition of the article was such that its use may have resulted in the development of a skin rash.

*Disposition.*—Decree entered, destroyed March 30, 1962.

*Product.*—Ulcertrol (stomach ulcer remedy).

*Distributor.*—LeRoy F. Swinehart, doing business as Red's Market, 128½ South Kalamazoo Street, White Pigeon, Mich.

*Charge.*—The bottle label and circulars entitled "Ulcertrol The Completely New Ulcer Medication That Is Guaranteed" bore false and misleading statements that the article was adequate and effective in the treatment of stomach ulcers.

*Disposition.*—Decree entered, destroyed August 23, 1961.

*Product.*—Robinson stomach tablets with adiphénine.

*Manufacturer.*—Nysco Laboratories, Inc., Long Island City, N.Y.

*Distributor.*—Old Texas Pharmaceutical Co., Seagoville, Tex.

*Charge.*—The manufacturer's bulk container label and the distributor's repacked label both bore false and misleading claims for the treatment of gastric ulcers.

*Disposition.*—Destruction, August 23, 1961.

*Product.*—Stomachic and Alterative, Formula No. 99 (therapeutically inactive products) and Formula B-W Tonic and Laxative.

*Manufacturer.*—Table Rock Laboratories, Greenville, S.C.

*Charges.*—The Stomachic and Alterative and Formula No. 99 labels bore statements which represented that these products had therapeutic value. They had none.

The label of the Formula B-W Tonic and Laxative bore false and misleading representations that the product was effective in diminishing the pulse, quieting irritation, allaying coughing, hemorrhages, diarrhea, and dysentery.

*Disposition.*—Decree entered, destroyed January 20, 1962.

*Product.*—Neutsu (herbs).

*Distributor.*—Fred J. Brough, doing business as Neutsu Herb, Box 126, Salmon, Idaho.

*Charge.*—A leaflet accompanying the article bore false and misleading claims for the treatment of rheumatism, prostate trouble, lame back, and bladder trouble.

*Disposition.*—Decree entered, destroyed November 6, 1961.

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*Product.*—Barosil (antacid preparation).

*Distributor.*—Barry-Martin & Co., 4621 Ponce De Leon Boulevard, Coral Gables, Fla.

*Charges.*—The label bore false and misleading claims for the treatment and management of peptic ulcer.

*Disposition.*—Decree entered; product was relabeled on August 2, 1962.

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*Product.*—Barogel (antacid preparation).

*Distributor.*—Barry-Martin & Co., 4621 Ponce De Leon Boulevard, Coral Gables, Fla.

*Charges.*—The label bore false and misleading claims for the treatment and management of peptic ulcer.

*Disposition.*—Decree entered; product was relabeled on August 2, 1962.

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*Product.*—Hunt's 3-Minute Balm (counterirritant).

*Manufacturer.*—Hunt Bros. Products, 5685 15th Street, Detroit, Mich.

*Charge.*—A leaflet attached to the bottle bore false and misleading statements that the article was adequate and effective in the treatment of headaches, sinusitis, soreness, lameness, stiffness, stiff neck, and any kind of muscular ache.

*Disposition.*—Decree entered, destroyed November 6, 1961.

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*Products.*—Sulf-Hydro-Sol and S-M-C Colloidal Sulfur (colloidal sulfur mixtures).

*Shipper.*—The Colloidal Sulphur Co., Inc., 599 Columbus Street, Salt Lake City, Utah.

*Charge.*—The labels and accompanying literature contained false and misleading claims for the treatment of rheumatoid arthritis, certain metabolic diseases due to sulfur deficiencies, claims that use of the article stimulated metabolism, revitalized and normalized cellular metabolism and the representation that one could drink his way to health and beauty by use of these products. The product Sulf-Hydro-Sol was additionally misrepresented by statements that it possessed special therapeutic and dietary properties due to the presence in it of highly reactive sulfur complexes and colloidal trade minerals in a high potency concentrate supplying the univalent radical SH.

*Disposition.*—Decree entered, destroyed December 5, 1961.

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*Product.*—Valer-Relax capsules.

*Shipper.*—Professional Products Co., 638 E. Fourth Street, Long Beach, Calif.

*Charge.*—The name "Valer-Relax" suggested that the article was capable of relaxing the user. The bottle label and accompanying leaflets contained false and misleading claims that the article was effective in the treatment of nervous tension, sleeplessness, tired feeling, and a host of disorders due to nervous tension; that it would control emotions, prevent heart disease and hardening of the arteries and gas pains around the heart; that the product was a natural relaxant and that it would allay hunger pangs and thereby result in weight reduction; and the leaflet also contained representations that the article was a tranquilizing drug, which was not a fact.

*Disposition.*—Decree entered, destroyed on February 20, 1962.

*Products.*—Herbs, Devore Laxative Herbs, Devore Herbs No. 7, Devore Herbs No. 28, Devore Herbs No. 26, Devore Herbs No. 27, aniseed, catnip, fennel seed, cascara, cheese plant, and various other herbs.

*Distributor.*—Devore Herbs Co., 312 East 28th Street, Lorain, Ohio.

*Charge.*—The articles were associated with the leaflet which bore false and misleading claims for the elimination of body waste thereby preventing and overcoming or relieving colds, coughs, piles, fever, backaches and other conditions and that the herbal preparations were capable of relieving pain, expelling worms, curing rheumatism, preventing spasms, purifying the blood, cleansing boils and ulcers, curing ringworm and other skin diseases and dispelling tumors.

*Disposition.*—Decree entered; relabeling completed on April 25, 1962.

*Product.*—Three Crown Soda brand, bicarbonate of soda.

*Distributor.*—Byron H. Smith & Co., Inc., 365 Main Street, Bangor, Maine, doing business as the Atlantic Spice Co., Union Street, Bangor, Maine.

*Charge.*—The label bore false and misleading statements that the product was an adequate and effective treatment for sick headache, eczema, colds, and for preserving enamel of the teeth.

*Disposition.*—Decree entered, relabeled February 5, 1962.

*Product.*—Chloraseptic mouthwash.

*Manufacturer.*—The Chloraseptic Co., 400 Victor Building, Washington, D.C.

*Charge.*—The bottle and carton label and promotional literature bore false and misleading claims that the product was an adequate and effective treatment for sore gums, soreness of the mouth and throat tissues, all infections of the mouth and throat, including infections due to various strains of streptococci, staphylococci and other organisms which cause deep throat infections, pharyngitis, acute tonsillitis, peritonitis, Vincent's infection, aphthous ulcers and herpetic lesions, that the article would destroy bacteria in the oral cavity. Part of these claims were contained in literature which was sent to physicians.

*Disposition.*—Decree entered; destroyed February 5, 1962.

*Product.*—Throck's R-6000 Formula (ulcer remedy).

*Manufacturer.*—Peoria Drug Co., 3306 North Madison Street, Peoria, Ill.

*Charge.*—The bottle label, accompanying leaflet and promotional card bore false and misleading statements that the article was adequate and effective treatment for ulcers of the intestinal tract, that it protected the irritated walls of the stomach and stimulated the digestion.

*Disposition.*—Decree entered; destroyed September 26, 1962.

*Product.*—Rexall Bislumina Acid Guard.

*Manufacturer.*—Rexall Drug Co., 3915 North Kingshighway, St. Louis, Mo.

*Charge.*—The product was misbranded by false claims contained in the promotional literature for false and misleading claims for the treatment of peptic ulcers.

*Disposition.*—Decree entered. The misbranding was corrected by destruction of the accompanying literature, and release of the goods to the claimant on August 22, 1961.

*Product.*—Prescription X-259.

*Manufacturer.*—R. P. White Drug Co., 259 West Federal Street, Youngstown, Ohio.

*Charge.*—The label and a display placard bore false and misleading statements that the article was an adequate and effective treatment for stomach and duodenal ulcers.

*Disposition.*—Decree entered; destroyed September 12, 1961.

*Product.*—Mayene Wafers (antacid).

*Shipper.*—Yorktown Products Corp., 441 Lexington Avenue, New York, N.Y.

*Charge.*—The vial label and a booklet entitled "The Medical Facts About Excess Acidity" bore false and misleading statements that the article was adequate and effective in the treatment and prevention of stomach and duodenal ulcers.

*Disposition.*—Decree entered; destroyed November 9, 1961.

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*Product.*—Utopia Home Mineral Bath (bath salts).

*Distributor.*—Comfort Research Inc., Seattle, Wash.

*Charge.*—The product was misbranded by false claims on its carton and envelope labels which represented that the article was adequate and effective, because of its mineral salt composition, as a treatment for relieving pain due to arthritis, rheumatism, neuritis, nervous tension, and muscular discomforts.

*Disposition.*—Consent decree entered; destroyed December 20, 1961.

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*Product.*—Lix-Pain Cream Liniment.

*Shipper.*—Oglesby Chemical Co., Kinston, N.C.

*Charge.*—The liniment was misbranded by false claims on the bottle label and accompanying circulars which represented that the article was adequate and effective as a treatment for swollen joints, swollen glands, arthritis, neuritis, neuralgia, sinusitis, headache, bruises, sprains, minor burns, cramps, toothache, calluses, corns, and bunions.

*Disposition.*—Default decree entered; destroyed July 31, 1961.

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*Products.*—Biphetamine-T capsules 12.5 mg.: Biphetamine-T 12.5 mg. capsules; Biphetamine-T 20 mg. capsules (prescription drugs).

*Shipper.*—Strasenburgh Laboratories, Division Wallace & Tiernan, Inc., Rochester, N.Y.

*Charge.*—(Violations also charged under other sections of the act). Misbranded by false claims on the physicians' file cards (promotional material), which represented that the drug reduced the insulin requirement in diabetes, reduced nitroglycerin requirements in arteriosclerosis, and reduced the blood pressure in hypertension.

*Disposition.*—Decree entered; destroyed October 18, 1961.

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*Product.*—Hy-Jet Wafers (Effervescent douche wafers).

*Repacker.*—Medco Co., Inc., New Orleans, La.

*Charge.*—Misbranded by false claims on the label and accompanying literature that the article was effective for the treatment of monilia, trichomonas, staphylococcus, and streptococcus.

*Disposition.*—Default decree; destroyed August 14, 1961.

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*Products.*—Virilon, Physician's Formula for the Hair and Scalp; Virilon Hair Follicle Cleanser; Virilon (high potency special strength), Physician's Formula for the Hair and Scalp.

*Shipper.*—Steroid Products, Inc., Pontiac, Mich., and Virilon Products, Inc., Jackson, Mich.

*Charge.*—Misbranded by false claims in the labeling, streamers, and leaflets accompanying the articles, that the articles were adequate and effective as a treatment for growing thick hair and obtaining a healthy scalp; for overcoming male pattern baldness; for maintaining healthy hair and scalp; and for providing a penetrating action for treatment of scalp conditions.

*Disposition.*—Decree entered; product and accompanying literature destroyed August 28, 1962.



*Products.*—Mare Mano Eternal Youth, Corrective Cosmetic for Wrinkles and Blackheads; Mare Mano Capillaris Cream (Hair and dandruff cream); Mare Mano Acne Cream.

*Manufacturer.*—Mare Mano, Inc., 3601 Blvd. of the Allies, Pittsburgh, Pa.

*Charges.*—The articles were misbranded by false claims on the labels as follows:

**Eternal Youth Corrective Cosmetic:** That its name, "Tternal Youth," represented that the article was capable of causing its user to acquire and keep an everlasting youthful appearance; and that statements on its label represented the article to be capable of effectively reducing wrinkles around the eyes; and that it was an adequate and effective treatment for blackheads.

**Capillaris Cream:** The article was misbranded by false claims on the label which represented that the article was an adequate and effective treatment for falling hair, dandruff, and for restoration of hair.

**Acne Cream:** The article was misbranded by false claims on the label which represented that the article was an adequate and effective treatment for acne, pimples, blackheads and monthly skin disorders and by its name "Acne Cream".

*Disposition.*—Decree entered; destroyed July 27, 1961.

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*Product.*—Utopia Home Mineral Bath (bath salts).

*Distributor.*—Comfort Research, Inc., 2915 First Avenue, Seattle, Wash.

*Charge.*—The article was misbranded by false claims on its carton and envelope labels which represented that the article was adequate and effective, because of its mineral salt composition, as a treatment for relieving pain due to arthritis, rheumatism, neuritis, nervous tension and muscular discomforts.

*Disposition.*—Default decree; destroyed September 25, 1961.

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*Product.*—Delamer Minerals in solution of sea water.

*Shipper.*—Del Monte Laboratories, 1296 Hilby Avenue, Seaside, Calif.

*Charge.*—Misbranded by false claims on the label and accompanying leaflets which represented that foods were grown in mineral-depleted soils, and that the users' health was jeopardized by consumption of such foods, unless protected by this product; that the use of this product would drive out toxins from the body and that health would follow; that the addition of minerals to sea water imparted unique properties to this product: that it was effective for the treatment of many diseases caused by mineral deficiencies; that the product was effective in delaying the aging processes, and in preventing the bones of the aged from becoming brittle and easily broken. The product was not effective as a treatment for the diseases, conditions or purposes listed, and the minerals (except iron, calcium and iodine), were not present in amounts which would have any significance when the product was taken as directed.

*Disposition.*—Default decree entered November 3, 1961. Product and labeling destroyed.

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*Product.*—Flucaps.

*Repacker.*—Briggs Laboratory Product Co., Indianapolis, Ind.

*Charge.*—Misbranded by false claims on the label and display carton which represented that the product was effective as a treatment for the relief of flu, colds, chills, rheumatism, grippe, and associated conditions.

*Disposition.*—Default decree entered. Destroyed November 2, 1961.

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*Product.*—Fem-A-Line (a product to stimulate menstrual flow).

*Distributor.*—Fem-A-Line Laboratories, Dallas, Tex.

*Charge.*—Misbranded by false claims on the label and accompanying leaflet by representations that the article is adequate and effective "to assist retarded menstruation caused by severe colds and other unnatural suppression of the menses." (Also charged: Danger to health when used as directed.)

*Disposition.*—Decree entered; product and literature destroyed November 2, 1961.

*Product.*—Oasis Home Mineral Baths.

*Shipper-manufacturer.*—Oasis Co., El Monte, Calif.

*Charge.*—Misbranded by false claims in leaflets and display cards that the article was an adequate and effective treatment for relieving discomfort and pains of arthritis and rheumatism, relieving nervous tension, improving blood circulation, and that use of the article provided all the health benefits obtainable at health resorts.

*Disposition.*—Decree entered, destroyed January 9, 1962.

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*Product.*—Dr. Reeves' Special Foot Cream for Diabetics.

*Shipper-manufacturer.*—Chemical Commodities, Inc., Olathe, Kans.

*Charge.*—Misbranded by false claims in the label that the article was an adequate and effective treatment for impaired foot circulation and would prevent corns and calluses.

*Disposition.*—Decree entered, destroyed December 31, 1962.

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*Product.*—Sendol Tablets.

*Distributor.*—Sendol Co., Kansas City, Mo.

*Charge.*—Misbranded by false claims in the carton label, the bottle label, the box label, and a leaflet enclosed in the carton, that the article was an adequate and effective treatment for painful disorders due to simple headaches, colds, pains and aches, and minor aches and pains of rheumatism, neuritis, sciatica, bursitis, and lumbago.

*Disposition.*—Consent decree entered. Relabeled under supervision of Food and Drug Administration.

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*Product.*—Red Mountain Blood and Nerve Tonic.

*Shipper.*—Red Mountain Medical Co., Gary, Ind.

*Charge.*—Misbranded by false claims in the label that the article was an adequate and effective treatment for promoting pep, vigor and energy, for rundown nerves, impure blood, rheumatism, anemia, bladder weakness, swelling and stiffness of lower limbs and joints, skin diseases, and loss of appetite.

*Disposition.*—Decree entered. Destroyed February 28, 1962.

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*Product.*—The Famous Red Mountain Cough Syrup.

*Shipper.*—Red Mountain Medical Co., Gary, Ind.

*Charge.*—Misbranded by false claims in the label that the article was an adequate and effective treatment for coughs, colds, bronchial irritations, tight stuffy chest due to colds and exposure, and hoarseness.

*Disposition.*—Decree entered. Destroyed February 28, 1962.

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*Product.*—"Red Mountain Liver-Kidney Regulator."

*Shipper.*—Red Mountain Medical Co., Gary, Ind.

*Charges.*—Misbranded by false claims in the label that the article was an adequate and effective treatment for eliminating wastes and poisons from the system, relief of sluggish liver and kidneys, backaches, headaches, colds, constipation, indigestion, gastric stomach, dizziness in head, high blood pressure, bad breath, no pep due to a bilious system, and to prevent serious menstrual pains.

*Disposition.*—Decree entered. Destroyed February 28, 1962.

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*Product.*—"Husco Brand Rectal Ointment."

*Distributors Repacker.*—Hussey Distributing Co., Atlanta, Ga.

*Charge.*—Misbranded in that its label failed to bear a warning that in case of rectal bleeding a physician should be consulted promptly.

*Disposition.*—Default decree entered. Destroyed April 3, 1962.

*Product.*—"Tum Tabs."

*Distributor.*—Hussey Distributing Co., Atlanta, Ga.

*Charge.*—Misbranded by false claim in the label which represented and suggested that the article was an adequate and effective treatment of peptic ulcer.

*Disposition.*—Default decree entered. Destroyed April 3, 1962.

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*Product.*—"Engram's S-R Antacid Gastric Sedative."

*Distributor.*—The Drug Shop during business as S-R Co., Albany, Ga.

*Charges.*—Misbranded by false claims in the label that the article was adequate and effective as a treatment for gas, inflammation, acid disturbances, nausea, ulcerated stomach and intestines.

*Disposition.*—Decree entered. Destroyed July 13, 1962.

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*Product.*—"Reclu."

*Distributor.*—Reclu Drug Co., Ltd., Seattle, Wash.

*Charges.*—Misbranded by false claims in name (ulcer spelled backwards), bottle label, and leaflet, that the article was an adequate and effective treatment for stomach ulcers.

*Disposition.*—Decree entered. Destroyed July 26, 1962.

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*Product.*—"Squaw Paw Brand Famous Liniment."

*Manufacturer.*—Celtonsa Medicine Co., Cincinnati, Ohio.

*Charges.*—Misbranded by false claims in its label, on carton and in leaflet that the article was an adequate and effective treatment for sprains, bruises, frostbite, nonpoisonous insect bites, simple headache, neuralgia, wrenches, children's minor injuries, and toothache.

*Disposition.*—Default decree entered. Destroyed January 2, 1962.

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*Product.*—"Squaw Paw Brand Herbs."

*Dealer.*—John C. Vogt, Torrance, Calif.

*Charges.*—Misbranded by false claims in leaflet that the article was adequate and effective as a treatment for biliousness, colds, piles, pain in back, neck, shoulders or hips, heartburn, heart palpitation, biliousness or sick headache, sour or sick stomach, belching, bloating, gas on stomach, rheumatism, lumbago, female complaints, bladder trouble, kidney trouble, asthma, indigestion, colitis, blood disease, various skin diseases, ulcers, liver trouble, and appendicitis.

*Disposition.*—Default decree entered. Destroyed January 2, 1962.

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*Products.*—"Frye's Laxative Syrup," "Gentian Iron Tonic," "Rheumatine Compound No. 50," "Meditron," "Frye's Compound Wine of Comfrey."

*Dealer.*—C. T. Frye, trading as Frye Product Co., Kingsport, Tenn.

*Charge.*—Misbranded by reason of the failure of the label to bear adequate directions for use in conditions for which these products were orally recommended, as follows: Frye's Laxative Syrup—Claims for the treatment of conditions of the liver. Frye's Gentian Iron Tonic—Represented for the treatment of weakened rundown conditions, and for gaining strength and building up the body. Frye's Rheumatine Compound No. 50—Promoted for the treatment of rheumatism and arthritis, and for removing poisons from the blood. Meditron—Promoted for the treatment of arthritis and rheumatism. Frye's Compound wine of Comfrey—Represented for the treatment of internal bleeding in women, for healing and stopping pains of menstruation, and for irregular menstruation.

*Disposition.*—Consent decree entered March 7, 1962. Drugs released to distributor to be relabeled with adequate directions for use for more restricted claims. (See also: criminal prosecutions terminated.)

*Product.*—"Stomach Relief" (antacid).

*Manufacturer.*—F. A. Products Co., 600 S. Michigan Avenue, Chicago, Ill.

*Charges.*—The label bore false claims for stomach relief and upset stomach.

*Disposition.*—Decree entered, destruction on March 28, 1962.

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*Product.*—"Calorie Control" (appetite depressant).

*Manufacturer.*—F. A. Products Co., 600 S. Michigan Avenue, Chicago, Ill.

*Charges.*—The label bore false claims for calorie and weight control and appetite appeasement.

*Disposition.*—Decree entered, destruction on March 28, 1962.

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*Product.*—"Alterness" (caffeine-vitamin combination).

*Manufacturer.*—F. A. Products, 600 S. Michigan Avenue, Chicago, Ill.

*Charges.*—The label bore false statements that the product was natural in composition and was effective as a stimulant for vitality and alertness.

*Disposition.*—Decree entered, destruction on March 28, 1962.

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*Product.*—"Cold-Sinus".

*Manufacturer.*—F. A. Products Co., 600 S. Michigan Avenue, Chicago, Ill.

*Charges.*—The label bore false claims for the treatment of colds and sinus congestion.

*Disposition.*—Decree entered, destruction on March 28, 1962.

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*Product.*—"Calm Nerves".

*Manufacturer.*—F. A. Products Co., 600 S. Michigan Avenue, Chicago, Ill.

*Charges.*—The label bore false claims for the treatment of sleeplessness, nervous tension, and irritability.

*Disposition.*—Decree entered, destruction on March 28, 1962.

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*Product.*—"Z-50" and "X-9" (cancer treatment).

*Shipper.*—George S. Zuccala, 179 Allyn Street, Hartford, Conn.

*Charges.*—The printed material accompanying these drugs bore false claims for the treatment of cancer.

*Disposition.*—Decree entered, destruction on November 7, 1961.

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*Product.*—Kool-Foot and Ten Second Rub.

*Shipper.*—Devine's Remedies, Inc., 4930 N. Ravenswood Avenue, Chicago, Ill.

*Charges.*—The label of the Kool-Foot bore false claims for the treatment of athlete's foot. The label of the Ten Second Rub and the leaflet entitled "Feet Hurt, Burn . . . Tired . . . Itch . . . Ache???" both bore false claims for the treatment of headache, colds and cough.

*Disposition.*—Decree entered, destruction on April 26, 1962.

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*Product.*—"Ease Diuretic Tablets."

*Distributor.*—Rhodes Laboratory, 102 West 11th, Fort Worth, Tex.

*Charge.*—Radio scripts and testimonial letters associated with the product contained false statements representing the article as an effective treatment for backache; leg pains; rheumatic and arthritic stiffness; headaches; dizziness, nervousness; puffiness under the eyes, swelling ankles, hands, arms and feet; excess poisonous matter in the blood; malfunction of the kidneys; bloating; bladder urgency; neuralgia; cramps; and excess weight.

*Disposition.*—A consent decree was entered; the seized articles were destroyed on May 25, 1962.

*Product.*—"Lusco Peter's Remedy" (laxative).

*Manufacturer.*—Lusco Products, Inc., 806 Broadway, Buffalo, N.Y.

*Charge.*—The bottle and carton labels bore false statements that the article was an effective treatment for temporary relief of gastrointestinal disturbances. The name "Gastrodex" under which the product was sold in Canada suggested use in gastrointestinal disorders and the directions for use on the label suggested continued and prolonged use of the article, while in fact the article was a simple laxative which should have been offered for the temporary relief of occasional constipation.

*Disposition.*—Consent decree was entered; the article was destroyed on October 10, 1962.

*Product.*—"Zinsep Compound" (antacid-laxative combination).

*Manufacturer.*—Union Pharmacal Co., Lake Quivira, Kansas City, Kans.

*Charge.*—A leaflet entitled "Zinsep \* \* \* America's Greatest Stomach Remedy \* \* \*" accompanying this article contained false statements that the article was effective for overcoming stomach and intestinal pains, promptly correcting stomach disorders; correcting digestive disorders; relieving chronic stomach disorders; correcting conditions causing acid dyspepsia; nausea, vomiting, sour stomach, belching, flatulence, bloating, heartburn, sick headache, bad breath; and for healing stomach ulcers.

*Disposition.*—A default decree was entered; the article was destroyed April 25, 1962.

*Product.*—"Merbels Formula No. 2" (antacid).

*Manufacturer.*—Merton Bell, d/b/a Bell Labs., 157 East Highland Avenue and d/b/a Bell's Prescription Pharmacy, 2 West 11th Street, Tracy, Calif.

*Charge.*—The bottle label and leaflets accompanying this article bore false statements that the article was an adequate, safe, and effective treatment for stomach distress due to ulcers, chronic sick, gassy, ulcerous stomach; more serious stomach ailments; dizziness; peptic ulcers; colitis; and all ailments connected with stomach trouble except cancer.

*Disposition.*—A decree was entered; the product was relabeled on August 17, 1962.

PROSECUTION CASES FILED

*Product.*—"No. 1 Calcium Fluoride," "No. 2 Calcium Phosphate," "No. 6 Potassium Phosphate," "No. 7 Potassium Sulphate."

*Distributor.*—Fred N. Haas d/b/a Haas Mineral Distributing Co., Omaha, Neb.

*Charges.*—

"No. 1 Calcium Fluoride": The labeling failed to bear adequate directions for use for the purposes, conditions and diseases for which the article was represented by Fred N. Haas, namely, as an adequate and effective treatment for heart disease, cancer, nerves, preventing abortion, increasing fertility by balancing blood, aiding child delivery and eliminating the need for Caesarean section.

"No. 2 Calcium Phosphate": The labeling failed to bear adequate directions for use for the purposes, conditions, and diseases for which the article was represented by Fred N. Haas, namely, as an adequate and effective treatment for heart disease, cancer, Bright's disease, eczema, indigestion, building blood cells, aiding in child delivery, eliminating the need for a Caesarean section, muscular tone, circulation, nerves, preventing abortions, increasing fertility by balancing blood, building health, and making heart and stomach healthy.

"No. 6 Potassium Phosphate": The labeling failed to bear adequate directions for use for the purposes, conditions and diseases for which the article was represented by Fred N. Haas, namely, as an adequate and effective treatment for heart disease, cancer, helping breathing, aiding in child delivery, eliminating the need for a Caesarean section, building health, and making heart and stomach healthy.

"No. 7 Potassium Sulphate": The labeling failed to bear adequate directions for use for the purposes, conditions and diseases for which the article was represented by Fred N. Haas, namely, as an adequate and effective treatment for cancer, building health, making heart and stomach healthy,

carrying poison out through pores, aiding in child delivery and eliminating the need for Caesarean section.

*Action.*—Criminal prosecution of Fred N. Haas. Plea of nolo contendere on August 2, 1962. Defendant placed on probation for 1 year and ordered to pay court costs.

*Products.*—Frye's Laxative Syrup, Gentian Iron Tonic, Rheumatine Compound No. 50, Meditron, Frye's Compound Wine of Comfrey, Frye's Diuretic and Alkaline, for Kidneys and Blood.

*Defendant.*—C. T. Frye, t/a The Frye Product Co., Kingsport, Tenn.

*Charge.*—All of the above products were misbranded because the labeling did not bear adequate directions for use in the various diseased conditions as claimed by the defendant in oral representations. The claims made for the products were:

Frye's Laxative Syrup: Claims for the treatment of conditions of the liver.

Frye's Gentian Iron Tonic: Represented for the treatment or rundown conditions, and for gaining strength and building up the body.

Frye's Rheumatine Compound No. 50: Promoted for the treatment of rheumatism and arthritis, and for removing poisons from the blood.

Meditron: Promoted for treatment of arthritis and rheumatism.

Frye's Compound Wine of Comfrey: Represented for the treatment of internal bleeding in women, for healing and stopping pains of menstruation, and for irregular menstruation.

Frye's Diuretic and Alkaline for Kidneys and Blood: Represented for the treatment of diseased conditions of the prostate gland, bleeding kidneys and for removing pus from the kidneys, and poisons of the blood.

*Disposition.*—Plea of nolo contendere. Found guilty, and fined \$200 on each of five counts, total fine \$1,000 on April 10, 1962. (See also: Termination of seizure actions.)

*Products.*—"Formula B-13."

*Manufacturers.*—Wise Laboratories & Co. (also known as Stockton Laboratories & Co.) Albuquerque, N. Mex.

*Charges.*—Misbranded by false claims in accompanying labeling, namely, an undated form letter and dated letter that the article was an adequate and effective treatment for duodenal and gastric ulcers.

*Action.*—Criminal prosecution of Emmett F. Stockton, an individual trading and doing business as Stockton Laboratories & Co., Albuquerque, N. Mex. Plea of guilty on November 17, 1961. Imposition of sentence suspended and placed on probation for 2 years on December 8, 1961.

#### INJUNCTIONS FILED

*Products.*—Livesay's Laxative Syrup; Livesay's Formula No. 10, Bitter Tonic and Stomachic; Livesay's S & L Compound No. 25; Livesay's Antacid Powder; Livesay's Diuretic and Alkaline; Livesay's Formula No. 150, Stomachic; Livesay's Formula No. 161, Analgesic Vegetable Compound; Livesay's Alfatea.

*Distributor.*—W. B. Livesay Products Co., Walter B. Livesay, and Arthur L. Livesay, Pennington Gap, Va.

*Charges.*—All articles were misbranded because the labeling failed to bear adequate directions for use for the conditions, diseases or purposes for which the articles were recommended in oral statements made by Walter B. Livesay in his office. These products were recommended for:

Laxative syrup: Treatment of gallbladder troubles.

Formula No. 10: The treatment of hepatitis, jaundice, and infection of the liver.

S & L No. 25: The treatment of liver troubles and gallstones.

Antacid powder: The treatment of bleeding ulcers of the stomach.

Diuretic and alkaline: The treatment of bladder troubles, pus in the urine, and Bright's disease.

Formula No. 150—The treatment of prostate gland trouble.

Formula No. 161 and alfatea: The treatment of inflammatory rheumatism.

*Disposition.*—Goods seized June 30, 1961. On August 19, 1961, a consent decree and permanent injunction was entered, which provided for the return of the drugs, with a provision prohibiting any further misbranding of these and other drugs distributed by this firm.

*Product.*—Gericane H<sub>2</sub> (injection of procaine).

*Manufacturer.*—C. F. Kirk Laboratories, Inc., New York, N.Y.

*Charges.*—Product was misbranded by leaflets, reference cards and brochures by false and misleading claims which represented that the drug was adequate and effective as a treatment for pathological aging, nervous disorders, lack of muscular strength, lapses of memory, lack of pigmented hair (achromotrichia), arthritic joints, baldness (alopecia), trophic ulcers, atrophy and scaliness of the skin of the hands, muscular atrophy, facial blotches, arthritis, arteriosclerosis, senile Parkinsonism, peptic ulcers, bronchial asthma, angina pectoris, lumbago, sciatica, trembling hands, mental trouble, and other diseases, symptoms, and conditions of old age. (Also charged: Violation of the new drug section of the act.)

*Disposition.*—Consent decree of permanent injunction filed on April 14, 1961, prohibiting the firm, its officers, and agents from further distribution of this misbranded product.

*Product.*—"Prostall."

*Shipper.*—Metabolic Products Corp., Inc., Boston, Mass.

*Charge.*—Misbranded by false claims in the labeling that it was an adequate and effective treatment for prostatic hypertrophy (enlargement of the prostate gland) and for the prevention of cancer of the prostate.

*Disposition.*—After trial, the court granted a permanent injunction on February 19, 1962, prohibiting Metabolic Products Corp., and Mr. Edward Y. Domina, president of the firm, from making further interstate shipments of "Prostall" for the treatment of diseases of the prostate.

*Product.*—Specifex Adrenal Hormone Cream.

*Distributor.*—Specifics Drug Co., a partnership, Monte C. Etherton, Frank L. Etherton, partners, St. Louis, Mo.

*Charges.*—Product was misbranded by labeling and promotional literature which represented that the product was effective for relieving or overcoming rheumatic and other arthritic pains, pains of fibrositis due to sprains, strains, fractures, postoperative adhesions; arthritis, chronic fibrositis, rheumatism and arthritic afflictions; lumbago; relief of pain of shingles; skin blemishes—keratoses of the aged; gout; painful skin and nerve conditions; obstinate and painful conditions; lameness; migraine headaches; trifacial neuralgia, rheumatoid arthritis, or serositis; frozen nerves; neuritis, sciatica, Charley horse, gouty neuritis; chronic rheumatism, neuralgia, relief from pain and stiffness; osteoarthritis; stiff and painful fingers, capsulitis.

*Disposition.*—Consent decree of injunction was entered May 18, 1962, and became effective on June 1, 1962. The injunction prohibits the firm from selling Specifex cream, or any other product, with claims or implications that epinephrine hydrochloride in any form, applied topically, is of benefit in the conditions mentioned above.

Senator MUSKIE. Thank you, Mr. Larrick. We appreciate your presentation. It adds a very worthwhile chapter to the record of these hearings.

Senator RANDOLPH, do you have some questions?

Senator RANDOLPH. Nothing except to state that it is most constructive, Commissioner, the way that you and your associates approach this problem.

I think you are realistic in thinking not so much of the past but attempting to find ways to proceed effectively in the future.

I compliment you and those who join with you. We need, certainly, a more stepped-up effort, an all-out frontal attack on this problem

and I hope that these hearings will serve as a beginning, not in disparagement of what has been done, but in focusing attention upon the very serious problem with all its tragic implications.

Mr. LARRICK. Thank you very much indeed, Senator, and I should like to say that I think that these hearings are extremely valuable. I think they are extremely timely, and I don't see how they can fail to accomplish great good for a segment of the population that needs assistance.

Senator MUSKIE. Senator McNamara?

The CHAIRMAN. Yes, Mr. Chairman, I would like to ask the Commissioner, if you have sufficient—in your judgment—sufficient budget and sufficient staff to do the job that needs to be done in the area that we have been discussing?

Mr. LARRICK. Senator, no bureaucrat ever had sufficient budget or sufficient people, but I would say that if the budget which I have just been told will be asked for on our behalf this year is brought forward, we will be able to increase the amount of money that we can give to this particular field from about \$560,000 a year to \$700,000 a year.

The CHAIRMAN. How much increase in personnel would this mean?

Mr. LARRICK. Roughly, this would mean an increase of approximately 20 people.

The CHAIRMAN. I guess the answer to my direct question would be that apparently you do not have sufficient funds presently. Is that right?

Mr. LARRICK. That is right, sir.

The CHAIRMAN. Well then, the next question obviously is, Why don't you have enough funds? Who is responsible for the curtailment of funds? Is it the fact that you do not make your requests high enough? Are you turned down by the Bureau of the Budget, or is it the fault of the Congress?

We are trying to find out who is responsible, if somebody is responsible, for the lack of provisions in this area.

Mr. LARRICK. At the present time, to be very forthright, the thalidomide episode has catapulted the Food and Drug Administration into the public eye and we are, I believe, in prospect of getting facilities, because more people are paying more attention to us, that we were not able to get in the past.

There have been periods in the past, Senator, when we have offended some of the congressional people, and instead of adding to our appropriations they have been cut.

There have been times in the past when we have lost scientists because the funds were not forthcoming.

There have been a variety of reasons that our scientific facilities over the years have not kept abreast of the increasing technological demands in this modern age of new drugs and new medicines, and whatnot. As of today, with the progress that we are making, I have no complaint.

The CHAIRMAN. This means, then, in the future, we can expect you to do a better job on getting at these things earlier in the programs?

Mr. LARRICK. Somewhat earlier, but don't misunderstand me. The rate at which we are growing is, in my judgment, approximately the rate at which we can grow best. I don't want to grow so fast that we don't build soundly, but we will need to continue this rate of



growth, both in people and in laboratory facilities, and in inspectors and in all of our facilities, over a period of years, to do the job that you want us to do. But you can't solve these problems by just suddenly throwing a lot of untrained people into a very complex scientific area.

The CHAIRMAN. Then you do find there is a lack of technical people in the area where you need them at this time?

Mr. LARRICK. There is a lack of technical people on our staff, but we can find the technical people; up to now, with the appropriations we have been able to get, we have been able to keep abreast of our recruiting problems.

There is difficulty with physicians and some of the higher trained scientists, but up to now we have filled our quotas as they became due.

The CHAIRMAN. Thank you very much.

Mr. LARRICK. Thank you, Senator.

Senator MUSKIE. You say, in effect, that we face a growing problem here?

Mr. LARRICK. There is no question but that we face a growing problem.

Senator MUSKIE. What are the causes of that growth in the size of the problem?

Mr. LARRICK. If you look at the food industries in your home State, and see the technological changes that have gone on in those industries, and the extent to which they are using science today to make convenience foods, to make foods so that 22 million women can be gainfully employed all day and go home at night and have a dinner on the table in a very brief time; well, all of those technological developments make new problems for the industry, both in the food industry and the drug industry, for them and for us; and so long as we make those technological advances, we are going to have more demands.

Now, as our percentage of our older people increases, there is going to be a market that the charlatans are going to try to exploit, and we will need to have the know-how, the people, to promptly get hold of these problems and cure them.

Senator MUSKIE. Well, thank you, Mr. Larrick.

There are no more questions, and we appreciate very much your coming here, and also the members of your staff.

Mr. LARRICK. Thank you, sir.

Senator MUSKIE. Our next witness is the Chairman of the Securities and Exchange Commission, Mr. William L. Cary.

Mr. Cary, we welcome you this morning, and appreciate your coming to the committee's hearings.

The CHAIRMAN (presiding). Commissioner, it is very nice to have you here, as Chairman of the Securities and Exchange Commission, and will you introduce your associates for the record?

Mr. CARY. Yes, sir; Senator McNamara. I am William L. Cary, Chairman of the Securities and Exchange Commission.

On my right is Philip A. Loomis, the Director of our Division of Trading and Exchanges, and on my left, is Arthur Fleischer, Jr., the executive assistant to the Chairman.

The CHAIRMAN. Thank you. Now you may proceed in your own manner.

**STATEMENT OF HON. WILLIAM L. CARY, CHAIRMAN, SECURITIES AND EXCHANGE COMMISSION; ACCOMPANIED BY PHILIP A. LOOMIS, DIRECTOR, DIVISION OF TRADING AND EXCHANGES, SECURITIES AND EXCHANGE COMMISSION; AND ARTHUR FLEISCHER, JR., EXECUTIVE ASSISTANT TO THE CHAIRMAN, SECURITIES AND EXCHANGE COMMISSION**

Mr. CARY. Mr. Chairman and members of the committee, I am William L. Cary, Chairman of the Securities and Exchange Commission. I am here today at your invitation for the purpose of discussing the problem of the exploitation of elderly citizens in securities transactions and the Commission's responsibilities in this area.

I would first like to discuss briefly the scope of the statutes pertinent here which the Commission administers—generally what the Commission can and cannot do. The two most relevant are the Securities Act of 1933 and the Securities Exchange Act of 1934. Basically their great theme is investor protection.

Their trust is to provide investors with material information as a basis for informed investment judgment and to prohibit fraudulent, deceptive, and manipulative practices in the purchase and sale of securities.

I might add at this juncture that these protections are not directed to any class, such as the aged. They apply to all investors. Of course, they are of importance to the elderly, who are often the victims of securities frauds.

Disclosure of material information is achieved through the distribution of a "prospectus" upon the public offering of a security and the filing of periodic and annual reports by some, but not all, public companies.

The goal of prevention of fraud is reached through several means: the registration of broker-dealers and the development of standards of conduct for them by the Commission; criminal sanctions, the power of the Commission to prevent, in effect, the public offering of a security by means of misleading information through court or administrative action; and private rights of recovery provided for defrauded investors.

Another important area for elderly investors involves "mutual funds," and other types of investment companies which are subject to the Investment Company Act of 1940. In addition to various disclosure obligations, this act sets requirements as to capital structure, places restraints on "insider" transactions, and emphasizes the policy of investor control.

Finally, I believe it would be helpful for people to understand what the Commission does not, and cannot do under the statutes entrusted to it. The Commission is not a "capital issues" committee. We have no power to designate which companies may go to the public for funds. Any company may sell its securities provided it satisfies the statutory requirements of full disclosure. Secondly, the Commission is not an investment adviser. We do not recommend the purchase or sale of particular securities. Similarly, we do not regulate the price movements of stocks or the performance of mutual funds. The Commission is not a collection agency for investors. Lastly, it does not guar-

antee the integrity of broker-dealers. At present there is very free entry into the securities business. There are no Federal character requirements.

With this as background I should like now to direct my attention to the problem of the elderly. As the committee chairman noted in his letter of November 2, 1962, the elderly are peculiarly susceptible to fraudulent schemes and the problem is especially acute where investment opportunities are involved. Individuals of postretirement age are frequently motivated by a desire to supplement their small fixed incomes by investment in stocks that bring substantial and rapid returns. The very nature of such a security, however, may be highly speculative and the risk of loss concomitantly increased.

Thus, aged persons with severely impaired earning capacities, who are least able to afford substantial losses, are oftentimes the most prone to take the greatest risks. These people have upon retirement a fund of savings, but often little or no investment experience.

In addition, as the committee also noted, they may suffer a decline in mental alertness which not infrequently accompanies extreme old age. All of these factors make them prime targets of the unscrupulous. There exists, therefore, a need to educate and protect the elderly against the dangers inherent in unwise speculative investments. The Commission has attempted to meet this need by means of a vigorous enforcement and educational program.

I would like to discuss a few of the types of fraudulent promotions in which the aged appear to have been special victims. A substantial enforcement problem was presented to the Commission by the so-called 10-percenter's fraud scheme.

Although California was the center for these operations, nevertheless the basic scheme has been employed elsewhere and particularly in locations where there are large retired populations. The case of Los Angeles Trust Deed & Mortgage Exchange demonstrates the manner in which the "10 percenters" operated. I might say parenthetically that this involved about 9,000 investors and a total investment of about \$40 million. Individual trust deeds and mortgages were merchandised under purportedly high-yield investment plans, without registration with the Commission, and often through grossly untruthful and deceitful public solicitations.

It appears that thousands of small investors committed their savings on the representations that these investments were sound and stable. The program of Los Angeles Trust Deed & Mortgage Exchange made special appeals to elderly investors and those preparing for retirement.

In certain television broadcasts, examples were given of elderly widows who had benefited from their investment with Los Angeles Trust Deed & Mortgage Exchange. Advertisements typically stated:

Will your retirement income be adequate? No one plans to be poor at 65, but few plan not to be. After age 65 only 1 person in 13 is financially independent. A secured 10-percent earnings account may be the answer to your retirement needs.

These appeals appear to have had some effect. Many of the victims of the Los Angeles Trust Deed & Mortgage Exchange scheme were retired people who depended solely on social security and part-time employment for their support.

The Commission secured injunctive relief against continuation of this deceitful business and criminal convictions were also secured. Los Angeles Trust Deed & Mortgage Exchange, as well as several similar operations, went into bankruptcy. The collapse of the "10 percenters" resulted in the enactment of remedial State legislation designed to curb the abuses which had occurred.

A similar fraudulent course of conduct involved so-called 8 percenters who had been selling interests in Florida mortgages on an 8-percent-yield basis to investors throughout the United States. Here again the sales literature was directed in large part, toward those of retirement age and included passages of which the following is typical:

Everywhere there are persons of more than average intelligence who are faced with a dilemma. They have managed to accumulate a few thousand dollars. They have a fixed income from a salary or retirement checks. Yet their problem is daily becoming more acute. Faced with the constantly rising cost of living, their fixed income coupled with the small interest they receive on their savings are providing fewer and fewer comforts. They realize it is only a matter of time until they are on a mere subsistence level and their savings begin to melt away at a time when their productive years are passed.

To such persons an increase in the interest rate they receive on their savings added to their present fixed income may easily mean the difference between living comfortably with a feeling of security and deep contentment or living with the constant gnawing anxiety of an uncertain future.

These operations have also been the subject of numerous civil and criminal actions.

Besides assuring themselves of an adequate retirement income, elderly investors are particularly concerned with obtaining suitable housing facilities during their retirement years. It appears that certain promoters are attempting to take advantage of this desire by fraudulently representing that securities which they offer will insure such facilities.

The Commission recently secured a preliminary injunction against this type of scheme. In this case, the Commission's complaint and supporting documents alleged that the defendants failed to reveal their past efforts to secure such housing had failed, that the financial information was misleading and incomplete, and that capital was being used to pay interest on loans.

The above discussed cases all involved promotions which appealed especially to the elderly investor. Of course, the aged also concern themselves with routine investment situations. It may fairly be said that the law often applies its standards in the most strict fashion to those who deal with the aged.

For example, a securities firm which places itself in a position of trust and confidence with respect to a customer is held to the firmest obligation of fair dealing. Such a trust relationship frequently arises in the case of an elderly investor who has had virtually no investment experience and places great reliance on the broker. The Commission has revoked the registration of several firms which have churned the accounts, or otherwise abused the confidence of such persons. In a recent proceeding, one victim was an elderly widow in her seventies. In a period of almost 2 years, her account was heavily turned over and she suffered substantial losses.

Of basic concern to the elderly investor is that he buy a security which is suitable for him—an investment which is appropriate to his

financial needs and personal circumstances. This suitability standard takes on particular relevance when dealing with the aged. For example, it would seem to be an unsound practice to sell a mutual fund under a contractual plan to an elderly person—where a substantial part of the early payments go for sales load and not to acquire an investment. Further, as an investment banker recently stated: "The obvious example (of unsuitability) is the recommending of highly speculative securities to an older person, particularly a woman."

In this area of suitability, the securities industry has taken important steps through its self-regulatory institutions which share with the Commission the responsibility of providing investor protection for the securities markets. The National Association of Securities Dealers, charged with a responsibility of regulating the over-the-counter market, has provided in its Rules of Fair Practice that a security should not be recommended to a customer unless it is suitable to that customer's particular financial situation and need.

Lately the New York Stock Exchange has placed increasing emphasis on suitability. The National Association of Securities Dealers recently suspended the membership of a firm which failed to comply with this standard when recommending certain securities to a group of elderly investors, the majority of whom were in their seventies. The opinion read in part:

Complainants for the most part are elderly, retired persons residing in the St. Petersburg area. The majority had limited educations, and little, if any, investment experience. They invested \* \* \* the major portion of their net worth.

Here again a highly speculative investment was advertised and sold as a "safe" high-yielding security. The unsophisticated, elderly investors apparently did not realize that the high interest rate necessarily reflected a high risk. Since the sellers did not inform the victims of this high risk, they were suspended from the National Association of Securities Dealers.

This type of rule, aimed at providing investors with suitable securities and with the necessary information upon which they can make an intelligent investment decision, coupled with active enforcement, is of utmost importance in order to curtail fraudulent practices in the selling of securities.

What further need be done to protect the elderly from fraud in securities transactions? Perhaps the most valuable preventative is securities education—to warn the unsophisticated and aged investor of the dangers of relying on the optimistic recommendations of strangers who promise all and always return little. The work of this committee will undoubtedly be of great assistance in this direction. The Commission itself distributes a brief pamphlet, entitled "Investigate Before You Invest," of which I have copies here available, containing a list of 10 suggestions for investor protection which are so deceptively simple that they may be frequently overlooked.

Perhaps it would not be amiss to state them in this forum:

- (1) Before buying—think!
- (2) Don't deal with strange securities firms. (Consult your broker, banker, or other experienced person you know and trust.)
- (3) Beware of securities offered over the telephone by strangers.
- (4) Don't listen to high-pressure sales talk.
- (5) Beware of promises of spectacular profits.

- (6) Be sure you understand the risks of loss.
- (7) Don't buy on tips and rumors. Get all the facts!
- (8) Tell the salesman to put all the information and advice in writing and mail it to you—and save it!
- (9) If you don't understand all the written information, consult a person who does.
- (10) Give at least as much consideration to buying securities as you would to buying other valuable property.

The Commission has endeavored to pursue a vigorous enforcement program in an effort to restrict the fraudulent exploitation of our elderly citizens. Obviously we can only do a selective job with the funds and personnel we have available. The cases which I have described to you today indicate that we have met with some degree of success. We fully intend to continue this effort.

I do not have any specific legislative proposals and I am not sure the problems of the aged require amendment of our statutes to provide particularly for the elderly, as compared with other groups of investors. For example, improvement in the quality and training of salesmen and the broadening of informational requirements concerning the great volume of securities traded on the over-the-counter market will assist investors—young and old.

In any event, I believe our proposals should await the report of the Commission's "Special Study of Securities Markets," scheduled to be submitted to the Congress on April 3, 1963. This report will be a very thorough reexamination of many broad areas of the securities markets.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

I think this is a very fine presentation on the part of your agency, and I am sure it will be very helpful to this committee and to the report that we expect to develop in connection with these hearings.

Now let me ask you a question. It has been suggested that organizations selling land interstate register with the Securities and Exchange Commission.

What is your opinion of this? A deed is a security? Do you have jurisdiction now or do we need new legislation?

Mr. CARY. First, of all, sir, our responsibility, our jurisdiction, covers only securities.

The CHAIRMAN. Isn't a deed a security?

Mr. CARY. A deed to a piece of land, alone, is not a security.

The CHAIRMAN. Well, some States have divisions that they call securities and exchange commissions or similar names and many of them, including my State of Michigan, have a real estate division. Apparently it is so treated that a deed is a security, and, therefore, it comes under the jurisdiction of the Securities and Exchange Commission.

Now, is there any need in your judgement for Federal legislation along these lines?

Mr. CARY. This problem of whether or not we should expand our responsibilities, moving from the field of what is traditionally known as securities into real estate as such, is really one we have not yet faced. Our immediate position is whether we should deepen our responsibility with respect to securities, as such. For example, this whole area of the over-the-counter market, where so little information is known at the present time.



Now, whether we ought to move into real estate, I have no opinion at this time. But I would say it is pushing us from the present area of our expertise into a totally new area.

I do, however, want to point out to you that we are moving where we should—into the field where interests in real estate are sold in the form of a security.

For example, if a person sells an interest in a citrus grove, which is a typical case that we had at one time, he may sell not only that interest, but a promise to cultivate it and to distribute the proceeds from the sale of the oranges or whatever they may grow. When there is such a profit-sharing arrangement, a security is normally involved and we would have jurisdiction.

Similarly, with respect to the mortgages that I just referred to in California—this \$40 million invested in Los Angeles Trust Deed—those did not involve just an ordinary mortgage interest, but it was an agreement by the parties to select the mortgage for you, and perform certain services; although we had to go through the courts to establish this principle, the arrangement was found ultimately to be an investment contract, and therefore a security, subject to our jurisdiction.

However, when you get into just the sale of a pure piece of land, that would not fall within our jurisdiction at the present time.

The CHAIRMAN. Well, unfortunately, it appears that under most State laws, nobody there has jurisdiction either.

Now you can hardly pick up a periodical, a newspaper or magazine these days without running into ads such as this copy that I am holding here.

Mr. CARY. Yes, sir, I have seen that, myself.

The CHAIRMAN. We have had a great deal of testimony here where people have been victimized, not in \$40 million investments, or \$20 million investments, that you are referring to, but comparatively small investments, \$10,000, \$15,000, or \$20,000, just for a place to live, a piece of property.

But the ads are so fraudulent that obviously somebody should be able to do something about it.

Now I think this is a problem which you should give consideration to in connection with the new course that your agency is taking, and I hope that you will.

If you do not have any recommendation at this time, I hope you will give it some serious consideration.

Mr. CARY. We shall give this very definite consideration; yes, sir.

The CHAIRMAN. Thank you.

Senator Randolph, do you have any comments or questions?

Senator RANDOLPH. Nothing, Mr. Chairman, except to say that I am delighted that you brought this specific instance in the record, because we all know that to the person of small means the investment, which is fraudulent in nature, is more damaging to that individual than it is to a person who has money, who deals in stocks generally.

The CHAIRMAN. Well, thank you very much.

If that completes your presentation, we again appreciate your cooperation. We will be glad to send you a copy of any report we develop. I think you will be interested in many of the phases of the hearings that we have had so far.



(The material referred to above follows:)

#### INVESTIGATE BEFORE YOU INVEST

(A message for investors from the U.S. Securities and Exchange Commission)

#### INVESTORS AND OUR EXPANDING ECONOMY

The remarkable growth of our economy in recent years has been accompanied by a vast surge in the number of new share owners in American industry. Today, millions of your fellow citizens own corporate stocks and bonds and their number is growing by the hundreds of thousands.

The savings of persons like yourself, when invested in American industry, have helped provide the money for our industrial growth and expanding economy. These invested savings have contributed to our high standard of living in three ways: by providing capital for industry and new jobs for labor; by providing new products for the consumer; and by providing income to the investor if he has invested wisely.

#### SHOPPING FOR SECURITIES

If you are thinking of buying securities—perhaps for the first time or perhaps to add to the securities you already own—the few minutes you spend in reading this may make you a wiser investor.

There is a big difference between shopping for an automobile or a home appliance and shopping for securities. When you buy a new car or a washing machine, you can examine the merchandise, compare prices, and tell fairly accurately if the dealer is asking a reasonable price. On the other hand, an engraved stock certificate making you part owner of a bankrupt company looks just as impressive as a certificate in a blue-chip company that has paid dividends since the days of Abraham Lincoln. This means that most investors have to decide whether to buy or not to buy on the basis of what is said or written about the companies whose stocks are being offered for sale or traded in our securities markets.

Reliable information is available about many securities. Reputable brokerage houses and stock salesmen will furnish this information and explain it. Beware, however, of the man who offers stock for sale on the mere assurance that the price will go up and you can't lose. He may be one of the crooks who operate in the securities business. Although a small minority, they cheat the public out of millions of dollars each year.

What is being done about these crooks? How can you protect yourself?

#### THE FEDERAL "TRUTH IN SECURITIES" LAWS

In 1934, Congress set up the U.S. Securities and Exchange Commission and gave it two basic jobs:

1. To see that companies which offer their securities for sale in "interstate commerce" file with the Commission and make available to investors complete and accurate information.
2. To protect investors against misrepresentation and fraud in the issuance and sale of securities.

These are big jobs and the Commission needs your help. You cannot fully benefit from the information on file with the Commission unless you (or your adviser) learn about it. You certainly won't get the true facts from crooks. Of course, there are laws and rules against misrepresenting securities which are offered for sale. There are laws against auto theft, too, but there always will be persons who are willing to take their chances on not being caught.

You can protect yourself by observing a few simple rules.

#### *Don't speculate*

If you're an average investor—invest, don't speculate. Speculation sometimes may serve a useful purpose, but it is a field for experts and the amateur who "plays the market" is asking for trouble. The prices of speculative securities may fluctuate widely—not only for good economic reasons but also because of unfounded tips and rumors. In the long run, someone loses money and it is usually the amateur speculator.

Keep in mind that the Commission cannot interfere with the volume of trading or with the prices of securities so long as they properly reflect the working of a free market.

*Beware of "confidence" men*

If a stranger calls you on the telephone and begins a high pressure sales talk about letting you in on a "sure thing" with "quick profits," ask yourself a few questions. Did he get my name from a "sucker list"? Why doesn't he (or his firm) sell the stock to his relatives and friends if it is so good? How can he truthfully say that he'll "double your money" in 30 days, 60 days, or even in a year?

By reporting these incidents to us (our field offices are listed on the back cover) or to your State securities commission you will help us in our efforts to rid the securities business of these confidence men.

*Do business with firms that you know and trust*

Where securities are being offered to finance a company, the law usually requires the seller to furnish a "prospectus" or "offering circular." These are copies of papers which have been filed with the Commission and contain information intended to assist investors in evaluating the merits of the securities being issued. Of course, the filing of such information with the Commission does not mean that the securities are approved by the Federal Government.

Ask the salesman for a copy of the prospectus or offering circular. Also, ask him to put all other information in writing and mail it to you. Read it. Save the information and the envelope it came in. If you don't understand it, consult your broker, banker, or any other experienced person you know and trust. It stands to reason that all of us can't be stock market experts and securities analysts, so don't hesitate to get competent advice.

*Be a careful investor*

Before you decide whether to buy securities, check your own financial situation. Have you made provision for a home? Do you have adequate life insurance? Do you have a comfortable balance in your bank account? Do not draw out your savings account or sell your Government bonds to speculate in stocks.

If you decide to go ahead and buy securities keep in mind that the value of your investment can go down as well as up. No one can guarantee the market price of a security a month or a year from now.

Be just as careful in investing in securities as you would be in buying a house or any other valuable property.

## U.S. SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D.C.

## REGIONAL AND BRANCH OFFICES

1371 Peachtree Street, Atlanta 9, Ga.

U.S. Post Office and Courthouse, Boston 9, Mass.

630 Bankers Building, 105 West Adams Street, Chicago 3, Ill.

1628 Standard Building, 1370 Ontario Street, Cleveland 13, Ohio

Midland Savings Building, 444 17th Street, Denver 2, Colo.

1074 Federal Building, Detroit 26, Mich.

301 U.S. Courthouse, 10th and Lamar Streets, Fort Worth 2, Tex.

424 Bettes Building, Houston 2, Tex.

Room 309 Guaranty Building, 6331 Hollywood Boulevard, Los Angeles 28, Calif.

440 Plaza Building, 245 SE. First Street, Miami 32, Fla.

23d Floor, 225 Broadway, New York 7, N.Y.

Room 1119, 10 Exchange Place, Salt Lake City, Utah

Pacific Building, 821 Market Street, San Francisco 3, Calif.

304-905 Second Avenue Building, Seattle 4, Wash.

1025 Arcade Building, 812 Olive Street, St. Louis, Mo.

1027 Main Post Office and Customhouse, 180 East Kellogg Boulevard, St. Paul, 1, Minn.

310 6th Street, NW., Washington 25, D.C.

Mr. CARY. I appreciate the opportunity of being here, sir. Thank you.

The CHAIRMAN. Now, we would like to hear from the Social Security Administration, Mr. Thomas Parrott, Assistant Director, and Mr. Alvin David, assistant director for program analysis.

Thank you very much for being here.

Would you like to introduce your associates?

**STATEMENT OF THOMAS C. PARROTT, ASSISTANT DIRECTOR IN CHARGE OF CLAIMS POLICY, OLD AGE AND SURVIVORS INSURANCE, SOCIAL SECURITY ADMINISTRATION; ACCOMPANIED BY ALVIN M. DAVID, ASSISTANT DIRECTOR FOR PROGRAM ANALYSIS; MISS MYRTLE HELMS AND DOYLE HAGEN OF THE STAFF, SOCIAL SECURITY ADMINISTRATION**

Mr. PARROTT. Thank you.

My name is Thomas C. Parrott. I am assistant director of the Old Age and Survivors Insurance of the Social Security Administration.

On my left is Alvin M. David, who is also an assistant director, and with us is Miss Myrtle Helms and Mr. Doyle Hagen, also of the Bureau's staff.

We appreciate the opportunity to appear before you today to discuss some of the ways in which the senior citizens of our Nation who are receiving social security benefits are victimized by confidence men, schemers, and promoters.

We also wish to explain some of the measures that are being taken by the Social Security Administration to guard and protect the interest of beneficiaries. We hope that our testimony here today will help us in our efforts to warn the public about these practices.

Our prepared statement is rather lengthy. As I assume that it will appear in full in the record, I believe that it will be better if I omit many of the examples and the background material from it and, with your permission, I will do so.

Title II of the Social Security Act provides for a system of Federal old-age, survivors, and disability benefits. This is a Federal program administered entirely by the Social Security Administration, in the Department of Health, Education, and Welfare.

To give you an idea of the size and scope of this program as it relates to aged persons, at the end of December 1962 there were more than 18 million social security beneficiaries on the rolls receiving monthly benefits at the rate of \$1.2 billion. Of this number about 1½ million were aged 62 to 64, and about 12½ million were over the age of 65. About 1¼ million social security beneficiaries are up in their eighties, and nineties, and even older—indeed, we have 400 beneficiaries who are over 100 years old.

From time to time beneficiaries have called our attention to various and sundry types of fraudulent schemes to which they have been subjected. While the number of reported instances is relatively small when viewed in relation to the total number of aged persons receiving benefits, nevertheless, we are concerned about each and every single case, because they represent the callous deception of persons who, for the most part, look to their social security benefits for their main support.

One of the most reprehensible reported fraudulent and deceptive schemes practiced on aged beneficiaries involves the individual who impersonates a social security employee and thereby gains entrance to the beneficiary's home and his confidence. Once the confidence man is in the home, to exploit his elderly victim he generally uses one of several approaches.

A promise of either a bonus or increased monthly benefits, after payment of a set fee to the impersonator.

Another type would be that of persuading that it would be necessary for the beneficiary to pay a certain fee in order for the beneficiary to continue to be entitled to social security payments.

Another would be a fictitious overpayment to the beneficiary, and an immediate collection of that deficit by the impersonator.

For example, two men, reported to be about 26-30 years of age, approached two elderly citizens, age 86 and 84 respectively, and asked them if they received social security. When they said they did, the young men told them they were from the social security department and that they had been overpaid. The 86-year old beneficiary turned over \$750 to the impersonators. The 84-year old told the impersonators he didn't have the \$1,628 demanded but that he could have it for them the next day. He then called the social security office, only to discover, of course, that these were not social security employees.

The culprits were later arrested, and I believe are even now awaiting trial.

Another type of impersonation would be that of pretending to make a survey to see how well beneficiaries are meeting their needs with their monthly insurance benefits and to find out if they had in the house any of the last payment unspent.

Unfortunately, in the example I have in the written presentation, the aged widow's last \$75 was missing after the impersonator left. Fortunately, however, he was caught, convicted, and served a prison sentence.

Perhaps the most frequently reported exploitation involving social security beneficiaries is the theft and forgery of their benefit checks.

Of the 40,000 to 50,000 Government checks that are stolen and forged annually, about one-third are social security benefits. Because of the need for the U.S. Secret Service to investigate reports of stolen and/or forged checks, there is a temporary loss of social security benefits which causes untold hardship to aged beneficiaries who have no other source of income.

The Treasury Department and the Social Security Administration work constantly together to curtail the number of stolen checks, and to reduce the time to issue duplicate checks.

Occasionally we learn of an instance whereby an individual gains the confidence of prospective social security claimants, and thereafter assists and otherwise represents them in pursuing their claims for benefits. In that role, the so-called helper frequently takes advantage of the claimant.

For example, he may charge unauthorized, and in many instances, an exorbitant fee for his services, generally payable out of the proceeds of the first check, or he may fraudulently deceive or mislead the client as to the services he performs.

He may charge and collect a fee for services not performed, or fraudulently retains money given him by the claimant with the understanding that he will discharge certain obligations for the claimant; for example, the preparation of tax returns and the payment of taxes.

Section 206 of our act provides that the Secretary of Health, Education, and Welfare may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under title II, and any agreement in violation of such rules and regulations shall be void.

It is under this statute that we have prosecuted persons who have charged these unauthorized fees, at least, those that we know about.

I will give one or two examples of this type of activity.

An accountant assisted numerous individuals in establishing entitlement to social security benefits by obtaining evidence of earnings, preparing tax returns, et cetera, for use in connection with their claims. The accountant would give the client the impression that the fee for services was small but that the tax was high. In this way, the claimant did not know what proportion of the total amount he had paid the helper was for taxes, and what portion was for the fee for services.

In this case, since the representative was not an attorney, he should have obtained approval prior to charging any fee. We were successful in the prosecution of this person, and he was sentenced.

In another situation, an attorney acting as a representative for numerous social security clients accepted money from the claimants for his fees, and purportedly for the purpose of paying taxes. However, he neither filed the tax returns nor paid the taxes. The attorney was tried and convicted of a felony and ordered to reimburse the persons defrauded.

Further, he was stricken from the rolls to practice law in the State and Federal courts.

Another example of cruel and inhuman treatment to aged beneficiaries is that of the situation where a person receiving benefits on behalf of the aged beneficiaries, what we call a representative payee diverts the money he has received to his own use.

One section of our act gives the Secretary very broad authority to choose a payee for our beneficiaries. To see that benefits are properly used, we require a representative payee to periodically file an accounting of the expenditure of benefit payments.

Also, if it is determined that such a payee is depriving the beneficiary of the use and benefit of the payments, the representative payee is subject to prosecution under our law.

We have had several successful prosecutions in this area.

Because so many people look to social security benefits as a major source of income in their old age, or in case of disability or death, there is a great public interest in the subject. Writers and publishers, radio and television officials, have often told us of the high volume of response they receive to offers of information about social security.

In our own public information program, we distribute about 40 million copies of almost 50 different booklets and leaflets a year, to inform the public of its rights and responsibilities under the social security program. These booklets and leaflets are available free of charge at any social security district office, and may be purchased at a nominal charge from the Government Printing Office.

Many privately printed publications are also published and offered for sale. The responsible writers and publishers are careful to check the technical accuracy of their publications. The responsible publishers also do not promote their books with flamboyant advertising materials indicating that the information they offer is exclusive, not available elsewhere, indeed, that this is information that is being kept from the general public, nor do they state or imply that a person may lose money by not buying the book they offer for sale.

Such misrepresentation of the facts creates uncertainty and even if the older person does not put out the money to buy the book, it causes him needless worry and unhappiness.

There are irresponsible publishers, however, who do this, who offer for sale at prices ranging from \$1.99 to \$5 books that cost them about 17 cents a copy to print, but that can't tell the reader anything basic about social security that he could not find in the free booklets available at his social security office.

Some of them do, however, contain advice that, if followed, might result in extensive investigation by the Social Security Administration and thus delay, rather than expedite, the payment of the social security benefits and following some of the advice might place the individual in a worse rather than a better financial position.

One of the most tragic results, however, from this type of publication, could be to cause our citizens to lose faith in their Government, which they are led to believe is withholding information from them.

When we become aware of publications misrepresenting the facts, we get in touch with the author, and offer our services in reviewing the material for technical accuracy. Where the author does not accept our review services and publishes misinformation or misleads the public through his advertising scheme, we solicit the help and cooperation of the Federal Trade Commission and/or the Post Office Department to see whether or not there has been a violation of any of their statutes or regulations of these departments.

In addition, we alert our operating personnel throughout the United States of the misrepresentation, and advise them how to cope with the situation at hand.

Occasionally, reports are received from social security beneficiaries complaining about persons calling on them, who lead them to believe, by their statements or actions, that they, or their company, are affiliated with the Social Security Administration. In some instances, the caller states or otherwise falsely conveys the impression to the beneficiary that the Social Security Administration will provide certain advantages to the beneficiary that are not incorporated in the Social Security Act.

The Social Security Administration uses various informational media to keep its beneficiaries aware of the provisions of the Social Security Act and of their rights and obligation thereunder as well as to caution them of schemes that are designed to defraud them.

Pamphlets and check inserts are issued to advise beneficiaries of recently enacted legislation or whenever it is determined that a substantial segment of them is not fully aware of a provision of the law or when a major problem area develops.

One social security pamphlet relating to checks is particularly pertinent to the subject of these hearings. There is a copy attached to the report.

In addition to cautioning beneficiaries about reporting any changes in their addresses, this pamphlet has a section warning beneficiaries to beware of people who pose as social security employees and promise to do something for them for a fee. Also, it has a section devoted to cautioning beneficiaries on protecting their checks against theft and forgery. This pamphlet is sent to all beneficiaries at the time they are notified of their entitlement to benefits. This procedure was instituted about October 1961.

When the Department of Justice, through the U.S. attorney and Federal courts, prosecutes offenders for attempting to defraud bene-

ficiaries, the Social Security Administration, in cooperation with related offices, tries to get as much publicity as possible not only for its deterrent effect on others who would try the same scheme, but also for its warning effect for our aged beneficiaries.

Also, we have attempted to caution beneficiaries against would-be defrauders by publicizing their schemes by means of warnings over the radio, television, through newspaper and magazine publicity.

We have cooperated with several responsible magazine writers, in producing articles for national magazines.

The Social Security Administration operates over 600 full-time district offices, and approximately 4,000 contact stations (part-time on a scheduled basis) throughout the United States.

These offices are staffed with personnel fully trained in the technical and sociological aspects of the social security program.

These employees are equipped to assist the aged, disabled, and the survivors of deceased workers with their claims, and to answer any questions they may have about the program.

In all of our informational efforts through whatever media, the availability of service to the public is emphasized, and persons having any questions or problems are urged to visit, call, or write their local social security office. If an aged or disabled person is unable to come to the office, we will have a social security representative call on them.

I note that in the examples given in our prepared statement, one might be left with the impression that justice is quick and sure for the culprits. Actually, many we hear about get away. We are sure that there are many others about whom we never hear.

We feel that exposure is probably the most effective way to deal with the problem.

We call on all law enforcement officers, National, State, and local, to stay alert to the activities of confidence men, schemers, and common thieves, whose crimes become even more reprehensible when perpetrated against the elderly.

We again wish to express our appreciation to this committee for giving us the opportunity of being heard today. Thank you.

The CHAIRMAN. Thank you very much for being here. I think the testimony you give will be helpful in summarizing our hearings. We may be able to help you by distributing this to organized groups throughout the country as well as to libraries and other places where it will be widely disseminated.

I notice you refer to this pamphlet. I think it is a very fine pamphlet, but as you stated, you send this to beneficiaries at the time they are notified of their entitlement to benefits.

Mr. PARROTT. Yes, sir.

(The pamphlet referred to follows:)

#### YOUR SOCIAL SECURITY CHECK

(U.S. Department of Health, Education, and Welfare, Social Security Administration, OASI 860, February 1962)

Your social security check will, no doubt, play a big part in your future. And probably, after you left the social security office, you thought of additional questions you would like to ask about your check.

This booklet tells some of the more important things about the check you may receive, or are receiving.

WHEN YOU CAN EXPECT YOUR CHECK

Social security checks for a particular month are dated and issued on the third of the following month. The third of the month is used, rather than the first, because various Government agencies have agreed to stagger issuance of their checks. Many Government and private agencies have checks payable on the first of each month. If they were all issued on the same day, it would place a great burden on the Treasury Department, the Post Office, the Federal Reserve Bank, and other agencies involved in preparing, delivering, and negotiating checks.

The vast majority of social security checks are mailed by the third of each month. People in the immediate metropolitan area of a Treasury Department disbursing office can usually expect to receive their checks on the third. Because of the necessary handling time, people not in the metropolitan area will sometimes receive their checks a few days later. In any event, the check usually arrives about the same day each month, whether that day is the third, the fourth, or a later day. This is, we believe, the most important point—that the check arrives regularly. Then you can plan your budget accordingly. Delivery of a check may, of course, be delayed when the normal date of receipt falls on a Sunday or a holiday.

WHAT TO DO IF YOU LOSE YOUR CHECK

If you lose your check, or it gets destroyed after you have received it, get in touch with your local social security office and explain what happened. Your check can be replaced if it is destroyed, stolen, or lost. It takes time to do this, though, and you should be careful with your check so you will not have to wait while having it replaced.

WHAT TO DO IF YOU WANT YOUR CHECK TO COME TO A DIFFERENT ADDRESS

If you move, or change your address, you should let either your social security office or payment center know right away. You should do this in addition to the regular change of address notification you will give your post office.

When you applied for benefits you were given a post card that could be used to notify the Social Security Administration of a change in your address. If you no longer have the card, you can write to the payment center telling them of your new address. Be sure to tell them your social security number, full name, and new address. Your check may be a few days late the next month because of the time needed to change your address on the records. If you let the office know early in the month, however, there should be no delay. Should the request to change your address be received late in the month, your check would be sent to the old address, and be forwarded if you had notified the post office of your new address. If it is easier for you to get in touch with your local social security office than it is to write to the payment center, the people in the social security office will be glad to take care of this for you. You must either visit the office in person or write to them. For your protection, the address to which your check is sent cannot be changed without your written request.

ABOUT CASHING YOUR CHECK

There is no limit on the length of time you have to negotiate your check. But, the sooner you do, the less chance there is of losing your check or of having it stolen. Incidentally, it is a Federal offense for anyone other than yourself to cash your check. If it is a combined check, both persons whose names are on the check will have to endorse it. It is a good idea, too, not to sign your check until you are ready to cash it.

WHAT TO DO IF YOUR CHECK DOESN'T COME WHEN EXPECTED

Chances are your check will be right there every month when you expect it. But more than 16 million people are now receiving social security benefits, and occasionally something happens to delay a check. Maybe the machine that prints the name and address on the check makes a mistake. Perhaps the check gets in the wrong mailbag. There are many things that could happen, but seldom do, in the complicated process of getting your check to you regularly and on time. So, if someday your check isn't there when you expect it, wait about 4 more days to see if it turns up. Then, if it still hasn't come, get in touch with your local



social security office. The folks there can check with the payment center where your record is kept and find out what happened. They will see to it that you receive your check.

#### COMBINED CHECKS

When you and your wife or husband are receiving social security benefits, you will receive a combined check. Under this system the Government can save time and money getting your check to you; and, if you pay a fee to cash your check, it saves you money, too. If two or more of your children are receiving benefits, their checks may be combined, too.

#### WHAT TO DO WITH YOUR CHECK IF YOUR HUSBAND OR WIFE DIES

If you and your wife or husband are receiving a combined check and one of you should die, the check for that month should not be cashed. Notify your local office of the death and return the check to them or to the Treasury Department, Division of Disbursement, located in the city shown on the check. You will get another check in the correct amount.

If you and your wife or husband are getting separate checks, you should also notify your local office of the death and return the deceased person's check.

Remember, the last benefit to which a person is entitled is the one for the month before the month in which he dies. Under the law, a person does not acquire the right to a benefit for a given month until that month ends—even if the death occurs near the end of the month.

On the other hand, a person receives a full month's benefit for the first month he qualifies—even if he does not qualify until the last day of the month.

#### A WORD OF CAUTION ABOUT YOUR CHECK

If anyone ever comes by your home to discuss social security with you and says he works for Social Security, ask him to show you his identification. Sometimes people claiming to work for Social Security tell people receiving checks they can get an increase for a slight payment. Others may claim the Social Security will pay the premium on a life or health insurance policy they wish to sell. As with anything else, there are dishonest people that would like to have the money your social security check represents.

Anyone who is truly from the Social Security office will be glad to identify himself. In addition, if you have any doubts, you can call the Social Security office and ask if they sent the man to see you. And remember—a true employee of Social Security will not ask you for money to have something done. It's his job to help you anyway he can with your social security.

#### ANY QUESTIONS

Most of your questions about checks have probably been answered by this leaflet. However, if you have additional questions or are in doubt on any social security matter, call your local office, write, or stop by. The people there will try to clear up any difficulties that may arise concerning your check or any other questions you may have.

#### PROTECT YOURSELF AGAINST THE THEFT AND FORGERY OF YOUR CHECK

Each year thousands of social security checks are stolen, forged, and cashed. You will receive a substitute check, but there will be a delay because an investigation has to be made of the theft and forgery. This means a hardship for you which might be avoided if you will take the following simple steps to protect your check against theft:

1. Make sure that you have a secure mailbox with a lock.
2. Get to know your mail carrier and, if possible, meet him when he delivers your check. Try to be at home when your check is due to be delivered. If you cannot be at home, try to have some member of your family at home. The longer your check stays in the mailbox, the greater the chances are for it to be stolen.
3. Do not endorse your check until you are in the presence of the person who will cash it.
4. Try to cash your checks in the same place every month to make identification easier.

If you follow these instructions, you can prevent the theft of your check, and you will also save your Government the great expense of investigation of thefts and forgeries and the cost of issuing substitute checks.

The CHAIRMAN. You started this in 1961?

Has any effort been made to get this in the hands of people other than those, who became 65 years of age and are retired prior to 1961?

Mr. PARROTT. I should have covered that.

My recollection is that there was no mass mailing of this particular leaflet to all persons on the roll. The Administration, however, has continually made use of various media to caution and warn beneficiaries to beware of the schemes of unscrupulous persons.

The CHAIRMAN. Very good. I think it is important that it was so covered.

Well, again, thank you very much.

Are there any questions, Senator Randolph?

Senator RANDOLPH. No questions.

The CHAIRMAN. Senator Muskie?

Senator MUSKIE. No questions.

The CHAIRMAN. Thank you a lot, and we appreciate your cooperation.

(The prepared statement of Mr. Parrott follows:)

PREPARED STATEMENT OF THOMAS C. PARROTT, ASSISTANT DIRECTOR, BUREAU OF OLD-AGE AND SURVIVORS INSURANCE, SOCIAL SECURITY ADMINISTRATION

My name is Thomas C. Parrott. I am an Assistant Director, Bureau of Old-Age and Survivors Insurance of the Social Security Administration. Accompanying me here today is Alvin M. David, who is also an Assistant Director of the Bureau.

We appreciate the invitation to appear before this committee today and the opportunity to discuss some of the ways in which the senior citizens of our Nation, who are receiving social security benefits, are victimized by confidence men, schemers, and promoters. We also wish to explain some of the measures that are being taken by the Social Security Administration to guard and protect the interest of beneficiaries. We hope that our testimony here today will help us in our efforts to warn the public about these practices.

TITLE II OF THE SOCIAL SECURITY ACT

Title II of the Social Security Act provides for a system of Federal old-age, survivors, and disability benefits. This is a Federal program administered entirely by the Social Security Administration, in the Department of Health, Education, and Welfare.

To give an idea of the size and scope of this program as it relates to aged persons, at the end of December 1962 there were more than 18 million social security beneficiaries on the rolls receiving monthly benefits at the rate of \$1.2 billion. Of this number, about 1½ million were aged 62-64, and about 12½ million were over the age of 65. About 1¼ million social security beneficiaries are up in their 80's, 90's, and even older—indeed, we have 400 beneficiaries who are over 100 years old.

BENEFIT PROTECTION AFFORDED UNDER PROGRAM

At the beginning of 1962, more than 89 million people were insured under the program (53 million of them were permanently insured; that is, they had worked enough to qualify for retirement benefits even if they did no more covered work). About 51 million people had worked enough to have benefit protection in the event they should become disabled this year.

Nine out of every 10 young children and their mothers can count on monthly benefits if the breadwinner of the family dies. The face value of this survivors insurance protection at the beginning of 1962 was about \$550 billion.

About 87 percent of the people now turning 65 are eligible for benefits. As of June 30, 1962, about 77 percent of all people age 65 or over were drawing benefits or would have been able to draw them if they or their spouses had not been working.

## SCHEMES AND PRACTICES USED TO DECEIVE AGED BENEFICIARIES

From time to time beneficiaries have called our attention to various and sundry types of fraudulent schemes to which they have been subjected. While the number of reported instances is relatively small when viewed in relation to the total number of aged persons receiving benefits, nevertheless, we are concerned about each and every single case, because they represent the callous deception of persons who, for the most part, look to their social security benefits for their main support.

*A. Impersonation of social security employees*

One of the most reprehensible reported fraudulent and deceptive schemes practiced on aged beneficiaries involves the individual who impersonates a social security employee and thereby gains entrance to the beneficiary's home and his confidence. Once the confidence man is in the home, to exploit his elderly victim he generally uses one of several approaches:

1. A promise of either a bonus or increased monthly benefits, after payment of a set fee to the impersonator.

*Example.*—A confidence man in Piqua, Ohio, contacted a social security beneficiary and told him his monthly benefit was low because he had 1 year's low earnings. He advised the beneficiary that he could get him a lump sum payment of \$300 to compensate him for that fact if the beneficiary would pay him the sum of \$98. The beneficiary was willing but the confidence man said that since he had no blanks he would have to return Saturday, which he did. The victim gave him his check for that amount. The victim visited a social security office the next week and told his story. Payment on his check was stopped, the impersonator was arrested, tried, and after conviction, he was sentenced to 9 months' imprisonment.

2. Persuasion that payment of a certain fee to the impersonator is a requisite to the beneficiary's continued entitlement.

*Example.*—A young man identifying himself as a social security "agent" called on a beneficiary in Queens, N.Y. He asked to see her house. He then told her that it looked like she would not be getting her monthly benefits anymore. Being sympathetic, however, he said, "I'll tell you what I'll do; put \$30 in this envelope I'm giving you with this card. Give it to my boss. He will be here later today." He told her she would get the \$30 back in her next check. She put the money in the envelope and was ready to seal the envelope when he said, "Gosh, I forget, I have to see your gas and light bills too. You get them and I'll lick the envelope for you. I'm in an awful hurry." The widow left the room and returned with the bills a little later. He glanced at them, handed the envelope to her and left. Later the widow thought the envelope was light, so she held it up to the window and could see through it and when she opened the envelope she found the card but the money was gone. The confidence man was arrested, and if convicted, he faces a maximum sentence of 3 years' imprisonment, a \$1,000 fine, or both.

3. Creation of a fictitious overpayment made to the beneficiary and collection of that debt by the impersonator.

*Example.*—Two men, reported to be about 26-30 years of age, approached two elderly citizens, age 86 and 84, respectively, and asked them if they received social security. When they said they did, the young men told them they were from the Social Security Department and that they had been overpaid. The 86-year-old beneficiary turned over \$750 to the impersonators. The 84-year-old told the impersonators he didn't have the \$1,628 demanded but that he could have it for them the next day. He then called the social security office. The matter was reported to the Federal Bureau of Investigation. The culprits were later arrested in Chicago.

4. Allegation that a survey is being made to see how well the current monthly payments meet the beneficiary's needs and asks to see how much of the last payment is presently unspent.

*Example.*—In a New Jersey case a well-dressed man called at the home of an aged widow and claimed to be from a social security office in Philadelphia. He said he was there to see if her monthly social security benefits were large enough to meet her current expenses. He said he needed to know what her finances were, and asked to see her house, any valuables, such as jewelry and money that she possessed. After learning where she kept her money, he asked for a drink of water. Thereafter, he hurriedly left, assuring her that her benefit payments would be increased. A short time after the confidence man left, the widow dis-

covered that the \$75 she had shown the person she thought was the "social security man" was missing. This man was arrested, convicted, and given a prison sentence.

#### *B. Theft and forgery of benefit checks*

Perhaps the most frequently reported exploitation involving social security benefits is the theft and forgery of their benefit checks. Of the 40,000 to 50,000 Government checks that are stolen and forged annually, about one-third are social security benefit checks. Because of the need for the U.S. Secret Service to investigate reports of stolen checks, there is a temporary loss of the social security benefit which causes untold hardship to aged beneficiaries who have no other source of income. The Treasury Department and the Social Security Administration work constantly to curtail the number of stolen checks and to reduce the time to issue duplicate checks.

#### *C. "Claims helpers"*

Occasionally, the Social Security Administration learns of an instance where an individual gains the confidence of prospective social security claimants and thereafter assists and otherwise represents them in pursuing their claims for benefits. In that role the helper may take advantage of the claimant. For example, he may charge unauthorized, and in many instances an exorbitant fee for his services, generally payable out of the proceeds of the first check or he may fraudulently deceive or mislead the client as to the services he performs. He may charge and collect a fee for services not performed, or fraudulently retain money given him by the claimant with the understanding that he will discharge certain obligations for the claimant; e. g., the preparation of tax returns and the payment of taxes.

Section 206 of the act provides that the Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under title II, and any agreement in violation of such rules and regulation shall be void.

In its report<sup>1</sup> on the Social Security Amendments of 1939, the Committee on Ways and Means of the House of Representatives, in explaining the purpose of section 206 on representation of claimants, stated:

"\* \* \* While it is not contemplated that the services of an agent or attorney will be necessary in presenting the vast majority of claims, the experience of other agencies would indicate that where such services are performed, the fees charged therefor should be subject to regulation by the Board [now Secretary], and it is so provided. The provision is similar to the statute 5 U.S.C. 261, giving the Treasury Department comparable authority. For the purpose of protecting claimants and beneficiaries a penalty is provided for violation of Board regulations prescribing fees \* \* \*"

The Secretary's regulations do not prescribe maximum fees which may be charged. However, by regulations it is provided that an attorney may, without approval, charge a fee of \$20 for representation before the Bureau only, \$30 for representation before a hearings examiner and/or the appeals council, \$50 for representation before the Bureau and a hearings examiner and/or the appeals council. In order to charge a fee in excess of these amounts, the attorney must first obtain the approval of the Bureau, hearings examiner, or appeals council. A representative other than an attorney must obtain approval before charging a fee in any amount.

The following will illustrate the improper practices mentioned above:

1. *Example.*—An accountant assisted numerous individuals in establishing entitlement to social security benefits by obtaining evidence of earnings, preparing tax returns, etc., for use in connection with their claims. The accountant would give the client the impression that the fee for services was small and the tax high. In this way, the claimant did not know what portion of the total amount paid was for taxes and what portion was the fee for services. In this case, since the representative was not an attorney, approval must be obtained before charging a fee in any amount. The accountant pleaded guilty to counts returned by a Federal grand jury.

2. *Example.*—An attorney, acting as a representative for numerous social security claimants, accepted money from claimants for his fees and purportedly for the purpose of paying the taxes due. However, he neither filed the tax

<sup>1</sup> H. Rept. 728, 76th Cong., 1st sess., pp. 44-45 (1939). See also identical statement in S. Rept. 734 (1939) at p. 53.

returns nor paid the taxes. The attorney was tried and convicted of a felony and ordered to reimburse the persons defrauded. Further, he was stricken from the rolls to practice law in the State and Federal courts.

*D. Misuse of social security benefits received on behalf of another*

On occasion, the Social Security Administration learns of instances where a person receiving benefits on behalf of an aged person does not apply the proceeds to the use and welfare of the beneficiary.

When claims are taken from aged persons, or if knowledge is acquired later through surveys or reports from interested parties, attention is given as to whether the beneficiary is capable of assuming responsibility for the negotiation and expenditure of the benefit payments. Section 205(j) of the Social Security Act (42 U.S.C. 405(j)), gives the Secretary authority to certify payments to some other person when it appears that the interest of the applicant would be served thereby. To see that benefits are properly used, the Administration requires a representative payee to periodically file an accounting of the expenditure of benefit payments. Also, if it is determined that such a payee is depriving the beneficiary of the use and benefit of the payments received on his behalf, the representative payee may be subject to prosecution under section 208(e) of the Social Security Act (42 U.S.C. 408(e)), and upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than 1 year, or both. The Social Security Administration has submitted such cases to the Department of Justice for prosecutions and convictions have been secured under this provision.

*Example.*—A daughter, when appointed as representative payee to receive social security benefits on behalf of her incompetent father confined to a State hospital, was advised by the Social Security Administration of her responsibilities as a representative payee to receive and use the social security payments for the benefit of her incompetent father. Initially, the appropriate hospital official indicated her selection as payee was satisfactory. Later, however, the State hospital reported that no contributions had been made to the father's personal account; he had received no gifts, clothing, no regular letters, visits, and that no contributions to his maintenance costs had been made.

The Administration's investigation revealed that the daughter had used all of her father's benefit payments (in the total amount of \$2,133), on herself, and her family; i.e., her husband and children. She at first denied this but later admitted the misuse, but contended it was due to the dire need of her family. This contention was proven false since it was found that her husband had monthly earnings of more than \$400.

The payee was convicted in a Federal district court and placed on probation for 3 years with the condition that she make full restitution of the money which she misused.

*E. Publications which may deceive or mislead the aged*

Because so many people look to social security benefits as a major source of income in their old age, or in case of their disability, or death, there is great public interest in the subject. Writers and publishers, radio and television stations have often told us of the high volume of response they receive to offers of information about social security.

In our own public information program, we distribute about 40 million copies of almost 50 different booklets and leaflets a year to inform the public of its rights and responsibilities under the social security program. These booklets and leaflets are available free of charge at any social security district office and may be purchased at a nominal charge from the Government Printing Office.

Many privately printed publications are also published and offered for sale. The responsible writers and publishers are careful to check the technical accuracy of their publications. The responsible publishers also, do not promote their books with advertising materials, indicating that the information they offer is exclusive—not available elsewhere—indeed that this is information that is being kept from the general public. Nor do they state or imply that a person may lose money by not buying the book they offer for sale. Such misrepresentation of the facts creates uncertainty and even if the older person does not put out the money to buy the books, it causes him needless worry and unhappiness.

There are irresponsible publishers who do this—who offer for sale at prices ranging from \$1.99 to \$5, books that cost them about \$0.17 a copy to print but that cannot tell the reader anything basic about the social security law that he would not find in the free booklets available at his social security office. Some

of them do, however, contain advice that, if followed, might result in extensive investigation by the Social Security Administration and thus delay rather than expedite the payment of their social security benefits. And following some of the advice might place the individual in a worse rather than a better financial position.

When we become aware of publications misrepresenting the facts about the social security program, we get in touch with the author and offer our services in reviewing the material for technical accuracy. Where the author does not accept our review services and has published misinformation or has misled the public through an advertising scheme, we solicit the help of the Federal Trade Commission and/or the Post Office Department to see if there has been any violation of a statute or regulation.

In addition, we alert our operating personnel of the misrepresentation and advise them how to cope with the situation at hand. On at least one occasion, we felt the situation was such that it needed to be curbed immediately. We called it to the public's attention, through a press release, advising the public to be wary of such publication. We try to be discreet in this matter to protect the many authors of integrity who are helping the Social Security Administration to make the public more aware of their rights under the program.

#### *F. Other schemes to defraud social security beneficiaries*

Occasionally reports are received from social security beneficiaries complaining about persons calling on them who lead them to believe, by their statements or actions, that they, or their company, are affiliated with the Social Security Administration. In some instances the caller states or otherwise falsely conveys the impression to the beneficiary that the Social Security Administration will provide certain advantages to the beneficiary that are not incorporated in the Social Security Act.

*Example.*—A district supervisor for a California insurance company in an effort to sell insurance, falsely advised an aged social security beneficiary that his company was "backed up" by the Social Security Administration, and if his company could not pay a claim, the Social Security Administration would take care of it.

Based on his willful false statements, made with the intent to deceive and defraud the aged beneficiary, the Social Security Administration referred the case to the appropriate U.S. attorney, with a recommendation for prosecution.

The matter also has been brought to the attention of the State Insurance Commission of California.

#### PREVENTIVE MEASURES TAKEN TO DETER THE EXPLOITATION OF AGED BENEFICIARIES

The Social Security Administration uses various informational media to keep its beneficiaries aware of the provisions of the Social Security Act and of their rights and obligation thereunder, as well as to caution them of schemes that are designed to defraud them. Pamphlets and check inserts are issued to advise beneficiaries of recently enacted legislation or whenever it is determined that a substantial segment of them is not fully aware of a provision of the law or when a major problem area develops.

One social security pamphlet relating to checks is particularly pertinent to the subject of these hearings (see p. 494). In addition to cautioning beneficiaries about reporting any changes in their addresses, this pamphlet has a section warning beneficiaries to beware of people who pose as social security employees and promise to do something for them for a fee. Also, it has a section devoted to cautioning beneficiaries on protecting their checks against theft and forgery. This pamphlet is sent to all beneficiaries at the time they are notified of their entitlement to benefits. This procedure was instituted about October 1961.

When the Department of Justice, through the U.S. attorney and Federal courts, prosecutes offenders for attempting to defraud beneficiaries, the Social Security Administration, in cooperation with related offices, publicizes the results not only for its deterrent effects but also for its warning effect for other aged persons.

Also, we have attempted to caution beneficiaries against would-be defrauders by publicizing their schemes by means of warnings over the radio, television, through newspaper and magazine publicity. In 1960, we worked with Sidney Margolius in connection with an article entitled "America's Cruellest Racket" that appeared in Parade, a nationally syndicated Sunday supplement. This article outlined some of the techniques of swindlers. This article was printed in the Con-

gressional Record, and reprinted in the March 1960 issue of Retirement Life, the official publication of the National Association of Retired Civil Employees.

In September 1960 an article appeared in another nationally syndicated magazine. This article was entitled "Memo to Oldsters: Swindlers Are Out To Rob You of Your Social Security." It covered other incidences of fraud against beneficiaries and outlined methods used by hoaxers.

The Social Security Administration operates over 600 full-time district offices and approximately 4,000 contact stations (part time on a scheduled basis) throughout the United States. These offices are staffed with personnel fully trained in the technical and sociological aspects of the social security program. These employees are equipped to assist the aged, disabled, and the survivors of deceased workers with their claims, and to answer any questions they may have about the program.

In all of our informational efforts through radio, television, press, pamphlets, correspondence, and personal contacts, the availability of service to the public is emphasized and persons having any questions or problems are urged to visit, call, or write their local Social Security office. If an aged or disabled person is unable to come to the office, we will have a Social Security representative call on them.

We again wish to express our appreciation to this committee for giving us the opportunity of testifying about our experience in an area of such vital importance to our senior citizens.

The CHAIRMAN: At yesterday's hearing a Mr. J. Fred Talley, real estate commissioner of the State of Arizona, testified and he had some exhibits. We now have these exhibits in the possession of our committee, and I would ask the recorder to see that they are made part of the record at this point to be printed following Mr. Talley's testimony.

In the past few days, we have endeavored through testimony and exhibits to point out how thousands of elderly citizens are fleeced of millions of dollars by quacks, charlatans, and false advertising.

With the wonderful cooperation of our witnesses and the press, radio, and TV, these hearings have already served one purpose: that of alerting our senior citizens to the prevalent fraudulent devices and schemes. I would hope to study all of the testimony and exhibits to determine what can be done at the Federal level to protect our citizens from further exploitation.

It would be premature at this time to attempt to give any final conclusions on the scope of the problem, or what steps should be taken.

However, I think it is obvious to all of us that this field, unfortunately, is much larger than we had really expected, and that we have hardly scratched the surface.

I am sure that the other members of the committee will agree with me that the work we have begun here should be continued, and sound recommendations developed.

Therefore, after we have had an opportunity to study the material already continued, it is my hope that the committee will carry on with future hearings, at not too late a date.

Thank you very much.

The hearings are concluded.

At this point we will insert in the record various materials received by the committee.

(The statements are as follows:)

PREPARED STATEMENT BY WILLIAM GREENSPON, O.D., DIRECTOR, DEPARTMENT OF NATIONAL AFFAIRS, AMERICAN OPTOMETRIC ASSOCIATION

My name is William Greenspon. I am an optometrist, practicing my profession in Bluefield, W. Va., where I have maintained my office for over 40 years. I served in the U.S. Navy during World War I, with the rank of ensign. My pro-

professional activities have included: President, West Virginia Optometric Association; president, West Virginia Board of Optometry; and president, International Association of Boards of Examiners in Optometry. For 18 years I served as a member of the Council on Optometric Education of the American Optometric Association, the last 15 years of which I acted as chairman. In this capacity I visited on numerous occasions all of the schools and colleges of optometry in the United States. The council is recognized by the national commission on accrediting and is listed as an accrediting body by the Office of Education of the Department of Health, Education, and Welfare.

My attention has been called to the statement of the Honorable Paul Rand Dixon, Chairman of the Federal Trade Commission, in which he discussed the order of the Commission enjoining the continuance of misrepresentations pertaining to the sale of eyeglasses by mail.

Chairman Dixon seemed to feel that they were protecting our older citizens from the disastrous results of the so-called do-it-yourself eye tests because the advertisements had to state that the glasses offered were suitable only for persons approximately "40 years of age or older who do not have astigmatism or diseases of the eye and who require only simple magnifying or reducing lenses."

It is a mystery to me how anyone could think that the average individual, whether he was 40 or 65 years old or any other age, who had not had any training either in optometry or medicine, would know whether he had astigmatism or diseases of the eye. To determine those questions, optometrists spend from 5 to 6 years in college, and to demonstrate what they have learned they are required to pass a rigid State board examination. It is utterly ridiculous to put any such wording in an advertisement.

To protect the public, the sale of any corrective eyewear by mail should be absolutely prohibited. In some States the sale of this type of eyewear over the counter is prohibited, and in New York State it is allowed only if a licensed optometrist or physician is in attendance at the place of sale to render such assistance as the purchaser may need.

Adequate vision is a necessity at all ages, and it is particularly important to the welfare of the aged. It enables them to be self-supporting in many instances, and in other cases it adds much to the enjoyment of their "golden years."

The Federal Trade Commission has done a somewhat better job in their cease-and-desist orders with reference to the advertising for contact lenses, but even in this field I would recommend that they prohibit price advertising of contact lenses. There are three reasons for this:

First, there is a wide range in the laboratory costs of contact lenses, and the professional man who is concerned only with what is best for his patient is not going to base his prescription on laboratory costs alone; which he might be tempted to do if there had been a competitive price advertised.

Second, one cannot tell in advance how much of his professional time and skill is going to be required in order that the patient may become properly trained in the use of contact lenses.

Third, the amount of his time which will be required to make certain that no ill effects result from their utilization.

Over half of the States have outlawed price advertising for all ophthalmic materials and services. With this I am heartily in accord, but certainly when it comes to advertisements relating to contact lenses, any reference to price should be eliminated.

Our profession has two committees which are devoting a great deal of time to the visual problems of the aged. One is the committee on vision care of the aging, and the other is the committee on vision aid to the partially blind. It is my understanding that further hearings are contemplated, and at that time, if a member of the committee staff will notify Mr. William P. MacCracken, Jr., or Mr. David C. Sharman when the hearings will be held, we will consider it a privilege to have one or more members of these two committees appear and testify.

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PREPARED STATEMENT OF ANDREW F. FISCHER, O.D., ADMINISTRATIVE DIRECTOR,  
NEW JERSEY OPTOMETRIC ASSOCIATION, TRENTON, N.J.

We have received a report from our Washington office on the hearings conducted by the Senate Special Committee on Aging, of which you are a member, concerning "Frauds and Quackery Affecting the Elderly Citizen."

We have frequently expressed ourselves concerning the advertising of "ready-made" reading (so-called Grandma) glasses and contact lenses.



In connection with the current inquiry and further hearings which are projected, we wish to be recorded as favoring the absolute prohibition of any forms of advertising of contact lenses or readymade eyeglasses. We take this position because we know that the use of eyeglasses without a professional examination of the eyes, must ultimately work to the disadvantage and loss of the user.

The advertising of contact lenses, even when attendant services are offered, is professionally repugnant and must also ultimately lead to abuses which no manner of regulation can anticipate or control.

We sincerely believe the public is best protected in this area when there is reliance on the reputation of the practitioner and not persuasion of persistent advertising of any kind.

We trust the foregoing will contribute constructively to the inquiry now under way.

PITTSBURGH, PA., *January 21, 1963.*

Senator McNAMARA,  
*Special Committee on Aging,*  
*Senate Office Building, Washington, D.C.*

DEAR SIR: I assume that the Special Committee on Aging intends to follow the usual procedure of hearing both sides of the aging question.

According to the reports I have read in the newspapers, it seems to me that you have so far heard only one side, that propounded by the hierarchy of the American Medical Association. Commissioner George P. Larrick of the Federal Food and Drug Administration apparently has adopted the AMA view as the official position of FDA. I deplore this situation, as I do not believe the U.S. Government should officially adopt any one school of thought in the field of health, especially where there are other schools of thought held by millions of U.S. citizens, and based on grounds at least as logical and scientific as those held by the AMA hierarchy.

These other views are entitled to a fair hearing, and I respectfully request that the enclosed statement be made part of the record of the proceedings of your committee.

If you decide to hold further hearings, I request that I be given an opportunity to testify. I have no financial interest in the sale of any health product, but I am a member of a number of health organizations with thousands of members. While I can speak officially only for myself, I know that my beliefs are shared by many thousands of persons, and that I would be speaking unofficially for them.

Sincerely,

KARL B. LUTZ.

PREPARED STATEMENT BY KARL B. LUTZ

I am presenting this statement as a private citizen who has no financial interest in the outcome of this hearing. I have no connection with the sale of any health food or product. As I am a lawyer, I am not treating patients and, therefore, have no financial interest in maintaining the status quo in the field of health and medicine. I have not been retained by any individual or organization, but am presenting this statement at my own expense, and only because I am deeply interested in health problems, particularly the problems of aging.

#### MY QUALIFICATIONS

The questions I will discuss lie in the field of the chemistry of the human body, which is basically the field called biochemistry. In college I majored in chemistry, and took a course in which our text was Matthew's Physiological Chemistry, a standard text in medical schools of that day (1920). Since then I have kept fairly well informed of developments in this field, although I have branched off into patent law. I have in my library many books on nutrition, including "The Vitamins in Medicine" by Bicknell and Prescott. This book, which was last revised in 1952, is the only comprehensive book on the relation of vitamins to health and disease available in the English language. The Journal of the American Medical Association in reviewing this book said that "every doctor should have one." While this book is authoritative in most respects, it is of course not strictly up to date, and I shall not quote from it in support of my position.

THE BASIC PROBLEM OF AGING

One basic fact that must be first uncovered is the fact that citizens of the United States are not living longer than they did 50 years ago. We often hear it stated that the "life expectancy" tables show great gains in our longevity. But these tables start with birth, and the apparent increase in longevity is due to an actual decrease in infant mortality. The fact is that a man of 50 years of age has an average chance of living 1½ years longer than a man of that age in 1900. At the age of 50 the life expectancy of an American is lower than that of a citizen of almost any other country of the Western World. Dr. Herbert Ratner, professor of preventive medicine at Loyola University, Chicago, says, "We are the wealthiest country in the world—yet one of the unhealthiest."

How can we account for this fact? We probably have more doctors and hospitals than any of these other countries, so more of these will not solve the problem. We spend more money on research for new medicines and vaccines than any other country. So merely appropriating more money along these lines is not the answer.

I believe that Commissioner Larrick correctly pointed out in his statement before this committee that "older consumers require special consideration because the degenerative diseases, which are predominantly diseases of old age, cause this group to rely heavily on medications." What is the answer to the degenerative diseases?

Sometimes it takes an impartial outside expert to get a true perspective on a situation. Dr. Franklin Bicknell, an English doctor who has studied the modern food problem, has said:

"Americans consume more chemicals in their food than any other nation. At the same time American forecasts are the gloomiest in the world about the continued rise of cancer, high blood pressure, heart disease, congenital abnormalities, etc.—in fact all the degenerative diseases. The United States leads the civilized world in chemicalized food and in degenerative diseases. \* \* \* The only possible explanation of the United States more than equally sharing with the civilized world the rise in such diseases is that her food, though the most abundant, is also the most unwholesome." ("Chemicals in Your Food," p. 7.)

Many people, including most doctors, take the fatalistic view that the general falling-apart known as "aging" is an inevitable process; that we do not know the cause; and therefore nothing can be done except to alleviate distress and provide comfort. But many competent authorities take the view that the new science of nutrition has much to offer in solving the problems of aging.

In 1930 Dr. James S. McLester, in his presidential address to the American Medical Association said that the newer knowledge of nutrition makes possible greater vigor, increased longevity, and a higher level of cultural attainment. "To a measurable degree man is now master of his own destiny, where once he was subject only to the grim hand of fate."

A thoroughly scientific and well-documented exposition of this same view was made by Prof. Henry C. Sherman, of Columbia University, one of the pioneers in the field of nutrition and vitamins. He wrote a book in 1950 entitled "Nutritional Improvement of Life." In the preface to that book he says:

"We now have good scientific evidence that such nutritional improvement of life can begin before birth or at practically any time after; that in early life it can mean improvement of mental as well as physical growth and development; and that this earlier maturity can be followed by a longer period and a higher plane of full adult capacity, with superior attainment and performance over a longer career, and with a lower percentage of years of dependence.

"Much of what we had thought to be attributable to heredity or fate we now find to be amendable to nutritional improvement. Both heredity and nutrition are now known to be major factors in determining the length of normal lives."

Paul de Kruif, a popular but accurate writer on scientific subjects, wrote an article on "How to Prolong the Prime of Life" which appeared in Reader's Digest for June 1957. In this article he said:

"Nutrition scientists have uncovered a fantastic fact: though it's true that we are what we eat, what we eat—while seeming adequate—may mean the premature aging of many of us. But by using chemical knowledge now available this premature aging can be reversed."

Dr. Tom D. Spics, who was connected with Northwestern University, received the medal of the American Medical Association in 1957 for his outstanding work in the field of nutrition. In his address before the association he said:

"All diseases are caused by chemicals, and all diseases can be cured by chemicals. All chemicals used by the body—except for the oxygen which we breathe and the water which we drink—are taken in through food. If we only knew enough, all diseases could be prevented, and could be cured, through proper nutrition.

"As tissues become damaged because they lack the chemicals of good nutrition, they tend to become old \* \* \*. If we can help the tissues repair themselves by correcting nutritional deficiencies, we can make old age wait."

In his recent paperback "Nutrition in a Nutshell" (Dolphin Books, 1962) Prof. Roger J. Williams, director of the Biochemical Institute of the University of Texas, says:

"Almost any segment of the human population can have its nutrition improved, especially if we were to use as criteria of well-being not only growth (of children), but also reproduction, longevity, peppiness, stamina, mental vigor, and body wisdom. Deficient nutrition, at least of a mild sort, must be very common" (p. 89).

Dr. D. T. Quigley, in his book "The National Malnutrition" says: "Only by a judicious combination of all vitamins, combined with sufficient minerals, do we have the answer to the problem of old age" (p. 13).

THESE AUTHORITIES ARE NOT QUACKS

The standard tactics used by the Food and Drug Administration in answering statements such as those just quoted include calling persons who make such statements "quacks," and citing contrary statements by Dr. Frederick Stare of the Harvard School of Public Health.

In evaluating any statement by Dr. Stare, account must be taken of the fact that in 1960 the General Foods Corp. gave over \$1 million for the expansion of the laboratories of his school. It is expecting too much of human nature to think Dr. Stare can be impartial on a question which involves the nutritional value of foods of the type prepared and sold by General Foods. All sound authorities in the field of scientific nutrition are against devitalized foods such as white flour, boxed breakfast foods, and other foods that have been processed to remove natural nutrients and add chemical preservatives.

OPPOSITION BY THE AMERICAN MEDICAL ASSOCIATION

It is not surprising that the American Medical Association is vehement in its opposition to the new science of nutrition. It has tried to secure a monopoly of the healing arts by harassing all opposing schools (homeopathy, osteopathy, etc.). It is now trying to secure a monopoly of the whole field of health, in spite of the fact that the education of a doctor of medicine is almost exclusively limited to medicine.

In a book published in 1957 ("Ear, Nose, and Throat Dysfunctions Due to Deficiencies and Imbalances") Dr. Sam E. Roberts, of the University of Kansas Medical School presents his view that all disease in this field is due to nutritional deficiencies or glandular imbalances. In pointing out that medical education does not provide competence in nutrition Dr. Roberts says:

"The medical students of the past who are our physicians today were taught little or nothing of nutrition and even less of deficiencies and imbalances. The authors of "Therapeutic Nutrition" remark that medical school curriculums are preoccupied with diagnosis and specific therapy. Little time and attention is given to the nutritional aspect of therapeutics.

\* \* \* \* \*

"Biochemistry is taught today—but practically without any clinical application or understanding" (p. 12).

This view is shared by Prof. Roger J. Williams, who in his book "Nutrition in a Nutshell," says:

"A medical education has as its primary purpose the training of physicians. This generalized training does not in this day of greatly specialized knowledge, produce experts in nutrition" (p. 97).

In view of these statements by experts, we should be very wary of criticisms coming from the hierarchy of the American Medical Association or voiced by the Federal Food and Drug Administration.

I know personally that many medical doctors do not agree with the official position of AMA, but are using the newer knowledge of nutrition in treating their patients. These doctors must hide their light under a bushel for fear of persecution by the AMA.

REASONS FOR LAG IN UTILIZING THE NEW SCIENCE OF NUTRITION

One of the best explanations of the type of reasons behind the current lag in applying the new science of nutrition to the problems of aging, is set forth at some length in a book "Social Factors in Medical Progress," by Bernhard J. Stern, Columbia University Press, 1927.

In this book Dr. Stern points out a long list of discoveries in medicine that were not accepted by the medical authorities until after long opposition and needless delay. These include Dr. Harvey's discovery of the circulation of the blood, Dr. Bouillard's discovery of the speech center of the brain, etc. He says "Gould contends that it is doubtful whether there is a single important discovery in the history of medicine which was not at first ignored or opposed."

Dr. Stern discusses at length some reasons for this opposition to new medical ideas, such as:

1. Vested economic interests, which due to the large funds available can conduct advertising and propaganda campaigns to mold the press, educational institutions, and political institutions.

2. Vested professional interests, which struggle "to retain status, reputation, and prestige."

3. The power of tradition. People in general reject new ideas which mean change of old habits and old ways of thinking.

less delay. These include Dr. Harvey's discovery of the circulation of the blood. These reasons apply with full force to the opposition being shown today to the new science of nutrition.

NUTRITIONAL SUPPLEMENTS

In his statement to your committee Commissioner Larrick seems to include so-called health foods and nutritional supplements under the head of "medical quackery."

I will not take time here to elaborate the point that members of the American Medical Association have been guilty of much medical quackery in experimenting on unsuspecting patients with untried drugs that have done untold harm, such as Thalidomide, Mer 29, etc. This has been going on with full knowledge of the FDA, and we have yet to hear of any doctor being punished for known injury to the public.

Yet the FDA, instead of concentrating its efforts on that field, where actual injury is being inflicted on the public, is diverting much of its energy to the field of health foods and nutritional supplements. It has failed to show any single instance of actual injury in this field, but it is persecuting people engaged in his field merely because the hierarchy of the American Medical Association says that according to the "consensus of medical opinion" there is no need for health foods or nutritional supplements. This is a pure boondoggle in which the FDA is carrying out the conspiracy of the hierarchy of the American Medical Association to monopolize the entire field of health.

On this point I would like to appear before your committee and testify to the benefits I myself have had from such health foods and nutritional supplements. The fact that competent authorities in biochemistry recognize the need for nutritional supplements is shown by the following statement of Prof. Roger J. Williams.

"The fundamental basis for using nutritional supplements is first, to treat the numerous diseases which may have a nutritional basis, including those involved in aging; and second, to prevent or to serve as insurance against these same diseases."—"Nutrition in a Nutshell" (p. 125).

For further information concerning the need for vitamins not recognized officially by the Food and Drug Administration, see the attached copy of my statement in opposition to the proposed revised regulation on dietary foods, published in the Federal Register of June 20, 1962. I have pointed out on page 17 of that statement that Dr. Sam Roberts prescribes for his patients a multiple vitamin and mineral supplement which would not come within the proposed new FDA regulation.

## THE CASE OF DR. ROYAL LEE

As a prime example of the type of unfair persecution being used by the Food and Drug Administration, I single out the case of Dr. Royal Lee, mentioned in Commissioner Larrick's statement. I have examined some of the court records of the several cases prosecuted by the FDA against Dr. Lee, and I am convinced that they represent a great miscarriage of justice.

In a case in 1939 the Food and Drug Administration prosecuted Dr. Lee for "misbranding" because of certain claims made for his vitamin products. The testimony in defense of Dr. Lee included medical evidence that the accused products had actually cured certain patients. To combat that evidence, the FDA put on a Dr. Walter Brussock, who testified among other things that "vitamin deficiency does not cause degenerative changes in the human system."

Today that testimony would be laughed out of court by anyone having even a rudimentary knowledge of nutrition. Yet in the 1939 case that statement was accepted as representing "the consensus of medical opinion" and a conviction was secured on the basis of it.

In the 1962 case, referred to specifically by Commission Larrick, Dr. Lee did not contest the case but pleaded "no contest," because he foresaw that the FDA would be able to find some witness as ignorant of nutrition as Dr. Brussock was in 1939.

Commissioner Larrick seems to be proud of this record of persecution of Dr. Lee, who has been one of the pioneers in providing clinically-proven vitamin products to doctors. Dr. Lee has not advertised his vitamin products to the general public, but has sold them through distributors to doctors. His products have been successfully used for years by many doctors all over the country, and the FDA has apparently been unable to find a single instance of anyone being harmed by his products. I know personally of many persons who have been helped by them.

Last year Dr. Lee was given the Humanitarian Award by the National Health Federation, an organization which is interested primarily in seeing that the American people remain free to use such health foods and nutritional supplements as they, in their best judgment, desire to use. This should be permitted in the absence of any showing that the products are harmful.

## SUGGESTED GOALS FOR YOUR COMMITTEE

It should be clear from the above quotations from persons competent in this field, that the chief, if not the only hope, of overcoming the problems of aging lies in the bright promise of the new science of nutrition. I, therefore, suggest to your committee the following fields of action:

*1. Return the FDA back to its intended function of protecting the public*

The FDA is attempting in its publicity to ride on the well-established reputation of Dr. Harvey Wiley, who was the father of the Federal pure food law. I have personally seen this effort in the public display room of the FDA (room 3024 of the HEW Building).

But the FDA is attempting to suppress the truth about Dr. Wiley and his connection with the Bureau. The fact is that Dr. Wiley resigned in disgust because the Bureau was being perverted from its original purpose of protecting the consumer to protection of the food processors. He published his views in a book entitled "The History of a Crime Against the Pure Food Laws." The story as told in Dr. Wiley's book is substantially this:

The pure food law was passed in 1906 as a result of the crusade conducted largely by Dr. Harvey Wiley, who at that time was Chief of the Bureau of Chemistry. The enforcement of the law was entrusted to this Bureau, and Dr. Wiley proceeded to enforce the law in accordance with what appeared to be the intent of Congress. Among other things, he attempted to stop the use of benzoate of soda, alum, and sulfur dioxide as food preservatives. But the large food processors brought such political pressure to bear that Dr. Wiley's efforts were undercut and he resigned in disgust. He spent the rest of his life exposing to public view the fact that this Bureau (now the Food and Drug Administration) had been diverted from its intended purpose of protecting the public, to the protection of the giant food processors.

The Food and Drug Administration has continued to have close connections with the giant food processors. In 1955 Mr. Bradshaw Mintener, who had been a vice president of the Pillsbury flour company, was executive director of the Food and Drug Administration. At that time Mr. G. Cullen Thomas, a vice presi-

dent of General Mills (flour and breakfast foods), was made chairman of the advisory committee on "Enforcement of the Food, Drug, and Cosmetic Act." It is expecting too much of human nature to believe that a bureau with such connections could be single-minded in protecting the consumer.

I suggest that a great step forward toward a solution of the problems of aging would be to find some way to stop the FDA from harassing and persecuting the health movement. If necessary, this could be done by transferring its jurisdiction over foods and related materials, such as nutritional supplements, to the Bureau of Public Health, where it more properly belongs. In any event, whatever bureau is given supervision over this field of health should not be permitted to employ anyone allied with a vested interest, such as the American Medical Association or a company selling food or health products.

*2. Make provision for an impartial test of the claim that scientific nutrition can solve many of the problems of aging*

The quotations given above are ample proof that modern scientific nutrition claims to have the best answers available to the problems of aging and the degenerative diseases. I know from personal experience (I am 67 years old) that these claims are not exaggerated.

Nothing that your committee can do in this field would be more effective than to arrange for an impartial test, under rigidly controlled conditions, of the claims of scientific nutrition. I would be glad to make suggestions and help to set up such a test.

Dr. Tom Spies received the medal of the American Medical Association for his remarkable work in rejuvenating older people at the Hillman Clinic through nutrition. Were he still alive, he would be an ideal person to supervise such a test. In his absence, any competent and impartial expert in the field of nutrition should be able to duplicate his results.

#### CONCLUSION

From my study of the newspaper reports of your hearings, I judge that none of the witnesses who have testified have been familiar with the facts concerning what modern scientific nutrition can do in solving the problems of aging. I, therefore, request that in the future operations of your committee you provide an opportunity for the valid claims of nutrition to be presented.

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#### PREPARED STATEMENT OF MRS. BENNIE REE SWENSON, BOCA RATON, FLA.

Mr. Chairman, Senators, my name is Mrs. Bennie Ree Swenson. I reside at Boca Raton, Fla., Post Office Box 312. I am a housewife, 39 years of age, married, in middle income bracket.

I submit this testimony as an individual who has, in past months, become intensely interested in the topic of interstate land sales, as the term is applied to the sale and purchase of small recreation or retirement land sites in States other than that in which the buyer lives. Sometimes purchase is made after the land has been visited and inspected by the purchaser: in many cases it appears the sites are purchased by mail, on the basis of advertising in large-circulation media, or by direct mail, or a combination of both. It appears that in some instances such advertising and literature has contained misrepresentations, generally as to location, facilities, and/or utilities and services available. This seemingly is the cause for the mounting wave of publicity which attracted my attention several months ago when I myself was exploring the possibility of acquiring such a small tract of land in the Southwest, not necessarily for retirement, but for a vacation recreation lodge.

The more inquiries I made, the more foreboding implications I received that "the mail-sale land companies misrepresent their offerings," and that "they are taking advantage of the elderly and retired people." At the same time, more such publicity continued to be appearing, carrying on the same thesis.

Florida has been a resort and retirement area for many years, and I have never heard a Florida resident complain about dishonesty on the part of land developers, quite the contrary. I made it my business to investigate, a habit I acquired as a member of the League of Women Voters, an organization whose members have established a reputation for seeking out facts on which to base decisions.

I queried members of the real estate industry, and various Florida public officials and acquired what I believe to be an accurate concept of the land-sale business in Florida, and the protective measures under which it is operated.

Then, through correspondence with friends, I have acquired comparable information concerning the circumstances under which such landsites are traded elsewhere. I submit this information as research essentially involved with the fulfillment of this committee's purposes, and with the hope that it will contribute to achieving those ends with a minimum of legislation.

Initially, may I be permitted to compliment the President of the Senate on the membership of this committee, which so well represents those States which appear to have major concerns with this problem, and also on the name assigned to the committee; i.e., "Committee on the Aging." I understand there are various housing plans and programs "for the elderly," a term not clearly defined, but which generally seems to mean people of or past retirement age. I am glad that this committee is studying problems of "the aging," rather than "the elderly," since I do not think I am "elderly," and I have been given reason to believe that many persons interested in recreation or retirement landsites are not elderly. The distinguished chairman of this committee, Senator McNamara, if the Congressional Directory is to be believed, was born in 1894, which would place him in an age group generally held to be eligible for retirement, yet no sensible person would characterize him as "elderly," nor wish to see the Senate deprived of his presence by his statesmanship by a mandatory retirement age. The term "aging" is most appropriate and properly applies to the matters I am submitting, since they concern people of many States and of many ages, and, in reality, the term "aging" applies to us all, does it not? Each of us began aging the day we were born, hence this term is much more appropriate than "elderly" for a committee with so wide a range of interests.

The States from which I obtained information, statements, or expressions from public officials concerning interstate land sales are the following:

- |               |             |               |
|---------------|-------------|---------------|
| 1. Florida    | 4. Nevada   | 7. New Mexico |
| 2. Arizona    | 5. Colorado | 8. Utah       |
| 3. California | 6. Ohio     | 9. New York   |

Seven of these States are such that active land development and sale has evolved within their boundaries. Two, New York and Ohio, were selected as populous States in the less temperate climate areas of the country, whose residents might be prospects for sales efforts for promotional developers, or who might very naturally become interested, as I did, in a recreation property in a different part of the country.

First, with the permission and patience of the Senators, I shall recite as briefly as possible the circumstances which appear to exist in this connection in each State, as of this week, and brought up to date with oral testimony presented during this hearing, as followed through the daily newspapers.

Then, I shall very briefly submit what I believe Senators will agree are inescapable conclusions, both as to clarity of focus on the problem and as to the most desirable and effective method of solution.

1. Florida.—Speaking strictly objectively, it appears Florida has very nearly eliminated any problems in connection with interstate land sales, providing law enforcement officials in other States are aware of this and utilize the structure Florida law has provided.

Even so, it should be noted that Florida's government is constantly alert to meet new situations, and Gov. Farris Bryant has within this calendar month named a Governor's committee on interstate land sales, to ascertain if any further strengthening of the State's statutes are needed, both for enforcement within the State and for cooperation with officials or residents of other States. This committee is chaired by Robert T. Brinkley.

Also concerned with both interstate land sales and the wholesale sale to developers of public (State-held) lands is the internal improvement fund, a powerful advisory group, named by the Governor. Sales of public lands in developer-sized tracts are under the supervision of this group, plus the legislature, and have produced no complaints or problems. Complaints by purchasers of consumer-sized tracts (or larger, for that matter) are referred to the Florida Real Estate Commission, which is vested with statutory powers broad enough to settle any alleged abuse or misrepresentation, whether the sale is intrastate or interstate.

The Florida statute provides in effect, that "no broker or owner may offer for sale Florida property through any means without first obtaining a permit from

the Florida Real Estate Commission." This, of course, provides a preventive check in terms of misrepresentation in advertising, offering of unusable land, or any other abuse.

There is a Florida statute called the Out-of-State Advertising Act, providing, in effect, "that no broker-owner may offer for sale Florida property through any means without first obtaining a permit from the Florida Real Estate Commission." The statute also specifically stipulates that "an out-of-State purchaser can seek and achieve rescindment of any contract entered into through misrepresentation or fraud, and can recover full refund plus penalty."

Penalties for violators up to fines of \$100,000 and 5 years' imprisonment are provided.

Thus, obviously, any out-of-State purchaser who feels he has been defrauded needs only to ask the law enforcement agency in his own State to invoke this act on his behalf via the Florida Real Estate Commission.

Any complaints connected with sales within Florida may be filed with the commission, which in turn seeks redress or settlement in district courts.

The land attorney of the Florida attorney general's office, Fred Burns, states that no complaints of land sale abuses have reached the attorney general's office in the past 5 years.

Land Attorney General Burns, Chairman Brinkley of the committee on interstate land sales, and Van Ferguson, trustee of the internal improvement fund, are unanimous in opinion that no need whatsoever exists for any Federal legislation to protect any citizen, "elderly," "aging," or "just careless" from abuse in connection with sales of Florida land, regardless of where the purchaser may live, or where the owner may reside. The protective measures are extended to any purchaser in or out of Florida, if Florida land is involved, which establishes the all-important point of jurisdiction, which appears to trouble a few State officials, but can in reality be resolved simply, and by State statute. Jurisdiction lies where the land lies, obviously, for all of these interstate transactions are made on time-payment plans, and both title deed and mortgage must be filed in the State wherein the land lies. Any legislature can vest "cease and desist" power in a real estate commission, in the attorney general, the land commissioner, or whatever best suits that particular State. Once invoked, the county clerks can be instantly notified to accept no more deed or mortgage registrations from the subject of such an order and the accused is out of business until he straightens out valid complaints. If he continues to sell, following a cease and desist order, he has established a clear case of fraud which would take no more than an hour in court to prove up, not the long laborious process of evidence-collection described by postal authorities earlier in this hearing.

2. *Arizona.*—The committee has heard sufficient oral testimony about Arizona, I am sure, since that State's real estate commissioner, Mr. Talley, was an early witness, and since the distinguished Senator from Arizona, Mr. Goldwater, is a member of the committee.

I should like to point out two matters of key importance with respect to Arizona. The front pages of the daily newspapers have been black with headlines concerning "land frauds," "abuses," "Federal action needed" in the past 2 weeks. Even Senator Goldwater, known as a strong supporter of States' rights, has been headlined as saying, "This is the Senate's job." On January 17, the front page of the Phoenix daily newspaper bore an 8-column banner headline reading "Ask Land Fraud Probe," followed by a subhead containing the above statement attributed to Senator Goldwater. The first paragraph of the following story authored by the Washington bureau of the Arizona newspaper quoted Senator Goldwater as calling for "a full-scale Senate investigation of fraudulent schemes to sell Arizona desert lots to unsuspecting oldsters." The next paragraph refers to "Arizona Land Commissioner J. Fred Talley detailing how shady operators cheat the public."

Yet, on the same day, both the Senator and the commissioner asserted that wrongdoers in Arizona land trading were a fractional minority. Talley's written text stated categorically that "these few predatory promoters are by far in the minority and are becoming fewer as we weed them out." And far, far beneath the screaming headlines, was one sentence, buried in the middle of a column (verbatim): "Both Goldwater and Talley stressed that most real estate subdivisions in Arizona are legitimate."

Three provocative thoughts occur. (1) How does Senator Goldwater know that all these properties are being sold to "oldsters"? Has anyone bothered to run a survey or audit to determine just what is the average age of Arizona land-site buyers? (2) With both Goldwater and Talley in agreement that the sinners



are in the great minority, why crucify their State's entire land industry, one of its most important, by publicly hanging the misdeeds of the few around the necks of the majority of highly ethical developers? (3) Since Commissioner Talley, reputed to be at personal or political odds with Arizona's Attorney General Robert Pickrell, has been on public record long before this hearing that Arizona laws are adequate to eliminate abuses, if enforced, why should either of these officials of a pioneer and sovereign State cry for intervention by the Federals? The leading newspaper in Arizona, the Arizona Republic, stated on January 18 that "This land is located in Arizona, the contracts are subject to Arizona law. The deeds are recorded in Arizona. The entire transaction occurs, legally, in this State. We have laws regulating developers. If someone can establish that they are insufficient, the legislature is now in session and can move within 24 hours to make them sufficient."

Mr. Chairman, I am particularly curious about this seeming paradox in the Arizona situation, since it was in an Arizona site that I had become interested, and last summer I combined a vacation trip with an inspection of the site of the property offered. It appeared to me to meet every specification of the advertised and printed offerings, there was ample water available at reasonable depths of individual wells, and it was apparent that all utilities could be made available almost immediately, a real need or demand existed for them. I saw dozens upon hundreds of letters from purchasers expressing their satisfaction, and numerous placing orders for still additional lots, for possible later resale at appreciated value. Do not I, as an American woman, "aging" at 39, have the right to invest a couple of hundred dollars in real estate in Arizona, for whatever purpose I myself select, the same as I could in my home State, without a Federal land commissar looking over my shoulder? That is what has alarmed me, Mr. Chairman, and what has prompted my testimony to this committee. I have no interest or equity in any development company; I am carrying no one's message but my own. I simply am alarmed at the seemingly capricious or at least unfounded premise with which this hearing seems to have commenced, i.e., that everyone who buys land by mail is "aging" or so senile, stupid, or incompetent that he needs looking after, and the prospect of still further costly and stagnating Federal interference with personal rights. If and when I buy that little plot in the West, Senators, I want to do it without having to ask Big Brother in Washington. There are better business bureaus in every community, whose lifework it is to protect unwary investors, to help them "investigate before they invest." Why could this committee not better achieve its ends by simply encouraging more awareness of the availability and effectiveness of the service offered by these better business bureaus everywhere? Just as Senator Goldwater and Commissioner Talley have testified that the unscrupulous land developers are a small minority, I will venture to the committee that the "defrauded oldsters" are an even smaller minority of landsite buyers. Yet the majority of the first group have been smeared in a public expose of the few—and it is proposed that the freedom of the many to spend their own funds as they see fit should be shackled to protect a tiny minority of unwary or careless buyers, who can most effectively, quickly, and economically be protected by effective administration of effective State laws, rather than by a coast-to-coast blanket of Federal restrictions. I ask you, Senators, "Why"?

3. *California.*—California is another State which seems not to suffer from either power to act or clarification as to its jurisdiction. California statutes require a clearly stipulated set of details on any development advertised or offered for sale in California, regardless of where the land is located, and the California Real Estate Division has the authority to issue (and enforce) cease-and-desist orders when the requirements are not fulfilled. A recent article in a national publication spent a dozen paragraphs describing the abuses wrought on out-of-State buyers by the promoter of a development in another Western State. One line was given to California: "California officials have stopped sales in the State because promoters failed \* \* \* [to comply with above law]." In the same article, the publication lamented the alleged misrepresentations of properties for sale on one of the Hawaiian Islands. Then the terse statement: "California authorities recently stopped sales in the State." It can be done at the State level, Senators; I am citing specifics about States which have proved it can be done and are doing it; and submit that any other State's statutes can be easily made equally effective, jurisdiction and cease-and-desist authority being the twin keys.

4. *Nevada*.—Nevada officials, too, are aware of abuses of out-of-State buyers, and are moving to correct them within the framework of their own statutes. On January 22, 1963, Gov. Grant Sawyer, in addressing the newly convened 1963 session of the Nevada Legislature, said, in part: "Growth in the West and Nevada has prompted the start of many new businesses and encouraged the sale of lands throughout the State. Most of these ventures are legitimate and an asset to our economy. We have witnessed, however, an increasing number of transactions that would not bear close scrutiny. \* \* \* Therefore, there is need for legislation to provide more adequate controls over the sales of lands and of securities."

This expression was addressed, Senators, to the Nevada State Legislature, not to the Congress of the United States.

5. *Colorado*.—Colorado's Attorney General Dunbar states numerous complaints have been received in recent years, mostly interstate. Both he and the better business bureau manager, Don Bell, have said that the State's laws regarding jurisdiction make effective control difficult. However, the legislature is now in session and proposals both for effective controls and for clear establishment of jurisdiction are being readied. Might it not be a service to the State of Colorado (and to dissatisfied land purchasers of Colorado land in other States) if the committee addressed a simple request to Gov. Farris Bryant of Florida asking him to send to Attorney General Dunbar and other Colorado officials a copy of Florida's Out-of-State Advertising Act, plus a description of how the Florida Real Estate Commission functions and the powers delegated to it? And references to judicial decisions clearly establishing that jurisdiction lies where land is, and where deed and mortgage must be recorded? And the simplicity of the cease-and-desist order procedure used so effectively in California? Senator Smathers would, I am sure, as a ranking member of this committee be happy to ask his home State's officials to lend this aid to a sister State.

6. *Ohio*.—A heavy-population State which offers a consumer target to the more resort-climated States, yet has found no difficulty in handling this situation at the State level.

Malcom S. Rank, superintendent of examiners in the Division of Securities, Ohio Department of Commerce, says the State has tight control on out-of-State organizations who come in to sell real estate. Applications are made through Rank's office, checked thoroughly, and an examiner from the department then visits the development, no matter where it is, to check out developers' claims before clearance is granted to advertise and sell in Ohio. The division also requires the submission of all advertising and brochure copy for validation before releases. If a violation appears, or is alleged, it is quickly checked, and the permit can be revoked instantly, placing the promoter in a prima facie position of willful fraud if he continues. No Federal legislation or aid needed, says Mr. Rank.

7. *New Mexico*.—Land Commissioner Walker says present State laws do not give either his department or the attorney general specific enough authority to regulate interstate sales. However, of course, in a State like New Mexico, they are on the "selling" side of the proposition, and have no problem in the protection of their State's residents; rather, the curbing of fraudulent sale of New Mexico land to persons in other States. The attorney general is researching existing legislation to determine what is needed to curb the "fly-by-nighter" at the New Mexico end, for they freely admit having had a number of inquiries concerning such a development not far from Santa Fe, and admit with equal candor that "California has barred sales of this property in California." All the New Mexico Legislature needs is to be told how California and Florida do it.

8. *Utah*.—The Public Service Commission of Utah has zealously supervised subdivision land sales in Utah. Utah also has what amounts to a "truth in advertising" statute, which is being strengthened by two additional penalty amendments in the current legislative session. The director, Real Estate Division, Utah Securities Commission, William G. Hardy, says only three complaints of false advertising or substandard land have reached his office in the past 5 years. The real estate division's enabling act empowers it to issue "show cause" orders on allegations, reasonably substantiated, of "shady" operations, and in each case, the defendants have elected to make refunds and avoid court action. This is equivalent to the cease-and-desist procedure in other States.

9. *New York*.—Frank S. Pantalone, assistant attorney general of New York, says that there is presently not sufficient statutory protection against land frauds. However, the problem can and probably soon will be solved by State legislation. The attorney general is already pressing in this section of the assembly for an amendment to the general business law (seeking passage before April 1963) requiring every seller to file a complete prospectus with the attorney general's office, providing all pertinent information, before permit to sell may be granted.

This is a summary of personal expressions, or of information obtained first hand from the various responsible officials in nine States, all with an interest in this problem, seven being largely concerned with the protection of their reputation and of the legitimate developers of their lands, and two being principally concerned with protecting their citizens against depredations of the admittedly small minority of predators.

There has been no situation cited in this hearing which cannot be handled at the State level, and more than half the States I have queried have already achieved solutions.

To be sure, there are and always will be some State officials who would be glad to have their jobs made easier by some blanket Federal edict which would create another billion-dollar item in the Federal administrative budget, and "let Sam do it." But they are in the minority, Senators, and it would be a mistake to judge the inhabitants of any of these States or their public officials by those few, just as it is wrong to judge the majority of ethical developers by the few shady ones, or to apply to everyone who buys land by mail the patronizing title of "oldster." I shudder to think what would have happened on that park bench if someone had told Bernard Baruch, when he was 80 that he was a helpless "oldster and needed a Federal clerk to tell him whether or not he could buy a house in New Mexico."

Summing up, Mr. Chairman, Senators, I submit:

(1) A canvass of the principal States in which land is being offered under these plans would reveal that, as Senator Goldwater, Commissioner Talley, and Governor Sawyer have asserted, "the great majority are entirely legitimate."

(2) An impartial canvass of the legitimate developers would reveal that they account for 90 percent or more of the total land traded.

(3) A canvass of these transactions would reveal the average age of purchasers to be 55 or under. Are these "oldsters," needing the care and feeding of big government? A national publication recently cited as damning evidence the fact that one development of about 18,000 acres had sold 15,000 acres in 8,000 transactions during the past several years "yet there are less than 100 houses built."

To me, that is *prima facie* evidence that "oldsters" didn't buy those lots. "Oldsters" buying lots for final retirement are going to want to build and move in now, not 5 or 10 years from now. These lots, I suggest, were bought by people in their fifties at the most, with the purpose of paying them out on easy terms while they are still fully and gainfully employed. Can the committee find flaws in that reasoning? I believe it could be supported by a certified canvass.

(4) Finally, since most States prefer local law enforcement to Federal, since no real need for Federal intervention has been established in these hearings, since it has been clearly established that the States can do the job if they have adequate laws and enforce them (as most now are doing) where is the case for Federal intervention?

(5) There are several ways in which the committee could help States with inadequate legislation to immediate relief.

A. The committee could, as suggested earlier in this statement, ask States with adequate and functioning legal machinery to advise with the others. This would be the most informal method and at the same time, highly effective.

B. I am sure it is not necessary to remind any attorney among the committee's membership of the so-called negotiable instrument act, which is a classic example of the promulgation of a model piece of legislation, offered through the uniform laws commission here in Washington for adoption by all the States in identical form (or modified as needed to conform to State constitutions or situations). Granted, this is a slower process, but it might be offered as an aid to those States which are presently seeking to strengthen their local statutes. There would probably have to be two model statutes offered: one for the "seller" States, and another for the "buyer" States. Both are fully discussed in this statement.

C. The committee could, on completion and publication of testimony, invite a select committee of ethical developers into informal discussion, and obtain their cooperation in aiding the several States to bring their land-sale statutes into effective and reciprocal condition. This, Senators, I submit would be the most wholesome of all solutions, in that it would relieve the U.S. Senate from the position it has now preempted, that of delivering a blackeye to a major U.S. industry in a dozen States because of the malefactions of a fraction of that industry, it would place the burden of self-policing squarely on the land-developers' shoulders, and would cost the taxpayers nothing.

I thank the committee for its indulgence. I am not so presumptuous as to attempt to dictate any procedure to even one Senator, much less a committee. But I have done my homework, the research I have submitted to you is accurate, and as one who might be a typical constituent of any member of this distinguished group, let me conclude by urging that I be left free to buy my recreation or retirement property where and when I decide, under prices, terms, and conditions held reasonable according to local conditions by State statutes, but not with Big Brother watching me.

Again, I thank the Senators for their courtesy in admitting my testimony.

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LAFAYETTE, LA., December 30, 1962.

Re Roadmaster Co., Inc., 1712 Union Avenue, Memphis, Tenn.

Senator PAT McNAMARA,  
U.S. Senate, Washington, D.C.

DEAR SENATOR McNAMARA: It was with a great amount of satisfaction that I read in this mornings paper that your special Senate committee plans to investigate the outrageous practices of promoters and quacks who are fleecing the American public so openly.

I was "taken" by one of these promoters during the past year and hope with all my heart that something can be done to prevent other people from being badly hurt as was so in my case.

I withdrew money from my stepchildren's savings account to invest with this promoter; money that I had put aside from their father's social security payments for their educational needs. It is now gone.

During the first week of July of this year I answered a newspaper ad appearing in the Baton Rouge, La., Morning Advocate—an exact copy of the enclosed ad with the exception of the name of the representative. I received an answer from the company signed by Mr. Tom W. Shipp, president. An appointment was arranged for me to meet their representative, a Mr. Benjamin P. Scoggin, at the Town House Motel here in Lafayette.

Mr. Scoggin told me of the great success that their business was enjoying and that they were presently operating in all States in the United States with the exception of California and Georgia. Why he did this I do not know, since I learned later that they had never manufactured a single insurance vending machine and no policies had ever been written; further, that it was against the law to operate such machines (with the exception of airports) in their home State of Tennessee.

Mr. Scoggin said further that I could expect delivery of any machines which I bought within 3 weeks after my application for a distributorship was approved. I paid him \$900 at this time.

On August 6, 1962, I received a letter from Mr. Shipp in which he told me that my application had been approved and as soon as I sent them another \$900 I could expect to receive the 10 vending machines and start them earning great amounts of money. I sent this \$900 by a cashiers check via registered mail to the attention of Mr. Tom W. Shipp on August 6, 1962.

After it became apparent that the Roadmaster Co. had no intention of delivering the merchandise for which I had paid, I contacted the law firm of Armstrong, McCadden, Braden & Goodman, of Memphis, Tenn., to determine what, if anything, could be done about forcing delivery of the machines or the return of my money. This was done on October 12, 1962—that is, I wrote to the above law firm on this date.

After 2 months of investigation by Mr. John W. Wilbur of the above law firm, I was advised on December 3, 1962, that it was apparent that Mr. Shipp and his company had no funds, and that my chances of recovering any of my money were hopeless. Even in view of this, it did not stop Roadmaster, Inc., from running the enclosed ad in our local newspaper on December 6. This, even though I

have an exclusive contract to represent Roadmaster over an area of 100 miles radius from Lafayette.

It is my sincere hope that you will include this company on your list of swindlers to be investigated and thereby protect other elderly people from throwing away what little money they have been able to save.

Please advise me if there is any further information I can furnish you about my dealings with this company.

Very truly yours,

CHARLIE T. SMITH.

[From the Advertiser, Lafayette, La., Thursday, Dec. 6, 1962]

DISTRIBUTOR WANTED

Nationally rated company wants distributor for the Lafayette area. Minimum investment of \$1,800 will return \$6,000 per year. No direct selling involved; can be handled on a part-time basis.

Contact Bob Gerald, Roadmaster Corp., Town House Motel, Wednesday evening and all day Thursday for appointment.

(Whereupon, at 12:50 p.m., the committee recessed, subject to the call of the Chair.)

