National Health Federation

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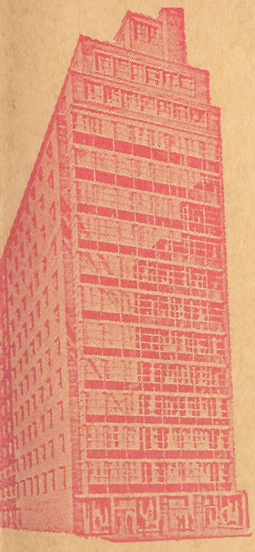

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SPECIAL EDITION
Court Rulings in Favor of the Public

AMERICANS CRUSADING FOR BETTER HEALTH

Volume IX—Number 4 **April, 1963**

BULLETIN

Recent Federal Court Decisions Curb Food and Drug Administration

This issue will be primarily devoted to recounting Federal Court decisions, rendered in recent months, which tend to curb the ruthlessness of the Food and Drug Administration and once again interpret the law as Congress intended it to be interpreted and enforced.

We suggest that those interested in the field of health, from an economic standpoint, file this issue for future reference. These court decisions may prove to be invaluable in the future.

Of particular importance is the courts' insistence that federal bureaus endeavor to carry out the wishes of Congress and not their own ideas, interpretations and prejudices.

We are very proud of the victories won by the Federation's General Counsel and are praying that, in his Appeal to the Supreme Court, he will be again victorious. (See Page 3.)

The Congress and the courts are America's only hope.

Family Circle

By Fred J. Hart

Two months of the year 1963 have come and gone, but the staff of the Federation has not been idle. Plans have been worked out, needed changes have been made, and the program of the Federation for the year 1963 is moving forward.

The Federation has a big program. How fast this program will be developed will depend largely on the support given to the organization by its members. With each new member the Federation's power for good increases. As rapidly as the membership and funds increase, the different aspects of the program will be developed. Among these we find the Youth Health Movement, the Legal Department, the Health Speakers Bureau, and the project to amend the Food and Drug Law to put the word PURE back into the law, as it was when the law was first enacted. Also to move pure food enforcement from the Department of Health, Education, and Welfare, separating it from the drug section and placing it in a new department of government where there will be no conflict of interest.

The foregoing are all important steps that should be undertaken, and will be, just as soon as enough of our citizens give sufficient financial support to the Federation to enable it to launch and carry on these projects. In the meantime, the Federation is busy at the home office and in Washington combating harmful bills, or amending them for the protection of the public in the field of health.

Life Members

As this item is being written we are still short 50 members of reaching our goal of 300 life members. We feel sure that our goal will be reached if our members have the same faith in the Federation's program as we do.

Double the Membership Is Our Goal

The Convention in Long Beach adopted as a membership goal to double the

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The
NATIONAL HEALTH FEDERATION
BULLETIN
VOLUME IX NUMBER 4 APRIL 1963
Adventures on Health Frontiers
Published Monthly

Washington General Counsel for N.H.F. Wins Two More Technical Victories for Defendants in Food and Drug Case Argued Before the United States Court of Appeals for the Seventh Circuit, Chicago, Illinois

By Charles Orlando Pratt, Washington General Counsel,
Suite 712, Barr Building, 910 Seventeenth Street, N.W.,
Washington 6, D.C.

Your Washington Counsel filed a Petition for Re-Hearing in this Court requesting a reversal of a partial affirmance of conviction of the defendant and his corporation. In his brief he argued two important points which the Court held were right; and that, therefore, the Court of Appeals had erred in basing its decision on evidence that should not have been admitted in the record and that should have been stricken. The High Court in its decision ordered that its own argument and opinion was wrong in both respects and further ordered such argument and opinion deleted and changed. It ordered the deletion from the decision of any reference to a conviction previously made against the same defendants which was used to build up illegal evidence to establish intention to violate the law in this case.

The High Court admitted that it could not take judicial notice of a FDA Notice of Judgment reporting the previous conviction published by the FDA and used as a further argument to establish the guilt in the present case.

The High Court further ordered that, in its decision, reference to "the previous conviction" be deleted.

These two victories make this case a "landmark case" and may save thousands of defendants in the future from conviction based on evidence of a previous conviction to show guilt of the case being tried subsequently.

Your Washington Counsel accomplished another victory in this appeal case when he was sustained on the point that knowledge that FDA agents who impersonated ordinary citizens were going to take his product over state lines could not be imputed to the defendant as his intention to ship the product in interstate commerce and thereby give the government jurisdiction over the case involving an over-the-counter sale. The High Court agreed with your Counsel when it said:

"The fact that they did cross a state line is immaterial in the situation where the crime is made federal only by virtue of the wrongdoers' participation in the expressed intent. [Note, the wrongdoers referred to were FDA agents.] The only

(Continued next page)

intent ever expressed was totally false and we decline to extend defendants' knowledge of the agents' intent to that deliberately concealed so as to make them aware of the interstate nature of the sale. If this seems a formalism, it is a formalism required under our federal system—particularly where the statute specifically calls for an introduction or delivery for introduction into interstate commerce as a requirement and essential element of the corpus delicti. Situations not involving interstate commerce are not before us and we specifically decline to treat them."

The High Court in this appeal case then said:

"We think that the interstate element of the crime must rest on something more solid than the pretense of government agents to satisfy the minimum requirements of basic fair play—that is, due process. Since the interstate element of count was not proved, we must hold that the conviction under that count must be vacated." This decision vacated a prison term of three years in the federal penitentiary and set aside a judgment of $1,500 and $2,500 or a total of $4,000. And the FDA was forced to issue orders to its agents that it could no longer entrap defendants in such an unfair and illegal manner in the future as it had done for many thousands of its cases which it had previously won. **This was one of the greatest victories for those engaged in the health food and drug business in this country,** even though the conviction on two other counts of a five-count indictment were sustained.

Your Washington Counsel is preparing a Petition for the defendants to file in the United States Supreme Court to request a reversal of the two remaining counts. This will be difficult because the attorneys originally defending the defendants did not understand the FDA laws, nor did they object to improper charges to the jury; they did not point out to the court that foods for special dietary uses were involved—not **drugs**; and the jury never knew that the products were not drugs, or that dietary foods could be used to overcome dietary diseases and to fortify the ordinary or usual diet. The jury did not know that the FDA had approved the sale of the product as a food supplement, and that the trade mark registration had shown that the product was intended to be sold as a food supplement. The High Court held that it was too late to question the charges to the jury which defense counsel had permitted the judge to use in his instructions to the jury in the trial court.

The American Medical Association and the District of Columbia Medical Society were convicted of criminal conspiracy to restrain trade by their organized opposition to a group health plan decided January 18, 1943

Recently in a Hearing before the Interstate and Foreign Commerce Committee of the U.S. House of Representatives which was considering making federal grants to students to encourage them to attend various medical schools, your Washington Representative and your Washington General Counsel appeared. Your representative presented a statement to urge that such grants in aid also be made available to chiropractic stu-

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National Health Federation Bulletin, published monthly January through December, except July-August which are combined, at 211 West Colorado Boulevard, Monrovia, California, by National Health Federation, a nonprofit corporation. Fred J. Hart, Editor-Publisher. Subscription rate of $3.00 per year. $1.50 of the annual membership dues is paid as a year's subscription to the **National Health Federation Bulletin.** Single copies 25¢. Second-class postage paid at Monrovia, Calif.

dents and chiropractic colleges. It was pointed out that the AMA might oppose aid to any other than students at medical schools. In the discussion it was pointed out that the AMA was prejudiced against any healing arts profession but their own, and that the AMA desired to maintain a monopoly in the healing arts. In an effort to show the prejudice, it was pointed out that:

In the case of the American Medical Association and the Medical Society of the District of Columbia versus the United States, the AMA was convicted in the U.S. District Court for the District of Columbia (317 U.S. 519) for conspiracy to violate Section 3 of the Sherman Anti-Trust Act. The U.S. Court of Appeals for the District of Columbia affirmed the conviction; and the Supreme Court of the United States affirmed the decision of the U.S. Court of Appeals.

The Courts held in effect that although the AMA and the Medical Society were not business or a trade, they, nevertheless, did conspire to restrain trade by organized opposition in opposing a group health plan. The Courts held that the AMA and the Society were guilty of **criminal conspiracy** to restrain trade by their organized opposition to a group health plan. The Supreme Court held that they were guilty of a criminal conspiracy against physicians and medical associations for conspiracy to restrain trade by their organized opposition to a group health plan. The Supreme Court said: **"A conspiracy to exclude a competitor from the market by means of a boycott is a conspiracy in restraint of trade** prohibited by Section 3 of the Sherman-Anti-Trust Act."

Your Washington Counsel believes that someday the non-allopathic healing arts professions may use the foregoing AMA case to help to establish in the courts that the AMA has used a conspiracy to exclude them as competitors from the market by means of a boycott of hospitals and doctors who are willing to associate with the non-allopathic doctors.

It should be pointed out that, in the case above, the AMA and the Society were found guilty of a criminal conspiracy to restrain trade rather than "to monopolize the practice of the healing arts." Both the defendants and the petitioners in that case were doctors of medicine. It was the corporate practice of medicine that was opposed. No other profession in the healing arts field was involved; nevertheless, it would appear that the conspiracy involved in that case might lead one to believe that the purpose of the actions of the AMA and the Society, if successful, could lead to attacks on other non-allopathic doctors to restrict them further in their practice.

Kefauver-Harris drug amendments of 1962 (Public Law 87-781) to the Federal Food, Drug and Cosmetic Act, approved June 25, 1938 (52 Stat. 1040, Et Seq., as amended 21 U.S. C. 301-392)

The new Drug Act relates to new drugs and to drugs as defined in the old FDA Act under which a drug is defined as follows:

Sec. 201. (g) The term "drug" means (1) articles recognized in the official U.S. Pharmacopoeia, Official Homeopathic Pharmacopoeia, or Official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles **(other than food)** intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any articles specified in clause (1), (2), or

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(3); but does not include devices or their components, parts, or accessories.

The foregoing definition means that if you sell or use a food supplement or any foods, you cannot make any therapeutic claims that the product will diagnose, cure, mitigate, treat, or prevent any disease. If you do, it is a "drug."

Vitamin products and foods sold and used only for special dietary uses for which no therapeutic claims are made may be sold by anyone

Vitamin products and other foods, natural or otherwise, which are not sold or intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease of man or other animals do not come under the definition of a "drug" under either the old or the new drug laws. Therefore such products sold or used only as a dietary food supplement or as a food to overcome the dietary deficiency for which given or eaten, and without therapeutic claims, do not come under the drug definition, provided further that the products are given only to overcome the dietary deficiency for which given and to fortify the ordinary or usual diet.

The new drug law does not restrict non-allopathic doctors and others from selling dietary food supplements

The new and old food and drug laws do restrict the sale of vitamin products which come under the foregoing definition of "drug," but they do not require the enforcement of the new law against vitamins and other food products for which no therapeutic claims are made. The fact that a vitamin product or a natural food is "good" for some disease cannot be used in the labeling of the product unless you wish to sell the product and comply with all the laws and regulations relating to drugs. Just sell good food products to help to balance the body chemistry and to fortify the ordinary or usual diet and to help to overcome the dietary deficiency for which given.

The political power and influence of your National Health Federation is recognized by a member of Congress

Your Washington Counsel was pleased to hear a new Congressman say to him that he realized that the National Health Federation was a national association which candidates for election to Congress should recognize and consider when campaigning, because of the Federation's growing power and activity in working for or against legislation in which it has an interest on the part of the American people to protect their health freedom and rights. With the growth of N.H.F. throughout the country, more and more national candidates will need the support of our members and they in turn will be informed of the aims and purposes of N.H.F. The card campaign to defeat or change the unreasonable food supplement regulation proposals helped to acquaint the government, the legislators and the public with N.H.F. and its program.

Doctor Raps U.S. Softness

CHICAGO — Americans, living in a push-button age, are going soft physically, says a researcher at the University of Illinois.

Dr. Thomas K. Cureton, director of physical fitness research, says this softness can be overcome by hard physical work **and the addition of wheat germ and other nutritionally high supplements in the diet.**

His observations highlight a report on the training methods of Olympic athletes just readied for publication.

From **Indianapolis Star,**
December 18, 1962.

Washington Report

Special Legislative Target of the Month— H.R. 12 & S-470 (identical bills)

By Clinton R. Miller

H.R. 12 is a bill to appropriate $750 million over the next ten years for construction of health research and teaching facilities, and $70 million over the next five years for student loans. A maximum loan for any student for any academic year is to be $2,000. The stated purpose of the bill is: "To increase the opportunities for training of physicians, dentists, and professional public health personnel, and for other purposes."

As written, the identical bills (H.R. 12 and S-470) cover only eight drug and surgically oriented professions: 1, Medical, 2. Dental, 3. Pharmaceutical, 4. Optometric, 5. Podiatric, 6. Nursing, 7. Osteopathic, 8. Public Health.

Hearings were held on H.R. 12 before the full committee on Interstate and Foreign Commerce of the House of Representatives, February 5, 6, and 7, 1963. **The bill was "marked-up" March 1 in executive session, and the N.H.F. amendments were defeated by voice vote.**

A Plea For Fairness

The National Health Federation testified February 7 (See March N.H.F. **Bulletin,** pp. 19-20, for our statement) and argued that ALL of the healing professions should be provided for in the language of the bill. Conspicuous by its omission was any mention of chiropractic, the major drugless healing art, or any other natural drugless healing profession. The N.H.F. submitted a request to have the bill amended in 19 different places to include the specific mention of chiropractic wherever the other eight professions are listed, and also to amend the bill to hold the door open for "other health training institutions which are or may be listed as accredited by the U.S. Office of Education."

Representative Lionel Van Deerlin (D), San Diego, Calif.—a Friend of Justice

Rep. Lionel Van Deerlin, freshman Congressman from San Diego, Calif., sponsored the N.H.F. amendments in the full committee in its "mark-up" session following the hearings. In this meeting, the committee meets to discuss the advisability of amending the bill in accordance with the recommendations of witnesses who appeared before the committee. The public is not invited to these sessions, and if an amendment is considered, it must be presented by a friendly committee member. Mr. Van Deerlin was ably supported by Rep. Robert W. Hemphill (D), South Carolina. Several other members of the 33-member committee expressed a favorable attitude towards the proposed N.H.F. amendments, but not enough to keep them from being voted down by a voice vote majority of the Committee. From here the bill goes to the House Rules Committee.

Unless Amended, This Will Be a "Red-Light Bill." Initial Defeat Is Not Serious—N.H.F. Successfully Amended Vaccination Bill in 1962

The same House Committee last year accepted the N.H.F. amendment to the mass-vaccination bill (H.R. 10541), which was an Administration-favored bill. Our amendment stayed in the bill as it passed the House and the Senate,

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and as it was signed by President Kennedy. It is now in Public Law 87-868. Here is our amendment which sets a Federal precedent and states clearly the **intent** of Congress: "Nothing in this section shall be construed to require any State or any political subdivision or instrumentality of a State to have an intensive community vaccination program which would require any person **who objects** [emphasis ours] to immunization to be immunized or to have any child or ward of his immunized."

Tremendous Momentum

The present bill, H.R. 12, like the mass-vaccination bill of last year, was introduced by Rep. Oren Harris, chairman of the Committee on Interstate and Foreign Commerce, and has a full administration head of steam behind it. This committee has acted on it as though it were the last days of the session instead of the first. This is not necessarily a bad thing. There are many checkvalves yet to be turned on the bill.

Rules Committee — A Powerful Steam Check Valve

The next place we have a chance of correcting this bill in the House of Representatives is at the Rules Committee. This Commitee is not a "legislative" committee and cannot put the N.H.F. amendment into the bill. It can, however, keep the bill bottled up unless the Chairman of the Legislative Committee agrees to satisfactorily offer an amendment to the bill on the floor of the House of Representatives (which would have the same effects as though his committee had amended the bill in the first place). The Rules Committee is the same as it was in the last Congress (87th), and they didn't look very favorably on this bill last term. However, it didn't have the push behind it last session that it has now, so we cannot assume that this valve will work without some pressure to tighten it. I have already started to work with key members of this committee, and here is where you can come in to help. Simply write to any or all of the members of this committee, in addition to your own Representative, and urge them to oppose the bill **until it is amended with the N.H.F. amendments.** The members of this powerful committee are listed here for your convenience. Their address is: House Rules Committee, House Office Building, Washington D.C. This committee will stay the same all through the 88th Congress, so keep the list for further reference.

Rules Committee

Howard W. Smith, **Chairman**
William M. Colmer (Miss.)
Ray J. Madden (Ind.)
James J. Delaney (N.Y.)
James W. Trimble (Ark.)
Homer Thornberry (Tex.)
Richard Bolling (Mo.)
Thomas P. O'Neill, Jr. (Mass.)
Carl Elliott (Ala.)
B. F. Sisk (Calif.)
Clarence J. Brown (Ohio)
Katherine St. George (N.Y.)
H. Allen Smith (Calif.)
Elmer J. Hoffman (Mich.)
William H. Avery (Kans.)

Osteopathy

"Osteopathy is a science. Its use is in the healing of the afflicted. It is a philosophy which embraces surgery, obstetrics, and general practice. An osteopath must be a man of reason and prove his talk by his work. He has no use for theories unless they are demonstrated. Osteopathy is to me a very sacred science. It is sacred because it is a healing power through all nature."—Dr. Still's **Research and Practice.**

My Second Message to You

By Howard Long, Executive Secretary

In the past 15 years I have been affiliated with many organizations. In that time I have never encountered the feeling I appreciate at this time. On no occasion have I ever experienced the fine attitude of the N.H.F. membership. They budget their pensions to pay their dues, they pay close attention to mail and meetings, they send us clippings and personal letters, they heed recommendations and volunteer to help without the asking. Friends, this is exceptional and you are to be individually commended. I am proud to be associated with you.

A Brief Account of my First Two Months

Realizing this "difference" I recounted my accomplishments in the first two months with N.H.F. I wanted to be sure I was doing my part. Thus far we have begun four new chapters, have one firm and one store mailing materials for us free of charge urging membership, have set up five one-day conventions (the first of which is in San Francisco on May 25), started working on the September Ohio Convention, gotten one large wholesaler to work with us, gotten one large manufacturer to work with us. gotten free space in **Let's Live** magazine, are working on a program to effect a liaison with the chiropractors, are working on a program to effect a liaison with the health food industry, and have gotten a $250 booth free at a show coming to Los Angeles' Pan Pacific Building. This latter function should give us exposure to over 20,000 people. We are also working on news releases and have the cooperation of two local papers and a news service. I hope the details do not bore you. What I want to indicate to you is that N.H.F. has a very fertile field to work in and I am going to do my best for you. The larger the membership and acceptance of N.H.F. the more we can accomplish. Further, the financial burden of operations is lessened with a large membership.

Change from a Passive to an Active Reader

It is entirely conceivable that in reading the **Bulletin** you have put yourself in the place of a "passive" reader. This often happens, and in this connection I would like to ask if you have individually considered starting a Chapter? It is simple, not time-consuming, and is rewarding. This can be accomplished by inviting friends to an informal evening in your home or office where you discuss N.H.F., its goals and accomplishments. The **Bulletin** alone furnishes you with adequate materials and we will be glad to help from this office if you have any questions. Chapters should continually grow and build in a constructive manner. This helps us all in many ways. We are only entitled to that which we strive to protect. Your liberties in health and health matters can be most adequately protected by building your organization. Please give the matter your serious consideration. Since the first of the year, incidentally, we have prepared a 42-tape library which the membership may use in their meetings. The subject matter is quite varied and educational and not too lengthy. Further, in the larger cities there are films available to club groups free of charge. With the tapes, films and the **Bulletin,** you have months of ready-made programs.

It Will Save N.H.F. Members Money

One more plan we are working on at the present time concerns low-cost health and unemployment insurance. I have

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contacted three firms of excellent repute. They are now in the process of preparing programs to submit to the Federation. We will select the most equitable as regards coverage and cost, and then present the programs to the membership for consideration. **Because you are a member of N.H.F.,** you will have excellent rates, conversion clauses, and be able to have the protection you normally could not afford. Here is another incentive to belong to the National Health Federation and to get new members.

Family Circle

(Continued from page 2)

present membership. This could be accomplished if each member who can afford it would send in a membership for a friend, or go out and convince some friend to join. The completion of this project would finance much of the long-range program of the Federation. Please do give this matter your earnest consideration.

Convention

A one-day convention will be held in San Francisco on Saturday, May 25. May we suggest that all members and health-minded folk plan on attending. The program will start at 10:00 a.m. and last until 9:30 p.m. It will be chock-full of worth-while information having to do with the natural approach to health. Details will be sent by direct mail to all members in the northern part of the state of California and the May **Bulletin** will also bring additional information.

This one-day convention is an experiment, and if it works out, as we feel sure it will, we plan on holding such conventions in different sections of the country. Mark your calendar and plan now to attend.

These one-day conventions will not take the place of our two regular four-day conventions. See the back cover of the **Bulletin** for dates and places and plan your time so that you can attend one or both of these big conventions.

Danger Ahead

We have been advised that those who would destroy the natural approach to health and deny the public the right to purchase and use food supplements have given up the attempt to accomplish this purpose by food and drug amendments to food supplement regulations and will now attempt to get the Congress to accomplish this unworthy purpose by writing the restrictions into the law, under the guise of protecting our senior citizens. The Federation, both in the home office and in the Washington office, is alert to this attempt and is at present laying plans to combat it. The membership of the Federation must be prepared, at the proper time, to write to their Congressmen and Senators to secure their support against any such amendments. So lay in a supply of post cards or envelopes and stamps and be ready when we give the signal. "ETERNAL VIGILANCE IS THE PRICE OF LIBERTY."

Fair and Reasonable Health Insurance

You will note, in the Executive Secretary's column, an item which says, in part, that the Federation is exploring ways and means of supplying the membership of the Federation with reasonable and fair health insurance. Just what will come from this exploration it is too early to say. The objective is to secure reliable and broad coverage which will save money for members of the National Health Federation, and thus give additional benefits to our members.

All paid-up members, by the time you read this message, will have received their 1963 book discount stamps and a list of the books they can purchase at a 20% discount because they are paid-up members of N.H.F.

From time to time we will explore other avenues in connection with the field of health which will be of benefit to members of the Federation. In these endeavors we are following the methods used by the Farm Bureau.

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Hidden Tape Recorders and the FDA

By CLINTON MILLER

A man should not be forced to testify against himself. This principle is set down in the fifth amendment of the Constitution of the United States. It is what is referred to when a person "takes the fifth amendment." It was added to the United States Constitution because for centuries before the pilgrims came to America, people had been forced by tyrants to "confess" their crimes while being tortured. To prevent this type of information gathering, the founding fathers clearly prohibited torturing for confession.

But they went much farther than that. They could have said: "A person cannot be tortured into making a confession." The language they used was far more comprehensive. They said: "No person . . . shall be compelled in any criminal case to be a witness against himself." The food and drug law is a criminal law. THE PREMISE UPON WHICH THIS AMENDMENT IS WRITTEN IS THAT IF A PERSON IS A CRIMINAL, AND HIS CRIME IS SERIOUS, IT WON'T BE NECESSARY TO EXTRACT A CONFESSION FROM HIM IN ORDER TO CONVICT HIM. There will be so many injured people willing to testify against him that there will be no need to force or trick him into a confession against himself.

Free Speech Threat

Tape or wire recorders small enough to be concealed and take a conversation without the knowledge and consent of an individual are very recent technological developments. They have come on the scene in the last 15 years. The law is not well defined as to their proper and improper use. Newer electronic and sonic research within the past few months has made it possible to record every word you speak or any intimacy you may whisper without a recording device or pickup microphone even being present in the room. If the government may use these indiscriminately to gain information even though the evidence cannot be admitted into court, free speech as we have known it for two centuries will come to an end.

When we speak "freely," we express opinions and feelings without wondering how they would appear in court as edited and presented by the Departments of Justice, HEW, etc. We freely criticize. We freely explore thoughts. We throw out an idea as a challenge, to be debated. We do not speak "on guard." For this reason, a recent action revealing widespread routine use of hidden tape recorders by the FDA has dramatically focused congressional attention on this problem.

The Case of the Hidden Tape Recorder That Went Clackity-Clack

Time: Thursday, 10:35 a.m., August 9, 1962.

Two inspectors for the Food and Drug Administration called on American Dietaids Company in New York to make a routine factory inspection. After it was over, Mr. Hubbard, who is general manager of American Dietaids, discovered that all of their conversations had been secretly tape recorded. A mechanical

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failure resulted in a loud noise, which startled Mr. Hubbard's secretary. "What is that?" she asked. "That is a tape recorder. Who has the tape recorder here?" Mr. Hubbard answered. Mr. Hubbard demanded the tape and was refused. He considered calling the police.

"It was at this point," Mr. Hubbard related in a letter, "that I was being treated in the manner of a common criminal, or even more startling, in the manner that the Gestapo and O.G.P.U. of Nazi Germany and Communist Russia treat their citizens. . . . I never really believed those people who stated that these things were 'going on' in Government until this moment of truth presented itself at my doorstep."

Standard Operating Procedure

"This question of whether there is a violation of rights or not has not been determined and it is **standard operating procedure** (emphasis ours) for us to carry this type of equipment on simple plant inspections," explained one of the inspectors.

Mr. Hubbard acted at once. He called his attorney, Mr. Milton A. Bass. On behalf of the American Dietaids Company, he filed a complaint in the U.S. District Court for an injunction and a declaratory judgment as to plaintiff's rights. The inspectors and Secretary Celebrezze are named as defendants. A motion to dismiss was filed by the Government and argued on October 9. The decision is pending as this column is being written.

Mr. Hubbard **mimeographed** some letters telling of his discovery. He mailed them to Senators, Representatives, and citizens. And here follows a most interesting and significant chain reaction. It is recorded here for the benefit of those who still insist that it does no good to send mimeographed letters or cards to Congressmen. His letter was opened by Miss Zeldon, assistant to Senator Pell of Rhode Island. She noticed it was from New York. It was not from the Senator's home State. **It was mimeographed.** She could have discarded the letter, but instead, she took it in to the Senator, and said, "Senator, here is something I think you should see!" And with no more than that, this Senator wrote a letter to Food and Drug and asked for comment. It was at a crucial time. The drug bill which had appeared dead was revived because of the thalidomide news. Increased power over factory inspection was one of the proposed ways of tightening the drug law. A scandal about hidden tape recorders could have killed the bill.

Secretary Celebrezze Disapproves

He immediately informed Senator Pell and others who were becoming concerned that "This practice has been disapproved by the HEW Secretary, and it is therefore no longer being followed."

The House Interstate Committee noted the action and included a paragraph in its report on the drug bill: "The committee has been advised that in some instances inspectors of the FDA, in the course of making factory inspections, have employed tape recorders without advising factory employees of this fact. . . . The committee strongly approves the decision of the Secretary to require inspectors to advise factory employees that a tape recorder is being used during inspection when this is the case. . . ."

Barrons, commenting on the Government's attempt to get the court to dismiss the suit, said: "In the pending suit of American Dietaids against the Secretary, the FDA and two of its inspectors (who were using hidden tape recorders), the plaintiff is trying to establish the illegality of the procedure. It is, therefore, disquieting that FDA is seeking to have the suit dismissed for procedural reasons, as if to prevent the court from outlawing the practice."

Our Washington Office directed a letter to Mr. Celebrezze on October 27 to determine if hidden tape recorders were still to be used on health food stores, door - to - door salesmen, chiropractors, etc.—and if the only limitation was in factory inspection. The answer was yes. Answering for the Secretary, John L. Harvey, Deputy FDA Commissioner, said: "We anticipate that actual recordings may still be necessary in some types of investigation."

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Because a tape recording of a perfectly innocent conversation can be cut and edited to say anything you want it to say, it is not accepted by the courts as evidence. This is not the objection. The point is that in addition to the fifth amendment safeguard, the fourth amendment guarantees a citizen against unreasonable search. Certainly there can be no justifiable reason for the FDA to ever use a hidden tape recorder. Their hasty reversal, which they carefully limited to factory inspection, indicates that here is a freedom area that needs to be called to your Congressman's attention, and broadened to prohibit FDA from **ever** using a hidden tape recorder on anyone. The only conceivably proper use of such a device would be an extreme emergency involving national security or defense. Even here, it should be used only after the matter is submitted to a court of competent jurisdiction and the court issues an order authorizing them to use it.

Rights of Privacy

The catching of criminals is not the main thesis of a free society. "Big Brother" devices like hidden tape recorders, tiny planted microphones, or the new parabolic microphones—like a miniature radar antenna—which can be aimed at a conversation taking place blocks away, should never be allowed to be used by law enforcement agencies to collect evidence. These instruments by their very nature are unreasonable ones because they violate the right of privacy.

When individuals in a society become apprehensive that they are being overheard in their most intimate conversations, that society is no longer free.

Our hats are off to Mr. Hubbard, Mr. Bass, Miss Zeldon, and Senator Pell. If we will write to our Congressmen protesting **ANY** use of hidden voice recorders by the FDA we soon may feel free to talk again in our search for health.

Prayer: "O God, grant that the gift of foresight may endow us with a moral sense to match the wonders of our technology. Amen." The Reverend Duncan Howlett, D.D. of the All Souls Church, Washington, D.C., Sunday, October 7.

Editor's Note: If those in the drugless profession will stand up and fight for their rights, the courts will protect them. The National Health Federation is doing all within its power to acquaint the profession with the rights of its members, and to protect them in those rights.

Definition of Naturopathy

U.S. Dept. of Labor Dictionary of Occupational Titles

DOCTOR, NATUROPATHIC (Medical Ser.) 0-52.21. naturopath.

A HEALER. Diagnoses and treats patients to stimulate and restore naturally bodily processes and functions using a system of practice that employs physical, mechanical, chemical and psychological methods: Utilizes dietetics, exercise, manipulation, chemical substances naturally found in or produced by living bodies, and healing properties of air, light, water, heat, and electricity. Provides for care of bodily functions, processes, or traumas, and treats nervous or muscular tensions, abnormalities of tissues, organs, muscles, joints, bones, and skin; pressure on nerves, blood vessels, and lymphatics; and assists patients in making adjustments of a mental and emotional nature.

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We Visit Yucaipa Health Federation

On the 12th of February it was the pleasure of your President and Howard Long, the new Executive Secretary of the National Health Federation, to visit a session of the Yucaipa Health Federation. There were between 75 and 100 persons present at the meeting. It was our pleasure to speak to the group and answer questions about health matters, etc.

Before the meeting we were given a free meal at the "None Such Cafe" located on the main street of Yucaipa. The None Such Cafe is operated by members of the National Health Federation and is an entirely organic food operation. The meals are served in a smorgasbord style and you can fill your plate as many times as you desire.

The cooking is out of this world, and we say, without reservation, that if you once eat at the None Such, you will do so every time you are in that vicinity. The meeting started right on the minute, the way all meetings should start. Our congratulations to Yucaipa and the members and leaders of the Yucaipa Health Federation Chapter.

During Late February

It was our pleasure to spend four days in Phoenix and vicinity. Thanks to John Eichenauer III, we spoke at the following places on some phase of the health program.

8:00 p.m., Sunday, Feb. 17—Guaranty Bank, 7111 E. Camelback, Scottsdale, Community Service Room. SUBJECT: "Freedom of Choice" and "Trial by Press Release."

8:00 p.m., Monday, Feb. 18—The Arizona Bank, 9108 N. 3rd Street, Sunnyslope Plaza. SUBJECT: "8th Annual Convention Report."

2:30 p.m., Tuesday, Feb. 19—Chris Town Auditorium, 1703 W. Bethany Home Road, Phoenix. SUBJECT: "Health Problems in Our Schools."

7:30 p.m., Wednesday, Feb. 20—Champion Juicer Demonstration Hall, 303 South Hibbert, Mesa. SUBJECT: "Mental Health Legislation and the Water Fluoridation Issue."

Naturopathy excludes the use of major surgery, X ray and radium for therapeutic purposes, and use of drugs with exception of those substances which are assimilable, contain elements or compounds which are components of bodily tissues, and are usable by body processes for maintenance of life.

Courage and Common Sense

GOOD WILL OF CUSTOMERS FIRST—CORRY, PENN: "When dentists and doctors asked for fluoridation of Corry's water supply, the Corry Water Supply Co. answered by saying, 'Like any retail biz we value and depend on the good will of our customers. We are positive a large majority of our customers are opposed to fluoridation. This need not deprive any person who imagines or believes that the program has merit, the material is available, the doses can be measured and controlled as it would not be if present in the water supply. We feel the idea of pumping medicine into our customers' homes for their children to drink is absurd, a fantastic pipe dream, a bubble that has been exploded in many localities which have tried and abandoned this fad.' "

The Following Pages Are Very Important

While it is true that the following pages are in legal and hard-to-understand language, yet the decision is so important to America and those interested in their health that we are printing it in full. The Food and Drug Administration has been getting away with, to use a slang expression, "MURDER." Such decisions as this one will tend to curb federal bureaus' practice of usurping the powers of Congress and riding roughshod over the rights of the American people.

A HISTORY-MAKING DECISION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
No. 101-62-M-Civ-EC

UNITED STATES OF AMERICA,
Libelant,
V
119 CASES, MORE OR LESS, EACH CONTAINING 12 BAGS OF AN ARTICLE LABELED IN PART: *** (TAMPA SEIZURE):
and
449 CASES, MORE OR LESS, EACH CONTAINING 12 BAGS OF AN ARTICLE LABELED IN PART: *** (JACKSONVILLE SEIZURE):
"NEW DEXTRA BRAND FORTIFIED CANE SUGAR . . .***"

Findings of Fact

1. This is a civil action **in rem** arising under Section 304 of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 334.

2. The United States, Libelant herein, instituted this consolidated action by the filing of a Libel of Information at Jacksonville, Florida alleging that 449 cases, more or less, of an article of food labeled in part "New Dextra Brand Fortified Cane Sugar," had been shipped in interstate commerce from Ottawa, Ohio to Jacksonville, Florida, on or about July 21, 1961, and was misbranded when introduced into and while in interstate commerce within the meaning of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 331, et seq., in a number of ways.

A similar libel was filed in Tampa, Florida alleging that a shipment of "New Dextra Brand Fortified Cane Sugar" had been shipped in interstate commerce from Ottawa, Ohio to Tampa, Florida in interstate commerce, on or about July 21, 1961.

3. Pursuant to Monitions in both of these actions, the United States Marshal at Jacksonville, Florida, seized 585 cases of the libeled sugar on December 20, 1961, and the United States Marshal at Tampa, Florida, seized 106 cases of the libeled sugar on December 18, 1961.

4. Upon the stipulation of both parties, the Jacksonville and the Tampa cases were consolidated and removed to this Court for disposition, and the issues of fact and law in each case are identical.

5. A claim for the seized article was duly filed by the Sugarlogics Southern Corporation. This company is a subsidiary of the Dextra Corporation. As hereafter noted, at the time the seized article was manufactured and shipped, claimant's principal offices were in Delray Beach, Florida. They are now located in Miami, Florida.

6. It was established by stipulation

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that the bags of the **res** (product) manufactured at Ottawa, Ohio and shipped in interstate commerce as described above, consists of approximately 95% sugar produced from beets and 5% sugar produced from cane.

7. Pursuant to stipulation of the parties, the shipment of the **res** (product) in interstate commerce is admitted. Claimant and its parent, the Dextra Corporation, have been and are now selling Dextra Brand Fortified Sugar in interstate commerce. However, it has limited its distribution efforts to test marketing because the Food and Drug Administration has opposed the sale of the product. The serious risk of seizure proceedings resulting from this opposition has precluded the company from making substantial investments necessary for major marketing of the product until the company's rights to sell the product have been clarified.

8. The first assertion of the libelant is to the effect that the **res** (product) is mislabeled because the name "Dextra" implies that the product is comprised of dextrose rather than sucrose. The Court notes that the root of all words found in an unabridged dictionary bearing the "dext" prefix is from the Latin meaning pertaining to the right or right hand, or dextrous, or fortunate. The Government has not sustained the charge that the registered trademark "Dextra" as used on the labels of the article in issue represents and suggests to consumers that the article is composed of dextrose. No evidence of consumer reaction was introduced; the only evidence presented by the Government was the conjectural opinions of several of its expert nutritional witnesses. On the other hand, the record affirmatively establishes that dextrose is physically different in appearance from granulated sugar and is sold through drug channels; that Dextra Brand Fortified Sugar was not labeled, sold or promoted in any manner to imply or suggest to consumers that the product contains dextrose, which is an inferior sweetening agent; and that, in fact, consumers have not regarded the product as being comprised of dextrose.

9. Secondly, the Government alleges that the label of the seized article of food contains statements which represent, suggest, and imply:

(a) That the American diet is deficient in vitamins and minerals and that Dextra Sugar will correct this implied deficiency;

(b) That the nutritional content of diets generally is significantly improved by the use of the seized article;

(c) That Dextra Sugar when used in the ordinary diet is significantly more nutritious than any other sugar;

(d) That the article under seizure is of significant value because it restores vitamins and minerals lost in the refinement of cane juice;

(e) That all of the vitamins and minerals in the article are present in nutritionally significant amounts for special dietary use.

The label complained of has the following statements: (on the front panel of the label)

"New!"

"Dextra Brand Fortified Sugar"

"Fortified with vitamins and minerals"

(on the backside panel of the label)

"Now, at long last, many of the vitamins and minerals lost in the refinement of cane juice have been restored to DEXTRA Fortified Cane Sugar."

"Almost any diet can be nutritionally improved by the use of DEXTRA Fortified Cane Sugar in place of sweetening agents containing only 'empty' calories—calories unaccompanied by nutrients."

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"More Nutritious Than Any Other Sugar!"

The representations above referred to are also made by listing 19 ingredients of the seized sugar and **comparing** the amounts of each of these ingredients in the seized sugar with the amounts present in ordinary sugar.

10. Considering each of these allegations of mislabeling in turn as set forth below, the Court finds as follows:

(a) **That the American diet is deficient in vitamins and minerals and that Dextra Sugar will correct this implied deficiency.** There is no persuasive evidence of any kind that consumers would construe the label statements referring to the fact that the Dextra Brand product is "fortified with vitamins and minerals" to represent, suggest or imply that the "American diet," or their own diets, are significantly deficient in vitamins and minerals, and that use of this product would overcome such a deficiency. The record establishes that consumers are familiar with many food products labeled as vitamin fortified or enriched, including flavorings made largely from sugar, and foods enriched pursuant to standards promulgated by the Federal Food and Drug Administration. In addition, vitamin and mineral supplements, labeled as such, are sold on an unrestricted basis in many types of retail outlets. The Government disclaimed the notion that the mere disclosures on the labels of these products of their fortification with vitamins and minerals are likely to be construed by consumers to involve representations with respect to deficiencies of vitamins and minerals in the food supply. No adequate basis was presented for holding that consumers would react differently to the label of Dextra Brand Fortified Sugar. The evidence is clear that consumers would interpret such disclosures on the label of this product to mean only what it states: that this product is fortified with vitamins and minerals.

(b) **That the nutritional content of diets generally is significantly improved by the use of the seized article.** The Government contends that the added nutrients in Dextra Brand Fortified Sugar are not nutritionally significant because adequate amounts of these nutrients are available in the average "American" diet, and that the added nutrients in the product would be excreted and of no value. In the first place, to hold that a product was misbranded on this basis would introduce substantial confusion and inconsistency into the application of the provisions of the Federal Food, Drug, and Cosmetic Act. As heretofore noted, a wide variety of vitamin and mineral supplements and vitamin- and mineral-fortified food products are sold in this country, and admittedly the diet of a small but significant portion of our population is deficient in vitamins. The Government and its witnesses do not assert that the offering of these products is per se deceptive to consumers because the vitamins and minerals added therein are of no nutritive value. If the Government's contention were valid, any vitamin-fortified product could be singled out and challenged on the ground that the added vitamins and minerals in any particular food are of no value inasmuch as these nutrients are available elsewhere in the food supply, and the consumers' requirements are met. For example, this would also be true of the vitamins and minerals added to two recently standardized food products, enriched vegetable macaroni and enriched vegetable noodles. The Government's theory thus provides an unacceptable basis for condemning the

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fortification of food products as misbranded. (The fact that most Americans enjoy a diet sufficient in vitamins and calories is not important in this case.)

(c) **That Dextra Sugar when used in the ordinary diet is significantly more nutritious than any other sugar.** The disclosures of the fact that the product is fortified do not misrepresent the product's nutritional value in comparison with ordinary sugar. The Government has not seriously disputed the fact that the product contains appreciable amounts of vitamin B1 (thiamine), vitamin B2 (riboflavin), vitamin B6 (pyridoxine), niacin, vitamin A, vitamin C, iron, and iodine. Nor is there any question that these vitamins and minerals are highly important in human nutrition. Except for vitamin B6, the Federal Food and Drug Administration itself has established "minimum daily requirements" for these nutrients. In addition to the general nutritional value of these nutrients, the thiamine included in the product makes a special contribution in that it plays an important role in the metabolic transformation of sugar into energy in the human body. The Government's witnesses have further acknowledged that Dextra Brand Fortified Sugar is an effective carrier of these vitamins and minerals contained in the product and that their potency is in no way diminished by their association with this sugar. On the other hand, ordinary sugar is commonly referred to in the nutritional literature as "empty calories" because of its complete lack of nutrients. The product, when considered in comparison with ordinary sugar, is clearly more nutritious in view of the addition of these important nutrients and is honestly labeled to reflect this fact.

(d) **That the article under seizure is of significant value because it restores vitamins and minerals lost in the refinement of cane juice.**

The article in issue is wholesome food; no charge is made that the product is adulterated or deleterious in any respect. It is composed of refined white granulated sugar which has been fortified with vitamins and minerals in the proportions set out in the tables found on the labels in issue in this proceeding. The principal vitamins and minerals added to the product are: vitamin B1 (thiamine), vitamin B2 (riboflavin), vitamin B6 (pyridoxine), niacin, vitamin A, vitamin C, iron, and iodine. Sugar in its natural state is found in sugar cane and sugar beet plants. These plants contain substantial quantities of the vitamins and minerals listed. However, in the refining of sugar, these nutrients are completely lost. The end product, white granulated sugar, is devoid of any vitamins and minerals; it consists entirely of pure carbohydrates.

The process for fortifying sugar with vitamins and minerals was created by a biochemist, John Paul Bartz. Over a fifteen-year period, he developed a method of refining sugar to retain the vitamins and minerals found in natural sugar plants. He also developed a process of adding these vitamins and minerals to ordinary sugar essentially to duplicate the product obtained by use of his refining process. Claimant uses this latter method for making fortified sugar at this time, inasmuch as the Bartz refining process requires large-scale production to be economically feasible. The implication italicized above, rather than false or misleading, seems to be true in all respects.

The Government challenges the accuracy of the statement included in relatively small print on the rear panel of the label, specifically the phrase: "Now,

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at long last, many of the vitamins and minerals lost in the refining process have been restored to DEXTRA Fortified Sugar." One of the Government's witnesses testified that this statement is false and misleading to consumers because the vitamins and minerals added to the product are synthetic and not "precisely" the nutrients contained in cane juice; further because this statement represents that cane juice is a food of "significant nutritive value." The testimony is not persuasive, and, in all events, as stated before, the record establishes the accuracy of this statement.

(e) Finally, the Government contends that the labels falsely imply, "That all of the vitamins and minerals in the article are present in nutritionally significant amounts for special dietary use." However, the label makes no specific therapeutic or health claims. The label states "Almost any diet can be nutritionally improved" by using the product "in place of sweetening agents containing only 'empty' calories—calories unaccompanied by nutrients." The Government has failed to show that this statement is factually in error. Moreover, the record affirmatively establishes that the product is nutritionally superior to ordinary sugar which, by the testimony of the Government's own witnesses, is regarded as "empty calories," and that many diets could be improved through the use of this product. On this record, such an innocuous statement, accurate in its terms especially when applied to a significant part of our population, cannot be regarded as false or misleading to consumers.

11. The Government also seeks to establish misleading labeling on the basis that the caloric content of the product is stated "per gram." The Court rejects this out of hand. Those consumers who are not aware of the physical amount represented by a gram have ready access to myriad reproductions of tables of metric equivalents. The Government offered no consumer witnesses to prove their contention, and does not question the accuracy of the statement as expressed in metric form.

12. On the other hand the Government contends that the food in question being fabricated from two or more ingredients must be labeled with the common or usual name of each of the ingredients. For example, the label in fact indicates that the product contains "Vitamin A." According to the Government it should be labeled "Vitamin A derived from Vitamin A acetate." In the case of the item stated on the label as "Phosphorus" the Government would insist upon "Phosphorus from monosodium phosphate and/or monopotassium phosphate." Similar full derivative names are suggested by the Government for each of the minerals listed on the label. Certainly, the consumer who can be misled by the term gram will not be greatly enlightened by the information that his Vitamin A is derived from a Vitamin A acetate. Such information might be of great comfort to the chemist, but the Government's insistence that "Phosphorus from monosodium phosphate and/or monopotassium phosphate" is the common or usual name of Phosphorus borders on the picayune and is not supported by the evidence.

13. It is also alleged that the label is misleading in that it states that it contains "Total sugars (carbohydrates) not less than 94% and non-sugar solids not more than 6%. The Government admits that this is literally true. However, since the res (product) contains in fact in excess of 98% sugars, the Government

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contends that it is implied that some 6% of the product is vitamins and minerals. The Government, however, offered no consumer testimony to support such an innuendo, and the Court finds that the burden of proof as to this allegation has not been sustained.

14. One further allegation by the libelant made at the time of trial remains to be disposed of. The Government complains that the label states in small print that the product was "manufactured and distributed in Florida by the Sugarlogics Southern Corporation." The Government claims that this statement is false and misleading. Thus, it cites the fact that most of the cases of sugar seized were produced in Ottawa, Ohio, and further, that none of the products could be regarded as manufactured in Florida because the sugar was not refined in the state of Florida. This type of argument involves trivial points unworthy of extended analysis. There is no dispute that claimant in fact processed the product, that the sugar was distributed in Florida and that claimant is a Florida-based organization. On these facts, there is plainly no basis for warranting that the statement misbrands the product.

15. Although the foregoing disposes of the specific allegations of mislabeling, the Government's principal contention is that the offering of a sugar fortified with vitamins and minerals and labeled to disclose such facts is "per se" false and misleading to consumers. Specifically, the Government charges that the mere mention on the labels of such product that it is fortified with vitamins and minerals infers contrary to fact that (1) the diet available to the American consumer is vitamin deficient; (2) such product might promote the increase of sugar as a part of the American diet contrary to sound nutritional practice; and (3) sugar is not an effective or preferable vehicle of vitamin supplementation. This is the actual thrust of the Government's case to which they have devoted themselves assiduously.

In this connection the Court notes Claimant's Exhibit 1, which is the label under which Dextra Brand Fortified Sugar is presently sold. This was prepared by claimant in a final effort to obtain the approval of the Federal Food and Drug Administration of the sale of the product and to meet as far as possible every objection which that Agency made with respect to its labeling. However, the Government maintains that this label also misbrands the product, inasmuch as the offering for sale of a vitamin-fortified sugar is "per se" misleading to consumers, and that the mere mention of the fact that the product contains vitamins and minerals is deceptive.

However, the Government failed to present any valid factual support for its principal objection. It introduced no authoritative studies or other data to show that American consumers are receiving all the nutrients they need and that the added vitamins and minerals would be of no value to them. Instead, it relied on the vague opinions of several expert witnesses regarding the adequacy of the nutrients in the average "American diet." This cannot be regarded as persuasive proof. Whatever the usefulness of the concept, average "American diet," in nutritional planning, it is not appropriate for purposes of misbranding a product. In the first place, the use of an average implies that some persons may be getting more nutrients and others less. Further, such broad measures of nutritional adequacy bear little relationship to the needs of any single individual or groups of individuals.

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Moreover, the opinion testimony of the Government's witnesses on this point was not persuasive. The Government's witnesses testified, and claimant did not dispute, that the food supply available to consumers contains adequate amounts of all the vitamins and minerals contained in Dextra Brand Fortified Sugar. But the Government did not establish that consumers were taking full advantage of this availability. Its witnesses testified merely that vitamin and mineral consumption in the United States had risen to the point where **diseases** caused by vitamin deficiencies, such as scurvy and rickets, had virtually disappeared. However, Dextra Brand Fortified Sugar is not sold as a drug to cure or prevent these defiicency diseases, and the evidence established that the consumption levels of vitamins and minerals recommended for good nutrition are considerably higher than the levels required to prevent disease.

Moreover, it was established at the trial that there are a large number of studies, including those published by the United States Government, which disclose that appreciable segments of the population in all parts of the country, and in various economic and age groups, consume substantially less than the allowances of vitamins and minerals recommended by the Food and Nutrition Board of the National Research Council, which allowances are regarded as the standard by most nutritionists.

While the Government's witnesses acknowledged the existence of studies disclosing the existence of groups receiving less than the recommended dietary allowances, they testified that the allowances recommended by the Food and Nutrition Board were not "requirements" and that it was not necessary to satisfy them. However, they all agreed that the recommended allowances have been established as guides for maintaining good nutritional levels in the United States. Further, as Dr. R. W. Engel, the Government's own witness, testified with respect to these allowances (Engel dep. 11):

"...it is the philosophy of the board in promulgating the allowances that this is a goal that would be hopefully achieved by **all** healthy individuals in our population." (Emphasis supplied) The Court cannot condemn a fortified sugar product which can contribute to the reaching of this goal, particularly in view of the wide consumption of sugar which contains none of these nutrients.

16. The testimony of the Government's witnesses disclosed that the real basis of the Government's objection to the sale of fortified sugar is the notion that sugar is not a preferable vehicle for distributing vitamins and minerals. Two Government witnesses expressed the belief that the fortification of sugar might lead to its increased use in place of other foods, which would be contrary to "sound nutritional teachings." Even if this were true, and no proof to the effect that such was the case was offered, it would not justify condemnation of the product. The implementation of sound nutritional principles, and the encouragement or discouragement of the consumption of particular foods in accordance with these principles, are matters for consumer education, not for legal enforcement pursuant to the seizure provisions of the Federal Food, Drug, and Cosmetic Act. In any event, the opinions of the Government's witnesses on this point were conjectural and inconclusive. They failed to demonstrate how fortified sugar would be used by consumers to

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replace any foods other than regular sugar already being consumed. Moreover, the record shows that sugar has a self-limiting role in the diet since it is used principally as a sweetening agent; this is evidenced by the fact that the per capita consumption of sugar in this country has remained at a constant level of about 100 pounds a year for many decades. It is also noted that the fortification of flour has not led to its increased consumption; on the contrary, its use is on a slight decline. Further, one of the Government's own witnesses testified that consumers were increasingly aware of the principles of sound nutrition and the selection of proper foods in the diet. The record thus establishes no basis for a finding that the fortification of sugar would lead to the increased consumption of sugar or the replacement of other foods by sugar. Moreover, the record establishes ample nutritional justification for fortifying sugar, which has the least nutritional value, other than calories, of any staple food commonly consumed.

Conclusions of Law

1. This Court has jurisdiction of the **res** (product) under seizure. 21 U.S.C. 334(f)(2).

2. The articles seized at both Jacksonville and Tampa, Florida are articles of food within the meaning of 21 U.S.C. 321(f).

3. The offering of Dextra Brand Fortified Sugar does not involve a "per se" deception of consumers, and the sale of the product is not inherently deceptive.

4. The statements on the labels of Dextra Brand Fortified Sugar herein considered which refer to the fact that the product is fortified with vitamins and minerals are not false or misleading and do not constitute misbranding within the meaning of Section 403 of the Federal Food, Drug, and Cosmetic Act (21) U.S.C. 343(a) or any other provision of that Act.

5. The labels which have been considered in this proceeding are not false or misleading and the product is not misbranded within the meaning of Section 403(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(a)) or any other provision of that Act.

6. The Government as libelant has not raised the issue of mislabeling due to the fact that much of the sugar was derived from beets rather than cane. On the libelant's theory of the case, the fact that the product in either event was sucrose and possesses exactly the same physical properties in any event would seem to preclude any argument of misleading the consumer if in fact the contention had been made.

7. The libelant has failed to support the allegations of the libels of information by satisfactory proof. Claimant is accordingly entitled to a dismissal of the libels of information filed herein with prejudice, and to the return of the seized articles.

Opinion of the Court

This proceeding involves the question whether claimant's product, consisting of sugar fortified with vitamins and minerals, is misbranded and in violation of Section 403 of the Federal Food, Drug, and Cosmetic Act. While a number of charges are asserted in the libels of information filed herein, the Government's principal challenge is on a novel basis—that the offering of a fortified sugar, truthfully labeled to disclose such fortification, is misleading "per se" to consumers. At the outset it is important to note that despite the sweeping nature of the consumer deception which this product is charged to create, the Government at the trial presented no actual

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evidence that consumers were misled by the product. The Government has chosen to rest its case on opinion evidence of several nutritionists despite the fact that in a seizure proceeding, the "burden is upon the Government to prove the ground for forfeiture alleged in the libel . . . by a fair preponderance of the evidence." See, e.g., **United States v 46 Cases, More or Less, Etc.,** 204 F. Supp. 321, 322 (D. R.I. 1962). It is clear that the Government failed to meet its burden in this case.

The Government's witnesses' testimony was largely directed to their views regarding the most preferable means of supplying vitamins and minerals to consumers, and whether the fortification of sugar complied with a Statement of General Policy on fortification issued by the Food and Nutrition Board of the National Research Council. Such testimony plainly is not pertinent here. Section 403 of the Federal Food, Drug, and Cosmetic Act permits the seizure and condemnation of goods only if they are **misbranded**, and that plainly means only if the labeling of the product is **false or misleading**.

Section 301 of the Act merely empowers the Food and Drug Administration to issue "a reasonable definition and standard of identity" so that consumers who purchase it can obtain "assurance that they will get what they reasonably expect to receive." See **Federal Security Administrator v. Quaker Oats Co.,** 318 U.S. 218, 232 (1943).

Such standards have no bearing on the sale of a single, unique food product such as Dextra Brand Fortified Sugar.

The Government charges that "mere mention" on the labels of Dextra Brand Fortified Sugar of the fact that the product is fortified and the listing of the vitamins and minerals contained therein could be construed by consumers to suggest or imply that that vague generality known as the "American diet" is deficient in the supply of vitamins and minerals, and that use of this product would overcome this deficiency.

The Government also challenges the product as inherently deceptive on the ground that the disclosures regarding fortification misrepresent the product's nutritional significance in comparison with ordinary sugar. However, the Government's witnesses did not dispute that this product is an effective carrier of the vitamins and minerals added to respondent product, and that ordinary sugar contains none of these nutrients, and is commonly referred to in nutritional literature by the derogatory term, "empty calories." Indeed, the Government's own witnesses appeared to concede that in comparison with ordinary sugar, the product in fact was **significantly** more nutritious.

The sole basis of the Government's charges is that the added nutrients are of no value because they are already in adequate supply in the American diet. This is clearly an untenable basis for holding the product misbranded.

It is clear that the true basis for the objection to the fortification of sugar is not that the vitamins and minerals added to the sugar are of no nutritional value, but rather, that the Food and Drug Administration does not regard sugar as a preferable vehicle for fortification, or for addition of vitamins where a deficiency evists. In short they quarrel over the vehicle.

The basic flaw in the Government's case against the product is that it is seeking, under the guise of misbranding charges, to prohibit the sale of a food in the marketplace simply because it is not in sympathy with its use. But the

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Government's position is clearly untenable. The provisions of the Federal Food, Drug, and Cosmetic Act did not vest in the Food and Drug Administration or any other federal agency the power to determine what foods should be included in the American diet; this is the function of the marketplace. Under Section 403 of the Act, Congress expressly limited the Government's powers of seizure to those products which are falsely or deceptively labeled. As the Supreme Court aptly stated in rejecting a similar attempt to overreach the authority granted by the Federal Food, Drug, and Cosmetic Act:

In our anxiety to effectuate the congressional purpose of protecting the public, we must take care not to extend the scope of the statute beyond the point where Congress indicated it would stop. **United States v. 62 Cases, Etc.,** 340 U.S. 593, 600 (1951).

The court does not undertake to constitute itself an arbiter of nutritional problems involved in determining more or less desirable agents for vending vitamin and mineral supplements to the consumer. The Congress did not provide the necessity of such determination. Neither will the Court permit a federal agency to appoint itself such an arbiter under the guise of prosecuting an action under the Act in question. Plainly only Congress can or should regulate the use of vitamins and then only to prevent public injury.

United States District Judge

Judge Dismisses Charge by FDA That Dextra Labels Misled Consumers

MIAMI—A Food and Drug Administration case against a maker of "fortified" sugar was dismissed by Federal Judge Emett Choate. FDA officials in Washington said they were considering an appeal, but had reached no decision.

The case involved Dextra Corp., Miami-based maker of vitamin-enriched sugar. Shipments were seized by the FDA late in 1961. The suit charged that the labels made false claims as to the benefits of "Dextra."

Judge Choate ruled, however, that the FDA had failed to prove the labels were misleading or that consumers had been duped into believing they were buying something they weren't receiving.

"The sole basis of the Government's charges is that the added nutrients are of no value because they are already in adequate supply in the American diet," Judge Choate said in his opinion. "This is clearly an untenable basis for holding the product misbranded.

"It is clear that the true basis for the objection to the fortification of sugar is not that the vitamins and minerals added to the sugar are of no nutritional value, but rather, that the Food and Drug Administration does not regard sugar as a preferable vehicle for fortification or for addition of vitamins where a deficiency exists," the judge said.

"The provisions of the Federal Food, Drug and Cosmetic Act did not vest in the FDA or any other Federal agency the power to determine what foods should be included in the American diet; this is the function of the market place," he added.

Dextra officials said the decision gave the company "freedom from arbitrary bureaucratic interference based purely on personal prejudices and unscientific assumptions of members of the Federal agency."

"While we have been able to continue limited test marketing of our product during this long and unwarranted

(Continued bottom next page)

'Cancer Quack' Charges Dropped

On a motion by the district attorney's office, a "cancer cure quack" charge against a San Jacinto woman chiropractor has been dismissed in Riverside Municipal Court.

The charge, violation of section 1714 of the State Health and Safety Code, was faced in a jury trial by Dr. Helen Blaine Sanders.

It was dropped after only two witnesses had been called to the stand by Deputy District Attorney James Fahres to testify for the prosecution.

Fahres told Judge E. Scott Dales following a noon recess in the trial that as the testimony came out he became unconvinced that the charge against Dr. Sanders could be proved. "It would appear to be a case where the cake did not taste as good as it looked," he said.

First witness in the case was a woman undercover operator for the Division of Investigation, State Department of Professional and Vocational Standards, Mrs. Sally Kniss. She had posed as a cancer victim and had gone to Dr. Sanders for treatment.

Dr. Sanders was arrested last Dec. 6 largely on the basis of information supplied by Mrs. Kniss concerning use of a machine in Dr. Sanders' office.

Riverside attorney J. David Hennigan, attorney for Dr. Sanders, said after the case was dismissed that the machine mentioned is one the doctor uses "as an aid in massage" and that it was never claimed it could help cure cancer.

Mrs. Kniss's testimony was supplemented by that of Robert L. Zielinski, special agent for the state investigation agency.

There was no cross-examination by Hennigan prior to the motion to dismiss.

Dr. Sanders is president of the Hollywood Chiropractic College, Hennigan said, and she has been practicing for 30 years "without a complaint from a single patient."

The woman chiropractor, who in private life is Mrs. Howard Dellenbaugh, resides at 22050 Soboba, San Jacinto. From **Press,** Riverside, Calif., March 7, 1963.

Editor's Note: Here is another proof that judges are waking up to the tactics being used by State and National Health Departments under the leadership of the Food and Drug Departments.

The bad part of such cases is that even when the victim wins, the prejudging publicity put out by these departments of government, with malice aforethought, ruins reputations and destroys business. God grant that more and more judges will wake up, and put a stop to such awful tactics. The National Health Federation is working hard to get at least a Federal law outlawing such activities.

persecution, we will now be able to start large scale marketing on virtually a national basis and permit the proper development and growth of our company and our product," Earl H. Smalley, Jr., chairman, and Karl Schakel, president, said. From **The Wall Street Journal,** March 4, 1963.

A Battle Ahead

You Can Help Win It by Getting a New Member Now

QUACKS

By Elizabeth Terry

In 1865, the following article appeared in an Eastern paper. It was reprinted in the Los Angeles **Herald-Express,** December 4, 1936:

"A man about 46 years of age, giving the name of Joshua Coppersmith, has been arrested in New York for attempting to extort funds from ignorant and superstitious people by exhibiting a device which he says will convey the human voice any distance over metallic wires so that it will be heard by the listener at the other end.

"He calls the instrument a 'telephone,' which is obviously intended to imitate the word 'telegraph,' and win the confidence of those who know of the success of the latter instrument, without understanding the principles on which it is based.

"Well-informed people know that it is impossible to transmit the human voice over wires as may be done with dots and dashes and signals of the Morse Code, and that, were it possible to do so, the thing would be of no practical value.

"The authorities who apprehended the criminal are to be congratulated, and it is to be hoped that his punishment will be prompt and fitting, that it may serve as an example to other conscienceless schemers who enrich themselves at the expense of their fellow creatures."

While We Are on This Subject

A few years earlier, Samuel F. B. Morse, inventor of the electric telegraph, was also accused of being a "quack." His first appeal to Congress for aid in developing the telegraph was flatly refused. He spent his fortune and four heart-breaking years before his invention was approved.

Another "quack" was Thomas A. Edison. It took him 15 years, from 1870 to 1885, to overcome the prejudice of his countrymen and get them to install electric lights.

William Roentgen, German scientist, the discoverer of X rays, was another "quack," much criticized in the papers because it was said he would invade the privacy of the boudoir with invisible rays.

Galileo, Italian astronomer, now called the "father of modern science," was called a "quack" by his people. He was thrown into prison for "heresy" and tortured until he renounced his scientific beliefs. His story is well known.

Charles Goodyear, who gave the world vulcanized rubber, is another famous "quack." He was called a fool and an imbecile by an unsympathetic public. Without funds he almost starved rather than give up his search for better rubber and at last was successful.

Many of his experiments were made in prison.

Another "quack" said tomatoes could be eaten as food.

The baby buggy was invented by a "quack" named Charles Burton. His invention was outlawed as a "traffic menace."

American newspapers refused to publish the fact that on December 17, 1903, the Wright brothers, Wilbur and Orville, had flown a heavier-than-air machine. The brothers offered the United States War Department control of all rights to the invention. Uncle Sam's boys were too shrewd to be taken in. Leading scientists had explained that flying machines were impossible and the Wright brothers' letters went into the "crank file."

In 1908 the Cleveland, Ohio, **Ledger** wired a reporter to "cut out the wildcat stuff," when he sent in a story about the Wrights' flying machine.

The owner of the New York **Herald,**

(Continued bottom next page)

Nature's Balance Not to Be Trifled With

Both Rachel Carson in her book, **Silent Spring,** and Dr. E. W. Fager of the La Jolla campus of the University of California in a recent address on the subject of ecology (which is biology dealing with mutual relations between organisms and their environment) sound a solemn warning as to dire results which will be harmful to mankind if we continue the practice of interfering with natural processes.

Bryant Evans, science writer for the **San Diego Union** of San Diego, California, January 20, 1963, opened his column, "Man and the Universe," with the following:

"You can't fix a wrist watch with a jackhammer, no matter how hard you pound. You can knock the foolishness out of a boy's head with a baseball bat, but you can't knock any sense into it. Now, some serious people are telling us that you can use chemicals to get rid of pests, but you can't regulate nature by poisoning the earth."

As a part of his comments on Dr. Fager's address, among other things, he wrote:

Fager cited an illustration of how cooperation will probably work where strong-arm methods **did not.** In certain California citrus orchards, chemicals were used to get rid of nightshade, a plant which harbored black scale. Black scale was a destroyer of citrus trees. The campaign against the plant and the scale was so successful that a parasite wasp—also an enemy of the black scale **—disappeared. The result was that the scale returned and multiplied at a rapid rate because its enemy was missing.**

Now, according to Fager, the scientists at the University of California Citrus Experiment Station at Riverside **are suggesting that nightshade be brought back into the community so that it can produce enough scale to maintain a population of wasps.**

Perhaps, Fager said, man should start thinking about planting multiple crops in an area instead of single crops, which constitute a plague to the natural community. The Scandinavians found that an artificially-planted forest of **pine trees died because it lacked hardwood**

(Continued next page)

James Gordon Bennett, a flying enthusiast, sent Byron R. Newton, their star reporter, to see what was going on at Kitty Hawk. William Foster, of the New York **American,** Arthur Ruhl of **Collier's Weekly,** news photographer James H. Hare, and a few others hid in the pine woods and looked through field glasses. On May 14, 1908, they saw with their own eyes two men get into the strange contraption and it rose from the ground by its own power.

The next day front page headlines in New York newspapers announced that men could make themselves wings and fly. Reporter Newton also sent a story to a magazine. The rejection slip said his story did not qualify either as fact or fiction. They simply could not believe it.

If people 50 years ago could not believe man could make a plane that would fly, need we be surprised when people still cheat themselves by their unbelief and prejudice?

Winston Churchill truly said, "Men occasionally stumble over the truth, but most of them pick themselves up and hurry off as if nothing had happened."

Only those whose minds are prepared can recognize TRUTH.

Robert Quillen said, "Man has always fought fiercely to preserve his ignorance."

trees to shelter the insects which eat pine tree pests.

Neither Fager nor Miss Carson believes that the human race should throw away all its chemical defenses against insects and weeds. Both admit that these have a place. But both also are convinced that the defenses should be used with a profound understanding of the natural community in which they are used.

Where a jackhammer fails, a small screw driver can often repair the wrist watch. A firm hand, wisely applied, can bring sense to the boy. A hand sprayer, used intelligently, may well do what is necessary when millions of gallons spread from an airplane may cause far more harm than good.

This is the viewpoint of ecology, a science generally unknown to the layman, which may be more important to human survival than many of the more glamorous technologies.

Review From Journal of the Americal Medical Association

November 30, 1946; Vol. 132, p. 820
of

"THE VITAMINS IN MEDICINE"

by

Franklin Bicknell, D.M., M.R.C.P., and Frederick Prescott, M.Sc., Ph.D., A.R.I.C., Clinical Research Director, The Wellcome Foundation, London. Second Edition, New York, Grune and Stratton, 1946.

"This book is a review and appraisal of our current knowledge of the vitamins, with correlation of their chemistry, physiology, nutritional importance and clinical uses. It may be considered as a source book in that it contains approximately 4,500 references to the literature, and the discussion is extensive and often detailed. Information of this type and scope presumably has not been collected previously in a single work. While the authors have attempted a critical evaluation of the literature, they themselves state that they cannot hope to have avoided errors of judgment in selection and interpretations of the literature. Though critical readers may expect to find a number of interpretations at variance with their own, the book nevertheless is worth while and should serve its purpose well. It should be valuable to anyone with a scientific interest in vitamins. It is profusely illustrated, and the illustrations are clear and well chosen. Comment on specific phases is not attempted because of the great variety and extensive ramifications of the subject matter."

This is the book which is so largely quoted from in the **Manual of Deficiency Diseases,** and was for a time out of print. It is a large book and the retail price is $12.00. However, members of the National Health Federation, by affixing one of their Federation book discount stamps to their order, will receive a 20% discount. Send your order direct to the Lee Foundation for Nutritional Research at 2023 West Wisconsin Ave., Milwaukee, Wisconsin.

Metropolitan New York Chapter

November 1962 - November 1963

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100,000 Chiropractors Needed

By MARY ROSE ROBINSON
Executive Secretary, I.S.C.A., Inc.

The rapidly growing chiropractice profession is one of America's finest career opportunities and now is the time to prepare for the population explosion. By 1975 the population of America is expected to reach 220 million. Indiana is among the many states suffering from an acute shortage of chiropractors. From 1927 to 1955 not a single chiropractor was licensed by the Medical Board of Indiana.

A group of chiropractors formed the Federation of Indiana Chiropractors, organized specifically to obtain chiropractic legislations, and after a decade of work was successful in getting House Enrolled Act 154 enacted in Indiana.

To be licensed in Indiana, a Doctor of Chiropractic must have two years of pre-chiropractic college and four years of chiropractic in one of the four accredited chiropractic colleges approved by the state — Logan, Lincoln, National, or Palmer College. Information may be obtained on any of these colleges by writing to The International Chiropractors Association, Chiropractic Education Commission, 1000 Brady Street, Davenport, Iowa; or the National Chiropractic Association, National Building, Webster City, Iowa.

These four colleges are among the 15 accredited chiropractic colleges in the United States and Canada. A little-known fact is that all chiropractors received their Doctor of Chiropractic degree in America. While hundreds of foreign students are enrolled in these colleges, many countries throughout the world are still without a single chiropractor. Recently I had a plea to send a chiropractor to India since the only chiropractor in the area of Panjampatty had died.

The best preparation for the study of chiropractic is preparation in high school to meet the admission requirements of any college or university. In its 67th year, chiropractic is an entirely new and different scientific approach in the treatment of disease. It is one of the most fertile of all scientific fields for the pioneering researcher who would unfold many mysteries beneficial to man's physical well-being.

Chiropractic is a science dealing with the relationships between the articulations of the vertebrae in the spinal column and the nervous system, and the role of these relationships in the restoration and maintenance of health. Its scope of practice is equally as broad as that of medicine or surgery—as broad as the whole subject of trophic nerve involvement. Dr. Carl S. Cleveland, Jr., dean, Cleveland College, Kansas City, Mo., speaking at French Lick recently before Indiana chiropractors, said, "Even nerves have to have a nerve supply, and they say chiropractic is limited!"

Millions seek relief annually for low-back pains, disc problems, headaches, neck, shoulder and arm discomforts, arthritis, gastric distress, and asthmatic symptoms. Any vital organ can be affected by nerve pressure. A pain in the knee can be caused by a slight rotation of the atlas or axis. In correcting such abnormalities, the chiropractor is not concerned with the use of drugs or surgery. He skillfully applies his training in chiropractic principles and therapeutics.

Dr. Clarence S. Gonstead of Mount Horeb, Wisconsin, is proof of the great success that can result from a career in chiropractic. His Research Center is becoming world famous. He has given over 3,000,000 adjustments in his 40

(Continued next page)

years of practice and people from all over the world seek his services. While studying engineering at the University of Wisconsin, Dr. Gonstead became an invalid as the result of acute rheumatoid arthritis. Chiropractic restored him to normal health. With his keen mechanical perception he was quick to recognize the relationship of structure and function in the human body. After regaining his health, he resumed his engineering studies, and upon graduating, obtained a position with the J. I. Case Implement Company in Racine long enough to save money so that he could enroll at the Palmer College of Chiropractic from where he graduated in 1923. Palmer is located in Davenport, Iowa, the fountainhead of chiropractic, where chiropractic was born and developed. Its growth in 67 years is fantastic. Its principles remain the same today as the day Dr. D. D. Palmer gave his first adjustment, restoring hearing to Harvey Lillard, deaf for 17 years. Chiropractic puts nothing into the body and does not take anything from the body. It removes nerve pressure to permit the body to heal itself.

Contact your nearest chiropractor for information on chiropractic as a career, or write to Indiana State Chiropractic Association, Inc., 3609 Forest Manor, Indianapolis 18, Indiana.

Water and Soil Pollution

A new $65,000 laboratory to study the presence of pesticides in soil and water is now in full operation by the Public Health Service in Atlanta, Georgia, Surgeon General Luther L. Terry has announced.

Established and operated by the Service's Division of Water Supply and Pollution Control, Region IV, the new laboratory will provide analytical facilities to supplement national field studies of pesticides, insecticides and herbicides in streams, lakes, and ground water. The new laboratory's staff will include 10 scientists, including chemists, biologists and physicists.

The new laboratory will extend Public Health Service research in the field of insecticides, which has continued uninterruptedly since DDT and other new materials were first introduced some 20 years ago. Such research already involves the expenditure of some $3 million annually of Public Health Service funds and covers many fields of medicine and science, including toxicology, entymology, vector control, and environmental health.

The laboratory now completed in Atlanta is part of a full-scale investigation of water pollution by pesticides which was begun in 1959 in the southeastern States. Directed by Dr. H. Page Nicholson of the Public Health Service, the studies are directed both to measuring amounts of insecticides now reaching waterways and assessing possible damage to stream and other life, particularly in cases where the insecticides are presently at low levels.

Should Americans Be Denied These Harmless Health Aids?

Hearing Clerk
Department of Health, Education,
and Welfare
Room 5440
330 Independence Ave. S.W.
Washington 25, D.C.

Dear Sir:

A few weeks ago I sent in form postals to our Congressman, Senators and to you. Congressman Gubser sent a form letter that invited views and comments to be sent to you. So, if you please, I would like to submit my personal views and experiences which seem to apply to this proposed change in regulations of your department.

If one could be sure that the purpose and the end result of the proposed regulations were merely to conform to new findings in nutrition in the last 21 years there could be little objection, but from numerous press releases from your department and others who work with you to the effect that natural foods and food supplements are a delusion and that the people and institutions which furnish them to the public are running a multi-million-dollar racket on us gullible and unsuspecting suckers; from such propaganda and some of the proposed changes I definitely form the opinion that the purpose is to close, or at least handicap health food stores and vitamin and supplement manufacturers and distributors.

As the health of myself and my wife come largely from merchandise we can only buy from these stores, I would very much deplore any handicaps to their operation.

So, the question is: Are natural foods unnecessary and food supplements of no value? In the belief that one specific case is better proof than a thousand generalizations unless the latter are based on scientific investigation, I submit the following experiences of my wife and myself:

About eight years ago my wife developed some abdominal trouble which Chas. James, M.D. of Fresno gave a preliminary diagnosis of cancer of the right ascending colon. He arranged for barium X-rays which my wife refused. She was suffering from a previous operation and would have no more. Dr. James took me into his back room and told me: "If what my educated fingers tell me is correct, Mrs. Ramage has only six weeks or two months to go." We had heard of an L. D. Aytes, D.C. doing some good work in these cases and called him in. After complete examination, blood and urine tests, he gave us the same diagnosis. He billed me $40.00 for the examination but would not go any further! Now we had no one to turn to. We had read **The Grape Cure** by Johana Brandt of South Africa. As her story seemed reasonable, we secured some Concord grape juice which my wife nearly lived on for two months, losing about 30 pounds in weight but feeling fine, her trouble in that respect gone. The grape juice was from Paradise, California and organically grown—no chemical fertilizer, no sprays, no preservative. Perhaps grapes would have been better, but they were not readily available.

Again, last year my wife developed trouble with a black mole on her shoulder. It suddenly inflamed, the flesh grew around the mole and festered. It looked like the pictures I had seen of carcinoma. We had read of comfrey leaves for this and secured some powdered at a health store in Grants Pass. (We were traveling in our house trailer.) Poultices applied for ten days or two weeks dried it up and left a clear scar with something

(Continued next page)

in the center like a piece of nail but no mole and no soreness.

In neither of these cases was a quack exploiting us unless it was the $2.00 I paid for the book, **The Grape Cure,** or the 75 cents paid for the powdered comfrey leaves. And by the way, there was enough left for my granddaughter to use to remove warts from her big toe which were bothering her severely. They cleared up in a week, whereas the doctor's treatments had made her worse.

Last Thanksgiving, with our house full of our children and grandchildren, and a big turkey in the oven, I was hit by excruciating pains in the left hip. Alan H. Nittler, M.D. sent out emperum codeine pills, but by the middle of the night I saw I was endangering my aging wife and had them send me by ambulance to the hospital where I thought a nurse or orderly could give me the enema I felt I needed. Dr. Nittler was taking the holiday, so the hospital routed out a doctor to admit me. In my ignorance of procedures it took 48 hours to get the enema. When Dr. Nittler returned he called in a specialist who gave me deep injections in the hip and ordered traction. The food served, from my viewpoint, was terrible. After eight days I told Dr. Nittler to get me out as I felt that in a few days more there would be nothing to work on. He found a little poverty-stricken guest home run by a physical therapist and sent me there on a stretcher traction frame in the bed which enabled me to get around some by hanging on with my hands. Doctor prescribed a diet with a lot of supplements and with colonics, massage, steam and electrical treatments, and in a week I was on crutches, a month on a cane, and went home after New Year's. This spring we took a couple of trailer trips, and this summer I have spent in my beloved Santa Cruz mountains among the redwoods working on my place as able bodied as the average 72-year-old. I still take my supplements and stay reasonably close to the prescribed diet. We both survive on the natural foods from a health store plus fruit and produce from the market. Occasional lapses when we have company only prove to us that we could not long survive on the devitalized, demineralized, embalmed foods from the supermarket.

I am a freeborn American citizen (my great, great grandfather, Abner Ramage, served in the Continental Militia from Chester County, Pa.), and I believe everybody ought to have the right to choose whatever food he wishes with the governmental function restricted to seeing it is clean, pure and so labeled that the public knows what it is buying.

But, if there are to be restrictions, should they not first apply to our perverted, civilized foods that have given us the long list of degenerative diseases almost unknown among primitive people, such as heart trouble, cancer, polio, arthritis, muscular dystrophy, etc., etc., instead of the natural foods that are just as God gave them to us?

Sincerely yours,
S. C. Ramage
4015 Smith Grade
Santa Cruz, California

A Pilot Project

By the time you read this notice, N.H.F., in cooperation with the Los Angeles County Health Federation, under the leadership of Charles Crecelius, Vice President of the N.H.F., will have launched its drive to clean up the smog situation in Los Angeles. The people must do the job, and this is a pilot project to prove that the people can, if they will force a solution to the problem.

WASHINGTON REPORT

LEGISLATIVE WORKSHOP

by Clinton R. Miller

Abbreviations used: H.R.—A bill in the House of Representatives. H. Res.—A resolution in the House of Representatives. S—A bill in the Senate.

GOOD "GREEN LIGHT" BILLS

	GREEN LIGHT BILLS with: Number Sponsor Description	COMMITTEE or SUBCOMMITTEE and Chairman and present status of the bill.	INSTRUCTIONS and SUGGESTIONS
FLUORIDATION BILLS	H. Res. 191 Baring (D) Nevada. Makes a committee for a fair study of fluoridation. A reintroduction of last year's H. Res. 514.	House Committee on Rules. Chairman, Howard V. Smith (D) Va. No action taken or scheduled.	Rep. Baring now has the open support of Rep. Rivers (D) Alaska. Take no action yet.
	H. Res. 192 Baring (D) Nev. Provides funds for expenses of H. Res. 191. A reintroduction of last year's H. Res. 515.	House Committee on House Administration. No action can be taken till Res. 191 passes.	S-917 and H.R. 4742 which were "red-light" fluoridation bills of the 87th Session have NOT been reintroduced yet. Watch, for it is expected they soon will be.
	H. Res. 193 Baring (D) Nev. Directs the Secretary of Health, Education, and Welfare not to promote or approve fluoridation. A reintroduction of last year's H. Res. 516.	House Committee on Interstate and Foreign Commerce. Mr. Oren Harris (D) Ark., Chairman. No action taken or scheduled.	
FUND DRIVES	H.R. 346 Herlong (D) Fla. To prevent charity funds graft by requiring full public disclosure of funds records. This is H.R. 9319 of last year reintroduced.	House Committee on Ways and Means. Tax bills are presently being considered and have priority.	No direct concerted action now.
SUPPRESSED CANCER CURES	H.R. 3408 Libonati (D). To amend the P.H.S. Act to provide judicial review of Agency orders concerning biological products.	House Committee on Interstate and Foreign Commerce. Rep. Oren Harris (D) Ark., Chairman. This bill would curb agencies suppressing cures.	Rep. Libonati knows about Krebiozin. Expected national publicity may get action this year. Do nothing YET.
PREJUDGING BILLS	H.R. (#————) Walters (D) Pa. Not introduced yet, so no number is given. This is to be an American Bar Association backed omnibus bill which includes Pike's bill to prevent prejudging publicity. To be a reintroduction of H.R. 9926.	This will go to Mr. Walters' own Subcommittee on Administrative Procedure of the House Judiciary Committee.	Rep. Walters has been ill. No action anticipated until he's well.
	H.R. 4057 Pike (D) N.Y. Prohibits prejudging publicity and stops "trial by press release." Same bill as H.R. 10077 Pike and H.R. 10058 King (D) Utah of last (87th) Congress, reintroduced.	Referred to the Subcommittee on Administrative Procedure of the House Judiciary Committee. Rep. Francis A. Walters is Chairman.	No need to take any action until Rep. Walters is well and active on this committee.
YOUTH COUNSELOR	H.R. (#————) Ashbrook (R) Ohio. This is to be a reintroduction of Rep. Ashbrook's H.R. 10508 of last year. It requires all guidance and personality tests to be submitted to parents for their consent before being given. It will be reintroduced soon.	To be referred to House Committee on Education and Labor Administration. C. Powell (D) of New York, Chairman. Not introduced yet, hence no number. A feud between Chairman Powell and sponsor Ashbrook, a committee member, on another matter makes it unlikely we'll get early House action. We will try for a Senate sponsor.	Rep. Ashbrook is presently carrying on a hot war with Chairman Powell. Not much we can do on the bill while this is waging.

BAD BILLS

	RED LIGHT BILLS Number Sponsor Description	COMMITTEE or SUBCOMMITTEE and CHAIRMAN — with present status of bill and anticipated action.	INSTRUCTIONS and SUGGESTIONS
HEALTH DICTATORSHIP	H.R. 728 Abraham Multer (D) N.Y. Makes U.S. President a Dictator of Health. This is H.R. 828 of last (87th) Congress reintroduced.	House Committee on Banking and Currency. Rep. Brent Spence (D) Kentucky, Chairman. No action taken, anticipated or scheduled.	Watch this column. Write to House Document Room, Washington, D.C. and ask for a free copy of H.R. 728. Then show this fantastic blueprint for a U.S. health dictatorship to your newspapers and unaware friends.

MAIN AND ONLY TARGET FOR THE MONTH
RED LIGHT BILL H.R. 12

CHIROPRACTORS ETC.	H.R. 12 (D) Harris. S470 Ribicoff (D) Conn. S911 Hill (D) Ala. Identical bills for federal aid to the health professions. Unless amended, it will unfairly discriminate against chiropractors and other properly licensed drugless healing arts.	House Committee on Interstate and Foreign Commerce. Rep. Oren Harris (D) Ark., Chairman. This bill has just had hearings before this committee and was not properly amended. It goes now to Rules Committee. See Washington Report in this issue for full details.	Write at once to every member of the Rules Committee of the House. See Article on H.R. 12 elsewhere in this issue. Write to your own Senator and Representative IN ADDITION to members of the RULES COMMITTEE.

Perpetual Membership

By Fred J. Hart

A dear lady, who is dying of cancer, feels that she would like to enroll as a perpetual member of the National Health Federation in order that she may be a part of this great work even when she has departed this life.

This dear lady believes in digging a well rather than in building a monument. To better understand this thought, we suggest you read the following:

Wells and Monuments

"It is better to dig a well than to build a monument. When you dig a well, you invite nature to fill it; when you build a monument, you challenge nature to destroy it.

"Build a monument, and your name will be known, but your merit, if any, is soon forgotten. When you dig a well, your name may not be known, but generations will drink of its water and be refreshed. When you build a monument you perpetuate your name; but dig a well, and you perpetuate your influence.

"Build a monument, and you mark your grave; dig a well, and its abundant supply symbolizes your immortalily. You live again in lives refreshed as they drink of its water.

"The monument is a symbol of a self-centered life, and the stars in their courses are pledged to destroy it. The well is a symbol of unselfish service, and the resources of God are pledged to fill it."

(From **Secret Place**—by F. W. Petersen, Wolfville, Nova Scotia)

Continuing now with our story—the lady in question sent $1,000 in cash to be used for this purpose. We believe that this is a good sum to set as the fee for a perpetual membership. We also believe it to be a good project for the Federation, as it will furnish the

(Continued next page)

organization with needed funds and it will allow folk an opportunity to dig wells instead of building monuments. Those desiring to become perpetual members can do so in any one of the three following ways: (1) they can send in the $1,000 at any time, (2) they can assign $1,000 of their life insurance to the Federation, or (3) they can leave that much, or more, in their wills for this purpose. In any of the above ways the person concerned will be enrolled as a life member the day the funds are received by the Federation.

One wall of the President's office has been readied for the installation of bronze plaques. Each perpetual member will have a plaque with his or her name engraved on it and this plaque will be attached to the base plaque in the order such memberships are received.

The honor of being the first will go to Miss Anna C. Winlow, the lady who thought of the idea and backed up her idea with the needed $1,000. We are very grateful to Miss Winlow, not only for suggesting this worth-while project, but also for her generous giving to the work of the Federation.

We know of members who have inserted bequests in their wills, leaving different sums to the Federation. We know of others who have assigned all or part of their life insurance to the Federation. We know of no better way to serve humanity than by digging wells, as suggested in this article.

After reading what I have written above I have decided to take out a $1,000 perpetual membership in memory of my darling wife and thus dig a well for her that she may continue to serve humanity, as she did while here with us. That makes a total of two perpetual memberships to date.

The Snoopers at Work

The overly inquisitive neighbor who asks your child questions about family finances took on official status in Spokane last week.

Fortunately, some Spokane parents publicly labeled a state-sponsored questionnaire exactly what it was—an invasion of privacy.

The justifiably irate parents protested against a survey, given Spokane fourth-, eighth-, and twelfth-graders, that asked questions on parents' marital status, family finances, parents' formal educations, names of the pupil's best friends, and the pupil's estimation of his popularity and personal characteristics.

Their protest ought to alert all citizens to an all-too-prevalent tendency in academic and governmental circles to regard personal privacy as a barrier to "research"—a barrier to be pushed aside in the all-important quest for sociological data.

The Spokane test was part of a $17,500 study of the public-school drop-out problem. The test was prepared by Washington State University researchers and sponsored by the State Department of Education.

The Seattle public schools, we are pleased to report, showed better judgment than the Spokane system.

The Seattle schools rejected as "too personal" a somewhat similar survey recently proposed by a University of Washington professor who wanted to study so-called disadvantaged children.

Spokane School Superintendent William C. Sorenson said the Spokane board had approved the state project, but was not notified of the nature of the test because it was not considered out of the ordinary.

There lies the trouble. This most recent example of official snooping probably wasn't much out of the ordinary, at that. **Seattle Times,** May 28, 1962.

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SPECIAL ITEMS

1. **The Dextra Sugar Case,** tried before Federal Judge Choate, was handled for the defense by the firm of Arnold, Portas and Porter. Mr. Arnold is the Thurmond Arnold who won the anti-trust suit against the American Medical Association just prior to World War Two. The judge's decision is printed in full in this issue.
2. **There will be** an all-day Federation convention in San Francisco on Saturday, May 25, from 10:00 a.m. to 9:30 p.m. The program will be full of outstanding speakers and many subjects will be covered. The registration fee will be $2.00 and will cover the entire day and evening. The public is invited. Full details will appear in the May issue of the **Bulletin.**
3. **Present plans call for** an all-day and evening convention in Dallas, Texas, on Saturday, the 13th of July; a night meeting at Phoenix, Arizona, on Wednesday, July 17, and a full day and evening convention at Salt Lake City on Saturday the 20th of July. If these are successful, as we feel they will be, more one-day conventions will be held later in the year.
4. The big N.H.F. Midwest Convention will be held at Akron, Ohio, on September 25, 26, 27 and 28. Make plans now to attend. This could be one of our best conventions, if present plans work out.
5. Last, but not least, the Ninth Annual Meeting and Convention of the Federation will be held in Los Angeles, California, January 1, 2, 3, and 4, 1964. Mark your calendar. More about these two conventions later.