

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

24501-24550

[Approved by the Acting Secretary of Agriculture, Washington, D. C., February 15, 1936]

24501. Adulteration and misbranding of Merrell's Cod Liver Oil Concentrate Tablets. U. S. v. 9 $\frac{1}{2}$ Dozen Bottles of Merrell's Cod Liver Oil Concentrate Tablets. Default decree of condemnation and destruction. (F. & D. no. 28638. Sample no. 6065-A.)

This case involved a drug preparation sold primarily as a source of vitamins. Tests of the article showed that it possessed about one-fifth as much vitamin D as indicated by the labeling.

On August 12, 1932, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 9 $\frac{9}{12}$ dozen bottles of Merrell's Cod Liver Oil Concentrate Tablets at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about April 15, 1932, by Wm. S. Merrell & Co., from Cincinnati, Ohio, and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its strength fell below the professed standard under which it was sold, namely: (Carton and bottle label) "Each tablet contains the equivalent of one teaspoonful of Cod Liver Oil U. S. P."; (carton) "The A and D Vitamins in Merrell's Cod Liver Oil Concentrate Tablets exert the same effects and are indicated in the same conditions for which Cod Liver Oil is taken"; (circular) "Merrell's Cod Liver Oil Concentrate is carefully tested by extensive experiments on animals to make certain that the important vitamins are present in abundance. * * * Potency of Vitamins Assured. These important Vitamin A and D tests are made before the concentrate is prepared from Cod Liver Oil to insure full vitamin content and potency. Then these tests are again made in the actual concentrate to make certain that full potency of Vitamins A and D are present when the concentrate is incorporated into the tablet * * * because Merrell's Cod Liver Oil Concentrate Tablets provide plenty of the important vitamins A and D in a pleasant little tablet."

Misbranding was alleged for the reason that the following statements appearing in the labeling were false and misleading: (Bottle label, carton, and circular) "Merrell's Cod Liver Oil Concentrate"; (bottle label and carton) "Vitamins A and D From Cod Liver Oil * * * Each tablet contains the equivalent of one teaspoonful of Cod Liver Oil U. S. P."; (circular) "The Vitamins of Cod Liver Oil In a Tablet For generations cod liver oil has been used by doctors as a resistance builder and tonic to the convalescent and as an important addition to food for growing children and adults. The Pleasant Way to Take Cod Liver Oil Medical science has discovered a process for extracting and concentrating the vitamins. This discovery has led to the production of cod liver oil concentrate in convenient tablet form without the oily, fishy taste. Just as cod liver oil is used in the home as a protection against certain conditions, so may Merrell's Cod Liver Oil Concentrate Tablets be used. During pregnancy and the nursing period, mothers will find them an important addition to the diet, because they help to protect her and her child against the consequences of a poorly balanced diet. To the infant and growing child, Merrell's Cod Liver Oil Concentrate Tablets supply the vitamins essential to growth, to prevention against rickets with its symptoms of bow legs, deformed

joints, irregular and imperfect teeth. To both child and adult they afford a valuable means of building resistance, and aid in the treatment of run-down conditions, debility, and convalescence. Merrell's Cod Liver Oil Concentrate Tablets provide plenty of the important vitamins A and D in a pleasant little tablet, free from oil or nauseating fats."

On March 13, 1935, the case having come on to be heard and the intervenor, the Wm. S. Merrell Co., having failed to appear at the hearing, judgment was entered ordering that the product be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

24502. Adulteration and misbranding of cereal meal. U. S. v. The Cereal Meal Corporation. Plea of nolo contendere. Fine, \$270 and costs. (F. & D. no. 29411. I. S. nos. 12147, 12245, 21902, 24692, 24706, 28526.)

This case was based on various shipments of cereal meal which was adulterated under the provisions of the Food and Drugs Act applicable to food because it contained added agar. It was also misbranded under the provisions of the act applicable to food, since agar is a drug and the product was labeled as containing no drug; and was further misbranded under the provisions of the act applicable to drugs because of unwarranted curative and therapeutic claims in the labeling.

On March 31, 1933, the United State attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Cereal Meal Corporation, trading at St. Louis, Mo., alleging shipment by said company, in violation of the Food and Drugs Act as amended, on or about September 16, 1930, February 6, February 28, June 17, June 18, and July 10, 1931, from the State of Missouri into the States of California, Illinois, Massachusetts, and Colorado of various consignments of cereal meal which was adulterated and misbranded.

Samples of the product analyzed by this Department were found to consist essentially of wheat bran, wheat shorts, linseed meal, and agar-agar.

The article was alleged to be adulterated under the provisions of the act applicable to food in that agar, a drug substance, had been substituted in part for cereal meal which the article purported to be.

The article was also alleged to be misbranded under the provisions of the act applicable to food in that the statements, "Cereal Meal * * * It contains no drug * * * Contains No Drugs", borne on the label, were false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the said statements represented that the article was cereal meal containing no drugs, whereas it contained agar, a drug defined in the United States Pharmacopoeia. Misbranding was alleged for the further reason that the article was composed in part of agar and was offered for sale under the distinctive name of another article, cereal meal.

Misbranding was charged under the provisions of the law applicable to drugs in that certain statements appearing on the carton and in a circular shipped with the article, regarding its curative and therapeutic effect, falsely and fraudulently represented that it was effective as a remedy, treatment, and cure in attaining ideal health, in eradicating constipation and evils resulting therefrom; effective as a treatment for relieving, in the first 24 hours, indigestion, gastro-intestinal disorders and the many wretched conditions and symptoms that invariably accompany constipation; effective as a remedy, treatment, and cure in stubborn, long-standing cases of constipation; effective as a remedy, treatment and cure for the vast majority of cases of constipation, thus relieving much indigestion, chronic appendicitis, and mucous colitis due thereto, effective in stimulating to action the glands along the bowel; effective in restoring nature to her perfect work by restoring normal nerves and blood supply; as a diet, effective as a remedy, treatment, and cure in relieving of chronic appendicitis—in most cases—those who suffer therefrom, by relieving the bowel of fecal masses and irritative gases; effective in increasing the secretory powers of the stomach and intestinal glands and in decreasing fermentation and gas formation, thus relieving many forms of indigestion; effective as a remedy, treatment, and cure for mucous colitis—a catarrhal condition of the large intestine—by cleaning out the mucus, clearing the bowel and aiding the mucous membrane of the colon to return to normal; effective in nourishing the tissues, aiding glandular action, stimulating the nerve endings and in giving strength; effective as a remedy, treatment, and cure for children's dis-