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## An Analysis of the Notices of Judgement under the Federal Food, Drug and Costmetic Act

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AN ANALYSIS OF THE NOTICES OF JUDGEMENT UNDER  
THE FEDERAL FOOD, DRUG AND COSMETIC ACT

A Thesis Presented to the Graduate Faculty in  
Partial Fulfillment of the Requirements for  
the Degree of Master of Arts  
Western Michigan College of Education

by  
LaVerne H. Boss  
Kalamazoo, Michigan  
May 1953

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LaVerne H. Boss

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## CHAPTER I

### THE PROBLEM AND ITS BACKGROUND

#### Importance of Consumer Education

Today, the terms "consumer education" and "economic education" are used commonly in discussions of the public school curriculum. However, such discussions are often undertaken without a full understanding of the various implications of the terms. But, to define the terms specifically is considered by some leaders in the field to narrow their scope and application. This is clear in the statement by Wilson,<sup>1</sup> namely, "To limit the application of consumer education to one segment or area of the school's work is to reduce its vitality." Thus consumer education may be more a point of view than a specific area of material. This is clearly the view of Sorenson<sup>2</sup> when she states,

"Consumer education in the schools of America is the property of no single department or age level; chemistry teachers are beginning to analyze brands of tooth paste; arithmetic teachers compare relative prices in their work; history teachers draw attention to the changing standards of living; economic teachers show trends in productions and consumption, and so forth.

<sup>1</sup>Wilson, H. J., "Problems to Be Faced," Next Steps in Consumer Education (Columbia, Missouri: Institute for Consumer Education, Stephens College, 1939), p. 16.

<sup>2</sup>Sorenson, Helen, The Consumer Movement. New York: Harper and Brothers, 1941. p. 56.

From statements like these a general concept of consumer education in its broadest scope is obtained. The multitude of its applications may be sensed. However, confusion is bound to result unless it is delimited in some way.

The Institute for Consumer Education, Stephens College, Columbia, Missouri, offers such a delimitation with this definition: "Consumer education is development in attaining the maximum individual and group satisfaction (from goods and services) for time, effort, and money expended."<sup>3</sup> Such a delimitation is probably satisfactory for the purposes of this study.

#### Consumer Education and Wise Consumption

The aspect of consumer education implicit in the delimitation just given received its original impetus less than thirty-five years ago. The reason for the long dearth of such education is probably based on the simplicity of the culture of early Colonial America. Further even pre-Civil War America had comparatively little need for consumer education. In the chiefly agricultural economy of those days, even to a far greater extent than in the rural life today, a considerable proportion of the total goods consumed was actually produced by the members of the family. Moreover,

<sup>3</sup>Loc. cit., p. 78.

most of the materials that were purchased were produced locally, and therefore, there was little need for an individual's acquaintance with consumer buying or the wise selection of the many varied items that were consumed.

However it is common knowledge that today there is a great need for wise consumption since most of the goods produced are produced for the use of others. Modern consumers have freedom of choice to wear what they want, eat what they like, and decide how to best use their income. These freedoms are fundamentally a part of the American culture. Yet some of our productive energy is misdirected by uninformed consumers.

Tonne<sup>4</sup> states that:

"The aim of consumer education is improvement in the choice and buying of economic goods and services, as a means of raising the individual and family standards of living, and thereby to raise the standards of living for the whole community, and ultimately for all mankind.

However, it is clear that such a view tends to be an ideal rather than an actuality. The buying habits of the typical consumers are poor since the facts involved in buying are often disregarded.

Eventually each and every one must enter into some phase of buying. No consumer produces all the materials needed to satiate his basic needs and desires. Therefore, he must go

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<sup>4</sup>Tonne, Herbert A., Consumer Education in the Schools. New York: Prentice-Hall, Inc., 1941. p. 18.

into the market in search of the goods or services to satisfy these immediate needs or desires. The need for adequate training is therefore obvious. Gabriel<sup>5</sup> in his book has this to say about the value of consumer training:

"We try to prepare boys and girls for living. We therefore, consider training in buying most essential because it is a part of the individual's life."

This view is also stressed by Tonne<sup>6</sup> in this statement,

"Undoubtedly the problem of choice-making is fundamental, for, unless we have the ability to choose from among goods those that will be of most value to us, wise buying and wise money management are futile. All phases of education should emphasize intelligent choice-making."

A few years ago the American Association of School Administrators of the National Education Association appointed a National Committee on Economic Education headed by Dr. Alexander J. Stoddard, Superintendent of Schools, Philadelphia. Writing in the September 10, 1939 issue of the New York Times he made this statement.<sup>7</sup>

"Many high school boys and girls are illiterate as far as personal economics is concerned. No real problem of teaching exists in this field."

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<sup>5</sup>Gabriel, Puzant, Methods of Teaching Consumer Education, New York: Southwestern Publishing Company, 1946. p. 5.

<sup>6</sup>Tonne, op. cit., p. 96.

<sup>7</sup>New York Times, September 10, 1939.

Today as never before it is tremendously important that young folks, and older ones as well, understand the meaning of economic education and its place in a complex world . . . This illiteracy exists not just among persons in the lower economic brackets but in the upper classes also. This would indicate, the educators feel, that the schools and colleges have been somewhat derelict in their duty to the American public. An economically uninformed people may repeat many of the disastrous mistakes of the last few decades."

Such a statement of course does not describe specifically all areas of consumer education, although it is generally correct. There are some areas in which fairly adequate efforts have been made to meet the needs of students.

#### Consumer Education and the Purchase of Food

It is probably true that more attention has been paid to consumer education which gives information about the methods of purchasing foods than about any other commodity. It is also probably true that more regulations have been made to protect the food supply than any other type of commodity. Bush<sup>8</sup> in his book on Science Education in Consumer Buying has this to say:

"It is evident that one quarter of the total expenditures of income in recent years has gone to the purchase of foods. It can, therefore, be concluded that the solution of these problems and difficulties depends upon consumer education about foods."

<sup>8</sup>Bush, George L., Science Education in Consumer Buying. New York: Bureau of Publications, Teachers College, Columbia University, 1941. p. 8.



It seems logical then that the time spent on teaching consumer education with respect to this commodity is well justified. Yet it would be unwise to state that all high school students on leaving school are aware of the simplest rudiments of buying wisely or of the protection availed to them by State or Federal Laws.

### Laws Protecting The Consumer

Many authorities have decried the lack of knowledge that the consumer has of the laws that protect him. Bush makes this clear when he states, "It is pathetic that federal government standards are so little known."<sup>9</sup> The laws that have been passed and the reports that are available are of course based somewhat on what is desirable for the consumer. hence it is desirable for consumers to be aware and make use of the results of Federal inspection of food materials, of the significance of the food-grading stamps in common use, of the standards set up for, and the methods of grading, various foods as well as of the methods used to indicate the relative values of foods for which there are standards. It is desirable also for the consumer to know what the Federal government considers to be full measure and to be familiar with the kind of statements required on labels of

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<sup>9</sup>Loc. cit., p. 107.

canned and other packaged foods. The whole problem of standardization of containers and labels for foods is of course of common importance. It is then with these areas that the student should become familiar. Yet it is unfortunate to note that the average teacher may also be completely unaware of the information and source material that will help the student become a better consumer.

It must be stated here that one such source containing information that is almost indispensable for education of both teacher and student is the publication of the Federal Security Agency dealing with judgment proceedings under the Federal Food, Drug and Cosmetic Act.

In these monthly Notices of Judgment, issued by the Food and Drug Administration, are reported the actions taken during the preceding month in connection with food and beverages seized in the process of interstate commerce because of adulteration, or because they are misbranded or mislabeled. These notices, which, strangely enough do not seem to interest the press,<sup>10</sup> are extraordinary records of action taken to protect the quality of the food, drug and cosmetic supplies moving in interstate commerce. All of them contain materials that well may be of value in consumer education.

<sup>10</sup>Campbell, Persia, The Consumer Interest. New York: Harper and Brothers, 1949. p. 332.

### The Problem

It is therefore the problem of this study (1) to analyze the Notices of Judgment for the materials they contain, (2) to determine the types of action taken by the Federal Government toward products deemed to be unwholesome, and (3) to make certain recommendations as to how the information thus obtained may be used in consumer education at the high-school level.

## CHAPTER II

### LAWS PROTECTING THE CONSUMER

#### The Problem

The problem of this chapter is to discuss the development of laws designed for consumer protection from 1906 to the present in order to give a background for understanding the implications of the Notices of Judgment.

#### Background for the 1906 Food and Drug Act

It seems reasonable to assume that the peoples of the earth have been concerned for centuries about the quality and purity of the food they and their children consume from day to day. Getting good food or drink was a problem even in ancient times, for both Athens and Rome made provisions against the adulteration of wine.<sup>11</sup>

This desire on the part of individuals for some form of protection has been sporadic and inconsistent for a number of reasons. As has been stated there was relatively little need for any legislation in the Colonial era since nearly all commodities consumed by the family were usually raised or prepared within or near the immediate household. Today,

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<sup>11</sup>Wilson, Stephen, Food and Drug Regulation. Washington, D. C.: American Council of Public Affairs, p. 7, 1942.

in twentieth century America, this situation is much different for consumers find themselves easy "suckers" for the "quacks" and "chislers."

The first demand for a federal law for consumer protection was made by Dr. Thomas Antisell in 1869 while he was working as a chemist for the Department of Agriculture. In his report making such demands he mentioned extensive adulteration of fertilizers and foodstuffs and the need for supervision over the manufacture of these products.<sup>12</sup>

It was not, however, until the turn of the century, 1891, that Senator Paddock of Nebraska introduced the first general pure food measure which was primarily designed to protect the consumer from adulteration of food and drugs. Until then the related laws had sought chiefly to protect the farmer from competition, to safeguard the export trade in foods, and to restrict imports. Thus the main purpose behind any bill that was introduced into Congress up to this time was to protect the producer and marketer of food, not the consumer. However, the measure failed to pass.<sup>13</sup>

#### The 1906 Food and Drug Act

The first major food and drug bill, namely, The Pure Food and Drug bill was signed by President Theodore Roosevelt

<sup>12</sup>Loc. cit., p. 11.

<sup>13</sup>Loc. cit., p. 25.

on June 30, 1906. It became the law of the land on the following first day of January. The objectives of the bill as they were introduced into the senate by Senator McCumber of North Dakota were these:<sup>14</sup>

1. "To supplement the efforts of the states which were hampered by the rules of interstate commerce and other conditions over which the states themselves had no control.
2. To reach the root of the evil - the manufacturer. 95% of all impure and adulterated foods were consumed in states other than those in which they were manufactured.
3. To protect the honest manufacturer and dealer. It was impossible for them to compete with manufacturers of adulterated foods.
4. To assist the honest dealer to meet the requirements of all states.
5. To promote honesty and fair dealings in the sale of food products.
6. To shield the public themselves against not only use of poisonous articles, but especially to protect them against deceit or imposition of any character in the matter of purchasing food."

There can be little doubt that this bill was a large step forward in the protection of the consumer. It was a boon to all legitimate manufacturers and a club against those who sought to circumvent the law. According to this law a product was adulterated if it had been damaged or rendered inferior by mixing a substance with it, by substituting another substance

<sup>14</sup>Loc. cit., p. 30.

for it, by abstracting any valuable constituent from it, by treating it so as to conceal inferiority, by adding poisonous or deleterious substance to it, and if it contained any substance unfit for consumption. The law also defined a product as being misbranded if the package bears a false or misleading statement or is falsely branded as to its place of manufacture; if it is imitation of, or offered for sale under the distinctive name of, another article; or if it is labeled or branded so as to deceive the purchaser. It would also be misbranded if the quantity of the contents were not marked in terms of weight, measure, or numerical count, on the outside of the package.

Tonne states,<sup>15</sup> "though the 1906 Food and Drug Act was monumental step in the right direction, it completely failed to meet the objectives of giving the consumer sound information." Therefore, in the immediate years to follow there was intense interest in the organization of many consumer groups, such as the American Pure Food League, Clean Food Clubs, and the Housewife's League. These groups gained much publicity and they are indirectly responsible for some of the legislation that followed.<sup>16</sup> Some of the major additions to the 1906 law are:

<sup>15</sup>Tonne, op. cit., p. 7.

<sup>16</sup>Howard, Grace, "A Survey of Materials for Consumer Education Significant to Junior High Mathematics." Unpublished master's thesis, University of Michigan, 1943. p. 25.

1. The Sherley Amendment (1912), which proscribed statements on labels regarding the curative effect of such articles when such statements are false and fraudulent.
2. The Net Weight Amendment (1913), which made it mandatory in most instances to state plainly and conspicuously the terms of weight, measure and count on packages of food.
3. The McNary-Mapes Amendment (1930), which provided for the promulgation of standards of quality, condition, and fill of container of canned food, and conspicuously labeling such canned food indicating where appropriate that the foods fell below the established standard.
4. The Sea Food Amendment (1934), which provides for permissive government inspection of sea food and for authorization of a statement on the label that the goods have been inspected.

However there were a number of other influences that affected the passage of laws for consumers. The publication of Your Money's Worth by Stuart Chase and F. J. Schlink in 1927 crystallized the discontent and pleaded for impartial testing agencies and standards for staple goods. It immediately became a "best seller" and a selection of the Book-of-the-Month Club. In 1929, Schlink established Consumer's Research, Incorporated, the first non-profit consumer testing agency. The next ten years brought many important developments. Several books were written having a direct bearing on the problem: Eat, Drink, and Be Wary by F. J. Schlink; 100,000,000 Guinea Pigs by Arthur Kallet and F. J. Schlink; and Guinea Pigs No More by J. B. Mathews.



In 1933, the Consumer Advisory Board of the National Recovery Administration and The Consumer's Counsel of the Agricultural Adjustment Administration were set up. However, it required five years to induce Congress to strengthen the Food and Drug Act, and this was done only after seventy-three people lost their lives as a direct result of a deadly drug.

#### Background for the 1938 Food, Drug, and Cosmetic Act

Waite and Cassady, in The Consumer and the Economic Order state that one of the outstanding weaknesses of the amended 1906 law was its lack of power in controlling the sale of dangerous (or even deadly) compounds in the absence of mislabeling.<sup>17</sup> This weakness was brought forcibly to the attention of the nation as the result of the sale of the deadly "Elixir Sulfanilamide." The loss of life from this drug is one of the reasons for the enactment of new legislation. The case is particularly interesting in this connection since it illustrates clearly one of the weaknesses of the law.

Ironically, the drug sulfanilamide is one of the really valuable discoveries of the 1930's. The "elixir" - containing diethylene glycol - proved to have a definite lethal effect,

<sup>17</sup>Waite, Warren C. and Cassady, Ralph, Jr., The Consumer and the Economic Order. New York: McGraw-Hill Book Company, 1939. p. 104.

however. During September and October of 1937 at least seventy-three persons died as a direct result of its use. Twenty other persons took the elixir died, but it was not clearly established that this drug was exclusively responsible for these deaths. Six weeks later the introduction of the drug and order for its seizure was issued. Since the Federal Food and Drug Act contained no provision against dangerous drugs, seizures had to be based on a charge that the word "elixir" implied an alcoholic solution, whereas the product was a solution containing diethylene glycol. Toulmin<sup>18</sup> in his book Law of Food, Drug, and Cosmetics states:

"... had the product been designated a solution, rather than an elixir, no charge of violating the law could have been brought. Before the elixir was put on the market in September, 1937, it was tested for flavor but not for its effect on human life."

The old law neither required that new drugs be tested before they were placed on sale nor authorized the seizure of dangerous drugs unless their labels misrepresented them. Gaer in his book Consumers All has this to say:<sup>19</sup>

"Although the murderous effect of the Elixir Sulfanilamide was not the sole factor responsible for the new Food and Drug Law of 1938 it was the 'straw that broke the camels back'."

<sup>18</sup>Toulmin, Harry A., Jr., Law of Food, Drugs and Cosmetics. New York: W. H. Anderson Company, 1942, p. 47.

<sup>19</sup>Gaer, Joseph, Consumers All. New York: Harcourt, Brace and Company, 1940, p. 141.

## The 1938 Pure Food and Drug Law

The new legislation - Senate Bill Number Five, Seventy-fifth Congress - was signed by President Roosevelt on June 25, 1938, with the law going into effect on June 25, 1939. There is no question but that the new legislation improves the consumer's position tremendously. The Pure Food, Drug, and Cosmetic Act of 1938 has several main provisions. They are;<sup>20</sup>

1. "Bringing cosmetics under the supervision of the administration and it prohibits the shipment of those cosmetics which are injurious, adulterated, or misbranded.
2. With respect to drugs, the law is now expanded to include articles (other than food) that are intended to affect the structure or any function of the body of man.
3. Prohibits the introduction of new drugs until an application has been filed with the Secretary of Agriculture. This application will then become effective sixty days after filing unless the secretary postpones the effective date. This provision in effect requires proof of safety in use as a prerequisite to the introduction of new drugs.
4. Setting of standards and provisions for the exact labeling of coal-tar hair dyes.
5. That in regard to foods all those that are injurious to health shall be prohibited from shipment in interstate commerce.
6. That gifts and trinkets are outlawed when placed in the same container as food.
7. Giving the administration the power to set up standards for all foods.

<sup>20</sup> aite and Cassady, op. cit., pp. 105-109.

8. Strengthening of criminal penalties so that they might be imposed upon the first offense, and prison sentences are prescribed for cases of second or wilful offenses.
9. That publicity may be used as a punitive devise by the administration in cases involving danger to health or gross deception of the consumer.
10. That traffic in drugs and devices which are dangerous to health when used as directed on their labels is forbidden."

The 1938 law was written on a broad base and much of its interpretation was left up to the Federal Security Agency which became the enforcement agency for the law. As a result of the law the federal government had by 1944 set standards of identity for practically every canned vegetable and most canned fruits.<sup>21</sup> This is amazing in view of the fact that during the six years since the writing of the 1938 law they had a total staff, including inspectors in the field, technical experts for laboratory analysis, clerks, and helpers, of only 900 persons, of whom 600 were in the field and 300 in Washington.<sup>22</sup>

Wilhelms<sup>23</sup> in his book Consumer Living outlines the law as it stands today.

<sup>21</sup>Wilhelms, Fred T., Consumer Living. New York: Gregg Publishing Company, 1952. p. 450.

<sup>22</sup>Campbell, Persia, The Consumer Interest. New York: Harper and Brothers, Publishers, 1949, p. 571.

<sup>23</sup>Wilhelms, op. cit., pp. 451-455.

"STANDARDS -- The administration has power to set a reasonable definition and statement of identity for each food, as well as a reasonable standard of quality and of fill.

HEALTH GUARDS:

1. Food must not be injurious to health.
2. Candy must not contain alcohol or any "prizes" or other inedible substances.
3. Food containers must be free from harmful substances before canning or packaging.
4. Coal tar colors contained in food must come from a batch certified as being harmless.

LABEL INFORMATION:

1. Name and address of manufacturer, packer, or shipper.
2. Accurate statement of quality.
3. If the product is of two or more ingredients and is not a standardized food, the common or usual name of each ingredient must be listed on the label.
4. Special dietary food must bear full and complete information as to their use.
5. Artificial flavors must be listed on labels.
6. All information listed must be easily noticed and readily understood.

SANITATION:

1. Food must be prepared, packaged, and held under sanitary conditions.
2. Food must not be filthy, putrid, or otherwise unfit.
3. Food must not be the product of diseased animals.

PROHIBITED DECEPTION:

1. Food labels must not be false or misleading in any particular.
2. Damage or inferiority in a food may not be concealed in any manner.
3. No substitute may be added to food to increase its bulk or weight or to make it appear of greater value than it is.
4. A food must not be sold under the name of another food.
5. Imitations and substandard foods must be so labeled.
6. Food containers must not be so made, formed, or filled as to be deceiving.

SUMMARY:

1. They simply wipe out of interstate market foods that are unwholesome, adulterated, deceptively packaged, deceptively labeled--- in other words food that fails to meet high basic standards.
2. Clear, open, and honest statement of facts on the container."

## CHAPTER III

### SELECTING THE CASES TO BE ANALYZED

#### The Problem

The purpose of this chapter is to describe the method for selecting the cases involving products seized under the Federal Food, Drug and Cosmetic Act.

#### Methods Employed

It would not be feasible to analyze all the cases that have ever been brought to the courts under the Food and Drug Administration. Therefore, it was necessary to devise some means for selecting a sampling that would give a representative picture of products brought before the courts and the types of condemnations proceedings to which they were subjected.

There are a number of ways in which this selection could have been made, such as taking every fifth or tenth case, a number of cases from each month or year, or all the cases for like months over a period of years. For the purposes of this study it was decided to select cases brought to court for various months over a period of several years.

#### Selection of "Food" Cases

In the five year period that began October, 1947 and ended May, 1952, there were over 8,000 cases in the Notices of Judgment of the Federal Security Agency. Beginning with the reports of October 1947 the investigator selected all the

cases in the reports for ten different months, making sure that the months selected were at least six months apart. The months, numbers of cases per month, and the actual case numbers are listed in the following table.

TABLE I  
SELECTION OF FOOD CASES

Date of Issue	Case Numbers	Number of Cases
October 1947	9,601 - 10,000	400
April 1948	10,901 - 11,100	200
September 1948	12,001 - 12,200	200
March 1949	13,001 - 13,200	200
August 1949	13,501 - 13,700	200
February 1950	14,801 - 14,900	100
July 1950	15,751 - 16,050	300
January 1951	16,501 - 16,600	100
June 1951	17,051 - 17,100	50
May 1952	17,751 - 17,850	100
<b>Total</b>		<b>1850</b>

### Selection of "Drug" Cases

The selection of drug cases followed much the same system that was used in the selection of food cases. The selection was made from the cases for a five year period at six month intervals for ten different months. The months, numbers of cases per month, and the case numbers are listed in the following table.



TABLE II  
SELECTION OF DRUG CASES

Date of Issue	Case Numbers	Number of Cases
June 1947	1,901 - 1,950	50
December 1947	2,051 - 2,100	50
May 1948	2,151 - 2,250	100
April 1949	2,351 - 2,400	50
October 1949	2,601 - 2,650	50
March 1950	2,811 - 2,850	40
September 1950	3,081 - 3,120	40
February 1951	3,241 - 3,280	40
August 1951	3,381 - 3,400	20
January 1952	3,521 - 3,540	20
<hr/> Total	<hr/>	<hr/> 460 <hr/>

#### Selection of "Cosmetic" Cases

The selection of the cosmetic cases differed greatly from that for the food and drug cases. Since the total number of cases brought before the courts in this category was only sixty-four for the five year period it was decided to review and analyze all sixty-four. The month, numbers of cases per month, and the case numbers are listed in the following table.

TABLE III  
SELECTION OF COSMETIC CASES

Date of Issue	Case Numbers	Number of Cases
September 1947	131 - 146	15
February 1949	147 - 160	14
October 1949	161 - 175	15
August 1950	176 - 183	8
September 1951	184 - 189	6
April 1952	190 - 196	6
Total		64

#### Numbers of Cases in Various Categories

The number of cases in the various categories analyzed in this study are shown in Table IV.

TABLE IV  
CASES IN VARIOUS CATEGORIES

Categories	Number of Cases Analyzed	Total Number of Cases For Period	Percent Analyzed
Food	1850	8250	22.4
Drug	460	1640	28.1
Cosmetic	64	64	100.0

## CHAPTER IV

### TABULATION AND ANALYSIS OF DATA

#### The Problem

The purposes of this chapter are (1) to record the information obtained from an analysis of the Notices of Judgment under the Federal Food, Drug, and Cosmetic Act, and (2) to analyze that information in the terms of the objectives set forth in Chapter I.

#### Analysis of the Food Division

It is obvious that it was necessary to categorize the foods into various groupings. They are placed arbitrarily in twenty-five groupings. Table V shows the groupings and the number of cases in each, together with the percentage each grouping comprised in the total number of condemnations.

TABLE V  
FOOD CONDEMNATIONS

Foods	Number of Condemnations	Percent
Beverages and Beverage		
Materials	80	4.32
Bakery Products	77	4.16
Cornmeal	51	2.76
Flour	63	3.41
Macaroni and Noodles	37	2.00
Cereal and Cereal Products	79	4.27
Candy	103	5.57
Chocolate and Cocoa	37	2.00
Sugar	4	.22
Butter	123	6.65
Cheese	65	3.51
Dairy Products	19	1.03
Eggs and Egg Products	36	1.95
Feed and Grains	34	1.84
Fish and Shellfish	168	9.08
Fruits (Canned, Dried, or Frozen)	157	8.49
Jelly Preserves	27	1.46
Vegetables and Vegetable Products	196	10.59
Tomato Products	139	7.51
Nuts	103	5.57
Oils and Fats	29	1.57
Poultry and eats	54	2.92
Spices	37	2.00
Vitamin and Dietary Foods	37	2.00
Miscellaneous and Not Guilty	95	5.14
Total	1,850	100.00

Tabulation of Different Food Groupings  
With Reasons for Condemnations

Tables were then made using the twenty-five food groupings as listed in Table V as major headings. In them the number of condemnations and the percent of condemnations for each grouping were tabulated.

TABLE VI

CONDEMNATIONS OF BEVERAGES  
AND BEVERAGE MATERIALS

Condemnations	Number of Cases	Percent
False and misleading label	14	17.5
Evidence of decomposition	28	35.0
Rodent excreta	4	5.0
Poisonous	15	18.8
Maggots and flies	5	6.2
Bad odor and taste	2	2.5
Underweight	4	5.0
Valuable constituent missing	8	10.0
Total	80	100.0

TABLE VII

## CONDEMNATIONS OF BAKERY PRODUCTS

Condemnations	Number of Cases	Percent
Rodent excreta and hair	27	35.0
Underweight	6	7.8
Parts of beetles and insects	19	24.7
False and misleading label	4	5.2
Filthy	13	16.8
All ingredients not listed	6	7.8
Valuable constituent missing	2	2.7
Total	77	100.0

TABLE VIII

## CONDEMNATIONS OF CORNMEAL

Condemnations	Number of Cases	Percent
Rodent hairs and excreta	34	66.7
Filthy	5	9.8
Parts of insects and larvae	10	19.6
Valuable constituent missing	2	3.9
Total	51	100.0



TABLE IX  
CONDEMNATIONS OF FLOUR

Condemnations	Number of Cases	Percent
Rodent hairs and insect fragments	38	60.3
False and misleading label	5	7.9
Filthy	8	12.7
Traces of rodent urine	12	19.1
Total	63	100.0

TABLE X

## CONDEMNATIONS OF MACARONI AND NOODLES

Condemnations	Number of Cases	Percent
Rodent hair and insect fragments	22	59.5
False and misleading label	4	10.8
Underweight	2	5.4
Container partially filled	2	5.4
Parts of beetles and larvae	6	16.2
Valuable constituent missing	1	2.7
Total	37	100.0

TABLE XI

## CONDEMNATIONS OF CEREALS AND CEREAL PRODUCTS

Condemnations	Number of Cases	Percent
Rodent excreta	43	54.4
Parts of weevils and insects	10	12.7
Poisonous substance	2	2.5
Underweight	4	5.1
Filthy	10	12.7
False and misleading label	4	5.1
Evidence of decomposition	4	5.1
Valuable constituent missing	2	2.5
Total	79	100.0

TABLE XII  
CONDEMNATIONS OF CANDY

Condemnations	Number of Cases	Percent
Rodent hairs and insect fragments	63	61.2
Nonnutritive substance and paper	5	4.8
Evidence of decomposition	2	1.9
Valuable constituent missing	7	6.8
Filthy	9	8.7
Underweight	9	8.7
Box partially filled	8	7.8
Total	103	100.0

## TABLE XIII

## CONDEMNATIONS OF CHOCOLATE AND COCOA

Condemnations	Number of Cases	Percent
Rodent hairs and insect fragments	8	21.6
Filthy	7	18.9
False and misleading label	6	16.2
Manufacturer-packer or distributor not listed	5	13.5
Evidence of decomposition	3	8.1
Underweight	4	10.8
Valuable constituent missing	4	10.8
Total	37	100.0

TABLE XIV

## CONDEMNATIONS OF SUGAR

Condemnations	Number of Cases	Percent
Excessive moisture present	1	25.0
Rodent hairs and excreta	3	75.0
Total	4	100.0

TABLE XV

## CONDEMNATIONS OF BUTTER

Condemnations	Number of Cases	Percent
Insect fragments	18	14.6
Rodent hairs	8	6.5
Evidence of decomposition	13	10.6
Manufacturer not listed	3	2.4
Underweight	10	8.1
Substitution made	62	50.4
Filthy	8	6.5
False and misleading label	1	.8
Total	123	100.0

TABLE XVI  
CONDEMNATIONS OF CHEESE

Condemnations	Number of Cases	Percent
Rodent hairs and straw fragments	40	46.2
Parts of beetles and insects	3	4.6
Pieces of manure and cow hair	7	10.8
Below accepted standards	7	10.8
Filthy	10	15.4
False and misleading label	6	9.2
Underweight	2	3.1
Total	65	100.0



TABLE XVII

## CONDEMNATIONS OF MISCELLANEOUS DAIRY PRODUCTS

Condemnations	Number of Cases	Percent
Evidence of decomposition	2	10.5
False and misleading label	1	5.3
Below accepted standards	5	26.3
Filthy	3	15.8
Bad odor and taste	3	15.8
Valuable constituent missing	5	26.3
Total	19	100.0

TABLE XVIII

## CONDEMNATIONS OF EGGS AND EGG PRODUCTS

Condemnations	Number of Cases	Percent
Evidence of decomposition	22	61.1
Yellow coloring added	3	8.3
Repulsive odor	1	2.8
Filthy	3	8.3
No name of manufacturer packer or distributor	3	8.3
Underweight	1	2.8
Below accepted standards	2	5.6
False and misleading label	1	2.8
Total	36	100.0

TABLE XIX  
CONDEMNATIONS OF FEEDS AND GRAINS

Condemnations	Number of Cases	Percent
Musty odor	2	5.9
Valuable constituent missing	9	29.4
False and misleading label	7	20.6
Below protein value	11	32.4
Underweight	3	8.8
No manufacturer, packer or distributor listed	2	5.4
Total	34	100.0

TABLE XX

## CONDEMNATIONS OF FISH AND SHELLFISH

Condemnations	Number of Cases	Percent
Evidence of decomposition	98	58.6
Filthy (worms)	29	17.4
Poisonous	6	3.6
False and misleading label	12	7.2
Underweight	10	6.0
Partially filled containers	2	1.2
Diseased product	4	2.4
Evidence of water added	6	3.6
Total	167	100.0

TABLE XXI  
 CONDEMNATIONS OF CANNED,  
 DRIED, OR FROZEN FRUITS

Condemnations	Number of Cases	Percent
Below accepted standards	38	24.2
False and misleading label	13	8.3
Evidence of decomposition	65	41.4
Beetles and larvae	12	7.6
Filthy	8	5.1
Rodent excreta	13	8.3
Underweight	6	3.8
Poisonous	2	1.3
Total	157	100.0

TABLE XXII

## CONDEMNATIONS OF JELLY PRESERVES

Condemnations	Number of Cases	Percent
Evidence of decomposition	7	25.9
Valuable constituent missing	6	22.2
Below accepted standards	6	22.2
Bad odor and taste	3	11.1
Underweight	3	11.1
Maggots and flies	2	7.5
Total	27	100.0

TABLE XXIII  
CONDEMNATIONS OF VEGETABLES  
AND VEGETABLE PRODUCTS

Condemnations	Number of Cases	Percent
Filthy and worms	33	16.4
Evidence of decomposition	59	30.1
Below accepted standards	59	30.1
Underweight	14	7.5
Insect fragments	21	10.7
False and misleading label	8	4.1
No manufacturer, packer, or distributor listed	2	1.1
Total	196	100.0

TABLE XXIV

## CONDEMNATIONS OF TOMATO PRODUCTS

Condemnations	Number of Cases	Percent
Evidence of decomposition	74	53.5
No manufacturer, packer, or distributor listed	5	3.6
Underweight	7	5.1
Below accepted standards	40	28.4
Filthy	9	6.5
Evidence of water added	4	2.9
Total	39	100.0



TABLE XXV

## CONDEMNATIONS OF NUTS

Condemnations	Number of Cases	Percent
Filthy	16	15.5
Insect infested	29	28.2
Rodent excreta	6	5.8
Wet and damp	14	13.6
Evidence of decomposition	33	32.1
Below accepted standards	2	1.9
Underweight	2	1.9
False and misleading label	1	1.0
Total	103	100.0

TABLE XXVI

## CONDEMNATIONS OF OILS AND FATS

Condemnations	Number of Cases	Percent
False and misleading label	7	24.0
Poisonous	9	31.0
No manufacturer, packer, or distributor listed	3	10.5
Below accepted standards	1	3.5
Substitutions made	7	24.0
Underweight	1	3.5
Evidence of decomposition	1	3.5
Total	29	100.0

TABLE XXVII

## CONDEMNATIONS OF POULTRY AND MEATS

Condemnations	Number of Cases	Percent
Evidence of decomposition	17	31.4
Diseased	15	27.8
Filthy	15	27.8
Below accepted standards	3	5.6
Poisonous	4	7.4
Total		54
		100.0

TABLE XXVIII  
 CONDEMNATIONS OF SPICES

Condemnations	Number of Cases	Percent
Substitution made	16	43.3
No manufacturer, packer, or distributor listed	1	2.7
Insect fragments and excreta	9	24.3
Underweight	2	5.4
Rodent hairs	1	2.7
Poisonous	4	10.8
Bad odor	1	2.7
Evidence of decomposition	3	8.1
Total		100.0

TABLE XXIX

## CONDEMNATIONS OF VITAMIN AND DIETARY FOODS

Condemnations	Number of Cases	Percent
False and misleading label	16	43.2
Below accepted standards	3	8
Rodent hairs	4	10.8
Poisonous	1	2.7
Valuable constituent missing	13	35.2
Total		100.0

### Analysis of the Drug Division

The cases dealing with drugs and devices were classified in a manner somewhat different from the food cases. Instead of listing them in various categories and then listing the condemnations for each category, the cases were listed using the ten major reasons of condemnation as headings. The reason was that the number and the variety of drugs and devices cases brought before the court were too numerous to categorize satisfactorily. The following table lists the major reasons for condemnation and the number of cases and the percent for each type of condemnation.

TABLE XXX

## REASONS FOR CONDEMNATIONS OF DRUGS AND DEVICES

Condemnations	Number of Cases	Percent
Potentially dangerous when used as directed	11	2.39
Inadequate directions or warnings	78	16.96
Deviation from own or official standards	133	28.91
False and misleading claims for drugs used by humans	153	33.26
False and misleading claims for veterinary drugs	53	11.52
Filthy	14	3.05
Failure to state quantity	4	.87
Deceptive packaging	3	.65
No application filed for sale of new drugs	8	1.74
Injunctions or not guilty	3	.65
Total	460	100.00

Tabulation of Different Categories for  
Condemnations of Drugs and Devices

The ~~three~~ tables that follow list three of the major categories for condemnation together with the sub-categories falling under them.





TABLE XXXII

REASONS FOR THE CONDEMNATION OF DRUGS  
WITH INADEQUATE DIRECTIONS OR WARNINGS

Condemnations	Number of Cases	Percent
Unlabeled containers	11	14.1
Sold with no prescription	4	5.1
False and misleading claims	17	21.8
Inadequate directions	32	41.0
Use of drug not stated	9	11.5
Failed to state disease drug would cure	5	
Total	78	100.0

TABLE XXXIII

REASONS FOR THE CONDEMNATION OF DRUGS  
THAT DEVIATED FROM OWN OR OFFICIAL STANDARDS

Condemnations	Number of Cases	Percent
Below purity level	31	23.0
Sediment in drugs	9	6.7
Substitution made	10	7.5
Below standards	31	23.0
Below strength	44	33.0
Contaminated	7	5.3
Not all ingredients listed	2	1.5
Total	133	100.0

The following list contains the seven categories for condemnations not already tabulated together with sub-categories for condemnation. None of the reasons had a sufficient variety of sub-categories to warrant the development of tables.

1. False and misleading claims made by manufacturers of drugs for human consumption were reasons for one hundred fifty-three condemnations. These condemnations were based on general labeling.

2. False and misleading claims made by manufacturers of veterinary drugs were reasons for fifty-three condemnations. These also were based on the general mislabeling of the product.

3. Filthy drugs were listed on fourteen different occasions. Ten of these were condemned for presence of mold and the other four for insects or rodent hairs.

4. Failure to state the quantity in the container was the reason that four cases were adjudged guilty before the courts.

5. Three cases came before the courts because the manufacturer tried to "fool" the consumer through deceptive packaging.

6. On eight different occasions manufacturers of distributors failed to register an application for the release of a new drug.

7. Injunctions or "not guilty" was the reason for the last three remaining cases.

#### Analysis of the Cosmetic Division

The cases dealing with cosmetics were classified according to product, and the numbers of condemnations for each product were tabulated. Table ~~XXXIV~~ contains this information.

TABLE XXXIV

## COSMETIC CONDEMNATIONS

Condemnations	Number of Cases	Percent
Shampoo	19	29.7
Hair oils	4	6.3
Cold creams	6	9.4
Hair dyes and coal tar colors	15	23.4
Deodorants	2	3.1
Perfumed oils	2	3.1
Face makeup	6	9.4
Tooth paste	4	6.3
Miscellaneous	5	7.8
Not guilty	1	1.5
Total	64	100.0

Tabulation of Different Cosmetic Groupings  
With Reasons for Condemnations

Five of the ten cosmetic groupings as listed in Table ~~XXXIV~~ were then tabulated in terms of the number of condemnations and the percent of condemnations for each reason. The remaining five groupings together with allied information are compiled in one list.

TABLE XXXV  
CONDEMNATIONS OF HAIR OIL

Condemnations	Number of Cases	Percent
Injurious to health	1	
False claims and misleading label	3	75.0
Total	4	100.0





TABLE XXXVII

## CONDEMNATIONS OF COLD CREAMS

Condemnations	Number of Cases	Percent
Underweight	3	50.0
Filthy	2	
False claims	1	
Total	6	100.0

TABLE XXXVIII

## CONDEMNATIONS OF SHAMPOO

Condemnations	Number of Cases	Percent
Injurious to health	4	21.1
No egg in the Egg Shampoo	11	57.8
No olive oil in the Olive Oil Shampoo	4	
Total	19	100.0

TABLE XXXIX

## CONDEMNATIONS OF FACE MAKEUP

Condemnations	Number of Cases	Percent
Poisonous and injurious to one's health	2	
Unlisted colors used	1	
Contained high degree of water	1	
Underweight	1	16.7
Filthy	1	16.7
Total	6	100.0

In the following list are five categories of condemnations not already tabulated. These five separate groupings have a total of only fourteen cases. Hence, it was not deemed advisable to tabulate each one separately.

1. Cases involving deodorants came before the court on two different occasions and both times because the product was poisonous.

2. Perfumed oils were condemned on two occasions because of colors being added to the oil without their being listed as safe by the Food and Drug Administration.

3. Hard materials found in tooth paste were the reasons for four condemnations.

4. Miscellaneous products such as bleach, sun tan oil, and nail polish came before the courts on five separate occasions. The offense usually was that the product was poisonous to the user.

5. One defendant was declared to be not guilty.

#### Analysis of Penalties Imposed

The tables thus far have shown the many and varied types of condemnations in the food, drug, and cosmetic fields. The numbers of cases that come before the courts are great. Hence it was believed that an analysis of the penalties invoked would help to indicate the steps taken to reduce the number of unsatisfactory products. The penalties together with the

number and percentage of cases for each penalty are given in the following tables. Table XL lists those for the food division, (page 68). Table XLI lists the numbers and percentages of condemnations for the various groupings in the drug division (p. 70).

TABLE XL  
PENALTIES IMPOSED IN THE FOOD DIVISION

Groupings	No. of Cases	Percent of Total in Food Division	Total Fines in Thousands	Percent of Total	Total Penalties Imposed			
					Probation (in mo.)	Percent of Total	Total Days of Imprisonment	Percent of Total
Beverages and beverage products	80	4.32	21.37	11.37	180	31.69	8	3.67
Bakery products	77	4.16	10.70	5.69	12	2.11	0	----
Cornmeal	51	2.76	13.70	7.29	24	4.23	0	----
Flour	63	3.41	10.60	5.65	36	6.34	0	----
Macaroni and noodles	37	2.00	10.30	5.46	63	11.09	0	----
Cereals and cereal products	79	4.27	7.90	4.20	24	4.23	0	----
Candy	103	5.57	20.14	10.72	60	10.56	0	----
Chocolate and cocoa	37	2.00	.65	.35	0	----	0	----
Sugar	4	.22	0.00	----	0	----	0	----
Butter	123	6.65	12.43	6.61	24	4.23	0	----
Cheese	65	3.51	17.70	9.42	24	4.23	30	13.76
Dairy products	19	1.03	1.30	.69	18	3.17	0	----

TABLE XL (Continued)

Groupings	No. of Cases	Percent of Total in Food Division	Total Fines in Thousands	Percent of Total	Total Probation (in mo.)	Total Penalties Imposed Percent of Total	Total Days of Imprisonment	Percent of Total
Eggs and egg products	36	1.95	1.7	.92	0	---	0	---
Feed and grains	34	1.84	5.4	2.87	60	10.56	0	---
Fish and shellfish	168	9.08	4.55	2.42	0	---	0	---
Fruits	157	8.49	8.33	4.43	0	---	0	---
Jelly preserve	27	1.46	4.45	2.37	0	---	0	---
Vegetables	196	10.59	4.12	2.19	24	4.23	180	82.57
Tomato products	139	7.51	11.6	6.17	0	---	0	---
Nuts	103	5.57	3.08	1.64	12	2.11	0	---
Oils and fats	29	1.57	2.5	1.34	3	.52	0	---
Poultry and meats	54	2.92	1.9	1.01	0	---	0	---
Spices	37	2.0	1.6	.95	1	.18	0	---
Vitamin and Dietary Foods	37	2.0	9.4	5.0	3	.52	0	---
Miscellaneous	95	5.14	2.5	1.34	0	---	0	---
Totals	1850	100.00	187.92	100.00	568	100.00	218	100.00



# PENALTIES IMPOSED IN THE DRUG DIVISION

Reasons for Condemnations	No. of Cases	Percent of Total in Drug Division	Total Penalties Imposed					
			Total Fines in Thousands	Percent of Total	Proba- tion (in mo.)	Percent of Total	Total Days of Impris- onment	Percent of Total
Potentially dangerous when used as directed	11	2.39	3.27	6.23	0	---	60	66.7
Inadequate directions or warnings	78	16.96	14.93	27.61	84	43.75	30	33.3
Deviation from own or official standards	133	28.91	18.07	33.41	24	12.5	0	---
False and misleading claims for drugs used by humans	153	33.26	8.32	15.33	48	25.0	0	---
False and misleading claims for veterinary drugs	53	11.52	4.13	7.8	36	18.75	0	---
Filthy	14	3.05	5.0	9.42	0	---	0	---
Failure to state quantity	4	.87	0	---	0	---	0	---
Deceptive packaging	3	.65	0	---	0	---	0	---
No application filed	8	1.74	0	---	0	---	0	---
Injunctions or not guilty	3	.65	0	---	0	---	00	---
Totals	460	100.00	54.25	100.00	192	100.00	90	100.00

## CHAPTER V

### SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

#### The Problem

The purpose of this study was (1) to analyze the Notices of Judgment under the Federal Food, Drug, and Cosmetic Act for the information they contained, (2) to determine the types of action taken by the Federal Government toward products deemed to be unwholesome, and (3) to make certain recommendations as to how the information thus obtained may be used in consumer education at the high-school level.

#### Methods Employed

In order to obtain the information required to fulfill the objectives of this study, it was necessary to select and analyze certain of the cases found in the Notices of Judgment. The first step was to select the issues of the Notices to be analyzed. This was done by selecting from the Notices, for each of the years during the period 1947-1952, issues for two separate months making sure that the issues for the different years were for different months.

The cases found in these issues were listed and categorized into the areas, food, drugs, and cosmetics. The materials condemned in these categories were then tabulated according to cause for condemnation and penalties imposed.

## Conclusions

In so far as the techniques used in this study may be valid, the following conclusions seem defensible.

1. The data in Table IV indicate that although about four times as many food as drug cases were analyzed, the percentages of cases analyzed for the respective fields were about the same.

2. A high percentage of condemnations listed in the food division (Table V) dealt with liquid foods, foods to which liquids are added, or foods that are originally liquids. The five major offenders are canned vegetables, fruits, tomatoes, canned fish, and butter.

3. A high percentage of condemnations of dry foods were based on the presence of rodent excreta or rodent hairs. (Tables VI through XII).

The facts in 2 and 3 indicate that much of the adulteration of foods appears in the processing and storage rather than with an inferior raw product in the beginning. The manufacturing processes for foods therefore need further investigation and study.

4. Evidence of decomposition appeared frequently with eggs, jellies, fruits, tomatoes and nuts. Again this would indicate that storage facilities should be investigated for sanitation and manufacturing processes need to be improved to kill fungi that cause decomposition.

5. Table XXIII seems to indicate that procedures involved in marketing poultry and meats need greater safeguards. Nearly all reasons for condemnation in this area refer to unsanitary conditions either in the killing or the packing stage.

6. One is amazed at the large number of condemnations of butter and the few condemnations of butter substitutes such as oleomargarine. A great number of the condemnations were based on faulty materials from the dairy sources. Thus these sources seem to need better sanitation.

7. Over fifty percent of the condemnations of the butter cases consisted of butter that did not contain the minimal quantities of fat. Most of these seemed to be failures in manufacturing rather than fraud.

8. It is interesting to note that rodent hairs, rodent excreta, or both, appeared in foods listed in fourteen of the twenty-four food categories. This would again indicate a need for better inspection of the storage places for the raw material. This would enhance the reduction of the number of condemnations in the marketing stage.

9. With respect to drugs, there is a need for a more careful check on the manufacturer, distributor, or packer. There is a marked tendency to give inadequate directions, or to place for sale a drug that does not measure up to defined standards. These factors need closer supervision,

perhaps in the manufacturing stage (Tables XXXII and III).

It should be noted here that two bills dealing with this problem, namely, Senate bill number 601 and House bill number 3551 have been introduced into the 83rd Congress of United States. These two pieces of legislation deal with governmental inspection of factories where food, drugs, or cosmetics are processed.

10. The reasons for the condemnation of drugs and devices seem to fall in three areas, namely, (1) inadequate directions on the label, (2) product below overnment standards or the standard listed on the label, and (3) misleading and false claims made by manufacturers and packers.

11. The common condemnation in the cosmetic division is that the products are usually misrepresented by the manufacturers or packers. Egg shampoos that contain no egg or contains unlisted artificial colors on the label are common.

12. Penalties imposed for marketing faulty products in interstate commerce are very light. In the food division only three defendants were sent to jail from the 1850 cases brought before the court, while the average fine was about one hundred dollars per case. In the drug division only two defendants were sent to jail out of the four hundred sixty cases analyzed. The average fine per case in the drug division was about one hundred ten dollars.

13. The conclusion that one usually arrives at as the cases are analyzed is that the Federal Security Agency has much trouble because of a shortage of staff and the vast task of analyzing and checking so many products. Such an agency must have adequate funds in order to operate efficiently and properly. It is unfortunate that no citizens group is interested or powerful enough to secure additional appropriations.

One wonders how many faulty products are sold without being checked.

#### Recommendations

A number of recommendations are here made for use in the schools of information found in the Notices of Judgment. These recommendations are made with the idea of improving the skills of the future buyers that are now in our school systems.

1. In most courses in general economics there are units on consumer problems. In such a unit the Notices of Judgment could be discussed and attention focused on existing conditions and the extent of government protection being given the consumer.

2. Science classes present a wealth of opportunities for the use of the Notices. The information in them can be incorporated readily into a unit on food preservation or

refrigeration in biology, chemistry, or physics. One advantage here would be that science teachers would have a better background than most other teachers.

3. Home economics where diets and wise consumption are common topics presents itself as an ideal area for discussion of the Notices of Judgment.

4. A course in consumer economics or consumer education as described in Chapter I would probably offer opportunity for extensive use of these pamphlets.

5. In the discussions in health classes in which foods and nutrition are major areas, frequent referrals to the Notices of Judgment would seem profitable.

6. The course in civics would normally have topics concerning wise buying and consumption. Hence the Notices would prove a worthwhile aid.

7. In a course in general science one could use this aid in a unit or discussion on the freezing of foods or the rate of growth of bacteria. Since our basic needs are in the areas of food and health it would seem practical to use this aid.

8. Teachers should point out on every level the need for better inspection, for more extensive regulations, and for heavier punishments. If inspections could be made of intra-state shipments of food, drugs, and cosmetics, the consumer

would be taking a long step forward in the safeguarding of his future life and happiness.

9. Since many of our cities are now sponsoring classes in adult education, it would seem practical to include an adult course in wise consumption and wise buying. Here again the Notices of Judgment would be good source material.



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