

**22184. Adulteration and misbranding of Phytamin Tablets. U. S. v. The Phytamin Corporation. Plea of guilty. Fine, \$200. (F. & D. no. 30182. I. S. no. 53023. Sample nos. 3156-A, 3162-A, 3461-A.)**

This case was based on the interstate shipment of 4 lots of Phytamin Tablets, a product sold as a source of vitamins and as a treatment for various ailments. Examination showed that the article contained no ingredients capable of producing certain curative and therapeutic effects claimed in the labeling; also that three of the four lots contained insufficient vitamins to be of any value in the doses recommended.

On November 7, 1933, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Phytamin Corporation, trading at Battle Creek, Mich., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about March 17, April 21, May 2, and June 25, 1932, from the State of Michigan into the State of Illinois, of quantities of Phytamin which was misbranded, and portions of which were also adulterated. The article was labeled in part: "Phytamin \* \* \* The Phytamin Corporation New York [or "Battle Creek, Mich.]"

Analysis by this Department of a sample of one of the shipments showed that the article consisted of brown sugar-coated tablets containing chiefly calcium phosphate, iron phosphate, extracts of plant drugs, small proportions of sodium, potassium, iodine and carbonate compounds, volatile oils including oil of cinnamon and oil of cloves, a fixed oil, starch, and yeast. Analyses of samples taken from the remaining shipments showed that the article consisted essentially of calcium and iron phosphates, starch, yeast cells, and unidentified plant extractives. Tests of the samples from the said three shipments showed that they contained no significant amount of vitamins A, B, C, and D.

It was alleged in the information that 3 of the 4 lots were adulterated in that their strength and purity fell below the professed standard and quality under which they were sold, in that the article was represented to contain in concentrated and active form the antirachitic vitamin ("fat-soluble A"), the antineuritic vitamin ("water-soluble B"), and the antiscorbutic vitamin C; whereas it contained little if any vitamins A, B, and C and was of no value as a source of these vitamins in the dosage recommended.

Misbranding of the said three lots was alleged for the reason that the statements, "Phytamin contains in concentrated and active form the antirachitic vitamin ('fat soluble A'), the antineuritic vitamin ('water soluble B'), the antiscorbutic vitamin ('C')", borne on the carton containing the article, were false and misleading.

Misbranding of the said three lots was alleged for the further reason that certain statements, designs, and devices appearing on the box and carton labels falsely and fraudulently represented that the article was effective as a vitamin food vitalizer; effective as a treatment, remedy, and cure for lack of appetite, indigestion, underweight, anaemia, nervous disorders, fatigue, weakness or general breakdown brought on by overwork or worry, irritability, melancholia and other forms of neurasthenia; effective to induce normal sleep and to restore mental and physical energy and the will to live; effective to stimulate the general nutrition of the body; effective as a treatment in lingering convalescence; effective as a treatment in cases of malnutrition, undernourishment, underdevelopment, and so-called "Deficiency" diseases in children, produced by continued consumption of food lacking in vitamins and plant salts ("Food essentials") and resulting in paleness, thinness, weakness, listlessness, and similar subnormal conditions; effective to promote growth, prevent tooth decay, and aid in the building up and strengthening of the bone structure; effective to insure life, health and strength, and supply the vitalizing, strengthening blood, nerve, muscle, bone, and body-building elements of nature; and effective to do all that yeast does and to enable food to perform its natural function, to sustain life, promote health, and develop strength. Misbranding of the remaining lot was alleged for the reason that certain statements, designs, and devices appearing on the bottle label and in a circular shipped with the article, falsely and fraudulently represented that the article was effective as a reconstructive tonic and builder; effective as a treatment, remedy, and cure for general depletion, disordered metabolism, malnutrition, anaemia, retarded growth and slow convalescence; effective as a treatment, remedy, and cure for weak, undernourished anaemic and "backward" children; effective as a blood builder and nerve strengthener; effective to insure health and to supply nourishment, strength, and vigor to all body functions; effective to perform the difficult task

of nourishing bodies insufficiently nourished by the devitalized, denatured, and ultra-refined foods of modern life; effective as a treatment for wan, pinched faces, nervous spasms and twitchings, insufficient strength, poor teeth, malformed jaws and poor skeletal structure, weak eyes, "backward" minds; effective to restore childhood's natural birthright of buoyant health and vibrant vitality; effective as a treatment for nervous complaints; effective to restore recuperative powers after illness, to prevent the frequent susceptibility to disease and a host of other symptomatic complaints; effective as a treatment for disease and infections of a most serious sort, Bright's disease, diabetes, tuberculosis, and nutritional diseases; effective to supply the material for rich blood, sound nerves, proper functioning vital organs, and well-formed substantial skeletal structure and teeth; effective to have the property of ready assimilation by the starved tissue and impoverished blood; effective as a powerful reconstructive; effective to produce improved physical and mental vigor; effective to repair daily waste, repel disease and restore health and vitality; effective as a treatment, remedy, and cure for pernicious anaemia; effective to help fortify the body against the dangers of infectious disease, and to raise the general health and increase the natural immunity to withstand exposure to disease or other unfavorable conditions; effective to preserve the health and further the development and growth of the growing boy and girl; effective as a treatment, remedy, and cure for nervous exhaustion, from indigestion, weakened condition, complete breakdown, mental and physical; effective as a treatment, remedy, and cure for worms; effective to increase weight; effective to produce pep and enthusiasms and to reduce surplus weight; effective as a treatment, remedy, and cure for general debility, physical and nervous exhaustion, and all diseases where systemic weakness is evident; effective to aid the vital functions to gain in strength and vitality; effective as an aid to the upbuilding processes and to supply the elements needed to attain health and vigor; effective as a treatment during protracted illness, or an exceptionally virulent attack of disease; to relieve general exhaustion and to prevent a serious relapse; effective as a treatment, remedy, and cure for all chronic conditions, such as acidosis, anaemia, asthma and hay fever, bronchial affections and catarrhal conditions, neuritis and other painful or distressing symptoms of chronic conditions due to lowered vitality; effective to supply needed minerals vital to the health of expectant mothers and that of the growing foetus; effective as a treatment, remedy, and cure for nerve weakness and exhaustion, loss of pep and vitality, anaemic conditions, general weakness and similar conditions characteristic of a low state of health; effective as a remedy of amazing restorative powers; and effective as a treatment in many serious conditions to contribute immeasurably to the sense of well-being and to provide increased immunity to disease.

On February 3, 1934, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$200.

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

**22185. Misbranding of Ma Burns' External Liniment. U. S. v. William B. McClellan (Ma Burns' Liniment Co.). Plea of guilty. Fine, \$4. (F. & D. no. 30214. Sample no. 8298-A.)**

Examination of a sample of Ma Burns' External Liniment showed that it contained no ingredient or combination of ingredients capable of producing certain curative and therapeutic effects claimed in the labeling. The article was labeled as being pharmaceutically nonpoisonous, whereas it was pharmaceutically poisonous, since it contained ammonia.

On January 20, 1934, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court an information against William B. McClellan, trading as Ma Burns' Liniment Co., Everett, Mass., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about February 5 and March 4, 1932, from the State of Massachusetts into the State of New Jersey, of a quantity of liniment which was misbranded. The article was labeled in part: (Carton) "Ma Burns' External Liniment \* \* \* A Powerful Antiseptic Pharmaceutically Non-poisonous. \* \* \* Ma Burns' Liniment Co. Everett, Mass."

Analysis of a sample of the article by this Department showed that it consisted of an emulsion containing uncombined ammonia (8.8 percent), turpentine oil, and water.

It was alleged in the information that the article was misbranded in that certain statements, designs, and devices regarding the curative and therapeutic