

"The label used by the claimant states specifically that the solution in the two bottles that were seized was 'Double Strength Solution Posterior Pituitary U. S. P. XI 20 I. U. per CC. For Manufacturing Use. Expiration date September 1943.'

"The Court understands that to be a representation that the solution had a strength of 20 International Units. The evidence of the experts on behalf of the government, whom the Court believes to be very well qualified, testified that it never was a double strength solution of 20 International Units, or, in other words, that it never exceeded at any time 16.2 Units. The claimant's experts, also men of unquestionable competence, testified that by the methods used by them in making their assays which they claim were used in compliance with the Pure Food and Drug Act, it at most equalled 18.5 Units.

"The only issue is whether the solution was properly labeled or branded. The evidence in the case shows that the solution never was a solution of 20 International Units.

"The Court is convinced that the claimant believed it was authorized to label the solution containing 18.5 as a 20 International Units solution, in view of the tolerance allowed by the Pharmacopoeia.

"The claimant was mistaken in believing that it was entitled to use that tolerance in making an absolute representation that the solution was one of 20 International Units.

"The label or representation was not correct. The two bottles were properly seized and must be condemned.

"There accordingly should be a decree in favor of the libellant, with costs." On March 4, 1943, the court made the following findings of facts and conclusions of law:

WILLIAM BONDY, *District Judge:*

FINDINGS OF FACT

"1. That the two bottles, each containing one litre of an article labeled in part 'Double Strength Solution of Posterior Pituitary U. S. P. XI 20 I. U. per CC.' contained a solution of posterior pituitary the strength of which was not double the strength of solution of posterior pituitary U. S. P.

"2. That the two bottles described in finding No. 1 contained a solution of posterior pituitary which did not contain more than 18.2 International Units per cubic centimeter.

"3. That at no time since its manufacture by the claimant herein did the two bottles of solution of posterior pituitary herein contain 20 international units per cubic centimeter.

"4. The statement on the label of the product, 'Double Strength Solution of Posterior Pituitary, U. S. P. XI 20 I. U. per cc.' was false and misleading."

CONCLUSIONS OF LAW

"1. The product was misbranded while in interstate commerce.

"2. The product must be condemned."

On March 9, 1943, judgment of condemnation was entered against the lot at New York and it was ordered destroyed. On May 24, 1943, Pro-Medico Laboratories, Inc., Brooklyn, N. Y., claimant for the lot at Brooklyn, having filed an answer denying the allegation in the libel with respect to misbranding and subsequently having withdrawn its answer, judgment of condemnation was entered and the lot was ordered destroyed.

997. Misbranding of Thompson's Daily Vitamin and Mineral Ration. U. S. v. 8 Cartons of Thompson's Daily Vitamin and Mineral Ration. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 9040. Sample No. 13242-F.)

This product was represented in its labeling as supplying $1\frac{1}{4}$ times the minimum adult daily requirements of vitamins A and D, the minimum adult daily requirement of vitamin C and riboflavin, and 3 times the minimum adult daily requirement of vitamin B₁. It was also represented as containing specified amounts of vitamin B₂, niacin amide, pantothenic acid, and biotin, as well as calcium, phosphorus, iodine, iron, and copper.

On December 24, 1942, the United States attorney for the Western District of Washington filed a libel against 8 cartons, each containing 100 boxes, of the above named product at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about October 12, 15, and 20, 1942, from Los Angeles, Calif., by the William T. Thompson Co.; and charging that it was misbranded.

The article was alleged to be misbranded in that the statements appearing on the display card accompanying the article, "Vitamins For Vitality Improve your health! . . . Take the drudgery out of work . . . Put more pep in your play . . . Reduce colds . . . Cut down fatigue . . . Improve appetite and digestion . . . Build nervous stability . . . Prevent impaired eyesight due to Vitamin deficiencies . . . Build up your blood count . . . Prevent dental cavities, bleeding gums, due to deficiencies of Vitamins D, C, and Calcium," were false and misleading since such statements represented and suggested that the article would be effective for the purposes and conditions stated and implied, whereas it would not be so effective.

The article was also alleged to be misbranded under the provisions of law applicable to foods as reported in the notices of judgment on foods.

On January 14, 1943, William T. Thompson Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

VETERINARY USE*

998. Misbranding of Mineralized Bloat Stock Salt. U. S. v. 15 Sacks and 10 Sacks of Mineralized Bloat Stock Salt. Default decree of condemnation. Product to be disposed of by destruction. (F. D. C. No. 9039. Sample No. 7381-F.)

On January 6, 1943, the United States attorney for the District of South Dakota filed a libel against 15 50-pound sacks and 10 100-pound sacks of the above-named product at Sioux Falls, S. Dak., alleging that the article had been shipped in interstate commerce on or about November 6, 1942, from Sioux City, Iowa, by H. L. Johnson & Co.; and charging that it was misbranded. The article was labeled in part: "Mineralized Bloat Stock Salt with Potassium Iodide."

Analysis showed that the article consisted essentially of salt and calcium carbonate with small amounts of sulfur, sodium bicarbonate, sodium and magnesium sulfates, iron oxide, potassium iodide, phosphate, anise, and fenugreek.

The article was alleged to be misbranded in that the reference to "Bloat" in the name of the article, and the directions for the prevention and treatment of bloat in livestock, appearing in its labeling, were false and misleading since such statements represented and suggested that the article was effective in the prevention and treatment of bloat in livestock, whereas it was not so effective.

On February 15, 1943, no claimant having appeared and the court having found that the product was misbranded and should be destroyed, judgment of condemnation was entered and the marshal was ordered to dispose of the product.

999. Misbranding of Van-X Ointment. U. S. v. 8 Tubes and 38 Tubes of Van-X Ointment. Default decree of condemnation and destruction. (F. D. C. No. 8429. Sample No. 22489-F.)

On or about September 29, 1942, the United States attorney for the District of Delaware filed a libel against 8 \$1.00-size and 38 \$.25-size tubes of Van-X Ointment at Wilmington, Del., alleging that the article had been shipped on or about August 18, 1942, from Philadelphia, Pa., by the Totus Manufacturing Co.; and charging that it was misbranded.

Analysis of the article showed that it consisted essentially of a vegetable gum, small amounts of salicylic acid, phenol, sulfur, zinc oxide, and 13.5 percent of alcohol.

The article was alleged to be misbranded in that the following statement appearing in its labeling: (Tube) "Relief for Itch, Eczema, Skin Irritations—For All Breeds of Dogs * * * Apply to affected parts frequently until healed. In bad cases spread on sores and let dry. * * * Alcoholic contents not over 5%," (carton) "For the Relief of Eczema, Itching, Scratching, and Skin Irritations. Also for mange, blotchy coats, falling hair * * * injuries * * * Stops itching immediately. * * * Active Ingredients * * * Alcoholic contents not over 5%," were false and misleading since the article would not be an effective relief for any known cause of eczema, itching, scratching, skin irritations, mange, blotchy coats, and all forms of injuries as was suggested and represented by such statements. It was alleged to be misbranded further in that the statement in its labeling, "Alcoholic contents not over 5%," was false and misleading since the article contained 13.5 percent of alcohol.

An April 12, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

*See also No. 961.