

5591. Misbranding of gift packages. U. S. v. 20 Packages of an article labeled in part "#687," and 20 Packages labeled in part "#722." Default decree of condemnation. Product ordered distributed to charitable institution. (F. D. C. No. 9898. Sample Nos. 44954-F, 44955-F.)

This product contained excessive packing medium; its labeling consisted of stickers inconspicuously pasted on the bottom of the packages, and one lot was short of the weight declared.

On May 6, 1943, the United States attorney for the District of Connecticut filed a libel against the above-identified product at Hartford, Conn., alleging that the article had been shipped in interstate commerce on or about March 29, 1943, by Cheerio Specialties from Brooklyn, N. Y.; and charging that it was misbranded.

The article was alleged to be misbranded in that the containers were so filled as to be misleading since the paper stuffing occupied an excessive amount of the available space and this stuffing was not visible to the purchaser; and in that the name and place of business of the manufacturer, packer, or distributor, and the statement of the quantity of the contents, and the ingredient statement required by the Act to appear on the label or labeling were not prominently placed thereon with such conspicuousness as to render them likely to be read by the ordinary individual under customary conditions of purchase and use.

A portion of the article was alleged to be misbranded further (1) in that the statement "Not less than 15 oz." was false and misleading as applied to an article that was short-weight; and (2) in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On June 26, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered distributed to charitable institutions.

5592. Misbranding of gift packages. U. S. v. 21, 38, and 136 Gift Packages of Food and Confectionery. Default decree of condemnation and destruction. (F. D. C. No. 9137. Sample Nos. 13251-F to 13253-F, incl.)

A portion of the article (21 packages and 38 packages) consisting of assorted food and confectionery, was packed in boxes the bottoms of which were filled with green paper "straw" occupying about one-half of the volume of the boxes when packed. The remainder of the article (136 packages) was packed in folding checker-board boxes, each containing a snug-fitting cellophane-covered fiber carton filled with candy or with an assortment of food and confectionery, together with a box of checkers, and the bottom of the fiber carton contained green paper "straw" occupying about one-fourth of the carton's volume.

On or about January 18, 1943, the United States attorney for the Western District of Washington filed a libel against 21, 38, and 136 gift packages of food and confectionery at Seattle, Wash., alleging that the article has been shipped in interstate commerce on or about October 29 and 30, 1942, from Babylon, N. Y., and New York, N. Y., by A. Newberg & Co.; and charging that it was misbranded. A portion of the article was unlabeled and the remainder was labeled in part: "Net Weight 1 $\frac{1}{4}$ Lbs." or "Net Weight 3 $\frac{1}{4}$ Lbs."

The article was alleged to be misbranded in that its container was so made, formed, and filled as to be misleading since the boxes could contain more food than was packed in them; and in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient. Portions of the article were alleged to be misbranded further in that the statements "Net Weight 1 $\frac{1}{4}$ Lbs." or "Net Weight 3 $\frac{1}{4}$ Lbs." were false and misleading as applied to an article that was short weight; and in that it was in package form and did not bear a label containing an accurate statement of the quantity of the contents. Portions were alleged to be misbranded further in that the statement of the quantity of contents and the name and place of business of the manufacturer, packer, or distributor, required by law to appear on the label, were not prominently placed thereon with such conspicuousness as to render them likely to be read by the ordinary individual under customary conditions of purchase.

On September 16, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

FOOD FOR SPECIAL DIETARY USES *

5593. Adulteration and misbranding of "Bragg Mira-Cal." U. S. v. 108 Packages of "Bragg Mira-Cal." Default decree of condemnation and destruction. (F. D. C. No. 10179. Sample No. 757-F.)

This product was represented in its labeling as containing, in 3 wafers, 800

*See also Nos. 5407, 5482, 5562.

International Units of vitamin D, which is double the minimum daily requirement for vitamin D for persons regardless of age, whereas it contained not more than 400 U. S. P. units of vitamin D per 3 wafers. (By definition, 1 International Unit of vitamin D is equivalent to 1 U. S. P. unit of vitamin D.) The labeling was further objectionable because of false and misleading claims regarding the availability of calcium in the ordinary diet, and because of failure to bear the information regarding the mineral properties of the article required by regulations prescribing the labeling of dietary foods.

On July 9, 1943, the United States attorney for the Northern District of Illinois filed a libel against 108 packages of "Bragg Mira-Cal" at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about May 5 and 13, 1943, by the Live Food Products Co. from Burbank, Calif.; and charging that it was adulterated and misbranded.

The article was alleged to be adulterated in that a valuable constituent, vitamin D, had been in whole or in part omitted or abstracted therefrom.

The article was alleged to be misbranded in that the statements appearing on its label, "Three wafers daily provide the following proportion of the minimum daily adult and children's requirements for * * * Vitamin D 200% Three wafers provide * * * 800 Inter. Units Vitamin D," were false since they were incorrect. The article was alleged to be misbranded further in that the statements appearing in the circular entitled "Facts about Calcium Deficiency," enclosed in the retail carton with the article, "Now—Because of rationing—You must provide the body with extra calcium. * * * The restrictions now placed on these products for civilian consumption make it necessary to provide this vitamin mineral in additional quantities from other sources. * * * Yet calcium is the most difficult mineral for the body to absorb and retain," were false and misleading since the statements represented and suggested that under the present circumstances it was extremely difficult for the ordinary individual to obtain an adequate intake of calcium without resorting to supplemental diet, and that calcium was the most difficult mineral for the body to absorb and retain, whereas it is not difficult to obtain adequate intake of calcium through the consumption of foods readily available, and calcium is not difficult for the body to absorb and retain. The article was alleged to be misbranded further in that it purported to be and was represented as a food for special dietary uses for pregnant or lactating women by reason of its calcium content, and its label failed to bear such information concerning its mineral properties as had been determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses, since its label failed to bear a statement of the proportion of the minimum daily requirement of calcium for pregnant and lactating women furnished by a specified quantity of the product when consumed as directed during a period of 1 day.

On September 17, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5594. Adulteration and misbranding of Ray-D, Tri-Nutron, and Nion B Complex Tablets. U. S. v. 143 Dozen and 14 Dozen Packages of Ray-D Tablets, 150 Dozen and 24 Dozen Bottles of Tri-Nutron Tablets, and 19 Dozen, 51 Dozen, and 8 Dozen Bottles of Nion B Complex Tablets. Default decrees of condemnation and destruction. (F. D. C. Nos. 7901, 7905, 7906. Sample Nos. 64965-E to 64967-E, incl.)

Biological examination showed that the Ray-D Tablets contained not more than 250 U. S. P. units of vitamin D per tablet, and that the Tri-Nutron Tablets contained not more than 125 U. S. P. units of vitamin D per tablet. Microbiological examination of the Nion B Complex Tablets indicated that each tablet contained not more than 440 micrograms of riboflavin.

On or about July 15 and 20, 1942, the United States attorney for the Western District of New York filed libels against 143 dozen 200-tablet and 14 dozen 1,000-tablet packages of Ray-D Tablets, 150 dozen 100-tablet and 24 dozen 500-tablet bottles of Tri-Nutron Tablets, and 19 dozen 40-tablet, 51 dozen 100-tablet bottles, and 8 dozen 250-tablet bottles of Nion B Complex Tablets at Buffalo, N. Y., alleging that the articles had been shipped on or about February 11 and 19, 1942, from Los Angeles, Calif., by the Nion Corporation; and charging that they were adulterated and misbranded.

The Ray-D and Tri-Nutron Tablets were alleged to be adulterated in that a valuable constituent, vitamin D, had been in whole or in part omitted therefrom.

The Ray-D Tablets were alleged to be misbranded (1) in that the statement "Each tablet contains Vitamin D, 500 U. S. P. XI Units," appearing in their labeling, was false and misleading as applied to articles containing not more than 250 U. S. P. units of vitamin D per tablet; and (2) in that the statements