

indicated in the conditions described; (2) in that it was fabricated from two or more ingredients and its label failed to bear prominently placed thereon the common or usual name of each ingredient and an accurate statement of the quantity of the contents with such conspicuousness (as compared with other words and statements on the label) as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use; and (3) in that it did not purport to be and was not represented as a food for which a definition and standard of identity had been prescribed by regulations promulgated pursuant to law and its label failed to bear the common or usual name of the food.

On July 27, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**4246. Adulteration and misbranding of Hemo. U. S. v. 19 Cases of Borden's Hemo. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 8022. Sample No. 7303-F.)**

On August 1, 1942, the United States attorney for the District of Minnesota filed a libel against 19 cases of the above named product at Minneapolis, Minn., alleging that the article had been shipped in interstate commerce on or about April 10 and June 25, 1942, by the Borden Co. from Waukesha, Wis.; and charging that it was adulterated and misbranded. The article was labeled in part: "Borden's Hemo Vitamin and Mineral Fortified Preparation for Malted Drinks (Chocolate Flavored)."

It was alleged to be adulterated in that the valuable constituents, calcium and phosphorus, had been in whole or in part abstracted or omitted therefrom.

It was alleged to be misbranded in that the statements on the label "Composition by Assay of Chocolate Flavored Hemo per Ounce \* \* \* Calcium 0.564 Gram, Phosphorus 0.690 Gram \* \* \* Each serving ( $\frac{2}{3}$  ounce or 2 heaping teaspoonfuls) contains approximately one-half of the daily minimum requirements of adults for \* \* \* calcium, phosphorus," were false since it contained less than 0.564 gram of calcium per ounce and less than 0.690 gram of phosphorus per ounce, and each serving of  $\frac{2}{3}$  ounce or 2 heaping teaspoonfuls would contain less than one-half of the minimum daily requirements of adults for calcium and phosphorus.

It was alleged to be misbranded further in that certain statements in the labeling which represented that it is practically impossible to obtain sufficient vitamins and minerals except through the use of the article or a similar one; that convalescents, children, old people, dieting women, and others could assure themselves of their quota of essential vitamins and minerals by its use; that greater vigor and vitality would be the result of its use; and that low resistance, frequent colds, impaired nerves, poor appetite, poor digestion, low energy, faulty bone structure, poor teeth, general weakness, low vitality, nutritional anemia, paleness, and poor bones could be prevented or corrected by its use, were false and misleading since it is not practically impossible to obtain sufficient vitamins and minerals except through the use of such an article, and its use would not produce the results claimed in such statements.

On September 15, 1942, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be delivered to a charitable institution.

**4247. Misbranding of Vita Might capsules. U. S. v. 9 Packages of Vita Might Capsules and 2 Cartons of Circulars. Default decree of condemnation and destruction. (F. D. C. No. 7509. Sample Nos. 80174-E, 80175-E.)**

The labeling of this product bore false and misleading representations regarding its efficacy in the conditions indicated hereinafter. A portion (black capsules) contained smaller amounts of minerals than declared.

On May 14, 1942, the United States attorney for the Northern District of Ohio, filed a libel against 9 packages of Vita Might Capsules, and 2 cartons each containing approximately 1,500 circulars entitled "What Vitamins on the Job Can Do for You," at Cleveland, Ohio; alleging that the article had been shipped in interstate commerce on or or about February 28, 1942, by the Vita Foods Corporation from Chicago, Ill.; and charging that it was misbranded.

Examination showed that the product consisted of red capsules containing vitamins and black capsules containing minerals. Analysis of a sample of the black capsules showed that they contained dicalcium phosphate, peptonized iron, magnesium sulfate, manganese hypophosphite, copper peptonate, zinc sulfate, and potassium iodide. Vitamin assays of the red capsules showed that they con-

tained 10,000 U. S. P. units of vitamin A, 1,000 U. S. P. units of vitamin B<sub>1</sub>, and 1,000 U. S. P. units of vitamin D per capsule.

The article was alleged to be misbranded in that certain statements in the labeling were false and misleading, since they represented and suggested (1) that consumption of the article would result in longer life, in good health, in increased vigor, ambition, and energy, in improved sleep, in lessened fatigue, aches, pains, and nervous strain, in increased resistance to diseases, colds, and coughs, in beautiful teeth, skin and hair, in better digestion of food, in healthy hair and skin, in growth, appetite, and muscular activity, in freedom from skin disorders, and in good blood, fertility, and good teeth; (2) that two out of three individuals are in need of vitamin supplements; and (3) that the vitamin and mineral requirement of man cannot be obtained by consumption of ordinary foods; whereas, consumption of the article would not accomplish such results, two out of three individuals are not in need of a vitamin supplement, and the vitamin and mineral needs of man can be obtained by consumption of ordinary foods.

The article was alleged to be misbranded further in that the black capsules failed to contain the represented amounts of iron, copper, zinc, magnesium, and manganese declared on the label, namely, "Iron  $\frac{3}{4}$  Gr. Copper  $\frac{2}{8}$  Gr. Zinc  $\frac{1}{25}$  Gr. Magnesium  $\frac{2}{3}$  Gr. Iodine  $\frac{3}{2000}$  Gr. Manganese  $\frac{2}{3}$  Gr."

It was alleged to be misbranded further in that statements in the labeling regarding the efficacy of vitamins and minerals to promote healthy hair and skin; prevent night blindness; build resistance to colds, coughs, sinus; promote growth, healthy nerves, appetite, digestion, muscular activity; minimize effects of alcohol; prevent certain skin disorders; heal lesions of lips at angles of mouth, eyes, and nose; promote growth and healing of wounds; prevent anemia, hemorrhage, pyorrhea, tuberculosis, and scurvy; form bones and teeth; prevent rickets; cure certain muscular and nerve diseases; restore color to gray hair; develop red corpuscles; develop hemoglobin; promote normal growth of body cells; influence muscle activity, digestion, and nerves; promote reproduction and growth; prevent goiter; aid heart and blood clotting; build bones and teeth; aid brain cells; promote healthy bones and blood; and promote fertility, were misleading, since the statements created the impression in the mind of the reader that the article was an effective treatment for the symptoms and diseases mentioned and described, whereas it was not an effective treatment for such conditions.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, reported in D. D. N. J. No. 786.

On June 22, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**4248. Adulteration and misbranding of Vi-Penta Drops 'Roche'. U. S. v. 234 Vials of Vi-Penta Drops 'Roche.' Default decree of condemnation and destruction. (F. D. C. No. 4833. Sample No. 69145-E.)**

This product was represented to contain 9,000 U. S. P. units of vitamin A per 0.6 cc. but in fact contained not more than 3,500 U. S. P. units of vitamin A per 0.6 cc.

On May 27, 1941, the United States attorney for the Southern District of New York filed a libel (amended September 16, 1941) against the above-named product at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about April 22, 1941, by Hoffman-La Roche, Inc., from Nutley, N. J.; and charging that it was adulterated and misbranded.

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

It was alleged to be misbranded in that the following statements (circular) were false and misleading since the article would not be efficacious for such purposes: "Each 10-minim dose of Vi-Penta Drops contains: Vitamin A 9000 U. S. P. Units \* \* \* Indications for Vi-Penta Drops \* \* \* For the normal growth and development of infants or children. In cases of malnutrition, lowered resistance or run-down states. During prolonged illness such as infections, anemias, tuberculosis, typhoid, etc. \* \* \* For gastrointestinal conditions, such as diarrhea, colitis, etc. When restrictions in diet are necessary, as in obesity, diabetes, catarrhal jaundice, etc. Whenever the total food intake must be increased, as in hyperthyroid conditions. For the treatment of certain skin diseases, such as eczema. In certain allergic conditions, such as those due to milk, eggs, wheat, etc. During periods of temporary or persistent vomiting (in infancy, childhood, or pregnancy). In the prophylaxis or treatment of abnormal dentition (or gum and tooth conditions).