

new energy; and 1 boxful of the article did not contain the amount of wheat germ represented or suggested.

It was alleged to be misbranded further in that it purported to be and was represented as a food for special dietary use by reason of its content of vitamin B<sub>1</sub>, riboflavin, vitamin E, phosphorus, magnesium, calcium, and iron, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as has 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 did not state the proportion of the minimum daily requirement of vitamin B<sub>1</sub> and riboflavin, phosphorus, calcium, and iron contained in a specified quantity of the food which was customarily or usually consumed during a period of 1 day; it did not state the amount of vitamin E contained in a specified quantity of the food and that the need for vitamin E in human nutrition has not been established; and it did not state the quantity of magnesium contained in a specified amount of the food.

On March 22, 1943, no claimant having appeared, the court entered its findings that the product was misbranded and adjudged and decreed that "the findings and judgment herein extend to, and include, the name, Spark-O-Lifé, as it is written and printed upon the container cans (packages) described in the libel filed herein, with the other writings found to be effective as a misbranding of the product in question, it being the finding and the judgment of the court that such said name is not a name common, or usual, or practicable, to describe products such as is described generally on the label which is quoted in the said libel." The court further ordered that the product be destroyed.

**5795. Misbranding of Allen's Nijara Capsules. U. S. v. 16 Dozen Packages and 71 Boxes of Allen's Nijara Capsules. Decrees of condemnation and destruction. (F. D. C. Nos. 9707, 9739. Sample Nos. 37143-F, 37149-F.)**

This product consisted of dried green stem and leaf material, including in 1 lot such material as parsley and watercress, and in the other lot a considerable proportion of tissues resembling parsley. Examination of a sample showed that it contained not more than 5 U. S. P. units of thiamine (about  $\frac{1}{60}$  the minimum daily requirement of thiamine), and but an inconsequential amount, if any, of ascorbic acid, riboflavin, nicotinic acid and vitamin D.

On March 25 and April 2, 1943, the United States attorney for the District of Columbia filed libels against 16 dozen packages and 71 boxes of Allen's Nijara Capsules at Washington, D. C., alleging that the article, which had been consigned by the Allen Products Co., Inc., Washington, D. C., on or about February 24 and March 23, 1943, was in interstate commerce; and charging that it was misbranded. It was labeled in part: (Packages and boxes) "Twenty (20) Capsules Allen's Nijara Composed of the following ingredients only: Asparagus, Parsley, Watercress, Broccoli. For Adults: Suggested Daily Dosage: Five (5) capsules daily."

The article was alleged to be misbranded in that the statements appearing in its labeling, in the leaflet entitled "Allen's Nijara," attached to the packages and boxes containing the article, which represented and suggested that the article was effective to soothe pain, provide relief from rheumatism, arthritis, neuritis, sciatica, gout, lumbago, and sinusitis; that it would supply a mineral deficiency in the diet and provide pain relief from rheumatic disorders; that it was effective more quickly in the treatment of mild cases of the symptoms and diseases mentioned than in cases of long standing; and that, when taken in accordance with the directions, it would supply the body with its needs for such important minerals as calcium and phosphorus, with such important vitamins as thiamine, riboflavin, ascorbic acid, nicotinic acid, and vitamin D, were false and misleading since it was not so effective and would not supply the body with its needs for the minerals and vitamins mentioned.

It was alleged to be misbranded further in that it purported to be and was represented as a food for special dietary uses by reason of its vitamin and mineral content, and its label failed to bear such information regarding its vitamin and mineral properties as has 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 dietary properties upon which such uses were based, including the presence or absence of specific essential minerals and vitamins; and in that the statement, "only fresh vegetables are used in compounding Allen's Nijara," appearing in its labeling, was false

and misleading since the article was compounded of dried vegetables, not fresh vegetables, and did not provide the vitamins that some vegetables provide in their fresh state.

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

On May 12, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**5796. Misbranding of Bovex. U. S. v. 21 Bottles of Bovex. Default decree of condemnation and destruction. (F. D. C. No. 9808. Sample No. 31130-F.)**

Analysis showed that the article consisted of an oil such as linseed and wheat-germ oil with a small amount of calcium carbonate and water.

On April 23, 1943, the United States attorney for the Northern District of California filed a libel against 21 1-pint bottles of Bovex at Petaluma, Calif., alleging that the article had been shipped in interstate commerce from Portland, Oreg., on or about March 23, 1943, by the Triangle Milling Co.; and charging that it was misbranded.

It was alleged to be misbranded (1) in that the statements appearing in its label which represented and suggested and created in the mind of the reader the impression that it would be effective for better breeding, would promote normal breeding, aid in the prevention of sterility due to vitamin or nutritional deficiencies, aid reproduction by reason of its content of vital elements and chemicals, prevent infection, prevent the embryo from being reabsorbed, promote normal conception, reduce the immediate deficiency from normal reproduction, and help prevent reabsorption; and that vitamin E was accepted by the American Medical Association and the American Council of Pharmacy and Chemistry as the anti-sterility vitamin were false and misleading since the article was not so effective and had not been accepted by the associations named; and (2) 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.

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

On June 30, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**5797. Misbranding of Cuban honey. U. S. v. 38 Jars and 284 Packages of Honey. Decrees of condemnation. Portion of product ordered destroyed and remainder ordered sold upon adoption of safeguards to insure its use in compliance with the law. (F. D. C. Nos. 8170, 8371. Sample Nos. 1116-F, 1117-F, 5901-F.)**

On August 21 and September 28, 1942, the United States attorneys for the Eastern District of Missouri and the Northern District of Illinois filed libels against 25 \$1-size, 7 \$2-size, and 6 \$3.75-size jars of honey at St. Louis, Mo., and 141 9-ounce, 81 22½-ounce, 56 48-ounce, 3 96-ounce, and 3 1-gallon packages of honey at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about June 16, July 18, and August 29, 1942, from Lansing, Mich., by Cuban Honey, Inc.; and charging that it was misbranded. The article was labeled in part: "El Aguinaldo Cuban Honey."

Analysis of a sample of the article showed that it consisted of honey, and that the mineral matter therein amounted to approximately one-sixth of 1 percent.

The lot at Chicago was alleged to be misbranded in that the statements appearing in its labeling which represented and suggested that it would constitute a remedy for sick and wounded soldiers, and that it provided a significant portion of minerals, and constituted an adequate treatment for digestive disorders, bronchial asthma, bronchitis, asthma, bronchial pneumonia, coughs, sinus conditions, hay fever, and stomach ulcers were false and misleading since it would not constitute a remedy for sick and wounded soldiers nor an adequate treatment for the conditions above-described, and it did not provide a significant portion of minerals.

The lot at St. Louis was alleged to be misbranded in that the statements appearing in its labeling which represented and suggested that it constituted a remedy for sick and wounded soldiers; that it was valued for its medicinal properties; that it played an important part in the preservation of zestful health for those who were well and in restoring health to those who were ill; that it