

**7920. Misbranding of Vytalyne. U. S. v. 400 Bottles of Vytalyne. Tried to the court and jury. Verdict for the Government. Decree of destruction. (F. D. C. No. 10800. Sample No. 21913-F.)**

**LIBEL FILED:** September 23, 1943, Western District of Pennsylvania; libel amended on January 14, 1944.

**ALLEGED SHIPMENT:** On or about May 21, 1943, from New York, N. Y., by the Dealers' Brands Co.

**PRODUCT:** 400 bottles, each containing 50 tablets, of Vytalyne at Pittsburgh, Pa. Analysis showed that the article contained approximately 10 milligrams of calcium pantothenate per tablet.

**VIOLATIONS CHARGED:** Misbranding, Section 403 (a), the following and similar labeling statements were false and misleading since they represented and suggested that the article would be effective in restoring the natural color to gray hair or in preventing the graying of hair, whereas the article would not be effective for such purposes: (Display placard) "Banish Gray and Graying Hair with Vitamins! \* \* \* Vytalyne Hair Recoloration Method 'Let Nature Provide the Color'"; (circular entitled "Vitamins and Your Hair") "Several research workers have conducted experiments with laboratory animals and have reported that certain of these, when deprived of Pantothenic Acid, \* \* \* showed immediate graying of their hair or fur \* \* \* when the deficiency was corrected by feeding a corrective quantity of Pantothenic Acid \* \* \* the color returned to the fur \* \* \* Calcium Pantothenate, with mineral salts which are believed by some research workers to be helpful in speeding restoration of hair color"; (circular entitled "Routine Procedure in the 'Vytalyne' System of Hair Recoloration") "This system of experimental hair recoloration is designed to correct vitamin deficiencies that cause graying of the hair \* \* \* after all the hair has resumed its natural color, the continued use of calcium Pantothenate 'Vytalyne' is advisable to avoid the recurrence of the vitamin deficiency and the loss of the color that has been regained."

Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its calcium pantothenate content, and its label failed to bear, as required by the regulations, the statement, "The need for calcium pantothenate in human nutrition has not been established."

**DISPOSITION:** On February 29, 1944, the Dealers' Brands Co., claimant, filed an answer denying that the product was misbranded as alleged in the libel, and thereafter the case proceeded to trial before a jury. At the conclusion of the Government's testimony, the claimant rested his case without offering any testimony and, upon motion by the Government's attorney, the court, on May 22, 1944, instructed the jury to return a verdict in favor of the Government. The jury thereupon returned a verdict for the Government, and on January 12, 1945, an order was entered directing that the product, together with the placards and circulars, be destroyed.

**7921. Misbranding of Macu Brand Papaya Concentrate. U. S. v. Macu Fruit Products. Motion to quash denied. Plea of guilty. Fine, \$200 and costs. (F. D. C. No. 10602. Sample No. 43991-F.)**

**INFORMATION FILED:** February 9, 1944, Northern District of Illinois, against the Macu Fruit Products, a corporation, Chicago, Ill.

**ALLEGED SHIPMENT:** On or about April 17, 1943, from the State of Illinois into the State of Missouri.

**PRODUCT:** Analysis disclosed that the product was a mixture of papaya pulp, crushed papaya seed, fruit acids, flavoring, and sugar.

**LABEL, IN PART:** "Macu Brand Papaya Concentrate."

**VIOLATION CHARGED:** Misbranding, Section 403 (a), the name "Papaya Concentrate" was false and misleading since the article did not consist of papaya concentrate but consisted of a mixture of papaya pulp, crushed seeds, fruit acids, flavoring, and sugar. Further misbranding, Section 403 (a), certain statements in an accompanying circular were false and misleading since they represented and suggested that the article was of special value in the maintenance and restoration of health; that it was rich in vitamins; that it contained an enzyme resembling in its action animal pepsin; that it would aid digestion; that it possessed medicinal values; that it was quick and far-reaching as a curative agent for gastritis, dyspepsia, ulcers, and bowel disorders; that it would aid digestion in chronic dyspepsia and gastric fermentation; that it would dissolve false mem-

branes in diphtheria and croup; that it would act as a solvent of false membranes and warts; that it would be of value in fissured tongue or cancer; that it possessed peculiar digestive properties; that it was Nature's special remedy for many ills of mankind; and that it would be efficacious in the treatment of 90 percent of human ills, and in the treatment of digestive or stomach trouble, including ulcers, colitis, and gastritis. The article was not rich in vitamins; it did not contain an enzyme resembling, in its action, animal pepsin; it did not possess medicinal values or peculiar digestive properties; it was not Nature's special remedy for the many ills of mankind; and it would not be efficacious for the purposes recommended.

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.

**DISPOSITION:** On June 12, 1944, the court entered an order denying the defendant's motion to quash the information. Thereafter, a plea of guilty was entered by the defendant, and on November 6, 1944, the court imposed a fine of \$200 and costs.

**7922. Misbranding of Min-O-Malt (chocolate-flavored sirup). U. S. v. 821 Cartons of Chocolate Flavor Syrup. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 12347. Sample Nos. 20294-F, 20299-F.)**

**LIBEL FILED:** May 11, 1944, District of Massachusetts.

**ALLEGED SHIPMENT:** On or about August 11 and 19, 1943, by the Energy Food Co., from Brooklyn, N. Y.

**PRODUCT:** 821 cartons, each containing 12 jars, of chocolate-flavored sirup (Min-O-Malt), at Lynn, Mass.

**LABEL, IN PART:** "Chocolate Flavor Syrup Enriched with Energizing Vitamins and Minerals 1 Lb. 6 Oz. Net Delicious Min-O-Malt New Vitamins Added Nutritious."

**VIOLATIONS CHARGED:** Misbranding, Section 403 (a), the label statement "1 Lb. 6 Oz. Net" was false and misleading as applied to the product, which was short-weight.

Further misbranding, Section 403 (a), the labeling statements quoted below created the false and misleading impression that use of the article would increase resistance to disease and would result in good teeth, proper bone formation, rich blood, physical and mental well-being, and normal health; and that the article would supply nutritional factors ordinarily lacking in or unobtainable from ordinary foods: (Label) "Energizing \* \* \* for better resistance \* \* \* for better appetite \* \* \* for healthier skin \* \* \* for better digestion \* \* \* for healthier teeth \* \* \* for solid bone structure \* \* \* for more red blood cells \* \* \* Vitamins and Minerals play a decisive role in the physical and mental well-being of the individual. These minute substances in foods make for the normal functioning of body processes. Minerals are the building stones of the cells, forming the bone and tissue structure of the body. Vitamins and Minerals help to defeat deficiency diseases, and make for buoyant health"; (circular entitled "The Importance of Vitamins and Minerals") "for normal health and nourishment \* \* \* sufficient for maintaining normal health. \* \* \* foods alone are not sufficient to keep the body in normal health; but that Vitamins and Minerals play the decisive role in the physical and mental well-being of the individual. \* \* \* increases resistance to infection; promotes growth, and helps to prevent night blindness. \* \* \* stimulates appetite; promotes growth; aids normal intestinal function, and helps to maintain a healthy nervous system. \* \* \* prevents various skin and eye infections. It is also essential for normal well-being. \* \* \* essential in the prevention and cure of Pellagra, a disease affecting practically every system in the body. Pellagra is primarily a disease found in the southern climates, but pre-Pellagra conditions are known to exist in practically every part of the world. The importance of this Vitamin in the daily nutrition is, therefore, self-evident. \* \* \* It plays a very important part in the formation of sound teeth and the maintenance of their normal structure. \* \* \* helps to build the red cells in the blood stream. Nutritional anemias (poor Blood), caused by lack of iron are greatly benefitted by a prompt intake of iron or iron-rich foods. \* \* \* Unfortunately, however, in our modern way of life, we have developed a taste for highly refined food products, cooked and preserved in various ways, with the result that many foods have been robbed of these all-important Vitamin and Mineral elements. More than that, our present form of living in crowded cities, far from nature, has caused increased nervous tension. The quick tempo of our city life has forced us to