13490. Misbranding of Lin-A-Cea. U. S. v. Parke D. Brollier (Park-Lee Products Co.). Plea of nolo contendere. Fine, $300 and costs. (F. D. C. No. 23242. Sample No. 38406-H.)

INDICTMENT RETURNED: February 16, 1948, Northern District of Ohio, against Parke D. Brollier, trading as the Park-Lee Products Co., Lorain, Ohio.

ALLEGED SHIPMENT: On or about August 22, 1946, from the State of Ohio into the State of Michigan.

PRODUCT: Examination showed that the product was ground, roasted flaxseed.

NATURE OF CHARGE: Misbranding, Section 403 (a), certain statements in the labeling of the article were false and misleading.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2418, in which is set forth the nature of the false and misleading statements referred to above.

DISPOSITION: May 10, 1948. A plea of nolo contendere having been entered, the court imposed a fine of $300 and costs.

13491. Alleged misbranding of Protecto. U. S. v. Bess J. Levine (Miracle Food Co.). Plea of not guilty. Tried to the court. Verdict of not guilty. (F. D. C. No. 23588. Sample No. 41022-H.)

INFORMATION FILED: February 13, 1948, Eastern District of Pennsylvania, against Bess J. Levine, trading as the Miracle Food Co., Philadelphia, Pa.

ALLEGED SHIPMENT: On or about January 31, 1947, from the State of Pennsylvania into the State of Tennessee.

LABEL IN PART: "Protecto contains Milk Whey Powder, Malt Sugar 200,000,000 of Acidurid Bacteria per 1 C.C. 16 ozs. * * * Expir. date Apr. 2, 1947."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statements "Contains * * * 200,000,000 of Acidurid Bacteria per 1 C.C. * * * Expir. date Apr. 2, 1947" were false and misleading, since the statements represented and suggested that prior to April 2, 1947, the article would contain not less than 200,000,000 acidurid bacteria per 1 cc., whereas the article on a date prior to April 2, 1947, namely, March 17, 1947, contained less than .4 percent of the acidurid bacteria represented.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2419.

DISPOSITION: A plea of not guilty having been entered, the case came on for trial before the court without a jury on the basis of the stipulation and briefs of the parties. On July 1, 1948, the court found the defendant not guilty. The opinion handed down by the court in pronouncing judgment is set forth in notices of judgment on drugs and devices, No. 2419.

13492. Alleged misbranding of Ayds vitamin and mineral candy. U. S. v. 61 Boxes, etc. Libel ordered dismissed. (F. D. C. No. 9461. Sample No. 19667-F.)

LIBEL FILED: March 1, 1943, District of Massachusetts.

ALLEGED SHIPMENT: On or about January 25, 1943, by the Carlay Co., from Chicago, Ill.

PRODUCT: 61 1-pound boxes and 69 2-pound boxes of Ayds vitamin and mineral candy at Boston, Mass. Examination indicated that the product was essentially caramel candy.

NATURE OF CHARGE: Misbranding, Section 403 (a), certain statements in the labeling of the article were false and misleading, since they represented and suggested that use of the product made easy the loss of body weight, either quickly or slowly, whereas the use of the article would have no effect in causing loss of body weight; and the label designation "Ayds," by reason of representations made by or on behalf of the manufacturer and owner, had acquired the meaning "aids in reducing" when used in association with candy which was to be eaten by obese individuals as part of a plan for reducing excess fat, and having acquired and attained such meaning in such association, was false and misleading as applied to candy that did not aid in reducing weight.