

dren in proportion to age," suggested continued use of the article, whereas it was a laxative and should not be used continuously.

The Sa-Lax was alleged to be misbranded further in that its label failed to bear such adequate warnings against use in those pathological conditions wherein its use might be dangerous to health, or against unsafe dosage or methods or duration of administration, in such manner and form as are necessary for the protection of users, since the product contained laxative drugs and therefore should not be used when abdominal pain, nausea, vomiting, or other symptoms of appendicitis are present; and that frequent or continued use of the article might result in dependence on laxatives.

The Ridia was alleged to be misbranded further under the provisions of the law applicable to foods reported in food notices of judgment.

On November 9, 1942, pleas of nolo contendere having been entered, imposition of sentence was suspended as to both defendants and they were placed on 2 years' probation on each count, to run concurrently.

911. Adulteration and misbranding of salvaged drugs. U. S. v. 50 Cases of Foods and Drugs. Consent decree of condemnation. Products released under bond for segregation and destruction of unfit portion. (F. D. C. No. 7780. Sample Nos. 59789-E to 59800-E, incl., 78301-E, 78302-E.)

These products consisted of approximately 2,500 pounds of fire- and water-damaged and otherwise deteriorated salvaged drug store stock, and included, among other things, baby foods, patent medicines, surgical dressings, and vitamin capsules.

On June 23, 1942, the United States attorney for the Western District of Virginia filed a libel against 50 cases of foods and drugs at Roanoke, Va., alleging that the articles had been shipped in interstate commerce on or about April 16, 1942, from Rutherfordton, N. C., by Dobson and Co.; and charging that the drug items were adulterated and misbranded.

The drug items were alleged to be adulterated in that water and smoke had been mixed therewith so as to reduce their quality.

They were alleged to be misbranded (1) in that the labeling of some of the items contained statements regarding the curative or therapeutic effects of the articles which were false and misleading; (2) in that some of the drugs and merchandise failed to bear labels containing an accurate statement of the quantity of contents of the packages; (3) in that the labels of some of the items did not bear the common or usual name of each active ingredient of the articles; and (4) in that the labeling of some of the items did not bear such adequate warnings against use in those pathological conditions wherein their use might be dangerous to health, or against unsafe dosage or duration of administration, in such manner and form as are necessary for the protection of users.

On September 2, 1942, Dobson and Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the food and drugs which had been seized were ordered released under bond for segregation and destruction of the unfit portion under the supervision of the Food and Drug Administration.

912. Misbranding of Analgesic Balm. U. S. v. 11¾ Dozen Packages of Analgesic Balm. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 6728. Sample No. 74177-E.)

On January 19, 1942, the United States attorney for the District of New Jersey filed a libel against 11¾ dozen packages of Analgesic Balm at Irvington, N. J., alleging that the article had been shipped in interstate commerce on or about August 23 and November 10, 1941, by the Harris Chemical Corporation from New York, N. Y.; and charging that it was misbranded.

Analysis of a sample of the article showed that it consisted essentially of volatile oils such as methyl salicylate, camphor, and menthol, incorporated in a base composed of a mixture of petroleum derivatives, and lanolin.

The article was alleged to be misbranded in that its labeling failed to bear adequate directions for use, i. e., the labeling bore no directions for use.

It was alleged to be misbranded further in that the following statements in the labeling: (Display carton) "Relieves Cold and Rheumatic Pains, Neuralgia, Simple Colds," (retail carton) "For the Relief of * * * Bronchial Irritation," and (tube label) "For the Relief of Rheumatism, Neuralgia, Gout, Headache, etc.," were false and misleading since the product was merely a counter-irritant and would not be capable of producing the effects implied or claimed in the labeling.

On July 14, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution after its labeling had been destroyed.

913. Misbranding of Ocean-Lax. U. S. v. 29 Bottles of Ocean-Lax. Decree of condemnation and destruction. (F. D. C. No. 6368. Sample Nos. 40885-E, 40886-E.)

On December 6, 1941, the United States attorney for the Eastern District of Pennsylvania filed a libel against 29 bottles of Ocean-Lax at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce within the period from on or about July 3 to August 11, 1941, by the Mineralized Foods, Inc., from Baltimore, Md.; and charging that it was misbranded.

Analysis of the article showed that it consisted essentially of senna pods, purging cassia, rhubarb root, sea weed, and mint leaves. It contained a total mineral matter of 0.18 grain per tablet and total iodine of 0.4 milligram per tablet.

The article was alleged to be misbranded (1) in that its labeling failed to bear adequate directions for use since the directions on the label, "If necessary 1 to 2 Ocean-Lax Tablets before or after each meal and before retiring, with water or fruit juice, preferably unsweetened grapefruit juice, at least $\frac{1}{2}$ glassful. Increase or decrease intake to meet individual requirements. For children over 4 years reduce intake to $\frac{1}{2}$ or less," did not constitute appropriate directions for use of this laxative drug, since they provided for frequent and continued use which might result in injury to the consumer by establishing dependence upon laxatives to move the bowels; (2) in that the statement "Each Ocean-Lax Tablet averages approximately $1\frac{1}{2}$ milligrams of natural organic food iodine," borne on the label, was false and misleading since each tablet contained only 0.4 milligram of iodine; (3) in that the designation "Ocean Lax," borne on the label, was false and misleading since the laxative ingredients in the article, senna pods, purging cassia, and rhubarb root, are not obtained from the ocean; (4) in that the statements on the label, "More Than A Laxative. Mineralized With Imported Sea Plants. Consists of an imported rare variety of Sea Vegetables, high in alkalinity and food minerals carefully blended with Senna Fruit, Peppermint Leaves, ripe fruits of Cassia Fistula and Chinese Rhubarb, U. S. P.," were false and misleading because the alkalinity of the article and the amount of minerals supplied by it were inconsequential, and because the label failed to reveal the material fact that sea plants and peppermint leaves do not contribute in a material respect to the effects of the article; and (5) in that the common or usual name of each active ingredient, required by law to appear upon the label, did not appear prominently placed thereon and in such terms as to render it likely to be understood by the ordinary individual under customary conditions of purchase and use, since the label did not show that the only active ingredients in the preparation were senna pods, purging cassia, and rhubarb root.

The libel alleged that the article was also adulterated and misbranded under the provisions of the law applicable to foods, reported in food notices of judgment.

On March 4, 1942, the Mineralized Foods, Inc., claimant, having filed an answer denying the adulteration and misbranding charges in the libel, and having filed a motion for removal of the proceedings to the District of Maryland in which District the claimant had its principal place of business, the court denied such motion, handing down the following opinion:

MOORE, *District Judge*: "This is a suit by the United States of America under the Federal Food, Drug & Cosmetic Act of June 25th, 1938, to condemn twenty-nine bottles more or less of a product called "Ocean-Lax." The libel charges adulteration and misbranding. The articles were seized in the city of Philadelphia, in the Eastern District of Pennsylvania, in the hands of Thomas Martindale and Company, and are still in this District.

"Motion has been filed by Mineralized Foods, Inc., claimant of the products seized, for an order to remove the case for trial to the District Court of the United States for the District of Maryland. The ground for the motion is that the claimant, Mineralized Foods, Inc., is a corporation having its principal place of business in the city of Baltimore, Maryland. The claimant relies upon the provisions of the act set out in Section 394 (a) (21 U. S. C. A. sec. 334) of which the pertinent portion is as follows: 'In any case where the number of libel for condemnation proceedings is limited as above provided the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district agreed upon by stipulation between the parties, or, in