

Both lots were also alleged to be misbranded under the provisions of the law applicable to foods, as reported in the notices of judgment on foods.

On November 8, 1943, no claimant having appeared for the product in the Washington lot, judgment of condemnation was entered and the product, including all display cartons and circulars, was ordered destroyed. On May 22, 1944, Balanced Foods, Inc., New York, N. Y., claimant, having admitted the allegations of the libel against the New York lot, judgment of condemnation was entered and the product in that lot was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

**1123. Misbranding of vitamin tablets. U. S. v. 102 Bottles of Curley Cal-Pans Vitamins and 102 Bottles of Curley Bu-T-Caps Vitamins. Default decree of condemnation and destruction. (F. D. C. No. 10013. Sample Nos. 20488-F, 20489-F.)**

On May 27, 1943, the United States attorney for the District of Massachusetts filed a libel against 102 bottles of Curley Cal-Pans Vitamins and 102 bottles of Curley Bu-T-Caps Vitamins, each bottle containing 30 tablets, at Boston, Mass., alleging that the articles had been shipped on or about April 21, 1943, from Philadelphia, Pa., by the Curley Distributing Co.; and charging that they were misbranded. The articles were labeled in part: (Cal-Pans) "Calcium Pantothenate 10 Mgm. each"; (Bu-T-Caps) "Vitamin A . . . 5,000 USP Units Vitamin D (Viosterol) . . . 1,000 USP Units Vitamin C (Ascorbic Acid) . . . 500 USP Units Vitamin B<sub>1</sub> (Thiamin Chloride) . . . 500 USP Units Vitamin B<sub>2</sub> (Riboflavin) . . . 1,000 Gamma Vitamin B<sub>6</sub> (Pyridoxine) . . . 200 Gamma Calcium Pantothenate . . . 1,000 Gamma Nicotinic Acid . . . 20 Mgm."

The Cal-Pans Vitamins were alleged to be misbranded in that certain statements appearing on a display card entitled "Does Gray Hair Worry You?" and in circulars entitled "VITAMINS The Way to Health and Beauty," and "Big Profits for Beauty Shops," were false and misleading since they represented and suggested that the article was effective in preventing the graying of hair or in restoring the natural color to gray hair, whereas it was not so effective.

The Bu-T-Caps Vitamins were alleged to be misbranded because of false and misleading statements appearing on the display card and in the circulars, which represented and suggested that the article was effective in insuring good health, beauty, and good complexion, or in preventing and correcting such disease conditions or abnormalities as poor teeth, retardation of growth, skin lesions, dry and wrinkled skin, brittle nails, lifeless hair, loss of appetite, liver and kidney ailments, susceptibility to infections, boils, abscesses, night blindness, body malformation, fatigue, loss of appetite, alimentary tract disfunctions and resultant anemia, neuritis, alcoholic neuritis, beriberi and pellagra, irritability and nervousness, palpitation and enlarged heart, murmurs, difficult breathing, malnutrition, retarded convalescence, fragile bones, anemia, scurvy, and rickets.

The articles were also alleged to be misbranded under the provisions of the law applicable to foods, as reported in the notices of judgment on foods.

On July 26, 1943, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

**1124. Misbranding of DPS Formulae. U. S. v. 11 Bottles of DPS Formula 52, 16 Bottles of DPS Formula 57, 12 Bottles of DPS Formula 58, 11 Bottles of DPS Formula 61, 9 Packages of DPS Formula 66, 7 Bottles of DPS Formula 81, 25 Bottles of DPS Formula 100, 4 Bottles of DPS Formula 103, and 3 Bottles of DPS Formula 105. Default decree of condemnation and destruction. (F. D. C. No. 10098. Sample Nos. 15357-F to 15360-F, incl., 36122-F to 36126-F, incl.)**

On June 25, 1943, the United States attorney for the District of Colorado filed a libel against the above-mentioned quantities of DPS Formulae at Denver, Colo., alleging that the articles had been shipped from the Dartell Laboratories, Los Angeles, Calif., from on or about March 23 to May 8, 1943; and charging that they were misbranded.

The DPS Formula 52 was labeled in part: "Ingredients: Fish Liver Oil concentrate, Soya oil containing lecithin, Wheat germ oil, mixed natural tocopherols, treated linseed oil containing the fatty unsaturates, principally linoleic and linolenic acids \* \* \* Each perle contains not less than Vitamin A . . . 5000 U. S. P. Units. Vitamin E (a-tocopherol activity) 5000 Gammas with 200 Mg. free fatty acids of linseed oil (flaxseed oil) principally linoleic the linolenic acids." It was alleged to be misbranded in that the name "DPS

Formula 52" was a false and misleading device which represented and suggested that the article was efficacious for the following conditions: Impotency, sexual apathy, menopause, loss of muscular tone, anterior pituitary deficiency, and tendency to abort. It was alleged to be misbranded further in that the statement on its label, "Each perle contains not less than \* \* \* With 200 Mg. free fatty acids of linseed oil (flaxseed oil) principally linoleic and linolenic acids," was misleading since the statement created the impression that the free fatty acids of linseed oil consisting principally of linoleic and linolenic acids in the amount of 200 milligrams were of appreciable nutritional and therapeutic significance when the article was consumed in accordance with the directions on the labels, whereas such acids when so consumed had no appreciable nutritional or therapeutic significance.

The DPS Formula 57 was labeled in part: "Ingredients: Fish liver oil concentrate, dehydrated garlic and alfalfa, lac-sulphur, and chlorophyll \* \* \* Four tablets provide 2000 I. U. of Vitamin A, \* \* \* 14 grains of dehydrated Garlic, 4 grains of Sulphur; and 2000 gammas of Chlorophyll." It was alleged to be misbranded in that the name "DPS Formula 57" was a false and misleading device which represented and suggested that the article was efficacious for the following conditions: Hypertension, toxic conditions, and bowel putrefaction.

The DPS Formula 58 was labeled in part: "Ingredients: Powdered kelp, dicalcium phosphate, fish liver oil concentrate, yeast, rice polishings, wheat germ \* \* \* One tablet before each meal and upon retiring provides: Iodine . . . 0.7 Mg. Phosphorus . . . 144 Mg. Calcium . . . 176 Mg. Vitamin A . . . 1000 U. S. P. Units." It was alleged to be misbranded in that the name "DPS Formula 58" was a false and misleading device which represented and suggested that the article was efficacious in the following conditions: Lowered fat and protein metabolism, low basal metabolic rate, thyroid deficiency, low calcium metabolism, pregnancy and lactation, nervous disorders, obesity, and skin conditions.

The DPS Formula 61 was labeled in part: "Ingredients: Mixed natural tocopherols and wheat germ oil \* \* \* Each perle contains not less than 5000 Gamma Vitamin E (a-tocopherol activity)." It was alleged to be misbranded in that the name "DPS Formula 61" was a false and misleading device which represented and suggested that the article was efficacious for the following conditions: Sterility, tendency to miscarriage, mental dullness, muscular weakness, skin lassitude, weakness of female organs, lack of motility of eye lens, paralysis, and anterior pituitary deficiency.

The DPS Formula 66 was labeled in part: "Contains the unsaturated fatty oils naturally present in wheat germ oil and fish liver oil concentrate. Special High Potency Vitamin A. Each capsule contains not less than 50,000 U. S. P. units Vitamin A from fish liver oil concentrate in wheat germ oil." It was alleged to be misbranded in that the name "DPS Formula 66" was a false and misleading device which represented and suggested that the article was efficacious for the following conditions; Sinusitis, catarrh, asthma, colds, otitis media, infections involving the mucosae, and eye disorders.

The DPS Formula 81 was labeled in part: "Each tablet contains 2.6 mg. of the sodium copper soluble salt of chlorophyll." It was alleged to be misbranded in that the name "DPS Formula 81" was a false and misleading device which represented and suggested that the article was efficacious for the following conditions: Hypertension, cardiovascular conditions, toxic conditions, impaired cellular respiration, anemias, and infections.

The DPS Formula 100 was labeled in part: "Each containing: Iron (Ferrous) Sulphate (Dried), 2½ grs.; Liver (Desiccated 1-5), 2 grs.; Stomach Substance (hog). ½ gr.; Pepsin (1-3000), 0.25 grs.; Spleen Subst., ⅓ gr.; Red Bone Marrow ⅓ gr.; Kelp (Laminaria Bulbosa), ⅓ gr.; Hemoglobin, ¼ gr.; Vitamin C, 1000 gammas; Vitamin B<sub>1</sub>, 83 gammas; Vitamin B<sub>2</sub>, 24 gammas." It was alleged to be misbranded in that the name "DPS Formula 100" was a false and misleading device which represented and suggested that the article was efficacious for the following conditions; Anemias, toxic changes in blood, fatigue, low blood pressure, underweight, hypo-functions of the adrenals, pregnancy, and preoperative and postoperative conditions.

The DPS Formula 103 was labeled in part: "Three Tablets Provide 4000 I. U. Vitamin A 5 Mg. Vitamin E in a base of the following inert desiccated glandular substances; Anterior Pituitary; whole Ovarian; Ovarian Residue; Adrenal Cortex; \* \* \* The Vitamin A is from fish liver oil concentrate; the Vitamin E is from mixed natural tocopherols." It was alleged to be mis-

branded in that the name "DPS Formula 103" was a false and misleading device which represented and suggested that the article was efficacious for the following conditions: Scanty or difficult menstruation, amenorrhea, dysmenorrhea, delayed puberty, delayed menstruation, painful breasts, hot flushes, menopause, ovariectomy, and sexual asthenia.

The DPS Formula 105 was labeled in part: "Three Tablets Provide I. U. Vitamin A 5 Mg. Vitamin E in a base of the following inert desiccated glandular substances: Orchic, Prostate, Whole Adrenal, Anterior Pituitary, Suprarenal Cortex \* \* \* The vitamin A is from fish liver oil concentrate; the vitamin E is from mixed natural tocopherols." It was alleged to be misbranded in that the name "DPS Formula 105" was a false and misleading device which represented and suggested that the article was efficacious as a treatment of impotence, sterility, lowered sex-tone, apathy, mental lethargy, and as a complete support of the male sex function.

The libel alleged further that the devices had acquired the above-described meanings by reason of the fact that the manufacturer of the articles had supplied and, together with his agents and employees and distributors, had disseminated to prospective purchasers of the articles the booklet entitled "DPS DARTELL FORMULAE," which disclosed that the articles were designed and intended for the conditions mentioned above.

The articles known as DPS Formulae 52, 57, 58, 61, and 100 were also misbranded under the provisions of the law applicable to foods, as reported in notices of judgment on foods.

On October 16, 1943, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

**1125. Misbranding of DPS Formula 56. U. S. v. 8 Bottles of DPS Formula 56. Default decree of condemnation and destruction. (F. D. C. No. 9890. Sample No. 15356-F.)**

On May 24, 1943, the United States attorney for the District of Colorado filed a libel against 8 bottles of DPS Formula 56 at Denver, Colo., alleging that the article, which had been consigned by the Dartell Professional Service, had been shipped on or about March 26, 1943, from Los Angeles, Calif.; and charging that it was misbranded.

The article was alleged to be misbranded in that the name "DPS FORMULA 56," appearing on its label, was false and misleading as applied to the product, each gram of which consisted essentially of (label) "Vitamins A, 80,000 USP XI units; Vitamin D, residual amounts as carried with Vitamin A," since the name was a device which represented and suggested to the purchaser that the article was efficacious for the following conditions: Nephritis, conjunctivitis, otitis media, upper respiratory disorders, kidney stones, eye weakness and inflammations, renal and urinary calculi, infection or high fevers, involvement of the mucosae, pregnancy, and lactation, whereas it was not efficacious for such conditions; and that the device acquired such meaning by reason of the fact that the manufacturer had supplied, and, together with his agents, employees, and distributors, had disseminated to prospective purchasers of the article a certain booklet entitled "DPS Dartell Formulae," which disclosed that the article was designated and intended for the above-named conditions.

On July 7, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**1126. Misbranding of Papaya Concentrate. U. S. v. 12 Bottles and 4 Bottles of Papaya Concentrate. Default decree of destruction. (F. D. C. No. 10142. Sample No. 43991-F.)**

On or about June 28, 1943, the United States attorney for the Western District of Missouri filed a libel against 12 1-quart bottles and 4 1-gallon bottles of Papaya Concentrate at Kansas City, Mo., alleging that the article, which had been consigned on or about April 19, 1943, had been shipped from Chicago, Ill., by Macu Fruit Products; and charging that it was misbranded. The article was labeled in part: "Macu Brand Papaya Concentrate."

Examination disclosed that the article contained papaya pulp, seeds, and sugar.

The article was alleged to be misbranded because of false and misleading statements on its label and in the circular entitled "Drink Papaya (Fruta Bomba)," which represented and suggested that the article, when used as directed, was a rich source of vitamins, was a valuable aid to digestion, and would be of value in such conditions as gastritis, diphtheria, ulcers, bowel disorders, dyspepsia, croup, cancer, and gastric fermentation.