

The article was 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 30, 1943, no claimant having appeared, judgment was entered ordering that the product be destroyed.

1127. Misbranding of Vbev. U. S. v. 16 Cans of Vbev. Decree of condemnation and destruction. (F. D. C. No. 5457. Sample No. 74285-E.)

On September 25, 1941, the United States attorney for the Southern District of New York filed a libel against 16 10-ounce cans of Vbev at New York, N. Y., alleging that the article had been shipped on or about July 8, 1941, from Jersey City, N. Y., by Healthaids, Inc.; and charging that certain statements in its labeling were false and misleading. The article was labeled in part: "Vbev A Food Beverage A Food Supplement Rich in Natural Vitamin B Complex with Vitamins A, D, and Essential Minerals * * * Purity Products Inc., Jersey City New Jersey Ingredients: Diastasic Malt Syrup, Dextrose, Whole Liquid Milk, Tricalcium Phosphate, Ferric Pyrophosphate—Soluble, Molasses, Natural Vitamin B Complex and Vitamin A and D Concentrate."

Examination disclosed that the article's content of calcium was 796 milligrams per ounce.

It was alleged in the libel (1) that the statement on the label, "Not less than the following values for each ounce of Vbev are maintained through periodic laboratory assays * * * Calcium 1000 milligrams," was false and misleading; (2) that the statement in the labeling of the article to the effect that the article was a new discovery and a new food beverage, developed after years of scientific research and investigation, was false and misleading since the article was merely a combination of well-known foods; and (3) that the statements in the labeling were false and misleading since they represented and implied that the article was efficacious in the cure, mitigation, treatment, or prevention of nervousness, tiredness, sleeplessness, underweight, infections, digestive disorders such as diarrhea, lack of appetite and gas pains, stunted growth, loss of hair, and general failure in physical well-being; and that it was efficacious to form and preserve strong bones and teeth, develop proper skin tone, prevent night blindness, over-brittle fingernails, dietary anemia and many skin disorders, protect eyes from degeneration and cataract, promote proper assimilation of calcium and phosphorus, provide quick energy between meals, aid clotting of blood and red pigmentation of blood, and provide a valuable supplementary supply of natural B complex as well as vitamins A and D and the vital minerals, calcium, phosphorus, iron, and copper. The article was not efficacious for such purposes and conditions.

On June 3, 1942, Purity Products, Inc., claimant, filed an answer denying that the product was misbranded. On March 25, 1943, the case having come on for trial before the court, the claimant having failed to appear to defend, and the Government having presented its proof, the court, on April 14, 1943, found that the article was misbranded as alleged in the libel. Judgment of condemnation was entered on April 22, 1943, and the product was ordered destroyed.

1128. Misbranding of Bates vitamin preparations. U. S. v. 320 Bottles of Vitamin Preparations. Decree of condemnation. Products ordered released under bond for relabeling. (F. D. C. No. 9897. Sample Nos. 3056-F to 3063-F, incl.)

On or about May 13, 1943, the United States attorney for the Western District of Missouri filed a libel against 24 bottles of Bates Natural B Complex, each bottle containing 120 tablets, and 16 bottles of Bates Riboflavin Vitamin B₂ (G), 16 bottles of Bates (Thiamine) Vitamin B₁, 16 bottles of Bates (Nicotinic Acid) Niacin, 16 bottles of Bates (Ascorbic Acid) Vitamin C, 24 bottles of Bates Vitamin A & D, and 208 bottles of Bates Calcium Pantothenate, each bottle of which contained 30 tablets, at Kansas City, Mo., alleging that the articles had been shipped from Chicago, Ill., by Bates Laboratories, Inc., and received by the consignee between February 2 and March 20, 1943; and charging that they were misbranded.

Examination disclosed that the natural B complex tablets contained riboflavin, thiamine, and yeast; that the riboflavin tablets and thiamine tablets contained riboflavin and thiamine respectively; that the niacin tablets contained 10.7 milligrams of niacin each; that the vitamin C tablets contained vitamins grams of ascorbic acid each; that the vitamin A & D tablets contained vitamins A and D; and that the calcium pantothenate tablets contained approximately 10 milligrams of calcium pantothenate each.

The articles were alleged to be misbranded because of false and misleading statements which appeared on the display card headed "Vibrant Health and