

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

Beauty," on circulars headed "We Feature the Complete Line of Bates Vitamin Products," on placards headed "Bates Anti-Grey Hair Vitamins," and on leaflets entitled "Bates Line of Vitamins," and which represented and suggested that the articles singly or in combination were effective treatments for loss of weight, loss of appetite, nervous disorders, skin troubles, bleeding gums, nutritional disorders, indigestion, gray hair, anemia, general body weakness, night blindness, impaired reproduction and lactation, atrophy of glands, teeth decay, nail brittleness, constipation, abdominal distress, gas, nausea, headache, asthenia, damage to heart muscles, and retarded growth.

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 June 26, 1943, Bates Laboratories, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond to be labeled in compliance with the law, under the supervision of an employee designated by the Federal Security Administrator.

1129. Misbranding of Hayden's Caramelized Wheat Germ. U. S. v. 14½ Cases of Wheat Germ. Decree ordering destruction of the product. (F. D. C. No. 10394. Sample No. 48103-F.)

On August 13, 1943, the United States attorney for the Southern District of Ohio filed a libel against 14½ cases, each containing 1 dozen 10-ounce packages, of wheat germ at Athens, Ohio, alleging that the article had been shipped in interstate commerce on or about May 11, 1943, by the Hayden Flour Mills, Inc., Tecumseh, Mich.; and charging that it was misbranded. The article was labeled in part: "Hayden's Caramelized Wheat Germ."

The article was alleged to be misbranded because of false and misleading statements appearing in its labeling which represented that it takes about 300 pounds of wheat to produce 1 pound of the article; that the product would be efficacious in the treatment of constipation, arthritis, poor appetite, retarded growth, lowered vitality, nervousness, poor digestion, gray hair, degeneration of the nervous system, enlargement of the heart, atrophy of the muscles, loss of appetite, stomach ulcer, loss of weight, failure to grow, neuritis, eczema, and nervousness; that it would build resistance; that it contained blood-building minerals; that it would help restore the normal peristaltic action of the intestines and would stimulate the appetite, put pep in the step, help convert the food into energy, aid digestion, promote general health, bring about steadier nerves, stimulate normal growth in infants and children, and help children put on weight and grow faster; that it constituted an essential part of the diet of all children; that it would increase resistance to colds and infections; that it was especially beneficial to nursing mothers; and that it would help prevent baldness and gray hair and cause gray hair to grow in its natural color at the roots. Consumption of the product would not effect the results claimed or suggested; and 1 pound of the product did not represent the wheat germ content of 300 pounds of wheat.

The article was also charged to be misbranded under the provisions of the law applicable to food as reported in notices of judgment on food, No. 5785.

On October 1, 1943, no claimant having appeared, judgment was entered ordering that the product be destroyed.

1130. Misbranding of Sul-Ray Effervescent Mineral Baths. U. S. v. 33 Packages of Sul-Ray Effervescent Mineral Baths. Default decree of condemnation and destruction. (F. D. C. No. 10256. Sample No. 48337-E.)

On July 15, 1943, the United States attorney for the Western District of Kentucky filed a libel against 33 packages of the above-named product at Louisville, Ky., alleging that the article had been shipped on or about May 27, 1943, from New York, N. Y., by the Sante Chemical Co.; and charging that it was misbranded.

Examination disclosed that the article consisted essentially of sulfur with sodium phosphate, carbonate, and borate.

The article was alleged to be misbranded in that the statements in the labeling which represented and suggested that the benefits to be obtained from a visit to mineral springs could be enjoyed at home through the use of the article; and that sulfur in the bath water would be effective in the treatment of rheumatism, arthritis, lumbago, gout, sciatica, various skin conditions, muscular aches and pains, and itching were false and misleading since the benefits from a visit to a mineral spring do not come solely from bathing in the spring water but also include rest and other forms of treatment, and sulfur in the bath water would not be effective in the treatment of the conditions and symptoms named.