

1941; and charging that it was misbranded. The article was labeled in part: "Bemax Stabilized and Standardized Entire Wheat Germ."

A portion of the article was alleged to be misbranded in that the statement, "Bemax averages 380 International units of vitamin B₁ (thiamin) to the ounce," appearing on the label, was false and misleading since it contained less than 380 International Units of vitamin B₁ per ounce.

All lots were alleged to be misbranded (1) in that the following statements appearing in their labeling: "Mineral Analysis Mg. per oz. Calcium (Ca) 16.2 Phosphorus (P) 312 Iron (Fe) 2.7 Copper (Cu) .43 Magnesium (Mg) 93 Sodium and Potassium (Na + K) 192 Chlorine (Cl) 5 Manganese (Mn) 4," were misleading since such statements represented and suggested that the article contained nutritionally significant amounts of the minerals specified, whereas the article did not contain such amounts of those minerals; (2) in that the common or usual name of the food, wheat germ, required by the law to appear on the label, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, and designs in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; and (3) in that the article purported to be and was represented as a food for special dietary uses by reason of its content of vitamin B₁ and the associated vitamins, mineral elements, and other nutritional factors of cereal embryo, and its label failed to bear such information concerning its vitamin and mineral properties as has been determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses, since its label did not state the proportion of the minimum daily requirement of vitamin B₁, riboflavin, iron, and calcium contained in a specified quantity of such food which is customarily or usually consumed during a period of 1 day.

On June 24, 1943, Bemax Laboratories, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling, under the supervision of the Food and Drug Administration, so that it would comply with the requirements of the law.

5792. Misbranding of Betene. U. S. v. 79 Packages of Betene. Default decree of condemnation and destruction. (F. D. C. No. 10050. Sample No. 8127-F.)

Examination of this product indicated that it was essentially a mixture of powdered skim milk, dried egg yolk, saccharin, cereal products, flavors, and combined calcium and phosphorus.

On June 5, 1943, the United States attorney for the District of Minnesota filed a libel against 79 packages of Betene at Faribault, Minn., alleging that the article had been shipped in interstate commerce on or about March 3 and 26, 1943, by the Vegetable Juice & Products Co., from Rochester, N. Y.; and charging that it was misbranded. The article was labeled in part: "Betene * * * A Special Dietary Supplement * * * L. H. Steward Corporation Rochester, New York."

The article was alleged to be misbranded in that the statements appearing on the label and in the circular entitled "I've Found the sure Way to Acquire Normal Weight," which accompanied the article in interstate commerce, were false and misleading since they represented and suggested and created in the mind of the reader the impression that the article, when consumed as directed, would cause an increase in weight and add to the vigor and vitality of the user; and also that, when consumed as directed, it constituted a sure, sane, safe, and effective way to reduce, whereas it would not accomplish such results. It was alleged to be misbranded further in that it purported to be and was represented as a food for special dietary uses by reason of its vitamin and mineral content, and its label failed to bear such information concerning its vitamin and mineral properties as has been determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses, since its label failed to bear, as the regulations require, a statement of the proportion of the minimum daily requirements of vitamins A, B₁, C, D, riboflavin, calcium, and phosphorus furnished by a specified quantity of the product when consumed as directed during a period of 1 day.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs reported in drugs and devices notices of judgment, No. 937.

On June 27, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.