

ment of the heart, atrophy of the muscles, loss of appetite, stomach ulcer, loss of weight and failure to grow, neuritis, eczema, and nervousness; that it would build resistance and 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 and bring about steadier nerves, stimulate normal growth in infants and children, and would help children put on weight and grow faster; that it constituted an essential part of the diet of all children, and 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 were false and misleading since consumption of the product would not effect the results claimed or suggested, and since 1 pound of the product did not represent the wheat germ content of 300 pounds of wheat.

The article was alleged to be misbranded further (1) in that it was represented for special dietary uses by reason of its vitamin content, and its label failed to bear such information concerning its vitamin properties as has been determined to be, and by regulations prescribed as, necessary fully to inform purchasers as to its value for such uses, since its label failed to bear a statement of the proportions of the minimum daily requirement of vitamins B₁ and G and the quantity of vitamin E supplied by such food when consumed in a specified quantity during a period of 1 day, and since its label failed to bear a statement that the need in human nutrition for vitamin E has not been established; and (2) in that the statement of the quantity of the contents was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, and devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

The article was also charged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

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

5786. Misbranding of Viteen. U. S. v. 2,369 Jars and 929 Jars of Viteen. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 8862. Sample Nos. 1937-F, 1947-F.)

Examination showed that the article consisted primarily of dried skimmed milk with smaller proportions of egg yolk, a sugar, cereal products, calcium and phosphorus compounds, and flavoring material. It contained 27.8 percent protein, 10.3 percent mineral ash, 2.4 percent calcium, and 1.54 percent phosphorus.

On November 17, 1942, the United States attorney for the Northern District of Illinois filed a libel against 2,369 jars, 8-ounce size, and 929 jars, 18-ounce size, of Viteen at Chicago, Ill., alleging that the article had been shipped in interstate commerce within the period from on or about August 15 to October 27, 1942, from Rochester, N. Y., by L. N. LeBold & Co.; and charging that it was misbranded.

It was alleged to be misbranded in that the statements, designs, and devices appearing in its labeling which represented and suggested that the article constituted a suitable dietary supplement for use in restricted and unbalanced diets of various types and whenever disturbances were apt to occur due to nutritional deficiencies, and that the use of the article would result in the reduction of weight were false and misleading since the article did not constitute a suitable dietary supplement for use in such conditions, and its use would not result in the reduction of weight. It was alleged to be misbranded further in that the following statements appearing in its labeling, "Analysis Each 100 grams of Viteen * * * contains: * * * Proteins * * * 31.95 Mineral Ash 13.28 Calcium 3.19 Phosphorus 1.79," were false and misleading since each 100 grams of the article did not contain the represented amounts of the ingredients named.

It was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in the notices of judgment on drugs and devices, No. 990.

On December 1, 1942, L. N. LeBold & Co., claimant, having admitted the facts set forth in 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.