

The article was alleged to be misbranded in that the label statement, "Sterilized," appearing on some of the packages, was false and misleading; and in that its container was so made, formed, and filled as to be misleading, since the cartons for both sizes were materially larger than was necessary to hold the amount of bandage contained therein.

On November 13, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

1433. Adulteration and misbranding of prophylactics. U. S. v. 12 Gross of Prophylactics. Default decree of condemnation and destruction. (F. D. C. No. 12901. Sample No. 78161-F.)

On July 8, 1944, the United States attorney for the Eastern District of Pennsylvania filed a libel against 12 gross of prophylactics at Philadelphia, Pa., alleging that the article had been shipped on or about January 4, 1944, from New York, N. Y., by the Goodwear Rubber Co., Inc. The article was labeled in part: "Kaps * * * Cap Type Rubber Glans Sheaths."

Examination of samples disclosed that the article was defective in that it contained holes.

The article was alleged to be adulterated in that its quality fell below that which it purported and was represented to possess.

The article was alleged to be misbranded in that the labeling statements quoted below were false and misleading as applied to an article that contained defects such as holes: (Cartons) "Each One of These Kaps Has Been Filled To At Least Ten Times Its Normal Capacity With Water Under Pressure; Then Squeezed and Kneaded In An Effort To Make a Hole Appear—Even where Only A Weak Spot May Have Existed Before. Insist On Water-Tested Merchandise"; and (printed slip enclosed in small carton) "Notice: The Enclosed Sheath Has Been, 'Water Tested' By Expanding Under Water Pressure To At Least Ten Times Its Normal Capacity—Then Examining Closely For Any Detectable Leak."

The article was alleged to be misbranded further in that the statement in its labeling, "Cap Type Rubber Glans Sheaths," was misleading since it failed to reveal the material fact that even those units which were not defective could not be depended on to protect against all types of venereal disease.

On August 2, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

1434. Adulteration and misbranding of prophylactics. U. S. v. 29 Gross and 6 Gross of Prophylactics. Default decrees of condemnation and destruction. (F. D. C. Nos. 12962, 13827. Sample Nos. 81619-F, 81636-F.)

On July 18 and September 29, 1944, the United States attorney for the Southern District of New York filed libels against 35 gross of prophylactics at New York, N. Y., alleging that the article had been shipped on or about June 30 and September 11, 1944, by the Rubber Research Products Corporation, Hoboken, N. J.; and charging that it was adulterated and misbranded in essentially the same way as the article described in notices of judgment on drugs and devices, No. 1433. The article was labeled in part: "Kaps * * * Cap Type Rubber Glans Sheaths."

On August 5, and November 1, 1944, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

1435. Adulteration and misbranding of prophylactics. U. S. v. 900 Cases (45,000 gross) of Prophylactics (and 4 other seizure actions against prophylactics). Decrees of condemnation. Portion of product ordered released under bond; remainder ordered destroyed. (F. D. C. Nos. 13010, 13085, 13934, 13958, 14173. Sample Nos. 63492-F, 68748-F, 72477-F, 72478-F, 72491-F, 87502-F.)

Between July 24 and November 2, 1944, the United States attorneys for the Northern District of Georgia, the District of Minnesota, the Western District of Tennessee, and the Southern District of Indiana filed libels against the following quantities of prophylactics: 45,000 gross at Atlanta, Ga.; 198 gross at Minneapolis, Minn.; 4,920 gross at Memphis, Tenn.; and 49¼ gross at Spencer, Ind. It was alleged that the article had been shipped by the Killashun Sales Division, from Akron, Ohio, between the approximate dates of September 15, 1943, and August 22, 1944. The article was labeled in part: "Made from Genuine Liquid Latex. Mfd. by Shunk Latex Prod. Inc., Akron, Ohio," "Xcello's Prophylactics," "Genuine Latex Apris Prophylactics Manufactured by the Killian Mfg. Co. Akron, Ohio," "Silver-Tex Prophylactics," or "Texide Rubber Sheaths."

Examination of samples disclosed that the article was defective in that it contained holes.

The article was alleged to be adulterated in that its quality fell below that which it purported and was represented to possess. With the exception of the Indiana lot, the article was alleged to be misbranded because of false and misleading statements in its labeling regarding its efficacy in the prevention of disease.

On July 31, 1944, W. H. Reed and Co., Atlanta, Ga., claimant, having admitted the allegations of the libel against the Georgia lot, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the product be tested and that the unfit portion be destroyed under the supervision of the Food and Drug Administration. Between September 11 and December 29, 1944, no claimant having appeared for the other lots, judgments of condemnation were entered and the product was ordered destroyed.

1436. Adulteration and misbranding of prophylactics. U. S. v. 46½ Gross of Prophylactics. Default decree of destruction. (F. D. C. No. 13182. Sample No. 87509-F.)

On August 8, 1944, the United States attorney for the District of Minnesota filed a libel against 46½ gross of prophylactics at Minneapolis, Minn., alleging that the article had been shipped on or about July 20, 1944, by the Standard Drug Co., from Chicago, Ill. The article was labeled in part: "Silver-Tex Prophylactics."

Examination of samples disclosed that the article was defective in that it contained holes.

The article was alleged to be adulterated in that its quality fell below that which it purported and was represented to possess. It was alleged to be misbranded in that the label statement, "Prophylactics," was false and misleading as applied to an article that contained holes.

On October 2, 1944, no claimant having appeared, judgment was entered ordering that the product be destroyed.

1437. Adulteration and misbranding of prophylactics. U. S. v. 49½ Gross, 161½ Gross, and 92½ Gross of Prophylactics. Default decrees of destruction. (F. D. C. Nos. 12686, 12760, 13055. Sample Nos. 40152-F, 40436-F, 40507-F, 87401-F.)

Between June 14 and July 25, 1944, the United States attorney for the District of Minnesota filed libels against 303½ gross of prophylactics at Minneapolis, Minn., alleging that the article had been shipped between the approximate dates of February 14 and April 26, 1944, by the Dean Rubber Manufacturing Co., from North Kansas City, Mo., and Kansas City, Mo. The article was labeled in part: "Peacocks," or "Ultrex Platinum."

Examination of samples showed that the article was defective in that it contained holes.

The article was alleged to be adulterated in that its quality fell below that which it purported and was represented to possess. It was alleged to be misbranded in that the labeling statements, (49½-gross lot) "Air-Tested Each and Every Peacock Device is 'Scientifically Tested' by Special Process * * * an aid in preventing venereal disease Guaranteed Two Years Against Deterioration," (161½-gross lot) "Scientifically Tested * * * For Your Protection * * * Guaranteed Against Deterioration for Two Years," and (92½-gross lot) "Scientifically Tested by Special Process. * * * An Aid in Preventing Venereal Disease," were false and misleading as applied to an article containing holes.

Between July 26 and September 11, 1944, no claimant having appeared, judgments were entered ordering that the product be destroyed.

DRUGS ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS*

DRUGS FOR HUMAN USE

1438. Misbranding of Ceregen. U. S. v. 19 Dozen Packages of Ceregen. Default decree of condemnation and destruction. (F. D. C. No. 12710. Sample Nos. 35256-F to 35259-F, incl.)

On or about June 22, 1944, the United States attorney for the Southern District of Florida filed a libel against 19 dozen packages of Ceregen at Tampa, Fla., alleging that the article had been shipped by the Ulrici Medicine Co., Inc., from New York, N. Y., between the approximate dates of December 24, 1943, and February 23, 1944.

* See also Nos. 1401-1404, 1407-1409, 1412-1414, 1419, 1427, 1430-1437.