

**28724. Adulteration and misbranding of rubber prophylactics. U. S. v. 5 Gross and 5 Gross of Rubber Prophylactics. Default decree of condemnation and destruction.** (F. & D. No. 41634. Sample Nos. 1466-D, 1467-D.)

Examination of these prophylactics showed that some of them were defective in that they contained holes.

On February 7, 1938, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 10 gross of rubber prophylactics at Atlantic City, N. J., alleging that the article had been shipped in interstate commerce on or about November 17 and December 18, 1937, from New York, N. Y., by Ross Products, and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing in the labeling were false and misleading: (Cartons in one lot) "For Medical Purposes \* \* \* Five Year Guarantee"; (envelope, wrapper, and article itself in other lot) "Air Tested \* \* \* Extra Quality Special Selected \* \* \* The Within Articles are manufactured to be sold and used for the Prevention of Contagious Diseases \* \* \* For Prevention of Disease."

On March 23, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

**28725. Adulteration and misbranding of rubber prophylactics. U. S. v. 29 Gross of Rubber Prophylactics (and 18 other seizure actions). Default decrees of condemnation and destruction.** (F. & D. Nos. 41374, 41375, 41420, 41447, 41448, 41492, 41494, 41495, 41560, 41561, 41562, 41599, 41602, 41603, 41604, 41624, 41625, 41626, 41760, 41761, 41762, 41952. Sample Nos. 1084-D, 1086-D, 1087-D, 1088-D, 2346-D, 2348-D, 2349-D, 2626-D to 2630-D, incl., 7646-D, 7647-D, 7649-D, 8562-D, 8565-D, 8568-D, 8569-D, 9001-D, 9394-D, 9395-D, 9396-D, 9502-D, 9503-D, 9505-D, 9506-D.)

Examination of these prophylactics showed that some were defective in that they contained holes.

On various dates between January 14 and March 15, 1938, six United States attorneys, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 1,105 gross and 530 packages of rubber prophylactics in various lots at New York, N. Y.; Chicago, Ill.; Oklahoma City, Okla.; Sloan, N. Y.; St. Louis, Mo.; and Pittsburgh, Pa. The libels alleged that the article had been shipped in interstate commerce on various dates between November 9, 1937, and January 12, 1938, from Akron, Ohio, by Killashun Sales Division; and charged adulteration and misbranding in violation of the Food and Drugs Act. The article was variously designated: "Xcello's"; "Tetratex"; "L. E. S."; "Texide"; "Silver Tex." Portions designated as L. E. S., Texide, and Tetratex were labeled: "L. E. Shunk Latex Products, Inc., Akron, Ohio." One lot, designated as Excello's, was labeled: "The Killian Mfg. Company, Akron, Ohio."

The articles were alleged to be adulterated in that their strength fell below the professed standard or quality under which they were sold.

Misbranding was alleged in that the following statements appearing in the labeling of the several lots of the product were false and misleading: (Xcello's) "Xcello's \* \* \* For Prevention of Disease \* \* \* The Perfected Latex"; (Tetratex) "Prophylactic \* \* \* For Prevention of Disease \* \* \* Strongest Liquid Latex \* \* \* Prophylactics \* \* \* Guaranteed 5 Years \* \* \* Disease Preventative \* \* \* For Medical Purposes"; (Texide) "Prophylactic \* \* \* Guaranteed 5 years \* \* \* Against Deterioration under normal conditions \* \* \* For the Prevention of Disease \* \* \* Prophylactics \* \* \* For Prevention of Disease"; (L. E. S.) "Prophylactics \* \* \* Guaranteed 5 Years \* \* \* For the Prevention of Disease \* \* \* For Prevention of Disease \* \* \* Disease Preventive \* \* \* Guaranteed 5 Yrs."; (Silver Tex) "Superfine \* \* \* Prophylactics \* \* \* Guaranteed 5 Yrs. \* \* \* For the Prevention of Contagious Diseases \* \* \* For Prevention of Disease."

On various dates between February 26 and April 21, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*