

August 15, 1940, and entered an order with the same restraining provisions as the order of August 15, 1940, and defining "defective" within the meaning of the order as prophylactics which contained holes or were otherwise imperfect to the extent of making them unsuited for the prevention of venereal diseases.

410. Alleged violation of injunction. U. S. v. Dean Rubber Manufacturing Co. Defendant adjudged not guilty. (Sample No. 10786-E.)

On June 6, 1941, the United States attorney for the Western District of Missouri filed an information against the Dean Rubber Manufacturing Co., a corporation, North Kansas City, Mo., alleging that on or about November 27, 1940, the defendant shipped in interstate commerce from North Kansas City, Mo., to Omaha, Nebr., and Pittsburgh, Pa., quantities of prophylactics which were adulterated. The information further alleged that said shipments were made by the defendant wilfully, unlawfully, contumaciously and contemptuously, in violation of the injunction theretofore entered in said court, reported in notice of judgment D. D. N. J. No. 409. On the same date an order was entered that the defendant appear before the court on June 23, 1941, to show cause why it should not be punished for contempt for violation of such injunction.

On June 23, 1941, the case was heard before the court and at the completion of the evidence, the court found the defendant not guilty of wilfully and contemptuously violating the injunction.

Nos. 411 to 425 report actions based on interstate shipment of prophylactics that were defective because of the presence of holes.

411. Adulteration and misbranding of prophylactics. U. S. v. Goodwear Rubber Co., Inc., and Harry L. Ain. Plea of guilty. Corporation fined \$1,000. Individual sentenced to 30 days in jail on each count. Execution of sentence on count II suspended and defendant placed on probation for 1 year to commence after having served 30 days' jail sentence on count I. (F. D. C. No. 2096. Sample No. 94913-D.)

On September 30, 1940, the United States attorney for the Southern District of New York filed an information against the Goodwear Rubber Co., a corporation, New York, N. Y., and Harry L. Ain, alleging shipment on or about November 29, 1939, from the State of New York into the State of Florida, of a quantity of prophylactics that were adulterated and misbranded.

The articles were alleged to be adulterated in that their quality fell below that which they were represented to possess in that they were represented to consist of excellent quality, air-tested, rubber prophylactics; whereas they did not consist of excellent quality, air-tested, rubber prophylactics but were defective because they contained holes. They were alleged to be misbranded in that the statements "Prophylactic Rubbers * * * Excellent Quality * * * Guaranteed 5 Years," borne on the cartons, and the statement "Air Tested" on the articles were false and misleading, since the said statements represented that the articles consisted of excellent quality, air-tested, rubber prophylactics; whereas they did not, but were defective because they contained holes.

On October 2, 1940, pleas of guilty having been entered on behalf of the defendants, the court imposed a fine of \$1,000 against the corporation and sentenced the individual defendant, Harry L. Ain, to serve a sentence of 30 days in jail on count I and also 30 days in jail on count II. The sentence on the latter count was suspended and the defendant was placed on probation for 1 year to commence after serving the jail sentence on count I.

412. Adulteration and misbranding of prophylactics. U. S. v. Charles E. Jenkins, James L. Tyrrell, and Maurice Gusman (Killashun Sales Division). Pleas of guilty. Fine, \$400. (F. D. C. No. 2100. Sample Nos. 3112-E, 3114-E.)

On August 12, 1940, the United States attorney for the Northern District of Ohio filed an information against Charles E. Jenkins, James L. Tyrrell, and Maurice Gusman, copartners, trading as the Killashun Sales Division, at Akron, Ohio, alleging shipment on or about August 25, 1939, from the State of Ohio into the State of Pennsylvania, of quantities of prophylactics which were adulterated and misbranded. The article was labeled in part: "Made From * * * Liquid Latex Mfg. By L. E. Shunk Latex Prod. Inc. Akron, Ohio, U. S. A."

The articles were alleged to be adulterated in that their quality fell below that which they purported or were represented to possess, in that they were represented to be disease preventives, and in that they were guaranteed to be effective for such purpose for 5 years; whereas they were not disease preventives which were guaranteed to be effective for such purpose for 5 years, since they were in whole or in part defective because of the presence of holes.

They were alleged to be misbranded in that the statements in the labeling, "For Prevention of Disease * * * Guaranteed Five Years * * * Disease Preventative Guaranteed 5 Years," were false and misleading since they represented that the articles would be effective to prevent disease and were guaranteed for such purposes for 5 years; whereas they were not effective to prevent disease and would not be effective for such purposes for 5 years since they were defective because of the presence of holes.

The information also charged other shipments of this product which were adulterated and misbranded in violation of the Food and Drugs Act of 1906, as reported in notices of judgment published under that act.

On June 18, 1941, the defendants having entered pleas of guilty, the court imposed a fine of \$100 on each of the counts, the fine on the counts charging violation of the Federal Food, Drug, and Cosmetic Act amounting to \$400.

413. Adulteration and misbranding of prophylactics. U. S. v. 3 $\frac{1}{8}$ Gross, 285 Dozen, 18 Dozen, and 30 Dozen Prophylactics. Default decrees of condemnation and destruction. (F. D. C. Nos. 3264, 3519, 3586. Sample Nos. 10439-E, 10440-E, 10722-E, 34728-E, 34729-E.)

On October 30 and December 19 and 30, 1940, the United States attorney for the Southern District of New York filed libels against 3 $\frac{1}{8}$ gross and 333 dozen prophylactics at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about October 3, November 5, and December 5, 1940, by W. H. Reed & Co., Inc., from Atlanta, Ga.; and charging that it was adulterated and misbranded.

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

It was alleged to be misbranded in that the following statements were false and misleading: (Envelope) "Three Star Brand Goldbeaters are made from choice grade of materials * * * and represent high quality of Goldbeaters * * * for the Prevention Of Disease," and (instruction sheet) "The merchandise which you will find in this package is made of selected material * * * with all the care and skill which long experience in manufacturing can give"; (carton) "Supreme * * * Specially Selected," and (envelope) "Supreme * * * Specially Selected Silver-Tex Brand Goldbeaters are made from the choicest grade of materials obtainable, * * * and represent the highest quality of Goldbeaters. * * * for the prevention of contagious diseases"; (carton) "Guaranteed Five Years," and (envelope) "Texide Brand Goldbeaters are made from the choicest grade of materials obtainable, * * * and represent the highest quality of Goldbeaters. * * * for the prevention of contagious diseases only"; and (carton) "Double Selected * * * Supreme," (envelope) "Double Selected * * * Supreme Monat Brand Goldbeaters are made from the choicest grade of materials obtainable, * * * and represent the highest quality * * * for the prevention of contagious diseases," and (direction sheet) "* * * for the prevention of disease."

Portions of the article were alleged to be misbranded further in that it was in package form but (1) did not bear a label containing the name and place of business of the manufacturer, packer, or distributor; and (2) did not bear a label containing an accurate statement of the quantity of the contents.

On November 22, 1940, and January 8 and 17, 1941, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

414. Adulteration and misbranding of prophylactics. U. S. v. 983 Gross of Prophylactics (and 6 other seizure actions against prophylactics). Default decrees of condemnation and destruction. (F. D. C. Nos. 1314, 1315, 2430, 3160, 3624, 3645, 3671, 3676. Sample Nos. 61197-D, 61198-D, 3192-E, 10727-E, 16943-E, 19248-E, 31937-E, 31939-E, 31949-E, 31950-E, 31951-E.)

Between January 10, 1940, and January 20, 1941, the United States attorneys for the Northern District of Texas, Western District of Pennsylvania, Southern District of New York, Northern District of Illinois, and Western District of Missouri filed libels against 983 gross of prophylactics at Dallas, Tex., 11 $\frac{1}{2}$ gross at Pittsburgh, Pa., 48 gross at New York, N. Y., 1,595 gross at Chicago, Ill., and 143 gross at Kansas City, Mo., alleging that the article had been shipped in interstate commerce by the Killashun Sales Division from Akron, Ohio, within the period from on or about March 11, 1939, to on or about December 4, 1940; and charging that it was adulterated and misbranded. The article was labeled in part variously: "Genuine LES Liquid Latex"; "Pickaniny Brand Supreme Goldbeaters * * * Olympia Lab. Atlanta, Ga."; "Diana Special * * * Distributed by Boland Laboratories, * * * New York City"; "Killian Mfg.