

30248. Adulteration and misbranding of prophylactics. U. S. v. 15 Gross and 7½ Gross of Prophylactics (and 1 other seizure action against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 44408, 44409, 44432. Sample Nos. 58647-D, 58648-D, 58653-D.)

Samples of this product were found to be defective in that they contained holes.

On November 26 and 29, 1938, the United States attorney for the Western District of Kentucky, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 39½ gross of prophylactics at Louisville, Ky.; alleging that the article had been shipped in interstate commerce by Peerless Rubber Sundries from Akron, Ohio, in part on or about October 17, 1938, and in part on or about November 2, 1938; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part, "Texide." A portion was labeled further: "L. E. Shunk Latex Products, Inc., Akron, Ohio."

Adulteration was alleged in that the strength of the article fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements in the labeling were false and misleading: "Guaranteed Five Years * * * Prophylactics * * * For prevention of disease."

On January 5, 1939, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30249. Adulteration and misbranding of prophylactics. U. S. v. 5 Gross of Prophylactics. Default decree of condemnation and destruction. (F. & D. No. 44398. Sample No. 22177-D.)

Samples of this product were found to be defective in that they contained holes.

On November 22, 1938, the United States attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 5 gross of prophylactics at Milwaukee, Wis.; alleging that the article had been shipped in interstate commerce on or about November 10, 1938, by the Perfection Rubber Co. from Akron, Ohio; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part, "Safe-Tex."

Adulteration was alleged in that the strength of the article 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: "Safe-Tex * * * The enclosed prophylactics are an aid in preventing venereal diseases * * * For prevention of diseases."

On February 1, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30250. Adulteration and misbranding of Cereal Lactic. U. S. v. Cereal Lactic Co., Inc., Clarence M. Porter, Leroy V. Porter, and Edward R. Hurlock. Pleas of guilty. Corporation sentenced to pay a fine of \$80. No fines imposed against the individuals. (F. & D. No. 39753. Sample Nos. 18643-C, 15120-C, 18859-C, 19905-C.)

Three of the shipments of this product were found to contain not more than 3 percent of the number of aciduric organisms declared on the label. The labeling of two of the said three shipments and that of a fourth shipment bore false and fraudulent curative and therapeutic claims.

On September 26, 1938, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Cereal Lactic Co., Inc., Woodward, Iowa, Clarence M. Porter, Leroy V. Porter, and Edward R. Hurlock, officers of said corporation, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, within the period from on or about July 11, 1936, to on or about February 15, 1937, from the State of Iowa into the States of Missouri, Illinois, and Wisconsin of quantities of Cereal Lactic, of which one lot was adulterated, one lot was misbranded, and the others were adulterated and misbranded.

One shipment of the product was intended for poultry and livestock. Analysis showed that it consisted essentially of the products of corn and wheat and a small proportion of lactic acid. Examination of the remaining lots showed

that they contained micro-organisms in amounts ranging from less than 10,000 to not over 4,000,000 per gram.

Three shipments of the article were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold in that the label of two of the said lots bore the statement, "Bacterial count: 173 million aciduric organisms per gram of dry material," and a circular enclosed in the packages of the remaining lot bore the statement, "Bacteriological count: 173 million aciduric organisms per gram of dry material"; whereas the article contained not more than 3 percent of the number of aciduric organisms so represented. Misbranding of two of the said shipments was alleged in that the statement, "Bacterial count: 173 million aciduric organisms per gram of dry material," borne on the label, were false and misleading.

Misbranding was alleged with respect to two shipments in that the can containing the article bore the statements, "Cereal Lactic is indicated in all gastro-intestinal conditions where a change in intestinal flora is known to be beneficial; also in reflex symptoms due to toxins of gastro-enteric origin," regarding the curative and therapeutic effects of the article, which were false and fraudulent in that they represented that when it is known that a change in the intestinal flora would be beneficial to any gastro-intestinal condition, the article was capable of effecting the change with resultant benefit; and that when the cause of reflex symptoms is toxins of gastro-enteric origin, the article was capable of removing such cause; whereas the article was not capable of producing the effects claimed.

The product intended for poultry and stock was alleged to be misbranded in that certain statements in the circular shipped with it, regarding its curative and therapeutic effects, falsely and fraudulently represented that it was effective as a disease control; that it was a specific for coccidiosis control; that it was effective as a preventive of worms and infection in poultry and other animals; effective as a preventive of necrotic enteritis in hogs; effective to build the bodies of pullets and cause them to lay big eggs, and of chickens to develop into big broilers; that it was a guarantee of hatchability and livability; would promote an abundant flow of milk in brood sows and sustain them in health and flesh; that suckling pigs would wean very young without reduction in their flesh; that its use would enable swine raisers to market them earlier and to improve their quality and smoothness of flesh; that it would increase milk production and maintain a normal ratio of butterfat; that it would cause calves to thrive; that it would cause cattle to digest food more thoroughly, to gain weight faster, and to have smoother skin and bright glossy coats.

On December 23, 1938, the defendants entered pleas of guilty and the court imposed a single fine, namely, \$80, against the corporation.

HARRY L. BROWN, *Acting Secretary of Agriculture.*