

267. Adulteration and misbranding of prophylactics. U. S. v. 12½ Gross of Prophylactics. Default decree of condemnation and destruction. (F. D. C. No. 1654. Sample No. 5805-E.)

On March 18, 1940, the United States attorney for the Southern District of Indiana filed a libel against 12½ gross of prophylactics at Terre Haute, Ind., alleging that the article had been shipped in interstate commerce on or about September 27, 1939, from Akron, Ohio, by the Perfection Rubber Co.; and charging that it was adulterated and misbranded. The article was labeled in part; "Perfection Latex Gold Band."

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

It was alleged to be misbranded in that the representations that it was a prophylactic, was the best made, was perfection, and was of supreme quality, appearing in the labeling, were false and misleading.

On June 11, 1940, no claimant having appeared, judgment of condemnation was entered and the article was ordered destroyed.

268. Adulteration and misbranding of prophylactics. U. S. v. 147 Gross and 62 Gross of Prophylactics. Default decree of condemnation and destruction. (F. D. C. No. 1180. Sample Nos. 62608-D, 62609-D.)

On or about December 13, 1939, the United States attorney for the Southern District of Texas filed a libel against 209 gross of prophylactics at Houston, Tex., alleging that the article had been shipped in interstate commerce on or about October 12, 1939, by Philray Merchandise Corporation from New York, N. Y.; and charging that it was adulterated and that one lot was also misbranded. The article was labeled in part: "De Luxe Silver Ray"; or "Silver Bond."

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

The De Luxe Silver Ray brand was alleged to be misbranded in that the representations in the labeling that the article was guaranteed for 5 years, was a disease preventative, and was for medical purposes only, were false and misleading.

On January 11, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

269. Adulteration and misbranding of prophylactics. U. S. v. 79 Gross and 102 Gross of Prophylactics (and 4 other seizure actions against prophylactics). Default decrees of condemnation and destruction. (F. D. C. Nos. 1344, 1426, 1452, 1537, 1758. Sample Nos. 61704-D, 61706-D, 63193-D, 63194-D, 74457-D, 86362-D, 16031-E, 16033-E, 16036-E.)

On or about January 15, February 2, 8, and 28, and April 8, 1940, the United States attorneys for the Northern District of Texas, Southern District of New York, District of Minnesota, Southern District of Texas, and Western District of Oklahoma filed libels against 181 gross of prophylactics at Dallas, Tex.; 9½ gross at New York, N. Y.; 49 gross at Minneapolis, Minn.; 124 gross at Houston, Tex.; and 524¼ gross at Oklahoma City, Okla. On February 6, 1940, the libel filed in the Northern District of Texas was amended to cover an additional 163 gross of the product. It was alleged in the libels that the article had been shipped in interstate commerce within the period from on or about January 21, 1939, to on or about March 12, 1940, by W. H. Reed & Co., Inc., from Atlanta Ga.; and that it was adulterated and that certain shipments were also misbranded. Four of the shipments were labeled in part respectively: "Surety," "Red-Pak," "Golden Pheasant," or "Pan." The remaining shipment bore no brand name.

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

Misbranding was alleged with respect to certain shipments in that representations in the labeling of the Red-Pak brand that it was effective for the prevention of disease and was guaranteed for 5 years; those in the labeling of a portion of the Golden Pheasant brand that it was a prophylactic; those in the labeling of the Pan brand that it was carefully tested and was a fine-quality guaranteed prophylactic; and those in the labeling of the lot that bore no brand that it was made of selected, choice grade materials, that it had been made with all the care and skill which long experience in manufacturing can give, and was effective for the prevention of disease, were false and misleading.

On February 23, March 12 and 19, April 16, and May 7, 1940, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.