

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.