PRODUCT: 42 gross of rubber *prophylactics* at Houston, Tex. Examination of samples showed that 4 percent were defective in that they contained holes.

LABEL, IN PART: "Apris Prophylactics."

NATURE OF CHARGE: Adulteration, Section 501 (c), the quality of the article fell below that which it purported and was represented to possess.

Misbranding, Section 502 (a), the label statements "Prophylactic" and "Prophylactics" were false and misleading as applied to an article containing holes.

DISPOSITION: January 31, 1947. Default decree of condemnation and destruction.

2326. Adulteration and misbranding of prophylactics. U. S. v. 311 Gross * * *. (F. D. C. No. 24628. Sample No. 30329–K.)

LIBEL FILED: May 11, 1948, Southern District of California.

ALLEGED SHIPMENT: On or about April 5, 1948, by the Rexall Drug Co., from St. Louis, Mo.

PRODUCT: 311 gross of rubber *prophylactics* at Vernon, Calif. Examination of samples showed that 2.4 percent were defective in that they contained holes.

LABEL, IN PART: "Roger (O.K.) Prophylactic Manufactured by Roger Rubber Products Inc., Los Angeles, Calif."

NATURE OF CHARGE: Adulteration, Section 501 (c), the quality of the article fell below that which it purported and was represented to possess.

Misbranding, Section 502 (a), the label statement "Prophylactic" was false and misleading as applied to an article containing holes.

DISPOSITION: June 15, 1948. Default decree of condemnation and destruction.

2327. Adulteration and misbranding of prophylactics. U. S. v. 144½ Gross * * *. (F. D. C. No. 23801. Sample No. 24704–K.)

LIBEL FILED: October 9, 1947, District of Minnesota.

ALLEGED SHIPMENT: On or about September 9 and 17, 1947, by the Dean Rubber Manufacturing Co., from North Kansas City, Mo.

PRODUCT: 144½ gross of rubber *prophylactics* at Minneapolis, Minn. Examination of samples showed that 9 percent were defective in that they contained holes.

LABEL, IN PART: "Dean's Peacocks."

NATURE OF CHARGE: Adulteration, Section 501 (c), the quality of the article fell below that which it purported and was represented to possess.

Misbranding, Section 502 (a), the label statement "Tested * * * An Aid in Preventing Venereal Disease" was false and misleading as applied to an article containing holes.

DISPOSITION: April 21, 1948. Default decree of destruction.

2328. Adulteration and misbranding of prophylactics. U. S. v. 120 Gross * * *. (F. D. C. No. 19810. Sample No. 51406–H.)

LIBEL FILED: May 1, 1946, District of Minnesota.

ALLEGED SHIPMENT: On or about January 22 and March 15, 1946, by the Dean Rubber Manufacturing Co., from North Kansas City, Mo.

PRODUCT: 120 gross of *prophylactics* at Minneapolis, Minn. Examination of samples showed that 3.7 percent were defective in that they contained holes.

LABEL, IN PART: "Dean's Peacocks."

NATURE OF CHARGE: Adulteration, Section 501 (c), the quality of the article fell below that which it purported and was represented to possess.

Misbranding, Section 502 (a), the label statements "Tested on New, Modern Equipment for Your Protection * * * An Aid in Preventing Venereal Diseases" were false and misleading as applied to an article containing holes.

DISPOSITION: The Dean Rubber Manufacturing Co., claimant, filed an answer denying that the product was adulterated or misbranded, and on September 13, 1946, it filed a motion for an order requiring the Food and Drug Administration to deliver a portion of the official sample, remaining untested, to enable the claimant to make an adequate test thereof. After consideration of the arguments and briefs of counsel with respect to the motion, the court handed down, on March 11, 1947, the following decision in denial of the motion: