

PRODUCT: 94 gross of *prophylactics* at Charlotte, N. C. Examination of samples showed that 2.8 percent were defective in that they contained holes.

LABEL, IN PART: "Texide Prophylactic Manufactured by L. E. Shunk Latex Prod., Inc., Akron, Ohio."

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

Misbranding, Section 502 (a), the label statements "Prophylactics" and "Fine Quality Prophylactic Electronically Tested For Your Protection" were false and misleading as applied to an article containing holes.

DISPOSITION: September 27, 1948. Default decree of condemnation and destruction.

2576. Adulteration and misbranding of prophylactics. U. S. v. 12 Gross \* \* \*.  
(F. D. C. No. 24494. Sample No. 14692-K.)

LABEL FILED: April 2, 1948, Northern District of Illinois.

ALLEGED SHIPMENT: On or about October 24, 1947, by the National Hygienics Products, from Akron, Ohio.

PRODUCT: 12 gross of *prophylactics* at Chicago, Ill. Examination of samples showed that 5.56 percent were defective in that they contained holes.

LABEL, IN PART: "Texide Prophylactics Mfd. by L. E. Shunk Latex Products Inc Akron, Ohio."

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

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

DISPOSITION: November 18, 1948. Default decree of condemnation and destruction.

2577. Adulteration and misbranding of prophylactics. U. S. v. 25 Gross \* \* \*.  
(F. D. C. No. 25437. Sample No. 37098-K.)

LABEL FILED: On or about October 12, 1948, District of Oregon.

ALLEGED SHIPMENT: On or about June 30 and July 8, 1948, by the Rexall Drug Co., from St. Louis, Mo.

PRODUCT: 25 gross of *prophylactics* at Portland, Oreg. Examination of samples showed that 2.77 percent were defective in that they contained holes.

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

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: November 5, 1948. Default decree of condemnation and destruction.

## DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS

### DRUGS FOR HUMAN USE\*

**2578. Misbranding of Kaadt Diabetic Treatment.** U. S. v. Dr. Charles F. Kaadt (Kaadt Diabetic Institute and Kaadt Diabetic Clinic), Dr. Peter S. Kaadt, and Robert S. Benson. Pleas of not guilty. Tried to the jury. Verdict of guilty. Doctors Charles F. Kaadt and Peter S. Kaadt each sentenced to pay fine of \$1,000 and costs and to serve 1 year in prison on each of the seven counts of the indictment, with the sentences on first three counts to run consecutively, those on remaining counts to be suspended, and defendants to be placed on probation when released from prison. Defendant Benson sentenced to pay fine of \$350 and to serve one year in prison, with prison sentence to be suspended and defendant to be placed on probation for two years. Judgment affirmed upon appeal. (F. D. C. No. 21454. Sample Nos. 23351-H to 23353-H, incl., 51231-H, 51234-H, 54605-H, 54606-H, 70101-H to 70105-H, incl.)

**INDICTMENT RETURNED:** On or about January 31, 1948, Northern District of Indiana, against Dr. Charles F. Kaadt, trading as the Kaadt Diabetic Institute and Kaadt Diabetic Clinic, South Whitley, Ind., and against Dr. Peter S. Kaadt, who was associated in the conduct of the business of the institute and clinic, and Robert S. Benson, superintendent.

**ALLEGED SHIPMENT:** Between February 13, 1945, and March 29, 1946, from the State of Indiana into the States of Missouri, Michigan, Minnesota, and Florida.

**PRODUCT:** The *Kaadt Diabetic Treatment* consisted of a liquid medicine composed essentially of vinegar, potassium nitrate, protein, and a digestant, and adjunctive medication included pepsin, pancreatin, diastase, a laxative drug, and a solution used to test urine for sugar. The treatment was accompanied by certain labeling, consisting of a booklet designated "Of Great Interest to Diabetics," a leaflet entitled "We do Not prescribe any Set diet," and a form letter addressed to "Dear Friend."

**NATURE OF CHARGE:** Misbranding, Section 502 (a), certain statements in the accompanying labeling of the *Kaadt Diabetic Treatment* were false and misleading. These statements represented and suggested that the product would be efficacious in the cure, mitigation, and treatment of diabetes, whereas it would not be efficacious for such purposes.

**DISPOSITION:** On February 27, 1948, a motion for dismissal was filed on behalf of the defendants, on the grounds that the indictment did not state facts sufficient to constitute an offense against the United States, and a similar motion was filed on behalf of Dr. Charles Kaadt, on the grounds that the issue as to the efficacy of the treatment was res judicata. In addition, a motion for a bill of particulars was filed. On February 29, 1948, the motions for dismissal were denied. The motion for a bill of particulars was denied also, except for that part requesting information as to how the circulars and leaflets described in count 3 accompanied the treatment. The defendants thereafter entered a plea of not guilty. The case came on for trial before a jury, at the conclusion of which the jury returned a verdict of guilty. Motions for a new trial and arrested judgment were filed on behalf of the defendants and were subsequently

\*See also Nos. 2552-2555, 2559, 2560, 2566, 2570-2577.