

"For the prevention of disease"; (Seal-Tex brand) "Prophylactics," "The Pink of Perfection," "Made from the Highest Quality of Pure Milk of Rubber," "An Aid for the Prevention of Disease," and "For Prevention of Disease Only."

Further misbranding, Section 502 (b) (1) (2), a portion of the Red-Pak brand failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor and (2) an accurate statement of the quantity of the contents.

**DISPOSITION:** Between March 28 and June 4, 1945, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

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

### DRUGS FOR HUMAN USE

**1578. Misbranding of Kurex.** U. S. v. Kurex Hillgrove Laboratories, Inc., Richard F. Hillgrove and Walter P. Weihe. Pleas of not guilty. Tried to the jury; verdict of guilty. Corporation given total fine of \$10,000, of which \$7,500 was suspended. Hillgrove sentenced to 2 years in jail and placed on probation for 3 years; Weihe sentenced to 30 days in jail and placed on probation for 1 year and 1 day. (F. D. C. No. 14312. Sample Nos. 904-H, 2535-H, 22014-H, 22016-H.)

**INDICTMENT RETURNED:** February 20, 1945, Southern District of Ohio, against the Kurex Hillgrove Laboratories, Inc., Cincinnati, Ohio, and Richard F. Hillgrove and Walter P. Weihe, officers of the corporation.

**ALLEGED SHIPMENT:** Between the approximate dates of January 18 and February 5, 1945, from the State of Ohio into the States of Missouri, West Virginia, and Florida.

**PRODUCT:** Analyses of samples disclosed that the product was a dark brown liquid consisting chiefly of water, alcohol, and plant extractives, including an emodin-bearing drug.

**NATURE OF CHARGE:** Misbranding, Section 502 (a), certain statements on the label of the article and in an accompanying typewritten letter bearing the heading "Kurex" and an accompanying circular entitled "New Treatment For Diabetes" were false and misleading since they represented and suggested that the article would be efficacious in the cure, mitigation, and treatment of diabetes and such symptoms resulting from diabetes as a weakened, run-down condition, numb and cold legs and feet, and weak eyesight; and that the article would be effective to reduce excess blood sugar and to enable the diabetic to reduce the amount of insulin used and eventually eliminate the use of insulin. The article would not be efficacious for the purposes claimed.

It was also alleged that the defendants had been previously convicted under the Federal Food, Drug, and Cosmetic Act.

**DISPOSITION:** A motion to quash and a demurrer to the indictment were filed on behalf of the defendants, on the ground that the previous conviction of the defendants, to which reference was made in the indictment, was based upon a plea of nolo contendere. After a hearing in the matter, the court, on or about March 6, 1945, overruled the demurrer and denied the motion to quash. Thereafter, a plea of not guilty was entered for the defendants and the case came on for trial before a jury on March 14, 1945. At the conclusion of the trial on March 20, 1945, the jury returned a verdict of guilty, and on March 26, 1945, the following sentences were imposed: The corporation was fined \$2,500 on each of 4 counts of the indictment, with payment of the fine on all counts except count 1 being suspended; Richard F. Hillgrove was sentenced to serve 2 years in jail on count 1 and 15 months on count 2, the time to be served under those counts to run concurrently, and he also was given a suspended sentence of 3 years in jail on counts 3 and 4 and placed on probation for 3 years; Walter Weihe was sentenced to 30 days in jail on count 1, given a suspended sentence of 1 year and 1 day on each of the remaining 3 counts, and placed on probation for 1 year and 1 day.

**1579. Misbranding of Prescription 1-VV-1 and Extract of Cod Liver.** U. S. v. Sophia Strboya Sikoparija (Mrs. Stanley Sikoparija). Plea of not guilty. Tried to the jury; verdict of guilty. Fine, \$1,000. (F. D. C. No. 11380. Sample Nos. 29822-F, 33710-F.)

**INFORMATION FILED:** May 8, 1944, Eastern District of Texas, against Sophia Strboya Sikoparija, trading as Mrs. Stanley Sikoparija, Orange, Tex.

\*See also Nos. 1551-1555, 1557, 1559-1566, 1572, 1574, 1576, 1577.