

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements on the label of the article and in the leaflet and circular were false and misleading since the statements represented and suggested that the article was effective as a treatment, preventive, and cure for rheumatism and arthritis conditions, and as a treatment for boils and acne, whereas the article was not effective for such purposes.

DISPOSITION: June 16, 1950. Default decree of condemnation and destruction.

3156. Misbranding of McLaran's 3 out of 5. U. S. v. 52 Dozen Jars, etc. (F. D. C. No. 24889. Sample No. 9189-K.)

LABEL FILED: June 15, 1948, District of New Jersey.

ALLEGED SHIPMENT: On or about April 21 and 26 and May 4, 1948, by International 3 out of 5 Co., Ltd., from New York, N. Y.

PRODUCT: 52 dozen jars of *McLaran's 3 out of 5* at Asbury Park, N. J., together with a number of reprints from various magazines, a number of streamers entitled "Bring New Ambition to Your Scalp," and a number of counter display cards entitled "Here's the way to Bring New Ambition to Your Scalp" and "McLaran's 3 out of 5."

Examination showed that the product consisted essentially of lanolin, pumice, and a perfume material.

LABEL, IN PART: (Jar) "McLaran's 3 out of 5 For the Scalp Net Weight 3 Ounces."

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements on the jar labels, display cartons, reprints from magazines, streamers, and counter display cards were false and misleading. The statements represented and suggested that the article was effective in growing hair in 3 out of 5 cases. The article was not effective to grow hair.

DISPOSITION: June 27, 1950. McLaran's 3 out of 5 For the Scalp, Inc., New York, N. Y., having appeared as claimant and later having withdrawn its claim, and Slav J. Youcheff, New York, N. Y., having subsequently filed a claim and answer in the case and having subsequently withdrawn his answer and consented to the entry of a decree, judgment of condemnation was entered. The court ordered that the product be destroyed.

3157. Misbranding of Ferguson's Zerret Applicator. U. S. v. William R. Ferguson (Ferguson's Zerret Applicator), and Mary A. Stanakis. Pleas of not guilty. Tried to the court and jury. Verdict of guilty. Sentence of 2 years in jail against William R. Ferguson and 1 year in jail against Mary A. Stanakis. (F. D. C. No. 25582. Sample Nos. 70216-H, 14906-K, 25863-K.)

INFORMATION FILED: March 31, 1949, Northern District of Illinois, against William R. Ferguson, trading as Ferguson's Zerret Applicator, Chicago, Ill., and Mary A. Stanakis.

ALLEGED SHIPMENT: On or about May 6 and November 18, 1947, and July 8, 1948, from the State of Illinois into the States of Wisconsin and South Dakota.

PRODUCT: This product was a dumbbell-shaped plastic device. Three of the devices were dismantled, and at the time of examination, one was found to contain only cotton and paraffin in the interior; one contained only dry cotton; and the third was filled with water, with a solids content somewhat greater than the published solids content of Chicago city water. The user was directed

to grasp the device by both hands in order to obtain the alleged beneficial effects.

LABEL, IN PART: (Leaflet) "Why Zerret Works Zerret is produced by expanding the hydrogen Atom, which in turn produces positive Life Energy. When you hold the Zerret Applicator it works on your life current, expanding the Atoms of the same. As this takes place, it in turn expands all atoms of your being."

NATURE OF CHARGE: Misbranding, Section 502 (a), the labeling of the device contained statements which were false and misleading since the device would not be efficacious for the purposes and would not fulfill the promises of benefit suggested and implied by the statements. The labeling of the device consisted of a number of circulars entitled "The Therapeutic Potency of Expanded Hydrogen Atoms" and "Ferguson's Zerret-Applicator" and a number of leaflets entitled "Directions for the Use of the Zerret Applicator" and "Why Zerret Works." The false and misleading statements in such labeling represented and suggested that the device would give health through the hands; that relaxation would take place throughout one's being with the use of the device; that the device would enable one to start getting well; that it would work on every atom of one's being; that its use would result in an expansion of the atoms of one's being; that its use would produce complete relaxation and a form of healing; that it was the key to the correction of disease; that anyone suffering from any known disease could become free from such suffering by using the device; that the device would enable one to get well and enjoy good health; that it would be efficacious in the treatment of human ailments and in the restoration and maintenance of health; that it would improve the flow of nervous energy and the circulation of body fluids in and through the body tissues; that the device would increase functioning power; that by its use the original force which activates every life form would be conducted into the body; that it would correct obesity and abnormal thinness due to glandular malfunctioning; that its use would enable persons with excess weight to reduce their appetite, and those with less than normal weight to increase their appetite and weight; that the device would provide a natural healing force; that it would introduce into the body the energy given off by expanded hydrogen atoms; that it would be efficacious in the treatment of diarrhea and constipation; that it would correct soft tissue overcontractions, fluid congestion and abnormalities of blood composition, and collections of waste materials in the body; that the device would reverse the aging processes and would cause a return to more youthful function, freedom, and mental outlook; that it would enable one to draw upon the inexhaustible supply of atomic energy and to flood the body with that rejuvenating force; that it would be efficacious in waste removal and in renormalization of function; and that the device would enable one to regain and retain mental and physical vigor far beyond the age when such vigor is ordinarily on the wane.

DISPOSITION: Pleas of not guilty having been entered on behalf of the defendants, the case came on for trial before the court and jury on May 10, 1950. The trial was concluded on May 17, 1950, at which time the jury returned a verdict of guilty against each defendant. A motion for a new trial was filed on behalf of the defendants on May 18, 1950, and was denied on May 22, 1950. On the latter date, the court imposed jail sentences of 2 years against William R. Ferguson and 1 year against Mary A. Stanakis.