

**4651. Ear wax drops.** (F. D. C. No. 37556. S. No. 5-508 M.)

**QUANTITY:** 8 display cartons, 12 cartoned btls. each, at Highland Park, Mich.

**SHIPPED:** 9-14-54 and 10-25-54, from Cincinnati, Ohio, by Grandpa Soap Co.

**LABEL IN PART:** (Carton) "Dent's Ear Wax Drops Contains Per Fluid Ounce: 10 Grs. Chloral Hydrate % In Product 1.75% \* \* \* 8 Mins. Fluid Extract Hyoscyamus, Containing Total Alkaloids of Hyoscyamus 0.003 Grain. Alcohol 1.0% Also Contains Carbolic Acid and Glycerin"; (btl.) "1 Fluid Dram Dent's Ear Wax Drops Containing: Glycerin, Chloral Hydrate 1.75%, total Alkaloid of Hyoscyamus 0.0007%, Carbolic Acid \* \* \* C. S. Dent & Co. Cincinnati, Ohio."

**RESULTS OF INVESTIGATION:** Examination showed that the article was a yellow viscous liquid containing 21.4 grains per fluid ounce of chloral hydrate, 1.5 percent by volume of phenol, and glycerin.

**LIBELED:** 1-3-55, E. Dist. Mich.

**CHARGE:** 501 (c)—the strength of the article when shipped differed from that which it was represented to possess since it contained more than the labeled amount of chloral hydrate; and, 502 (a)—the labeling contained false and misleading representations that the article was an adequate and effective treatment for earache, and the labeling in regard to the chloral hydrate content of the article also was false and misleading.

**DISPOSITION:** 5-3-55. Default—destruction.

**4652. Adhesive bandages and adhesive strips.** (F. D. C. No. 35806. S. Nos. 54-269 L, 55-875 L, 59-244 L, 59-246 L, 59-467 L.)

**INDICTMENT RETURNED:** 9-8-54, Dist. Mass., against Albert H. Tessier, t/a Handy Pad Supply Co., Worcester, Mass.

**SHIPPED:** Between 12-19-52 and 8-11-53, from Massachusetts to Michigan, North Carolina, and New York.

**LABEL IN PART:** (Box) "100 Ideal Adhesive Strips \* \* \* Sterilized Plain Sulfathiazole Gauze Pad [or "Plain Borated Gauze Pad"] Distributed by Southern First Aid Supply Co. Lexington, N. C.," "100 Redi-Dressings \* \* \* Plain Borated Gauze Pad Sterilized Distributed by Jeffrey-Fell Company Buffalo 8, N. Y.," or "100 Dandy Bandages \* \* \* Plain Borated Gauze Pad Sterilized Distributed by Ferrill and Schank First Aid Co. Detroit 8, Mich."

**CHARGE:** 501 (b)—the quality and purity of the articles when shipped fell below the standard for adhesive absorbent bandage set forth in the United States Pharmacopeia, an official compendium, in that they were not sterile but were contaminated with viable micro-organisms; and, 502 (a)—the label statement "Sterilized" was false and misleading.

**PLEA:** Guilty.

**DISPOSITION:** 3-7-55. \$2,500 fine.

**4653. Rubber prophylactics.** (F. D. C. No. 36448. S. No. 89-003 L.)

**QUANTITY:** 21 gross at New York, N. Y.

**SHIPPED:** 11-11-53, from Philadelphia, Pa., by Zenith Drug Sales.

**LABEL IN PART:** "Zenith Lubri-Pak"

**RESULTS OF INVESTIGATION:** An examination of 144 units showed that 6 (4.2 percent) were defective in that they contained holes.

**LIBELED:** 3-18-54, S. Dist. N. Y.

**CHARGE:** 501 (c)—the quality of the article when shipped fell below that which it purported and was represented to possess; and, 502 (a)—the label statements "Prophylactic" and "For the prevention of disease" were false and misleading as applied to an article containing holes.

**DISPOSITION:** Irving L. Schechter, New Haven, Conn., appeared as claimant, after which the case came on for hearing before the court on the Government's motion for a final decree. After hearing the arguments of the Government counsel in support of the motion and of the claimant in opposition thereto, the court, on 1-28-55, entered a decree of condemnation and destruction.

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

**4654. Drugs (a brownish black liquid and a pink liquid) for use in the treatment of cancer. (Inj. No. 232.)**

**COMPLAINT FOR INJUNCTION FILED:** November 16, 1950, Northern District of Texas, against Hoxsey Cancer Clinic, a partnership, Dallas, Tex., and Harry M. Hoxsey, to enjoin the interstate shipment of the above-mentioned drugs misbranded as hereinafter described.

**CHARGE:** The material allegations of the complaint are stated in the decision of the court of December 21, 1950, set forth below.

**DISPOSITION:** The defendants filed an answer denying the material allegations of the complaint; and, on December 14, 1950, the case came on for trial before the court without a jury. The trial was concluded on December 20, 1950; and, on the following day, the court handed down its decision, together with the following findings of fact and conclusions of law:

*ATWELL, District Judge:* "On November 15th, 1950, this complaint was filed, charging that the proceeding is brought under Sec. 302 (a) of the Food and Drug Act, 21 U. S. C. 332 (a).

"That the respondents have been and are now introducing and causing to be introduced, and delivering and causing to be delivered for introduction into interstate commerce, at Dallas, Tex., in violation of Sec. 301 (a) of the Act, and 21 U. S. C. 331 (a) consignments of articles of drug within the meaning of Sec. 201 (g) of said Act, which are misbranded within the meaning of Sec. 302 of the Act.

"That the respondents promote the sale of, distribute and deliver such articles of drug from their clinic at Dallas, Texas, to physicians, and, practitioners in other portions in various parts of the United States. That such articles consist of liquids, intended for use in the mitigation, treatment and cure of cancer in man. One of such liquids is brownish-black in color, and the other, pink. Such liquids are dispatched in interstate commerce in sixteen-ounce bottles and bear the label on which appears essentially the following, to-wit:

H. C. C. 4507 Gaston Ave., Dallas Texas, -----  
No. ----- Dr. ----- One teaspoonful after  
meals and at bedtime. Keep cool.

That in some instances, a number appears following, 'No.' In some instances the name of J. B. Durkee appears following, 'Dr.' That the respondents in the distribution and delivery of such drugs to physicians and practitioners, dispatch such brownish-black and pink liquids in concentrated form also in sixteen-ounce bottles. The brownish-black concentrate bears a label on which appears,

From: Hoxsey Cancer Clinic 4507 Gaston Av.,  
Dallas, Texas. To: Regular concentrate add  
enough water to make one gallon. Shake well.

\*See also Nos. 4641, 4647-4649, 4651-4653.