

bottles of Dr. Harper's anti-cholera tonic for hogs, in part at Rogers and in part at Mansfield, Ark., alleging that the article had been shipped by the Elite Chemical Co., Watertown, Tenn., April 26, May 23, and August 7, 1919, respectively, and transported from the State of Tennessee into the State of Arkansas, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Shipping case) "The Dr. Harper's Remedies Guaranteed—Every Drop Dr. Harper's Anti-Cholera For Hogs"; (carton) "Dr. Harper's Anti-Cholera Tonic For Hogs Given To Prevent Diseases Of Swine \* \* \* For Worms \* \* \* 'How To Prevent Cholera'"; (folder) "How To Prevent Hog Cholera \* \* \* About every other day give to each hog a tablespoonful of Dr. Harper's Anti-Cholera. \* \* \* in most cases acts as preventive to disease. \* \* \* Use Anti-Cholera and you will have no sick hogs to cure. Your hogs will gain in weight and the meat will be free from disease."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it was a mixture consisting essentially of sodium bicarbonate, sodium sulphate, iron oxid, sulphur, and ground plant material, including fragments of seeds and hulls.

Misbranding of the article was alleged in substance in the libels for the reason that the above-quoted statements regarding the therapeutic and curative effects thereof, appearing upon the labeling of the said article, were false and fraudulent in that they were applied so as to represent falsely and fraudulently and to create in the minds of purchasers thereof the impression and belief that the article was effective as a treatment for hog cholera, when, in truth and in fact, it contained no ingredients or medicinal agents effective as a treatment for hog cholera.

On August 11, 1921, no claimant having appeared for the property, judgments of the court were entered finding the product to be misbranded and ordering its destruction by the United States marshal.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**9793. Adulteration and misbranding of kidney beans. U. S. \* \* \* v. 59 Cases and 260 Cases \* \* \* of Kidney Beans. Consent decrees of condemnation and forfeiture. Product released under bond. (F. & D. Nos. 11943, 11942. I. S. Nos. 8245-r, 8198-r. S. Nos. C-1729, C-1719.)**

On February 16, 1920, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of 59 cases and 260 cases, more or less, each containing 24 cans, of kidney beans, remaining unsold in the original unbroken packages at Chicago, Ill., alleging that the article had been shipped by the Marshall Canning Co., Marshalltown, Iowa, October 9 and November 26, 1919, respectively, and transported from the State of Iowa into the State of Illinois, and charging adulteration and misbranding in violation of the Food and Drugs Act.

Adulteration of the article was alleged in substance in the libels for the reason that red cranberry beans or speckled long cranberry beans, as the case might be, had been substituted in whole or in part for red kidney beans, and for the further reason that red cranberry beans or speckled long cranberry beans, as the case might be, had been mixed and packed with the said article so as to reduce, lower, and injuriously affect its quality and strength.

Misbranding was alleged in substance for the reason that each of the cases and cans containing the article was labeled in part as follows, to wit, "Uncle William Brand Red Kidney Beans \* \* \*" or "Witch Brand Red Kidney

Beans \* \* \*," which statements were false and misled and deceived the purchaser in that they represented that the said article was red kidney beans, whereas, in truth and in fact, the said cases and cans contained another article, to wit, red cranberry beans or speckled long cranberry beans, as the case might be. Misbranding was alleged for the further reason that the article was an imitation of, and was sold under the distinctive name of, another article, to wit, red kidney beans.

On August 11, 1921, the Marshall Canning Co., Marshalltown, Iowa, claimant, having admitted all the material allegations of the libel and having consented to a decree, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be released to said claimant upon payment of the costs of the proceedings and the execution of good and sufficient bonds, in conformity with section 10 of the act, conditioned in part that the product be relabeled, under the supervision of this department, as "Naga Uzura Kidney Beans."

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**9794. Adulteration and misbranding of canned red kidney beans. U. S. \* \* \* v. 100 Cases \* \* \* of Canned Red Kidney Beans. Tried to the court and a jury. Verdict for the Government. Motion for a new trial. Order entered granting new trial and setting aside verdict. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 12091. I. S. No. 7386-r. S. No. C-1732.)**

On February 16, 1920, the United States attorney for the Western District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 100 cases, more or less, each containing two dozen cans, of red kidney beans, remaining unsold in the original unbroken packages at Louisville, Ky., consigned by the Marshall Canning Co., Marshalltown, Iowa, November 15, 1919, alleging that the article had been shipped from Marshalltown, Iowa, and transported from the State of Iowa into the State of Kentucky, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part, (can) "Uncle William Brand Red Kidney Beans \* \* \* Packed by Marshall Canning Co. \* \* \*" (cut of dish containing red beans).

Adulteration of the article was alleged in the libel for the reason that long cranberry beans had been mixed and packed with, and substituted wholly or in part for, the said article.

Misbranding was alleged in substance for the reason that the statement, "Red Kidney Beans," and the design of a dish containing red beans, appearing on the label of the cans containing the article, were false and misleading and deceived and misled the purchaser when applied to a product consisting of long cranberry beans, and for the further reason that the said article was an imitation of, and was sold under the distinctive name of, another article.

On November 8, 1920, the Marshall Canning Co., Marshalltown, Iowa, having entered an appearance as claimant for the property, the case came on for trial before the court and a jury. After the submission of evidence and arguments by counsel the court delivered the following charge to the jury (Evans, D. J.):

"Gentlemen of the jury: This is a suit by the United States in the form of what lawyers call a libel for a judgment against certain packages of beans which you have heard described many times to-day. The pleadings of the United States on which these packages are seized are of such a character as to permit an inquiry which will be left to the jury and the only thing is this: Was the label on these cans and on the packages that contained these cans