

10889. Adulteration and misbranding of canned tomatoes. U. S. v. 750 Cans (Cases) of Tomatoes. Decree ordering release of the product. (F. & D. No. 16164. I. S. No. 18242-t. S. No. C-2916.)

On May 5, 1922, the United States attorney for the Northern District of Texas, 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 750 cans (cases) of tomatoes, consigned on or about February 1, 1922, remaining in the original cans at Terrell, Texas, alleging that the article had been shipped by R. G. Layman & Sons, Cloverdale, Va., and transported from the State of Virginia into the State of Texas, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Springdale Brand Hand Packed Tomatoes * * * Packed by R. G. Layman & Sons Cloverdale, Va."

Adulteration of the article was alleged in the libel for the reason that water had been mixed and packed with and substituted wholly or in part for the said article, and for the further reason that it was mixed in a manner whereby damage or inferiority was concealed.

Misbranding was alleged in substance for the reason that the statement "Tomatoes," appearing on the labels of the cans containing the article, was false and misleading, and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was an imitation of and offered for sale under the distinctive name of another article.

On July 25, 1922, R. G. Layman & Sons, Cloverdale, Va., claimant, having relabeled the product so that the statement "Whole Ripe Tomatoes Packed in Water" appeared, in addition to the labeling theretofore placed on the said cans, and the court having taken notice of an error in the libel and having determined that the said libel should have been brought against 750 cases of the article instead of 750 cans, it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings.

C. F. MARVIN, *Acting Secretary of Agriculture.*

10890. Misbranding of horse and mule feed and molasses feed. U. S. v. Milam-Morgan Co., Ltd., a Corporation. Pleas of guilty. Fines, \$40. (F. & D. Nos. 13161, 15062. I. S. Nos. 600-r, 11177-r, 11982-t, 13304-t.)

On November 27, 1920, and October 4, 1921, respectively, the United States attorney for the Eastern District of Louisiana, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district two informations against the Milam-Morgan Co., Ltd., a corporation, New Orleans, La., alleging shipment by said company, in violation of the Food and Drugs Act, on or about April 24 and June 1, 1920, and February 24, 1921, respectively, from the State of Louisiana into the State of Mississippi, and on or about October 24, 1919, from the State of Louisiana into the State of Georgia, of quantities of horse and mule feed and molasses feed which were misbranded. The articles were labeled in part, variously: "* * * Suwanee Horse and Mule Feed Manufactured by Milam-Morgan Co., Ltd. New Orleans, La. * * *;" "* * * Primo Molasses Feed Manufactured by Milam-Morgan Co., Ltd., New Orleans, La. * * *;" "Georgia * * * My-T-Good Horse and Mule Feed Manufactured by Milam-Morgan Co., Ltd. New Orleans, La. * * *;" and "* * * Bay Mule Molasses Feed Manufactured by Milam-Morgan Co., Ltd. New Orleans, La. * * *."

Analysis of a sample of the Suwanee brand, by the Bureau of Chemistry of this department, showed that it contained 6.78 per cent of protein. Examination of said article showed that it contained corn, oats, alfalfa, oat hulls, and oat starch, probably from oat feed, rice bran which appeared to contain an excessive amount of rice hulls, and peanut shells, with possibly a little peanut meal, and that it did not contain cottonseed meal or velvet bean meal. Analysis of a sample of the Primo brand, by said bureau, showed that it contained 1.53 per cent of fat and 7.16 per cent of protein. Examination of said article showed that it contained corn, oats, alfalfa, a trace of rice bran, and a considerable amount of rice hulls, and some grass tissues which were either a contamination or an adulteration of the alfalfa. Analysis of a sample of the My-T-Good brand, by said bureau, showed that it contained 7.09 per cent of protein. Analysis of a sample of the Bay Mule brand, by said bureau, showed that it contained 6.71 per cent of protein and 20.50 per cent of fiber. Examination of said article showed that it contained corn, oats, alfalfa, rice bran which appeared to contain an excess of rice hulls, a little kafir or milo, a small amount