

4106. Adulteration and misbranding of canned tomatoes. U. S. v. William Miller et al. (Miller Bros. & Co.). Plea of nolo contendere. Fine, \$35. (F. & D. No. 5918. I. S. No. 890-h.)

On December 30, 1914, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against William Miller and Emanuel H. Miller, copartners, trading under the firm name of Miller Bros. & Co., Baltimore, Md., alleging shipment by said defendants, in violation of the Food and Drugs Act, on or about August 14, 1913, from the State of Maryland into the State of Texas, of a quantity of canned tomatoes which were adulterated and misbranded. The product was labeled: (On wooden cases) "2 Doz. No. 2 Miller Bros. & Co. Jumbo Brand Tomatoes, Baltimore, Md." (On cans) "Jumbo Brand (representation of tomatoes) Tomatoes, Packed by Miller Bros. & Co., Baltimore, Md., U. S. A., Jumbo Brand" (representation of elephant's head).

Examination of a sample of the product by the Bureau of Chemistry of this department showed the following results:

	No. 1.	No. 2.
Total solids (per cent)-----	4.47	4.30
Total sugar after inversion, as invert (per cent)---	1.75	1.81
Acids, as citric (per cent)-----	0.42	0.46
Specific gravity of filtered juice at 15° C-----	1.0165	

The analysis of this sample indicates that water has been added to the tomatoes.

Adulteration of the article was alleged in the information for the reason that a substance, to wit, water, had been mixed and packed with the article so as to reduce, lower, and injuriously affect its quality and strength; and, further, for the reason that a substance, to wit, water, had been substituted in part for tomatoes which the article purported to be.

Misbranding was alleged for the reason that the statement, to wit, "Tomatoes," borne on the label of the article, was false and misleading in that it purported and represented that the article consisted entirely of tomatoes, whereas, in truth and in fact, said article did not so consist, but consisted of a mixture of tomatoes and water. Misbranding was alleged for the further reason that the article was labeled "Tomatoes" so as to deceive and mislead the purchasers into the belief that it consisted entirely of tomatoes, whereas, in truth and in fact, it did not so consist, but consisted of a mixture of tomatoes and water.

On January 16, 1915, the defendants entered pleas of nolo contendere to the information, and the court imposed a fine of \$35.

CARL VROOMAN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., December 4, 1915.