

"THE SECRETARY REPORTS—"

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Case No. 1420

ARBITRATION REPORT

As required in Section 8 (k) of the Arbitration Rules, your Secretary reports regarding Case No. 1420 between Cosby-Hodges Milling Company of Birmingham, Alabama, plaintiffs, and the Early & Daniel Company, Inc., Cincinnati, Ohio.

This case pertains to a contract between the two parties dated September 9, 1947, covering the sales of 2,000 bushels of No. 2 white corn at \$3.16 per bushel, Alabama basis, official Louisville weights and grades, by the Early & Daniel Co. to Cosby-Hodges Milling Company. The carload of corn was sold through broker, R. C. Hemphill and Company, Birmingham, Alabama. The defendant confirmed the sale of white corn to the plaintiff on the same date, September 9, 1947, as the sale was completed by the broker.

The carload of white corn arrived at the plant of the plaintiff on a Sunday and it was unloaded on that day. When about one-half of the car had been unloaded the plaintiff found that the white corn was heavily mixed with yellow corn. A sample of the corn was drawn by the local Federal and State Grain Inspector who determined the sample to be 72% No. 2 white corn and 28% No. 2 yellow corn. The plaintiff claimed that he was unable to use the mixed corn in his milling operation, and could only use it for grinding into feed. The plaintiff, therefore, asked for the difference in price between the No. 2 white corn and No. 2 yellow corn on the date of purchase. The defendant pointed out that five samples of the corn was drawn by an Official Grain Inspector of the Louisville Board of Trade which sample did not indicate

the presence of any yellow corn. The defendant further brought out the corn which was put into the car at its plant was weighed in one draft and then dropped from its scale at the top of the elevator into the car. It was the contention of the defendant that because of that method of loading the car, if the car had contained yellow corn, it would have scattered throughout the entire car and would have been very easily detected when the grain inspector drew the official sample.

The Arbitration Committee considering the case arrived at a unanimous decision in favor of the defendants, and in substantiation of their decision submitted the following reasons:

(1) Buyer's and seller's contracts at time of purchase agreed and no objection has been entered by either party regarding same. Contract called for official weights and grades and official certificates were furnished to the Cosby-Hodges Milling Company by the Early & Daniel Company.

(2) Rule No. 24, page IX of the National Rules, taken from the Constitution, By-Laws and Rules of the Grain & Feed Dealers National Association, reads as follows: "Grain Shipped from Terminal or Interior Markets: When grain is sold by telegraph, telephone, or mail, by receivers or distributors, located in terminal and interior markets, it shall be understood and agreed that the public weights and grades of the market from which the grain is shipped shall govern."

Inasmuch as both parties in this dispute agreed to these terms, the findings of our committee are against the plaintiff and in favor of the defendant, all cost of arbitration to be paid by the plaintiff.