Continued

unfit for table use. The corn syrup procured in this country is likewise unfit for table use, and accordingly has no retail market because of the fact that it is very heavy and not particularly appetizing in taste. The process of mixing molasses and syrup causes the sugar in the molasses to remain in suspension in the resulting liquid, due probably to the weight of the corn syrup. The action of benzoate of soda retards the action of fermentation bacteria and the application of heat destroys such bacteria as are contained in the two syrups, which may be destroyed by heat.

The result of this operation of mixing these two syrups therefore is that Egerton Brothers take two products, neither of which has a market for table use, and opens a new market by mixing those two products together,

It is not practical to offer for retail use either Barbados molasses or corn syrup in their natural form. The only way in which this market can be opened for these products is by mixing them and selling the mixture.

Due to the fact that this company takes the two syrups in question, and by their operation opens a new market, it is my opinion that the result of their operation can be termed a manufacturing operation. The product of that operation has properties which neither of the original ingredients had before mixing, and has a market open to neither before the operation. It is accordingly my conclusion that Egerton Brothers is entitled to a manufacturers' exemption for the machinery and raw materials used in the production of the table syrup made at their plant.

I may, however, add that the case of Citizens & Marine Bank vs. Mason, 2 Fed. 2nd Series 352, indicates a view contrary to this opinion. That case arose in the bankruptcy of a bottling company which bought syrups, combined the same with carbonated water, and botteled the resulting product for sale. In that case, the Circuit Court of Appeals for this circuit held that the operation described was not a manufacturing operation. I do, however, believe that under the Maryland cases, particularly the Shriver case, this operation would be held to be manufacture by the Maryland Court of Appeals.

However, if the Appeal Tax Court wishes to re-open the question as to this class of industry, this case would be a suitable one on which to base a test case.