

**20824. Adulteration and misbranding of tomato paste. U. S. v. 5 Cases and 8½ Cases of Tomato Paste. Default decrees of condemnation, forfeiture, and destruction. (F. & D. nos. 28680, 29127. Sample nos. 13258-A, 16944-A.)**

These actions involved shipments of a product represented to be tomato paste, but which was insufficiently concentrated to be deemed tomato paste. Sample cans taken from one of the shipments were found to contain less than the declared weight.

On August 19, 1932, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the District Court a libel praying seizure and condemnation of 5 cases of tomato paste at Birmingham, Ala. On October 27, 1932, a libel was filed in the Southern District of Mississippi against 8½ cases of tomato paste at Gulfport, Miss. It was alleged in the libels that the article had been shipped in interstate commerce, in part on or about June 10, 1932, and in part on or about June 15, 1932, by the Uddo-Taormina Corporation, from New Orleans, La., and that it was adulterated and misbranded in violation of the Food and Drugs Act as amended. A portion of the article was labeled in part: "Big 5 Color Added Tomato Paste \* \* \* Packed By Uddo-Taormina Corporation, New Orleans, La." The remainder was labeled in part: "Net contents 5 ounces Baby Brand Tomato Paste Color Added Salsa Di Pomodoro Colole Aggiunto Packed by Uddo Bros. Co., Inc., [or "Uddo-Taormina Corp."], New Orleans, La."

The libels charged that the article was adulterated in that an insufficiently concentrated strained tomato product had been substituted for tomato paste.

Misbranding of both lots was alleged for the reason that the statements, "Tomato Paste \* \* \* Salsa Di Pomodoro", borne on the labels, were false and misleading and deceived and misled the purchaser, and for the further reason that the article was offered for sale under the distinctive name of another article. Misbranding was alleged with respect to the product seized in the Southern District of Mississippi for the further reason that the statement, "Net Contents 5 ounces", was false and misleading and deceived and misled the purchaser, and for the further reason that the article was in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On February 27, 1933, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered in the case instituted in the Southern District of Mississippi, and the court ordered the product destroyed. On March 22, 1933, a decree ordering condemnation and forfeiture of the product seized in the Northern District of Alabama was entered.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**20825. Adulteration of noodles. U. S. v. 12 Boxes of Noodles. Default decree of condemnation, forfeiture, and sale. (F. & D. no. 28444. Sample no. 232-A.)**

This case involved a quantity of noodles which were artificially colored with a yellow color simulating egg, and which contained no egg.

On July 5, 1932, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States a libel praying seizure and condemnation of 12 boxes of noodles, remaining in the original, unbroken packages at Spokane, Wash., alleging that the article had been shipped in interstate commerce on or about May 13, 1932, by the Majestic Paste Co., from San Francisco, Calif., to Spokane, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Box) "Shanghai Noodle & Macaroni Mfg. Co., \* \* \* San Francisco, Calif."; (carton): "Plain Noodles."

It was alleged in the libel that the article was adulterated in that it was colored in a manner whereby inferiority was concealed.

On August 5, 1932, no claimant having appeared for the property, and the court having found that the allegations of the libel were true but that the article was not unwholesome, judgment of condemnation and forfeiture was entered and it was ordered that the product be sold by the United States marshal.

R. G. TUGWELL, *Acting Secretary of Agriculture.*