was labeled in part: "Coeur d'Alene Brand Red Sour Pitted Cherries Packed in Water Seiter's, Inc. Coeur D'Alene, Idaho."

It was alleged to be misbranded in that it was canned food and fell below the standard of fill of container promulgated by the Secretary of Agriculture, since it contained excess packing medium, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On September 14, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

**29490. Misbranding of canned cherries. U. S. v. 139 Cases of Canned Cherries. Consent decree of condemnation with provision for release under bond for relabeling.** (F. & D. No. 43189. Sample No. 27540–D.)

This product, having been shipped in interstate commerce and remaining unsold and in the original packages, was at the time of examination found to be below the standard of fill of container prescribed by regulation of this Department.

On August 17, 1938, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 139 cases of canned cherries at Casper, Wyo.; alleging that the article had been shipped on or about February 10, 1938, by the Varney Canning Co., Inc., from Roy, Utah; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Leota Brand * * * Pitted Cherries Varney Canning Inc., Roy Utah."

It was alleged to be misbranded in that it was canned food and fell below the standard of fill of container promulgated by the Secretary of Agriculture, and its label did not bear a plain and conspicuous statement indicating that it fell below such standard.

On September 14, 1938, the Varney Canning Co., Inc., Roy, Utah, and the Wyoming Grocery Co., Casper, Wyo., claimants, having consented to the entry of a decree, judgment of condemnation was entered, with provision that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

**29491. Adulteration of butter. U. S. v. 200 Tubs of Butter. Decree of condemnation. Product released under bond for reworking.** (F. & D. No. 42930. Sample No. 16788–D.)

This product having been shipped in interstate commerce and remaining unsold and in the original packages, was at the time of examination found to contain less than 80 percent of milk fat.

On or about June 8, 1938, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 200 tubs of butter at Buffalo, N. Y.; alleging that the article had been shipped by Swift & Co. from Muskogee, Okla., on or about May 7, 1938; and charging adulteration in violation of the Food and Drugs Act.

Adulteration was alleged in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by the act of March 4, 1923.

On June 30, 1938, Swift & Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked to the legal standard.

M. L. WILSON, *Acting Secretary of Agriculture.*

**29492. Adulteration of butter. U. S. v. 17 Tubs of Butter. Consent decree of condemnation. Product released under bond to be reworked.** (F. & D. No. 43141. Sample No. 19589–D.)

This product contained less than 80 percent of milk fat.

On July 11, 1938, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 17 tubs of butter at Duluth, Minn.; alleging that the article had been shipped in interstate commerce on or about June 25, 1938, by Farmers Union Cooperative Creamery from Portland, N. Dak.; and charging adulteration in violation of the Food and Drugs Act.