Weight 1 lb. [or "Strawberry Preserves Net Weight 2 Lbs."]. Distributed by New England Stores Service Corporation Boston, Worcester, Springfield."

The articles were alleged to be misbranded in that the statements on their respective labels "Net Weight 1 lb." and "Net Weight 2 Lbs.," were false and misleading and tended to deceive and mislead the purchaser when applied to articles that were short weight. They were alleged to be misbranded further in that they were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages, since the quantities stated were not correct.

On April 6, 1938, the claim and answer of the Sambo Dairy Products, Inc., was withdrawn and on April 25, 1938, judgment of condemnation and forfeiture, with order of destruction, was entered.

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

28902. Misbranding of canned tomatoes. U. S. v. 99 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. & D. No. 41554. Sample No. 3107-D.)

This product fell below the standard established by this Department because the fruit did not consist of whole or large pieces, and it was not labeled to indicate that it was substandard.

On January 29, 1938, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99 cases of canned tomatoes at Portland, Oreg., alleging that the article had been shipped in interstate commerce on or about January 15, 1938, by California Conserving Co. from Oakland, Calif., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Alameda Brand Tomatoes with Puree from Trimmings * * * Packed by California Conserving Co. Incorporated San Francisco."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the fruit did not consist of whole or large pieces and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On April 11, 1938, the California Conserving Co., Inc., having appeared and having consented, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

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

28903. Adulteration and misbranding of butter. U. S. v. 13 Cubes of Butter. Consent decree of condemnation. Product released under bond. (F. & D. No. 42013. Sample No. 3221-D.)

This product contained less than 80 percent of milk fat.

On March 8, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 13 cubes of butter at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about February 26, 1938, from Salt Lake City, Utah, by the Western Creamery Co., of Salt Lake City, Utah, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled: "Butter * * *."

The article was alleged to be adulterated 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.

Misbranding was alleged in that the article had been represented as butter, which was false and misleading and deceived the purchaser since it contained less than 80 percent of milk fat.

On April 19, 1938, the Western Creamery Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it not be disposed of contrary to law.

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