It was alleged in the libel that the article was misbranded in that it fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, because it was water-pack cherries and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary, indicating that it fell below such standard. Misbranding was alleged for the further reason that the statement on the label, "Solid Pack" when applied to a product packed in water, was false and misleading and deceived and misled the purchaser thereof.

On June 5, 1933, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be delivered to a charitable institution.

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

21114. Adulteration of evaporated apples. U. S. v. 52 Boxes of Evaporated Apples. Default decree of destruction entered. (F. & D. no. 29688. Sample no. 6516–A.)

This case involved an interstate shipment of evaporated apples that were in part insect-infested, dirty, and decomposed.

On December 29, 1932, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 52 boxes of evaporated apples at Kansas City, Mo., alleging that the article had been shipped in interstate commerce, on or about November 17, 1932, by J. R. Bever Co., from Gentry, Ark., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Choice Evaporated Apples Packed by the J. R. Bever Co. Gentry, Arkansas."

It was alleged in the libel that the article was adulterated in that it consisted in part of a filthy and decomposed vegetable substance.

On June 14, 1933, no claimant having appeared for the property, judgment was entered finding the product adulterated and ordering that it be destroyed by the United States marshal.

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

21115. Adulteration and misbranding of butter. U. S. v. William W. Barnum (McKean County Creamery). Plea of guilty. Fine, $50 and costs. (F. & D. no. 29498. Sample no. 8730–A.)

This action was based on the interstate shipment of a quantity of butter, samples of which were found to contain less than 80 percent by weight of milk fat, the standard for butter prescribed by Congress. Sample packages also were found to contain less than 1 pound, the weight declared on the label.

On May 31, 1933, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against William W. Barnum, trading as McKean County Creamery, Smethport, Pa., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about June 15, 1932, from the State of Pennsylvania into the State of New York, of a quantity of butter which was adulterated and misbranded. The article was labeled in part: "Smethport Brand Creamery Butter * * * McKean County Creamery Smethport, Pa. * * * One Pound Net."

It was alleged in the information that the article was 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 by weight of milk fat as prescribed by the act of Congress of March 4, 1923, which the article purported to be.

Misbranding was alleged for the reason that the statement, "One Pound Net", was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the package contained less than 1 pound. Misbranding was alleged for the further reason that the article was food 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 June 12, 1933, the defendant entered a plea of guilty to the information, and the court imposed a fine of $50 and costs.

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