from Avoca, Ark., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Putman Brand Hand Packed Tomatoes * * * Putman Canning Co., Avoca, Ark."

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, because the tomatoes did not consist of whole or large pieces, and because a portion contained excess peel, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On March 1, 1938, the Putman Canning Co., having appeared as claimant and having consented to the entry of a decree, 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.*

28753. Adulteration of candy. U. S. v. 7 Boxes of Candy (and 3 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 41441, 41444, 41481, 41483. Sample Nos. 1585-D, 2011-D, 2449-D, 8997-D.)

Samples of this product were found to contain insect fragments, excreta, rodent hairs, and miscellaneous foreign substances.

On January 17 and January 21, 1938, four United States attorneys, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 71 boxes of candy in various lots at Chicago, Ill., Coatesville, Pa., Omaha, Nebr., and Marion, Ohio, alleging that the article had been shipped in interstate commerce by the Queen Anne Candy Co., from Hammond, Ind., between the dates of December 17, 1937, and January 5, 1938, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Queen Anne Candy Co. * * * Hammond, Ind."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On February 18 and 28, and March 2 and 18, 1938, the owner of the lot seized at Omaha, Nebr., having consented to its destruction and no one having appeared in the remaining cases, judgments of condemnation were entered and the product was ordered destroyed.

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

28754. Misbranding of canned cherries. U. S. v. 16 Cases of Canned Cherries. Default decree of condemnation and destruction. (F. & D. No. 41645. Sample No. 457-D.)

This product was substandard because the cherries were packed in water, and it was not labeled to indicate that it was substandard. It was also short weight.

On February 8, 1938, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 16 cases of canned cherries at Lewiston, Idaho, alleging that the article had been shipped in interstate commerce on or about October 4, 1937, from Veradale, Wash., by the Spokane Valley Canning Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Spokane Valley Brand Sour Pitted Cherries Net Contents 7 Lbs. 8 Oz. Spokane Valley Canning Co., Veradale, Wash."

The article was alleged to be misbranded in that the statement "Net Contents 7 Lbs. 8 Oz." was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; in that it 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 quantity stated was not correct; and in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the cherries were packed in water 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 March 8, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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