The article was alleged to be misbranded in that the statements, "1-5/8," "Min. 1-3/4 inch," "Min. 1-7/8 inch," "Min. 2 inch," "1-7/8 min.," "1-7/8 in min.," and "2-1/2 up," variously appearing on the labels, and the statement "U. S. No. 1," appearing on the label of the K & B brand, were false and misleading and tended to deceive and mislead the purchaser when applied to peaches that were undersized, or in the case of the said K & B brand, undergrade.

On June 7, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29153. Misbranding of canned cherries. U. S. v. 397 Cases of Canned Cherries. Decree releasing product under bond for relabeling. (F. & D. No. 42374. Sample Nos. 23116–D, 18502–D.)

This product fell below the standard established by this Department because it contained excess packing medium, and it was not labeled to indicate that it was substandard.

On May 11, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 397 cases of canned cherries at Los Angeles, Calif.; alleging that the article had been shipped in interstate commerce on or about March 19, 1938, from Seattle, Wash., by Food Associates, Inc.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Haas Baruch & Co. Los Angeles, Calif. Distributors, Black and White Brand Water Pack Red Sour Pitted Cherries."

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 of Agriculture indicating that it fell below such standard.

On June 15, 1938, the National Fruit Canning Co., claimant, having admitted the allegations of the libel, the product was ordered released under bond conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29154. Adulteration and misbranding of candy. U. S. v. 60 Boxes of Candy (and two similar seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 42215, 42216, 42298. Sample Nos. 8595–D, 8596–D, 20999–D.)

Samples of this product were found to contain insects, insect fragments, human hair, and rodent hair. One lot was short weight.

On April 18 and May 6, 1938, the United States attorney for the Eastern District of Wisconsin and the Northern District of Indiana, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 14 dozen boxes of candy at Milwaukee, Wis., and 60 boxes of candy at South Bend, Ind.; alleging that the article had been shipped in interstate commerce on or about March 1 and April 22, 1938, from Chicago, Ill., by the Ambrosia Candy Co.; and charging adulteration of all lots and misbranding of a portion in violation of the Food and Drugs Act. The article was labeled in part: "By Peggy Page Chicago To Mother" or "Easter Greetings 2½ Lbs. Net."

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

A portion of the "Easter Greetings" was alleged to be misbranded in that the statement "2½ Lbs. Net" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; and 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 aforesaid statement was incorrect.

On June 23 and July 20, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29155. Adulteration and misbranding of walnut chips. U. S. v. 16½ Cans of Walnut Chips. Default decree of condemnation and destruction. (F. & D. No. 42334. Sample No. 18707–D.)

This product was infested with insects. In addition, it was represented to consist of walnuts; whereas it also contained peanuts, pecans, and shredded coconut.