

at Springfield, Ill.; alleging that the article had been shipped on or about May 23, 1938, by the Elmer Candy Co., Inc., from New Orleans, La.; and charging that it was adulterated in violation of the Food and Drugs Act. It was labeled in part: "Angel's Delight Devinity Candy."

Adulteration was alleged in that the article consisted in whole or in part of a filthy vegetable substance.

On December 22, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31019. Adulteration of butter. U. S. v. Vilmer K. Berger (Berger Creamery Co.). Plea of guilty. Fine, \$50 and costs. (F. & D. No. 42785. Sample No. 26874-D.)

This product contained less than 80 percent by weight of milk fat.

On November 20, 1939, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Vilmer K. Berger, trading as the Berger Creamery Co., South Sioux City, Nebr., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about May 31, 1939, from the State of Nebraska into the State of New York of a quantity of butter which was adulterated.

Adulteration was alleged in that a product which contained 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 March 4, 1923.

On December 13, 1939, the defendant having entered a plea of guilty, the court imposed a fine of \$50 and costs.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31020. Misbranding of canned cherries. U. S. v. 297 Cases of Canned Cherries. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 45574. Sample No. 82617-D.)

This product was substandard because of the presence of excessive pits, and it was not labeled to indicate that it was substandard.

On November 13, 1939, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 297 cases of canned cherries at Tampa, Fla.; alleging that the article had been shipped in interstate commerce on or about August 7, 1939, by the Washington Packers, Inc., from Sumner, Wash.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Invale Brand Water Pack Red Sour Pitted Cherries."

Misbranding was alleged in that the article was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since there was present therein more than 1 cherry pit per 20 ounces of net contents, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On December 1, 1939, Berger & Rachelson, Inc., Tampa, Fla., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled under the supervision of this Department.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31021. Misbranding of canned peas. U. S. v. 900 Cases of Peas. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. & D. No. 45568. Sample No. 47727-D.)

This product fell below the standard established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On October 12, 1939, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel against 900 cases of canned peas at Washington, D. C.; alleging that the article had been shipped in interstate commerce on or about August 24 and 26, 1939, by A. W. Feeser & Co., Inc., from Taneytown, Md.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Feeser's Brand Pod Run Sugared Peas."