

The article was alleged to be misbranded in that the term "Fancy" was false and misleading as applied to an article that was not of Fancy quality because of broken and shattered segments and poor color.

On May 23, 1941, Thiemann Bros., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**Nos. 1961 to 1968** report actions based on the shipment of canned cherries that failed to conform to the standard of quality for canned cherries because of the presence of more than 1 pit per each 20 ounces of cherries.

**1961. Misbranding of canned cherries. U. S. v. Stayton Canning Co. Cooperative. Plea of guilty. Fine, \$10.** (F. D. C. No. 4136. Sample Nos. 22064-E, 55569-E.)

On July 16, 1941, the United States attorney for the District of Oregon filed an information against the Stayton Canning Co. Cooperative, a corporation at Stayton, Oreg., alleging shipment on or about October 20 and November 1, 1940, from the State of Oregon into the States of California and Idaho of quantities of canned cherries that were misbranded. The article was labeled in part: (Cans) "Red Sour Pitted Cherries \* \* \* Distributed by Smith, Lynden & Co. San Francisco"; or "Santiam Brand \* \* \* Red Sour Pitted Cherries."

It was alleged to be misbranded in that it purported to be a food for which a standard of quality had been prescribed by regulations as provided by law, but its quality fell below such standard because of the presence of more than 1 pit to each 20 ounces of canned cherries, and its label did not bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On July 17, 1941, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$5 on each count of the information, totaling \$10.

**1962. Misbranding of canned cherries. U. S. v. Woods Cross Canning Co. Plea of guilty. Fine, \$25.** (F. D. C. No. 4124. Sample No. 44196-E.)

On May 28, 1941, the United States attorney for the District of Utah filed an information against the Woods Cross Canning Co., a corporation, Clearfield, Utah, alleging shipment on or about September 12, 1940, from the State of Utah into the State of Wyoming of a quantity of canned cherries that were misbranded. The article was labeled in part: (Cans) "Woods Cross Brand Water Packed Cherries Red Sour Pitted Net Weight 6 Lbs. 7 Oz."

It was alleged to be misbranded in that it purported to be or was represented as canned cherries, a food for which a standard of quality had been prescribed by regulations as provided by law, but its quality fell below such standard because of the presence of more than 1 pit to each 20 ounces of canned cherries and its label did not bear a statement that it fell below such standard.

On August 9, 1941, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$25.

**1963. Misbranding of canned cherries. U. S. v. 562 Cartons and 59 Cases of Canned Cherries. Decrees of condemnation. Portion of product ordered released under bond to be relabeled; remainder ordered destroyed.** (F. D. C. Nos. 3691, 3971. Sample Nos. 22241-E, 26590-E.)

On January 18 and March 13, 1941, the United States attorneys for the Southern District of Texas and the Southern District of California filed libels against 562 cartons each containing 6 No. 10 cans of cherries at Houston, Tex., and 59 cases each containing 24 No. 2 cans of cherries at Fresno, Calif., alleging that the article had been shipped in interstate commerce on or about December 16, 1940, and February 17, 1941, by C. S. Kale Canning Co. from Bellingham, Wash.; and charging that it was misbranded in that it purported to be a food for which a standard of quality had been prescribed by regulations as provided by law, but its quality fell below such standard and its label did not bear, in such manner and form as the regulations specify, a statement that it fell below such standard. The article was labeled in part: (Cans in 562 cartons) "Fargo Brand Red Sour Pitted Cherries Water Pack" or (cans in 59 cases) "Dodge Brand Red Sour Pitted Cherries in Water."

On April 16, 1941, C. S. Kale Canning Co., claimant for the seizure at Houston, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of the Food and Drug Administration. On June 25, 1941, no claimant having appeared for the seizure at Fresno, judgment of condemnation was entered and the product was ordered destroyed.