

March 19, 1942, by the Stanley Packing Co. from Fredonia, N. Y.; and charging that it was misbranded. The article was labeled in part: (Can) "Gervas Brand Pitted Red Sour Cherries * * * Packed by Gervas Canning Co., Fredonia, N. Y."

The article was alleged to be misbranded (1) in that it purported to be and was represented as a food for which a standard of quality had been prescribed by regulation as provided by law but its quality fell below such standard, since more than one pit was present in each 20 ounces of canned pitted cherries, and its label failed to bear in such manner and form as such regulations specify a statement that it fell below such standard; and (2) in that it purported to be a food for which a definition and standard of identity had been prescribed and its label did not bear the common names of the optional ingredients present in the article.

On July 16, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

3956. Misbranding of canned cherries. U. S. v. 48 Cases of Canned Cherries. Default decree of condemnation. Product ordered delivered to a Federal correctional institution. (F. D. C. No. 7767. Sample No. 95425-E.)

On June 19, 1942, the United States attorney for the Eastern District of Michigan filed a libel (amended June 22, 1942) against 48 cases of canned cherries at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about May 21, 1942, by W. G. Swanson, San Francisco, Calif., from Alameda, Calif.; and charging that it was misbranded. The article was labeled in part: (Can) " * * * Felice Fancy Pitted Black Bing Dark Sweet Cherries In Extra Heavy Syrup Packed By Hollister Canning Co. Hollister San Benito Co. California."

The article was alleged to be misbranded (1) in that the designation "Fancy," appearing in the labeling, was false and misleading as applied to an article not of fancy quality; (2) in that it purported to be and was represented as a food for which a standard of quality had been prescribed by regulations promulgated pursuant to law, but its quality fell below such standard since more than one pit was present in each 20 ounces of canned pitted cherries; (3) in that it purported to be and was represented as a food for which a standard of fill of container had been prescribed by such regulations, but it fell below such standard since the cans failed to contain the maximum quantity of cherries which could be sealed in the container and processed by heat without crushing the cherries; and (4) in that its label failed to bear, in such manner and form as such regulations specify, statements that it fell below such standards.

On August 7, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal correctional institution.

3957. Misbranding of canned cherries. U. S. v. 48 Cases of Canned Cherries. Default decree of condemnation and destruction. (F. D. C. No. 7591. Sample No. 78043-E.)

On June 1, 1942, the United States attorney for the Western District of Pennsylvania filed a libel against 48 cases of canned cherries at Erie, Pa., alleging that the article had been shipped in interstate commerce on or about May 6, 1942, by the Gervas Canning Co., from Fredonia, N. Y.; and charging that it was misbranded. The article was labeled in part: (Cans) "Gervas Brand Red Sour Pitted Cherries."

The article 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 more than one pit was present in 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 August 26, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

3958. Misbranding of canned peaches. U. S. v. 491 Cases of Canned Peaches. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 8077. Sample Nos. 95080-E, 95426-E, 21511-F.)

On August 8, 1942, the United States attorney for the Western District of Pennsylvania filed a libel against 491 cases, each containing 24 cans, of peaches at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about July 2, 1942, by the Pacific Grape Products Co., Modesto, Calif.;