

5708. Adulteration and misbranding of sweet milk chocolate, sweet real milk chocolate, and cocoa, and adulteration of chocolate liquor. U. S. * * * v. Massachusetts Chocolate Co., a corporation. Plea of nolo contendere. Fine, \$100. (F. & D. No. 7882. I. S. Nos. 457-1, 2034-1, 845-k, 1467-k, 1747-k.)

On May 29, 1917, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Massachusetts Chocolate Co., a corporation, Boston, Mass., alleging shipment by said company, in violation of the Food and Drugs Act, on or about September 15, 1914, and April 7, 1915, from the State of Massachusetts into the State of Pennsylvania, of quantities of articles labeled in part, "Wan Eta Twin Bars Sweet Milk Chocolate" and "Wan Eta Sweet Real Milk Chocolate," which were adulterated and misbranded, and on December 25, 1914, and October 15, 1915 from the State of Massachusetts into the States of New Jersey and New York, of quantities of an article shipped in response to orders for "* * * pure chocolate liquor * * *" and "* * * chocolate liquor," respectively, and described in the bills of lading as chocolate and labeled in part "Red Bird Liquor" or "Red Bird Liq.," which was adulterated, and on May 3, 1916, from the State of Massachusetts into the State of Pennsylvania, of a quantity of an article labeled in part "Wan Eta Cocoa," which was adulterated and misbranded.

Analyses of samples of the articles by the Bureau of Chemistry of this department showed the following results:

	"Sweet milk chocolate."	"Sweet real milk chocolate."
Sucrose (per cent)-----	56.80	59.55
Lactose (polarization) (per cent)-----	.8	1.50
Lactose (reduction) (per cent)-----	.84	1.64
Casein-----	Trace.	.92
Fat (per cent)-----	30.22	33.10
Butter fat (per cent)-----	2.8	.74
Total milk solids (estimated) (per cent)-----	3.0	

Examination shows the products to consist of sweet chocolate containing a small amount of milk.

The liquor shipped on December 25, 1914:

Total ash (per cent)-----	5.75
Water-soluble ash (per cent)-----	2.31
Water-insoluble ash (per cent)-----	3.44
Acid-insoluble ash (per cent)-----	0.92

Microscopical examination shows an excessive amount of cocoa shells present. The product contains excessive cocoa shells and dirt.

The liquor shipped on October 15, 1915:

Crude fiber (per cent)-----	3.64
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Microscopical examination shows an excessive amount of cocoa shells present in the product.

The cocoa shipped on May 3, 1916:

Total ash (per cent)-----	5.78
Water-soluble ash (per cent)-----	2.47
Water-insoluble ash (per cent)-----	3.31
Acid-insoluble ash (per cent)-----	0.55
Crude fiber (per cent)-----	6.82
Fat (per cent)-----	23.53

The product consists of a mixture of cocoa and cacao shells.

Adulteration of the "Sweet Milk Chocolate" in the shipment of September 15, 1914, was alleged in the information for the reason that a product, to wit, a sweet chocolate, which contained added butter fat and a trace of sweet milk chocolate, had been substituted wholly for sweet milk chocolate, which the article purported to be.

Misbranding of the article was alleged for the reason that the statement borne on its label regarding the article and the ingredients and substances contained therein, to wit, "Sweet Milk Chocolate," was false and misleading in that it represented that the article consisted wholly of sweet milk chocolate, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted wholly of sweet milk chocolate, whereas, in truth and in fact, it did not, but consisted of, to wit, a sweet chocolate which contained added butter fat and which contained only a trace of sweet milk chocolate. Misbranding of the article was alleged for the further reason that it was a food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

Adulteration of the chocolate liquor in the shipment of December 25, 1914, was alleged for the reason that substances, to wit, cocoa shells and dirt or sand, had been mixed and packed therewith so as to lower, reduce, and injuriously affect its quality and strength, and had been substituted in whole or in part for chocolate liquor, which the article purported to be.

Adulteration of the "Sweet Real Milk Chocolate" in the shipment of April 7, 1915, was alleged for the reason that a product, to wit, a sweet chocolate, which contained little or no milk, had been substituted in whole or in part for sweet real milk chocolate, which the article purported to be.

Misbranding of the article was alleged for the reason that the statement borne on the cartons containing the article regarding it and the ingredients and substances contained therein, to wit, "Sweet Real Milk Chocolate," was false and misleading in that it represented that the article consisted wholly of sweet real milk chocolate, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted wholly of sweet real milk chocolate, whereas, in truth and in fact, it did not, but consisted of a sweet chocolate which contained little or no milk. Misbranding of the article was alleged for the further reason 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.

Adulteration of the "Chocolate Liquor" in the shipment of October 15, 1915, was alleged for the reason that a substance, to wit, cocoa shells, had been mixed and packed therewith so as to lower or reduce and injuriously affect its quality and strength, and had been substituted in whole or in part for chocolate liquor, which the article purported to be.

Adulteration of the "Cocoa" in the shipment of May 3, 1916, was alleged for the reason that a substance, to wit, cacao shells, had been mixed and packed therewith so as to lower or reduce and injuriously affect its quality and strength and had been substituted in part for cocoa, which the article purported to be.

Misbranding of the article was alleged for the reason that the statement borne on its label regarding the article and the ingredients and substances contained therein, to wit, "Cocoa," was false and misleading in that it represented that said article consisted of cocoa, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted of cocoa, whereas, in truth and in fact, it did not, but consisted of, to wit, cocoa and added cacao shells.

On July 9, 1917, the defendant company entered a plea of *nolo contendere* to the information, and the court imposed a fine of \$100.

C. F. MARVIN, *Acting Secretary of Agriculture.*