

and mislead the purchaser into the belief that each of the said cans contained 5 pounds net of the said article, whereas, in truth and in fact, each of the said cans did not contain 5 pounds net of the said article, but did contain a less amount. Misbranding was alleged for the further reason that the article was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On December 23, 1921, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$50 and costs.

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

10275. Misbranding of strawberries. U. S. * * * v. Vance W. Miles. Plea of nolo contendere. Fine, \$5 and costs. (F. & D. No. 15448. I. S. Nos. 5958-t, 5960-t, 5963-t.)

On December 10, 1921, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Vance W. Miles, Marion Station, Md., alleging shipment by said defendant, on or about May 17 and 23, 1921, respectively, in violation of the Food and Drugs Act, as amended, from the State of Maryland into the State of New York, of quantities of strawberries in unlabeled crates, which were misbranded.

Misbranding of the article was alleged in the information for the 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.

On December 10, 1921, the defendant entered a plea of nolo contendere to the information, and the court imposed a fine of \$5 and costs.

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

10276. Adulteration and misbranding of chocolate cigars. U. S. * * * v. 28 Boxes * * * of Chocolate Cigars. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 15655. I. S. No. 5262-t. S. No. E-3731.)

On January 18, 1922, 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 a libel for the seizure and condemnation of 28 boxes of chocolate cigars, remaining unsold in the original unbroken packages at Lynn, Mass., alleging that the article had been shipped by the National Cocoa Chocolate Co., Hoboken, N. J., on or about October 27, 1921, and transported from the State of New Jersey into the State of Massachusetts, and charging adulteration and misbranding in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that foreign fat and an excessive quantity of cocoa shells had been mixed therewith so as to reduce and lower and injuriously affect its quality and strength and had been substituted wholly or in part for a product consisting only of chocolate, which the said article purported to be.

Misbranding of the article was alleged for the reason that the statement, to wit, "Chocolate Cigars National Cocoa Chocolate Co.," borne and labeled on the boxes containing the said article, regarding the article and the substances and ingredients thereof, were false and misleading in that the said statement represented the article to be chocolate, to wit, an article free from adulteration and containing no foreign substance, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser thereof into the belief that it was pure chocolate, to wit, an article free from adulteration and containing no foreign substance, whereas, in truth and in fact, the said article was not pure chocolate but was an adulterated article containing an excessive quantity of cocoa shells and containing a foreign substance, to wit, fat other than cocoa fat. Misbranding was alleged for the further reason that the article contained an excessive quantity of cocoa shells and a foreign substance, to wit, fat other than cocoa fat, and was an imitation of, and offered for sale under the distinctive name of, another article, to wit, chocolate.

On February 16, 1922, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

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