

5814. Adulteration and misbranding of chocolate candy. U. S. * * * v. The Touraine Co., a corporation. Plea of nolo contendere. Fine, \$50. (F. & D. No. 8293. I. S. No. 2130-m.)

On July 20, 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 Touraine Co., a corporation, doing business at Boston, Mass., alleging shipment by said company, in violation of the Food and Drugs Act, on or about October 24, 1916, from the State of Massachusetts into the State of New York, of a quantity of an article labeled in part, "Tammany Chocolates," which was adulterated and misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department shows the following results:

Ether extract (per cent)-----	30.05
Constants of fat:	
Critical temperature of dissolution (degrees)-----	83.5
Saponification number-----	196.6
Iodin number-----	36.3
Free fatty acids as oleic (per cent)-----	1.10
Titer test (degrees)-----	46.7

Examination shows the presence of a foreign fat.

Adulteration of the article was alleged in the information for the reason that a certain substance, to wit, a fat or fats foreign to chocolate, had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength, and had been substituted in whole or in part for chocolate-coated candy, which the article purported to be; and for the further reason that the article was an inferior product, to wit, a chocolate-coated candy in which the chocolate coating contained a fat or fats foreign to chocolate and had been mixed in a manner whereby its inferiority to pure chocolate-coated candy was concealed.

Misbranding was alleged for the reason that the following statement regarding the article and ingredients and substances contained therein appearing on the label, to wit, "Almond Tops * * * Tammany Chocolates * * *," was false and misleading in that it represented to purchasers that the article was a pure chocolate-coated candy, and for the further reason that it was labeled as aforesaid so as to deceive and mislead purchasers into the belief that it was a pure chocolate-coated candy, when, in truth and in fact, it was not, but was, to wit, a candy in which the coating contained a fat or fats foreign to chocolate, and for the further reason that it was, to wit, a candy in which the coating contained a fat or fats foreign to chocolate and was an imitation of, and was offered for sale under the distinctive name of, another article, to wit, chocolates.

On July 30, 1917, the defendant company entered a plea of nolo contendere to the information, and the court imposed a fine of \$50.

CARL VROOMAN, *Acting Secretary of Agriculture.*