

questions you have a reasonable doubt, then you are to find in behalf of the defendant, if not, then it is your duty to convict. So the case rests right there.

And I want to say right here that no matter what the court may have said about the facts in this case as indicating to your mind what I think you ought to do, that is of no consequence; whether I think this man was guilty or not. You are not to guess as to what I think; you are to pass upon that and when I allude to the testimony, it is merely to illustrate the law and the question of the law; you take care of the facts.

Thereupon the jury retired and after due deliberation returned into Court with its verdict of not guilty.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 9, 1914.*

2867. Adulteration and alleged misbranding of vinegar. U. S. v. Harbauer-Marleau Co. Plea of nolo contendere to count 1 of the information. Fine, \$100 and costs. Count 2 nolle prossed. (F. & D. No. 4146. T. S. No. 9791-d.)

On November 23, 1912, the United States Attorney for the Northern District of Ohio, 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 Harbauer-Marleau Co., a corporation, Toledo, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about October 9, 1911, from the State of Ohio into the State of Indiana, of a quantity of vinegar which was adulterated and alleged to have been misbranded. The product was labeled: (On barrel) "HO-Made Brand Pure Fermented Cider Vinegar Made for Ragon Brothers, Evansville, Indiana." "44 Oct. 9, 1911, Guaranteed under the pure food and drugs act, June 30, 1906, Serial No. 8904."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Solids (grams per 100 cc).....	1. 78
Reducing sugars, direct, after evaporation (grams per 100 cc).....	. 59
Nonsugars (grams per 100 cc).....	1. 19
Ash (grams per 100 cc).....	. 30
Alkalinity of water soluble ash (cc N/10 acid per 100 cc).....	29. 7
Ash in nonsugars (per cent).....	25. 2
Total phosphoric acid (mg per 100 cc).....	22. 2
Total acid, as acetic (grams per 100 cc).....	4. 02
Fixed acid, as malic (grams per 100 cc).....	. 025
Glycerol (grams per 100 cc).....	. 11

Adulteration of the product was alleged in the first count of the information for the reason that a substance, to wit, a dilute solution of acetic acid or distilled vinegar and a product high in reducing sugars and mineral matter, mixed and prepared in imitation of cider vinegar, had been and was substituted wholly or in part for the article (pure fermented cider vinegar). Misbranding was alleged in the second count of the information for the following reasons:

(1) That the statement "Pure fermented cider vinegar" borne on the package was false and misleading in that the product was not pure fermented cider vinegar but consisted in whole or in part of a dilute solution of acetic acid or a distilled vinegar and a product high in reducing sugars and mineral matter, mixed and prepared in imitation of cider vinegar.

(2) That it was an imitation of cider vinegar and was offered for sale under the distinctive name of another article, to wit, "Pure fermented cider vinegar."

(3) That it was so labeled and branded as to mislead and deceive the purchaser, being labeled and branded "Pure fermented cider vinegar" when as a matter of fact it was not pure fermented cider vinegar but consisted in whole or in part of a dilute solution of acetic acid or distilled vinegar, and a product high in reducing sugar and mineral matter, which had been mixed and prepared in imitation of pure fermented cider vinegar.

On January 27, 1913, the defendant company entered a plea of *nolo contendere* to the first count of the information, and the court imposed a fine of \$100 and costs. The second count of the information, charging misbranding of the product, was *nolle prosequi*.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 9, 1914.*

2868. Misbranding of feed. U. S. v. The Purity Milling Co. Plea of guilty. Fine, \$25 and costs. (F. & D. No. 4158. I. S. No. 13689-d.)

On March 3, 1913, the United States Attorney for the District of Kansas, 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 Purity Milling Co., a corporation, Manhattan, Kans., alleging shipment by said company, in violation of the Food and Drugs Act, on or about December 16, 1911, from the State of Kansas into the State of Oklahoma, of a quantity of so-called Alfalfa Molasses Feed, which was misbranded. The product was labeled: "100 lbs. The Purity Milling Co. Alfalfa Molasses Feed, Manhattan, Kansas. Analysis: Protein 13.69%; fat .74%; fiber 19.94%; moisture 11.71%; ash 10.17%; nitrogen free extract 43.75%" (On tag): "100 lbs. Molasses Feed, analysis: crude protein 13.69%; fiber 19.94%; ash 10.17%; ether extract .74%; moisture 11.71%; nitrogen free extract 43.75%; Manufactured by the Purity Milling Co., Manhattan, Kansas."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Moisture (per cent).....	17.81
Ether extract (per cent).....	.88
Protein (per cent).....	10.92
Crude fiber (per cent).....	22.06

Misbranding of the product was alleged in the information for the reason that the statement on the label on each of the sacks containing the product, "protein 13.69%," was false and misbranded, as the product contained but 10.92 per cent of protein, which is one of the valuable ingredients of stock feed, and further, in that the statement "fiber 19.94%" was false and misleading, as it conveyed the impression that this amount of crude fiber, which is an undesirable ingredient, was present therein, when in fact a greater amount of crude fiber was present, to wit, 22.06 per cent. Misbranding of the product was alleged for the further reason that it was labeled and branded so as to deceive the purchaser into the belief that there was a greater amount of protein, a valuable constituent, therein, than was actually present, and that there was a less amount of crude fiber, which is an undesirable ingredient, than was actually present therein.

On April 15, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of \$25 and costs.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 9, 1914.*

2869. Adulteration and misbranding of mustard. U. S. v. Belle Isle Mustard Works. Plea of guilty. Fine, \$10. (F. & D. No. 4159. I. S. No. 2837-d.)

On July 30, 1912, the United States Attorney for the Eastern District of Michigan, 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 Belle Isle Mustard Works, a corporation, Detroit, Mich., alleging shipment by said company, in violation of the Food and Drugs Act, on September 20, 1911, from the State of Michigan into the State of Ohio, of a quantity of mustard which was adulterated and misbranded. The product was labeled: (On one end of barrels) "Belle Isle Brand prepared Mustard, put up by E. A. Charbonneau, Detroit, Mich. 45" (On other end of barrels) "Finn & Labadie, Cleveland, Ohio."