State of Missouri, of a quantity of Rosolio di China which was misbranded. The product was labeled: "Rosolio di China Il Migliore dei Carminativi ed Aperitivi."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results: Alcohol (per cent by volume), 21.7; sugar (Clerget) (per cent), 24.2; bitter plant extractive; odor indicates presence of calamus; trace of quinin. Misbranding of the product was alleged in the information for the reason that the package in which it was shipped failed to bear a statement on the label thereof of the quantity or proportion of alcohol contained therein, whereas, in truth and in fact, it contained alcohol to the extent of 21.7 per cent.

On November 14, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10.

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

WASHINGTON, D. C., *February 18, 1914.*

2894. Adulteration and misbranding of ammonium salicylate compound tablets. U. S. v. John T. Milliken & Co. Plea of guilty. Fine, $20 and costs. (F. & D. No. 4359. I. S. No. 16023-d.)

On November 5, 1913, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against John T. Milliken, doing business under the firm name and style of John T. Milliken & Co., St. Louis, Mo., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about November 11, 1911, from the State of Missouri into the State of Indiana, of a quantity of so-called "Ammonium Salicylate Compound Tablets," which were adulterated and misbranded. The tablets were labeled: "500 compressed tablets No. 23. Ammonium salicylate comp. Each tablet represents phenacetine 1 gr. Salicine 1½ grs. Ammonium salicylate 3 grs. Caffeine ½ gr. Dose, 1 to 2 tablets. 27566 guaranteed by Jno. T. Milliken & Co. under Food and Drugs Act, June 30, 1906. No. 1392. Jno. T. Milliken & Co., manufacturing chemists, St. Louis, U. S. A., 6610."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results: Each tablet represents acetphenetidin (phenacetin), 0.853 grain; salicin, 0.989 grain; ammonium salicylate, 1.685 grains; caffein, 0.465 grain. Adulteration of the product was alleged in the information for the reason that it fell below the professed standard under which it was sold, to wit, phenacetin, 1 grain; salicin, 1½ grains; ammonium salicylate, 3 grains; caffein, one-half grain, in that said tablets each contained only 0.853 grain phenacetin, 0.989 grain salicin, 1.685 grains ammonium salicylate, and 0.465 grain caffein. Misbranding was alleged for the reason that the statement borne on the label set forth above was false and misleading, because it created the impression and led the purchaser to believe that the product contained said amounts of phenacetin, salicin, ammonium salicylate, and caffein, as therein stated, when, in truth and in fact, the tablets contained only 0.853 grain phenacetin, 0.989 grain salicin, 1.685 grains ammonium salicylate, and 0.465 grain caffein.

On November 24, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $20 and costs.

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

WASHINGTON, D. C., *February 18, 1914.*

2895. Adulteration of frozen egg product. U. S. v. Excelsior Baking Co. Tried to a jury. Verdict of guilty. Fine, $200. (F. & D. No. 4378. I. S. No. 1861-d.)

On September 17, 1912, the grand inquest of the United States of America, inquiring in and for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, returned an indictment in the District Court of the United States for said district against the Excelsior Baking Co., a corporation, Philadelphia, Pa., charging shipment by said company, in violation of the Food and Drugs Act, on or about January 5, 1912, from the State of Pennsylvania into the State of New Jersey of a quantity of frozen egg product which was adulterated.

Examination of a sample of the product by the Bureau of Chemistry of this department showed the following results: Microchemical examination: This is a poor product well strained. Odor bad when opened (egg frozen solid). Parts of four embryos and one piece containing mold found. Cover of container rusted on both sides.

Bacteriological examination:

250,000,000 bacteria per gram after 5 days on plain agar at 25° C.
280,000,000 bacteria per gram after 5 days on plain agar at 25° C.
120,000,000 bacteria per gram after 5 days on plain agar at 37° C.
210,000,000 bacteria per gram after 5 days on plain agar at 37° C.
1,000,000 *B. coli* group.
1,000,000 streptococci.

Chemical examination (all results calculated to moisture fat free basis):

cc of N/100 iodin solution per 15 grams of sample	199.6
mg of free ammonia, using ZnO method, per 100 grams of eggs	119.7
mg of free ammonia, using Folin's method by titration, per 100 grams of eggs	60.6

Adulteration of the product was charged in the indictment for the reason that it consisted in part of a filthy, decomposed, and putrid animal and vegetable substance.

On June 12, 1913, the case having come on for trial before the court and a jury, after the submission of evidence and argument by counsel, the following charge was delivered to the jury by the court (Thompson, *J.*):

Gentlemen of the Jury: The defendant corporation in this case is charged with the violation of what is known as the Pure Food and Drugs Act. The object of that act, as you all are aware, is to protect the consumers from having food or drugs sold to them and delivered to them which are adulterated or misbranded. Under this act it is not necessary to prove the knowledge of a defendant that the article shipped in interstate commerce was adulterated or misbranded. The responsibility is put upon dealers who ship. That is for the protection of the customer. The responsibility is put upon them of shipping only articles that are not adulterated or misbranded.

The charge in this case is that the defendant corporation shipped in interstate commerce from Philadelphia, in the State of Pennsylvania, to Newark, in the State of New Jersey, the egg product that has been testified to in this case, and that the egg product in question was adulterated. Under the interstate commerce act, which is known as the Pure Food and Drugs Act, adulteration is defined in this way, an article is, under the act, held to be adulterated if it consists in whole or in part of a filthy, decomposed, or putrid animal substance. The charge in this case was that the egg product which has been testified to was filthy, putrid, and decomposed. The defendant here is charged, through its president, with having delivered for shipment by the Pennsylvania Company this food product which is alleged to be adulterated.

It seems to me that the first question for you to consider would be whether the product was in fact shipped by the president of the defendant within the scope of his authority as the president of the company, and within the scope of his employment. Upon the witness stand he testified that he did not make out the shipping order through which this merchandise was shipped, and that he knew nothing about it. You will have to take into consideration the fact that he is an interested party in this case, being the president, and one of the owners of the defendant company, and the Government is, therefore, allowed to contradict his testimony by introducing expert testimony to show that the shipping order opon which this product was shipped, or alleged to be shipped, was in the same handwriting, written by the same person as the other shipping orders which it is admitted he did fill out and sign. So that the first question for you to consider will be the question as to whether that shipping order signed "Frank Riley" was written by the same person who wrote the other shipping orders. You have the testimony of the expert, and you have heard from him the basis on which he expresses an opinion that, without any doubt in his mind, the same person wrote the shipping order in dispute who wrote the shipping orders which are admitted to be the act of the president of the defendant company. The inspection of these documents is also for you. You have a right, with your own knowledge of handwriting, to compare the two. They will be before you for comparison, and if you find from the evidence of the expert, and from your comparison of the handwriting, that the handwriting is the same in both instances, the handwriting of the president of the defendant company, then you have taken one step in the consideration of the case. If, however, upon a comparison of the handwriting and a consideration of the testimony of the expert you are not satisfied that it was

written by the same person, then you would be justified in going no further in the case at all, because that is the link which connects the defendant company with the transaction. So that if you are not satisfied that it is his handwriting, written by the same person, you would then return a verdict of "Not guilty." But if, after having examined the writings, you are satisfied beyond a reasonable doubt that the documents were written by the same person, then you will take up the other questions in the case.

Now, it is for you to determine from the testimony, as you have heard it, whether the article which was inspected by the laboratory at Washington, and which has been testified to be adulterated within the meaning of the act, was the food that was shipped from the defendant to the concern in Newark, N. J. You will take into consideration the documentary evidence in the case and the testimony of the witnesses, and if you find from the documentary evidence and from the testimony that this frozen egg product is sufficiently traced from the defendant to the department at Washington, and you find it was adulterated, and you find it was shipped in interstate commerce by the defendant, and it was adulterated within the meaning of the act, then you would be justified in returning a verdict of guilty. You will bear in mind in this case, as in all criminal cases, the defendant is entitled to the presumption of innocence, and it is upon the Government to establish the defendant's guilt beyond a reasonable doubt. When I say "reasonable doubt," I mean a doubt which would arise in the mind of a reasonable man from the evidence, and you are not to be influenced by anything outside of the evidence to determine whether or not a doubt exists; that is to say, no prejudice or whim or anything of that sort should influence you, but you should be governed entirely by the evidence in the case.

I do not know as there is anything further for me to say to you. The documents in evidence will be submitted to you. You can take them out, and you will return a verdict as you think the evidence warrants it.

Mr. BRINTON. Some point was made in the argument about the date of shipment.

The COURT. The fact that there was a discrepancy between the date of the shipping order and that laid in the indictment is entirely immaterial.

I will say to you, gentlemen, there has been some point raised here as to the guaranty under the act. There has been no evidence here to establish any guaranty by the dealer from whom it is alleged this article came to relieve the defendant in this case. The act provides just what sort of a guaranty shall be given, and it is not necessary for me to go into the details of it, but no guaranty has been proved in the case, such as comes within the act.

The jury then retired, and after due deliberation returned into court with a verdict of guilty. Thereupon a motion for a new trial was made on behalf of the defendant company, and on July 3, 1913, an order was entered refusing a new trial and arrest of judgment.

On September 22, 1913, the defendant company was sentenced to pay a fine of $200.

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

WASHINGTON, D. C., *February 18, 1914.*

2896. Adulteration of apple jelly. U. S. v. 225 Packages of Apple Jelly. Product ordered released on payment of costs and execution of bond. (F. & D. No. 4391. S. No. 1477.)

On August 23, 1912, the United States attorney for the eastern district of Virginia, 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 225 packages containing approximately 10,000 pounds of apple jelly, remaining unsold in the original unbroken packages at Alexandria, Va., alleging that the product had been shipped by Worth & Co., New York, N. Y., and transported from the State of New York into the State of Virginia, consigned to Board, Armstrong & Co., Alexandria, Va., and charging adulteration in violation of the Food and D rugs Act. The product bore no label.

Adulteration of the product was alleged in the libel for the reason that it consisted wholly or in part of old, filthy, and decomposed souring and fermenting vegetable substances, and did not consist of fresh, sound, and wholesome apple jelly or any other wholesome vegetable product.

On November 7, 1912, A. C. Worth & Co., claimant, having admitted the allegations in the libel, it was ordered by the court that, upon payment of the costs of the pro-