But, as I started to conclude, this is none the less a criminal case, and every man under our system is presumed to be innocent until he is proven guilty beyond a reasonable doubt, and before the Government may look for a conviction, or rather I would put it a little better, before a conviction may be had of any man informed against, or indicted, it is incumbent on the Government to prove his guilt beyond a reasonable doubt.

So that in this case your decision does not necessarily finally determine whether the defendants in some civil relationship may use this designation or not. If you entertain a reasonable doubt, such a doubt as a fair-minded man entertains in a consideration of the important affairs of his own life, then the defendants are none the less entitled to an acquittal at your hands.

Finally, I may say that in regard to the testimony in cases of this kind, it is quite usual to introduce the definitions from dictionaries, but those definitions have no greater force and very frequently not as great a force as the testimony that falls from human lips, where a witness is sworn and able to be examined and cross-examined. What you find in the dictionary is merely the conscientious definition, presumably conscientious, of learned men who have collated their information from various sources, and it has no more effect, and perhaps not as great, as the sworn words of human beings.

I think now that I have covered about all that is necessary to be said, and I hope that I have made the issue to be determined entirely clear, and I sincerely hope that you will confine your deliberations to that particular question that I have referred to under the rules that I have given you and not be misled by anything that occurred in the case to indicate that this was, perchance, a controversy between merchants of various kinds.

The Government has made a certain request to charge. I feel that I have charged sufficiently fully, and I decline to grant the Government's request.

The request last referred to reads as follows:

That it is your duty to determine whether taking the label as a *whole* it is misleading to the average purchaser in that it creates in the mind of the purchaser the impression that he is getting a gin of the Holland type produced in Holland.

Mr. PROSKAUER. I have one request, your honor. May I state it orally?

The COURT. Yes.

Mr. PROSKAUER. I ask your honor to charge the jury that the words "distilled by the London Wine & Spirit Co. New York" is a fair compliance with the second provision of the section, stating that where the word has a generic meaning the label shall also contain a statement of the State where it is distilled or made.

Mr. AUCHINCLOSS. Your honor, it seems to me that is a question for the jury.

The COURT. No; I think that is a question of law. I so charge.

Mr. PROSKAUER. In other words, your honor charges the jury that that is a fair statement that the product is made in New York.

The COURT. Yes; that leaves simply the single question for the jury to determine.

Mr. PROSKAUER. May the jury take this exhibit in place of the label on the bottle, your honor? The label on the bottle is pretty badly rubbed.

The COURT. Yes.

The jury thereupon retired and subsequently returned into court with its verdict of not guilty upon the charge of misbranding of "Genuine Hollands Geneva Gin," which was count 3 in the information. The first and second counts of the information, charging misbranding of "London Superior Sloe Gin," were nolle prossed.

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

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

2915. Adulteration of baking powder. U. S. v. The Myers & Hicks Co. Plea of nolo contendere. Fine, $5. (F. & D. No. 4527. I. S. No. 19445-c.)

On July 16, 1913, 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 The Myers & Hicks Co., a corporation, Baltimore, Md., alleging shipment by said company, in violation of the Food and Drugs Act, on April 24, 1911, from the State of Maryland into the State of North Carolina, of a quantity of baking powder which was adulterated. The product was labeled: "Ideal Baking Powder for Bakers. The Myers and Hicks Co., 104 S. Howard St., Baltimore, Md. Directions: Use 3 Ozs.—Same as if using cream of tartar and soda. Guaranteed under Serial No. 9797."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the presence of 11.3 parts per million of arsenic as As_2O_3. Adulteration of the product was alleged in the information for the reason that it contained an added poisonous ingredient, to wit, arsenic, as arsenious oxid, which might render said baking powder injurious to health.

On October 13, 1913, the defendant company entered a plea of nolo contendere to the information and the court imposed a fine of $5.

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

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

2916. Misbranding of potato chips. U. S. v. Alexander A. Walter and Alfred F. Walter (Walter & Co.). Plea of guilty. Each defendant fined $12.50. (F. & D. No. 4540. I. S. No. 15341-d.)

On December 2, 1913, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Alexander A. Walter and Alfred F. Walter, doing business under the firm name of Walter & Co., Albany, N. Y., alleging shipment by said defendants, in violation of the Food and Drugs Act, on or about February 3, 1912, from the State of New York into the State of Connecticut, of a quantity of so-called potato chips which were misbranded. The product was labeled: "Blue Ribbon Peptonized Potato Chips, Established 1900. Potato Chips Manufactured only by A. A. Walter & Co., Albany, N. Y. The Best you ever ate. Absolute cleanliness observed in manufacturing."

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

	Per cent.
Water	4.39
Fat	36.90
Ash	3.07
Total nitrogen	0.95
Nitrogen precipitated by zinc sulphate	0.46

The potato chips had not been peptonized and no active peptonizing agent was present.

Misbranding of the product was alleged in the information for the reason that it was labeled as set forth above, and thereby said defendants held out and represented to purchasers and consumers thereof that the articles were peptonized and contained peptonizing agents and properties, whereas, in truth and in fact, said labels and the words thereon contained were false, in that the said articles were not peptonized and contained no peptonizing agents or properties whatever, and thereby said labels and the words thereon contained were misleading, in that they were calculated to deceive the purchasers of said articles of food as aforesaid.

On December 8, 1913, the defendants entered pleas of guilty to the information and the court imposed a fine of $12.50 on each defendant.

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

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

2917. Misbranding of canned peas. U. S. v. The John Boyle Co. Plea of guilty. Fine, $10. (F. & D. No. 4545. I. S. No. 17463-d.)

On July 16, 1913, 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 The John Boyle Co., a corporation, Baltimore, Md., alleging shipment by said company, in violation of the Food and Drugs Act, on February 19, 1912, from the State of Maryland into the State of Illinois, of a quantity of canned peas which were misbranded. The product was labeled: (On shipping case) "2 doz. Size No. 2 Lotta Brand Peas Soaked Horner Chicago."