

wheat, his difficulty and delay in identifying the wheat in the defendants' truck as his own. the testimony of the defendants that they had six sacks of Turkey Red wheat in their truck; the testimony of A.E. Grover, a disinterested witness, that he found four sacks of Turkey Red wheat in the jail on the day of the trial and this after the mice had been eating the sacks for five months and the wheat had all more or less run together, coupled with the testimony of the complaining witness that the 44 sacks or 88 bushels at \$.83 per bushel was worth \$73.04 the jury, had they been permitted by the trial court, might well have inferred that the offense of petit larceny only was committed.

For these reasons we respectfully submit that the judgment in this case be reversed.

Respectfully submitted,

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