

5633. Adulteration and misbranding of oats. U. S. * * * v. 334 Sacks of * * * Oats. Decree of condemnation and forfeiture. Goods released on bond. (F. & D. No. 7249. I. S. No. 12319-1. S. No. C-462.)

On March 20, 1916, the United States attorney for the Eastern District of Oklahoma, 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 334 sacks of so-called oats, remaining unsold in the original unbroken packages at Sapulpa, Okla., alleging that the article had been shipped on or about March 15, 1916, by the Nelson Grain Co., Kansas City, Mo., and transported from the State of Missouri into the State of Oklahoma, and charging adulteration and misbranding in violation of the Food and Drugs Act. The sacks containing the article were labeled in part: "Oats."

Adulteration of the article was alleged in substance in the libel for the reason that barley had been mixed and packed therewith so as to reduce and lower the quality and strength of the oats and had been substituted in part for the article.

Misbranding was alleged for the reason that the statement "oats" was false and misleading, in view of the composition of the product, and for the further reason that said product was an imitation of, and was offered for sale under the distinctive name of, another article, and for the further reason that it was labeled and branded so as to deceive and mislead the purchaser.

On April 20, 1916, the said Nelson Grain Co., claimant, having stated that it had nothing to say as to why an order of condemnation should not be made, it was adjudged by the court that the property should be released to said claimant upon payment of the costs of the proceedings, the claimant having theretofore filed bond in conformity with section 10 of the act. On October 24, 1916, a supplemental order of the court was entered whereby its former order was enlarged, modified, and amended so as to declare the product to have been adulterated and misbranded and formally to forfeit it.

C. F. MARVIN, *Acting Secretary of Agriculture.*