

branded and is a subject of Interstate Commerce "shall be liable to be proceeded against in any district court of the United States within the district where the same is found and seized for confiscation by a process of libel for condemnation."

There follows in a subsequent clause in section 10 supra, a provision empowering "the court by order (to) direct that such articles may be delivered to the owner thereof."

This is not mandatory but clearly permissive. The claimant here has been convicted of a similar offense before and has numerous other proceedings pending against him. I regard the application as addressed wholly to my discretion and I decline to exercise it in favor of the claimant under existing circumstances. The misbranding was fraudulent and injurious to competitors in the trade.

The motion to release on bond is denied.

On May 1, 1920, said claimant having failed to file an answer to the libel, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the products be sold by the United States marshal after the same had been relabeled as "Imitation of Oil of Sweet Birch," and "Imitation of Oil of Gaultheria," respectively, and that the costs of the proceedings be recovered from said claimant.

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

**7692. Adulteration and misbranding of oats. U. S. \* \* \* v. Armour Grain Co., a Corporation. Plea of guilty. Fine, \$1,050 and costs.**  
(F. & D No. 6871. I. S. Nos. 586-k, 587-k, 589-k, 594-k, 597-k, 598-k, 599-k, 478-k, 480-k, 484-k, 485-k, 487-k, 488-k, 489-k, 26-k, 27-k, 28-k, 29-k, 3001-k, 3005-k, 1151-k, 1152-k, 1153-k, 1154-k, 1155-k, 1156-k, 1158-k, 1159-k, 1160-k, 1161-k, 1163-k, 1164-k, 1165-k, 1175-k, 1176-k)

On March 29, 1917, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information in 105 counts against the Armour Grain Co., a corporation doing business at Chicago, Ill., alleging shipment by said company, in violation of the Food and Drugs Act, on December 4, 1914, December 5, 1914, December 15, 1914, December 16, 1914, December 18, 1914, December 24, 1914, December 30, 1914, December 31, 1914, January 4, 1915, January 5, 1915, and January 7, 1915, from the State of Illinois into the State of Maryland, of quantities of oats which were adulterated and misbranded.

Examination of samples of the article by the Bureau of Chemistry of this department showed the presence of varying quantities of oats, barley, dirt, chaff, etc.

Adulteration of the article in each shipment was alleged in the information for the reason that certain substances, to wit, feed barley, weed seeds, screenings, dust, and oat hulls, had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength, and had been substituted in part for oats, which the article purported to be.

Misbranding of the article was alleged for the reason that it consisted of, to wit, a mixture of oats, feed barley, weed seeds, screenings, dust, and oat hulls, and was offered for sale under the distinctive name of another article, to wit, oats.

On May 29, 1920, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$1,050 and costs.

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