

## "THE SECRETARY REPORTS—"

(In this space appear regularly all official Association documents)

ARBITRATION CASE No. 1400  
Scroggins Grain Co., Minneapolis, Minn.,  
Plaintiff

vs.

James Richardson & Sons, Ltd., Toronto,  
Ont., Defendant

This was a dispute over a contract dated Sept. 25, 1944, involving sale of pulverized oats by defendant to plaintiff. The sale was made through a broker, and one of the points at issue was a difference in the wording of the broker's confirmation and another confirmation sent direct from defendant to plaintiff. The contract called for delivery of 500 tons monthly in October, November and December.

The broker confirmed "Canadian Pulverized White Oats or same quality Domestic Pulverized White Oats", while the defendant's contract stated "6/64 Pulverized White Oats."

Defendant attempted to deliver on the contract some pulverized domestic oats originating in Wisconsin, which plaintiff held to be inferior in quality to "Canadian Pulverized White Oats" and refused to accept.

After some correspondence over this, defendant wrote plaintiff that "under the circumstances we could see no reason in attempting to work this matter out further with you," and indicated the oats would be moved to other buyers. Plaintiff then cancelled the contract as of the opening of the market October 24, 1944, and in this arbitration case asked to be reimbursed the difference between the market of Sept. 25 and the opening market of October 24, as indicated by the Chicago May oats options.

This amounted to 2½¢ per bushel on 91,250 bushels (1,460 tons) still owed to plaintiff at the time of cancellation. Plaintiff used the Chicago futures in computing his claim because the contract was based on a Chicago delivery price.

Defendant sought to establish that there is no particular standard for Canadian Pulverized Oats and that in fact it would

be possible to use a Canadian White Oat grade that would not equal the poorest type of American Oats, so that the product shipped from Wisconsin should be considered applicable on the contract.

### Decision of the Arbitration Committee

The committee unanimously awarded to the plaintiff the full amount of his claim of \$2,053.13, and assessed the costs of arbitration against the defendant. The case was not appealed, defendant being willing to accept the original verdict. Following are extracts from the Committee Chairman's report:

"1. Broker's confirmation should govern, and confirmation sent in by the defendant ignored.

"2. Purchaser is correct in expecting to have a product applied on this purchase of 'Canadian Pulverized Oats' or their equivalent. The cars shipped from St. Boniface showed a satisfactory quality, but the evidence of cars shipped from Wisconsin showed quite clearly that the quality was not equal to the Canadian product.

"3. The rejection of three cars shipped from Wisconsin should not necessarily call for the cancellation of the balance of the contract. Other cars could have been shipped, and the contract completed if the defendant had shown the proper interest in meeting his contract.

"4. The plaintiff had a right to expect that no future cars were to be shipped upon notice that defendant was going to cancel the balance of contracts on account of certain drafts not being paid. The plaintiff naturally was forced to protect himself. The only way he could do so and quickly was to demand settlement on basis the Chicago May future. Any other case such as attempting to buy from other sources would probably have caused the defendant a much greater loss, as it would have taken considerable time to locate shippers who had a product which would prove of equal quality to the product purchased."