On April 30, 1923, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

11874. Adulteration of cocoa beans. U. S. v. 81 Bags of Cocoa Beans. Consent decree of condemnation and forfeiture. Product released under bond to be made into cocoa butter. (F. & D. No. 17357. I. S. No. 5-v. S. No. E-4325.)

On March 14, 1923, the United States attorney for the Southern 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 a libel praying the seizure and condemnation of 81 bags of cocoa beans, remaining unsold in the original unbroken packages at New York, N. Y., alleging that the article had been shipped by Simon J. Benzo, from Para, Brazil, and transported from a foreign country into the State of New York, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that it consisted in whole or in part of a filthy, decomposed, and putrid vegetable substance.

On October 3, 1923, H. A. Astlett & Co., New York, N. Y., claimants, having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimants upon payment of the costs of the proceedings and the execution of a bond in the sum of $960, in conformity with section 10 of the act, conditioned in part that it be shipped to the factory and reworked and reprocessed so as to extract the cocoa butter and that the residue be destroyed.

HOWARD M. GORE, *Acting Secretary of Agriculture.*

11875. Adulteration and misbranding of canned oysters. U. S. v. 58 Cases and 34 Cases of Oysters. Decrees of condemnation and forfeiture. Product released under bond. (F. & D. Nos. 17438, 17439. I. S. Nos. 4526-v, 4527-v. S. Nos. C-4004, C-4005.)

On or about May 2, 1923, the United States attorney for the District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying the seizure and condemnation of 92 cases, each containing 24 cans of oysters, remaining in the original unbroken packages at Indianapolis, Ind., alleging that the article had been shipped by the Shelmore Oyster Co., Charleston, S. C., on or about November 21, 1922, and transported from the State of South Carolina into the State of Indiana, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Case) "2 Doz. 5 Oz. Oysters." A portion of the article was labeled in part: (Can) "Oysters Contents 5 Oz."

Adulteration of the article was alleged in the libels for the reason that a substance, namely, an excessive amount of brine, 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 the said article.

Misbranding of the article was alleged in substance for the reason that the cases containing the said cans bore a label regarding the substances contained therein, namely, "5 Oz. Oysters," and a design showing an oyster on the half shell, which said label and design were false and misleading and deceived and misled the purchaser, in that excessive brine had been mixed and packed with and substituted in part for oysters. Misbranding was alleged for the further reason that the article was food in package form and the weight of the contents of the said cans was not plainly marked on the outside of the said cases.

On September 20, 1923, the Shelmore Oyster Products Co., Charleston, S. C., having appeared as claimant for the property and having admitted the allegations of the libels, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of bonds in the aggregate sum of $2.000, in conformity with section 10 of the act.

HOWARD M. GORE, *Acting Secretary of Agriculture.*