

Hon. Sir J. G. Ward.

SALE OF FOOD AND DRUGS.

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A BILL INTITULED

Title.	AN ACT to make better Provision for the Sale of Food and Drugs in a Pure State.	
	BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—	5
Short Title.	1. The Short Title of this Act is "The Sale of Food and Drugs Act, 1904"; and it shall commence on the <i>first</i> day of <i>January</i> , one thousand nine hundred and <i>five</i> .	
Commencement of Act.		
Interpretation.	2. In this Act, if not inconsistent with the context,— "Analyst" means an analyst appointed under this Act : "Bread" includes dough : "Corn" includes grain of every kind, and also pease, beans, rice, and potatoes : "Drug" includes medicine for internal or external use : "Flour" includes meal of every kind : "Food" includes every article used for food or drink by man, other than drugs or water, and any article that ordinarily enters into or is used in the composition or preparation of human food, and also includes flavouring matters and condiments.	10 15 20
Appointment of analysts.	3. (1.) The Governor may from time to time appoint persons possessing competent knowledge to be analysts, and may pay them such remuneration as may be appropriated by Parliament for the purpose. (2.) Notice shall be gazetted whenever any such appointment is made, stating the residence or place of abode of the person appointed.	25
Purchase of samples for analysis.	4. (1.) Any Health Officer appointed under "The Public Health Act, 1900," may, and any constable on being required thereto by any Health Officer shall, purchase any sample of food or drugs, and submit the same to be analysed by an analyst, and such analyst shall with all convenient speed analyse the same and give to such officer a certificate wherein he shall specify the result of the analysis. (2.) Any person may on payment of the prescribed fee, together with the estimated cost of the sample, require any constable to purchase a sample of any food or drugs and submit the same for analysis under the <i>last preceding</i> subsection.	30 35
Purchaser may have analysis on payment of fee.	5. (1.) The purchaser of any article of food or of any drug may, on payment to any analyst of the prescribed fee, have such article analysed by such analyst, and shall be entitled to receive from him a certificate of the result of the analysis. (2.) Such certificate shall, in addition to any other prescribed matter, contain a statement— (a.) Whether or not, in the opinion of the analyst, such article is adulterated; and (b.) If it is adulterated, whether or not such adulteration is injurious to the health of persons consuming the same. (3.) If, after such analysis has been made and a certificate given as aforesaid, it appears to such person that an offence has been	40 45 50

committed against any provision of this Act, he may take all proceedings necessary for the prosecution of the offender.

6. (1.) When it is intended to submit any article to analysis, the Health Officer or constable purchasing the same (hereinafter referred to as "officers") shall forthwith, after the completion of the purchase, inform the seller or his agent selling the article that he intends to have the same analysed by an analyst.

Samples, how taken.

(2.) He shall thereupon divide the article into three parts, and shall mark and seal or fasten up in such manner as its nature will permit each such part, and shall deliver one of such parts to the seller or his agent.

(3.) He shall subsequently deliver another of such parts to an analyst, and shall retain the third of such parts.

(4.) "Delivery to an analyst" under this section may be effected by posting the part by registered post to the analyst's usual address.

7. The certificate of the analyst shall be in the form in the *First Schedule* hereto, or to the like effect.

Form of certificate.

8. (1.) If any officer applies to purchase any article of food or any drug exposed for sale, or on sale by retail in any premises or in any shop or store, or in any street or open place of public resort, and tenders the price for the quantity he requires for such purpose, and the person exposing or having the article for sale refuses to sell the same to such officer such person shall be liable to a fine not exceeding *ten* pounds and not less than *two* pounds:

Where sale to officer refused.

Provided that where any article of food or drug is exposed for sale in an unopened tin or packet duly labelled no person shall be required to sell it except in the unopened tin or packet in which it is contained.

(2.) It shall not be necessary, in any prosecution against the owner of any food or drug so exposed for sale as aforesaid for an offence against this section, to prove that an application to purchase as aforesaid was made to such owner; but it shall be sufficient to show that such application was made to any servant or person employed by such owner in any shop, store, factory, or place as aforesaid, or in charge of such food or drug in any street or open place of public resort.

9. (1.) Every person who adds, or orders or causes any other person to add, any ingredient or material to—

Mixing injurious ingredients with food or drugs.

(a.) Any article of food, so as to render the same injurious to health; or

(b.) Any drug, so as to affect injuriously the quality or potency of the same—

and in either case with the intent that the article or drug may be sold in that state, is liable for the first offence to a fine not exceeding *fifty* pounds, and for every offence after a conviction for a first offence to *six* months' imprisonment with or without hard labour.

(2.) Every person who sells or offers for sale, or orders or causes any other person to sell or offer for sale, any article of food or drug to which any ingredient or material as aforesaid has been added is liable to a fine not exceeding *twenty* pounds.

(3.) No person shall be convicted under the *last preceding* subsection if he satisfies the Magistrate before whom he is charged

that he did not know that the article of food or drug sold by him was so added to as aforesaid, and that he could not with reasonable diligence have obtained that knowledge.

Selling food to which addition is made without notice to purchaser.

10. (1.) Every person who sells any article of food

(a.) To which any ingredient or material has been added which, though not injurious to health, increases the weight or bulk of such article, or conceals its inferior quality; or 5

(b.) From which any part has been abstracted, so as to injuriously affect its quality, substance, or nature,— 10

is liable to a fine not exceeding *ten* pounds, unless at the time of delivering such article he supplies to the person receiving the same a notice, by a label distinctly and legibly written on or with the article, to the effect that the article contains such added ingredient or material, or has been altered by such abstraction, as the case may be. 15

(2.) Such label shall not be deemed to be distinctly and legibly written unless it is so written that the notice of addition or abstraction is not obscured by other matter on the label: Provided that nothing herein shall affect the use of any registered trade-mark, or of any label that has been continuously in use for at least seven years before the commencement of this Act; but the Registrar of Patents, Designs, and Trade-marks shall not register any trade-mark purporting to describe an addition to or abstraction from any article of food unless it complies with the requirements of this subsection. 20

(3.) Every person who wilfully gives a label with any article sold by him that falsely describes the article sold is liable to a fine not exceeding *twenty* pounds. 25

Standards of purity.

11. (1.) Every person is liable to a fine not exceeding *ten* pounds who sells or offers for sale, or orders or causes to be sold, any

(a.) Milk that does not contain at least eight and a half per cent. by weight of milk solids, not fat, and at least three per cent. of butter fat; or 30

(b.) Skim-milk that does not contain at least eight and a half per cent. by weight of milk solids not fat; or

(c.) Butter that does not contain at least eighty-two per cent. of butter-fat; or 35

(d.) Tea that yields more than eight per cent. of ash or less than three per cent. of ash soluble in water (calculated on the tea dried at 100° centigrade), and that does not yield at least thirty per cent. of extract; or 40

(e.) Cocoa that does not contain at least twenty per cent. of cocoa fat; or

(f.) Vinegar that does not contain at least three per cent. of acetic acid; or

(g.) Any other article of food or drug that is inferior to the standard prescribed in respect thereof under the *next succeeding* subsection. 45

(2.) The Governor may from time to time by Order in Council gazetted prescribe the standard strength, weight, quality, or quantity of any article of food or drug below which it shall not be lawful to sell any such article. 50

Proceedings for offences.

12. (1.) Where any article of food or drug has been purchased

for the purpose of analysis, and it appears from the analysis that an offence against this Act has been committed, proceedings in respect of such offence may be taken in a summary manner before a Magistrate sitting alone.

5 (2.) Except in the cases referred to in section thirty-five hereof, such proceedings shall not be instituted after the expiration of twenty-eight days from the time of the purchase.

(3.) The summons shall state particulars of the offence or offences alleged, and the name of the prosecutor, and shall not be
10 made returnable in less than fourteen days from the day on which it is served.

(4.) There shall be served with the summons a copy of the analyst's certificate obtained on behalf of the prosecutor.

(5.) In any such proceedings it shall not be necessary to prove
15 that the prescribed fee has been paid to the analyst.

13. (1.) The production by the prosecutor of the certificate of the analyst shall be sufficient proof of the facts stated therein unless the defendant requires that the analyst shall be called as a witness, in which case he shall give notice thereof to the prosecutor not less
20 than three clear days before the return day.

(2.) In like manner the production by the defendant of a certificate (in the form in the *First* Schedule hereto) of analysis by an analyst shall be sufficient evidence of the facts stated therein, unless the prosecutor requires that the analyst be called as a witness.

(3.) A copy of such last-mentioned certificate shall be sent to the
25 prosecutor at least three clear days before the return day, and if it is not so sent the Magistrate may adjourn the hearing on such terms as he thinks proper.

14. The Magistrate shall, on the request of either party to the
30 proceedings, and may, if he thinks fit without such request, order that the part of the sample retained by the officer under section six hereof shall be submitted to an independent analyst for analysis.

15. It shall not be a defence to any such proceedings —

(a.) That the purchaser, having bought the article in question
35 for analysis, was not prejudiced by such sale; or
(b.) That the article in question, though defective in nature, or in substance, or in quality, was not defective in all three respects.

16. (1.) Subject to the provisions of this section, it shall be a
40 good defence to any such proceedings that—

(a.) The article in question was purchased by the defendant as the same in nature, substance, and quality as that demanded by the prosecutor, and with a written warranty to that effect; and that
45 (b.) He had no reason to believe at the time when he sold it that the article was otherwise; and that
(c.) He sold it in the same state as when he purchased it.

(2.) Such defence shall not be available unless the defendant
50 has, within seven days after service of the summons, sent to the purchaser a copy of such warranty, with a written notice stating that he intends to rely on the warranty, and specifying the name and

Analyst's certificate
prima facie
evidence.

Magistrate may
order independent
analysis to be made.

Insufficient
defences.

Defence that goods
were purchased with
a warranty.

address of the person from whom he received it, and has also sent a like notice of his intention to such person.

(3.) The person by whom such warranty or invoice is alleged to have been given shall be entitled to appear at the hearing and to give evidence, and the Court may, if it thinks fit, adjourn the hearing to enable him to do so. 5

(4.) A warranty given by a person resident out of New Zealand shall not be available as a defence to any proceeding under this Act, unless the defendant proves that he had taken reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained in the warranty. 10

(5.) Where the defendant is a servant of the person who purchased the article under a warranty he shall be entitled to rely on this section in the same way and to the same extent as his employer would have been entitled to do if he had been the defendant, provided that the servant shall further prove that he had no reason to believe that the article was otherwise than that demanded by the prosecutor. 15

(6.) Where the defendant in a prosecution under this Act has been discharged under the provisions of subsection *one* of this section, any proceedings under this Act for giving the warranty relied on by the defendant in such prosecution may be taken either before a Court having jurisdiction in the place where the article of food or drug to which the warranty relates was purchased for analysis, or before a Court having jurisdiction in the place where the warranty was given. 20 25

(7.) Every person who, in respect of an article of food or drug sold by him as principal or agent, gives to the purchaser a false warranty in writing, is liable for the first offence to a fine not exceeding *twenty* pounds, for the second offence to a fine not exceeding *fifty* pounds, and for any subsequent offence to a fine not exceeding *one hundred* pounds, unless he proves to the satisfaction of the Court that when he gave the warranty he had reason to believe that the statements or descriptions contained therein were true. 30 35

Expenses of analysis to be paid by offenders on conviction.

17. (1.) Where any person is convicted of an offence under this Act, the Magistrate shall order that all fees and other expenses incident to the analysis of any article of food or drug in respect of which the conviction is obtained (including an analysis made under section *fourteen* hereof) shall be paid by the person convicted. 40

(2.) All such fees and expenses shall be deemed to be part of the costs attending the conviction, and shall be recoverable in the same manner as such costs are recoverable.

After second conviction offender's name may be advertised.

18. (1.) If any person convicted of an offence under this Act is afterwards convicted of a like offence, the Magistrate before whom the second conviction takes place may cause the offender's name, place of abode, and offence, and the penalty imposed, to be published at the expense of the offender in such newspaper or in such other manner as the Magistrate directs. 45

(2.) The expense of such publication shall be deemed part of the costs attending the conviction, and shall be recoverable in the same manner as costs are recoverable. 50

SPECIAL PROVISIONS RELATING TO CERTAIN ARTICLES.

Flour and Bread.

19. (1.) Every person is liable to a fine not exceeding *twenty* pounds and not less than *five* pounds who—

Adulterating flour, or selling flour of one sort of corn as the flour of another.

5 (a.) At any time puts into any corn or flour that is ground, dressed, or manufactured, any ingredient or mixture not being the real and genuine produce of the corn so ground, dressed, or manufactured; or

10 (b.) Knowingly sells or offers for sale, either separately or mixed, any flour of one sort of corn as the flour of any other sort of corn, or any ingredient mixed with the flour so sold or offered or exposed for sale.

(2.) Nothing herein shall apply to any ingredient used for cleansing or preserving such corn from smut or other disease or impurity, 15 so long as the ingredient so used is effectually removed from such corn before the same is ground.

Exception of ingredients used for cleaning corn, &c.

20. Any officer may,—

Bakers' shops, &c., may be searched.

20 (a.) At reasonable times in the daytime enter into any premises belonging to any person who grinds corn or dresses flour, or makes bread for reward or sale; and

(b.) Ascertain whether any mixture or ingredient not the genuine produce of the corn which such flour imports or ought to be is mixed up with or put into any flour in the possession of such person whereby the purity of the 25 flour is in anywise adulterated; and

(c.) Ascertain whether any mixture or ingredient other than is allowed by this Act is mixed up with or put into any bread in the possession of any baker or other person, whereby such bread is in anywise adulterated; and

30 (d.) Search for any mixture or ingredient that may be intended to be used in or for any such adulteration and mixture.

21. If on such search and examination it appears that any flour or bread found is adulterated, or any mixture or ingredient is found that seems to be intended for use in the adulteration of flour or 35 bread, the officer may seize any flour or bread found in any such search and deemed to have been adulterated, and all ingredients and mixtures found and deemed to have been used or intended to be used in or for such adulteration as aforesaid, and cause the same to be brought with all convenient speed before a Magistrate.

Adulterated articles to be seized.

40 22. Where the Magistrate before whom anything so seized under this Act is brought, adjudges, upon the evidence on oath of any competent person,—

And disposed of at discretion of Magistrate.

45 (a.) That any flour or bread so seized is adulterated by any mixture or ingredient put therein other than is allowed by this Act; or

(b.) That any ingredient or mixture so found as aforesaid was deposited or kept where so found for the purpose of adulterating flour or bread,—

50 he shall cause the articles so seized to be disposed of in such manner as he thinks proper.

Having ingredients for the adulteration of bread.

23. Every miller, mealman, or baker on whose premises or in whose possession any ingredient or mixture is found which after due

examination is adjudged by the Magistrate to have been intended for use in adulterating the purity or wholesomeness of any flour or bread is liable to a fine—

- (a.) Not exceeding *five* pounds for the first offence ;
- (b.) Not exceeding *ten* pounds for the second offence ;
- (c.) And not exceeding *twenty* pounds for every subsequent offence,—

unless it appears to the satisfaction of the Magistrate that such ingredient or mixture was brought on the premises without the knowledge or privity of the party accused.

Penalty for obstructing search.

24. Every person is liable to a fine not exceeding *ten* pounds who wilfully obstructs or hinders any search hereinbefore authorised, or the seizure or carrying away of any ingredient or mixture found on any such search and deemed to have been lodged with an intent to adulterate the purity or wholesomeness of any flour or bread, or of any flour or bread seized as being adulterated, or as not being made pursuant to this Act.

Bread for sale to be made of certain ingredients only.

25. All bread made for sale, or sold or exposed for sale, shall be made of pure and sound flour of wheat, barley, rye, oats, buckwheat, maize, pease, beans, rice, or potatoes, or any of them, and with any common salt, pure water, eggs, milk, barm, leaven, potato or other yeast, mixed in such proportions as may be thought fit, and with no other ingredient or matter.

Bread to be well made.

26. (1.) The several sorts of bread made for sale, or sold or exposed for sale, shall always be well made and in their several degrees according to the quality of the flour whereof the same ought to be made.

Alum and other improper ingredients not to be put into bread.

(2.) Alum or any mixture in which alum is an ingredient, or any mixture or ingredient other than and except as herein mentioned, shall not under any pretence be put into or in anywise used in making bread for sale.

(3.) Every person who knowingly commits a breach of this section is liable to a fine not exceeding *ten* pounds and not less than *two* pounds.

"Standard wheaten bread."

27. (1.) All bread made of the flour of wheat, which flour without any mixture or division is the whole produce of the grain, the bran or hull thereof only excepted, shall be called "standard wheaten bread."

"Household wheaten bread."

(2.) All wheaten bread made for sale of any flour in which a portion of the bran or hull thereof is retained shall be called "household wheaten bread," and every loaf of such bread shall be marked with a large Roman "H."

"Mixed bread."

(3.) All bread made for sale wholly or partially of the flour of any other sort of corn than wheat, or of the flour of any pease, beans, or potatoes, shall be called "mixed bread," and every loaf of such bread shall be marked with a large Roman "M."

Penalty for not marking household or mixed bread.

(4.) Every person who makes for sale, or sells or exposes for sale, any such household wheaten bread, or any mixed bread, not marked as hereinbefore directed, is liable to a fine of *ten* shillings for every pound weight of bread so made for sale, or sold or exposed for sale, without being marked as aforesaid.

All bread to be sold in loaves of certain weights.

28. (1.) All bread made for sale shall be made into loaves weighing not less than one pound, two pounds, and four pounds

respectively at the time of sale, and such loaves shall be denominated and understood to be the one-pound loaf, the two-pounds loaf, and the four-pounds loaf respectively.

(2.) Every loaf shall, at the time of baking, be legibly stamped, by the baker with the figure "1," "2," or "4," according as the loaf purports to be a one-pound loaf, a two-pounds loaf, or a four-pounds loaf.

Every loaf to be stamped according to weight.

(3.) Such figures shall be in Arabic numerals at least one inch in length at the time of stamping, and shall in all proceedings under this Act be evidence against the defendant of the denomination of the loaf and its weight.

29. In the sale of bread, the avoirdupois weight of sixteen ounces to the pound, according to the legal standard in New Zealand, shall be used, and the several gradations of the same for any less quantity than a pound.

Penalty on bakers using any other than the avoirdupois weight.

30. (1.) Every person who makes for sale, or sells or offers for sale, any loaf of bread that is short of its denominated weight at the time it is sold or offered for sale shall make good the deficiency at the time of sale; and the onus of proof that he did so shall lie on him.

Purchaser entitled to have full weight of bread.

(2.) "Bread" in this and the *last preceding* section does not include dough, biscuits, confectionery, rolls, or twists.

31. Any person may, when purchasing any loaf of bread, require the same to be weighed in his presence by the baker or seller thereof, who shall forthwith do so, and for that purpose shall constantly have available in the shop, cart, or other place where bread is offered for sale a correct beam and scales, with proper weights or other sufficient balance, for weighing loaves of the denominated weights of one pound, two pounds, and four pounds respectively.

Bakers to be provided with scales and weights.

32. Every person who fails to faithfully comply with any of the provisions of the three *last preceding* sections is liable for each offence to a fine not exceeding *five* pounds and not less than *one* pound:

Penalty.

Provided that in any proceedings under section *thirty* hereof for making any loaf that is short of its denominated weight, it shall be a sufficient defence that the defendant, in making the loaf, allowed the usual and proper margin to cover loss of weight by evaporation in baking.

Defendant not liable in certain cases.

33. (1.) Any officer may from time to time inspect any bread offered for sale or in course of delivery to customers, and may, if he thinks fit, weigh the same with fit and proper scales and weights, or require the same to be weighed by the baker or seller of bread offering the bread for sale, or who is in the course of delivering the same to customers.

Powers and duties of Inspectors.

(2.) If any bread so sold or offered for sale is found deficient in weight, the baker or seller thereof shall be liable to a fine not exceeding *five* pounds.

Selling bread deficient in weight.

34. (1.) Every baker or confectioner who wilfully or knowingly has upon the premises used by him as such baker or confectioner any impure, unsound, or unwholesome flour, or who sells or offers to sell any bread or biscuit or confectionery containing any such flour, is liable to a fine not exceeding *twenty* pounds.

Selling bread made of unwholesome flour.

(2.) Any such bread, biscuit, confectionery, or flour is liable to be seized and confiscated as unwholesome and adulterated, and in such case shall be disposed of as the Magistrate thinks proper.

Limitation of prosecutions.

35. A person shall not be convicted of any offence against the foregoing sections of this Act relating to flour and bread unless the complaint is made within ten days next after the time the offence was committed. 5

Milk.

Inspector may take sample of milk in course of delivery for analysis.

36. (1.) The provisions of section *eight* hereof shall extend and apply, in the case of milk, to milk anywhere in course of delivery to the purchaser or consignee in pursuance of any contract for the sale to such purchaser or consignee of such milk, and the officer may demand and obtain a sample of milk from any vessel or receptacle contained in any vehicle or means of conveyance carrying milk for sale or delivery. 10 15

(2.) The onus of proving that the milk was not being delivered in pursuance of a contract for sale or delivery as aforesaid, or was not being carried in any such vessel or receptacle for sale or delivery as aforesaid, shall be upon the person charged under this Act.

Wines and Spirits.

Adulteration of spirits by water.

37. In determining whether an offence has been committed against this Act by selling spirits not adulterated otherwise than by the admixture of water, it shall be a good defence to prove that such admixture has not reduced the spirit more than twenty-five degrees under proof for brandy, whisky, or rum, or thirty-five degrees under proof for gin. 20 25

Inspection of imported wines or spirits.

38. (1.) Where any wines or spirits in bulk are imported into New Zealand any officer may (in the manner prescribed by this Act) take a sample or samples of such wines or spirits for the purposes of analysis. 30

(2.) Such sample shall be taken before or at the time when such wines or spirits are gauged by or under the direction of any officer of Customs; and the officer may for such purposes, and without any other authority than this Act, enter, by force if necessary, any warehouse, shed, building, or premises where such wines or spirits may be stored or kept. 35

(3.) If on analysis it is found that such wine or spirits are adulterated within the meaning of this Act, proceedings may be had and taken against the importer of the wines or spirits accordingly: Provided that no such proceedings shall be taken if the importer enters into a sufficient bond, to the satisfaction of the Collector or other principal officer of Customs at the port or place where such wines or spirits were imported, providing that the whole of the wines or spirits from which such sample or samples was or were taken shall be exported from New Zealand or destroyed within a time to be specified in the bond. 40 45

If adulterated may be destroyed.

(4.) If the importer fails to enter into such bond or to perform the obligation therein contained, the whole of the wines or spirits from which such sample or samples was or were taken as aforesaid shall be destroyed, in such manner as the Commissioner of Customs may in any case direct. 50

Tea.

39. (1.) In this section,—

Interpretation.

5 “Exhausted tea” means and includes any tea that has, in the opinion of an analyst, been deprived of its proper quality, strength, or virtue by steeping, infusion, decoction, or other means.

(2.) All tea imported into New Zealand shall be subject to be detained for examination by an officer of Customs.

Tea subject to examination.

10 (3.) For the purpose of such examination, samples of tea so imported may, when deemed necessary, be taken without payment by any such officer, and he may cause the same to be further examined by an analyst.

15 (4.) If on examination of such samples the analyst certifies that the tea is unfit for human consumption, all the packages of tea bearing the same brand or marks as the packages from which such samples were taken shall be deemed to be goods prohibited under the Customs Acts to be imported, and shall be forfeited.

20 (5.) The importer or owner of such tea shall be entitled to take legal proceedings against His Majesty the King for the purpose of determining the liability to forfeiture of such tea, and every such legal proceeding may be taken in the like manner and subject to the same terms and conditions in all respects as claims or demands may be enforced against the Crown under “The Crown Suits Act, 1881.”

Importer or owner may take proceedings to test liability to forfeiture.

25 (6.) If on such examination the samples of tea are found to be exhausted tea, or to be mixed with other substances, harmful or otherwise, or with exhausted tea, and proof thereof is given to the satisfaction of the Commissioner of Customs, he may order that all the packages of tea bearing the same brand or marks as the packages from which the samples were taken be detained in any bonding ware-
30 house or examination shed; and such tea shall not be delivered, either for home consumption or for exportation, unless upon such terms and conditions as he thinks fit.

Exhausted tea, or tea mixed with other substances, may be detained.

35 (7.) The importer or owner of any tea so ordered to be detained or forfeited under the provisions of this section shall pay all fees and other expenses incident to the analysis of such tea; and all such fees and expenses shall be recoverable as a debt due to the Crown.

Importer or owner of condemned tea to pay all expenses of analysis.

40 (8.) If any person, either as owner or importer, is found to have more than twice imported tea that has afterwards been ascertained to be unfit for human consumption, or to be exhausted, or to be mixed with other substances, or with exhausted tea, the Commissioner may cause such person's name and place of abode, with the cause of publication, to be published at the expense of such person in some newspaper circulating in the district in which he has his usual place of business, and such expense shall be recoverable as a debt due to the Crown.

Name of importer or owner of condemned tea to be published in certain case.

45 (9.) The Commissioner may from time to time make regulations for the more effectual carrying out of this section, and may from time to time prescribe fees to be paid in respect of such analysis as aforesaid; and every such regulation shall be gazetted.

Commissioner may make regulations.

50 (10.) Nothing in this section shall affect the power of proceeding, or take away any remedy against any offender, under any of the provisions of this Act.

Saving of other remedies.

Cocoa.

Exhausted cocoa.

40. The provisions of the *last preceding* section shall *mutatis mutandis* extend and apply to the importation into New Zealand of exhausted cocoa, meaning thereby cocoa that has in the opinion of the analyst been deprived of its proper quality, strength, or virtue by steeping, infusion, decoction, or other means. 5

MISCELLANEOUS.

Penalty for resisting Inspector.

41. Every person who wilfully resists or obstructs any officer acting under the provisions of this Act in the lawful execution of his duty is liable to a fine not exceeding *ten* pounds and not less than *two* pounds. 10

Proceedings to be taken before Magistrate alone. Governor may prescribe fees for analysis.

42. All proceedings in respect of offences against this Act shall be taken before a Magistrate sitting alone.

43. The Governor may from time to time, by Order in Council gazetted, prescribe fees to be paid in respect of the analysis of any articles of food or drugs by any analyst. 15

Application of fees and fines.

44. All fees and fines received or recovered under this Act shall be paid into the Public Account and shall form part of the Consolidated Fund.

Sale of Poisons Act not affected.

45. Nothing in this Act shall affect any of the provisions of "The Sale of Poisons Act, 1871." 20

Repeals.

46. (1.) The Acts mentioned in the *Second* Schedule hereto are hereby repealed.

(2.) All appointments made under any of such repealed Acts shall be deemed to have been made under this Act. 25

Schedules.

SCHEDULES.

FIRST SCHEDULE.

ANALYST'S CERTIFICATE.

To
I, the undersigned, Colonial Analyst, do hereby certify that I received on the day of , 19 , from , a sample of for analysis (which then weighed *(a)*), and have analysed the same, and declare the result of my analysis to be as follows:—

I am of opinion that the same is a sample of genuine . [*Or,*
I am of opinion that the said sample contained the parts as under, *or* the percentages of foreign ingredients as under] :—

Observations *(b)*.

As witness my hand this day of , 19 , A. B., at .

(a) Where the article cannot be conveniently weighed this passage may be erased or the blank may be left unfilled.

(b) Here the Analyst may insert at his discretion his opinion as to whether the mixture (if any) was for the purpose of rendering the article portable or palatable, or of preserving it, or of improving the appearance, or was unavoidable, and may state whether in excess of what is ordinary or otherwise, and whether the ingredients or materials mixed are or are not injurious to health. In the case of a certificate regarding milk, butter, or any article liable to decomposition, the Analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

SECOND SCHEDULE.

ACTS REPEALED.

1880, No. 20.—"The Adulteration Prevention Act, 1880."

1882, No. 62.—"The Tea Examination Act, 1882."

1883, No. 11.—"The Adulteration Prevention Act 1880 Amendment Act, 1883."

1895, No. 18.—"The Adulteration Prevention Acts Amendment Act, 1895."