

TRINIDAD AND TOBAGO.

No. 32.—1895.

4th June.

AN ORDINANCE to provide against the sale of unsound food and the adulteration of Food and Drugs.

[L.S.]

C. C. KNOLLYS,

ACTING GOVERNOR.

11th September, 1895.

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows :—

1. This Ordinance may be cited for all purposes as Short title.
“The Food and Drugs Ordinance, 1895.”

2. In this Ordinance—

Interpretation.

The term “Food” means and includes every article used for food or drink by man.

The term “Drug” means and includes medicines for external or internal use.

The term “Butter” means the substance usually known as butter made exclusively from Milk or Cream or both with or without salt or other

preservative and with or without the addition of colouring matter.

The term "Lard" means the substance usually known as Lard made from the pure fat of Swine unmixed with any other oil or fat.

The term "Lard Substitute" means and includes the term Lard, adulterated Lard, compound Lard and any substance resembling or intended to resemble Lard.

The term "Margarine" means and includes Oleo-margarine, Butterine, Suine, and any other substance or compound or mixture in imitation of Butter, and whether mixed with Butter or not.

The terms "Sweet Oil," "Salad Oil" and other indefinite names applied to oil sold or used as a substitute for Olive Oil shall, unless sold under labels clearly denoting their nature, origin, or composition, be deemed to mean pure Olive Oil unmixed with any other oil or substance whatever.

The term "Justice" means a Stipendiary Justice of the Peace.

The term "Analyst" means the person or persons appointed as Government Analyst or Analysts under the authority of this Ordinance.

The terms "Functionary" and "Functionaries" shall mean and include all or any of the Officers or persons enumerated in the 18th Section of this Ordinance.

The term "Summary Conviction" means Summary Conviction before a Stipendiary Justice of the Peace.

UNSOUND FOOD.

3. (1) Any functionary may at all reasonable times enter any premises and inspect and examine

Inspection and
destruction of
unsound meat,
etc.

(a) any animal intended for the food of man which is exposed for sale, or deposited in any place for the purpose of sale or of preparation for sale; and

(b) any article, whether solid or liquid, intended for the food of man, and sold or exposed for sale or deposited in any place for the purpose of sale or of preparation for sale.

The proof that the same was not exposed or deposited for any such purpose, or was not intended for the food of man, rests with the person charged; and if any such animal or article appears to such functionary to be diseased, or unsound, or unwholesome, or unfit for the food of man, he may seize and carry away the same himself or by an assistant, in order to have the same dealt with by a Justice.

(2) If it appears to a Justice that any animal or article which has been seized or is liable to be seized under this Section is diseased or unsound or unwholesome or unfit for the food of man, he shall on the certificate of the Analyst or any Government Medical Officer condemn the same and order it to be destroyed or so disposed of as to prevent it from being exposed for sale or used for the food of man; and the person to whom the same belongs or did belong at the time of sale or exposure for sale or deposit for the purpose of sale or of preparation for sale or in whose possession or on whose premises the same was found shall be liable on Summary Conviction to forfeit and pay

any sum not exceeding Fifty Pounds for every animal or article ; and in default of payment to be imprisoned either with or without hard labour for any term not exceeding six months.

(3) Where it is shown that any article liable to be seized under this Section and found in the possession of any person was purchased by him from another person for the food of man, and when so purchased was in such a condition as to be liable to be seized and condemned under this Section, the person who so sold the same shall be liable to the fine or imprisonment above mentioned unless he proves that at the time he sold the said article he did not know and had no reason to believe that it was in such a condition.

(4) Where a person convicted of an offence under this Section has been within twelve months previously convicted of an offence under this Section, the Court may, if it thinks fit, and finds that he knowingly and wilfully committed such offences, order that a notice of the facts be affixed in such form and manner and for such period not exceeding twenty-one days as the Court may order to any business premises or to any stall in any market occupied by that person ; and that the person do pay the cost of such affixing ; and if any person obstructs the affixing of such notice or removes, defaces or conceals the notice affixed during the said period, or assaults, obstructs, or resists any person duly authorised to affix such notice, he shall be guilty of an offence under this Ordinance, and on Summary Conviction shall forfeit and pay any sum not exceeding Five Pounds, and in default of payment shall be imprisoned with or without hard labour for any term not exceeding six months.

(5) If the occupier of any licensed slaughter-house whether licensed before or after the passing of this Ordinance, or if any person licensed to sell meat within the limits of any Borough, or any butcher or seller of meat in any public market is convicted of an offence under this Section, the Court convicting him may cancel the license for such slaughter-house or for the sale of meat within the limits of the Borough; and in the case of butchers and sellers of meat in public markets, may order that such butcher or seller of meat shall be disqualified from selling meat in any public market.

If any person after cancellation of his license or disqualification as last aforesaid shall sell or keep or expose for sale any meat, such person shall be guilty of an offence against this Ordinance, and on Summary Conviction shall be imprisoned with or without hard labour for any term not exceeding six months.

(6) A Justice may act in adjudicating on an offender under this Section whether he has or has not acted in ordering the animal or article to be destroyed or disposed of.

(7) If a Justice is satisfied by information on oath that there is reasonable ground for entry upon any premises in order to enforce the provisions of this Section, and that there has been a refusal or failure to admit to such premises, the Justice may by warrant under his hand authorize any functionary to enter the premises, and if need be by force, with such assistance as he may require, and there execute his duties under this Section.

ADULTERATED FOOD AND DRUGS.

4. No person shall mix, colour, stain, or powder, or order or permit any other person to mix, colour, stain, or powder any article of food with any ingredient or

Prohibition of
adulteration of
Food or Drugs.
17-1880, S. 3.

material so as to render the article injurious to health with intent that the same may be sold in that state; and no person shall sell any such article so mixed, coloured, stained or powdered.

No person shall, except for the purpose of compounding as in this Ordinance described, mix, colour, stain, or powder, or order or permit any other person to mix, colour, stain, or powder, any drug with any ingredient or material so as to affect injuriously the quality or potency of such drug with intent that the same may be sold in that state; and no person shall sell any drug so mixed, coloured, stained, or powdered.

Drug when
deemed to be
adulterated.

5. A drug shall be deemed and taken to be adulterated within the meaning of this Ordinance :—

- (a.) If when sold under or by a name recognized in the British Pharmacopœia it differs from the standard of strength, quality, or purity, therein specified; or
- (b.) If when sold under or by a name not recognized in the British Pharmacopœia but to be found in some other Pharmacopœia whether of the United Kingdom or of any foreign country, it differs materially from the standard of strength, quality, or purity, laid down therein.
- (c.) If its strength, quality or purity fall below the professed standard under which it is sold.

Penalties for
offences under
Section 4.

6. Any person contravening any of the provisions of Section Four shall be guilty of an offence against this Ordinance, and on Summary Conviction shall :—

- (a.) For a first offence forfeit and pay any sum not exceeding Fifty Pounds.

- (b.) For a second or subsequent offence forfeit and pay any sum not less than Ten Pounds and not exceeding One Hundred Pounds ;

and in default of payment shall be imprisoned with or without hard labour for any term not exceeding six months.

All articles of food or drugs found to be mixed, stained, coloured, powdered, or otherwise adulterated, so as to be injurious to health, and in respect of which any person shall have been convicted, shall be absolutely forfeited and shall forthwith be destroyed.

7. No person shall be liable to be convicted under Section Four of this Ordinance in respect of the sale of any article of food or drug if he shows to the satisfaction of the Justice before whom he is charged that he did not know that the article of food or drug sold by him was mixed, coloured, stained, powdered, or otherwise adulterated contrary to the provisions of such Section, and that he could not with usual caution and diligence have obtained such knowledge.

Defendant charged with offences under Section 4 exonerated if no guilty knowledge.

ADULTERATED FOOD AND DRUGS.

8. Subject to the provisions of this Ordinance no person shall sell to the prejudice of the purchaser:—

Prohibition of selling goods not of the proper quality.

- (a.) Any Milk diluted with water or mixed or adulterated with any other substance, matter, or thing ; or
- (b.) Any Milk the produce of any diseased animal ; or
- (c.) Any Butter, Lard, or Olive Oil which is not of the nature, or not of the substance, or not of the quality defined by Section 2 of this Ordinance ; or

- (d.) Any Rum, Brandy, Whiskey, or Gin of a lower strength than is hereinafter limited and prescribed by Sub-section (b) of Section 9 of this Ordinance; or
- (e.) Any article liable to Customs duty on importation which is found on analysis to contain or to be mixed with or adulterated with any article, substance, or thing admitted at a lower rate of duty or free of duty, or
- (f.) Any other article of food or drug which is either not of the nature or not of the substance or not of the quality demanded by such purchaser.

Any person contravening the provisions of Sub-sections (a) and (b) of this Section shall on conviction,

In cases of Milk adulteration by added water forfeit and pay for every one per cent. of added water a penalty of not less than Two Shillings for first offences, and not less than Four Shillings for second and subsequent offences.

In cases of Milk adulteration other than by added water, or of sale of Milk the produce of any diseased animal,

For a first offence a penalty of Two Pounds.

For a second offence a penalty of Five Pounds.

For a third and subsequent offence a penalty of Ten Pounds.

If the defendant shall make default in the payment of any penalty imposed upon him for a contravention of the provisions of Sub-sections (a) and (b) of this Section,

No. 32.

1895.

he shall be imprisoned either with or without hard labour for any term not exceeding six months.

Any person contravening any of the provisions of Sub-sections (c) (d) (e) and (f) of this Section shall be guilty of an offence against this Ordinance, and on Summary Conviction shall forfeit and pay

For a first offence any sum not exceeding Twenty Pounds.

For a second or subsequent offence any sum not less than Ten Pounds and not exceeding Fifty Pounds,

and in default of payment shall be imprisoned with or without hard labour for any term not exceeding six months.

9. An offence shall not be deemed to have been committed under the last preceding Section in any of the following cases, that is to say :

Exceptions
saving an
offence under
Section 8.

- (a) Where any matter or ingredient is added to an article of food or drug because the same is required for the production or preparation of such article or drug as an article of commerce in a state fit for carriage or consumption and not fraudulently to increase the bulk, weight or measure of the food or drug or conceal the inferior quality thereof.
- (b) Where water only is added to any Rum but not so as to reduce the strength of the Spirit more than 25 degrees under proof; or to any Brandy, Whiskey, or Gin, but not so as to reduce the strength of the Spirit more than 35 degrees under proof.

The strength of such Spirits shall be ascertained and determined by means of Sykes' Hydrometer.

- (c) Where the drug or food is a proprietary medicine or is the subject of a patent in force and is supplied in the state required by the specification of the patent.
- (d) Where the food or drug is compounded as in this Ordinance mentioned.
- (e) Where the food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation.
- (f) Where the food or drug was entrusted to some person for sale or delivery and was or might have been received by such person of the nature, substance and quality demanded by the purchaser and was after or at the time of reception by such person and without the knowledge or consent of the person by whom he was entrusted altered or permitted to be altered.

Traders keep-
ing Margarine
for sale
whether by
wholesale or
retail.

10. No trader, dealer, manufacturer, importer, consignor, consignee, commission agent, or other person shall in any place keep or have or offer or expose for sale, whether by wholesale or retail, any

- (a) Margarine, or any substance in imitation of Butter or any substance that is made, manufactured or compounded out of any animal or vegetable or mineral fat or oil not produced from pure milk, or cream from pure milk, unless contained in or sold out of or in tubs,

pails, firkins, or other packages, and clearly and legibly branded or marked Margarine, or otherwise as the case may be in such manner as will denote the true nature and quality of the substance or article.

Every person selling Margarine by retail in quantity greater than eight ounces avoirdupois save in a package duly branded or marked as aforesaid shall in every case deliver the same to the purchaser in or with a paper wrapper on which shall be printed in capital letters not less than a quarter of an inch square "Margarine," or otherwise as the case may be in such manner as will denote the true nature and quality of the substance or article; or any

- (b) Substance resembling or intended to resemble or to be a substitute for or to pass as Lard, and which may consist of any mixture or compound of animal or vegetable oil or fat other than the pure fat of swine, unless the tierce, barrel, tub, keg, pail, bladder, parcel or other package containing the same has distinctly and legibly branded or marked thereon the words "Lard substitute," or "Imitation Lard," or "Adulterated Lard" or "Compound Lard," as the case may be in such manner as will denote the true nature and quality of the substance or article.

Every person selling Lard substitute by retail in quantity greater than eight ounces avoirdupois save in a packet duly branded and distinctly and legibly marked as aforesaid shall in every case deliver the same to the purchaser in or with a paper wrapper on which shall be printed in

capital letters of not less than a quarter of an inch square the words "Lard substitute," in such manner as will denote the true nature and quality of the substance or article. Provided that the vendor in every case in which he shall retail any Margarine, or Lard substitute in quantity less than eight ounces avoirdupois shall if so required by the purchaser but not otherwise deliver to such purchaser a label marked Margarine, or Lard substitute as the case may be ; or any

(c) Substance purporting to be Vinegar and resembling or intended to resemble Vinegar or to be a substitute for or pass as such and not being Vinegar as prescribed and defined by the British Pharmacopœia unless the packages, cases, demijohns, bottles, or other vessels containing such substance shall be distinctly and legibly branded, marked, or labelled in such manner as clearly to indicate its nature, origin, or composition ; or any

(d) Substance purporting to be Olive Oil, and resembling or intended to resemble Olive Oil, or to be a substitute for or pass as such and not being Olive Oil as prescribed and defined by the Second Section of this Ordinance, unless the packages, cases, baskets, bottles or other vessels containing such substance shall be distinctly and legibly branded, marked, or labelled in such manner as clearly to indicate its nature, origin, or composition.

Penalties for
contravention
of Section 10.

11. Every person who shall contravene any of the provisions of the last preceding Section shall be guilty of an offence against this Ordinance, and on Summary Conviction shall forfeit and pay

- (a) For a first and second offence any sum not exceeding Ten Pounds,
- (b) For a third offence any sum not exceeding Twenty Pounds,
- (c) For a fourth and subsequent offence any sum not less than Twenty Pounds and not exceeding Fifty Pounds,

and in default of payment of any such sums shall be imprisoned with or without hard labour for any term not exceeding six months.

12. Any person who being entrusted with any article of food or drug alters the same or permits it to be altered so as injuriously to affect its nature or its substance or its quality with intent that the same may be sold without notice in its altered state shall be guilty of an offence against this Ordinance, and on Summary Conviction shall forfeit and pay any sum not exceeding Twenty Pounds, and in default of payment shall be imprisoned either with or without hard labour for any term not exceeding six months.

Alteration of articles of food, &c., by persons entrusted with.

13. Subject to the provisions of this Ordinance no person shall sell any compounded article of food or compounded drug which is not composed of ingredients in accordance with the demand of the purchaser.

Compounded articles of food or drugs.

Every person contravening the provisions of this Section shall be guilty of an offence against this Ordinance, and on Summary Conviction shall forfeit and pay any sum not exceeding Twenty Pounds, and in default of payment shall be imprisoned with or without hard labour for any term not exceeding six months.

14. No person shall be guilty of an offence against this Ordinance in respect of the sale of any article of food

Exception where notice is given by label.

No. 32.

1895.

or drug mixed with any matter or ingredient not injurious to health and not intended fraudulently to increase its bulk, weight or measure, or to conceal its inferior quality, if at the time of the sale of such article or drug he gives to the person purchasing the same notice by label, distinctly and legibly printed in capital letters not less than a quarter of an inch square, on or with the article or drug to the effect that the same is mixed.

Alteration by
abstraction.

15. No person shall with intent that the same may be sold without notice in its altered state abstract from an article of food any part of it so as injuriously to affect its nature or its substance or its quality, and no person shall sell any article so altered without making disclosure of the alteration.

Every person contravening this Section shall be guilty of an offence against this Ordinance, and on Summary Conviction shall forfeit and pay any sum not exceeding Twenty Pounds, and in default of payment shall be imprisoned with or without hard labour for any term not exceeding three months.

Government
Analysts.

16. The Governor may from time to time appoint any person or persons possessing competent skill and knowledge to be Government Analyst or Analysts of all articles of food and drugs imported or sold in the Colony, and may at his pleasure remove any such Analyst or Analysts.

Provided that no person shall be appointed a Government Analyst who is directly or indirectly engaged or interested in any trade or business connected with the importation into or sale in this Colony of any food or drugs.

It shall be the duty of the Analyst to transmit to the Colonial Secretary a quarterly Report specifying the names

No. 32.

1895.

of all the persons charged with offences against this Ordinance, the articles of food or drugs analysed, the nature and extent of adulteration found upon analysis, the person or functionary or officer by whom the sample was taken for analysis, the result of the prosecution, and the penalties, if any, imposed.

17. Any purchaser of an article of food or a drug shall, on payment to the Analyst of such fee as the Governor may by Regulation prescribe, be entitled to have such article of food or drug analysed by such Analyst, and to receive from him a certificate of the result of the analysis.

FUNCTIONARIES.

18. The following functionaries, that is to say :

- (a.) The Inspector-General of Police, or any Commissioned or Non-commissioned Officer of Police, or any Police Constable or other person in that behalf authorized in writing under the hand of any Commissioned or Non-commissioned Officer of Police ; or
- (b.) Any Government Medical Officer or Warden, or any person in that behalf authorized in writing under the hand of such Medical Officer or Warden ; or
- (c.) Any person or persons in that behalf authorized in writing by the Medical Board and signed by the Secretary of such Board ; or
- (d.) Any person or persons in that behalf authorized in writing by the Board of Health under the hand of the Secretary of such Board ; or
- (e.) The Sanitary Inspector ; or

Power to
obtain analysis.

Power to
certain
functionaries
to obtain
samples for
analysis.

- (f.) Any person or persons authorized in writing by the Council of any Borough under the hand of the Town Clerk of such Borough and sealed with the seal of such Borough,

may procure for the purpose of analysis

- (1.) Samples of food or drugs from any person who in any warehouse, store, shop, building, vessel or boat, or other place, shall sell or have or keep or expose the same for sale, whether by wholesale or retail.
- (2.) Any sample of milk in course of delivery or at the place of delivery to a purchaser or consignee or at any place where milk is sold or kept or exposed for sale.

Mode of procuring samples.

19. Such samples may be procured by any of the functionaries or persons aforesaid by purchasing the same or by requiring the person in whose warehouse, store, shop, vessel or boat, or other place the same may be to produce the same to him, and to permit him to inspect all such articles of food or drugs and the place or places wherein any such articles or drugs are kept or stored in any such warehouse, store, shop, building, vessel or boat, or other place, and on payment or tender of the current market value of the sample of any article of food or drugs required by any such functionary or person for analysis to deliver the same to him.

Penalty for refusing to produce goods for inspection or sale.

20. Any person or his clerks, agents or servants, selling or having or keeping or exposing for sale, whether by wholesale or retail, any articles of food or drugs in any warehouse, store, shop, building vessel or boat, or other place as aforesaid, refusing to produce, or refusing permission to any of the functionaries or persons aforesaid to inspect all

such articles of food or drugs and the place or places wherein the same may be stored or kept, or on paymer or tender of the proper value of the sample of any food or drug required by any such functionary or person for analysis, refusing to sell or deliver the same to him, shall be guilty of an offence against this Ordinance, and on Summary Conviction shall forfeit and pay

- (a) For a first offence any sum not exceeding Five Pounds.
- (b) For a second offence any sum not exceeding Ten Pounds.
- (c) For a third and subsequent offence any sum not less than Ten Pounds and not exceeding Twenty Pounds

and in default of payment of any penalty under this Section shall be imprisoned either with or without hard labour for any term not exceeding six months.

21. Any purchaser or person other than a functionary and any functionary purchasing any article of food or drug or demanding to purchase any article of food or drug under the provisions of this Ordinance with the intention of submitting the same to analysis shall, if the seller or his agent or servant demand it, but not otherwise, then and there divide the article of food or drug in the presence of such seller, agent or servant into three parts.

Mode of
dealing with
articles
purchased for
analysis.

He shall cause each of such parts to be marked and sealed or otherwise fastened up in such manner as the nature of such article of food or drug will permit.

He shall thereupon deliver one of such parts to the seller or his agent or his servant or leave the same upon the premises wherein the purchase shall have been made.

He shall retain one other part for future comparison or verification and shall submit the third part to the Analyst for analysis.

If no such demand as hereinbefore provided is made by the seller, his agent or servant, the Analyst receiving the article for analysis shall divide the same into two parts and shall seal or fasten up one of those parts and shall cause it to be delivered at or before the time when he supplies his certificate to the purchaser who shall retain the same for production in case proceedings shall afterwards be taken in the matter.

Assaulting
functionaries
and tampering
with articles
required for
analysis.

22. If any person shall—

- (a) Assault, hinder, or obstruct any Functionary in the execution of his duty under this Ordinance, or
- (b) Shall in the presence of any Functionary destroy, mix, or tamper with any article of food or drug which a Functionary shall have purchased or shall be about to purchase or shall have demanded to purchase for analysis under this Ordinance, or shall do or commit any act by which a true and correct analysis of any such food or drug shall in anywise be hindered or prevented,

every such person shall be guilty of an offence against this Ordinance, and on Summary Conviction shall forfeit and pay any sum not exceeding Twenty Pounds, and in default of payment shall be imprisoned with or without hard labour for any period not exceeding six months.

23. If the Analyst does not reside within two miles of the residence or place of business of the person requiring the article to be analysed such article may be forwarded to the Analyst by Parcel Post, but subject to any Postal Regulations which may be in force in reference to the carrying and delivery of such articles, and the charge for the postage and carriage of such articles shall be deemed a charge incurred in the execution of this Ordinance or of a prosecution under this Ordinance as the case may be.

Provision for
sending
articles to
the Analyst
through Post
Office.

24. The Analyst after completing an analysis under this Ordinance shall give a certificate of the result of such analysis which shall be in the form of Schedule A hereto, with such variations as circumstances may require.

Form of
certificate.

Schedule A.

25. At the hearing of any information or complaint of an offence against this Ordinance the production of a certificate signed by the Analyst shall be sufficient evidence of all the facts therein stated unless the defendant require that the Analyst be summoned as a witness, in which case the Justice shall cause the Analyst to be summoned to appear on a day and at a time to be specified therein.

Analyst's
certificate,
evidence.

If the defendant be convicted he shall in addition to the penalty imposed upon him be ordered to pay the following sums, that is to say:—

- (a) The sum of one guinea for every day or part of a day on or during which the Analyst in obedience to such summons shall have attended in Court.
- (b) The travelling expenses of the Analyst.
- (c) All other expenses whatsoever incurred in procuring, delivering and analysing any food or drugs under this Ordinance,

which said several sums so ordered to be paid shall be costs in the case and shall be recoverable in the same manner as costs are recoverable in any case before a Justice.

No proof need be given of the signature or official character of the Analyst.

The parts of the article retained by the person who purchased the same shall be produced for comparison or verification.

Defendant
or wife
competent
witness.

26. The defendant may if he or she thinks fit tender himself and his wife or herself and her husband to be examined on his or her behalf, and either or both of them shall if he or she so desire be examined accordingly.

In any prosecution defendant may prove that he is protected by exception or provision.

27. In any prosecution under this Ordinance where the fact of an article having been sold in a mixed state has been proved if the defendant shall desire to rely upon any exception or provision contained in this Ordinance it shall be incumbent upon him to prove the same.

In sale of adulterated articles no defence to allege purchase for analysis.

28. In any prosecution under the provisions of this Ordinance for selling to the prejudice of the purchaser any article of food or any drug which is not of the nature nor of the substance nor of the quality of the article demanded by such purchaser it shall be no defence to any such prosecution to allege that the purchaser having bought only for analysis was not prejudiced by such sale.

Neither shall it be a good defence to prove that the article of food or drug in question though defective in nature or in substance or in quality was not defective in all three respects.

Discharge of defendant in certain cases.

29. If the defendant in any prosecution under this Ordinance proves that he purchased the article in question as the same in nature or substance or quality as that

demanded of him by the complainant and with a written warranty to that effect from the vendor resident in this Colony from whom he shall have purchased such article, and further that he had no reason to believe, and that he had no means of acquiring the knowledge by reasonable care and diligence that at the time when he sold the article or had possession of the same for the purposes of sale the article was otherwise and that he sold it in the same state as when he purchased it, then and in every such case the Justice shall cause the vendor or his servant or his agent to be summoned to appear before him at a time and place to be specified in such summons to be examined upon oath touching such alleged warranty.

If upon such examination it shall be proved to the satisfaction of the Justice that such warranty was given by the alleged vendor and in relation to the articles of food or drugs, the subject of the prosecution, then and in such case but not otherwise the defendant shall be discharged from the prosecution, but he shall nevertheless be liable to pay the costs incurred by the prosecution.

30. A warranty under this Ordinance shall be in the form of Schedule B to this Ordinance.

Form of
Warranty.
Schedule B.

31. Any person who forges or utters, knowing it to be forged, any certificate of the result of an analysis under this Ordinance, or with intent that the same shall be used for the purposes of this Ordinance, or who forges or utters, knowing it to be forged, any written warranty or writing purporting to contain a warranty shall be guilty of a misdemeanour and be punishable on conviction by imprisonment with or without hard labour for any term not exceeding two years.

Forgery of
certificate
warranty.

Misapplication
of certificate
or warranty.

32. Every person who wilfully applies to an article of food or a drug in any proceedings under this Ordinance a certificate or warranty given in relation to any other article or drug shall be liable to a penalty not exceeding Twenty Pounds.

And every person who gives a false warranty in writing as to the nature or substance or quality of any article of food or drug sold by him as principal or agent or as consignee or on commission shall be liable to a penalty not exceeding Twenty Pounds, and every person who gives a label with any article of food or drug sold by him which falsely describes the articles sold shall be liable to a penalty not exceeding Twenty Pounds.

Every person who on Summary Conviction shall make default in payment of any of the penalties prescribed by this Section shall be imprisoned with or without hard labour for any term not exceeding six months.

Proceedings
by indictment
and contracts
not to be
affected.

33. Nothing in this Ordinance shall affect the power of proceeding by indictment, or take away any other remedy against any offender under this Ordinance or in any way interfere with contracts or bargains or the rights and remedies belonging thereto.

Provided that in any action brought by any person for a breach of contract on the sale of any article of food or drug such person may recover either alone or in addition to any other damages recoverable by him the amount of any penalty which he may have been compelled to pay under this Ordinance, together with the costs paid in consequence of the conviction or incurred in and about his defence, if he proves that the article or drug, the subject of such conviction, was sold to him as

No. 32.

1895.

and for an article or drug of the same nature, substance and quality as that which was demanded of him, and that he purchased it not knowing it to be otherwise, and afterwards sold it in the same state in which he purchased it, the defendant in such action being nevertheless at liberty to prove that the conviction was wrongful, or that the amount of costs awarded or incurred was unreasonable.

34. It shall be lawful for the Governor by Warrant to authorize the payment from the Colonial Treasury of such sums of money as from time to time he may deem fit to defray the expenses of executing this Ordinance.

Governor may authorize monies to be paid from Treasury.

PROCEDURE, ETC.

35. All offences, fines, penalties, forfeitures, costs and expenses under this Ordinance may be sued for and recovered by any functionary, and the procedure shall be according to the Ordinance No. 5 of 1868, intituled "An Ordinance respecting the Summary Administration of Justice."

Recovery of penalties.

All fines and penalties recovered under this Ordinance shall, notwithstanding anything in any other Ordinance, be paid into the Colonial Treasury and shall be applied in aid of the costs and expenses incurred in the execution of this Ordinance.

36. No matter or thing done by any functionary or other person under this Ordinance shall, if the matter or thing were done *bonâ fide* for the purpose of executing this Ordinance, subject them or any of them to any action, liability, claim or demand whatsoever.

Protection of functionaries in execution of their duties.

37. No action or prosecution shall be brought against any functionary or other person acting under this Ordinance for anything done in pursuance or execution or

Limitation of actions.

intended execution of this Ordinance unless such action shall be commenced within three months after the thing done and not otherwise.

Notice in writing of every such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action.

In any such action the defendant may plead that the act complained of was done *bonâ fide* and in pursuance or execution of this Ordinance and give this Ordinance and all special matter in evidence in any trial to be had thereupon.

Plaintiff not
to recover on
sufficient
tender.

38. The plaintiff shall not recover in any case if the Court or Judge before whom such case shall be tried is of opinion and certifies accordingly that tender of sufficient amends was made before action brought or that any sum of money paid into Court after action brought by or on behalf of the defendant by way of amends is sufficient.

Costs of
successful
defendant.

39. If a verdict passes for the defendant or the plaintiff becomes non-suit or discontinues the action after issue joined or if on demurrer or otherwise judgment is given against the plaintiff the defendant shall recover his full costs as between solicitor and client, and shall have the like remedy for the same as any defendant has by law for costs in other cases.

Plaintiff's
costs, not
recoverable,
save on
Judge's certi-
ficate.

40. Though a verdict be given for the plaintiff he shall not be entitled to recover costs against the defendant unless the Judge before whom the trial is had certified his approval of the action.

No. 32.

1895.

41. The enactments specified in Schedule C of this Ordinance are hereby repealed to the extent specified in the third column of such Schedule, headed "Extent of Repeal." Repeal of enactments in Schedule.

Provided that such repeal shall not affect anything done or adjudged or any sentence passed or any right accrued or any liability, punishment or forfeiture incurred before the passing of this Ordinance or any remedy or proceeding in respect of any of the matters aforesaid.

42. This Ordinance shall not come into force until the First day of January, 1896. Date of operation.

43. This Ordinance shall not apply to Tobago. Tobago.

Passed in Council this Fourth day of June, in the year of Our Lord one thousand eight hundred and ninety-five.

CHAS. J. ROOKS,
Acting Clerk of the Council.

No. 32.

1895.

SCHEDULE A.—(SECTION 24.)

“*The Food and Drugs Ordinance, 1895.*”

To (Here state the Functionary.)

I, the undersigned Government Analyst, do hereby certify that I received on the _____ day of _____ 18____ from _____ a sample of _____ for analysis and have analysed the same, and declare the result of my analysis to be as follows:—

I am of opinion that the said sample contained the parts as under or the percentages of foreign ingredients as under :

Observations :

No change that would interfere with the analysis had taken place in the constitution of the sample.

As witness my hand this _____ day of _____ 18____

Government Analyst,
at Port-of-Spain.

SCHEDULE B.—(SECTION 30.)

“*The Food and Drugs Ordinance, 1895.*”

FORM OF WARRANTY.

I, the undersigned, A. B. of No. _____ Street, in the Town of _____, Merchant, do hereby warrant that the following articles, namely (*here describe the articles*) purchased from me, the undersigned, this _____ day of _____ 189____, by C. D. of _____ are in every respect the same in nature, substance, and quality as were demanded of me by the above named C. D. (*the purchaser*).

Dated this _____ day of _____, 189____.

(Signed) A. B.

SCHEDULE C.—(SECTION 41.)

No. OF ORDINANCE.	TITLE OF ORDINANCE.	EXTENT OF REPEAL.
17 of 1880.	The Adulteration of Food and Drugs Ordinance, 1880.	The whole.
6 of 1868.	An Ordinance for rendering certain offences punishable on Summary Conviction.	Section 73.
16 of 1869.	The Public Health Ordinance, 1869 ...	Section 29.