"The Summary Prosecutions Appeals (Scotland) Act, 1875," as will appear from the certificate of refusal herewith produced.

This is a cause [*here state as succinctly as may be the nature of the cause and the facts as admitted and proved in evidence*].

The appellant prays for an order on the inferior judge and the said *C.D.* to show cause why a case should not be stated in terms of the said statute, which order ought to be granted for the following reasons:

[*Here state seriatim the reasons why the order should be granted.*]

[*To be signed by the Appellant or his law-agent.*]

SCHEDULE D.

	£	s.	d.
For drawing case, not exceeding five sheets of 250 words each -	1	0	0
For drawing case, exceeding five sheets of 250 words each -	1	10	0

CHAPTER 63.

An Act to repeal the Adulteration of Food Acts, and to make better provision for the Sale of Food and Drugs in a pure state. [11th August 1875.]

WHEREAS it is desirable that the Acts now in force relating to the adulteration of food should be repealed, and that the law regarding the sale of food and drugs in a pure and genuine condition should be amended:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Repeal of statutes.

1. From the commencement of this Act the statutes of the twenty-third and twenty-fourth of Victoria, chapter eighty-four, of the thirty-first and thirty-second of Victoria, chapter one hundred and twenty-one, section twenty-four, of the thirty-third and thirty-fourth of Victoria, chapter twenty-six, section three, and of the thirty-fifth and thirty-sixth of Victoria, chapter seventy-four, shall be repealed, except in regard to any appointment made under them and not then determined, and in regard to any offence committed against them or any prosecution or other act commenced and not concluded or completed, and any payment of money then due in respect of any provision thereof.

Interpretation of words.

2. The term "food" shall include every article used for food or drink by man, other than drugs or water:

The term "drug" shall include medicine for internal or external use:

The term "county" shall include every county, riding, and division, as well as every county of a city or town not being a borough:

The term "justices" shall include any police and stipendiary magistrate invested with the powers of a justice of the peace in England, and any divisional justices in Ireland.

Description of Offences.

Prohibition of the mixing of injurious ingredients, and of selling the same.

3. 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 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, under a penalty in each case not exceeding fifty pounds for the first offence; every offence, after a conviction for a first offence, shall be a misdemeanor, for which the person, on conviction, shall be imprisoned for a period not exceeding six months with hard labour.

Prohibition of the mixing of drugs with injurious ingredients, and of selling the same.

4. No person shall, except for the purpose of compounding as herein-after 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 such drug so mixed, coloured, stained, or powdered, under the same penalty in each case respectively as in the preceding section for a first and subsequent offence.

Exemption in case of proof of absence of knowledge.

5. Provided that no person shall be liable to be convicted under either of the two last foregoing sections of this Act in respect of the sale of any article of food, or of any drug, if he shows to the satisfaction of the justice or court before whom he is charged that he did not know of the article of food or drug sold by him being so mixed, coloured, stained, or powdered as in either of those sections mentioned, and that he could not with reasonable diligence have obtained that knowledge.

Prohibition of the sale of articles of food and of drugs not of the proper nature, substance, and quality.

6. No person shall sell to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality of the article demanded by such purchaser, under a penalty not exceeding twenty pounds; provided that an offence shall not be deemed to be committed under this section in the following cases; that is to say,

(1.) Where any matter or ingredient not injurious to health has been added to the food or drug because the same is required for the production or preparation thereof 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;

(2.) 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;

(3.) Where the food or drug is compounded as in this Act mentioned;

(4.) Where the food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation.

Provision for the sale of compounded articles of food and compounded drugs.

7. No person shall sell any compound article of food or compounded drug which is not composed of ingredients in accordance with the demand of the purchaser, under a penalty not exceeding twenty pounds.

Protection from offences by giving of label.

8. Provided that no person shall be guilty of any such offence as aforesaid in respect of the sale of an article of food or a drug mixed with any matter or ingredient not injurious to health, and not intended fraudulently to increase its bulk, weight, or measure, or conceal its inferior quality, if at the time of delivering such article or drug he shall supply to the person receiving the same a notice, by a label distinctly and legibly written or printed on or with the article or drug, to the effect that the same is mixed.

Prohibition of the abstraction of any part of an article of food before sale, and selling without notice.

9. No person shall, with the intent that the same may be sold in its altered state without notice, abstract from an article of food any part of it so as to affect injuriously its quality, substance, or nature, and no person shall sell any article so altered without making disclosure of the alteration, under a penalty in each case not exceeding twenty pounds.

Appointment and Duties of Analysts, and Proceedings to obtain Analysis.

Appointment of analysts.

10. In the city of London and the liberties thereof the Commissioners of Sewers of the city of London and the liberties thereof, and in all other parts of the metropolis the vestries and district boards acting in execution of the Act for the better local management of the metropolis, the court of quarter sessions of every county, and the town council of every borough having a separate court of quarter sessions, or having under any general or local Act of Parliament or otherwise a separate police establishment, may, as soon as convenient after the passing of this Act, where no appointment has been hitherto made, and in all cases as and when vacancies in the office occur, or when required so to do by the Local Government Board, shall, for their respective city, districts, counties, or boroughs, appoint one or more persons possessing competent knowledge, skill, and experience,

as analysts of all articles of food and drugs sold within the said city, metropolitan districts, counties, or boroughs, and shall pay to such analysts such remuneration as shall be mutually agreed upon, and may remove him or them as they shall deem proper; but such appointments and removals shall at all times be subject to the approval of the Local Government Board, who may require satisfactory proof of competency to be supplied to them, and may give their approval absolutely or with modifications as to the period of the appointment and removal, or otherwise: Provided, that no person shall hereafter be appointed an analyst for any place under this section who shall be engaged directly or indirectly in any trade or business connected with the sale of food or drugs in such place.

In Scotland the like powers shall be conferred and the like duties shall be imposed upon the commissioners of supply at their ordinary meetings for counties, and the commissioners or boards of police, or where there are no such commissioners or boards, upon the town councils for boroughs within their several jurisdictions; provided that one of Her Majesty's Principal Secretaries of State in Scotland shall be substituted for the Local Government Board of England.

In Ireland the like powers and duties shall be conferred and imposed respectively upon the grand jury of every county and town council of every borough; provided that the Local Government Board of Ireland shall be substituted for the Local Government Board of England.

Town council of a borough may engage the analyst of another borough or of the county.

11. The town council of any borough may agree that the analyst appointed by any neighbouring borough or for the county in which the borough is situated, shall act for their borough during such time as the said council shall think proper, and shall make due provision for the payment of his remuneration, and if such analyst shall consent, he shall during such time be the analyst for such borough for the purposes of this Act.

Power to purchaser of an article of food to have it analysed.

12. Any purchaser of an article of food or of a drug in any place being a district, county, city, or borough where there is any analyst appointed under this or any Act hereby repealed shall be entitled, on payment to such analyst of a sum not exceeding ten shillings and sixpence, or if there be no such analyst then acting for such place, to the analyst of another place, of such sum as may be agreed upon between such person and the analyst, to have such article analysed by such analyst, and to receive from him a certificate of the result of his analysis.

Officer named to obtain a sample of food or drug to submit to analyst.

13. Any medical officer of health, inspector of nuisances, or inspector of weights and measures, or any inspector of a market, or any police constable under the direction and at the cost of the local authority appointing such officer, inspector, or constable, or charged with the execution of this Act, may procure any sample of food or drugs, and if he suspect the same to have been sold to him contrary to any provision of this Act, shall submit the same to be analysed by the analyst of the district or place for which he acts, or if there be no such analyst then acting for such place to the analyst of another place, and such analyst shall, upon receiving payment as is provided in the last section, with all convenient speed analyse the same and give a certificate to such officer, wherein he shall specify the result of the analysis.

Provision for dealing with the sample when purchased.

14. The person purchasing any article with the intention of submitting the same to analysis shall, after the purchase shall have been completed, forthwith notify to the seller or his agent selling the article his intention to have the same analysed by the public analyst, and shall offer to divide the article into three parts to be then and there separated, and each part to be marked and sealed or fastened up in such manner as its nature will permit, and shall, if required to do so, proceed accordingly, and shall deliver one of the parts to the seller or his agent.

He shall afterwards retain one of the said parts for future comparison and submit the third part, if he deems it right to have the article analysed, to the analyst.

Provision when sample is not divided.

15. If the seller or his agent do not accept the offer of the purchaser to divide the article purchased in his presence, 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, either upon receipt of the sample or 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.

Provision for sending article to the analyst through the post office.

16. If the analyst do not reside within two miles of the residence of the person requiring the article to be analysed, such article may be forwarded to the analyst through the post office as a registered letter, subject to any regulations which the Postmaster General may make in reference to the carrying and delivery of such article, and the charge for the postage of such article shall be deemed one of the charges of this Act or of the prosecution, as the case may be.

Person refusing to sell any article to any officer liable to penalty.

17. If any such officer, inspector, or constable, as above described, shall apply to purchase any article of food or any drug exposed to sale, or on sale by retail on any premises or in any shop or stores, and shall tender the price for the quantity which he shall require for the purpose of analysis, not being more than shall be reasonably requisite, and the person exposing the same for sale shall refuse to sell the same to such officer, inspector, or constable, such person shall be liable to a penalty not exceeding ten pounds.

Form of the certificate.

18. The certificate of the analysis shall be in the form set forth in the schedule hereto, or to the like effect.

Quarterly report of the analyst.

19. Every analyst appointed under any Act hereby repealed or this Act shall report quarterly to the authority appointing him the number of articles analysed by him under this Act during the foregoing quarter, and shall specify the result of each analysis and the sum paid to him in respect thereof, and such report shall be presented at the next meeting of the authority appointing such analyst, and every such authority shall annually transmit to the Local Government Board, at such time and in such form as the Board shall direct, a certified copy of such quarterly report.

Proceedings against Offenders.

Proceedings against offenders.

20. When the analyst having analysed any article shall have given his certificate of the result, from which it may appear that an offence against some one of the provisions of this Act has been committed, the person causing the analysis to be made may take proceedings for the recovery of the penalty herein imposed for such offence, before any justices in petty sessions assembled having jurisdiction in the place where the article or drug sold was actually delivered to the purchaser, in a summary manner.

Every penalty imposed by this Act shall be recovered in England in the manner prescribed by the eleventh and twelfth of Victoria, chapter forty-three. In Ireland such penalties and proceedings shall be recoverable, and may be taken with respect to the police district of Dublin metropolis, subject and according to the provisions of any Act regulating the powers and duties of justices of the peace for such district, or of the police of such district; and with respect to other parts of Ireland, before a justice or justices of the peace sitting in petty sessions, subject and according to the provisions of "The Petty Sessions (Ireland) Act, 1851," and any Act amending the same.

Every penalty herein imposed may be reduced or mitigated according to the judgment of the justices.

Certificate of analyst prima facie evidence for the prosecution, but analyst to be called if required. Defendant and his wife may be examined.

21. At the hearing of the information in such proceeding the production of the certificate of the analyst shall be sufficient evidence of the facts therein stated, unless the defendant shall require that the analyst shall be called as a witness, and the parts of the articles retained by the person who purchased the article shall be produced, and the defendant may, if he think fit, tender himself and his wife to be examined on his behalf, and he or she shall, if he so desire, be examined accordingly.

Power to justices to have articles of food and drug analysed.

22. The justices before whom any complaint may be made, or the court before whom any appeal may be heard, under this Act may, upon the request of either party, in their discretion cause any article of food or drug to be sent to the Commissioners of Inland Revenue, who shall thereupon direct the chemical officers of their department at Somerset House to make the analysis, and give a certificate to such justices of the result of the

analysis; and the expense of such analysis shall be paid by the complainant or the defendant as the justices may by order direct.

Appeal to quarter sessions.

23. Any person who has been convicted of any offence punishable by any Act hereby repealed or by this Act by any justices may appeal in England to the next general or quarter sessions of the peace which shall be held for the city, county, town, or place wherein such conviction shall have been made, provided that such person enter into a recognizance within three days next after such conviction, with two sufficient sureties, conditioned to try such appeal, and to be forthcoming to abide the judgment and determination of the court at such general or quarter sessions, and to pay such costs as shall be by such court awarded; and the justices before whom such conviction shall be had are hereby empowered and required to take such recognizance; and the court at such general or quarter sessions are hereby required to hear and determine the matter of such appeal, and may award such costs to the party appealing or appealed against as they or he shall think proper.

In Ireland any person who has been convicted of any offence punishable by this Act may appeal to the next court of quarter sessions to be held in the same division of the county where the conviction shall be made by any justice or justices in any petty sessions district, or to the recorder at his next sessions where the conviction shall be made by the divisional justices in the police district of Dublin metropolis, or to the recorder of any corporate or borough town when the conviction shall be made by any justice or justices in such corporate or borough town (unless when any such sessions shall commence within ten days from the date of any such conviction, in which case, if the appellant sees fit, the appeal may be made to the next succeeding sessions to be held for such division or town), and it shall be lawful for such court of quarter sessions or recorder (as the case may be) to decide such appeal, if made in such form and manner and with such notices as are required by the said Petty Sessions Acts respectively herein-before mentioned as to appeals against orders made by justices at petty sessions, and all the provisions of the said Petty Sessions Acts respectively as to making appeals and as to executing the orders made on appeal, or the original orders where the appeals shall not be duly prosecuted, shall also apply to any appeal made under this Act.

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

24. In any prosecution under this Act, 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 Act, it shall be incumbent upon him to prove the same.

Defendant to be discharged if he prove that he bought the article in the same state as sold, and with a warranty.

No costs except on issues proved against him.

25. If the defendant in any prosecution under this Act prove to the satisfaction of the justices or court that he had purchased the article in question as the same in nature, substance, and quality as that demanded of him by the prosecutor, and with a written warranty to that effect, that he had no reason to believe at the time when he sold it that the article was otherwise, and that he sold it in the same state as when he purchased it, he shall be discharged from the prosecution, but shall be liable to pay the costs incurred by the prosecutor, unless he shall have given due notice to him that he will rely on the above defence.

Application of penalties.

26. Every penalty imposed and recovered under this Act shall be paid in the case of a prosecution by any officer, inspector, or constable of the authority who shall have appointed an analyst or agreed to the acting of an analyst within their district, to such officer, inspector, or constable, and shall be by him paid to the authority for whom he acts, and be applied towards the expenses of executing this Act, any Statute to the contrary notwithstanding; but in the case of any other prosecution the same shall be paid and applied in England according to the law regulating the application of penalties for offences punishable in a summary manner, and in Ireland in the manner directed by the Fines Act, Ireland, 1851, and the Acts amending the same.

Punishment for forging certificate or warranty;

27. Any person who shall forge, or shall utter, knowing it to be forged for the purposes of this Act, any certificate or any writing purporting to contain a warranty, shall be guilty of a misdemeanor and be punishable on conviction by imprisonment for a term of not exceeding two years with hard labour;

Every person who shall wilfully apply to an article of food, or a drug, in any proceedings under this Act, a certificate or warranty given in relation to any other article or drug, shall be guilty of an offence under this Act, and be liable to a penalty not exceeding twenty pounds; for wilful misapplication of warranty;

Every person who shall give a false warranty in writing to any purchaser in respect of an article of food or a drug sold by him as principal or agent, shall be guilty of an offence under this Act, and be liable to a penalty not exceeding twenty pounds; for false warranty;

And every person who shall wilfully give a label with any article sold by him which shall falsely describe the article sold, shall be guilty of an offence under this Act, and be liable to a penalty not exceeding twenty pounds. for false label.

28. Nothing in this Act contained shall affect the power of proceeding by indictment, or take away any other remedy against any offender under this Act, or in any way interfere with contracts and bargains between individuals, and the rights and remedies belonging thereto. Proceedings by indictment and contracts not to be affected.

Provided that in any action brought by any person for a breach of contract on the sale of any article of food or of any drug, such person may recover alone or in addition to any other damages recoverable by him the amount of any penalty in which he may have been convicted under this Act, together with the costs paid by him upon such conviction and those incurred by him in and about his defence thereto, if he prove that the article or drug the subject of such conviction was sold to him as 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 claimed was unreasonable.

Expenses of executing the Act.

29. The expenses of executing this Act shall be borne, in the city of London and the liberties thereof, by the consolidated rates raised by the Commissioners of Sewers of the city of London and the liberties thereof, and in the rest of the metropolis by any rates or funds applicable to the purposes of the Act for the better local management of the metropolis, and otherwise as regards England, in counties by the county rate, and in boroughs by the borough fund or rate; Expenses of executing Act.

And as regards Ireland, in counties by the grand jury cess, and in boroughs by the borough fund or rate; all such expenses payable in any county out of grand jury cess shall be paid by the treasurer of such county; and

The grand jury of any such county shall, at any assizes at which it is proved that any such expenses have been incurred or paid without previous application to presentment sessions, present to be raised off and paid by such county the moneys required to defray the same.

Special Provision as to Tea.

30. From and after the first day of January one thousand eight hundred and seventy-six all tea imported as merchandise into and landed at any port in Great Britain or Ireland shall be subject to examination by persons to be appointed by the Commissioners of Customs, subject to the approval of the Treasury, for the inspection and analysis thereof, for which purpose samples may, when deemed necessary by such inspectors, be taken and with all convenient speed be examined by the analysts to be so appointed; and if upon such analysis the same shall be found to be mixed with other substances or exhausted tea, the same shall not be delivered unless with the sanction of the said commissioners, and on such terms and conditions as they shall see fit to direct, either for home consumption or for use as ships stores or for exportation; but if on such inspection and analysis it shall appear that such tea is in the opinion of the analyst unfit for human food, the same shall be forfeited and destroyed or otherwise disposed of in such manner as the said commissioners may direct. Tea to be examined by the Customs on importation.

Interpretation of Act.

31. Tea to which the term "exhausted" is applied in this Act shall mean and include any tea which has been deprived of its proper quality, strength, or virtue by steeping, infusion, decoction, or other means.

Provision for the liberty of a cinque port.

32. For the purposes of this Act every liberty of a cinque port not comprised within the jurisdiction of a borough shall be part of the county in which it is situated, and subject to the jurisdiction of the justices of such county.

Application of the Act to Scotland.

33. In the application of this Act to Scotland the following provisions shall have effect:

1. The term "misdemeanor" shall mean "a crime or offence:"
2. The term "defendant" shall mean "defender" and include "respondent:"
3. The term "information" shall include "complaint:"
4. This Act shall be read and construed as if for the term "justices," wherever it occurs therein, the term "sheriff" were substituted:
5. The term "sheriff" shall include "sheriff substitute:"
6. The term "borough" shall mean any royal burgh and any burgh returning or contributing to return a member to Parliament:
7. The expenses of executing this Act shall be borne in Scotland, in counties, by the county general assessment, and in burghs, by the police assessment:
8. This Act shall be read and construed as if for the expression "the Local Government Board," wherever it occurs therein, the expression "one of Her Majesty's Principal Secretaries of State" were substituted:
9. All penalties provided by this Act to be recovered in a summary manner shall be recovered before the sheriff of the county in the sheriff court, or at the option of the person seeking to recover the same in the police court, in any place where a sheriff officiates as a police magistrate under the provisions of "The Summary Procedure Act, 1864," or of the Police Act in force for the time in any place in which a sheriff officiates as aforesaid, and all the jurisdiction, powers, and authorities necessary for this purpose are hereby conferred on sheriffs:

   Every such penalty may be recovered at the instance of the procurator fiscal of the jurisdiction, or of the person who caused the analysis to be made from which it appeared that an offence had been committed against some one of the provisions of this Act:

   Every penalty imposed and recovered under this Act shall be paid to the clerk of court, and by him shall be accounted for and paid to the treasurer of the county general assessment, or the police assessment of the burgh, as the sheriff shall direct:
10. Every penalty imposed by this Act may be reduced or mitigated according to the judgment of the sheriff:
11. It shall be competent to any person aggrieved by any conviction by a sheriff in any summary proceeding under this Act to appeal against the same to the next circuit court, or where there are no circuit courts to the High Court of Justiciary at Edinburgh, in the manner prescribed by such of the provisions of the Act of the twentieth year of the reign of King George the Second, chapter forty-three, and any Acts amending the same, as relate to appeals in matters criminal, and by and under the rules, limitations, conditions, and restrictions contained in the said provisions.

Interpretation of terms in application of Act to Ireland.

34. In the application of this Act to Ireland,—

The term "borough" shall mean any borough subject to the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter one hundred and eight, intituled "An Act for the regulation of Municipal Corporations in Ireland:"

The term "county" shall include a county of a city and a county of a town not being a borough:

The term "assizes" shall, with respect to the county of Dublin, mean "presenting term:"

The term "treasurer of the county" shall include any person or persons or bank in any county performing duties analogous to those of the treasurer of the county in

counties, and, with respect to the county of Dublin, it shall mean the finance committee:

The term "police constable" shall mean, with respect to the police district of Dublin metropolis, constable of the Dublin Metropolitan Police, and with respect to any other part of Ireland, constable of the Royal Irish Constabulary.

35. This Act shall commence on the first day of October one thousand eight hundred and seventy-five. Commencement of the Act.

36. This Act may be cited as "The Sale of Food and Drugs Act, 1875." Title of the Act.

SCHEDULE.

FORM OF CERTIFICATE.

To *

I, the undersigned, public analyst for the , do hereby certify that I received on the day of 18 , from† , a sample of for analysis (which then weighed‡), 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 per-centages of foreign ingredients as under.

Observations.§

As witness my hand this day of

A.B.,

at

* Here insert the name of the person submitting the article for analysis.

† Here insert the name of the person delivering the sample.

‡ When the article cannot be conveniently weighed, this passage may be erased, or the blank may be left unfilled.

§ 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.

CHAPTER 64.

An Act to repeal the Guarantee by Companies Act, 1867, and to make other provision in lieu thereof. [11th August 1875.]

WHEREAS by the Guarantee by Companies Act, 1867, the heads of public departments were authorised to accept as security for persons required to give security for the due performance of the duties of an office or employment in the public service the 30 & 31 Vict. c. 108.