Legal Notes.

Under this heading will be published notes on cases in which points of special legal or chemical interest arise. The Editor would be glad to receive particulars of such cases.

CATTLE FOOD CONTAINING CASTOR BEANS.

Pinnock Brothers v. *Lewis and Peat, Ltd.*

THIS case, which was heard in the King's Bench Division on February 7, 1923, was a claim for damages for breach of contract for the sale of cattle food.

The plaintiffs had bought, by a contract in writing, from the defendants, one hundred bags of East African copra, and had re-sold them after delivery to another firm, who, in turn, had sold them to a third firm, who had manufactured the copra into cattle cake and re-sold it. All the cattle to which the cake or meal had been

supplied became seriously ill, and it was found, on analysis, that castor beans had been mixed with the copra cake.

Mr. Bevan, for the plaintiffs, submitted that the clause in the contract providing that the goods were not free from latent defects, not apparent on reasonable examination, did not apply to a poisonous substance in the copra cake. In any case, the clause was a mere exclusion of a warranty and did not affect the condition of the contract that the food sold should be of the contract description. The plaintiffs would also rely on Sec. 1, Subsecs. (3) and (4) and Sec. 6 of the Fertilisers and Foodstuffs Act, 1906.

Mr. Jowitt, for the defendants, submitted that the action must fail on several grounds. In the first place the arbitration clause in the contract prevented the action from being brought after the lapse of fourteen days. Secondly, the vendors were not liable for latent defects, and in this case the amount of castor bean in the cake was very small, and the article delivered was commercially the article required by the contract. And thirdly, the damages were too remote, for the cake had passed through the hands of a string of buyers, and the defendants could not be liable to buyers far down the string.

Evidence was called for the defence to prove that if a buyer wished to make sure that copra cake did not contain castor bean he should stipulate to that effect in the contract. In fact, all contracts made on the Liverpool market included a special warranty of freedom from castor bean.

Mr. Justice Roche, in delivering judgment, said that the presence of an arbitration clause in a contract was no bar to an action unless it expressly provided so. In this case the arbitrator refused to go into the merits of the case because notice had not been given in time. In his view the word "defect" could not cover the case where the article supplied was not the article contracted for, but was something entirely different. Copra cake *plus* castor beans in the proportions to be found in this case could not properly be described as copra cake at all. That finding made it unnecessary to decide whether, if there was a defect here, it was latent, but he thought the condition of the cake was not latent in that it could have been discovered by the exercise of reasonable care. He found as a fact that it was within the contemplation of the parties that the cake would be used for feeding cattle and for nothing else. The mischief was discovered, and was communicated to the defendants as soon as possible. Then it was said that there was a chain of buyers, and the defect ought to have been discovered by the plaintiffs by the exercise of reasonable care. With regard to this he found as a fact that except to an expert the condition of the cake was not apparent, and in dealing with such a small quantity of goods it was not negligent or unreasonable of the plaintiffs to omit to have an analysis made. The cost of analysis would have swallowed up the profit on the transaction, and the omission to have it made did not break the chain. If it was the duty of anyone to have goods of this kind coming from abroad analysed, he thought it must be the first person who put the goods on the market. The plaintiffs were entitled to rely on their vendors to supply the article contracted for, and they were further protected by the Fertilisers Act, 1906. There must be judgment for the plaintiffs for the amount agreed (£550) and costs.

CAMPHORATED OIL SUBSTITUTE.

On February 22, 1923, a J. Blyth, a pharmacist, was charged at the Aberdeen Sheriff's Court with selling camphorated oil containing less than 20 per cent. of camphor.

The defendant pleaded guilty, and stated that an assistant had sold "Compound Camphorated Oil," which, although not officially recognised in the Pharmacopœia, was a perfectly legitimate liniment containing 2 per cent. of camphor. The assistant had explained this at the time of the sale, and the quantity sold on that day was labelled "Compound." There was no question of putting money in his pocket. In his opinion, the compound liniment was quite as efficacious and was pretty much the same type as camphorated oil.

The Procurator-Fiscal pointed out that people had been asking for camphorated oil and had received the preparation made by the accused. He did not think that the addition of the word "compound" would convey much to the ordinary customer. Accused had said that the liniment was the result of war-time conditions, but he understood that camphorated oil was now back to pre-war prices. Samples of camphorated oil had been taken from all the chemists in Aberdeen, and accused seemed to be the only one in the trade who was selling such a preparation.

The Sheriff, in imposing a fine of £3, said he was unable to accept the explanation of the accused as satisfactory. It was necessary for him to give the public what they asked for, or to tell them what they were getting, instead of trying to give them something they did not really want.