HIGH COURT OF JUSTICE.

KING'S BENCH DIVISION.

(From the "Times" of November 7, 1904.)

(Before the LORD CHIEF JUSTICE OF ENGLAND, MR. JUSTICE KENNEDY, and MR. JUSTICE RIDLEY.)

HULL *v.* HORSNELL.

THIS was a case stated by Justices for the County of Sussex for the opinion of the Court on certain questions of law raised upon the hearing of an information against the appellant under the Food and Drugs Act, 1875, heard at Bexhill in April of this year. The information was preferred by the respondent, and charged that the appellant, James Hull, did on February 19, 1904, unlawfully and wilfully sell to the respondent "a certain article of food—to wit, bottled peas—which to the knowledge of the said James Hull was mixed with a certain ingredient called sulphate of copper, which ingredient was injurious to health, contrary to the Sale of Food and Drugs Acts, 1875-1899, in such case made and provided." The case stated that the respondent, an inspector under the Sale of Food and Drugs Act, purchased of the appellant, a greengrocer carrying on business at Bexhill, a bottle of preserved peas for the purpose of analysis. The respondent divided the peas so purchased into three parts, and sent one part to the Public Analyst, who gave his certificate as follows: "I, the undersigned, Public Analyst for the administrative county of East Sussex, do hereby certify that I received from yourself on February 20 (per registered parcel post) a sample of bottled peas No. 14 for analysis (which then weighed about 4½ ounces), and have analysed the same, and declare the result of my analysis to be as follows: I am of opinion that the said sample is adulterated with sulphate of copper to the extent of at least 1·87 grains per pound. *Observations.*—The copper salt has doubtless been added to improve the colour of the peas." The respondent proved that the bottle containing the peas bore the following label: "English Garden Peas. Colour preserved with a small quantity of Sulphate of Copper. Finest English Marrowfat Peas. Preserved in Kent.—Petty, Wood and Co., London." The Public Analyst was called for the prosecution, and he proved: (*a*) That sulphate of copper was a poisonous substance and injurious to health; (*b*) that sulphate of copper was used to preserve the colour of the peas; (*c*) that he had never known anyone personally, or heard of anyone, injured by eating peas containing copper, but that he, the Public Analyst, suffered from colic if he ate coppered peas; (*d*) that out of eight samples examined by him during the previous quarter seven contained copper. On behalf of the appellant it was contended that the information did not disclose any offence under the Sale of Food and Drugs Act, because it did not allege that the admixture of the ingredient called sulphate of copper rendered the article of food—namely, the peas—injurious to health, but merely that the ingredient itself was injurious to health, and that, therefore, the information was bad in law, and the appellant could not be convicted upon it. It was also contended, on behalf of the appellant, that the certificate of the Public Analyst did not disclose any offence, and was insufficient, and did not comply with the requirements of the Sale of Food and Drugs Act. On behalf of the respondent it was contended that the information did disclose an offence under the Act; that it is sufficient to constitute an offence under the latter part of Section 3 of the Sale of Food and Drugs Act, 1875, if the ingredient itself which is mixed with the article of food is injurious to health, and it is not necessary to show that the ingredient renders the article of food injurious to health. It was also contended that the Analyst's certificate was sufficient, being in the form provided by the schedule to the Sale of Food and Drugs Act, and that the

certificate need not disclose any offence. It was contended, also, that the insufficiency (if any) was remedied by the Public Analyst being called as a witness to give evidence of the facts. The justices stated that they were of opinion that sulphate of copper, which was an ingredient in the peas, is injurious to health, and they therefore convicted the appellant, being of opinion that the ingredient necessarily rendered the whole article sold injurious to health. The questions for the opinion of the Court were: (1) Whether the information disclosed an offence under the Sale of Food and Drugs Act, and was valid in law; (2) whether the Public Analyst's certificate was sufficient and valid in law; (3) whether the justices were right in law in convicting the appellant.

Mr. Horace Avory, K.C., and Mr. Bonsey appeared for the appellant; Mr. Boxall, K.C. and Mr. Henriques for the respondent.

The Lord Chief Justice, in delivering judgment, said that if the justices had convicted the appellant of an offence under Section 3 of the Sale of Food and Drugs Act, 1875, on the ground that the added ingredient—sulphate of copper—was injurious to health, and not on the ground that the peas, by reason of the addition of the sulphate of copper, were rendered injurious to health, he was clearly of opinion that the conviction would be wrong. He had no doubt that in order to constitute an offence under the second part of Section 3 the article of food sold must be found to be injurious to health. Speaking for himself, he thought that the justices had, in fact, found the article itself—namely, the peas—was injurious to health. As, however, there might be some doubt as to whether they had so found, he thought that the case ought to be sent back to them with instructions that if they had so found the conviction should stand, but that if they had found not that the peas were injurious to health, but that the sulphate of copper was, the conviction should not stand. Mr. Avory had taken a second point—namely, that the conviction could not stand because the certificate of the analyst was insufficient. His Lordship read the certificate and continued: It was contended that at the end of the finding the analyst should have added the words "which rendered the article injurious to health," since the certificate, as it stood, did not show on the face of it that any offence had been committed. He did not agree with that contention. The analyst could not know with what offence the person would be charged. In his opinion, a certificate was sufficient if it was one which was in accordance with the terms of the schedule, and set out the description of the goods sent for analysis, the weight and the other requirements of the schedule. He was of opinion that the certificate given by the analyst in this case was sufficient.

Mr. Justice Kennedy and Mr. Justice Ridley concurred.

INSTITUTE OF CHEMISTRY OF GREAT BRITAIN AND IRELAND.

Examination in Biological Chemistry, October 25 to 28, 1904.

The following candidates passed: *Fellow:* Clark, Robert Macfarlane, B.Sc. (Glasgow). *Associates:* Arnaud, Francis William Frederick; Kinnersley, Henry Wulff; Riley, Louis John Eczekiel. *Candidates for the Associateship:* Handcock, Walter Augustus; Henley, Francis Richard, M.A. (Oxon.). The examiner was Prof. Adrian John Brown, M.Sc. (Birmingham), F.I.C.