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## CURRENT PRICE OF CODFISH

### Lorenzo Noseworthy vs William A. Munn

#### Supreme Court

(To be continued)

(Charles Ferratt, continued)  
 Re-examined by Mr. Morine K.C. on behalf of the plaintiff, the witness said as follows:

At the time we agreed to sell 1600 qtls to Hue we did not have the fish. We afterwards got it in Green Bay. With regard to the other quantity we were dickering about selling, we had not that quantity either. We never got that. Just about the time we began the negotiations for that quantity it was impossible to get for the same price as the 1600 qtls. As soon as the local merchants knew we were negotiating to sell fish at that price they advanced the price to keep us from getting it. I did not go down; it advanced.

Friday, June 11, '15.  
 Morine K.C. for plaintiff; Howley K.C. for defendant.

MARADUKE WINTER, examined by Morine K.C. on behalf of the plaintiff said as follows:

I am the senior partner of the firm of T. & M. Winter. We export fish from the Labrador on our own account. We maintain an establishment at Labrador. We have an agent there, Patrick Delaney of Brigus. His headquarters are at Bateau. In addition to that we supply various persons who trade on the Labrador, and buy fish from those persons. We shipped by steamer last year on a joint account; I don't think our name appeared. We shipped previous years by sailing vessels in our own name, last year was our first year making shipments in our own name by steamer. I am familiar with the Labrador business.

There was a meeting of fish exporters last year when I attended; that was held in St. John's at the Board of Trade building. The meeting was called by the Minister of Marine & Fisheries, Mr. Piccott. The object of the meeting as stated by him was to fix a price on Labrador fish. He was not taking any part in the fixing of the price; the meeting was to get the exporters to name a price. The matter was discussed there at the time. Mr. Piccott remained present during the time of the discussion. I suppose I had come to the meeting prepared to discuss that subject as well as I could. I knew what the object of the meeting was before I went. I could not say positively who was present at the meeting. I think W. A. Munn was present, and I think Mr. Grieve and Philip Templeman, or his son representing their business. I am not quite clear whether the Ryans were there. I think there were about seven or eight besides Piccott present, but I cannot recollect who.

I am not positive whether there was anyone from Mr. Grace or Carbonar present; I think not. I know the Ryans or Darfs were not there. I do not think the meeting was organized by a chairman or secretary being appointed. It partook of the nature of an informal meeting. I think it is the custom for the exporters of fish to meet every year. The meeting referred to was the first time the Minister of Marine & Fisheries or other official person had anything to do with this was not a meeting held in the usual course of trade. It was held because the Minister had asked us to meet. The meetings held annually, or whenever they are held, are informal discussions by persons interested in exporting. I think there would be no minutes of this particular meeting taken by anyone.

At that meeting a discussion took place as to the price that could be offered. There was no data produced by anyone for the discussion; we could not get any at that particular time. It was impossible to get any data to work on; the War had broken out and the European money markets were in such a condition that it was impossible to get any. There was no business doing at the time; there was no such thing as selling fish and we did not know where we were. The conditions existing at the time were altogether exceptional; there had never been any precedent for it at all. I think the meeting took place about the 7th or 8th October; then the War had been going on about 2 months. At that time the state of the foreign markets and of Exchange were such that the prospects would be that it was quite impossible to sell. Many persons connected with trade thought there would be no market for fish at all. Others took a more speculative view, but nobody was optimistic. One could not very well be optimistic at the time, everything was more the other way.

Whatever was being done was taking a blind leap in the dark. The conditions of general trade at that

time were altogether chaotic. No one knew what was going to happen in any way whatever. There was a decision at the meeting referred to to make the price of fish \$3.60. I think those present concurred in that; my impression was concurrence. Other rates were discussed.

The majority thought they were giving too much. Some thought \$3.00 would be enough; others thought if we sold at all fish would be worth more than that, but the exchange was the trouble. There would be a demand for the fish but the money could not be obtained. I do not think any steps were taken to communicate the decision re the \$3.60 to others interested in the trade in St. John's. I think everybody interested in the Labrador was present. So far as we were concerned I informed our agent in Labrador of the decision. Later, conditions in the foreign markets improved; exchange got more settled. It did not get properly settled, but it was possible to do a certain amount of business after a while. That position gradually improved later in the season. It has not at any time attained anything like normal conditions I should think. Generally the improvement made the export turn out profitably. I cannot say whether all the exporters from Labrador have been cleared up. I am inclined to think they have not altogether been cleared up yet, but they have in our own case. It is not unusual for some shipments to hang over. So far as our own are concerned they have been cleared up in a satisfactory manner.

Cross-examined by Howley K.C. on behalf of the defendant, the witness said as follows:

I bought on the Labrador last year about 11,000 qtls fish including my own dealers. We did not ship quite all we bought, but nearly all. It was purchased at the same time. We sold \$3.60 for it. So far as I know it has been customary to have a meeting to fix the price on the general year; at least I think so. The meeting fixes the price on the general outlook of the foreign markets gathered from information that we get from agents in the different markets. There is no particular time set for the fixing of that price. As a rule I think the price is generally fixed about the time that the first shipment are made; when they begin to collect fish to make the first shipments, as a rule the price is fixed. Last year the price was not fixed on the general outlook information reached us from the foreign agents. Other years things were normal, markets were normal, and we could form a proximate idea of what fish would realize; last year it was quite impossible to say what we would get for it. It was impossible owing to the financial condition of the markets. As far as my memory serves me, a few of us (merchants) met to fix the price of fish last year. We talked the matter over before the meeting of the 7th (or 8th) October, and we came to the decision that \$3.60 would be a fair and reasonable price; at least they were willing to take the risks of \$3.60.

As to when the improvement in the market first showed itself it is not easy to explain the exact position. The markets on the other side, at the beginning were high and people were prepared to give a good price for fish at the opening of the markets here, but they could only pay in their own currency which we could not accept. That was the position. But there was a doubt at first as to whether the opening prices on the other side were good as they usually are. We were under the impression that these prices would decline rapidly after the first shipments got over, and it was only after it was found out that the voyage was a small one and the demand kept up in the foreign market that the prices here went up.

At the outset there were two reasons against a favorable view of the markets; one was the probabilities of the price declining and the other was that no exchange was procurable. I should say 'probabilities' is the correct word, because that is what usually happens; prices at first almost invariably open high and gradually the markets are supplied the price goes down. When prices open high it is most probable that the price will after a little while go down. We expect it will go down. No definite decision as to a price had been arrived at prior to the meeting called by Mr. Piccott. In my opinion, coupled with my experience and knowledge of condition at the time this price of \$3.60 was fixed last year, I consider that a fair price. I do not think that the circumstances and conditions as they were then known would justify any larger price. I consider it was too high under the existing conditions. After that price was fixed these conditions continued in existence for a while; the change in the markets was gradual. I think it was late in November, or early in December, before there was any marked improvement in conditions. We did not purchase any Labrador fish in St. John's last year. We had dealers who came to St. John's with fish whom we sold to sell in the market at the best price they could get. We never buy

fish in St. John's, or very rarely.

I think the Minister of Marine & Fisheries called that meeting in October because he had received a telegram from the fishermen on the Labrador asking for others (so I understood) asking that a price be fixed. I think Mr. Piccott had that telegram when we gave it up. We were interested indirectly for quite a number of years, but we have been directly interested only for the last five or six years. We always pychase at the current price.

The great bulk of our fish has always been bought at that price. For these five or six years I think we nearly always bought at the current price, and paid for it at that price. The price fixed as current price is not always fixed at the annual merchants' meeting. The expression 'current price' we have always understood to mean the price paid for the large bulk of the fish shipped off the Labrador, that is the price generally paid by shippers in the majority of cases. That is the price at which we have always bought and paid for our fish during the past five or six years, and that price last year was \$3.60. In my experience of this five or six years buying at that price, we lost money every year except two, on our actual exportation.

In addition to the loss sustained on the actual exportation of fish in different years there are other losses in connection with the general conduct of Labrador trade in the supplying, for instance. That is a losing business every year in my experience even in the two years we made a profit on the exportation. We have always lost on the supply trade. I mean in no year did all our dealers pay us their accounts. In every year but two we lost on the actual exportation, and in every year we lost on the supplying more or less. By 'losing on the supplying' I mean that we made a considerable amount of bad debts every year taking the whole business together. Generally speaking I think we lost money every year.

Re-examined by Mr. Morine K.C. on behalf of the plaintiff, the witness said as follows:

Taking the supplying and the exporting together and regarding the whole operation, we undoubtedly lost money every year. Last year we made money. Taking last year with other years I am not able to say offhand whether we made or lost money. In taking fish from our dealers and from other persons our agents would issue receipts in the customary manner. Our receipts are printed, and amongst the printed words are the words "current price," which indicate what was our course of business in dealing with that matter. Every year the merchants exporters, would discuss the matter more or less formally and decide upon a price.

In 1913 at the meeting a price of \$4.30 was arranged. After that was done a foreign buyer on the Labrador offered a bonus of 40c a qtl over the current price, which was understood to be \$4.30. The result was that everybody (or most people) had to pay this bonus in order to get fish, which made the current price \$4.70.

When a settlement was made in the fall those who sold fish at current price got \$4.70 and \$4.30. The meeting called before the one convoked by Piccott was an informal discussion between a few of the exporters. Probably most of those present at Piccott's meeting were at this one but I cannot say. I was there and, I think, Templeman; I cannot remember any others. It was at that time the opinion that \$3.60 should be given and the same opinion obtained at Piccott's meeting.

J. H. ROBERTS examined by Mr. Morine K.C. on behalf of the plaintiff said as follows:

I do business in St. John's. Tea was my principal business until the last two years, but I do anything at all. I was interested in buying fish on the Labrador last year. I shipped from the Labrador to foreign markets. I shipped two cargoes by foreign sailing vessel, the 'Western Lass' and the 'Yersa'. I shipped from Indian Hr. I have an establishment of my own at Indian Hr. My agent there is Capt. John Clarke.

The total amount in my two cargoes would about 6000 qtls. Besides that I brought home some in the fall, about 1100 qtls; that was from Cape Harrison station. I sold that 1100 qtls in St. John's on board the vessel to an agent of a foreign broker. That 1100 qtls would be what is called Labrador sloop, and what I shipped was the same kind. The fish was not all alike but it was all of the same class. I sold the 1100 in the last week of December I think. I sold it for \$5.40. The foreigner I sold it to was making up a shipload here. I bought all this fish on the Labrador mostly from my own dealers. I supplied some men to fish from Indian Hr. They fish on their own account and turn in their fish to me and pay me for supplies. I also employ crews but my main dependence is on shipped men.

(To be continued)

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