

there was no evidence warranting the finding of guilty arrived at; and the Court of Appeal refused to disturb the ruling.

*Aikman*, for the accused. *Maclean*, K.C., for the Crown.

Full Court.]

[Jan. 30.

THE KING v. CHLOPEK FISH COMPANY.

*Shipping—Foreign vessel—Seizure of within three mile limit—Customs and Fisheries Protection Act—Burden of proof on defendant ship.*

In an action brought in the Supreme Court of British Columbia by His Majesty on the information of the Attorney-General for Canada for the forfeiture of the "Edrie" for contravention of the Customs and Fisheries Protection Act, the statement of claim alleged that the "Edrie" being a foreign vessel was on the 21st of February, 1911, found fishing within three marine miles of the coast of Canada, namely, within three marine miles of the shore of Cox Island, British Columbia, and that such ship was legally seized by an officer authorised by the Customs and Fisheries Protection Act and claimed the forfeiture of the "Edrie." The statement of defence denied these facts and alleged that the "Edrie" was lawfully on the high seas and was illegally seized by the Canadian cruiser, "Rainbow."

The burden of proving the illegality of any seizure, made for alleged violation of any of the provisions of this Act, or that the officer or person seizing was not by this Act authorised to seize, shall lie upon the owner of claimant.

The judgment on the trial determined that the defendant did not discharge the burden of proof resting upon defendant and adjudged that the "Edrie" be condemned as forfeited to His Majesty and be sold by public auction.

*Held*, on appeal, that the trial judge was right.

*Reid*, K.C., and *Ritchie*, K.C., for defendant, appellant. *Macdonell*, and *Armour*, for plaintiffs, respondents.

Full Court.]

[Jan. 31.

KING LUMBER MILLS v. CANADIAN PACIFIC RY. CO.

*Discovery—Officer of company.*

A person in the employ of a railway company, in the capacity of a fire warden, with other persons under him to make