

CURRENT PRICE OF CODFISH

Lorenzo Noseworthy vs William A. Munn
Supreme Court

(Robert Duff, continued)

Cross-examined by Mr. F. A. Mews on behalf of the plaintiff, the witness said as follows:

The freight on fish from Labrador varies but we look on 20 cents as the usual rate. Insurance on fish is, I think 4 per cent in the fall of the year. Battle Hr. fish is drier than that further North, but not Battle Hr. fish alone. I mean fish caught in the vicinity of Battle Hr. is drier; it takes more to make a quintal. On account of getting more sun it is drier; there is less water in it. Therefore, in buying a quintal of fish from Battle Hr. vicinity you are getting more fish. When the current price of fish is fixed it has applied to Battle Hr. fish as well as to Labrador fish.

I could not tell when the price of \$3.60 was fixed last year. I was on the Labrador last year and I cannot give the dates, but the price told me. The news of the price that had been arranged was sent me by my partner in Carbonar. I only know by hearsay how the price was fixed. I understood that Piccott called a meeting of the merchants in response to some wire from the northern part of Labrador. I understood the exporters met. My opinion is that Winter, Munn, Templeman, Ryan & Co. and Hickman, I suppose, met to fix the price, as they were interested in the Labrador fishery.

I don't know if Rorke, of Carbonar, was there, although he also was interested in the Labrador fishery, and there may have been others as far as I know. I should think they fixed the price according to their knowledge of the markets and conditions across.

They were to give a price as the markets would warrant in their judgment but very often they gave too much. Last year we made a profit on the export but in the general Labrador business we lost considerably. We fit our fishermen for the Labrador; the market improved to the extent that we made a profit on the shipment of the fish, but on the sup-

plying of the fishermen we lost thousands of dollars, that is by those who could not pay their accounts. At the price of \$3.60 we made a profit on the exporting of fish; if we had paid \$4.00 I think we would have still made a profit on the exporting of it.

At the time the price of \$3.60 was fixed the market conditions in general were unsettled. At that time none of the fish shipped from the Labrador had been sold in the markets. I have no idea when the first shipment was sold. I suppose Balne, Johnstone's fish would be the first sold, but I could not tell when it was sold. The markets afterwards improved. When I came home from the Labrador the latter part of October we were very dubious about paying \$3.50 for fish, but in the latter part of November and December there was a marked improvement. Our firm squares up the last of our men from the middle to the last of October. They do not run up to November and December. They are all paid off by the first week of November. I did not know any part in settling the price of fish last year.

FREDERICK HARTERY examined by Mr. Howley K.C. on behalf of the defendant, said as follows:

I belong to Catalina. I am in the employ of Philip Templeman as Labrador agent. I have been eight years on the Labrador with Philip Templeman exporting fish. I was there last year. I bought fish for Templeman on the Labrador last year. My headquarters on the Labrador was Indian Tickle, but I was general superintendent over several other places. Last year I purchased on or about 19,000 quintals fish. I made no arrangement as to price with the persons I bought from. There was no price put on the receipt for fish.

Our receipts were given as 'current price' with the understanding that \$3.60 was that I was authorized to pay for it and no more. With that understanding, from day to day the fishermen shipped their fish on board the vessel without any trouble as to any other price. That figure was known all the time to the fishermen who sold to me. As soon as orders came down from Nfld what to pay for the fish all the fishermen knew of the price as soon as I did. I told them the price. We were all the time talking it over. When the men came and asked the price of fish I said: \$3.60 was the price I was authorized to pay, and when they came to get their receipts they would generally

wonder if the price would be any more. I would say No, I don't think it will be any more this year; it is agreed now we are only to pay \$3.60 for it. These are the terms on which I bought all the 19,000 qtls. The regular dealers and planters all came along, and shipped the fish for the price of \$3.60; that was talked of all the time, without making any trouble at all as to price; did not ask me could they get any more or anything. They all shipped their fish, and got their receipts current price at the same time knowing that \$3.60 was all we intended to give. To the best of my knowledge I bought all the fish offered me at that price. There was more offered me but I was not able to take it.

I might have bought more fish but I had not room for it. I am acquainted with Lorenzo Noseworthy of Spaniard's Bay who is taking this action against Munn. I believe he shipped fish in our vessel last year, but I cannot tell the exact amount. He did not sell to me personally, but to one of our collectors. We had several collectors out. Each collector has a receipt book, and he takes the fish in and brings it to the foreign vessel wherever she is loading. These collectors are agents authorized by me.

Lorenzo Noseworthy was paid for that fish. He was paid at the office in Catalina. I did not issue the cheque myself with which he was paid. I suppose Mr. Lodge who is the agent at Catalina, or Mr. Swyers, issued the cheque, but Noseworthy's account would be made up with me because he owed me for passage money. I am able, of my own knowledge, to say that he was paid and paid at the rate of \$3.60. Our account was deducted out of the amount and he was paid a cheque for the

balance at the rate of \$3.60. Last summer Noseworthy was not fishing in the same neighbourhood as I was in. He was about 17 miles from where our headquarters are. We bought fish in the neighbourhood where he was fishing; our collectors were sent to Sandy Islands to take fish. We bought lots of other fish in that neighbourhood besides what we bought from him; it was all bought at \$3.60. We had regular dealers in Sandy Islands and lots of fish was bought for cash right alone. It was bought and paid for at \$3.60. I can hardly say when we first commenced buying fish. It was some time in October before we started to take in any fish was late last year; some years we start in September. The price of \$3.60 was known long before the first of our fish was bought. I had orders in September to give \$3.60 for fish and no more. To the best of my knowledge no one who came to sell fish to me asked for more than \$3.60; never disputed the price in any way. If I had room I could have taken fish about the 10th and 12th November at the same price, but not having room the men had to bring it home in the mail boat in which I came home. I arrived home about the 19th November. After I was filled up men were offering fish at the same price of \$3.60. That fish was afterwards sold in St. John's.

Cross-examined by Kent K.C. on behalf of the plaintiff the witness said as follows:

I started buying fish in October; commenced loading the vessels some time in October. I was told the current price of fish—\$3.60—some time in September. Mr. Templeman told me. He authorized me not to give more than \$3.60; he was home then, but he sent me a Marconi message. I could not tell the exact words of the message, but I can get a copy of it. The effect of the message was not to give more than \$3.60 for fish. That is all was in that message.

I understood that price was fixed at a meeting on behalf of the fishermen to ascertain the price of fish. The fishermen on the Labrador asked if they could get the price of fish fixed and their agent here asked for the price to be settled so as to tell the men. I heard this from Mr. Templeman.

He told me there had been a meeting on behalf of the fishermen and their agent asked the merchants what the price of fish would be so that he could tell the men on Labrador, and the merchants, or Templeman, a fish buyer, was asked what they would give for fish. Mr. Templeman fixed that price of \$3.60 for me. I do not know how he reached that price of \$3.60. Up to the time I heard this price I had not given any receipts, because at that time we had not started to buy fish. I did not put the price in the receipts because the fishermen would not take the price in some cases; some would say the merchants, perhaps, may give \$3.70 by-and-by, and we will have "current price" which we are satisfied with, on the receipts; as I explained to them, then they took the receipts on the understanding that \$3.60 and the current price, may not be the same thing; that is what they thought. I did not put the price in any of these receipts. The receipts for the whole 19,000 qtls were marked at current price, and some receipts may have been given without putting and price at all.

We put no price on the receipts. I heard there was more than \$3.60 paid for fish last season on the Labrador. I heard Groucher paid \$4.00 for it. Our firm paid no more than \$3.60 for fish at any time during the season. I myself was at Indian Tickle, my headquarters. No other firms did business at Indian Tickle last year. Duff had a lot of dealers there, and he came there with a steamer and took their fish. He did not pay \$4.00 so far as I could learn from himself. I never saw a receipt from him with \$4.00 on it. The 19,000 qtls fish bought by us was not all from our own dealers; it was bought from every person. Half that amount may have been obtained from regular dealers. Men having accounts with me on the Labrador would put in some lots; other persons would sell and give their receipts to their merchants here in town and they would forward them to us and get paid; that is what we call buying for cash.

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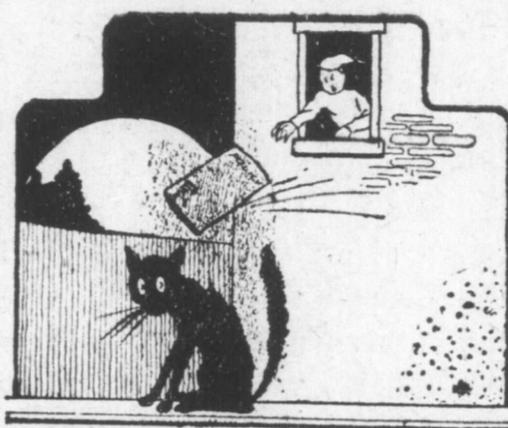
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