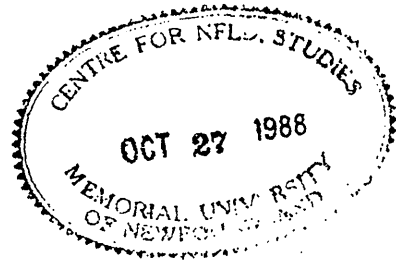


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APPENDIX P.

No. 1.

In the Court of Vice Admiralty.

Judgment of His Honor Judge Hazen in the case of the "White Fawn."

The following is a copy of the decision recently pronounced by His Honor Judge Hazen in this case.

At the last sitting of this Court, Mr. Tuck, B. C., Proctor for the Crown, applied, on behalf of Sir John A. McDonald, the Attorney-General of the Dominion, for a monition, calling upon the owners of the schooner and her cargo, to show cause why the *White Fawn* and the articles above enumerated with her tackle, etc., should not be considered as forfeited to the Crown for a violation of the Imperial Statute 59, George III., Cap. 38, and the Dominion Statutes 31 Vic., Cap. 61, and 33 Vic., Cap. 15.

The *White Fawn*, as it appears from her papers, was a new vessel of 64 tons, and registered at Gloucester, Massachusetts, in 1870, and owned in equal shares by Messrs. Somes, Friend, and Smith, of that place;

That she was duly licensed for one year, to be employed in the Coasting Trade and Fisheries, under the laws of the United States;

That by her "Fishery Shipping Paper," signed by the master and ten men, the usual agreement was entered into for pursuing the Cod and other Fisheries, with minute provisions for the division of the profits among the owners, skipper, and crew. These papers and other documents found on board, are all in perfect order, and not the slightest suspicion can be thrown upon them. The Seamen's Articles are dated 19th Nov., 1870:—On the 24th Nov., 1870, she arrived at Head Harbor, a small Bay in the eastern end of Campobello, in the County of Charlotte, in this Province.

Captain Betts, a Fishery Officer, in command of the *Water Lily*, a vessel in the service of the Dominion, states that on the 25th November he was lying with his vessel at Head Harbour. Several other vessels, and among them the *White Fawn*, were lying in the harbour; that he went on board the *White Fawn*: he states a number of particulars respecting the vessel from her papers, and adds that the said vessel, *White Fawn*, had arrived at Head Harbour on the 24th Nov., and had been engaged purchasing fresh herrings, to be used as bait in trawl fishing; that there were on board about 5,000 herrings, which had been obtained and taken on board at Head Harbour; also 15 tons of ice, and all the materials and appliances for trawl fishing, and that the master admitted to him that the herring had been obtained at Head Harbor by him for the purpose of being used as bait for fishing. There are then some remarks as to the master being deceived as to the fact of the cutter being in the neighborhood, which are not material; and, that deponent further understood that persons had been employed at Head Harbour to catch the herring for him; that he seized the schooner on the 2th, [sic], and arrived with her the same evening at St. John, and delivered her on the next day to the Collector of the Customs.

No reason is given for the delay which has taken place of more than two months in proceeding against the vessel, which was seized, as alleged by Captain Betts, for a violation of the terms of the Convention and the Laws of Canada; her voyage was broken up, and her crew dispersed at the time of the seizure.

By the Imperial Statute, 59 George III., Cap. 38, it is declared that if any foreign vessel, or person on board thereof, "shall be found fishing, or to have been fishing, or preparing to fish within such distance (three marine miles) of the coast, such vessel and cargo shall be forfeited."

The Dominion Statute, 31 Vic., Cap. 61, as amended by 33 Vic., Cap. 15, enacts: "If such foreign vessel is found fishing, or preparing to fish, or to have been fishing in British waters, within three marine miles of the coast, such vessel, her tackle, etc., and cargo, shall be forfeited."