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___ To the
Honourable
The
Minister of Marine
and Fisheries ___

No 1196 -

___ Re L & S Noble ___

___ Report ___
of ___ Commissioner ___
under Chap III R.S. Can.

First March 1897

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To the Honourable

The Minister of
Marine and Fisheries
Ottawa.

— Hon Sir —

In pursuance of an order in Council bearing date the 30th day of September A.D. 1895 and a Commission issued thereon to me under Chapter 114 Revised Statutes of Canada in reference to certain charges concerning alleged violations of the Fisheries Act and the regulations made thereunder by James Noble and Charles Noble the elder trading under the name style and firm of "J + C Noble" —

Having been notified that Mr. Osler of Mr. Bartholomew Osler and Co were acting as Counsel for the Nobles and Mr. M. M. Madden as Counsel for the Government I placed myself in communication with them and after several efforts mutually arranged that the hearing before me should take place at the Town of Collingwood in the Province of Ontario on the Twenty fifth day of February, A.D. 1896. —

On that day, and at the time and place appointed all parties being present and the Court duly opened I proceeded to read my Commission as follows: —

-1 17 March 96 338

C A N A D A.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain & Ireland, Queen, Defender of the Faith, &c., &c.

To, F R E D E R I C K W. J O H N S T O N, of the Town of Sault SteMarie in the Province of Ontario, Judge of the District Court of the Provisional Judicial District of Algoma in the said Province GREETING:-

Know you that reposing trust and confidence in your loyalty, integrity and ability, and under and by virtue of the powers vested in Us by the Revised Statutes of Canada, Chaptered One hundred and ^{fourteen} ~~four~~, and intituled "An Act respecting Enquiries concerning public matters", and all, any and every other Powers and Power in that behalf vested in us, and by and with the advice of Our Privy Council for Canada, We have constituted and appointed and by these Presents do constitute and appoint you, the said Frederick W. Johnston, to be a Commissioner to consider, enquire into and investigate and report upon the following charges concerning alleged violation of the Fisheries Act and the Regulations made thereunder by JAMES NOBLE and CHARLES NOBLE the Elder, trading under the name, style and Firm of J. & C. Noble, and which said charges are as follows:-

- (1) In Eighteen hundred and ninety three (1893) the Messrs Noble were prosecuted and fined for illegal fishing

fishing.

(2) In June Eighteen hundred and ninety three (1893) a number of Fishermen said to have been in the employ of the Messrs Noble and to have been supplied by them with Nets, were fined found guilty and fined for using illegal Trap Nets and Seins, whereupon the Messrs Noble advised them not to pay their Fines, thus openly defying the Law and the Department.

(3) In September Eighteen hundred and ninety three (1893) the Messrs Noble were directed to obtain the counter-signing of the Fishery Officer of the District to Fishery Licences issued in their favor. These directions were repeated in October Eighteen hundred and ninety three (1893) but were met with evasion and defiance.

(4) While thus defying the Department the Messrs Noble were supplying Seins to Fishermen and buying fish illegally caught.

(5) During the year Eighteen hundred and ninety three (1893) they not only sold and supplied illegal nets to the Fishermen, but actually hired a Tug to those who fished illegally.

(6) They also gave encouragement to Indians to fish illegally, and having thus supplied Tugs and Fishing Gear and aided Fishermen to violate the law, they urged poverty and ignorance to the law on behalf of these parties when prosecuted for the offense.

(7) Although duly notified in the Spring of Eighteen hundred and ninety three (1893) that no fishing was to be done until the necessary Licence had been issued

the Messrs Noble began fishing in Eighteen hundred and ninety four (1894) before receiving their Licences from the Department or the Legal Fishery Officer.

(8) They have endeavoured to raise hostile feelings against the Officers of the Department of Marine & Fisheries.

(9) In the year Eighteen hundred and ninety three (1893) the said Nobles applied or caused to be supplied Seins to certain Indians at Wekwimekong for the purpose of being used by the said Indians illegally and without Licence, the said Nobles then well knowing that the said Indians or any of them had no Licence or Authority to use the said Seins for fishing.

(10) The said Nobles bought Pickerel in the Close Season of Eighteen hundred and ninety three (1893) between the Fifteenth of April and the Fifteenth of May inclusive, and possessed and sold Pickerel during the said Close Season.

(11) The said Nobles bought Pickerel in the Close Season of Eighteen hundred and ninety four (1894) between the Fifteenth day of April and the Fifteenth day of May inclusive, and possessed and sold Pickerel in the Close season of 1894 between the Fifteenth of April and the Fifteenth of May inclusive, and possessed and sold Pickerel during the said Close Season.

(12) The said Nobles in Eighteen hundred and ninety three (1893) had in their possession in their

Fish Shed or Storehouse at Bustard Islands one Car of Pickerel caught in Close Season to the knowledge of the said Nobles or one of them.

(13) The said Nobles in Eighteen hundred and ninety three (1893) induced one P. Foster to fish pretending that they procured and held his Licence to fish, when, as the fact is, no Licence was issued or granted to said P. Foster, as the Nobles then well know, and said Foster for such illegal fishing was convicted and fined.

AND ALSO, as such Commissioner to hear and take evidence upon the following points, that is to say:-

(1) The circumstances under which the Pamphlet purporting to relate to the Seizure of the Vessels belonging to the Messrs Noble was prepared, and who is responsible for the statements made in that Pamphlet.

(2) Regarding the identity of the writer of a Letter appearing in the Toronto "Globe" of the Fourth of December Eighteen hundred and ninety four (1894) purporting to be signed by J. & C. Noble, dated at Killarney November the Twenty fourth.

(3) That James Noble, a Justice of the Peace at Killarney, did in the month of June Eighteen hundred and ninety five (1895) refuse the Keys of the Lock-up to a Dominion Policeman and sh to the Police Magistrate, concerning both of whom he used disrespectful language.

(4) That the said James Noble did assist one

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John Egan against the Authorities who were endeavouring to prevent him (Egan) and his Bar Tender supplying liquor to Indians.

AND we do hereby authorize and empower you as such Commissioner to summon before you any witnesses and require them to give evidence on oath, oral or in writing or on solemn affirmation in case they are persons entitled to affirm in civil matters, and to produce such documents and things as you, our said Commissioner, shall deem requisite to the full investigation of the matters into which you are hereby appointed to examine.

TO HAVE, hold, exercise and enjoy the said Office, place and trust, unto you the said F.W. Johnston, with the rights, powers, privileges and emoluments unto the said office, place and trust of right and by law appertaining, during pleasure; and we do hereby require and direct you to report to our Minister of Marine and Fisheries of Canada on or before the Thirteenth day of April in the year of Our Lord One thousand eight hundred and ninety six (1896) the result of your investigation, together with the evidence taken before you, and any opinion you may see fit to express thereon.

IN TESTIMONY whereof we have caused these our Letters to be made Patent, and the Great Seal of Canada to be hereunto affixed.

WITNESS Our Right trusty and well beloved Cousin and Counsellor, The Right Honourable Sir John Campbell

Hamilton

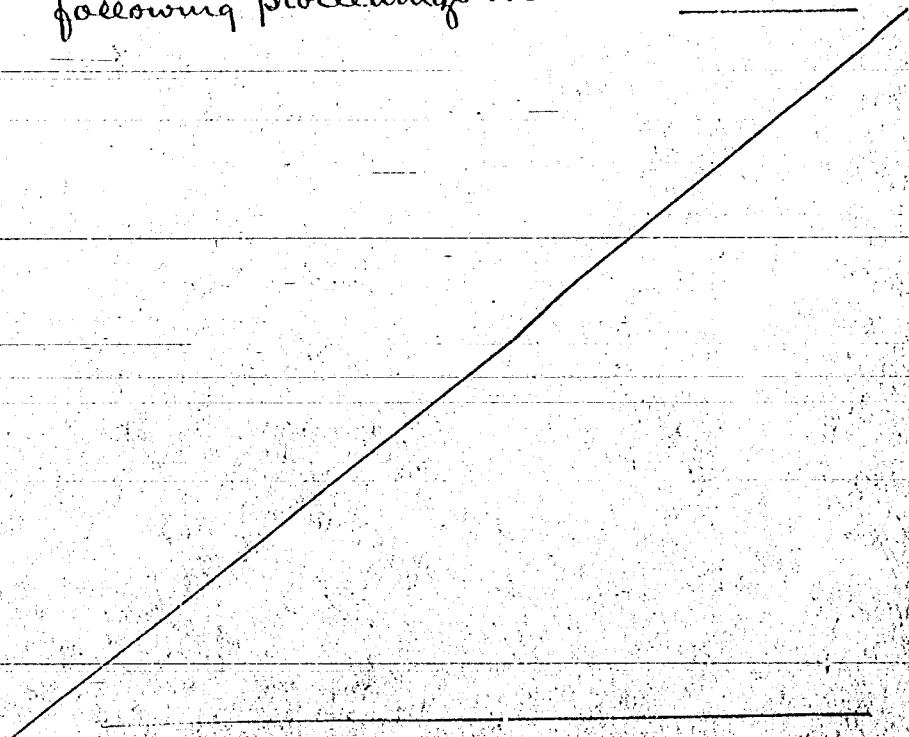
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Hamilton-Gordon, Earl of Aberdeen, Viscount Formartine, Earl
 Baron Haddo, Methlic, Farvos and Kellie, in the Peerage
 of Scotland, Viscount Gordon of Aberdeen, County of
 Aberdeen in the Peerage of the United Kingdom, Baronet
 of Nova-Scotia, Knight Grand Cross of Our Most Distin-
 guished Order of St Michael & St George, &c, &c, Governor
 General of Canada, At Our Government House in our City
 of Ottawa, this ^{Thirteenth} ~~Thirteenth~~ day of September in the year
 of Our Lord One thousand eight hundred and ninety
 five (1895), and in the Fifty ninth year of our Reign.

By Command.

(Signed, sealed &c) _____

x _____ After the Commission was read the
 following proceedings were had _____



(7)

O N T H I S Tuesday, the Twenty fifth (25th) day of February, in the year of Our Lord One thousand eight hundred and ninety six (1896) at the Town of Collingwood in the Province of Ontario, the proceedings for Enquiry under the foregoing Commission were opened:-

HIS HONOUR, JUDGE F.W. JOHNSTON presiding.

Present:- MORRIS McFADDEN Esq, Counsel for the Crown

--and--

B.E. OSTLER Esq, Q.C. and H.S. OSTLER Esq, Q.C.

Counsel for the Messieurs Noble.---

(By Mr B.E. Ostler, Q.C.) As has been said, but not reported, Your Honour, you know that there was a former Enquiry, as shown by the Order in Council. Upon that Enquiry certain evidence was taken, and there has been a discussion as to the effect of that, and as to the impropriety of the proceedings. There was, as alleged, a refusal to hear Argument on the matter; the desire of the Minister of Marine and Fisheries and of the Minister of the Department to hear Argument. As a result of that, -a result, as we see, brought about by the unjudicial character of the proceedings, negotiation has been had. There was a charge that the Messrs Noble were convicted of illegal fishing, and upon that, and under extraordinary circumstances, their property seized and a forfeiture said to have taken place.

We formulated for Judicial Enquiry the Five (5) questions which appear on the fourth (4th) page of the Order in Council. That is what we asked for, and that is refused. Articles 2, 3, 4 & 5 are distinctly refused. The Order is to hold an Enquiry into such Charges as are set forth in the Statements appended thereto against the Messrs J & C Noble of illegal fishing, and in connection with the said Charges there is also to be held Enquiry on the Four (4) Charges which are specifically set forth. These Charges are not of Record in the Department. They are affirmative charges on the part of the Government. Take, for instance, the Second Charge that "In June 1893 ~~xxx Mxxxxx Nxxxx~~ "a number of Fishermen, said to have been in the employ of "the Messrs Noble and to have been supplied by them "with Nets, were found guilty and fined for using illegal "trap nets and seines, whereupon the Messrs Noble advised "them not to pay their fines, thus openly defying the "law and the Department"; and Charge Number Four (No. 4) "While thus defying the Department, the Messrs Noble "were supplying Seines to Fishermen and buying Fish "illegally caught" Number Five (No. 5) "During the "year 1893 they not only sold and supplied illegal nets "to the Fishermen, but actually hired a Tug to those who "fished illegally"; Charge Number Six (No. 6) "They "also gave encouragement to Indians to fish illegally, "and having thus supplied Tugs and fishing gear, and "aided Fishermen to violate the law, they urged poverty

"and ignorance of the law on behalf of these parties
 "when prosecuted for the offence?" Charge Number 7,
 "Although duly notified in the Spring of 1893 that
 "no fishing was to be done until the necessary Licences
 "had been issued, the Messrs Noble had been fishing
 "in 1894 before receiving their Licences from the
 "Department or the Legal Fishery Officer"; Charge
 Number Eight (No.8) "That they endeavoured to raise
 "hostile feelings against the Officers of the Department
 "of Marine and Fisheries"; Charge Number Nine (No.9)
 "In the year 1893 the said Nobles supplied or caused to
 "be supplied Seins to certain Indians at Wekwimekong,
 "for the purpose of being used by the said Indians
 "illegally and without licence, the said Nobles then
 "well knowing the said Indians or any of them had
 "no authority or licence to use the said Seins for
 "fishing"; Charge Number Ten (No.10) "That the said
 "Nobles bought Pickerel in the close season of 1893
 "between the 15th of April and the 15th of May inclu-
 "sive and possessed and sold Pickerel during the said
 "close season"; Charge Number Eleven (No.11) "That
 "the said Nobles bought Pickerel in the close season of
 "1894 between the 15th of April and the 15th of May
 "inclusive, and possessed and sold Pickerel in the
 "close season of 1894"; Charge Number Twelve (No.12)
 "That the said Nobles in 1893 had in their possession
 "in their Fish Shed or store-house at Rustard Islands
 "one ear of Pickerel caught in the close season to the
 "knowledge of the said Nobles or one of them"; Charge
 Number

Number Thirteen (No.13) "The said Nobles in 1893

"induced one P. Foster to fish pretending that they had
 "procured and held his licence to fish, when as the fact
 "is no licence was issued or granted to the said P.
 "Foster, as the Nobles then well knew, and said Foster
 "for such illegal fishing was convicted and fined";
 these are affirmative charges not of record, and I
 understand from my learned friend, Mr McFadden, who
 represents the Dominion Government, that his instruc-
 tions are not to give evidence on these charges,
 and your Honour rules that on that account you are not
 here to receive evidence on the part of the Crown,
 but that it is to be assumed that these charges are
 true, and that the Messrs Noble are to give evidence
 to show that they are not guilty. I am here to
 produce evidence on the part of the Messrs Noble on
 the matters which were proposed for enquiry, and if
 your Honour rules that these matters, these charges, are
 at all within the scope of the Enquiry I am prepared to
 show that there were extenuating circumstances, and that
 if there was technical guilt there was no moral guilt
 or any guilt that the Government would act upon in
 forfeiting their property or refusing their licence.
 I am prepared to give overwhelming evidence to that
 effect. Is your Honour prepared to receive that?
 (By His Honour, Judge Johnston) I do not think I am.
 (By Mr R.B. Ostler, Q.C.) Then it comes to this, that
 there are Seventeen charges made against us, and only

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one of these charges is of record, namely the Conviction in 1893, which is set out. That is the only Charge of record, and by the same Record in which is filed that Charge it is shown that the Department of Justice advised the Department of Fisheries that they could not and would not act upon it, and that it had been improperly obtained. Now, that is necessarily in the knowledge of my learned friend, the Crown Attorney. That charge we need not now meet. We deal with that Charge as of record, and the best answer to that is the ~~same~~ Letter of the Department of Justice to the Department of Fisheries saying that that conviction is improperly obtained. The Second Charge says that the Messrs Noble in June 1893 advised them not to pay their Fines. Who did we advise? A number of Fishermen. Who were the Fishermen? The names are not given. The very nature of the Charge requires that the Crown should show who the Fishermen were, and then we could make evidence that we did not advise certain Fishermen not to pay their fines. It is of the very nature of that second charge that nothing can be shown by the Messrs Noble until evidence is given upon it. In September 1893 they were directed, it is said, to obtain a counter-signing from Elliott of the Licence. What Licence? Surely the onus of evidence is here on the Crown. These directions were issued by the Department but there was no direction or Regulation by the Department when they were ~~issued~~ issued as to when we should

get that counter-signature. Late in the season, when the fishermen were scattered, the licence was called for, as a matter of petty tyranny. We have got the licence from the Office, and we have waived the counter-signing.

(By His Honour Judge Johnston) Those directions were issued in October 1893 and were met with evasion and defiance.

(Mr. B. S. Oetler, Q.C.) At the end of the Season. If the duty of the Crown towards the Messrs Noble is in the hands of any officer that chooses to make petty regulations--if we are children in the hands of any man who chooses to give orders, we might perhaps be thought rude to Mr Elliott, but that is not the way the business of the country is carried on.

Then your Honour rules that we shall take up the Fourth charge without evidence:--"While thus defying the Department, the Messrs Noble were supplying seals to fishermen and buying fish illegally caught". What fish" and from whom bought? The same remark applies to Number Five (No.5); and then what evidence are we to give on Number Six (No.6) "They also gave encouragement to Indians to fish illegally, and having thus supplied Tugs and fishing gear and aided the fishermen to violate the law, they urged poverty and ignorance of the law on behalf of these parties" Whom? When? and where? Are we to give evidence on that. The same remark applies all through. I may say that

have never been at a trial ~~max~~ where the order of the Court was "You say you are innocent. Prove it".

(His Honour Judge Johnston) I do not think that that applies in this case at all. Those men were asked to give evidence on those charges made against them, to disprove or ease themselves.

(Mr E. E. Gistler, Q.C.) Your Honour does not allow us to give evidence in ease. The evidence that I want to give in ease is evidence under ~~Sections~~ ^{Articles} 2, 3, 4 & 5.

(His Honour Judge Johnston) I am not ready to entertain that. If you like to go on and answer those charges that have been formulated against you you can do so.

(Mr E. E. Gistler, Q.C.) We have to submit to those in authority, of course. I decline to take up the question of showing that I am not guilty of any charge. If your Honour will allow me to give evidence in extenuation I am ready to do so.

(His Honour, Judge Johnston) Of those four charges?

(Mr E. E. Gistler, Q.C.) Or the spirit of them. Because there is a Section in the Order which would seem to allow us to do that. Just consider on Numbers Two, three, four and five, whether this does not enable us to give the evidence. "The Minister, after careful consideration of the case, and with a view of affording the Messrs Noble an opportunity of bringing evidence in contradiction of having wilfully violated the laws" &c. If you think that that would bring us within Numbers 2, 3, 4 & 5?

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(By Mr. McFadden, Counsel for the Crown) I understand that your Honour has made a ruling. I do not wish to balk this enquiry in any way if it is possible to proceed, but I still adhere to the position that I took, namely that it rests on the Nobles to explain the charges that are not of record, but the result of which and the record is on file in the Department. It rests with them to give in evidence any circumstances that can or may satisfactorily explain to the Department their conduct in regard to these charges. I do not suppose that it is the intention of the Department to put a witness in the box just to say "yes" or "no". He can explain himself to a certain extent.

(His Honour Judge Johnston) What about those four extra charges?

(Mr. McFadden) It is not necessary to go into them until the charges in chief are gone into. I would suggest that this enquiry adjourn until tomorrow, when we may be able to arrange the proceeding.

(This suggestion being concurred in by all parties, the Enquiry is adjourned until tomorrow morning, the 26th day of February, at Ten o'clock.

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AND on this Wednesday, the Twenty Sixth (26th) day of February in the year of Our Lord One thousand eight hundred and ninety six (1896) at Ten of the Clock in the Forenoon; there were present:-

ROBERT McFADDEN Esq, of Counsel for the Crown

---and---

R. P. OSTLER Esq, Q. C. and H. S. OSTLER Esq, Q. C. of Counsel for the Messieurs J. & C. Noble.

(By His Honour, Judge Johnston) Are you now ready to proceed, Mr Ostler?

(Mr R. P. Ostler Q. C.) I say what I said yesterday.

(His Honour, the Judge) And you Mr McFadden?

(Mr McFadden) I take the same position as I took yesterday.

(His Honour, the Judge) In that case I propose to break the deadlock and pursue this enquiry myself. If you have any Witnesses to present or evidence to offer I will proceed with it, otherwise I shall see after some of the Witnesses here myself and proceed accordingly, and I think that is the proper course for me to adopt. This is an Enquiry, and I am instructed to proceed with it and I have power to summon all Witnesses and examine them and go on with the Enquiry. Have you any objection, Mr Ostler, to give me the names of any Witnesses that I may call?

(Mr R. P. Ostler Q. C.) Yes, I have objection, in view of the case being made against us.

(His Honour, the Judge) That is for you to decide whether the case is made against you. I make this Enquiry to be referred to the Minister of Justice.

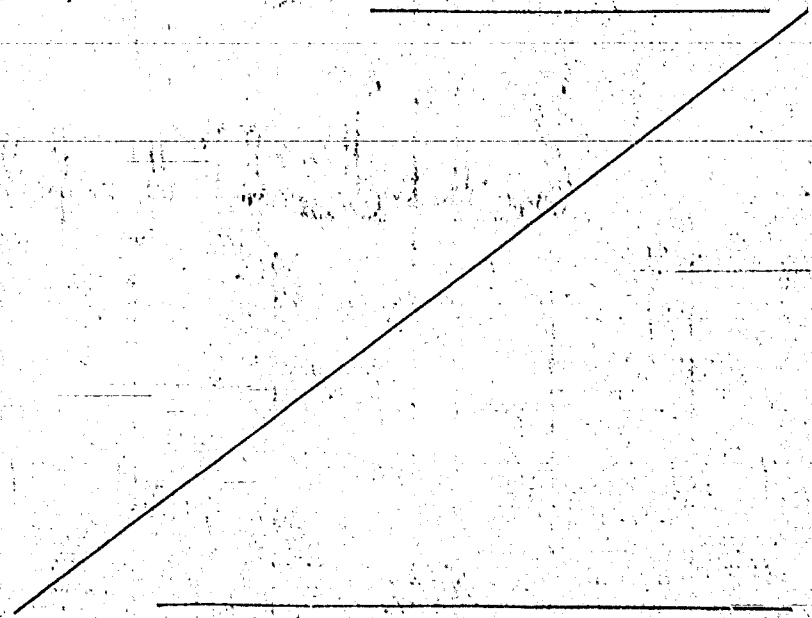
I make no decision in the matter.

Have you any witnesses, Mr McFadden to give me the names of?

(By Mr M. McFadden) Yes, I can give you the names of some Witnesses who, I think, can throw some light on the matter. Here are some names that I think throw some light on the matter. (The list of names is handed to His Honour the Judge)

(By His Honour the Judge) Mr McFadden, have you got a copy of the Pamphlet from the Department and a copy of the "Globe" of date the Twenty fourth (24th) of November?

(The said documents are produced and handed to His Honour, the Judge).-----



J O H N A. E W A N of the City of Toronto, Journalist, being called, and having been duly sworn, deposes as follows:--

(EXAMINED by His Honour Judge Johnston)

(Question) What Newspaper do you represent?

(Answer) The "Globe" of Toronto.

Q. How long have you been there?

A. Four (4) years.

Q. Here is a copy of the "Globe" dated December the Fourth Eighteen hundred and ninety four (1894), do you recognize that?

A. Yes sir.

Q. Do you see a Letter there purporting to be written by Charles Noble Junior?

A. Yes sir.

Q. Have you any knowledge as to who wrote that Letter?

A. No.

Q. Do you know from whom it came?

A. I know it came to the Editor.

Q. Personally do you know anything further than that?

A. No, nothing further.

Q. That Letter appeared in that date's issue of the "Globe"?

A. Yes sir.

Q. Do you know Mr Charles Noble, Junior?

A. I have met him since I came to Collingwood.

Q. You have had no conversation about this with him, I suppose?

A. Nothing definite, no.

(By His Honour, the Judge) Mr McFadden or Mr Ostler, do you wish to ask the Witness any questions?

(By Mr McFadden) Yes, I do.

(EXAMINED by Mr Moses McFadden, of Counsel for the Crown)

Q. You say that this Letter came to the Editor of the "Globe"?

A. Yes sir.

Q. How did it come?

A. Through the Post.

Q. In the usual way?

A. Yes.

Q. Have you the original of that Letter?

A. No, we do not keep manuscript matter longer than about two weeks.

Q. Did you see the Manuscript yourself?

A. Yes.

Q. Is there anything to lead you to believe that the author of that Letter is not one of the Nobles?

A. I have no idea about that.


Q. All you know about that is that it came to the Editor through the Post in the usual way?

A. That is all I know about it.

(By His Honour, the Judge) Do you wish to put any questions to the witness Mr Gattler?

(Mr E.E. Gattler Q.C.) No.

AND further Deponent saith not.



SAMUEL RIGGE of Collingwood,
Member of the Dominion Police, being called
and duly sworn, deposes as follows:-

(EXAMINED by His Honour Judge Johnston)

Q. Do you know Mr James Noble?

A. Yes.

Q. Where did you meet him?

A. At Killarney.

Q. What were you doing at Killarney at that time?

A. I was looking after a liquor case for the Indian
Department.

Q. Against whom?

A. Alfred Bran.

Q. I believe you made a Declaration there before
Mr Bourdon, Justice of the Peace?

A. Yes sir

(By Mr B.F. Ostler, Q.C.) I desire to state that these
charges have not the slightest relevancy to the matter
of the Official Act of the Enquiry. They have been
put in to the documents by someone perfectly ignorant
of the proprieties, and are entirely outside of the
matter of the Enquiry that has been arranged.

(By His Honour Judge Johnston) Well, they are there
and I am to go into them.

(By Mr B.F. Ostler Q.C.) We quite object to these
matters being gone into, as they have no relation to
the Fishery Regulations or Fishery Act. We wrote
on

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on the seventh of December pointing out that these matters were entirely outside of the scope of the enquiry, and we have presumed that the Department had seen that, and we almost thought that they would have disciplined the junior clerk or officer who put them in. The idea in a question of a Fishery Licence of going into the conduct of Mr Noble as a Justice of the Peace in connection with an Indian transaction is something so entirely foreign that we thought your Department would have been instructed in the matter.

(By His Honour Judge Johnston) Well I am placed in this position:- You say that you have drawn the attention of the Department to it, and it is still there. I look upon this as an enquiry into the general conduct of these people in regard to the Fishery regulation, and these charges are here and I am going to enquire into them. I think I can enquire into them in the proper way and I can report the evidence to the Minister, and then they can act upon that as they choose. It is not for me to draw technical distinctions.

(His Honour proceeds with the examination of the Witness, as follows)-

Q. What took place between you and Mr James Noble?

A. I had three (3) prisoners on the Eighteenth of June, three Indian prisoners, and I wanted to obtain the keys of the lock-up, and I understood that Mr Egan, the old gentleman had the keys of the lock-up. He had taken me through the lock-up sometime before that, and that

is the reason that I went to him for the keys. I asked him on the morning of the Eighteenth (18th) if he would give me the keys as I had three Indian prisoners and I wanted to place them in the lock-up, and he said that he could not give me the keys, and I went back to the Magistrate, and I returned and again asked him for the keys, and he told me that he had handed the keys over to Mr James Noble.

Q. Is that the same Mr James Noble that is interested in this matter?

A. I do not see him here. He is one of the Noble Brothers. I asked him for the keys and he refused them, and I think I told him that he had better give me the keys under the circumstances, but he refused to do so and I returned to the Hotel and reported the matter to Mr Bourden, that is the Magistrate; and Mr Bourden sent me back with instructions to get the keys from Mr James Noble, but he refused to give me them, and said that he was not going to give the keys to me or to any damned scuff of the country coming there. I asked him what he meant by "scuff of the country", and he said that he meant Bourden, and that I was a "God damned mean man" and that he did not care for Bourden or myself, that they were able to run Killarney without any person interfering. I called him outside and I further said to him "Mr Noble, I understand that you are in some trouble now with the Government, and if you take my advice you will hand the keys over to me

without

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"without further trouble. I do not wish to report the matter to the Department, and I think it will save you a great deal of trouble" I said:- "I do not wish to report you to the Minister of Justice", and he said that he did not care for the Minister of Justice, meaning Sir Charles Hibbert Tupper, that he was a "God-damned whelp", and that he did not care for him or anybody else that was sent there. I had to go without the keys. He said to me "I will open the lock-up, and I will place a man there", and I said, "I have seen too much since I have come here to allow a man to be placed there; I will tell you what I will do, if you open the lock-up. I have not a Constable, and to save further trouble if you will open the lock-up I will look after the prisoners, and you can hold the keys if you wish." He refused that and would not allow me to have anything to do with the prisoners. I showed him my authority for doing what I had done, and I returned and reported the matter to Bourden. So I had to keep the prisoners in the Hotel and watch them there for three or four days.

Q. Do you know anything of this charge against Mr James Noble of assisting one John Egan against the Authorities, who were endeavouring to apprehend Egan and his bar-tender for supplying liquor to Indians?

A. I saw Mr James Noble at different times at Mr Egan's, and just before the trial the old gentleman, Mr Egan, said that he could get his son in a few minutes, and I advised him to get him. As far as I can learn he was arrested.

Q. Did James Noble assist Egan against the Authorities?

A. Egan was taken away on the "John Long" belonging to the Noble Brothers.

Q. What is that?

A. A Tug.

Q. How do you know that he was taken away on that Tug?

A. That is to the best of my opinion. I learnt since I have come to Collingwood that he was taken away on the Tug, and I was suspected on the Friday night that he was there on the evening of the Twenty first of June. I suspected at that date that he was there that night.

Q. Is that all that you know about anything touching these parties?

A. That is all

(EXAMINED by Mr Moses McFadden, of Counsel for the Crown)

Q. Do you know of any threats that Mr Noble made against Elliott the Fishery Officer?

A. Yes, I heard some ~~rumors~~ rumors made.

Q. What are those rumors?

A. I heard a man say----

(Mr B.R. Ostler Q.C. objects to this evidence as hearsay and illegal and irrelevant)

(The Witness continuing) That is how I came to hear Mr Noble make that remark about a party saying that he would like to put a pound of lead into Mr Elliott's head

head. Mr. Noble was present at the time.

Q. Did he say anything to Mr. Noble?

A. Yes, he said that it would be small loss if someone would throw him into the bay, or something to that effect. That was about the conversation that took place.

Q. Is there anything else that you know about these charges? You were round there for some days were you not?

A. Yes.

Q. How long were you round there, in Killarney?

A. I was there from the Fourth (4th) until the Twenty first (21st) with the exception of one or two days. That would be on the Fourteenth (14th) I think.

Q. Of what month?

A. Of June.

Q. From the Fourth (4th) to the Fourteenth (14th) of June you were there?

A. Just wait one moment. I was there from the Fourth (4th) to the Seventh (7th). I went away on the Seventh and returned on the following day which would be the Eighth (8th). I remained there until the Sixteenth (16th), and on the Sixteenth I went to Little Current, and I returned to Killarney on the Eighteenth (18th) of June, and I remained there until the Twenty first (21st).

Q. Did you see any fish round there?

A. Yes.

Q. Where?

A. At Mr Noble's and Mr Jackson's.

Q. Where?

A. In the Store House. In Mr Noble's Storehouse.

Q. What kind of fish?

A. I noticed some Bass and some Sturgeon I think.

Q. On what date did you see the Bass?

A. That was on the Tenth (10th) or Eleventh (11th), on one of those dates, but to the best of my opinion it was on the Eleventh (11th) of June.

(By Mr B. B. Ostler Q.C.) What charge is this evidence being taken on?

(By Mr McFadden) One of the charges of having fish in their possession. Well, I see the word "Bass" is not used.

(By His Honour Judge Johnston) I think it is proper evidence.

(By Mr B. B. Ostler Q.C.) If Your Honour please, in regard to this matter, there was a request that the charges should be formulated, and we have the charges. If any evidence was given to sustain those charges we might bring evidence to meet it. Here is an Officer who proposes to give evidence in reference to the possession of Bass and Sturgeon which is not mentioned in any of the Particulars, and we object to that. We would like to keep in view of what is reasonable and right, and having regard to the fact that these charges as to the fishing are formulated, and that this is not one of the charges, we protest against any evidence of this kind being given.

(By His Honour the Judge) I allow the evidence to go to the Department.

Q. (By Mr McFadden) What year is this that you speak of?

A. Eighteen hundred and ninety five (1895), last year.

(CROSS-EXAMINED by Mr B.W. Ostler Q.C., under reserve of his Objections and protest)

Q. What Warrant had you for your three Indian prisoners?

A. A warrant for their arrest.

Q. From whom?

A. The Magistrate.

Q. What Magistrate?

A. Magistrate Bourden of Soult.

Q. On Information of what kind?

A. My Information.

Q. What crime had they committed?

A. They did not committ any. It was as Witnesses.

Q. There was no crime against them?

A. I had Summonses for them and they refused to come on the Summonses, and I had a Warrant also.

Q. Had you the Warrant in the first place?

A. Yes, in case they refused the Summons.

Q. You had got a Warrant from Mr Bourden conditional on their refusing the Summons? Did you get the Warrant and Summons at the same time?

A. Yes.

Q. Do you know that by Law you cannot get a Warrant until after a Summons has been disobeyed? Did you know that? Did you know that no Magistrate has any power until the Summons has been disobeyed, except upon evidence? Were you aware of that, sir? Answer the question please. What are you looking at?

A. I am looking to see whether I received this warrant when I returned with those Indians. No, I had the Warrant with me.

Q. Had you a Warrant for the arrest of the Indians?

A. Yes, here it is.

Q. You have the Warrant here?

A. Yes, I have it here.

Q. Have you the Summons also?

A. No, I have not.

Q. Did you lay Information against those Indians?

A. No, I did not lay Information against them.

Q. Did you swear to anything before you got the Warrant?

A. No, I did not.

Q. Do you know that you were an utter ~~xxx~~ trespasser, and that you had not the slightest authority to take those men in charge?

A. I think that the "Indian Act" states---

Q. It is the "Shore" Act I think--

A. I got the Warrant anyway.

Q. You had a Warrant for those Three Indians who had not committed an offense, and you wanted to put them in Jail?

A. They refused to come with me.

Q. Well I do not blame them. Having got them there you applied for the keys of the lock-up? Do you know that that had ceased to be a public lock-up?

A. I do not know.

Q. Do you know that that had been abandoned by the Government and was not in use as a Lock-up?

A. I was not aware of that.

Q. I have here the Inspector's letter showing that the Government would not continue the use of the Lock-up or appoint a Keeper as it was not a Lock-up in the Law. You were not aware of that?

A. No, I was not.

Q. You were not aware that it had been abandoned, and that the Government had declined to maintain it or to appoint a Keeper of it?

A. I did not know that.

Q. You were annoyed because Mr Noble would not aid you in your illegal act?

A. I was not annoyed, no.

Q. Do you know the firm of McFaddon & Farwell?

A. I know Mr McFaddon.

Q. You know that Mr McFaddon, the Crown Attorney for the purposes of this Enquiry, is a member of the Firm at Sault-Ste-Marie?

A. Yes.

(By Mr B.B. Ostler, Q.C.) We have here the warrant of that firm for the act that Mr Noble committed. Will you admit

admit that Letter Mr McFadden?

(By Mr McFadden) That appears to be a private Letter written by Mr Farwell and to have no relevancy to this Enquiry.

(Mr F.B.Ostler Q.C. reads the Letter to the Court)

Q. Has that reference to the same transaction?

A. I showed Mr Noble my Warrant.

Q. So you are complaining that having illegally captured Three Indians you were not aided at Killarney in your illegal act?

A. That did not trouble me any.

(By Mr F.B.Ostler Q.C.) Mr James Noble who would answer this witness absurd charges, is too ill to be here. He is in bed under his physician's care and cannot be here.

(By His Honour, Judge Johnston) Any time that he is well enough I am prepared to go and take his evidence in this matter.

AND further Deponent saith not. _____

G E O R G E M c E V O Y, of the Township of Collingwood, Fish Packer, being called and duly sworn, deposes as follows:-

(EXAMINED by His Honour, Judge Johnston)

Q Where do you live, Mr McEvoy?

A In the Township of Collingwood.

Q For whom have you been packing Fish?

A For J. & C. Noble.

Q How long have you been in their employ?

A Off and on for about Five (5) years.

Q What Fish do you usually pack for them?

A All kinds of Fish that are in the Bay.

Q And what is that?

A White Fish and Trout.

Q Any other kind of Fish?

A Yes, Pickerell and Sturgeon and Grass Pike.

Q Then you have been working for them off and on for about Five (5) years. Do you know anything of this

charge Number Ten (No. 10):- "That the said Nobles "bought Pickerell in the close season of Eighteen "hundred and ninety three (1893), between the Fifteenth "(15th) of April and the Fifteenth (15th) of May, "inclusive, and possessed and sold Pickerell during the "said close season"?

(By Mr B. R. Ostler, Q. C.) We have notified Mr Elliott, the Fishery Officer, and we have also notified the Deputy Minister of Marine and Fisheries, that we require at

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the Town Hall here all Letters, papers and correspondence, in fact that we required the File from the Department; and this is one of the cases that we cannot proceed to finish without that correspondence.

(By His Honour, Judge Johnston) I have no papers except the Order and the Commission and so on that the Department sent.

(By Mr B.B. Ostler, Q.C.) The Government file is to be procured in all cases, and the file is always on hand as a matter of course, when evidence is given.

(By His Honour, Judge Johnston) Then apparently your requisition has not been answered.

(By Mr H.S. Ostler Q.C.) It seems that the whole matter rests on the Departmental Record, and the Record is not here? How can we get on without the Record itself?

(By His Honour Judge Johnston) I propose to go on in the meantime.

Q. I repeat my question. Do you know anything of this Charge Number Ten (No. 10):- "That the said Nobles bought Pickereil in the close season of Eighteen hundred and ninety three (1893), between the Fifteenth (15th) of April and the Fifteenth (15th) of May, inclusive, and possessed and sold Pickereil during the said close season"? Do you know anything about that?

A. No, I do not know anything about that.

Q. Do you know anything about the Charge Number Eleven (No. 11):- "That the said Nobles bought Pickereil

"in the close season of Eighteen hundred and ninety four (1894), between the Fifteenth (15th) day of April and the Fifteenth (15th) day of May, inclusive, and possessed and sold Pickeroll in the close season of Eighteen hundred and ninety four (1894) between the 15th day of ~~xxx~~ April and the 15th day of May inclusive and possessed and sold Pickeroll during the said "close season". Do you know anything about that?

A. I do not.

Q. Do you know anything about the Charge Number Twelve (No.12):- "That the said Nobles in Eighteen hundred and ninety three (1893) had in their possession in their Fish Shed or store-house at Bustard Islands, one Car of Pickeroll caught in close season, to the knowledge of the said Nobles or one of them"?

A. I know nothing bearing on that charge.

(EXAMINED by Mr Moses McFadden, Counsel for the Crown)

Q. When did you first commence to work for the Nobles?

A. I think it was in Eighteen hundred and ninety one (1891).

Q. And you worked with them up to the year Eighteen hundred and ninety four (1894), I think?

A. Yes, I did not work for them in the year Eighteen hundred and ninety four (1894).

Q. You worked for them in the years 1893, 1892 and 1891?

A. Yes.

Q. And during those Three (3) years you were packing fish for them?

A. Yes sir.

Q. Whose duty is it to make out the Invoices of the Fish packed or sold?

A. I do myself. That is the Shipping Invoices.

Q. You make out the Shipping Invoices of the fish that is packed?

A. Yes.

Q. Did you make out any Invoices in the year Eighteen hundred and ninety three (1893)?

A. Yes, lots of them.

Q. And in the year Eighteen hundred and ninety two (1892) also?

A. Yes.

Q. Take the year Eighteen hundred and ninety three (1893). Do you know of any Pickeroll invoiced by you for the Noble Brothers in the close season of 1893?

A. I could not say.

Q. Do you know what the close season is for Pickeroll?

A. Yes.

Q. What is it?

A. From the Fifteenth (15th) of April, I think, to the Fifteenth (15th) of May as near as I can remember.

Q. Are those fish packed as soon as they are brought to them?

A. Yes, generally.

Q. Here is an Invoice. Did you ever see that before?

A. Yes sir.

Q. Did you make out that Invoice?

A. Yes sir.

Q. It is signed "George Mack"?

A. Yes, that stands for me.

Q. That is dated May the Twelfth (12th) Eighteen

hundred and ninety three (1893). Is there any Pickerell mentioned there?

A. Yes.

Q. Will you read it?

A. "Shipped to the Buffalo Fish Company, Four (4) cars of Fish. White Fish, 390 pounds. Trout 360 pounds. "Pickerell, 46 pounds. Pike, 560 pounds". The next car is "White fish, 150 pounds, Trout 460 pounds. Pickerell 95 pounds. Pike, 90 pounds. Sturgeon, 73 pounds. Bull "Heads 75 pounds." That is two (2) cars. The Third Car is "White Fish 810 pounds. Trout, 430 pounds". The Fourth Car is "Trout 945 pounds". That is all.

Q. You made out those Invoices as soon as you packed the fish, there and then?

A. Yes.

Q. Well then, how do you explain that?

A. I must have made a mistake. There might have been a mistake in the date of the month.

Q. From this it apparently appears that you packed fish in the close season?

A. Yes, I packed them.

Q. You have no reason to believe that that Invoice is not true?

A. No, except that I may have made a mistake in the date.

Q. You may have made a mistake and it may be correct?

A. Yes, it may be correct.

Q. How did you pack those in the cars? In layers?

A. Yes, as they came in. As the Fishermen fetched them in I put them in the cars.

Q. Did you put the Pickerell in the bottom of the Car?

A. No, the order is to put the Pickerell on the top of the car.

Q. During the close season where would you put the Pickerell?

A. I never packed Pickerell in the close season to ~~mark~~ amount to anything anyway, except--

Q. Except what? Except a little?

A. Well, it is here on this Invoice, of course. I cannot get over that. But there may be a mistake in the date. I cannot say.

Q. Did you Pack Fish at Byng Inlet?

A. Yes.

Q. In what year?

A. Eighteen hundred and ninety one (1891), Eighteen hundred and ninety two (1892) and Eighteen hundred and ninety three (1893).

Q. Do you recognize your writing on these documents?

A. Yes.

Q. And in this document?

A. Yes.

Q. And this one?

A. Yes.

Q. They are all for Byne Inlet?

A. Yes.

Q. Do you see the date of this one, May the Seventh Eighteen hundred and ninety three (1893)?

A. Yes.

Q. Is there any Pickorel in that?

A. Yes.

Q. Just read off the Pickorel?

A. "Pickorel 215 pounds".

Q. Yes, any more?

A. No.

Q. That was in the close season too, was it not?

A. Yes.

Q. Might there possibly be a mistake of the date in that too?

A. No, I think the date is all right.

Q. Here is the Eleventh of May, is there any Pickorel in that?

A. Yes sir.

Q. That date is all right? It is the 11th of May?

A. Yes.

Q. Here is another one on the Seventeenth (17th) of May. Is there any Pickorel in that?

A. Yes.

Q. There is nothing wrong with that date? It is the

Seventeenth of May 1893?

A. Yes.

Q. (By Mr Gatler Q.C.) That is out of the date of the close season, the 17th of May?

A. Yes, so it is, out of the close season.

Q. (By Mr H. McFadden) Did you have any instructions from the Nobles as to packing fish generally?

A. No sir, not in particular.

Q. You were the man who bought this fish?

A. Yes.

Q. You buy them and pack them?

A. Yes.

Q. And you bought them from any person who came along, whether it was the close season or not?

A. Yes, I have done it.

Q. From whom did you get your instructions?

A. I generally asked Mr Noble in the Spring what price I was to pay for the fish, and he told me to buy the same as other fish dealers at the same place.

Q. And to pay the same price?

A. Yes.

Q. And did you have any other instructions?

A. No.

Q. None other?

A. No.

Q. Did you have any instructions as to buying in the close season?

A. No, I do not remember asking him.

Q. Did you ask him?

A. I do not remember ever having asked him.

Q. Did he give you any instructions as to the close season?

A. No, I do not think he did.

Q. Is your memory at fault at all?

A. No. I cannot remember all those little things anyway.

Q. Your memory on this point is about as efficient as in regard to those invoices?

A. Well, I forgot them too.

Q. You were in the habit of buying fish in the close season or any other season?

A. Well, I have done so, I suppose.

Q. You had no instructions not to do so?

A. No, I do not think I did. Not till last year anyway. Of course in 1894 I was not packing for them, and before that I do not think that they told me not to buy in the close season.

Q. Is it not true, as a matter of fact, that you bought and packed in the close season the same as any other season?

A. Yes, I think I did, yes.

(CROSS-EXAMINED by Mr R. B. Ostler, Q. C.)

Q. Will you look at that "May 12th", and tell me whether that Twelve (12) is in your handwriting? If you look at the rest of the Invoice you will see it is in ink, and some one has put the date of the Twelfth (12th) in pencil. Do you know anything about that?

A. I do not know about that.

Q. Here on the Eleventh we got the date of "May" put in in pencil. Can you say that those pencil dates are your writing?

A. I cannot say whether they are or not.

Q. Then also this one had two dates in pencil written over it, and there was an alteration. Had you any instructions from Noble to buy out of the season? Had you any instructions from them to break the law?

A. No, I had not.

Q. And you were their Agent, and were supposed to keep within the law?

A. Yes, I suppose so.

Q. Were either of the Nobles there?

A. No.

Q. Do you know if either of them knew that you were buying Pickerel--I mean, did either of them see the fish?

A. No, none of them saw the fish.

Q. Now, take the little lot of Pickerel that is mentioned here, Forty (40) pounds of Pickerel. Do you know that when a man makes a catch of White Fish he sometimes gets Pickerel in with them, and they have to be sorted out?

A. Yes, sometimes they do.

Q. And they bring in a lot of White Fish, and in sorting them out you find some Pickerel in with them?

A. Yes.

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Q. And in that way you get a small lot of Pickerell when you buy White Fish?

A. Yes. We take the whole lot.

Q. And in sorting them out you find a few Pickerell in with them?

A. Yes.

Q. That is a kind of thing you cannot help? Of course the fish are dead when they come to you?

A. Yes.

Q. Then, supposing Pickerell come in to the net, it depends on the net and how long it has been down as to whether the fish are alive or dead when they are hauled up?

A. Yes, it depends on how long.

Q. So that in getting Pickerell in that way, though there may be a technical infringement of the law, you do not know until you sort them out that there are Pickerell there, and as far as the Messrs J. & C. Noble are concerned you cannot say that they know anything about it?

A. No.

Q. And the only way of giving the date of the Invoice is from this pencil date, the rest of the document being written in ink?

A. Yes.

Q. (By His Honour, Judge Johnston). Your signature is at the bottom of this Invoice in pencil?

A. Yes, that is mine.

Q. And is it not likely that you would also have put that date in in pencil?

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A. Yes, I may have done so.

Q. What date was that, that date changed to the 17th?

Was that the "13th" changed to the "17th"?

A. I could not say at all.

Q. (By Mr. B.B. Ostler, Q.C.) Are there other Buyers where you were buying?

A. Yes sir.

Q. Did you do any different to other Buyers?

A. No, just the same as other buyers.

Q. There was no one there rejecting Fish?

A. No.

Q. The Fishermen came in with a cargo and there was no disposition on the part of any one to waste food except in the ordinary way?

A. That is true.

AND further Deponent saith not.

~~_____~~
~~_____~~

ROBERT NICHOLLS, of the Township of Collingwood, Fisherman, being called and duly sworn, deposes as follows:-

(EXAMINED by His Honour, Judge Johnston)

Q. What do you do?

A. I am a Fisherman.

Q. Are you a Fish Packer?

A. Yes, I have packed.

Q. Have you been employed by the Nobles at any time?

A. Yes.

Q. When?

A. In Eighteen hundred and ninety two (1892) and Eighteen hundred and ninety three (1893).

Q. Did you pack fish for them then?

A. Yes sir.

Q. What kind of fish did you pack?

A. Trout and White Fish.

Q. With referenc to this Charge Number Ten (No.10):-

"That the said Nobles bought Pickerel in the close season of 1893, between the 15th of April and the 15th of May inclusive, and possessed and sold Pickerel during the said close season" Do you know anything about that?

A. No, I do not.

Q. Did you pack Pickerel during that close season for the Noble Brothers?

A. No sir.

Q. Do you know that in Eighteen hundred and ninety

three (1893) the said Nobles had in their possession in their fish store at Eustard Islands one car of Pickerel caught in the close season, to the knowledge of the said Nobles or one of them?

A. No.

Q. Do you know of the said Nobles buying Pickerel in the close season of Eighteen hundred and ninety four (1894), between the 15th of April and the 15th of May inclusive, and that they possessed and sold Pickerel during that period?

A. No, I was here in Collingwood in Eighteen hundred and ninety four (1894).

Q. Where did you pack the fish that you packed for the Nobles?

A. At Squaw Island.

Q. Did you ever pack Pickerel there for them during those close seasons?

A. No. I never packed a car of Pickerel or Bass for the Nobles while I was there.

Q. Did you ever see any packed?

A. No, I did not.

(EXAMINED by Mr. M. McFaddon, of Counsel for the Crown)

Q. When were you working for the Noble firm?

A. In 1892 and 1893.

Q. Where?

A. Squaw Island.

Q. You did not work at any other point?

A. No.

Q. Was it your duty to buy and pack fish?

A. No, my duty was to pack fish. They had a buyer besides.

Q. Who was the buyer?

A. Mr Patton.

Q. Was he the buyer at both of those seasons at Squaw Island?

A. Yes sir.

Q. So you positively state that you did not pack any Pickeral during the close season?

A. Yes, I do.

Q. Do you know of any fish being packed during the close season?

A. No, I do not. There were three packers there. In Eighteen hundred and ninety two (1892) there were two (2) men by the name of Leason, besides myself.

Q. And in Eighteen hundred and ninety three (1893)?

A. One Leason and myself.

Q. Did you ever have men under you packing fish, helpers?

A. No, we all worked together, the three of us.

Q. And if there was any fish packed during the close season would you know of it?

A. If they were packed in reasonable hours I would.

Q. If they were packed in reasonable hours?

A. If they came along between Three and Four o'clock in the morning and it was out of the season I do not know that they would call all of us up. They might call one man up to pack the fish.

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Q. What do you call unreasonable hours?

A. Between Three and Four o'clock.

Q. Did you have a man for "unreasonable hours"?

A. Not any particular man.

Q. If fish came along at that hour one of you men were knocked up?

A. Yes.

Q. Do you know of any man being called up in that way during that close season?

A. No, I have no knowledge of any fish being packed during the close season, between the 15th of April and the 15th of May.

Q. Have you any knowledge of it being done at any other point besides Squaw Island?

A. No, I have not.

Q. You made out no Invoices, I suppose?

A. No.

Q. Do you know one "Bob McInimmon"?

A. Yes, I know him.

Q. Did you see him round Squaw Island in Eighteen hundred and ninety three (1893)?

A. I cannot say that I did.

Q. Did you see Bob McInimmon round Squaw Island in 1893?

A. No, I did not.

Q. Did you see him there in Eighteen hundred and ninety two (1892)?

A. No.

Q. You do not know whether he brought fish there or not during those years at all?

A. He never brought them in my presence. I was in Killarney one Sunday, and I was out on the Tug, and we passed him as if he had come from there, but I cannot say.

Q. What part of the season was that?

A. The low part of the season.

Q. Was it in June?

A. I could not say. It was a Sunday I know.

Q. Did you pack any fish at all, either in season or out of season that was bought from Bob McInnon in Eighteen hundred and ninety three (1893)?

A. Not that I know of.

Q. Do you know of any fish being bought from him in Eighteen hundred and ninety three (1893)?

A. No, I do not.

Q. Do you know Edward Leracy?

A. No.

Q. Now Joe Leracy?

A. No, I do not know the man at all. I do not know that I have ever seen them.

Q. Or heard of them?

A. No.

Q. Do you know William Solomon?

A. I know two or three Solomons.

Q. Put William Solomon?

A. I do not know William from the rest.

Q. You know three of them, and one might be William?

A. Yes.

(Mr. E. B. Ostler, Q. C. declares that he has no questions to ask the witness)

AND further Deponent saith not.

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CAPTAIN EDWIN DUNN, of the Township of Collingwood, in charge of the Government Boat "Petrol", being called and duly sworn, deposes as follows:-

(EXAMINED by His Honour Judge Johnston)

- Q. What do you do Captain Dunn?
 - A. I am in charge of the Government Boat "Petrol".
 - Q. What are your duties?
 - A. Protection of the Fisheries.
 - Q. Do you know the firm of J. & G. Noble?
 - A. I do.
 - Q. What is their business?
 - A. Fish Dealers.
 - Q. Whereabouts do they carry on business?
 - A. Killarney.
 - Q. Have you had any trouble with them at all in the fish business in the discharge of your duties as Inspector?
 - A. Not much, no.
 - Q. What trouble have you had with them?
 - A. I never had to fine them at all.
 - Q. Do you know anything in reference to these charges that are made against them? Do you know anything of the Nobles supplying drag nets and seines to fishermen?
 - A. I only know that the parties who were fishing told me so. The parties that I caught fishing told me so.
- (Mr. B. D. Catler Q.C. objects to this evidence as illegal and irrelevant. Reserved)

Q. Had those parties that you caught fishing Licences?

A. No, they were illegal nets. They could not have Licences.

Q. Who were those parties?

A. There was one named Prue. They are both half-broods. I forget the other man's name.

Q. Where did they come from?

A. It was near Killarney, I think.

Q. Did you seize the nets in their possession?

A. Yes.

Q. Illegal nets?

A. Yes.

Q. What became of them?

A. I destroyed them.

Q. In what year was that?

A. In Eighteen hundred and ninety one, I think.

Q. Do you know of any other infringement of the law of a like nature?

A. I know that I examined the books. I examined the Nobles' books in the hands of Montgomery?

Q. Who is he?

A. I think he is their agent. He was their Agent.

Q. What books did you see?

A. The Shipping books of the Nobles.

Q. What did you see in the books that attracted your attention?

(Mr. B. E. Ostler, Q.C. objects to this evidence as illegal and irrelevant. His Honour decides that he will take the evidence)

A. I have a copy of the Report that I made, with the dates and so on. It is down at the Hotel. That was in the years Eighteen hundred and ninety two (1892) and Eighteen hundred and ninety three (1893).

Q. What is the nature of those particulars that you say you have?

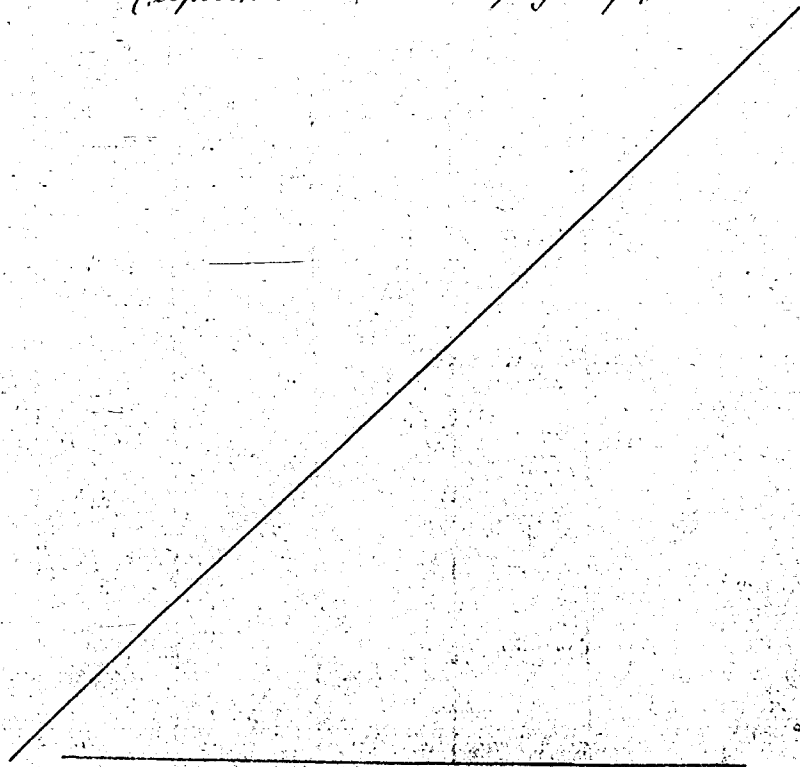
A. I took down the dates that the Pickerel were shipped in the close season.

Q. Perhaps you had better get that document? You do not remember the dates?

A. No, I cannot remember them.

Q. You can go for them, and I will take up another witness in the meantime.

(And further, for the present, deponent saith not).
(Deposition continued on page 51 of this Report.)



JAMES Mc KAY, of the City of Toronto,
Cold Storage, being called and duly sworn,
deposes as follows:-

(EXAMINED by His Honour Judge Johnston)

- Q. Do you know the Noble Brothers?
- A. I know Charles Noble.
- Q. One of the Members of the firm?
- A. Yes.
- Q. Did you have any dealings with them in the Fish business at all?
- A. I did not. The Buffalo Fish Company did.
- Q. Had you any connection with the Buffalo Fish Company?
- A. I was a Stock holder.
- Q. Did you purchase any fish for them from the Nobles?
- A. I managed the business in Warton for them up to the end of Eighteen hundred and ninety two (1892).
- Q. Do you know anything of these charges that are preferred against the Nobles of having bought and sold Pickerel at any time during the close season?
- A. I do not know. I have seen Pickerel pass through the whole season.
- Q. (By Mr E.E. Ostler, Q.C.) Which season?
- A. The whole summer season.
- Q. Of what year?
- A. Up to Eighteen hundred and ninety two (1892). I think they made their contract in Eighteen hundred and ninety two (1892) with the Buffalo Fish Company.

Q. (By His Honour, Judge Johnston) Then you would have an idea whether these Pickeral were shipped there during the close season?

A. I do not ~~xxxxxx~~ remember but one lot.

Q. When was that?

A. In the Spring of Eighteen hundred and ninety two (1892).

Q. In what month? Would it be in the close season between the Fifteenth (15th) of April and the Fifteenth (15) of May?

A. To the best of my belief it was.

Q. Do you know anything else about these charges of supplying illegal nets to fishermen and other charges?

A. No, I do not.

(EXAMINED by Mr Moses McFadden, of Counsel for the Crown)

Q. How are these Pickeral packed? On top of the car?

A. They are usually on top, and sometimes on the bottom.

Q. On that particular car that you have spoken of, how were they packed?

A. They were packed on the bottom.

Q. And what was on top?

A. Trout.

Q. So the Pickeral were concealed?

A. Of course they were.

(Mr B.E. Ostler, Q.C., objects to the questions of the learned Counsel for the Crown as being leading questions, and contends that the questions put by

His Honour Judge Johnston were also of a leading character.

(By His Honour, the Judge) I understand that that comes within the scope of my duties in this connection.

(By Mr P. R. Ostler, Q.C.) Your Honour has said that you are making full enquiry on behalf of the Government. Am I to understand that you are not here as a judge between the parties? If you are here as a Judge between the parties no leading questions should be asked in chief.

(By His Honour Judge Johnston) I am here as a Commissioner appointed by the Government to examine into this matter. I am not here to judge or try the case.

QXK (By Mr P. R. Ostler Q.C.) I cannot understand that it is in any way regular to ask leading questions, either by the Court or the Counsel representing the Government. That is a matter which I submit is not in any way regular or proper.

(By His Honour, the Judge) I presume I could go on with the enquiry without either of the learned Counsel being here for that matter.

(By Mr P. R. Ostler, Q.C.) I think your Honour is competent to do so; but here we have an Enquiry on certain specified lines. Perhaps your Honor remembers a Judgment of the Supreme Court and Court of Appeal upon the matter of an Enquiry under an Ontario Act, in which strong language is used by the Judges as to the manner in which inquisitorial rights should be exercised. It is a matter which may drift into extreme oppression, and

may also be made use of as a means of oppression. The enquiry should be conducted within the lines of the charges made and according to the rules of evidence, otherwise it will become an undesirable engine of oppression. We draw your Honour's attention to the matter, and ask you to consider the decisions given on the matter, with respect to the ordinary natural rights of a Subject who is contesting a matter with the Government of the Country against him. We contend that no leading or suggestive questions should be allowed to be put to the witnesses.

(By Mr McPadden, of Counsel for the Crown) I think the Counsel in this matter occupy the position simply of cross-examiners. Your Honour, as Commissioner conducts the Examination in chief, and enquire into such matters as you may see fit, and then you grant us the privilege of cross-examining on the matters brought up.

(By Mr B. B. Ostler, Q.C.) I never heard of such a thing. My learned friend, if he represents the Government, ought to conduct the enquiry. The idea of the Judge commencing the examination and then allowing the Counsel to cross-examine is simply intolerable.

(By His Honour, Judge Johnston) I shall follow that course; and I may say it is not with any desire to oppress any one.

(By Mr B. B. Ostler, Q.C.) There is a way of doing it on the lines of an ordinary trial.

(The Witness is cross-examined, as follows, by Mr R.B. Ostler, Q.C., under reserve of objections, and under protest as to the position in which he is put)

Q. Was this particular lot of Pickeral that you have referred to, a lot of ninety two (92) which was the subject of considerable correspondence afterwards?

A. Yes, it was.

Q. Of correspondence with the Department?

A. No.

Q. Of correspondence with whom?

A. The Company ordered out some trout. We were holding the stock. I saw this Car, and it was trout on top. They sold it afterwards as Trout, and it turned out to be mostly Pickeral; and they wrote me a sharp Letter for sending such a Car.

Q. It was a matter that was public at the time?

A. Yes.

Q. Did you have any dealings with Messrs J. & C. Noble personally in connection with that?

A. No, I did not.

Q. Do you know whether they knew of this transaction of their agent at the time that it took place?

A. I do not suppose they did.

Q. What was the point that the Fish came from?

A. It came from Killarney, or above there.

Q. Where did it reach your firm?

A. At Warton.

Q. That was where they had to deliver them?

A. Yes.

Q. And it was a matter of error or impropriety on the part of whoever was the man who packed them, because he was really selling you those fish for Trout?

A. Yes.

Q. He was not selling Pickerel and you were not buying Pickerel?

A. No.

Q. So there was some error in the loading?

A. Well, the car was not properly marked. It was not marked at all in fact.

Q. And he was selling you trout, as far as you know, and you were buying trout?

A. Yes.

Q. And it turned out that some one had packed some Pickerel in with them?

A. Yes.

Q. And you did not know it, and you did not want to know?

A. No.

Q. You were buying there from people up the Lake at the time?

A. Our company was, yes.

Q. And that is all you know about it?

A. Yes. That is really the only lot that I remember. AND further Deponent saith not.

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JAMES CLARK, of Goderich, in the Province of Ontario, Fish Dealer, being called and duly sworn, deposes as follows:-

(EXAMINED by His Honour, Judge Johnston)

Q. Where do you live, Mr Clark?

A. In Goderich.

Q. What is your business?

A. Fish Dealer.

Q. Do you know the firm of Noble Brothers?

A. Yes.

Q. Have you had any transactions with them?

A. Yes sir.

Q. What is the nature of the transactions?

A. Buying fish from them.

Q. Where?

A. At different stations. All their stations.

Q. In what years?

A. For Five Six or Seven years.

Q. Did you have any dealings with them in the year Eighteen hundred and ninety three (1893)?

A. Yes.

Q. What was the nature of those dealings?

A. The same as any other year.

Q. What did you buy from them?

A. All kinds of fish

Q. Do you know anything of this charge Number Ten (No. 10) which has been preferred against the Nobles? "That they "bought Pickeral in the close season of 1893 between the 15th of April and the 15th of May, and possessed and

and

"and sold Pickerel during the said close season"?

A. I do not know. I was not handling them.

Q. And in the year Eighteen hundred and ninety four (1894)?

A. I did not handle any fish.

Q. Did you buy them?

A. They were paid through Buffalo.

Q. By whom?

A. The Buffalo Fish Company.

Q. Had you anything to do with that Company?

A. Yes.

Q. In what way?

A. I am a Stock Holder.

Q. Do you know that Pickerel were sold by the Nobles during the close season?

A. I do not know.

Q. How do you know they were paid for?

A. I say that the fish was paid for through Buffalo.

Q. You cannot speak of your own knowledge about the buying of the fish?

A. No, I did not examine the fish.

(Mr M. McFadden, of Counsel for the Crown, and Mr B.B. Ostler, Q.C., of Counsel for the Noble Brothers, declare, respectively, that they have no questions to ask the witness)

AND further Depoent saith not.

CAPTAIN EDWIN DUNN, re-appears, and his Deposition is continued as follows)-

(Continued from Page 44.50 of this Report)

(EXAMINATION by His Honour, Judge Johnston, continued)

Q. What is that book that you have there, Captain?
(Mr P.F. Ostler, Q.C., Objects to this as not being proper evidence, and says:- "This is an Extract made, if I correctly understand the witness, from books that are in the hands of Mr Montgomery, and I object to its production as not being within the rules of evidence")

Q. (By His Honour, Judge Johnston) What is that Statement that you have there?

A. The Department wrote me to go to Collingwood here, and examine the books of Montgomery, in reference to fish taken in the close season.

Q. Does that come within the scope of your ~~xxxx~~ duties as Inspector?

A. Yes.

Q. Had you power to examine those books?

A. I suppose so, or they would not have instructed me to do so.

Q. What is that that you have there?

A. A copy of the Report that I sent in to the Department. It is dated the Tenth of August Eighteen hundred and ninety four (1894).

Q. What does it state?

A. I took down from the books the dates on which they

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had shipped Pickeral, commencing on the Twenty third (23rd) of April, Eighteen hundred and ninety two (1892).

Q. And in what year besides Eighteen hundred and ninety two (1892)?

A. Eighteen hundred and ninety three (1893), but there was not so much in 1893.

Q. What was the amount in 1892?

A. The 23rd of April 1165 pounds; the 27th of April 1715 pounds; the same date, in other cars, 386 pounds; 635 pounds, and 1650 pounds. On the 29th of April 815 pounds; on the Thirtieth of April 105 pounds. On May 3rd 345 pounds, 555 pounds, 566 pounds, 836 pounds, 866 pounds, 696 pounds, 1466 pounds, 1226 pounds, 1296 pounds. On May 16th 666 pounds. May 13th 636 pounds. That is all.

Q. That was in Eighteen hundred and ninety two (1892)?

A. Yes, that is in 1892.

Q. Any other year?

A. None in Eighteen hundred and ninety three (1893).

Q. Did you send that Report to the Department?

A. Yes sir.

Q. Do you know anything about the fish stored at Bustard Island?

A. No, I do not.

(CROSS-EXAMINED by Mr E.E. Catler Q.C.)

Q. How many years have you been in this office, in charge of the Government boat?

A. Since Eighteen hundred and ninety (1890), sir.

Q. And you have a general knowledge of the exact method under which the fishing is carried on?

A. Yes.

Q. Have you known the Nobles during that period, and their method of carrying on business?

A. Yes.

Q. Do you know the way the business of fishing and licensing has been carried on?

A. Yes.

Q. Has it been the practice to fish before the Licences were issued?

A. Formerly most of the men did not get their Licences until after the fishing season was over.

Q. They used to apply for the Licence and pay their money, and after the season was over they would get the Licences?

A. Yes. And sometimes they did not apply for the Licences until after the season was over.

Q. And they paid the money?

A. Yes.

Q. And got the Licence?

A. Yes.

Q. That is to say, the Licences would come along when it suited the convenience of the Department?

A. And it might suit the convenience of the Fishery Officer when he would want the money. In many cases he neglected to send the money in time. That was the reason the first Cruiser was put in the water.

Q. When was that?

A. In Eighteen hundred and eighty seven (1887).

Q. The object was more to watch the Officers than the Fishermen?

A. That was part of the object, no doubt.

Q. The Messrs Noble, as I understand, were among the largest Employers and Buyers of Fish on the Lakes?

A. They employed most men, yes, I think so.

Q. Do you know of anything in their practice differing from that of any other Fish Buyers and dealers on these waters?

A. If you mean, do I know that they all broke the Law? I know that I can say "yes".

Q. And you let them?

A. As I said to the Department--I think I have it here--I said that I did not think it was right to come too suddenly upon them, because when Tupper brought in the Regulation that they were to be seized, although they had applied for a Licence and paid the money; that they were to be seized if they had not a Licence; I said that I thought it would hardly do to come on them too suddenly until the memory of the old practice was done away with. Still, I think that the more intelligent of the Fishermen should have been the first to show a good example.

Q. That is right enough. They paid their money promptly. Those Reports that you have referred to, when did you send them to the Department?

A. On the Tenth of August Eighteen hundred and ninety four (1894).

Q. Now, you do not know where these fish came from, or what agent or man took them in?

A. No, I do not know.

Q. Do you know that in the close season it is difficult to avoid catching some Pickerel when you are fishing for other fish?

A. Yes, but it is also easy to purposely get them if you have the right kind of net.

Q. But it is also difficult to avoid catching them?

A. It depends on how you fish.

Q. If you are fishing for white fish you will get some Pickerel with them, will you not?

A. You will get an odd one. You seldom get Pickerel in an ordinary Gill net. The fishermen will tell you that.

Q. I ask you if there is not some accidental fishing-- in carrying on legitimate fishing is there not some other fish accidentally caught, which is not considered as being contrary to the law?

A. Yes, but it would be small.

Q. But you would not be surprised if there was Forty (40) pounds in a large consignment of fish?

A. It might amount to Forty (40) pounds in a large consignment, yes.

Q. Do you know of a Consignment that were caught in the open season, but which were sent down with a Certificate, a large consignment in Eighteen hundred and ninety two (1892). One of the largest. "These are fish caught in the open season and salted down and shipped during the close season"?

A. I do not know anything about that.

Q. We have seen your Letters in the Department as to that. It is not in Eighteen hundred and ninety four (1894), but connected with some of these very shipments in Eighteen hundred and ninety two (1892). Do you remember a lot that were acknowledged and accompanied by a Certificate of Captain McGregor--a large lot, which are part of the fish which are shown in Mr Montgomery's books?

A. I do not remember that.

(By Mr B.B.Ostler, Q.C.) This, Your Honour, illustrates the difficulty we are under on account of the Government neglecting to forward the Record here. That would show what I cannot now show.

(The witness) If you can give me the date or near it I can then trace it out here, as I have all my correspondence with the Department since I started.

(Mr B.B.Ostler, Q.C.) We have an extract from the Department showing that there was a large consignment--

(The Witness) I think you must be mistaken as to that being my letter.

(Mr B.B.Ostler, Q.C.) We think we have Letters from

you in regard to the matter. There is a file of Letters in the Department with regard to this very Pickeral that you are giving us of Eighteen hundred and ninety two (1892), and we are suffering from the absence of those papers, which any other Department of the Government that I know of would unhesitatingly have produced, but which, notwithstanding my request, are not brought forward by the Department. We went the file of the Letters to the Department in Eighteen hundred and ninety two (1892).

(EXAMINED by His Honour, Judge Johnston)

Q. I wish to ask you in regard to the following charge, (No. 7):—"Although duly notified in the Spring of 1893 that no fishing was to be done until the necessary Licence had been issued, the Messrs Noble began fishing in 1894 before receiving their Licences from the Department or the Legal Fishery Officer". Do you know anything about that?

A. No. The only Licence I know about is about another matter.

Q. Is it referred to in these charges?

A. I do not know, I am sure.

Q. Do you know anything about charge Number 3: "In September 1893 the Messrs Noble were directed to obtain the counter-signature of the Fishery Officer of the District to the Fishery Licences issued in their favor. These precautions were repeated in October 1893 but were met with evasion and defiance"?

A. No, I do not. The only one I know anything about-- but you have the witness here, Mr Foster.

Q. Do you know anything about the charge Number 13:-
"The said Nobles in 1893 induced one P. Foster to fish, pretending that they procured and hold his Licence to fish, when, as the fact is, no Licence was issued or granted to said P. Foster, as the Nobles then well knew, and said Foster for said illegal fishing was convicted and fined?"

A. Yes, it was I that caught Mr Foster fishing.

Q. Where did you catch him fishing, and in what year and at what time?

A. It was in Eighteen hundred and ninety three (1893).

Q. Where?

A. In Lake Huron. He was taking up his nets in the Close Season. It was on the Fourth of November and there had been very rough weather previous to that, and I knew that he could not have taken his nets up. I saw several others taking up their nets and I allowed them to go on, as I knew that they could not have taken them up earlier.

Q. Do you know if that man was fined?

A. Yes, I fined him.

Q. You fined him yourself?

A. Yes. When I saw him I asked him his name, as I did not know him at the time, and he told me, and I looked over my List, and I said "You do not appear on the List, you have not a Licence". At first he said that he had. He said that he was at Southampton, and I said that I

would

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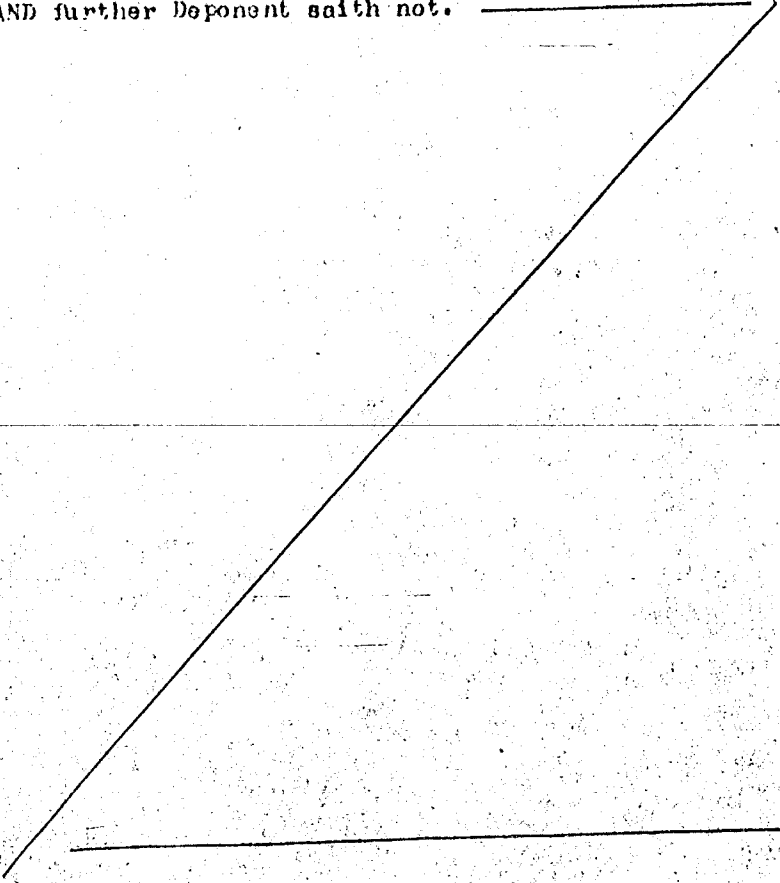
would take him there, as I was on my way there, and I towed his boat there and left it in charge of the Officers; and he said then that the Nobles had his Licence--

(Objected as as hearsay)

Q. You fined him for illegal fishing? —

A. Yes. I went to the Telegraph Office and got a copy of the Telegram that Mr Noble had sent him, and I gave him time to correspond with Mr Noble, and see if he could get the thing arranged, but when I came back I found that he could do nothing and that it was no use, and that was the end of it.

AND further Deponent saith not. _____



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P E T E R F O S T E R , of Southampton, in the Province of Ontario, Fisherman, being called and duly sworn, deposes as follows:-

(EXAMINED by His Honour, Judge Johnston)

Q. Were you fishing in Eighteen hundred and ninety three (1893)?

A. Yes.

Q. Did you have a Licence to fish?

A. No.

Q. Did you fish then without a Licence?

A. Yes.

Q. What was the result?

A. I was seized and fined.

Q. By whom?

A. By Captain Dunn.

Q. Had you applied for a Licence?

A. Not to the Department, but I wrote to Mr Noble to get my Licence while he was getting his own.

Q. Is that J. & C. Noble mentioned here?

A. Yes.

Q. Did they get the Licence for you?

A. I do not think so.

Q. Did you send them any money?

A. No, I did not send them any money.

Q. Did you ever see Mr Noble or any of the firm about it?

A. There was a Telegram come about two weeks afterwards, after I had applied, stating that my Licence was all right.

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(Mr P.B.Ostler, Q.C.) Does Your Honour think that evidence should be given of the contents of the telegram?

(His Honour the Judge) I have not asked him for the contents of the telegram.

Q. Have you the telegram with you?

A. Captain Dunn has a copy of it.

Q. Have you it yourself?

A. No, I have not.

Q. What became of it?

A. The man it came to got the telegram, it was not directly sent to me at all. I went up to his place and read it for him, as the man could not read, and I went up there.

(CROSS-EXAMINED by Mr P.B.Ostler, Q.C.)

Q. Did Mr Elliott see you about giving your evidence here?

A. No.

Q. Did any one see you about giving your evidence here?

A. No.

Q. Did any one tell you that if you gave your evidence here you would be put on the footing of a Licensed Fisherman, or that you would get your Licence?

A. No sir.

Q. Did you get a letter to that effect?

A. No.

Q. Did you get any letter as to your evidence?

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A. Yes, I got a Letter from Mr Elliott.

Q. Have you got it here?

A. No. That is two (2) years ago.

Q. What did you do with it?

A. I do not know. It was of no use and it went like any other letter.

Q. Were you licenced last year?

A. Yes.

Q. Were you licenced the year before? There have been two seasons since the year you were fined. Have you been licenced during those two (2) years?

A. Yes.

Q. Did you pay any Licence money to the Messrs Noble at all?

A. No, I did not pay anything.

Q. And you were fishing in the season of Eighteen hundred and ninety three (1893) as what is called a "free man", that is you were able to sell your fish as you liked?

A. I was selling the fish to Mr Noble.

Q. When you brought them in they bought them?

A. Yes.

Q. There was no reason why you could not go anywhere else to sell them?

A. No.

Q. You were a man that could go out when you liked and sell where you liked?

A. Yes.

Q. And you sold to the Messrs Noble, and you were careless in the matter of getting your Licence that year?

A. Well, yes.

(EXAMINED by Mr W. McEaddon, of Counsel for the Crown)

Q. Who supplied you with your Fishing Sack & Outfit that year that you were fined?

A. I forget who I got that from. I forget whether it was McKay or not.

Q. You said that you had not sent the Nobles any money for your licence?

A. No, I did not send any money. In fact I was a little short of money at that time, and I asked him to procure the licence.

Q. You did not send any money with the Letter of request?

A. No, I did not.

Q. Did you ever pay them for the licence they were supposed to get for you?

A. For that year do you mean?

Q. Yes?

A. No, I did not that year.

Q. You do not think you have paid them?

A. No, not that year. I fished all the year with Mr Noble, and I settled at the end of the year with him.

Q. Was the amount of the licence charged against you?

A. I do not know. I do not think so. I took it for granted at the time that it was charged, because I did not know anything about the licence being missing.

Q. What time of the year was that?

A. Late in the summer season.

Q. That was the time that you had the settlement with the Nobles?

A. Yes, in August, I think.

Q. And when were you fined?

A. In the Fall.

Q. So then in August you had a settlement with the Nobles in which you took it for granted that they had charged you up for this licence?

A. Yes.

Q. And you do not know whether that was actually charged against you or not?

A. No.

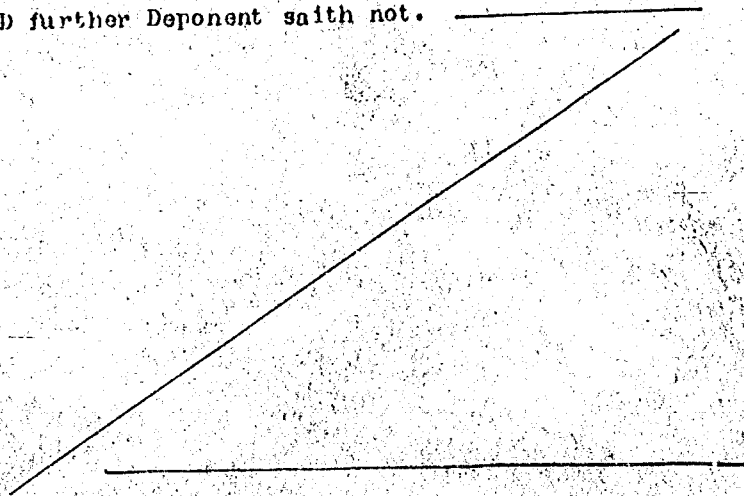
Q. You do not know that it was not?

A. I cannot tell. I did not pay any attention to it at the time.

Q. (By Mr B.R. Ostler, Q.C.) But you know now that the Nobles did not charge you for your licence?

A. I know now. I believe they did not.

AND further Deponent saith not.



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ALFRED MONTGOMERY, of the Township of Collingwood, Shipping Agent, being called and duly sworn, deposes as follows:-

(EXAMINED by His Honour, Judge Johnston)

Q. What do you do Mr Montgomery?

A. I have been in the Fish business for years?

Q. In any particular capacity?

A. As Shipping Agent here.

Q. Who for?

A. For the Buffalo Fish Company. The first year for Noble, Davis & Company, and the last Five (5) seasons for the Buffalo Company.

Q. Did you buy fish for them?

A. Occasionally I did, when any was for sale.

Q. Had you any dealings with the Noble Company?

A. I handled the principal part of the Nobles fish, along with the other dealers, that is to say, what came through Collingwood.

Q. As regards the charge Number Ten (No. 10) against the Nobles, did you in the year Eighteen hundred and ninety three (1893) during the close season, that is to say, from the Fifteenth of April to the Fifteenth of May, buy any Pickorel off them?

A. I did not buy any myself.

Q. Well, for the Company?

A. Well, the Company may have bought them. I was merely acting as Shipping Agent.

Q. Would they not have to be shipped through you? If they bought fish from the Nobles at all they would be shipped through you?

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A. Yes.

Q. Did you see the Shipping Bills?

A. I saw them all.

Q. Do you know if there was any Pickorel between the Fifteenth of April and the Fifteenth of May Eighteen hundred and ninety three (1893)?

(Mr E.F. Ostler Q.C., objects to any evidence speaking from the Bills)

Q. Did you see the Fish?

A. I would not swear that I saw the fish, because they generally came covered in Ice. If they wanted re-icing I re-iced them.

Q. Did you re-ice any?

A. I did so when they required it.

Q. Did you find any Pickorel that wanted re-icing?

A. I did not go to the bottom of the Car at all. I just put the ice on the top.

Q. Did you examine them at all?

A. I had no occasion to take any fish out, except what I kept for the Canadian trade.

Q. Do you know anything of getting fish from the Nobles in Eighteen hundred and ninety four (1894)?

A. Yes.

Q. Do you know during the Close Season of Eighteen hundred and ninety four (1894) of fish being bought from the Nobles by your firm and shipped to your firm?

A. They might have been in the Cars, as I have said.

Q. And you would not have known of it?

A. I would have known if I had gone down in the cars,

but

but I did not do so.

Q. I ask you if you knew that there was any there or not?

A. If I took their Invoices for it I would know.

Q. You could not ship them without having an Invoice?

A. That was the only way. I had to ship by the Invoices.

Q. Have you the Invoices here?

A. No.

Q. Nor the books of the Fish Company?

A. No.

Q. Were you subpoenaed to produce any books?

A. I was, yes sir.

Q. Why have you not brought them here?

A. I have the books yet, but I did not bring them.

Q. Well you had better get them. You must go and get the books and obey that Subpoena.

Q. (By Mr R.F.Gstler Q.C.) Who are you working for now?

A. No person at present. Well, I am working for the Government just now, I suppose.

(His Honour, Judge Johnston) Have your books here this afternoon at Two o'clock.

AND further for the present Deponent saith not.
(Deposition continued on page 83 of this Report)

NEIL McGILLIVRAY, of Cape Rich, Fisherman,
 being called, and duly sworn, deposes as
 follows:-

(EXAMINED by His Honour, Judge Johnston)

- Q. Where do you live?
- A. Cape Rich.
- Q. What is your business?
- A. Fishing.
- Q. How long have you been engaged in the Fishing business?
- A. It is about Nine (9) years since I started first.
- Q. Do you fish for yourself?
- A. No sir.
- Q. Who do you fish for?
- A. Different parties. I hire out.
- Q. You are a Fisherman and are hired out to fish?
- A. Yes.
- Q. Where did you work during the years 1893, 1894 and 1895?
- A. At Bustard Island and Squaw Island.
- Q. Did you work for the Nobles?
- A. Yes.
- Q. When did you work for them?
- A. Four (4) years ago, I think it was.
- Q. That would be in Eighteen hundred and ninety two (1892)?
- A. Yes, 1892.
- Q. Did you work for them in the year Eighteen hundred and ninety three (1893)?
- A. No sir.

Q. What was your business in their employ?

A. I was working in the boat.

Q. Catching Fish? Did you pack fish at all?

A. No sir.

Q. Just catching fish?

A. Yes.

Q. During the close seasons of Eighteen hundred and ninety two (1892), or Eighteen hundred and ninety three (1893) or Eighteen hundred and ninety four (1894), from the Fifteenth of April to the Fifteenth of May, did you see any Pickerel in the possession of the Nobles?

A. No.

Q. Did you catch any during those periods?

A. No.

Q. You never brought in any for them?

A. No sir, not in the close season.

Q. Do you know of the Nobles having Pickerel in their possession at Eustard Islands in Eighteen hundred and ninety three (1893) which had been caught in the Close Season?

A. No.

Q. You did not see any there?

A. No.

Q. You know nothing about the Foster Licence, I suppose?

A. No sir.

(EXAMINED by Mr M. McFadden, Counsel for the Crown)

Q. How long have you been fishing did you say?

A. It is about Nine (9) years since I started. I have not been at it steadily.

Q. Fishing in the Georgian Bay?

A. Yes sir.

Q. When did you say that you were employed by the Nobles?

A. In Eighteen hundred and ninety two (1892).

Q. Were you fishing for them or for yourself in Eighteen hundred and ninety two (1892)?

A. I was hired. My brother was running the boat for Mr Noble, and we worked for him.

Q. That was in 1892?

A. Yes sir.

Q. What kind of Nets were you fishing with in Eighteen hundred and ninety two (1892)?

A. Gill nets.

Q. Did you use any Trap Nets in that season?

A. No.

Q. Nor during the season after that?

A. No, I did not work for them the season after that.

Q. Did you for yourself?

A. No sir.

Q. Were you supplied with Trap Nets by any person at all for the purposes of fishing?

A. Not that year.

Q. What year were you?

A. I had them myself last year.

Q. You had trap nets last year?

A. Yes, for a little while.

Q. In Eighteen hundred and ninety five (1895)?

A. Yes.

Q. From whom did you buy them?

A. I got them from a fellow in the Current.

A. Who is that?

A. Lackey, I think. Mackey or Lackey, it might be one or the other.

Q. You were not fishing for the Nobles at that time?

A. No sir.

Q. You were fishing on your own hook?

A. Yes.

Q. To whom did you sell your fish?

A. What few we got we sold to both Companies.

Q. What Companies?

A. We sold them to the Georgian Bay Company and to the Noble Company.

Q. Who was working with you then in Eighteen hundred and ninety five (1895)?

A. I was at the Bustards' a little in 1895.

Q. Who was working with you in 1895?

A. I was fishing with Gills with a man of the name of Arch Kennedy.

Q. Who were you fishing Traps with?

A. Mr Daget.

Q. Were you hired by him or was he hired by you, or were you working together?

A. We were fishing together.

Q. Who supplied you with the boats and outfit, other than the trap net?

A. We hired the boats.

Q. From whom did you hire them?

A. We got them at Killamoy from the Nobles.

Q. Then they supplied you with the whole of the outfit except the Trap net?

A. That is all we got from them, just the boat.

Q. And you hired that?

A. Yes sir.

Q. What boat did you lift those trap nets with at Squaw Island?

A. We lifted them with different ones. We used to borrow one sometimes and row out.

Q. From whom would you borrow a boat?

A. From anyone on the Island.

Q. On Squaw Island?

A. Yes sir.

Q. Were you supplied with a Yawl boat for the purpose of lifting the Trap nets?

A. We used to take her sometimes.

Q. Whom did she belong to?

A. The "Bob Foote"? I suppose she belonged to the Noble Brothers.

Q. Do you mean that you took the Tug?

A. No, the Yawl belonging to the Tug.

Q. You took the Yawl belonging to the "Bob Foote" to go out and lift the Trap nets?

A. Yes sir.

(Mr. B. B. Ostler Q. C., declares that he has no questions to ask the witness)

AND further Deponent saith not.

WILLIAM DAVITT of the Township of Collingwood, Fisherman, being called and duly sworn, deposes as follows:-

(EXAMINED by His Honour, Judge Johnston)

Q. Where do you live?

A. Collingwood.

Q. What is your occupation?

A. Fisherman.

Q. Have you been fishing for yourself or for other parties?

A. For other parties.

Q. Have you ever fished for the Nobles?

A. Yes sir.

Q. When?

A. In Eighteen hundred and ninety two (1892).

Q. For how long were you with them?

A. One season.

Q. Do you know if during that season you ~~caught~~ caught any Pickeral?

A. No sir.

Q. You did not?

A. No.

Q. Do you know of any being caught during the close season?

A. No sir.

Q. You saw none caught when you were there in their employ?

A. No sir, not in the close season.

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Q. Where was your Fishing Station?

A. Byng Inlet.

Q. Were you in the Warehouse?

A. No sir.

Q. And you did not see any Pickerel in the Close season?

A. No sir.

Q. (By Mr McFadden) Was McGillivray fishing with you?

A. Yes sir.

(Mr R.B. Oatler, Q.C. declares that he has no questions to ask the witness)

AND further Deponent saith not.

ALFRED MONTGOMERY, re-appears, and his
Deposition is continued as follows:-

(Deposition continued from
page 62^{1/2} of this Report)

(EXAMINATION continued by His Honour Judge Johnston)

- Q. Have you got your books now, Mr Montgomery?
- A. Yes.
- Q. The books of the Buffalo Fish Company?
- A. Yes.
- Q. Turn up the books for Eighteen hundred and ninety two (1892). Have you an account there with J. & C. Noble?
- A. Yes sir. What date?
- Q. 1892?
- A. Yes, I have.
- Q. What is the nature of the transactions there?
- A. Fish received at Collingwood.
- Q. From J & C. Noble?
- A. Yes sir.
- Q. What is the nature of the transaction?
- A. Do you wish me to read over the whole item?
- Q. Is it for the sale of Fish by the Noble Company to the Buffalo Fish Company?
- A. Yes sir.
- Q. See if during the Close Season of Eighteen hundred and ninety two (1892) from the 15th of April to the 15th of May there is an account for Pickorel purchased from the Nobles?
- A. Yes sir.
- Q. How much?
- A. I will read the items:- April 27th, 715 pounds.

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Same date, 380 pounds, 635 pounds, 1050 pounds. April 29th 815 pounds, 105 pounds. May 3rd, 345 pounds, 555 pounds, 500 pounds, 380 pounds, 300 pounds, 090 pounds, 1400 pounds, 1220 pounds 1290 pounds, May 10th 660 pounds. May 13 630 pounds.

Q. Is that the total for that period?

A. Yes sir.

Q. Have you any items for Pickorel for Eighteen hundred and ninety three (1893) between the dates of the 15th of April and the 15th of May?

A. May 12th 1893, 640 pounds. Of course this is only for one station. That is all in the close season from that Station.

Q. What Station was that?

A. That was Picnic Island, and the first Station was Killarney.

Q. What is the next one?

Q. Do you wish each one separate?

Q. Yes, pick them out?

A. For Byng Inlet. April 27th 1892, 525 pounds, 275 pounds, 265 pounds. May 1st, 665 pounds. May 3rd 935 pounds, 670 pounds, 500 pounds. May 6th 475 pounds, 260 pounds. May 9th, 500 pounds, 825 pounds, 360 pounds. May 13th, 55 pounds, 60 pounds, 755 pounds. May 15th 18 pounds, 95 pounds, 150 pounds.

Byng Inlet for Eighteen hundred and ninety three (1893) May 6th 85 pounds, 175 pounds, 145 pounds, 55 pounds. May 7th 265 pounds 215 pounds. May 11th 140 pounds, 335 pounds. May 12th 40 pounds, 560 pounds, 95 pounds.

Bustards, Eighteen hundred and ninety three (1893), May

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1888 16th, 697 pounds. That is the date they arrived here in Collingwood, or the date of the Invoice. That is out of the Close Season. That is all.

Q. That is all you have?

A. Yes.

(EXAMINED by Mr M. McFadden, of Counsel for the Crown)

Q. Will you give us the items for Squaw Island for Eighteen hundred and ninety three (1893)?

A. Squaw Island, 1893, May 8th, 400 pounds, 920 pounds, 320 pounds, 655 pounds, Total 2795 pounds. May 10 375 pounds.

Q. Is there any other Station besides those Four that you have mentioned?

A. No, that is all.

Q. Was there any from Squaw Island for Eighteen hundred and ninety two (1892)?

A. Nothing for 1892.

Q. Anything for Eighteen hundred and ninety five (1895)?

A. No sir, nothing for 1895.

Q. Where were those fish shipped to? To Buffalo?

A. I can tell you where they went?

Q. Generally? They were shipped away from here?

A. Yes, they went to Buffalo, Chicago and Detroit.

Q. Did you give Killarney for 1892 and 1893?

A. The first I gave you was 1892. There is nothing from Killarney for 1893.

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(By His Honour, Judge Johnston)

Q. And for Eighteen hundred and ninety four (1894)?

A. No, I have nothing for 1894. In that year the fish was shipped direct through. There was none sold in Canada.

Q. Have you any book of Invoices?

A. Yes, I have them.

Q. Have you them with you here?

A. Yes sir.

Q. Let us see them?

A. I do not know if I have them all here, but I have quite a few of them.

Q. (P: Mr B.B.Ostler, Q.C.) In whose hand-writing are these Invoices?

A. I could not say whose hand-writing it is. It is supposed to be the Agent or Bookkeeper of J. & C. Noble, whoever was doing their business.

Q. (By His Honour, the Judge) And sent to you?

A. Yes, directed to the Buffalo Fish Company, and I received them as Agent.

Q. Turn up for Eighteen hundred and ninety four (1894) then?

A. Eighteen hundred and ninety two (1892) and Eighteen hundred and ninety three (1893) is all I can give you. That would show just the same as these books.

Q. You have not got Eighteen hundred and ninety four (1894)?

A. No.

Q. Do you know where they are?

A. I could not tell you if they have been destroyed or not.

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(CROSS-EXAMINED by Mr. E.E. Costler Q.C.)

Q. If that fish went straight out of the country to the Company, would not the Invoices go with the Fish?

A. No sir, fresh invoices would be made.

Q. Turn up Point ~~xxxxxxx~~ Albino *au Barre* for Eighteen hundred and ninety two (1892)?

A. Yes sir.

Q. Is there any Pickerel in the close season from Point ~~xxxxxxx~~ Albino?

A. Well, I do not think that has anything to do with this case.

Q. Well, answer my question. That is where the Pickerel comes from.

A. I object to the question.

Q. Does not the bulk of your Pickerel come from Point Albino?

A. Well, I am not a witness on that point.

Q. You are a witness in the box?

(His Honour, the Judge, directs the witness to answer the question)

A. Yes, April 25th 45 pounds, 364 pounds, 121 pounds. April 13 186 pounds. April 16th 163 pounds. That finishes the Close Season.

Q. You do not see any Pickerel there at all, they are called "Yellows" are they not?

A. Yes, they are called "Yellows".

Q. Do you know Pickerel when you see them?

A. Well, I do not know whether I do or not.

Q. Do you undertake to swear that these fish called "Yellows" are the true and genuine Pickerel?

A. Yes, what we call in Canada "Pickerel".

Q. Were they "Warlike Pike"?

A. No, they were not.

Q. Do you know "Warlike Pike"? Will you say that these "Yellows" were not Warlike Pike? *Walleyed Pike*

A. That is a nice question to ask, is it not? I will say they were Pickerel.

Q. Did you see them? Are you able to say that these 121 pounds of "Yellows"---

A. They were billed to me as "Pickerel".

Q. Can you swear they were Pickerel?

A. I do not say that.

Q. You made the entry as they were billed, and you do not know about the fish that you have mentioned whether they were "Warlike Pike" or "Yellows" or "Pickerel"?

A. They might be anything.

Q. Now, let me have Point Albino for Eighteen hundred and ninety three (1893)?

A. We did no business there in Eighteen hundred and ninety three (1893). I think their fish went direct. Yes, here it is. No, there is nothing there.

Q. Of course you got a lot of "Yellows" from other people during the close season?

A. Certainly.

Q. And you were not intending to break the law yourself, I suppose?

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A. Why should I break the law?

Q. Yes, why? You were not intending to break the law by receiving fish out of season? You were a man acting as Agent? Will you undertake to tell us that you were not breaking the law by ^{buying} ~~receiving~~ fish out of season?

A. I did not buy them.

Q. You were the Agent buying? You represented the Company?

A. I did not buy at all. I was merely Shipping Agent here.

Q. And you do not undertake to say anything about it except from the Invoices?

A. That is all.

Q. And they came from many other people besides?

A. Yes.

Q. And that has been the custom for many years?

A. Yes, that is right.

Q. And the people did not understand what the Law meant by "Pickeral", and they are in doubt about it yet, are they not?

A. There are many in doubt about it now, I suppose.

Q. And it is a bad fish? There is a dispute as to what is "Pickeral"? Do you not know that there is a scientific dispute as to what is a "Pickeral", and that the fish that they call a "Pickeral in one lake is a totally different fish in another lake? Do you know that it is called a "Bass" in Eastern waters, and elsewhere called a "Warlike Pike"?

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WLD

A. No, it is called a "Dory" down there.

Q. But he is a useful fish anyway, and you were in such doubt about him that you simply called him "Yellows"?

Who were the firm in Collingwood who got these Fish from you in Collingwood in 1892 and 1893?

A. Who were the firm that got them from me?

Q. Who were they that you credited? Do you know Mr Clark?

A. Yes, I do.

Q. And the firm of J. & C. Noble & Company?

A. There was Noble and Company.

Q. Was not the "Company" Mr Clark?

A. I could not say. He was reported to be the Company, I do not know.

Q. Was he not the man who dealt with you?

A. In what way.

Q. He came in contact with you as the ~~partner~~ partner of J. & C. Noble & Company?

A. I believe he sailed the Tug.

Q. Was he not the principal man who brought in the fish?

A. He was one of them.

Q. You did not know either James or Charles Noble personally in the matter?

A. I knew them as J. & C. Noble.

Q. You had no immediate dealings with them in connection with this fish? Your immediate dealings were with Mr Clark, were they not?

A. I had no dealings with Clark, only to receive the Invoices from him and ship the fish on.

Q. You received the Invoices from Clark?

A. Yes sir.

Q. So you see in these years they had a bad partner. So you got the Invoices from Mr Clark?

A. They came sealed in an envelope, the same as any other business letter would come

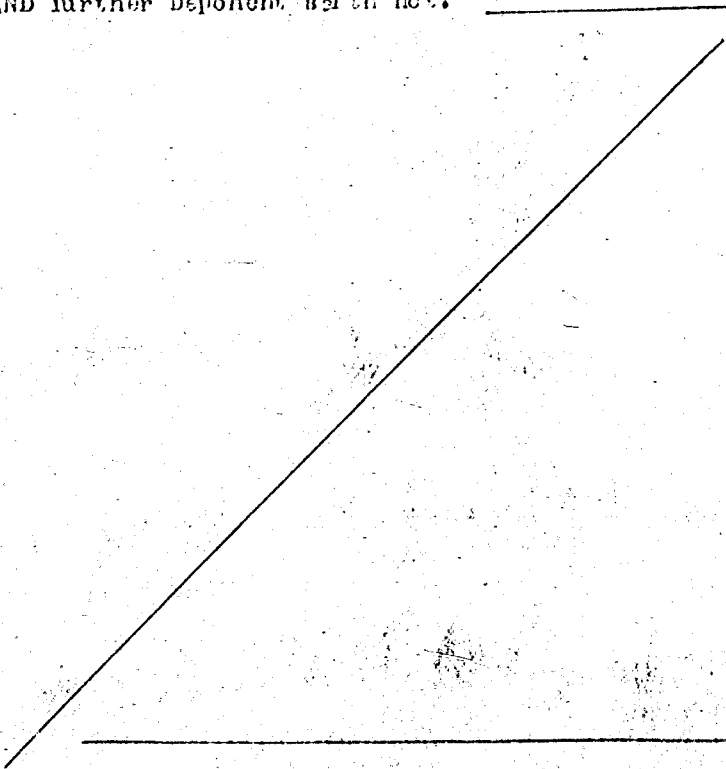
Q. (By Mr McPadden) Have you not got another book there?

A. That is only a record of the fish.

Q. And the dates?

A. The dates the fish were shipped out, yes.

AND further Deponent said that.



C H A R L E S D U F F Y of the Township
of Collingwood, in the Fish Business, being
called and duly sworn, deposes as follows:-

(EXAMINED by His Honor, Judge Johnston)

- Q. Where do you reside?
- A. In Collingwood.
- Q. What is your occupation?
- A. I have been in the Fish business.
- Q. Do you know the Noble Brothers, J. & G. Noble?
- A. Yes.
- Q. Have you had any dealings with them in the Fish business?
- A. I have.
- Q. Did you sell them any Fish at any time?
- A. Yes, I sold them for two (2) seasons.
- Q. What seasons were they?
- A. Last year, Eighteen hundred and ninety five (1895); and I dealt for Four (4) years with the Buffalo Fish Company before that, and that would bring it to about Eighteen hundred and ninety (1890) for the other year that I dealt with the Noble Brothers.
- Q. During that time did you sell any Pickerel to the Noble Brothers during the close season?
- A. No.
- Q. Nor in the years Eighteen hundred and ninety three (1893) and Eighteen hundred and ninety four (1894)?
- A. No.

Q. Did you sell them any Seine or Nets at any time?

A. I sold one small ~~Seine~~ Seine to him.

Q. When was that?

A. I believe that was in Eighteen hundred and ninety four (1894).

Q. Where did you sell it to them?

A. At Byng Inlet.

Q. Did you ever sell them any Trap Nets?

A. No sir.

(EXAMINED by Mr M. McFadden, Counsel for the Crown)

Q. To whom did you say you sold the Seine?

A. To the Noble Brothers.

Q. When did you sell that Seine, what time of the year?

A. In Eighteen hundred and ninety four (1894) I think.

Q. What time in 1894?

A. I think it was about in July.

Q. To which one of the firm did you sell it?

A. To C. Noble.

Q. To Charles Noble, the gentleman who is present here in Court?

A. Yes.

Q. Where was the bargain for the Seine made, in what place?

A. Made in Boston.

Q. And where did you close the deal with Noble for the Seine?

A. At Byng Inlet.

Q. Where did you deliver it to him?

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- A. At Byng Inlet.
- Q. Did he take it away with him?
- A. I suppose so. I never saw it afterwards.
- Q. Did you deliver it to any person?
- A. I think I put it on board the Tug.
- Q. What Tug?
- A. I am not certain whether it was the "Bob Foote". I think it was the "Bob Foote".
- Q. Do you know who was Captain of the "Bob Foote"?
- A. I am not certain. I think it was Mr Malcombe here.

(CROSS-EXAMINED by Mr B.B.Ostler, Q.C.)

- Q. Are you certain of the date that you sold that Seine? Can you say that it was not in Eighteen hundred and ninety three (1893)?
- A. Well, I would not be positive what year it was.
- Q. Do you remember that on that occasion there had been two applications for Licence to fish with a Seine net, and the money paid by Mr Noble, and he bought this presuming the Licence would be given so as to be ready to go Fishing? Would you say that is not the fact?
- A. I do not know anything about that.
- Q. Do you know practically about Fishing?
- A. Yes, I ought to.
- Q. If you are fishing for white Fish, do you not get some Pickerel with them, in the Close Season?
- A. Yes, plenty of them.
- Q. Can you avoid taking the Pickerel in certain localities?

A. No, you cannot avoid taking them.

Q. If you are fishing lawfully for White Fish, to what extent have you taken caught Pickerel without being able to avoid it?

A. I have seen them up to One hundred and fifty or Two hundred (150 or 200) pounds at a catch. I saw that last year.

Q. You have been getting Licences for some years, have you not?

A. Yes sir.

Q. When did you pay your money and when did you get your Licence?

A. Well, the system has varied very much for the last Ten (10) years. At one time we used to go on and fish, and did not wait for the Licence. We waited for the Officers to come and collect it.

Q. That was the habit at that time?

A. Yes, I have seen it run up to November before we got the Licences.

Q. And up to what year did that custom prevail of the Inspector going round and giving the Licences after the season was over?

A. I think it was within the last three years.

Q. You were in the habit of paying in the Spring and getting your Licence later on?

A. Yes, I think it was in Eighteen hundred and ninety three (1893) when I made application for Three (3) Licences and I never got them at all.

Q. Did you pay your money?

A. Yes, I paid my money.

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W.M.

Q. And you never got your money back?

A. No.

Q. You fished on paying your money, and the Department never sent a Licence, and that was as late as the year Eighteen hundred and ninety three (1893)?

A. Yes.

Q. Do you know if that was the general condition of things on the Lakes here?

A. I think it was with some parties.

Q. There was that looseness in the Fishery business?

A. Yes.

Q. In Eighteen hundred and ninety four (1894) did you apply for a Licence, and when did you get it?

A. I applied in the Spring before I left here at all. Mr Smith, the Overseer of Midland wrote me that I would have to pay apply and pay the money before I went out.

Q. He told you not to go on until you had paid your money and made application?

A. Yes.

Q. When did you get the Licence?

A. Last year I got my Licence before I went away.

Q. That was in Eighteen hundred and ninety five (1895). I am speaking of the year Eighteen hundred and ninety four (1894)?

A. I was either in Eighteen hundred and ninety three (1893) or Eighteen hundred and ninety four (1894) that I never got a Licence at all.

Q. You told me that was in 1893, but in Eighteen hundred and ninety four (1894), after paying the money and

making application for the Licence, in what month did you get the Licence, or did you get any Licence at all that year?

A. I most forget whether I got any at all that year. I have no Licence in my possession at all now except for Eighteen hundred and ninety five (1895).

Q. In 1895 you got the Licence before you went out. They tightened up on the habit in that year. They began to treat somebody else as they had treated the Nobles?

A. Yes.

AND further Deponent saith not.

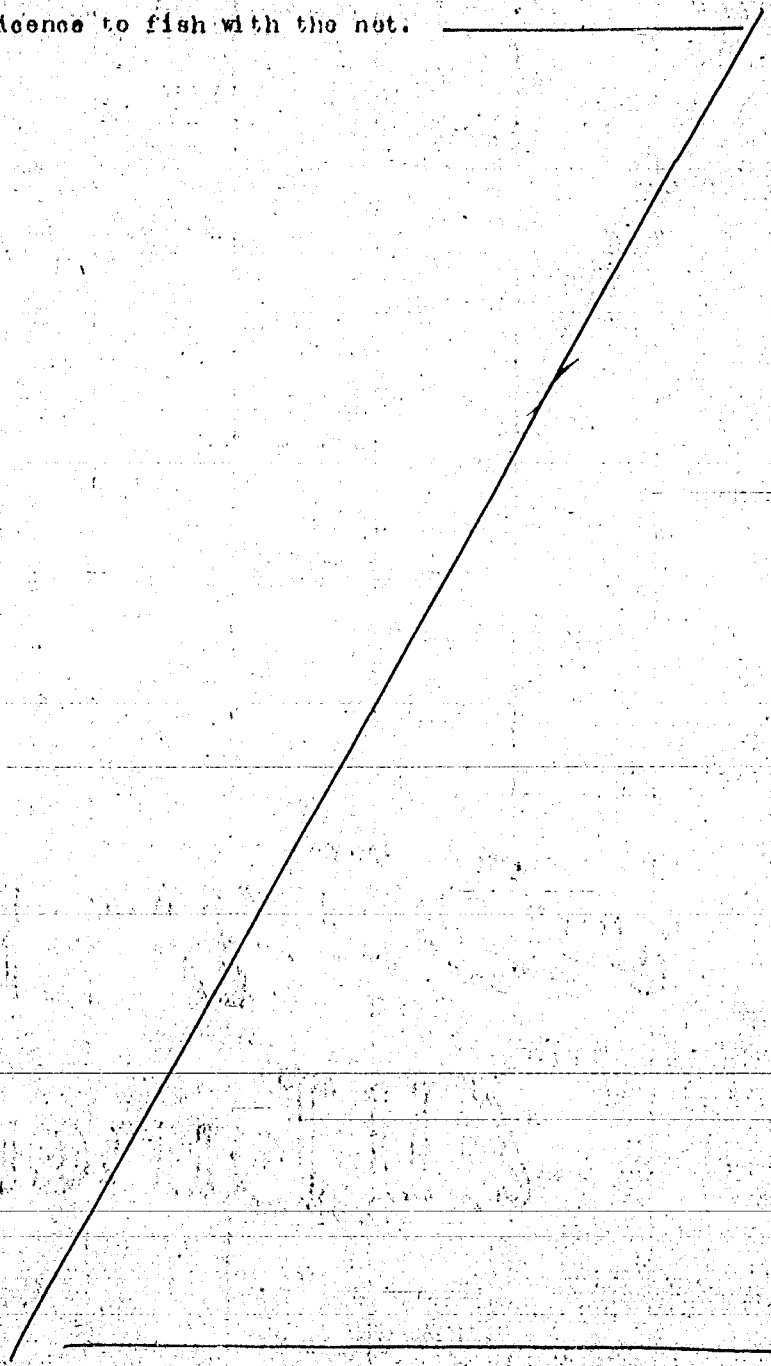
(By Mr F.B. Gtler Q.C.) I wish to put in a Letter of the 8th of July 1893, addressed to Mr Charles Noble, Senior at Killarney, and signed by "Mr Smith, Deputy Minister of Marine & Fisheries (No. 738-93), in regard to the Seine net, as follows:- "Sir, In reply to your "letter of the 4th instant, applying for permission to "fish with three seines around Badrloy Island near "Killarney, I am directed by the Acting Minister to "state that after looking carefully at the matter, he "finds that before the Hon. Mr Tupper left, he approved "of a report prohibiting seine fishing in any part of "Gverseer Elliott's division. In view of this fact, "and considering that not one seine licence has been "granted in that district this season, it is impossible "for the Acting Minister to make exception in your

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"case". Then the rest of the letter is as to
pound nets and so on. I put in this letter to show
that we have been bona fide in our application for
Licence to fish with the net.



J O H N B O Y D of the Township of Collingwood, Fisherman; being called and duly sworn, deposes as follows:-

(EXAMINED by His Honour, Judge Johnston)

- Q. Do you live in Collingwood?
- A. Yes.
- Q. What is your occupation?
- A. Fishing.
- Q. Are you fishing for yourself or are you employed by others?
- A. Employed by others.
- Q. Did you fish for the Noble Company?
- A. Part of one summer.
- Q. In what year was that?
- A. Eighteen hundred and ninety four (1894).
- Q. Whom were you fishing?
- A. Eyns Inlet.
- Q. Were you fishing for them between April the Fifteenth (15th) and the Fifteenth (15th) of May?
- A. Yes.
- Q. Did you catch any Pickerel for them?
- A. No sir.
- Q. Do you know if they had any Pickerel in their possession at that time?
- A. I do not know.
- Q. You never saw any during the Close Season?
- A. No sir.

Q. Were you ever at Bustard Island?

A. Not that summer.

Q. What summer were you at Bustard Island?

A. In Eighteen hundred and ninety three (1893), I guess.

Q. Were you fishing there?

A. Yes.

Q. Who for?

A. For myself, partly.

Q. Were you fishing for the Hobles at all?

A. We sold some fish to them.

Q. Did you sell any Fish to them during the close season of Eighteen hundred and ninety three (1893)?

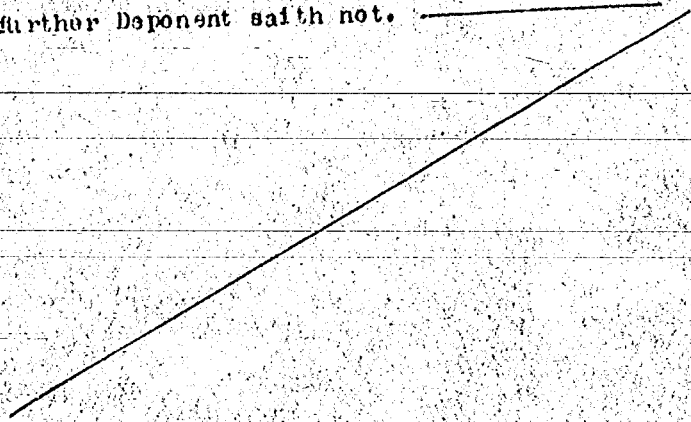
A. No sir.

Q. Do you know if they had Pickerel in thdr possession during the close season of Eighteen hundred and ninety three (1893)?

A. I do not know.

(Mr McFadden, and Mr Ostler, Q.C. declare respectively, that they have no questions to put to the witness.

AND further Deponent saith not.



N O R M A N S A N D E R S of the Township
of Collingwood, Fisherman, being called and
duly sworn, deposes as follows:-

(EXAMINED by His Honour, Judge Johnston)

Q. What do you do?

A. Fish.

Q. For yourself or for others?

A. For other people.

Q. Did you, at any time, fish for the Noble Brothers?

A. Yes sir.

Q. In what years?

A. The past five (5) years, I think.

Q. Where did you fish, principally?

A. Squaw Island.

Q. Did you sell any Pickerel or catch any Pickerel
at all during that period, in the Close Seasons?

A. No, we never had any Pickerel with small excep-
tions.

Q. You never sold any to the Nobles?

A. No.

Q. Did you ever see any in their possession?

A. Yes, I have seen them in their possession.

Q. At what time?

A. During the summer months. I could not say the
exact time.

Q. Would that be during the Close Season?

A. I could not say whether it was in the Close Season
or not. I have no dates for any time that I saw the
Pickerel.

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Q. You do not recollect seeing any during that time?

A. No, I never paid my attention to that part of the business.

(EXAMINED by Mr McFadden)

Q. Do you know of a man of the name of McGregor, Inspector, up there?

A. Yes sir.

Q. Who was that?

A. Captain of the "Payfield" I think.

Q. What was he doing there?

A. He was surveying the place, and he was there as Fishery Officer.

Q. Did he go to the Nobles' place?

A. I saw him there too, in company with Captain Dunn.

Q. Do you know if the Nobles had any Seines at that time in their possession?

A. Yes, I have seen Seines round there.

Q. Was anything done with those Seines when McGregor came there?

A. Not when he came along, he did not do anything with them.

Q. Before he came along, was anything done with them?

A. What year?

Q. You say he came along to make an inspection?

A. Yes. We put some out of his way before he came there.

Q. Where did you put them?

A. In the Fish Car.

Q. What did you do with the Car?

A. We left it where we took it from.

Q. What did you take it away for?

A. To put the net in.

(Mr R.B.Ostler, Q.C., protests against this evidence, contending that there is no charge made on the matter of the evidence. Objection reserved)

Q. And they were taken back after McGregor had gone away, were they not?

A. I do not know.

Q. Who helped you to put them in the car?

A. Patton.

Q. Who is he?

A. He works for Noble & Company.

Q. Were any of the Nobles assisting you?

A. I think Charles Noble Junior was there.

Q. Anybody else?

A. That was all that was on the ~~job~~ job with us.

Q. You heard that McGregor was coming and you put them away? McGregor did not see them did he?

A. Not while I was round he did not.

Q. (By Mr R.B.Ostler Q.C.) What year are you speaking of?

A. Eighteen hundred and ninety three (1893).

Q. (By Mr McFadden) Who was there when you say you put those Soines in the box?

A. ~~Patton~~ Patton and Charles Noble Junior.

Q. And any others?

A. No others.

Q. You were there?

A. I was there myself.

Q. Was James Noble, Senior, there?

A. He was somewhere round the place.

Q. Did you see him there?

A. I saw him round there.

Q. Did he help you to cover up these Seines?

A. He did not.

Q. Did you cover up these Seines by turning the Fish Car over them and concealing them from view?

A. Yes.

Q. You did it to conceal them from the view of the Fishery Officer when he came?

A. Well, it was new twine.

Q. You know they were concealed for that purpose?

A. Yes, I understood that he intended to burn the stuff if he got hold of it. That was what we were told.

(CROSS-EXAMINED by Mr B.B. Outler, Q.C., under reserve of Objections)

Q. And you did not propose to have him do any such illegal act?

A. Well, no.

Q. Did you turn the Fish Car over on the net?

A. Well, it amounts to the same thing. We put the nets in the Fish car, and turned it up on its end.

Q. You did not turn the Car over?

A. No, if I said that I do not mean to say that.

AND further Deponent saith not.

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J O S E P H B R A D Y, of the Township of
Collingwood, Journalist, being called and
duly sworn, deposes as follows:-

(EXAMINED by His Honour, Judge Johnston)

Q. What do you do here, Mr Brady?

A. I have a Newspaper.

Q. What Newspaper?

A. "The Enterprise" and "Messenger".

Q. You know the Messrs J. & C. Noble?

A. Yes.

Q. Did you ever see that Pamphlet now shown to you?

A. Yes sir.

Q. Where was that put?

(Mr B. R. Ostler Q.C.) As regards that first enquiry, the Pamphlet in question is a Memorandum in relation to the Seizure, as I understand it. I do not know of anything more extraordinary than introducing that into an Enquiry like this. The history of the Pamphlet is this:- There was an Argument prepared on behalf of the Nobles, by their Counsel, and it was sent to the Department of Justice or the Department of Fisheries. A copy of that Argument was sent here, and Messrs Noble chose to have it printed at this Office. I have yet to learn that it is a crime for a man to print such Argument, if that is the view of the Fisheries Department. To put it in the Enquiry seems most extraordinary and childish proceedings that I have ever seen in connection with a public document, an enquiry as to who delivered the argument for the Nobles in that matter.

Q. (By His Honour, Judge Johnston) That was published in your office?

A. Yes s r. Of course we have nothing to do with the Notations.

Q. Who gave you instructions to have it printed?

A. Mr Charles Noble.

Q. And it was printed accordingly?

A. Yes.

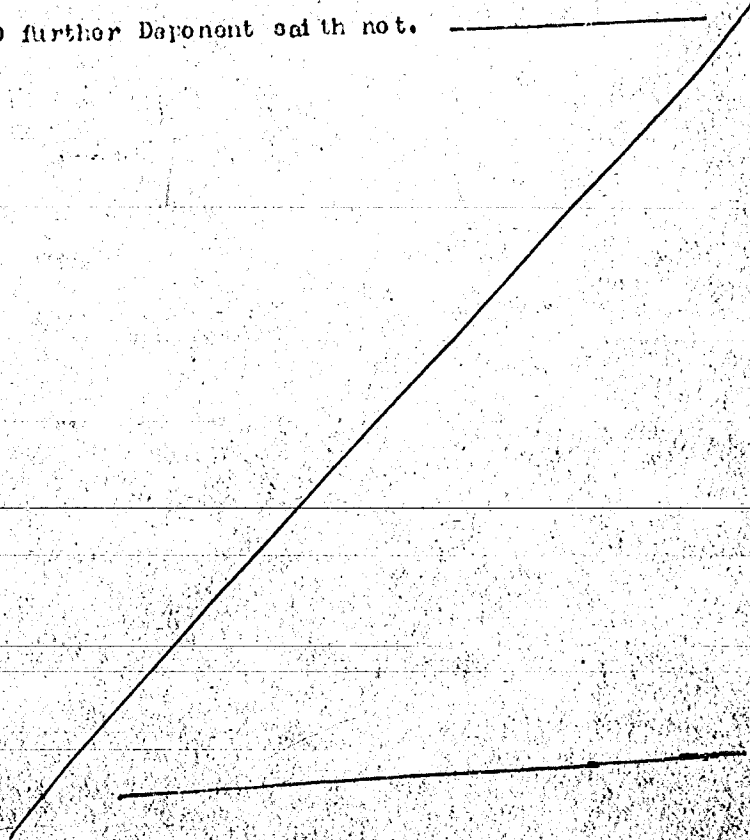
Q. (By Mr McFadden) How many were printed?

A. I do not remember the number. I could not tell you without examining the books.

Q. (By Mr Estler, Q.C.) Have you got a Licence to print?

A. Well, I suppose so.

AND further Deponent saith not. _____



CHARLES NOBLE (Junior), of the Township of Collingwood, being called and duly sworn, deposes as follows:-

(EXAMINED by His Honour, Judge Johnston)

Q. Where do you reside, Mr Noble?

A. At present, sir?

Q. Yes?

A. Detroit.

Q. Where have you stayed previous to that?

A. Killarney.

Q. For how long?

A. About a year and a half.

Q. Were you a member of the firm of J.&C.Noble?

A. I was an Employee.

Q. An article was published in the "Globe" Newspaper, purporting to be signed by "Charles Noble, Junior".

Was that yourself?

A. Yes sir.

Q. Did you give that to be published?

A. Yes.

Q. What date is that? Do you remember?

A. Well, you ought to have it. I am not supposed to remember the date. That is quite right I expect. I recognize it, yes.

(EXAMINED by Mr E.H. Ostler Q.O.) Mr Noble, what is the date of that letter?

A. I think it was published on the Fourth of December Eighteen hundred and ninety four (1894).

Q. Did not the Department set the example of writing to the Press before that? Do you remember Hardy's letter? I find a letter of Hardy's--a letter headed "Department no respecter of persons" in reference to this very Noble matter.

A. Yes, that is right.

Q. The Department had chosen to go into the Press before you did?

A. Yes.

AND further Deponent saith not.

(By Mr B.B.Ostler, Q.C.) I understand that my learned friend ^{friend} has about forty witnesses, whose names he is going to suggest to Your Honour as people who may know something about this matter, but that they are not here. Now, I do not understand that my learned friend has anybody else to suggest as being here present for examination. These witnesses, or most of them are at Little Current and in that vicinity on the North Shore, so I would ask what is going to be done.

(By His Honour Judge Johnston) Well, I will have to satisfy myself that they are proper witnesses, and if so they will be subpoenaed to attend before me. I would like to write to the Department to get the files myself, as they are very important.

(By Mr B.B.Ostler, Q.C.) Is Your Honour here to hear argument in this matter, or simply to report on the evidence.

(His Honour, Judge Johnston) I simply report the evidence as it stands.

(Mr B.B.Ostler, Q.C.) So there would not be the slightest use in my arguing my case. You do not propose to decide anything?

(His Honour, Judge Johnston) No, I do not. I submit the evidence to the Department and that is all.

(Mr B.B.Ostler Q.C.) Then, I understand your Honour has no more witnesses here that you can enquire of?

(His Honour Judge Johnston) Well, if they are not here I will adjourn.

(Mr B.B.Ostler, Q.C.) Of course I ought not to be called upon to give evidence in reply until all the evidence on these charges on the one side has been given.

(His Honour, Judge Johnston) That matter rests with yourself. If you like to call your witnesses I will hear them. I will not press you to do so.

(Mr B.B.Ostler, Q.C.) I would not like to call my witnesses until all the evidence on the part of the Crown is given. Your Honor does not receive argument. Does Your Honor propose to adjourn to see if there are any more witnesses to be subpoenaed.

(His Honour, The Judge) Yes.

(Mr B.B.Ostler, Q.C.) I would like it decided where you are going on. Mr McFadden states that he has a number of unsubpoened witnesses who may know something and who may not, and I cannot say that they should not be enquired of. I would ask that we should have a list furnished us of the names of all the witnesses intended to be subpoenaed, so that we may have some knowledge of the case we may have to meet. Anyone on trial in defence is entitled to know the names of the witnesses to be brought against him.

(His Honour, Judge Johnston) I suppose there is no objection to that, Mr McFadden?

(Mr M. McFadden) Oh no.

(Mr B.B.Ostler, Q.C.) There is another matter, that might save us trouble to have decided. We have witnesses from Killarney, and if Your Honour will rule upon it now, we shall know how we stand, and it may save

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expense in preparation or otherwise. We propose to give evidence to show the bias and unjudicial attitude of the Overseer Elliott towards our firm, and his threats and his easing off on one and persecuting another, and as to his unfair dealings; we propose to give evidence on that matter. Then, we propose also to give evidence on the ameliorating circumstances which arise from the nature of the Regulations, and the way the Regulations have been enforced for years.

We propose to show that we have not done more than what others have done and have been permitted to do for years, especially in the matter of going on fishing after paying the money and not receiving the Licence.

We are prepared to give evidence on those two points; but from something your Honour said yesterday I am in some doubts as to what your Honour's views are on the matter.

(By His Honour, Judge Johnston) Have you anything to say to that Mr McFadden?

(Mr M. McFadden) Under the Order in Council do you think that your Honour has power to take such evidence?

(His Honour Judge Johnston) I think I have power to take any evidence such as Mr Ostler speaks of.

(His Honour reads an extract from the Commission hereinbefore set forth, as to his power to receive evidence) I think I should be justified in taking that evidence and the other branch of the evidence mentioned by Mr Ostler.

— On the 3rd day of December 1896 I caused a letter of which the following is a copy to be forwarded to the Council for the Messrs Noble. —

" Sault Ste Marie
" 3rd December 1896

H. J. Osler Esq
Toronto

Re Nobles.

My Dear Sir

I had hopes that this matter was under a fair way for settlement and nothing was done until after Elections. My time was extended to 30th Oct and then to the 31st December, but as all the witnesses live around Killbuckey and Little Current and were away Fishing or Sailing I could do nothing until the close of Navigation, and now I cannot get at them until the ice forms and then not until the end of January, I could have the witnesses at Massey, would that suit you? I may say that I only received a copy of the Evidence last week, I will see Mr McFadden when I hear from you. I may say that I am anxious to "Have Commission Closed"

to which I received the following
reply —

" Toronto
10th Dec/96

His Honor
Judge Johnston
Sault Ste Marie Ont.

My Dear Sir

I must apologize for not having sooner answered your letter of the 3rd inst. I thought that I should consult my clients and I also hoped to have been able to peruse the text of the Supreme Court judgment in the Fisheries case which I thought might

possibly affect this matter, I have not yet seen these
 judgments but in any case it seems quite clear that
 the Nobles are entirely unable to stand the expense
 of a further hearing at Massey. This formed the sub-
 ject of considerable correspondence a couple of years
 ago when a similar proposal was made and as a
 result the proposal to hold an investigation at
 Massey was abandoned the Nobles taking the
 position that it would be unreasonable to compel
 them to attend an investigation at Massey as it
 would involve great expense which they could
 in no event recover. It is now not so much a ques-
 tion of what would be reasonable, or not as viability
 on their part to find the necessary funds. —

"Yours truly H. J. Osler"

— I again wrote them on the 15th Dec^r/96
 a letter of which the following is a copy. —

"Saulx Ste Marie
 15th December 1896

"H. J. Osler Esq
 Toronto"

"Re Nobles. Dear Sir

"The time for making
 report in this matter is the 31st inst. I am apply-
 ing to have same enlarged until 31st March next
 and will proceed to take further evidence about
 the end of January. I will have witnesses
 summoned to attend at Massey Station on
 C.P. Ry and will give you ample time to pre-
 pare. I will also send you a list of the wit-
 nesses that will be subpoenaed, I think it would
 be best for you to urge the Department to pond
 up such files as you may require. They can be
 sent to me and I will have them at the hearing
 I suggest your asking as you have gone over them
 and know what you require."

"I received your letter in reply and think it
 "the only way that I can proceed to close the Commission
 "I have advised Mr Wadden as to proceeding —

Yours truly"

— And at the same time notified the
 Government Counsel to be prepared to proceed as follows

" Sault St^e Marie

" 15th Decr /96

" M. W. Fadden Esq

" Town.

Re Nobles

" In this matter I am applying to have
 "the time for closing Commission extended to the
 "31st March next and propose to have any witnesses
 "you may call examined at Massey on the C.P.Ry
 "about the end of January next.

" In pursuance of the understanding
 "with Mr Osler will you give me a list of the
 "witnesses you will call so that I can forward
 "them to him, or will you kindly do so in time
 "for him to look them over before the hearing. —

Yours truly"

— And at the same time notified your
 Department asking to have the time for making
 my report extended of which the following is a
 copy —

" Sault St^e Marie

" 15th December /96

" The Deputy Minister

" of Marine and Fisheries

" Ottawa

" Re Nobles
 " No 1196

Dear Sir

" As the time
 "for making report herein expires
 "on the 31st inst and according to my letter to
 "you of date 31st Oct^r last there will not be time for
 "me to go into further evidence I would ask to have

" The time extended to the end of March next so that
 " we can get the witnesses from Kellamney and other points
 " to attend at Massey on the C.P. Ry to be examined, I have
 " to day notified Mr Osler for the Nobles and Mr Madden
 " for the Department that they must be ready about the
 " end of January next to go on —

" Yours truly —"

— That on the 17th day of December 1896 I
 received from the Counsel of the Nobles a letter of
 which the following is a copy. —

" Toronto

" 17th Decr / '96

" His Honor

" Judge Johnston

" Sault Ste Marie, Ont.

" Dear Sir

Re I & Co Noble.

" I am duly in receipt of your letter
 " of the 15th inst. The case that was made on the part
 " of the Fishery Overseer was given at Collingwood
 " and I do not understand that there is any right
 " to take further evidence in the matter unless the
 " Nobles should see fit to appear and offer further
 " evidence themselves - I therefore protest against
 " any such course being taken as is indicated in
 " your letter. Nothing could possibly be more unfair
 " or unjust as regards the Nobles. They have already
 " been put to thousands of dollars of expense which
 " they cannot possibly recover, and the Department
 " upon a previous occasion, decided that it would
 " be unfair to put them to the expense of bringing
 " witnesses to the line of the C.P. Ry in mid-winter. —

" Yours truly

" H. J. Osler"

— And on the 31st day of December 1896
 I received a telegram from the Deputy Minister
 of

Fishes as follows. —

" Ottawa

" 31st December 1896

" To Judge F.W. Johnston

" Nobles Counsel strongly

" oppose extension of Commission, Minister decides

" no extension — ^{sa} F. Gourdeau

" Depy, Minister's

— since then nothing has been done by

me —

I have therefore the honor to report to you the foregoing proceedings without any findings. —

Respectfully Yours

Fred. W. Johnston
Commissioner

Sault-St^e Marie —

First day of March 1897. —