

IN THE MATTER of the Petition of Right of

1907
June 20.

JOSEPH E. SNOW.....SUPPLIANT;

AND

HIS MAJESTY THE KING.....RESPONDENT.

*Fishery bounty—R. S. 1906, c. 46—Regulations of December 10th, 1897—
Fisherman required to serve three months on fishing vessel.*

To entitle a fishing vessel to bounty under the regulations of December 10th, 1897, the fishermen employed on board of her must serve the full time of three months on such vessel during the season; service for such time partly on one vessel and partly on another will not suffice.

PETITION OF RIGHT for a fishing bounty under R. S. 1906, c. 46.

The facts are stated in the reasons for judgment.

January 18th, 1907.

The case was heard at Halifax, N.S.

R. G. Monroe for the suppliant;

R. T. MacIlreith for the respondent.

THE JUDGE OF THE EXCHEQUER COURT now (June 20th, 1907) delivered judgment.

The suppliant brings his petition to recover from the respondent the sum of one hundred and twenty-nine dollars and sixty-four cents, which he alleges that he is entitled to for fishing bounties earned in the year 1904 by the fishing vessels *Earnest F. Norwood* and *W. Parnell O'Hara*. The payment of these bounties is regulated by an order of His Excellency in Council passed on the 10th day of December, 1897, and published in the Canada Gazette on the 1st day of January, 1898. By the 14th

paragraph of the regulations thereby prescribed it is provided as follows:—

“ Any person or persons detected making returns that are false or fraudulent in any particular will be debarred from any further participation in the bounty and be prosecuted according to the utmost rigour of the law.”

In his statement of claim for fishing bounty alleged to have been earned in the year 1894 by the fishing vessel *Ernest F. Norwood*, the suppliant inserted, among others, the name of one Alfred Cossaboom as a fisherman employed on board the said vessel; and in the affidavit appended to such statement he deposed that it was true and correct in all particulars; that each fisherman whose name was entered in this claim was of the full age of fourteen years; that he fished three full months in the aforementioned vessel and had caught at least 2,500 pounds of sea fish. As a matter of fact the statement of claim is not true and correct in respect of the time that Cossaboom fished on the said vessel, and the Crown, among other things, relies upon the making of this false allegation as a defence to the petition. It is not denied that the allegation that Cossaboom “fished three full months in the aforementioned vessel” is false, and that the suppliant knew that it was false when he made it. It is said, however, that Cossaboom had during the season of 1904 fished long enough although he had not fished long enough on board the fishing vessel *Ernest F. Norwood* to earn it; and that the suppliant had included his name in the statement of claim referred to at the instance of the fishery officer who made out the claim for the suppliant. That is unfortunate for the latter, but it does not help his case. If the fishery officer advised what he is alleged to have advised, he did wrong, but that does not excuse the suppliant who made the false allegation; and the Crown is not bound by the

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action of its officer in that respect ; and its defence is not thereby in any way prejudiced.

There will be a declaration that the suppliant is not entitled to any portion of the relief sought by his petition.

The costs will, as usual, follow the event.

Judgment accordingly.

Solicitor for suppliant : *R. G. Munroe.*

Solicitor for respondent : *R. T. MacIlreith.*
