

To the Honourable J.D.Hazen, K.C.,
 Minister of Marine & Fisheries,

Sir:-

Your Commissioner appointed by Commission dated the 20th, day of September A.D. 1912, to investigate into the charge that Mr. Frederick Butler, Masquash, New Brunswick, who holds a license issued by your Department to build and operate a herring weir at that place, known as the Masquash Head weir, is not the real owner of the weir; but that such weir is owned and operated for the benefit of his brother, Mr. John Butler, of Eastport, Maine, who is a United States citizen, begs leave to report as follows:-

Your Commissioner named October the 8th, A.D. 1912, at two o'clock in the afternoon at Dean's Hall, Masquash, in the County of St. John, as the time and place for the opening of the investigation, and subpoenas were issued for Frederick Butler, John Butler and Robert Rose, commanding them to appear at the time and place above mentioned.

The investigation was duly opened and commenced at the aforesaid time and place.

Frederick Butler and Robert Rose were present. The constable, Mr. James Davidson, reported that he was unable to find Mr. John Butler, who he was creditably ^{informed} was at Eastport, Maine.

Your Commissioner examined Mr. Robert Rose, Mr. Frederick Butler and W.J. Dean at the sitting.

The investigation was then adjourned.

Your Commissioner then engaged the services of L.H. Newcomb, Esq., Attorney at Law, Eastport, Maine, to search the Naturalization Records of the County of Washington, Maine, to ascertain if Mr. John Butler had become ~~and~~ a United States citizen.

Mr. Newcomb has furnished me with a Certificate from Mr. G.G. Freeman, Clerk of the Judicial Courts for the County of Washington,

dated Machais October 22nd, A.D. 1912, to the effect that John Butler, of Eastport, Maine, before the Justices of the Supreme Judicial Court holden at Calais within and for the said County of Washington, on the fourth ^{day} of April A.D. 1903, and on the seventh day of the term, being the fifth day of May, was duly admitted a citizen of the United States of America.

Your Commissioner offers the above mentioned Certificate as evidence, and has marked it exhibit "C".

A copy of the evidence with the exhibits is herewith submitted for your consideration.

The evidence discloses the facts that Robert Rose now owns one third of the weir, having paid Frederick Butler the sum of \$100 for the same on the fourth day of September last past, and that Frederick Butler owns the other two thirds, which share has been built and operated by his brother, John Butler, who is proven to be a citizen of the United States.

The statutory declaration made by Frederick Butler, at the time he applied for the license, was false and in violation of the Order in Council of the 6th, day of April 1908. From his own testimony you will see that the declaration set forth that he alone was to own and operate the weir and that none who were not British subjects would own or operate the weir, while he now swears that John Butler, as a United States citizen, operated the weir and had one third of the proceeds.

I have offered a copy of the aforesaid Order in Council as evidence, marked exhibit "A".

Comment on the testimony is unnecessary; it being admitted by Frederick Butler himself that John Butler built and operated the weir for one third of the proceeds derived from the sale of fish taken from the weir; therefore, Frederick Butler procured the license by making a false declaration and has had the

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in violation of the Regulations governing the operation of such weirs, by allowing a United States citizen to do the building and operating of the said weir.

Mr. John Butler moved from Musquash, New Brunswick, to Eastport, Maine, at least, ten years ago, and on the 5th, of May 1923 ceased to be a British subject. Since that time he has for a number of years been Captain of different American boats plying between Eastport, Maine, and the sardine weirs of New Brunswick; Frederick Butler admitted this in his testimony. Therefore, John Butler has no right to own in a Canadian weir license, which must be preserved for our own fishermen. Of course, ignorance of the law excuses no one, but Frederick Butler was undoubtedly aware that his brother was a United States citizen, from the fact of his going master of American vessels and boats.

The sum paid by Robert Rose (\$100) for a third of the weir does not mean that he paid that amount for an interest in the license only. But an interest in the material as well, which would include the stakes, brush, netting to enclose the structure, seine, etc. No doubt, the material is worth what he paid for his share. Rose admitted when questioned by the Complainant, Mr. W. J. Dean, that he was aware that there was some difficulty over this license when he bought the share; therefore, I take it that he paid the amount he considered one third of the material in the weir was worth. I have made this explanation to show you that if your Department should cancel the license, and permit them to remove the materials, Robert Rose, even though he did not go into the matter blind fold, will not lose the amount he paid for his share. Of course, he has had his proportional part of the earnings of the weir.

As the case against Frederick Butler has been proven, I recommend that the license for the Musquash Head weir be revoked.

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take away the structure, and if he fails to do, that it be destroyed
the officers of your Department.

All of which is respectfully submitted for your
consideration.

Dated 28th, day of October 1912

J. F. Calder
Commissioner