

**CASE NO.**

**VOL. NO.**

**PAGE**

**HER MAJESTY THE QUEEN**  
[appellant]

- and -

**DOUGLAS V. RAYNER**  
[respondent]

**CAC162993**

Halifax, N.S.

**SAUNDERS, J.A.**

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[Cite as: *R. v. Rayner, 2000 NSCA 143*]

**APPEAL HEARD:**

September 26, 2000

**JUDGMENT DELIVERED:**

December 12, 2000

**SUBJECT:**      **Expert Evidence**

**SUMMARY:**      The accused, an experienced lobster fisherman, was charged with unlawfully possessing female crab, contrary to s. 53(a) of the **Atlantic Fishery Regulations**, 1995, S.O.R. 86-21 and the **Fisheries act**, R.S.C. 1985, c. F-14. He was acquitted in the Nova Scotia Provincial Court because the trial judge was not satisfied that the two fishery officers had sufficient expertise to prove the gender of the crabs beyond a reasonable doubt. The Crown appealed pursuant to s. 830 of the **Criminal Code**.

**RESULT:**      Appeal allowed and new trial ordered before a differently-constituted Provincial Court. By insisting that there be “scientific evidence”, the trial judge erred in law in misconstruing the requirements for opinion evidence, thereby failing to give proper consideration to the testimony of the two fishery officers.

**This information sheet does not form part of the court’s judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 18 pages.**