BETWEEN:

1953
Dec. 14, 15, 16 & 17
1954
Mar. 17

HER MAJESTY THE QUEEN .....PLAINTIFF;

AND

UNIVERSAL FUR DRESSERS AND DYERS LIMITED .....} DEFENDANT.

Revenue—Excise tax—The Excise Tax Act, R.S.C. 1927, c. 179 as amended, s. 80A(1)—"Furs"—"Mouton"—Sheepskins—Whether process followed in producing "mouton" is dressing and dyeing furs or dyeing furs under s. 80A(1) of the Excise Tax Act—Whether "furs" include "mouton"—Words of a statute not applied to any particular art or science to be construed as they are understood in common language—Primary meaning attributed to "furs" in definitions found in recognized dictionaries—Meaning attributed to furs by those conversant with the trade.

S. 80A(1) of the Excise Tax Act, R.S.C. 1927, c. 179, as amended, is in part as follows:

80A. 1. There shall be imposed, levied and collected, an excise tax equal to fifteen per cent of the current market value of all dressed furs, dyed furs and dressed and dyed furs,—

(i) imported into Canada, payable by the importer or transferee of such goods before they are removed from the custody of the proper customs officer; or

(ii) dressed, dyed, or dressed and dyed in Canada, payable by the dresser or dyer at the time of delivery by him.

Defendant carries on business in Canada of purchasing sheepskins and processing them into "mouton". In defence to an action by the Crown to recover excise tax from defendant under the section the defendant answers that it purchased sheepskins, not furs; that "mouton", which it sells, is not within the term "furs"; that the process it followed in the production of "mouton" was neither the dressing and dyeing of furs nor the dyeing of furs; and that "furs" do not include "mouton". On the evidence the Court found that "mouton" of the type which defendant delivered was (*a*) advertised as a fur; (*b*) treated in trade publications as a fur; (*c*) purchased by the public as a fur; (*d*) considered by salesmen dealing with customers in retail stores as a fur; (*e*) considered as a fur in the fur storage business; (*f*) sold in garments by fur retailers, in fur departments and departmental stores, and in exclusive fur shops, as fur.

Held: That the words of the Excise Tax Act are not applied to a particular science or art and are therefore to be construed as they are understood in common language. *Milne-Bingham Printing Co. Ltd.* v. *The King* [1930] S.C.R. 282, 283; *The King* v. *Montreal Stock Exchange* [1935] S.C.R. 614, 616; *Attorney-General* v. *Bailey* (1847) 1 Ex. 281; *Attorney-General of Ontario* v. *Mercer* (1882) 8 A.C. 767, 778 and *The King* v. *Planters Nut and Chocolate Co. Ltd.* [1952] Ex. C.R. 91 referred to and followed.

2. That the primary meaning attributed for "furs" in the definitions found in some of the recognized dictionaries is the coat of certain animals—that is, the skin with the hair intact—which is used for trimming or lining garments.

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3. That to those conversant with the buying and selling and advertising of fur garments, the word "furs" would be construed so as to include "mouton".

4. That plaintiff has established all the necessary facts to render defendant liable under s. 80A(1) of the Excise Tax Act, R.S.C. 1927, c. 179 as amended.

INFORMATION exhibited by the Deputy Attorney General of Canada to recover excise tax from the defendant.

The action was heard before the Honourable Mr. Justice Cameron at Ottawa.

W. R. Jackett, Q.C. and *K. E. Eaton* for plaintiff.

J. J. Spector, Q.C. and *H. J. Plaxton* for defendant.

The facts and questions of law raised are stated in the reasons for judgment.

CAMERON J. now (March 17, 1954) delivered the following judgment:

This is an Information exhibited by the Deputy Attorney General of Canada in which the Crown claims payment of excise tax from the defendant under the provisions of s. 80A of the Excise Tax Act, R.S.C. 1927, c. 179, as amended, together with certain penalties. That section is in part as follows:

> 80A. 1. There shall be imposed, levied and collected, an excise tax equal to fifteen per cent of the current market value of all dressed furs, dyed furs and dressed and dyed furs,—
>
> (i) imported into Canada, payable by the importer or transferee of such goods before they are removed from the custody of the proper customs officer; or
>
> (ii) dressed, dyed, or dressed and dyed in Canada, payable by the dresser or dyer at the time of delivery by him.

The Information alleges that the defendant was a dresser and dyer of furs and upon delivery by it of such goods was liable for the tax imposed by that section; that during the period from February 2, 1953, to February 6, 1953, it delivered, dressed and dyed, furs that were dressed and dyed by it in Canada; and, alternatively, that during the said period it delivered dyed furs that were dyed by it in Canada.

The defendant is a corporation carrying on business in Canada and having its head office at Toronto. It was incorporated in 1938 and for a few years carried on the business of dressing and dyeing furs exclusively. About 1941

as a sideline, it began to purchase certain sheepskins and to process them into "mouton". Since 1947 its operations have been confined exclusively to the latter.

This is a test case. The defendant prior to February 2, 1953, was required to and did pay excise tax on "mouton" and I gather from the evidence that all companies carrying on similar operations have at all times paid that tax. The Regulations under the Act, dated October, 1951, required dressers and dyers of sheepskin shearlings to account for the excise tax on certain of such shearlings in accordance with the departmental unnumbered circular dated August 27, 1951. Briefly, the defence is that the defendant purchased sheepskins, not furs; that "mouton", which it sells, is not within the term "furs"; and that in any event the process which it followed in the production of "mouton" was neither the dressing and dyeing of furs nor the dyeing of furs. "Furs" it says, do not include "mouton".

It becomes necessary, therefore, to set out in some detail the nature of the defendant's operations. It was known that lambs of the Merino strain after their first shearing (called "shearlings") had certain fur fibre-like characteristics and that, when processed and "plasticized" to resist rain for better wear, these "shearlings" could be dyed to simulate beaver, nutria or seal. The defendant purchased Grade One Merino Shearlings in carload lots, usually from meat packers and wool pullers, the greatest proportion being purchased in the United States and only a very few in Canada. Ex. 1 is a sample of raw sheepskins so purchased by the defendant. It is first scoured and then tanned; then the fibres are ironed or electrified at a high temperature and then subjected to plasticising. Plasticizing consists of coating the fibres with formaldehyde resin and baking them at a high temperature, the operation being designed to give the fibres rigidity so that when the sheepskin has been further processed it retains its smooth surface for some time, the straightness of the fibres being maintained. Then the skins are given the colour desired by dyeing and after a further ironing, the product is ready for sale and is called "mouton"—the French equivalent of "sheep"

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When sold it is used for making ladies' coats, for trimming station wagon coats and other coats or jackets, for trimming gloves, overshoes and the like. Its uses, therefore, parallel the uses of "furs" as that term is ordinarily understood. The defendant sells it to manufacturers "by the foot", his sale price being substantially less than for the "furs" which it is designed to simulate. Sheepskins are not sold at the regular fur auction sales which are conducted annually at various points in Canada.

Counsel for the defendant submits that in order to bring his client within the liability imposed by s. 80A, the Crown must establish that what it did was to dress, or dye, or dress and dye, a fur, and he argues, therefore, that the first and main question for determination is this—Is a sheepskin (or the Merino type shearling which his client bought) a fur? He contends, of course, that no one would consider what he calls "a barnyard sheepskin" to be a fur.

In my view, however, that is not the question to be answered. It is rather this. Was that which the defendant delivered ("mouton")—a dyed fur or a dressed and dyed fur?

The word "furs" is not defined in the Excise Tax Act, nor (so far as I am aware) in any other Act in *pari materia*. The words of that Act are not applied to a particular science or art and in my opinion are therefore to be construed as they are understood in common language.

In Craies on Statute Law, 4th Ed., p. 151, reference is made to the judgment of Lord Tenterden in *Att.-Gen.* v. *Winstanley* (1), in which at p. 310 he said that "the words of an Act of Parliament which are not applied to any particular science or art are to be construed as they are understood in common language." The author referred also to *Grenfell* v. *I. R. C.* (2), in which Pollock, B. stated that if a statute contains language which is capable of being construed in a popular sense, "such a statute is not to be construed according to the strict or technical meaning of the language contained in it, but is to be construed in its popular sense, meaning, of course, by the words 'popular sense', that sense which people conversant with the subject-matter with which the statute is dealing would attribute to it."

(1) (1831) 2 D. & Cl. 302. (2) (1876) 1 Ex. D. 242, 248.

Reference may also be made to *Milne-Bingham Printing Co. Ltd.* v. *The King* (1), in which Duff, J. (as he then was) when considering the meaning of the word "magazines" as contained in the Special War Revenue Act, 1915, said: "The word 'magazine' in the exception under consideration is used in its ordinary sense, and must be construed and applied in that sense." In *The King* v. *Montreal Stock Exchange* (2), a case involving the interpretation of the word "newspapers" as used in Schedule III of the Special War Revenue Act, Kerwin, J. said: "In the instant case, the word under discussion is not defined in any statute in *pari materia* and it remains only to give to it the ordinary meaning that it usually bears." He then referred to the definition of the word as contained in Webster's New International Dictionary.

Again, in *Att.-Gen.* v. *Bailey* (3) it was held that the word "spirits", being "a word of known import . . . is used in the Excise Acts in the sense in which it is ordinarily understood".

Further reference may be made to *Attorney-General of Ontario* v. *Mercer* (4) and to *King* v. *Planters Nut and Chocolate Company Ltd.* (5), in the latter of which cases I had to consider the meaning to be attriubted to the word "shortening" as found in Schedule III of the Excise Tax Act.

Before considering the meaning attributed to "furs" by those conversant with the trade, I think it advisable to refer to the definitions found in some of the recognized dictionaries. Many of the definitions relate to matters which are not here relevant and need not be mentioned.

Shorter Oxford English Dictionary

1. A trimming or lining for a garment, made of the dressed coat of certain animals; hence, the coat of such animals as material for such use. Also, a garment made of, or trimmed or lined with, this material; now chiefly pl.

2. Short, fine, soft hair of the sable, ermine, beaver, otter, bear, etc. Growing thick upon the skin, and distinguished from the ordinary hair.

Webster's New International Dictionary, 2nd Ed., p. 1020

Fur is a strip or piece of the dressed pelt of any of certain animals, as a sable, ermine, or furry seal, or one or more of such pelts, worn as a trimming or lining to a garment for warmth or ornament, or as a mark of office or state, or badge of certain university degree; hence, such a dressed pelt or pelts as a material for trimmings, linings or garments.

(1) [1930] S.C.R. 282, 283.
(2) [1935] S.C.R. 614, 616.
(3) (1847) 1 Ex. 281.
(4) (1882) 8 A.C. 767 at 778.
(5) [1952] Ex. C.R. 91.

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Funk & Wagnall's New Standard Dictionary of the English Language 1945, p. 993

1. The short, soft fine coat thinly covering the skin of many mammals distinguished from hair and there it is the coat itself. Fur is a superior non-conductor of heat, resists water, and is most perfect on certain aquatic and Arctic carnivores.

2. Skins of fur bearing animals, peltry. The natural supply of furs is drawn from the Carnivora, Ungulata, Rodentia and Marsupialia, of which the more common varieties are the badger, used for carriage rugs and the British trade.

Encyclopaedia Britannica, 1952, Vol. 9

P. 935. The covering of the skin in certain animals lying alongside another covering called the overhair, or guard hair. The fur is barbed lengthwise and is soft, silky, downy and inclined to curl. On the living animal the over hair keeps the fur filaments apart, prevents their tendency to mat or felt, and protects them from injury, thus securing to the animal an immunity from cold and storm.

P. 938. The classification of animals as fur bearing and non fur bearing has always been arbitrary and with the refinement of modern methods of manipulation of skins the terms are becoming very elastic. Roughly speaking, the term 'fur' is applied to skins which have a deep coating of hair, a layer of comparatively short, soft, curly, barbed hairs next to the skin, protected by longer, smoother and stiffer hairs which grow up through these and are known as guard hair or over hair.

The greater number of species of fur bearing animals belong to the Carnivora, Rodentia, Ungulata and Marsupialia. The Ungulata provide antelopes, goats, ponies and sheep.

Then in *Corpus Juris Secundum,* Vol. 37, p. 1407, the following appears:

Fur. (English) The soft, silky, curly, downy and longitudinally barbed filament, which, mixed with a hair that is straight and smooth; and comparatively long, coarse and rigid, constitutes the pelage of certain animals native to the colder climes. The term is usually reserved for the short, fine hair of certain animals whose skins are largely used for clothing, yet, in a commercial sense, it has been regarded as including other skins, more properly designated by the term 'peltry', and as including, in that sense, the covering of all animals whose skin is used either for warmth or ornament, with the hair on.

For the purposes of this case, I think I may discard the definitions which refer to the hair of certain animals, it being obvious that the hair by itself would not be subjected to dressing and/or dyeing or be converted into garments. Likewise, I think I may discard the definitions which refer to garments made out of or trimmed with fur. In my opinion, the primary meaning which is to be found in these definitions is the coat of certain animals—that is, the skin with the hair intact—which is used for trimming or lining garments. It will be noted, also, that in Funk & Wagnall's

Dictionary the animals included in the Ungulata species are considered as fur-bearing animals and that the Encyclopaedia Britannica states that Ungulata includes antelopes, goats, ponies and sheep. It will be noted, also, that the article extracted from *Corpus Juris* states that in a commercial sense the word "furs" includes "the covering of all animals whose skin is used either for warmth or ornament, with the hair on."

I turn now to consider the evidence as to the manner in which "mouton" is viewed in the trade. The only oral evidence introduced by the plaintiff was that of W. E. Shepherd, Manager of the Fur Department in Robert Simpson's Company at Toronto, a position which he has held for seventeen years. He is also the buyer for that department, is in charge of fur storage and the fur factory, as well as the retail outlets, and is a group buyer of furs for the entire company. His department employs about 125 people and Simpson's is one of the largest fur retailers in Toronto. For many years that company has sold "mouton" garments in large numbers. So far as he knew, "mouton" was sold exclusively in the fur departments of department stores and in fur retail stores. In his opinion, a shearling of the Merino type is a fur bearing animal.

Asked to state from his experience whether "mouton" was regarded as a fur in the trade, Mr. Shepherd said:

> Yes, I would definitely say that it is. It is sold by fur manufacturers whom we buy from. It is dressed and dyed by fur dressers and dyers. It is exhibited in our store as other stores as a fur and operated on as such, being sold in fur departments and to our customers we present it as a fur coat having purchased it as a fur from a manufacturer who in turn has had it processed by a fur buyer and therefore we consider it a fur coat because of the fact that it is processed along that line and identified in all departments as a fur.

He added, also, that customers regarded a "mouton" coat as a fur coat, that fur manufacturers and buyers looked upon "mouton" as a fur, that it is sold in fur fashion shows, including those at his own store and that in the fur storage business (including that of Simpson's) "mouton" coats are accepted as fur coats. In his own store "mouton" coats are sold in the fur department as a fur coat.

Mr. Shepherd was asked to express an opinion as to his views on certain passages in "Pictorial Encyclopaedia of Furs" by Arthur Samet. He considered the author to be

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one of the outstanding authorities on fur in North America, that he used this book frequently and that it was used in all of Simpson's many branches. He fully agreed with the following statements in that text:

> In a commercial sense, this is true, for an animal's skin with the hair intact and used in our fur trade is called a 'fur'. Yet not all commercial fur bearers have real fur and the monkey is one of them.
>
> P. 477. 'Dressing'. The process of converting the fur skin from the raw state in order to preserve the skin and bring out a natural gloss and beauty of the hair and give the pelt a softness, pliability and feel.
>
> P. 447. 'Fur fibre'. The true fur. Soft interlocking downy fibres that act as a blockade preventing the chill from entering the body of the animal. Also called wool hair, ground, under ground, under hair and under fur.
>
> P. 448. 'Tanning'. A process of converting the skin of an animal into leather.

The witness also agreed with the author, who, in the "Scheme of Animal Classifications" at p. 451, included "mouton" as one of the hoofed animals (Ungulata), and in the alphabetical list of fur bearers, included "lamb". I may add, also, that in the List "Persian" is included under the general heading "Lamb".

In cross-examination the witness stated that he agreed with a statement of Samet at p. 92 that "When processed and 'plasticized' to resist rain for better wear, this shearling (i.e. of the Merino type) could be dyed to simulate beaver, nutria or seal." While agreeing that "simulate" might mean "imitate", he explained that the practice of processing known furs to imitate other furs was well known in the trade and he referred to muskrats which could be dyed to represent Alaska Seal and is called a Hudson Seal; and also to rabbits which can be made to look like Lapins, Beaver or Hudson Seal. He said that "mouton" was a genuine fur and not an imitation.

The plaintiff also filed a large number of advertisements in the daily papers, published in many of the larger cities in Canada by leading department stores and by retailers dealing exclusively in furs (Exhibits G1 to G17). I shall refer specifically to but a few of them. Ex. G1 is an advertisement by Hudson's Bay Company in Calgary and is headed "New Water Repellant Moutonia" . . . "The Amazing New Processed Fur by Universal Dressers and Dyers" (the defendant company). Many of these advertisements include "mouton" or "mouton lamb" under the

general heading of "Furs". "Mouton" is referred to as "The hard-wearing young flattering fur", "Perfect coats in the hard-wearing fur", "Lustrous furs", "Beautifully matched skins of the ever popular furs", "Mouton is a fur that will give satisfactory wear".

Ex. H includes the 1953 catalogues of Eaton's and Simpson Sears. Therein "mouton" is described as "A good wearing fur", "A deep thick pile fur"; and under the heading "The gift of a fur coat". Throughout these catalogues, "mouton" coats appear in conjunction with other varieties of fur coats.

Exhibits I-1 to I-7 are trade publications such as Fur Age Weekly, Women's Wear Daily, Canadian Fur Review and Tescan Fur and Fashion Review. In all these publications, "mouton" (or its trade name "moutonia") is treated and advertised as a fur.

Counsel for the defendant had agreed that he would not require formal proof of the publication of Exhibits G, H and I. At the trial, however, he submitted that they were inadmissible on the ground of irrelevancy, that they were not connected in any way with the defendant who should not, therefore, be affected by them in any manner. I have reached the conclusion, however, that they are admissible as evidence—and perhaps the best evidence—of the manner in which those engaged in the buying and selling of furs and of "mouton" actually regarded the latter.

It is of some interest, to note how Mr. Moskoff—President of the defendant corporation—viewed its product prior to the commencement of these proceedings. Ex. L is a copy of a letter dated May 22, 1952, from the defendant company (and written by Mr. Moskoff) to H. M. Short of the Hudson's Bay Company at Winnipeg. The opening sentence is—"Enclosed you will find commercial copy for your forthcoming 'Moutonia' demonstration." The copy attached refers to "Lovely to look at fur—a fur they now call Moutonia", "I urge all my listeners to visit the fur salon of the Hudson's Bay Company", "In my estimation and the estimation of the leading fur stylists, Moutonia is the greatest step in scientific approach the fur industry has ever seen."

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Ex. K is an article in the Financial Post of June 22, 1946, written by one Dack from material supplied by Mr. Moskoff. Among other things it says "Three or four years ago there wasn't a mouton fur coat in captivity. Now mouton is offering the customers fur coats at . . ." "Mouton has made 'fur coats for all' a real possibility". "The mouton coat is more desirable than most other fur coats, Mr. Moskoff says."

Counsel for the defendant made much of the fact that in the advertisement of "mouton" and in the labels of "mouton" garments in retail stores, it was described as "sheared, processed lamb". I do not think that that fact leads to the inference that "mouton" was not considered to be a fur by dealers. In so describing it, dealers were complying with the provisions of P.C. 2336 of May 16, 1951, "Regulations respecting the labelling of fur garments", under the National Trade Mark and True Labelling Act. In these Regulations "fur" means "the skin of any animal whether furbearing, hair-bearing or wool-bearing, that is not in the unhaired condition". Every dealer in fur garments is required to use descriptive labels which bear the true fur name for the fur in the garment as set forth in the schedule. That schedule requires that the fur trade names of Alaskan Mouton, American Broadtail, Laskin Beaver, Laskin Mouton and Lincoln Lamb shall bear the true fur name of "sheared, processed lamb". The true fur name of "dyed rabbit" must be applied to very many fur trade names such as Baltic Seal, Baby Beaver and the like. I have mentioned this matter solely for the purpose of indicating that in my view "mouton" was described as "sheared, processed lamb" in order to comply with the regulations and not for the purpose of indicating that in the minds of the dealers it was not considered a fur.

Evidence was given on behalf of the defendant by a number of witnesses of long experience and prominent in the fur business in Canada. While they were not allowed to say that "mouton" was not a fur within the meaning to be attributed to "furs" in the Act—that being the very question which I have to decide—it is abundantly clear that they did not regard it as such. They distinguished it from "furs" on a number of grounds. They said it was not from a fur bearing animal but rather a wool bearing animal; that

almost invariably fur bearing animals have two types of hair, the undergrowth and the longer guard hair, while the sheep has no guard hair; that the fur bearing animals generally have but one layer of skin while the sheep has two layers; that in general furs are animals that can be sold in or close to their natural state and can be made into attractive garments; that the processing of "mouton" is not the same as the dressing of furs; that the shearling is processed to look like fur, is a camouflaged fur but not a genuine fur.

It is significant to note, however, that of these witnesses, all but one sold "mouton" garments in their fur shops or fur departments. Mr. Alexandor, who for many years has conducted a large and exclusive fur shop in Montreal, admitted that in his business *as a furrier* he had for eighteen years sold "mouton" coats. Mr. Wexler, a retail furrier in Ottawa, included "mouton" in his fur advertising. Mr. Dodman, Supervisor of Furs for Henry Morgan & Company, stated that in their stores "mouton" garments were sold both in the fur departments and in the budget shops where lower-priced garments were sold. Ex. G13 is an advertisement of that firm, the general heading being "Morgan Budget Summer Fur Sale Continues", and a "mouton" coat (dyed and processed lamb) is described as "a summer budget fur feature"—along with Persian Lamb and muskrat. He said that the Better Business Bureau, of which he has been president for many years, does not regard it as unethical to sell "mouton" in fur stores. Mr. Dodman was also asked to comment on the extract from "Samet"—"In a commercial sense this is true, for an animal's skin with the hair intact and used in our fur trade is called 'fur' ", and to the question, "Is that true in your experience?", he replied, "Usually, yes." Mr. Samuel Silver is president of Samuel Silver Co. Ltd. of Montreal and for many years has been a furrier. He has not sold garments made of "mouton", being of the opinion that they are not genuine furs but substitutes for fur. He has no knowledge of the practice in any store other than his own.

It is of great importance to note that while these witnesses for the defendant were all of the opinion that "mouton" was not a fur because it was a skin of a wool bearing and not of a fur bearing animal, they were all in

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complete agreement with the plaintiff's evidence that Persian Lamb has always been regarded in Canada as a proper, genuine fur and all the witnesses who were dealers considered it as such and sold it as a fur. Now Persian Lamb fur is the pelt of a young Caracul lamb, killed almost immediately after birth. It has then the special qualities which make it desirable; but if the lamb is allowed to age its tight curls are lost and it becomes just another sheep, the hide then being unsuitable as Persian Lamb. None of the witnesses for the defendant could give me any valid or satisfactory reason for including Persian Lamb in the category of "furs" and excluding "mouton"—which is also the pelt of a young lamb of the Merino type—from that category. All they could and did say was that Persian Lamb had particularly desirable qualities and has always been considered to be a fur.

I have no reason whatever to question the honesty or sincerity of any of the witnesses. In the light of the documentary and oral evidence relating to the actual manner in which "mouton" is considered in the trade, I have no hesitation, however, in preferring the conclusions of the witness Shepherd to those of the defendant's witnesses. I think that the views of the defendant's witnesses, while erroneous, are easily understood. "Mouton" is a comparative newcomer to the fur trade in Canada. It is known that it comes from a young sheep; the best known product of a sheep is its wool and therefore to many individuals the sheep is a wool bearing animal and therefore not included in the category of fur bearing animals and so is not a fur. To some of them, at least, the "mouton" derived from the humble lamb is a parvenu. In my opinion, the Merino lamb, which later by processing becomes known as "mouton", may be regarded both as a "wool bearing animal" and a "fur bearing animal". It has wool which may be clipped from time to time during its lifetime. It also has a pelt, which, with the hair intact may, by processing, become "mouton" and be used in garments precisely the same as other furs.

It has been established to my satisfaction that "mouton" of the same type as that which the defendant delivered during the period mentioned, was (*a*) advertised as a fur; (*b*) treated in trade publications as a fur; (*c*) purchased by the public as a fur; (*d*) considered by salesmen dealing

with customers in retail stores as a fur; (*e*) considered as a fur in the fur storage business; (*f*) sold in garments by fur retailers, in fur departments and departmental stores, and in exclusive fur shops, as fur.

In my view, therefore, it has been clearly shown that to those conversant with the buying and selling and advertising of fur garments, the word "furs" would be construed so as to include "mouton". As I have mentioned above, "mouton" also falls within the dictionary definition of furs which I have adopted. The defendant has also admitted that the "mouton" which it delivered was dyed by it in Canada. There being no dispute as to the amount of tax involved, the plaintiff has established all the necessary facts to render the defendant liable under s. 80A of the Act.

In view of these findings, it is not necessary, perhaps, to discuss the question as to whether the "mouton" delivered by the defendant was also "dressed and dyed" by it. There was considerable evidence by the defendant that the process of preparing "mouton" from shearlings is different in many respects from that of "dressing" other furs. Plasticising is usually confined to operations such as those of the defendant. On the other hand, there was evidence that even the defendant's process came within the definition of "dressing" set out in Samet's text (*supra*). Were it necessary to make a finding on this point, my opinion would be that the defendant had not only delivered dyed furs, which it had dyed in Canada, but also dressed and dyed furs which it had dressed and dyed in Canada.

One further point only need be mentioned. At the trial counsel for the defendant introduced evidence as to certain artificial textiles which are made up so as to resemble furs of various sorts. The point urged by counsel was that if "mouton"—which he considered to be an imitation of fur—could be considered as a fur and therefore subject to tax, so also could these various synthetic textiles which are definitely imitations of furs. I reserved my finding on the admissibility of such evidence but upon consideration have reached the conclusion that none of it bears any possible relevancy to the issue before me and I declare such evidence and the exhibits tendered in relation thereto, wholly inadmissible.

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For these reasons, the plaintiff is entitled to judgment against the defendant for the sum of $573.08, as excise tax, together with the penalties provided for non-payment by the Excise Tax Act, and costs to be taxed. In the event of the parties being unable to agree as to the amount of such penalties, the matter may be spoken to.

Judgment accordingly.