

Case No. 1,538.

THE BLENHEIM.

{Blatchf. Pr . Cas. 626.}<sup>1</sup>

District Court, S. D. New York.

Feb. 23, 1865.

PRIZE—VESSEL AND CARGO CONDEMNED FOR A VIOLATION OF THE  
BLOCKADE.

{A vessel with a British registry, flying the British flag, but having a Confederate flag on board, owned by her master, who, with a majority of the crew, were British subjects, and laden with a general cargo from Nassau, where the cargo was owned, cleared for St Johns, but proceeded to Wilmington, N. C, and, on attempting to enter that port, was captured. The master and crew had previously run the blockade, and knew of its existence. *Held*, that the circumstances justified the condemnation and forfeiture of the vessel and cargo.]

{Proceedings to condemn and forfeit the steamer Blenheim and cargo as prize. Decree of condemnation and forfeiture.}

BETTS, District Judge. This is another vessel captured by a squadron of the United States blockading fleet of ships-of-war on the Atlantic coast. On the 25th of January, 1865, the steamer Blenheim was seized, as prize of war, off the mouth of Cape Fear river, by the squadron under the command of Rear-Admiral Porter, of the United States navy, and was sent into this port for adjudication. She was here arrested, February 4. 3865, under the process of the court, and due return thereof having been made in open court, with public proclamation, and no person intervening in the case, or claiming to appear or defend the said prize, the United States attorney moved and had accorded to him interlocutory judgment of default in the cause, according to law and the practice of the court, and submitted to the court the allegations and proofs brought into the cause, and prayed a final decree of condemnation and forfeiture of the prize aforesaid, pursuant to law and right.

Beatty Peshine Smith, a lieutenant in the United States navy, on the 7th of February,

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1865, delivered, under oath, the papers taken from the Blenheim, when captured, to one of the prize commissioners at this point, consisting of a clearance from Nassau to St John's, a list of port charges, a crew list, two bills of sale, a log-book and a British register. By the first bill of sale, dated at Belfast, February 12, 1863, John J. McKee, of that place, purports to have conveyed, as agent of the Belfast Steamship Company, to William Fod and his assigns, sixty-four shares in the said ship Blenheim; and by the second bill of sale, dated September 20, 1864, William Fod purports to have conveyed to Richard Eustace, of Penryn, sixty-four shares in the same ship. By a certificate of British registry, dated in Glasgow, September 23, 1864, the registrar of that port certifies that Richard Eustace is the master of the said ship, and holds sixty-four shares of the said ship. The crew list connected with the papers states only the names of the crew, their wages, and their places of birth, but does not give the voyage contracted for, nor the capacities in which they served on board the ship.

Examinations were taken in preparatorio before the prize commissioners, and certified to the court February 8, 1865. Richard Eustace, the master of the ship, Archibald Lang, the chief engineer, and James Henry Thomas, the chief steward, gave testimony upon the stated interrogatories propounded to them. The testimony supports clearly, and without contradiction, 'the allegations of the libel as to the time, place and manner of the capture made of the vessel and cargo. The prize was under the British flag alone. She had also a Confederate flag on board. She was owned by her master. The cargo was owned at Nassau. The crew were chiefly English subjects, and a majority sailed with the steamer from England. She was laden with a general cargo, provisions and wearing apparel. The cargo was taken on board at Nassau, cleared for St. John's, but was destined for Wilmington, North Carolina, notwithstanding the clearance. This voyage was the second attempt of the vessel to run into Wilmington. On her first voyage there she carried a general cargo, and returned with a cargo of cotton. The master and crew knew, on the first voyage to Wilmington, that the port was under blockade by the United States government. They did not know, until they got into Cape Fear river of the second voyage, that Fort Caswell was taken, and that the United States fleet were in the river. The vessel was captured on her second attempt to run the blockade. She sailed directly from Nassau for and to Wilmington. Her ship's company, at the time of the capture, knew of the existence of the war, and of the blockade of the port of Wilmington.

All the evidence is direct and conclusively efficient, in demonstration of the culpable conduct of the vessel and cargo on the voyage, and of their liability to conviction on the prosecution against them.

It is, accordingly, ordered, that a decree of condemnation and forfeiture be pronounced against the vessel and cargo.

<sup>1</sup> [Reported by Samuel Blatchford, Esq.]