

Case No. 4,367.
[2 Int. Rev. Rec. 117.]

THE ELLA.

District Court, D. Massachusetts.

1865.

PRIZE—DISTRIBUTION—VESSELS WITHIN SIGNAL DISTANCE.

[A vessel claiming to share with the actual captor must show her position to have been such that the usual signals, if made from the actual captor in the usual way, could have been read and understood from the deck or top-gallant forecastle. The *Ella & Anna*, Case No. 4,368, followed.]

This vessel was captured off Wilmington a day or two after the capture of the *Ella & Anna* for breach of blockade. No claimants interposed, and she was condemned as prize. The *Daylight*, *Tuscarora*, *Iron Age* and *Shenandoah*, United States war vessels, all claimed to share in the prize, as being within signal distance. The *Houqua* was actual captor.

R. H. Dana, Jr., for United States and actual captor.

W. A. Field, for the *Shenandoah*.

C. C. Dame, for the *Tuscarora*.

The chief principles of law involved in the case were accepted by THE COURT as settled by Judge Sprague's decision in the case of *The Ella & Anna* [Case No. 4,368], particularly as to the meaning of being "within signal distance," in our prize act. THE COURT says it is decided that under our statutes "a vessel claiming to share with the actual captor must show her position to have been such, at the time of the capture, that the usual signals, if such had been made in the usual way, from the actual captor, could have been read and understood from the deck or top-gallant forecastle of the vessel so claiming to share." THE COURT also adopted the conclusion of Judge Sprague that the *Coston* lights cannot, under the most favorable circumstances, be seen more than eight miles.

After a careful examination of the facts in evidence, THE COURT disallowed the claims of the *Tuscarora* and *Iron Age*, and decreed the *Houqua* to be actual captor, and the *Daylight* and *Shenandoah* to be joint captors, as within signal distance.