

Case No. 4,462.

THE EMMA.

{Blatchf. Pr. Cas. 607.}¹

District Court, S. D. New York.

July 8, 1864.

PRIZE—DISTRIBUTION OF PROCEEDS—INFERIOR FORCE.

It appearing that the prize property was captured by a United States steam transport ship, no other vessel co-operating therein, or being within signal distance at the time, and that the prize vessel was of inferior force, the court, to carry into effect the act of June 30, 1864 [13 Stat. 306], allowing vessels not of the navy to share in a prize in certain cases, referred it to a commissioner to report the names and employments of the captors on board the transport ship present and engaged in the capture, and the relative compensations properly allowable to them severally.

In admiralty.

BETTS, District Judge. The above-named vessel and cargo having, by the judgment of this court [Case No. 4,461], rendered in the term of October last past, been condemned as prize of war, and the report, dated December 23, 1863, made to the court by the prize commissioners, under the order of the court, to take evidence and report to the court what public ships of the United States are entitled to share in said prize, showing that the capture was made by the

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United States steam transport ship Arago, no other vessel co-operating therein, or being within signal distance at the time, and that the captured vessel was of inferior force, and it appearing to the court, by the provisions of the act of congress, entitled "An act to regulate prize proceedings and the distribution of prize money, and for other purposes," approved June 30, 1864, that vessels not of the navy, present at the capture of a prize and rendering actual assistance in the capture, may share in the prize, and it appearing to the court, from the report of the said prize commissioners, that the said ship Arago was the sole vessel present at the capture of said prize, and that said prize was of inferior force to the Arago, and it being moved by the counsel for the owners of the Arago, and assented to by the United States attorney, that the Arago, under the provisions of the existing law, be admitted to receive her lawful share of the aforesaid prize proceeds, and the court being further moved to refer it to a commissioner of the court, to ascertain and report to the court the persons belonging to the Arago entitled to share in the said prize, and the proportions thereof lawfully appertaining to each, it is considered and ordered by the court that it be referred to John A. Osborn, Esq., one of the commissioners holding an appointment as such by the United States circuit court within this district, to inquire and ascertain, from the report therein heretofore made by the prize commissioners, and other legal proofs, the names and employments of the several captors on board the Arago, present and engaged in the actual capture of the prize aforesaid, and the relative rewards and compensations properly allowable to them severally, and to report the same to the court with all convenient despatch. It is further ordered, that such commissioner have taxed for his service the like costs as are taxable under the fee bill of February 26, 1853 [10 Stat. 161], for similar services rendered in admiralty causes in courts of the United States.

¹ [Reported by Samuel Blatchford, Esq.]