

Case No. 4,785. FIFTY-TWO BALES OF COTTON.
[Blatchf. Pr. Cas. 644.]¹

Circuit Court, S. D. New York.

July 17, 1863.²

PRIZE—PROPERTY OF LOYAL CITIZEN IN ENEMY'S COUNTRY AT
COMMENCEMENT OF WAR.

The property was captured on a flatboat fastened to a wharf in Texas, and belonged to a citizen and merchant of New York, who went to Texas before the war to collect debts due to him. The cotton was the proceeds, and claimant used all diligence to collect his effects, with a view to leave the hostile country after the breaking out of the war. [*Held*, that the cotton was not enemy's property, and should not be condemned.]

[Appeal from the district court of the United States for the southern district of New York.]

In admiralty.

NELSON, Circuit Justice. This cotton was captured from on board a flatboat fastened to the wharf at the town of Lamar, at the head of Aransas bay, Texas. The flatboat was not captured, but a schooner, called the Monte Christo, lying in the same waters, undergoing repairs, and on board of which, as is claimed, it was intended to place the cotton, was captured. This vessel was afterwards burned, but her master was brought to New York, and has been examined in preparatorio. The cotton belongs to a citizen and merchant of New York, who had gone to the south, just before the breaking out of the war, to make collection of debts, and was engaged, at the time, in gathering together the funds realized from these collections, with a view to make his way home. The cotton in question comprised a part of these funds. He was not a resident south, nor engaged in business there. The war found him there temporarily, for the purposes above stated. The property was not enemy's property, nor is it pretended that there was any intention to run the blockade. The court below and its officers seem to have been in some doubt whether the proceedings against the cotton were on the prize or the instance side of the court. It was not on board of the vessel captured, which was undergoing repairs, nor was it to be placed on board unless, after she was repaired, she should prove seaworthy; and, if it had been on board, there is no proof of any intent to run the blockade.

The only pretext for condemnation is, that

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the property in question was enemy's property, which I think is not sustained. It appears to me that the claimant used all diligence to collect his effects, with a view to leave the hostile country, after the breaking out of the war, and is brought fairly within the principle of international law that protects him.

Decree below reversed.

¹ [Reported by Samuel Blatchford, Esq.]

² [Reversing Case No. 4,784.]