

Case No. 5,479.

THE GLEN.

{Blatchf. Pr. Cas. 375.}¹

District Court, S. D. New York.

July, 1863.

PRIZE—WRONGFUL ARREST—DISCHARGE.

Vessel and cargo discharged from seizure and restored to the claimant, with costs and damages, because of a wrongful arrest.

In admiralty.

BETTS, District Judge. This vessel and cargo were captured at sea, June 20, 1803, by the United States gunboat Columbia, and were sent into this port for adjudication. The defence to the action is, that the vessel was a British bottom, lawfully on a voyage from Yarmouth, Nova Scotia, to Matamoras, Mexico, on the voyage upon which she was seized. The papers returned with the prize are, a certificate of British registry executed to Nehemiah IC Clements, of Yarmouth, Nova Scotia, as owner of the vessel, showing that she was built at Nova Scotia, August 4, 1830; a shipping agreement, entered into with the crew in November and December, 1862, for a voyage from Yarmouth, Nova Scotia, to a port or ports in the British West Indies, thence to a port or ports to which the vessel may lawfully go, for a term not to exceed six months, to her final discharge in Nova Scotia; a certificate of the entry and clearance of the vessel by the British vice-consul at Matamoras, April 22, 1863; a journal or log account of the voyage of the vessel from Matamoras, commencing in June, 1863; and a manifest of 84 bales of cotton from Matamoras to Nassau, N. P., dated May 23, 1863.

From the proofs in preparatorio it seems that the vessel was on her voyage from Matamoras to Nassau, but was a bad sailer, and, owing to the state of the weather, was unable to make her course across the Gulf Stream; that it was attempted by her master, with the consent of her supercargo, to carry her to the port of New York; that her master was attempting so to navigate her when she was seized; that she was not making for any other port; and that when seized she was, as was supposed, from 80 to 100 miles off Cape Hatteras. Her ship's company were all British subjects, and none of them had any interest in the vessel or cargo. The vessel was loaded with cotton alone. No reasonable suspicion against the integrity of the voyage is made to appear upon the testimony, either from her position or her lading, or the conduct of the crew previously, or when she was captured, or her consorting with or being connected with any other vessel or voyage. Nor is it indicated to the court, by any argument, brief, or suggestion on the part of the United States, that the captured vessel committed any culpable act on her voyage. It is, therefore, ordered and decreed, that the vessel and cargo be discharged from seizure and be restored to the claimant, with costs and damages, because of the wrongful arrest. Decree accordingly.

The GLEN.

¹ {Reported by Samuel Blatchford, Esq.}