

Case No. 5,527.

THE GONDAR.

{Blatchf. Pr. Cas. 649.}<sup>1</sup>

Circuit Court, S. D. New York.

July 17, 1863.

PRIZE—VIOLATION OF BLOCKADE—ADDITIONAL PROOF.

1. Vessel and cargo acquitted of a violation of, or of an attempt to violate, the blockade.
2. Further proof ordered as to the neutral ownership of the vessel and cargo at the time of captured  
[Appeal from the district court of the United States for the Southern district of New York.

[In admiralty. Libel by the United States against the ship Gondar and cargo for an alleged violation of the blockade. The vessel and her cargo were condemned in the district court (Case No. 5,526), and the claimant appeals.]

NELSON, Circuit Justice. This vessel was captured at Beaufort, North Carolina, May 2, 1862, at the same time with the ship Alliance, already considered, and the decision turns very much on the principles involved in that case. [Case No. 246.] The vessel commenced her voyage in July, 1861, at Liverpool, with a cargo of salt and pig-iron, for the port of Nassau, or any port of the United States, and back to Liverpool. She arrived at Beaufort on the 27th of August following, and discharged her cargo. There was no actual blockade of that port at the time, nor until several days afterward. She commenced taking in her homeward cargo on the 1st of September, and completed her lading on the 14th. It consisted of resin and spirits of turpentine. In the meantime a blockade of the port had been established, and the vessel remained in port awaiting its removal, until she was captured. There is no evidence of any intention to break the blockade by the master, or of any act done by him with such intent The vessel is claimed by J. R. Armstrong and H. Gerard, residents and merchants of Liverpool, and British subjects. The claim is put in by the master in behalf of the owners. The cargo is claimed by one of these

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parties, J. It. Armstrong. The British register of February 11, 1861, is in the names of the above parties. The documentary proofs as to the property in the cargo shows it to be in J. R. Armstrong. I shall give the same direction to this case that I did to the case of The Alliance {supra}, and make an order for further proofs as to the property in the vessel and cargo at the time of capture.

{Both cases were heard upon the proofs as ordered, the decrees of the district court in each case being reversed, and the property restored to its owners. Case No. 5,528.}

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