

Case No. 5,686.

THE GRANITE CITY.

[Blatchf. Pr. Cas. 355.]<sup>1</sup>

District Court, S. D. New York.

May, 1863.

PISIZE—SPOILIATION OP PAPERS.

Vessel and cargo condemned for an attempt to violate the blockade.

Violation of the blockade by the vessel on previous voyages.

BETTS, District Judge. This ship and cargo were captured at sea, March 22, 1863, in latitude 25° 30' north, and longitude 75° 53' west, by the United States gunboat Tioga, and were sent to this port for adjudication. They were here libelled for forfeiture, April 21, 1863. Process of attachment and monition were returned by the marshal as served, and, proclamation having been duly made in court, the default of all persons in interest was thereupon ordered, and the proofs in preparatorio were opened and the case was submitted to the court for decision. The papers produced from the ship by the prize-master were a certificate of British registry of her, dated at the port of London, December 24, 1862, to Edward Penbroke, of that place, as owner, which states that she was British built; a cocket ticket, a victualling bill, and two shipping bills, dated Glasgow, December 29, 1862, for Nassau, N. P.; a health bill, given at Funchal, for Nassau, January, 1863; a clearance of the vessel at Nassau, N. P., March 20, 1863, for St. Johns, N. B., with a cargo consisting of inward cargo, not landed,—10 packages of goods; a clearance and bill of health for the vessel, laden with a cargo of cotton, dated at Wilmington, N. C, in the Confederate States, March 10, 1863, for a voyage to Nassau, N. P.; a manifest of the same cargo, sworn to by the master of the ship, on the same day, at Wilmington aforesaid; and a shipping agreement, executed at Nassau, February 19, 1863, between John McEwan, master of the said steamship, and ten of her crew, for a voyage from Nassau to St. Johns, N. B., also back to the port of Nassau, or any port in the West Indies. McEwan, the master, Gibson, the cook, and Campbell, the chief steward, were examined in preparatorio in the suit, by the prize commissioners of this port, on the 30th and the 31st days of March, 1863. The master testifies that the Granite City was an English merchantman, owned in England, and was captured by the United States gunboat Tioga, March 22, 1863, about fifty miles to the eastward of Eleuthera island, because she was thought to be intending to run the blockade; that she was built in the Clyde, in December last, and called the City of Dunedin, until she began this voyage, when the name was changed to the Granite City; that the voyage began at Glasgow, in December, 1862, and was to be a round one, ending in any port of the United Kingdom; that she touched at the Isle of Man, Cork, Madeira, and St. Thomas, and thence went to Nassau, N. P., where she first broke bulk; and that, at the port she discharged part of her cargo, and then cleared for St. Johns, N.

## The GRANITE CITY.

B. The record states that the witness, although admonished by the commissioners, declines to disclose to what ports or places the vessel was then bound. He says that Nassau was the last clearing port before her capture, and that the cargo was consigned to order; but, as the record shows, he again declines to answer to what port the cargo carried from Nassau was to be delivered. He says that various papers of the ship, on board when she left Nassau, were burned by his orders, during the chase of the vessel, and before her capture; and that he knew of the war, and that the Southern ports were under blockade by the United States government, before she left England. He then reiterates his refusal to state the port to which he was destined when he left Nassau, cleared for St. Johns. In answer to another interrogatory, he says that the Granite City, when she first came to Nassau from Glasgow, took her cargo to Wilmington, N. C, running the embargo, although fired at, and discharged it there, that place being blockaded; that she then took in there a cargo of cotton, and returned with it to Nassau, where it was discharged; and that she then took on board the lading captured with her. On the closing of the examination, he recalled his refusal to answer to what port the prize was destined on her first departure from Nassau, and made reply "that he was bound to run the blockade into some Confederate port, wherever he could get in, and if he could not get in, to go elsewhere." This testimony has been given in fuller detail than was strictly necessary, in order to show that the business of the vessel was the deliberate and persistent violation of a public blockade. Gibson, the cook, joined the vessel at Nassau only ten days before her capture. He says that he knew, and that everyone else knew, that she was going somewhere else than to her declared place of destination, and was to return to Nassau. The steward, Campbell, gives no testimony having direct relation to the charge against the vessel.

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The evidence very clearly establishes the culpability of the voyage. The destruction of the ship's papers when she was pursued by the capturing vessel, her plain purpose and attempt to carry out the voyage then undertaken by violating anew the blockade of the enemy's coast, and her having, as avowed by her master, effected that act in the preceding voyage, amount to complete proof of the criminality of the enterprise she was engaged in, as well as off the illicit character of her last voyage. A decree is rendered condemning the vessel and cargo to forfeiture.

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