

Case No. 6,216.

THE HATTIE.

{Blatchf. Pr. Cas. 579.}¹

District Court, S. D. New York.

Dec., 1863.

PRIZE—CAPTURE OF LOYAL VESSEL—RESTORATION—SALVAGE.

After condemnation of the vessel and cargo, the decree as to the vessel was opened, by consent, on the application of loyal owners of the vessel, who showed that she had been previously captured from them by a privateer for the enemy. The court ordered the vessel to be restored to such owners on payment of one-eighth of her value, as salvage, to the captors.

In admiralty.

BETTS, District Judge. The above-named vessel and cargo were captured as prize, June 21, 1863, at sea, off the harbor of Wilmington, North Carolina, by the United States war steamer Florida. On the 3d of July, 1863, both were libelled in this court, and were, by due process of law, condemned as forfeited, on default, by a regular decree of the court, July 21, 1863.

On the 17th of December instant, by consent of the United States attorney, the default

The HATTIE.

as, to the vessel was vacated in court, with leave that Thomas Hillyard and others might appear and make proof that they are loyal owners of the vessel, and that the same was captured at sea, as prize of war, by the Retribution, an armed vessel cruising under the authority of the Confederate States, and was appropriated to their use, and that, when seized in this suit, she was navigated in the interest of the said Confederate States, and that said Hillyard and associated might be permitted to intervene against the proceeds of the said vessel realized in this suit, and claim the same, on the allowance of lawful salvage to the captors of said vessel, the libellants in this suit. Pursuant to such consent the said Hillyard and others have this day filed their claim in this suit, alleging that they are bona fide owners of said vessel, and that she was seized and captured from them by a vessel called the "Retribution." It is conceded, in writing, by the United States attorney, "that if the claimants establish their ownership of the said vessel by proper evidence, they will be entitled to the restoration of the said vessel to them upon payment of one-eighth of her value, as salvage."

The evidence presented to the court under the above claim consists of a copy of the register of the vessel made at the port of Boston, Massachusetts, November 7, 1860, to the claimants; the depositions of James T. Sparks, of Provincetown, Massachusetts, sworn to October 19, 1863, before a notary public; and the deposition of one of the claimants, Thomas Hillyard, taken before a notary public December 17, 1863, the assistant of the United States attorney being present and cross-examining the witness. No objection is made on the part of the United States to the competency and sufficiency of the said evidence to that end, and the proctors for the claimants having moved the court for a decree of restitution of the said vessel to them, the court is satisfied, upon the proofs aforesaid, that the claimants are loyal citizens of the United States, and are the true and bona fide owners of the said prize vessel, recaptured by the United States war vessel Florida.

It is, therefore, ordered and decreed, that the said schooner Hattie be restored to the claimants, on payment by them of one-eighth of the value of the said vessel.

¹ [Reported by Samuel Blatchford, Esq.]