

Case No. 6,439.

THE HETWAN.

{Blatchf. Pr. Cas. 331.}<sup>1</sup>

District Court, S. D. New York.

March 17, 1863.

PRIZE—VIOLATION OF BLOCKADE.

Vessel and cargo condemned as enemy property, and for a violation of the blockade.

In admiralty.

BETTS, District Judge. In this, as in *The Reindeer* [Case No. 11,681], the cause comes before the court for adjudication solely upon the papers submitted on the part of the libellants. The libel avers the capture of the schooner and her cargo on the 21st of January last, at sea, off. Charleston harbor, by a United States gunboat, as prize of war; that the vessel, being found unseaworthy, was appraised by a board of naval survey, and left at Port Royal, with the flag-officer at that port, for the use of the government; and that the lading on board of her was brought to this port, within the jurisdiction of this court. A warrant and a monition were here issued against the same, February 12, 1863, and were returned by the marshal, duly served, March 3 thereafter, and a default, for want of appearance and answer, was taken publicly in court. Thereupon, upon the papers found on the schooner, and the proofs in preparatorio laid before the court, judgment for condemnation was prayed by the libellants against the cargo, and the proceeds of the vessel in court. The master, captured with the vessel, testifies, that he is a native and a resident of one of the Confederate States, and owes allegiance to those states; that he took possession of the vessel seized, in Charleston, and was captured in attempting to come out of that port with her, in violation of the blockade; that the vessel and cargo were owned by persons residing in the Confederate States; that the voyage was intended to be from Charleston to Nassau, N. P.; that the schooner left Charleston under a military pass from the Confederate authorities; and that he knew of the war and the blockade, and was captured when heading out of Charleston harbor. The vessel had a permanent register, dated November 11, 1862, from the Confederate authority at Charleston, to J. E. Hertz, of that place, and an invoice, bill of lading, &c., assigning the cargo to Adderly & Co. From this statement of the evidence, it is palpable that the evasion of the blockade in this case was deliberately undertaken, and that the vessel and her cargo were the property of the enemy. I accordingly decree the condemnation and forfeiture of the schooner, and of all the lading on board of her.

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