

## THE MERSEY.

{Blatchf. Pr. Cas. 658.}<sup>1</sup>

Circuit Court, S. D. New York. July 17, 1863.<sup>2</sup>

PRIZE—VIOLATION OF BLOCKADE—ENEMY  
PROPERTY—MUTILATION OF LOG-BOOK.

Decree of the district court condemning vessel and cargo reversed, they not being enemy property, and there having been no violation of, or attempt to violate, the blockade.

{Appeal from the district court of the United States for the Southern district of New York.}

{The schooner Mersey and cargo were captured as a prize of war, and it was decreed that both be condemned and forfeited. Case No. 9,489. The case is now before this court on an appeal.}

NELSON, Circuit Justice. This vessel and cargo were captured on the 26th of April, 1862, in the Gulf Stream, about one hundred miles from land, and two days out from Nassau, N. P., on a voyage from the latter place to Baltimore and back. Her cargo, which was put on board at Nassau, consisted of salt, coffee, soap, merchandise, &c. The vessel is owned by Roberts, a merchant and resident of Nassau, and a British subject. The cargo is owned by Sawyer & Menendez, of the same place, <sup>160</sup> one of them a British subject, and the other a Spanish. According to the evidence the vessel was in her proper course, pursuing her voyage to Baltimore, and without any intent to run the blockade of any of the Confederate ports. She seems to have been convicted on suspicion, from hearsay evidence and report that she had run the blockade of Charleston on her previous voyage, and that she was still the property of a citizen and resident of some of the Southern states. I am not satisfied that these facts, or any of them, have been established by

competent proof. The cargo, it is admitted, belongs to British and Spanish subjects. Much stress is laid upon a mutilation of the log-book, which is fully explained by the further evidence of the mate and steward. Decree below reversed.

MERWIN, The F. See Cases Nos. 4,893 and 10,369.

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

<sup>2</sup> [Reversing Case No. 9,489.]

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