

## THE NICOLAI FIRST.

{Blatchf. Pr. Cas. 354.}<sup>1</sup>

District Court, S. D. New York.

## PRIZE—BLOCKADE—CONDEMNATION.

Vessel and cargo condemned for an attempt to violate the blockade, the cargo being also mostly contraband of war, and on transportation to a port of the enemy.

In admiralty.

BETTS, District Judge. The above vessel and cargo were sent into this port as prize of war, by the gunboat *Victoria*, for adjudication. A libel was filed against them, in the name of the United States, March 30, 1863. Process of attachment thereon was returned into court, April 21st thereafter, by the marshal, as duly served, and, no one appearing therein, or making claim or answer to the monition, proclamation was made, on motion of the United States attorney, conformably to the course of the procedure of the court, and the default of all persons having an interest in the prize was thereupon ordered by the court.

The only papers found in the vessel, on her capture, were a certificate of British registry of the steamer, dated at Dublin, April 23, 1860, to James Sterling, merchant of the same place on which is indorsed, at the customhouse of Nassau, N. P., by the register, a statement that, on the 12th of March, 1863, John Dennis had been appointed master of the ship; also a copy of a manifest of her cargo, but without date or signature, or note of the port of its departure or destination, or specific designation of most of the packages. On the arrival of the vessel in this port, it being proved, by the deposition of her master, that her lading consisted mostly of powder and ammunition, the court ordered the prize commissioners to have the same discharged from the vessel, and safely stored on

shore. The master, the first mate and the boatswain were examined in preparatorio, upon the standing interrogatories. The testimony shows, that the vessel was laden at Liverpool, and despatched thence, in November last, with a cargo consisting chiefly of powder and ammunition, destined to Nassau, N. P. and the Confederate States, and back to Nassau. Her lading was mostly contraband of war. She was bound to Charleston or any Confederate port where she could get in. The master says that the clearance which the vessel took from England was destroyed by him at Nassau. No bills of lading were signed by the master, and none were found 226 on board of the prize. The vessel was captured March 21, 1863, off Little River, North Carolina, about a mile from the shore, trying to run the blockade. The master destroyed the clearance of the vessel. He had full knowledge of the blockade, and he was steering, when captured, towards Wilmington, North Carolina. The steamer had previously made two or three attempts to enter the port of Charleston, but was prevented from doing so by the blockading squadron.

The testimony of the witnesses is surprisingly ingenuous and distinct, and no room for doubt remains that the voyage commenced, and was prosecuted up to the capture of the vessel, with a fixed design and effort to violate the blockade of the coast, and also to transport large quantities of ammunition and military supplies to the use of the Confederate forces. It is accordingly ordered that a decree be entered for the condemnation and forfeiture, of the vessel and cargo.

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

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