

THE NORTH CAROLINA.

[Blatchf. Pr. Cas. 44.]¹

District Court, S. D. New York.

Aug., 1861.²

PRIZE.

Vessel condemned as enemy property.

The ship North Carolina was captured, on the 14th of May, 1861, at sea, off Cape Henry, by the United States ship Quaker City, under the command of Acting Master S. W. Mathew, and was libelled by the United States and her captors, as subject to forfeiture, for violation of the blockade of the Virginia ports, and as enemy's property. On the trial the United States district attorney abandoned all the other charges than that she is the property of enemies. Her master, for himself and other part owners, intervened, and took issue upon the charges, averring that the vessel was owned by him and co-owners in the state of Virginia, and denying that they were insurgents, and asserting that they were true and loyal citizens of the state of Virginia. Her crew also intervene by claim for wages due them for services on board the ship up to the time of capture, amounting to \$277.79.

BETTS, District Judge. The test oath made by the master is, that the ship belonged to Norfolk and other ports of Virginia, but no other particulars of ownership are stated, except a partial list of the names of the owners; and, he adds in answer to the fifth preparatory ³⁴⁷ interrogatory, that the ship belonged to Harvey & Brothers, of Norfolk, Virginia, and the orphan children of John Gordon, deceased, and John Tanis, and John Foster, and Seth Foster, (the witness,) all the owners being residents of Norfolk but the two last, who are residents of Mathews county, Virginia. The vessel was captured without cargo on board.

It has already been so often ruled by the court, in disposing of the preceding suits, that the hostilities waged by rebels and insurgent citizens of the United States, under the appellation of "Seceding States," or "Confederate States," against the government, laws and constitution of the United States, constitute a condition of public war, and that the rebels levying such war have become enemies of the United States, notwithstanding their allegiance to the mother country, and in public acceptance residents of the state or place waging war, that it is needless to reiterate that doctrine on this occasion. It being considered by the court that the ship North Carolina, when captured by the libellants, was the property of enemies of the United States in open war against them, she is adjudged lawful prize of war, and ordered to be condemned in this suit, with costs of suit.

The decree in this case was affirmed by the circuit court on appeal, July 17, 1863 [Case No. 10,317].

¹ [Reported by Samuel Blatchford, Esq.]

² [Affirmed in Case No. 10,317.]

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