

THE PETERHOFF.

{Blatchf. Pr. Cas. 381.}¹

District Court, S. D. New York. July 30, 1863.

PRIZE—CONDEMNATION—AID AND COMFORT
FOR THE ENEMY.

Vessel and cargo condemned on the following grounds: 1. The vessel, knowingly laden, in whole or in part, with articles contraband of war, was transporting them at sea, not to a neutral port, for purposes of trade and commerce within the authority and intendment of public law, but to some other port or place, and in aid and for the use of the enemy, and in violation of the law of nations. 2. The vessel's papers were simulated and false as to her real destination.

{In admiralty. A motion to have the master of the vessel re-examined was allowed on condition that he should be examined at the same time on certain special interrogatories. Case No. 11,022. It is now heard on pleadings and proofs.}

BETTS, District Judge. This cause having been brought to hearing before the court, upon the pleadings and proofs, and the issues of law and fact involved therein, and upon questions affecting the rules and doctrines of public law in relation to the case, and the rights and liabilities of the respective parties assumed thereby, and the admissibility, relevancy and effect of the various classes and items of proof heard in the said cause, relating to acts or declarations of parties on board of the said ship on the voyage in question, and being part of her crew or ship's company, or others having authority to act in her behalf, and whether such evidence be direct and positive, or presumptive and inferential, as, also, in respect to acts of misfeasance on the voyage, in the spoliation, mutilation, or concealment of papers transported in the ship on such voyage,

or attempt to disguise the character of the cargo on board and its destination, and the premises aforesaid, with the allegations and arguments of counsel for the respective parties thereupon, having been fully heard and understood, it is considered and found by the court:

First. That the said steamship Peterhoff, in the premises mentioned, was knowingly, on the voyage aforesaid, laden, in whole or in part, with articles contraband of war, and had them in the act of transportation at sea; 316 Second. That her voyage, with the said cargo, was not truly destined to the port of Matamoras, a neutral port, and for purposes of trade and commerce, within the authority and intendment of public law, but, on the contrary, was destined for some other port or place, and in aid and for the use of the enemy, and in violation of the law of nations;

Third. That the ship's papers were simulated and false as to her real destination.

Wherefore, it is considered by the court, that the said vessel and her cargo are subject to condemnation and forfeiture, and it is ordered that a decree therefor be entered accordingly.

{NOTE. A final decree of forfeiture was entered against the vessel and cargo. Case No. 11,024. On appeal to the supreme court this decree was reversed, except as to part of cargo. 5 Wall. (72 U. S.) 28. Pending the appeal in the supreme court, the district court refused to order the costs of the prize commissioner to be paid out of the funds of this case, holding that the appeal removed the cause from that court and placed the property exclusively under the control of the appellate court. Case No 11,025

¹ [Reported by Samuel Blatchford, Esq.]

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