

## IN RE STOKES.

{1 Ben. 341.}<sup>1</sup>

District Court, S. D. New York.

Aug., 1867.

## ARMY—ENLISTMENT OF MINOR—EVIDENCE.

On a habeas corpus to inquire into the enlistment of an alleged minor, who had sworn, on his enlistment, that he was twenty-one years of age and upwards, evidence may be given as to whether he understood what he was swearing to.

{Cited in *Seavey v. Seymour*, Case No. 12,596; *Re Davison*, 4 Fed. 509.}

{In the matter of James Stokes, Jr., on habeas corpus.}

BLATCHFORD, District Judge. This case is substantially the same as that of *In re Cline*, just decided by me [Case No. 2,896]. Stokes is a private soldier, who enlisted in the army of the United States, at New York, July 23, 1867. His enlistment papers are, in substance, of the same character as those of *Cline*. His age is stated in them as being twenty-one years and four months, and he swears, in his oath of enlistment, "that he is over twenty-one years old." On the hearing, on the return to the writ, it was alleged that Stokes had, in fact, on his enlistment, stated his age to be only eighteen years, and had not understood that he was swearing he was twenty-one years old, and that the oath which he signed and swore to was not read or explained to him. I allowed evidence to be given on that point, and am entirely satisfied that the proceedings in enlisting him were carefully conducted, and that he stated that he was twenty-one years and four months old, and was willing to swear to it, and that he understood fully that he was required to swear to his age, and knew that he was swearing that he was over twenty-one years of age. For the reasons stated

in the Case of Cline, the oath taken by Stokes on his enlistment, as to his age, is conclusive on that point. As his enlistment was, in all respects, regular, he must be remanded to service.

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