
Statement of the case.

We cannot agree to this construction of the act of 1863, which prescribes this penalty, nor of the act of 1864 imposing the duty. The penalty of forfeiture is annexed to the act of making an entry knowingly by means of false invoices, or false certificate of the consul, or of any other invoice which contains an undervaluation, or by means of any other false or fraudulent documents or papers. No doubt one of the objects of the provision is to secure to the government the duties imposed by the statute, but another is, to protect the officers against imposition and fraud by the importer or agent, and to inculcate and enforce good faith and honest dealing with those officers while engaged in the execution of their duties.

Besides, under this provision of the act of 1864, the result which is assumed in the instruction to the jury, as the only material fact in disposing of the case, is one to be ascertained by the officers of the customs, and this, after the entry of the goods upon the invoice duly verified, and an appraisal and estimate of the amount of the duties. This is the way prescribed by the law to determine whether or not the duties in the aggregate fall under the rate of six dollars per dozen bottles. The reason, therefore, for integrity in all the documents and papers of the shipment, and fair dealing on the part of the importers or their agent, is as applicable to the present case as to any other importation and entry.

We think that the court below erred, and that the judgment should be

REVERSED.

THE DOURO.

The court reprobates counsel who take appeals without any expectation of reversal, and declares that if it had power to impose a penalty in such cases, as it has when writs of error are sued out for delay merely, it would impose it.

APPEAL from a decree of the District Court of the United States for the Southern District of New York, condemning

Statement of the case.

the Douro and her cargo for a breach of the blockade of the port of Wilmington, North Carolina, established by our government during the late rebellion.

The vessel had been captured as prize of war by one of the government steamers, about two hundred miles off the port just named, and being brought into the port of New York was there libelled in prize.

C. Edwards, Esq., as attorney, filed a claim for certain British subjects, owners of the vessel and cargo. These admitted in substance that the vessel had come out of the port of Wilmington on the voyage in which she was captured, but alleged that there was no efficient blockade of that port, and seemed to rest their defence on the ground, that having eluded the vigilance of the blockading vessels on duty off that port, and reached the open sea, she was not subject to capture by any other vessel of the United States. The test-oaths were made by Mr. Edwards only.

The master of the captured vessel, on his examination preparatory to the original hearing, said: "I knew the port of Wilmington was blockaded when I went in, for I had six guns fired at me; and I knew it when I came out." And again: "The vessel was captured because she had been running the blockade." And again: "The capturing vessel fired a broadside, or half a broadside at us, amounting to some fifty-five guns. This was done because we were trying to escape." The mate said the same thing.

The District Court condemned both vessel and cargo as lawful prize of war; from which decree the claimants, by counsel—whose name the reporter supposes that, after the opinion of the court has been read, he will be excused by the benevolent reader for not signalizing—appealed to this court.

Mr. Coffey, special counsel for the captors, remarking that it was difficult to see why the court was troubled with this appeal, declined to argue the case, as being too plain to occupy the time of the court with; and submitted it with the record and a short brief. No counsel for the claimant appeared before this tribunal.

Syllabus.

The CHIEF JUSTICE delivered the opinion of the court.

The decree of the District Court in this cause is affirmed. It is impossible to imagine a plainer case for condemnation for breach of blockade. The statements of the captain as to breaking the blockade are explicit, and the mate says substantially the same thing as he does.

We cannot approve the conduct of the counsel who advised this appeal. An appeal is a matter of right, and, if prayed, must be allowed; but should never be prayed without some expectation of reversal. We impose penalties when writs of error merely for delay are sued out, in cases of judgments at law for damages; and if the rule were applicable to the case before us we should apply it.

THE MOHAWK.

1. The act of December 23, 1852, authorizing foreign vessels wrecked and repaired in the United States, to be registered or enrolled, is to be taken as a part of our system of registration and enrolment.
2. Vessels engaged in the foreign trade are *registered*, and those engaged in the coasting and home trade are *enrolled*; and the words "register" and "enrolment" are used to distinguish the certificates granted to those two classes of vessels.
3. The two statutes providing generally for registry and enrolment of vessels, are the act of December 31, 1792, applicable exclusively to registry of vessels engaged in foreign commerce, and the act of July 18, 1793, applicable exclusively to vessels engaged in domestic commerce.
4. The penalty of forfeiture of a vessel for the use of a certificate of registry to which she is not entitled, found in the 27th section of the act of 1792, is not imported into the act of 1793; and there is no forfeiture under that act for the use of a fraudulent enrolment.
5. But the act of March 2d, 1831, concerning vessels used on our northern frontiers, which are necessarily engaged in both the foreign and home traffic at the same time, makes the certificate of enrolment equivalent to both registry and enrolment.
6. This act does, by the *proviso* to its 3d section, apply the penalty of forfeiture contained in the 27th section of the act of 1792 to an enrolment, having the effect of a register fraudulently obtained.