

THE CASE OF THE STEAMER CUBA.

Examination of Commodore Higgins and His Officers—Sixth Day's Proceedings.

[From the Wilmington (N. C.) Journal, Oct. 23.]

On the opening of the court James Dennison was examined by Mr. Davis. Witness testified that he was a native of England; by occupation an engineer; had followed the sea nine years; never was in the United States till he arrived in Wilmington; joined the Hornet at Halifax, N. B., and came there from St. John, N. B., having been shipwrecked off the coast of New Brunswick in the Cleopatra; had heard of no military or naval expedition when he joined the Hornet, and had been there but two days; was not acquainted with the coast of the United States; shipped on September 7 or 8, and left Halifax on Sunday night, three or four days afterwards; Hornet had been examined there, nothing found and the vessel

discharged; remember that schooner came up at sea and put men on board, then seven or eight miles from land; remember heavy guns were taken on board; ship then about same distance from land; were about three or four miles off the coast when taking in coal; nearer four than three miles.

Cross examined by Mr. Phelps—Were at sea when met first vessel had communication with, in sight of land; she was a schooner; didn't know her name or how many men taken on board; I shipped from Halifax for Queenstown or any port on other continent; Captain Esling was in command when we left Halifax; I was second assistant engineer; I paid very little attention to dates and didn't know localities along the coast; remember meeting a second vessel, another schooner, in sight of land; saw no one come on board; guns, ammunition, &c., taken on board; I don't think Hornet was at anchor any time previous to this after leaving Halifax; anchored first time when she took guns on board; in sight of land then; land on the port side; anchored between eight and twelve o'clock at night; schooner made fast alongside; guns hoisted by tackles on board schooner and tackles on board ship; guns in very heavy cases; also took in shot, shell and several cases, contents to me unknown; there was a heavy sea; remember seeing stranger on wheel box and was told he was a pilot; after guns were shipped Hornet steamed about in same general locality; remained about there some days; met another schooner and a steam tug, the latter several times; remember making fast to schooner with coal on board; gave her hawser and towed her sixteen or eighteen hours; took coal out of her; didn't see how much coal; it was good weather first, but blew afterwards, wind towards land; remember seeing no light; after got in coal went towards Wilmington, so far as I know; when I joined the ship a flag, which I supposed to be a United States flag, was flying; the first flag hoisted afterwards was a Cuban ensign, a day or two after we took coal; first heard the vessel was bound for Cuba when we took the guns on board; a little steamer came up to us about this time and hoisted the Cuban flag; the first time my attention was called to distances was when I heard the testimony of first witness (Gordon), and I thought he was telling a most awful falsehood; we were very near out of coal when we made the first schooner, only eight or ten tons in forward bunkers and very little in aft; steamer used from nine to eleven tons per day on an average; she was upwards of seven miles from land when we took in coal.

Re-examined by Mr. Davis—We were flying Cuban flag when we came into the Cape Fear, and kept it flying since till taken down by government officers; the tonnage of the Hornet is about 750 tons; she drew about twelve feet when we left Halifax.

Captain J. N. Maunt introduced—examination conducted by Mr. Davis—Testified that he had followed the sea thirty-two years; was formerly in the United States Navy one year and fourteen years on coast survey; had made pretty much all of the chart exhibited in court himself; was engaged in coast survey about Noman's Land; don't think there is any reasonably safe anchorage for a ship of 750 tons in short distance; could anchor in eleven or twelve fathoms water three and a half miles off Noman's Land; no anchorage off Montauk Point when wind is from east; could anchor anywhere with wind from northwest; would hesitate long time before he would lay at anchor there in September; if a vessel broke her anchor at Montauk Point and went ashore the wind must be from the east; no risk to ship in moderate weather inside of point; could lay in one and a half miles; the distance from Noman's Land to Gay Head light is six and a half miles; between them there is no good anchorage; there is great difficulty in telling distances on the water; depends greatly upon the state of atmosphere, knowledge of land and experience in judging by the naked eye; found distances at sea very deceptive; witness had compared facts with judgment of the eye for fourteen years, and stated as experience that it is almost impossible to judge by the eye.

A cross-examination developed about the same facts.

Mr. Davis offered in evidence a "Naval List" showing that in January, 1862, the Hornet was a gunboat in the United States Navy, 830 tons burden and carrying eight guns.

Mr. Phelps objected, on the ground that it was immaterial and irrelevant.

Mr. Davis wanted to show by this that the Hornet was not prepared as a vessel of war by the Cubans. The evidence was admitted by the Court.

Captain C. P. Bolles, examined by Mr. Davis, testified that he had been in the service of the Coast Survey sixteen years; belonged to Coast Survey proper; Captain Maunt had been detached from navy and had served together. Witness corroborated Captain Maunt's testimony as to difficulty of judging distances by naked eye.

John Christian examined by Mr. Davis—Witness testified that he had been engaged to join the Hornet in New York and joined her at sea—not then in sight of land; when the ship was at schooner taking in coal I steered the boat that went ashore; the distance was about seven miles, as near as I could judge; when I joined the Hornet I went aboard from the Martha Washington; went aboard of her from a sailboat; Mr. Greenwood was in charge; I shipped at the Hornet, on board; signed articles there; agreed on shore with Mr. Greenwood to go; had seen him before, but was not acquainted with him; have been a seaman eleven years; since I came to this port have been on board of Cuba and walking about town.

Cross-examined by Mr. Phelps—In reply to question witness stated that he had offered to no one to testify against the ship, but had been offered by a man twenty dollars to do so. On being asked who was that man, witness pointed to Shields and said, "That's the man; I told him I would let him know, but have not done so, though I have seen him every day since; I went in with Shields and Dempsey into a bar room and took a drink when this offer was made."

Court then adjourned to Thursday morning at ten o'clock.

The Division of the Spoils—Who Captured the Cuba?

[From the Wilmington (N. C.) Star, Oct. 23.]

The general impression existing here concerning the division of the spoils in case the sloop-of-war Cuba is condemned seems, to our mind, at variance with good judgment. That impression is to the effect that the Collector of Customs of this port is the party who is entitled to half the value of the Cuba in the event of her condemnation. To our mind the conviction is clear that the officers and men of the United States gunboat Frolic are the only parties who have even a shadow of claim to any portion of the value of the Cuba. There has never been any capture of the Cuba except by officers of the United States Navy, nor any surrender by Commodore Higgins, except to Lieutenant Commander Pearson, of the gunboat Frolic. If we are correctly informed there was no legal seizure of the Cuba made by the United States Marshal while she lay at anchor near Smithville. Commodore Higgins brought his ship to the city, in compliance with a request of Deputy Marshal Neff, who expressed a desire that the Commodore take this step, pending an investigation of the character of the Cuba. We do not profess to understand the law in this case, but we take a practical view of the question, and so viewing it we are led to the conclusion that if there has been any capture of the Cuba it has been effected by the United States gunboat Frolic.

It is a matter of no interest to us who "gobbles up" the spoils; but we do not think we err in our judgment as to who the "gobblers" will be.

The cash value of the Cuba is probably \$50,000; so \$25,000 may be considered the prize to which somebody will be entitled, provided the case is decided adversely to the defendants. Of course the Cuba cost more than \$50,000, but who will pay more than that amount for her?

"Who struck Billy Patterson?" once agitated the country to an alarming extent; but that was a trifling affair compared to the important interrogatory "Who captured the Cuba?"