

6. The said enemy warship, which proved to be the _____ of _____ guns, and to be carrying a crew of _____ hands, came on, and with the assistance of some torpedo-boats which were following her engaged the _____, but after a fierce engagement, lasting about half an hour, the said enemy warship was beaten off and returned to the port of _____ with the torpedo-boats, whereupon the said _____ surrendered to the recaptors, and the prize crew in charge of her having been taken on board the _____, and a prize crew from the _____ having been put on board the _____, the two vessels in company proceeded towards _____, and the _____ was brought in safety into _____, where she now lies.

7. At the time of the said engagement, His Majesty's said ship was close to the island of _____, and owing to the gale and the dangerous nature of the coast she ran great risk of being driven on the rocks in manœuvring during the said engagement, and the lives of the recaptors were thereby exposed to great risk and danger. In the said engagement the _____ had _____ men killed and _____ men wounded, including _____ officers.

8. By reason of the premises the _____ and her cargo were saved from condemnation as prize to the enemy under circumstances of special difficulty and danger.

The said G. H. prays the Judge to award to the recaptors one-fourth of the value of the said _____ and her cargo, or such other sum as to the Judge shall seem just, and costs.

(Signed) _____
W. X.,
Counsel [or Party].

Delivered this _____ day of _____.

Answer.

[Heading and Title as in No. 1.]

Answer.

J. K., solicitor for C. D., the owner [and claimant] of the said ship, and E. F., owner of the cargo thereof, defendants [or as the case may be], in answer to the petition of the recaptors says as follows:—

1. The defendants [or as the case may be] admit that the said ship and her cargo were recaptured from the enemy by the recaptors, but deny that the recapture thereof was made under circumstances of special danger or difficulty entitling the recaptors to a larger part of the value of the said ship and cargo than one-eighth part.

2. The defendants [or as the case may be] do not admit that His Majesty's said ship _____ was at the time of such recapture engaged in protecting British ships as alleged. At the said time, His Majesty's said ship was engaged, in conjunction with other vessels, in watching the said port of _____ and in endeavouring to intercept and capture the said enemy's ship of war the _____, and for such purpose was endeavouring to entice her out of the said port and bring about an engagement with her, and the fact that the said mail-steamer the _____ made for such port in fact brought about the engagement so wished for and intended, and such engagement was not brought about and did not happen merely for the purpose of the recapture of the said ship, but took place in the ordinary course of duty and under the express instructions given to His Majesty's said ship.

The said J. K. prays the Judge to pronounce that the recaptors are entitled to one-eighth of the value of the said ship _____ and her cargo, and no more, and to condemn the recaptors in the costs of and occasioned by their claim for a larger sum.

(Signed) _____
Y. Z.,
Counsel [or Party].

Delivered this _____ day of _____.

(iii.) PLEADINGS IN JOINT CAPTURE OR RECAPTURE.

Petition.

[Heading and Title as in No. 1.]

Writ issued _____, 19 _____.

Petition.

J. K., solicitor for the plaintiffs [or as the case may be], says as follows:—

1. The plaintiffs [or as the case may be] are the commander, officers, and crew of His Majesty's ship _____.

2. On the _____ day of _____, His Majesty's said ship sailed in company with _____ and under the order of His Majesty's ship _____, and under such order and in such company was cruising off the coast of _____ [or describe position at the time].

3. About [State hour] on the said day a steamship was sighted bearing about _____, and signals were made by His Majesty's ship _____ to chase, and His Majesty's said ships both steamed after the said steamship.

[Set out in separate paragraphs the circumstances founding a right of joint capture or joint recapture, commencing by adapting the above paragraphs to the facts of the case, and conclude.]

And the said J. K. prays that the Judge will pronounce that His Majesty's said ship _____ is a joint captor (or recaptor) of the said ship _____ (and her cargo), and as such entitled to share therein.

Delivered this _____ day of _____.

(Signed) _____
W. X.,
Counsel (or Party).

Answer.

[Heading and Title as in No. 1.]

Answer.

G. H., solicitor for the defendants [or as the case may be], in answer to the petition of the plaintiff [or as the case may be], says as follows:—

1. The defendants [or as the case may be] are the commander, officers, and crew of His Majesty's [or the] ship _____.

O. VII.
O XXX. r. 2.
Naval Prize
Act, 1864,
sec. 36.