

Case No. 411.

[1 Blatchf. 358, note.]

THE ANN D. RICHARDSON.

Circuit Court, S. D. New York.

Oct. Term, 1849.¹

SHIPPING—DELIVERY OF CARGO—FREIGHT.

In the case of *The Ann D. Richardson*, on appeal from the district court, in October, 1849, the case of *Miston v. Lord* [Case No. 9,655] was cited and its doctrine applied, and the decree of the district court affirmed. It was held that the master having failed to deliver the cargo according to the bill of lading, and there having been no waiver of performance, either express or implied, by the shipper or his agent at the port of distress, the owner of the vessel was not entitled to freight, notwithstanding the damaged state of the cargo justified its sale by the master at the port of distress; that the agency of the master on behalf of the shipper at the port of distress, arising out of the necessities occasioned by the disaster, was limited

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to the sale of the cargo; that no case had yet extended it further; and that sound principles forbade any further interference with the rights of the shipper.

[Note. This case was originally published as a note to *Miston v. Lord*, 1 Blatchf. 358. Nowhere reported; opinion not now accessible.]

¹ [Affirming decree of district court in *The Ann D. Richardson*, Case No. 410.]