

Case No. 602a.  
[Betts' Scr. Bk. 617.]

ATKINS v. HORMAN.

District Court, S. D. New York.

July 14, 1860.

SHIPPING—DAMAGE TO CARGO—BILL OF LADING—BURDEN OF PROOF.

In admiralty. This was an action by Joshua Atkins and others, the owners of the ship Seth Sprague, against August Horman, to recover freight on some pipes of wine brought on the ship from Rotterdam to New York in May, 1859, consigned to the respondent. The defence was that a pipe of wine worth more than the freight was lost on the passage by carelessness. This pipe, on arrival of the vessel, was found to have one head pressed in so that the wine had leaked out. The libelants proved that the cargo was well stowed and dunnaged, and proved also that the head of the cask had been made thinner in the middle on the inside than at the sides, and argued that by reason of this the cask had been unable to bear the necessary weight of the cargo. Decree for libelants.

Benedict, Burr & Benedict, for libelants.

Mr. Hart, for respondent.

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BETTS, District Judge. The proof clears the ship of negligence in the lading and carriage of the goods, and the defendant does not, by a preponderance of proof, show that the loss was not ascribable to the insufficiency or defect of the casks. The bill of lading renders the ship responsible for no more than the good appearance of the casks externally, and for all just care and stowage of it in transportation. Occult and material defects in the cask are not at the risk of the carrier, but are presumptively at that of the freighter. Decree for libelants for the freight, with a reference to a commissioner to compute the amount.