

Case No. 1,339. BERGEN ET AL. V. THE TAMINEND.
[40 Hunt, Mer. Mag. (1859,) 708.]

District Court, S. D. New York.

SHIPPING—CHARTER PARTI—RIGHT OF POSSESSION.

[In admiralty. Libel by Garret T. Bergen and Stanley against the steamboat Taminend for possession. Dismissed.]

This was a libel for possession. On the 3rd of July, 1838, the owners chartered the boat to the libelants for a term ending October 5, 1858. The charter money was to be paid in installments, and the charterers were to give the owners collateral security. They failed however to pay the charter money as agreed. The collaterals proved worthless and the charterers insolvent. Thereupon on August 11, 1858, the libelant, Bergen, surrendered possession of the boat to the agent of the owners, and Stanley, the other libelant also left her. This libel was filed on August 21, to recover the possession of the boat. Issue was not joined in the cause until after the period of the charter had expired.

BETTS, District Judge. Held, that the occupancy of the steamboat having been voluntarily surrendered by the charterers to the owners, their right to reclaim possession of her was lost Libel dismissed with costs.