

Case No. 5,525.  
[10 Ben. 540.]<sup>1</sup>

THE GOMEZ DE CASTRO.

District Court, E. D. New York.

July, 1879.

CARGO—NON-DELIVERY—DRAINAGE OF SUGAR—COSTS.

1. A cargo of sugar was shipped from Bahia to New York in bags. The sugar was green, and the drainage from it on the voyage excessive; the vessel also met with heavy weather. On discharging, many bags were found broken, and new ones were furnished and refilled. A quantity of sugar was also swept up from the hold, and sold by the crew with the master's knowledge. The consignee libelled, claiming \$1,850 damage for non-delivery of cargo: *Held,*

The GOMEZ DE CASTRO.

that he could only recover for the value of the sweepings sold.

2. A libellant who fails as to the most part of his claim, cannot recover costs.

In admiralty.

Owen & Gray, for libellant.

James K. Hill, for claimant.

BENEDICT, District Judge. Upon the evidence the, libellant can recover no greater sum than the value of the sweepings which the evidence shows were sold by the crew of the vessel. The libellant having failed as to the most part of the considerable claim made by him against this vessel, is not entitled to recover costs. There may be a decree for twenty-five dollars, being the amount for which the sweepings were sold by the junk man; or either party may at his own expense have a reference to ascertain the value of the sweepings sold by the crew.

<sup>1</sup> [Reported by Robert D. Benedict Esq., and Benj. Lincoln Benedict Esq., and here reprinted by permission.]