

Case No. 7,038.                    INGERSOLL v. THE CARBARGA.  
[N. Y. Times, June 6, 1852.]

District Court, S. D. New York.

1852.<sup>1</sup>

CONTRACTS—DAMAGES FOR BREACH—ADMIRALTY.

- [1. A libel may be maintained in admiralty for damages sustained by reason of the refusal to accept boats built under contract with the master of the vessel.]
- [2. The boats having been built under the superintendence of the master, who ordered one sent to the vessel, where it was refused, and the other having been rejected for insufficient workmanship, the vessel was nevertheless liable.]
- [3. The measure of damage is the actual amount of loss on the contract price, deducting the amount received on the sale of the boats to others.]

This was a proceeding by way of libel in the admiralty court, to recover a balance due the libellant [Chandler L. Ingersoll] for building two boats for the Carbarga, to take out to Chagres, in which he was to be paid a stipulated price, deducting \$30, as the value of an old boat to be taken by the libellant as part payment. The orders for the boats were signed by the captain of the bark, and he superintended the building of them from day to day, and gave an order in writing for one to be sent down to the ship. It was taken to the vessel, but not received, and the other was refused at the yard of the builder, on alleged insufficiency as to the workmanship. The boats were sold by the libellant at a loss, and it was claimed, that the vessel was liable for the entire cost, \$320.40.

THE COURT (JUDSON, District Judge) held that the action was properly brought in the court, and the libellant must recover, but that the rule of damages must be the actual amount of loss on the contract price, deducting the amount received on the sale of the two boats. A reference must be had to ascertain the amount of damages.

[This decree was reversed by the circuit court on appeal. Case No. 2,276.]

<sup>1</sup> [Reversed in Case No. 2,276.]