

Case No. 9,104. MARRINER ET AL. V. LUTING.  
[N. Y. Times. Oct. 25, 1863.]

District Court, S. D. New York.

1863.

CONTRACTS—AGREEMENT ON INTERPRETATION—ESTOPPEL.

[An agreement as to the proper interpretation of a contract bars each party from thereafter claiming a construction inconsistent therewith.]

[This was a libel by George W. Marriner and others against Charles Luting.]

This was an action to recover a balance of charter money. The vessel was, by the charter, to have “a full cargo of molasses, with 10 per cent, on the number of pieces for small stowage.” The charterers did not furnish a full cargo, and on her arrival a dispute arose between the parties as to her capacity. They agreed to leave it to two stevedores to determine, and the stevedores made their report that she would carry 576 hogsheads, 20 tierces, and 56 barrels, and libellants presented a bill made out in that way. The respondent, however, was not satisfied with this award, and the parties met again. He claimed that she would not carry more than 552 hogsheads, and they finally agreed to split the difference on the hogsheads. The respondent, when the bill was again presented next morning, claimed that he should not pay freight on more than 564 hogsheads and 56 barrels, being 10 per cent, on the number of hogsheads. The libellants, however, claimed that they had agreed to settle the bill as it was now made out, deducting the twelve hogsheads agreed to be thrown off.

Beebe, Dean & Donohue, for libellants.

Benedict, Burr & Benedict, for respondent.

SHIPMAN, District Judge, without hearing the counsel for the libellants said he was inclined to the opinion that the respondent was correct in his construction of the charter party, but that as he had not objected to the bill on that ground when first presented, the transaction between the parties was a fixing of the amount to be paid as in the bill stated, less the hogsheads to be deducted, and he gave a decree for the amount claimed by the libellants.