

Case No. 18,211,
[Betts' Scr. Bk. 265.]

ZEREGA ET AL. V. GEE ET AL.

District Court, S. D. New York.

April, 1858.

LIABILITY OF SHIP-OWNER—INJURY TO CARGO.

[Ship-owners are not liable for damage to iron shipped under a bill of lading exempting the ship from accountability for rust, unless the rust was received on board, and through want of proper stowage and care.]

Suit by Augustus Zarega and others against Edward A. Gee and others for freight on bill of lading from Liverpool to this port. A lot of iron was delivered to respondents by the libellants in this port, in a very rusty condition, produced by water or soda ash stains. The bill of lading had a reservation written on it, "Ship not accountable for rust," and the libellants proved that the cargo was put on board at Liverpool badly rusted. The proof was that the iron was properly stowed in the ship, and that barrels of soda ash, laden on board, were also properly and securely stowed in the sides of the ship, and in the usual manner in relation to the stowage of iron with it.

Held (BETTS, District Judge): That the ship owners were not liable for the damage to the iron without proof that the rust was received on board, and for want of proper stowage and care.

Decree for the full freight with leave, however, on application of the respondents, to open the case for further proofs to the want of due care and attention by the master to the cargo, or in stowing the iron or soda ash on board.