

THE CONNAUGHT.¹
NORDLINGER *v.* THE CONNAUGHT.

District Court, E. D. New York.

November 9, 1887.

DAMAGE TO CARGO—BURDEN OF PROOF—SHIPPING.

In an action for damage to cargo, where claimant, proved a hard voyage of the vessel, and that the casks which contained the cargo damaged were weak, and libelant offered evidence that the casks were good, but gave no proof of their bad stowage, *field*, that the burden was on the libelant to show that the cargo was badly stowed, and, this burden not being sustained, libelant could not recover.

Chas. E. Hill, for libelant.

E. B. Convers, for claimant.

BENEDICT, J. The evidence in this case as to the character of the voyage of the ship in which the libelant's prunes were transported, and the weak character of the casks in which the prunes were contained, is abundantly, sufficient to cast upon the libelant the burden of showing bad stowage. This burden has not been discharged. The libelant, instead of proving bad stowage, has offered testimony to show that the casks were good, and asks the court to infer bad stowage. This cannot be inferred from the facts proved here. On the contrary, from the evidence as to the character of the casks, the natural inference is that the character of the casks caused the damage to the prunes.

¹ Reported by Edward G. Benedict, Esq., of the New York bar.