

CLEARY V. OCEANIC STEAM NAV. CO.

*Circuit Court, S. D. New York.*

December 23, 1889.

WHARFINGERS—DUTY TO REPAIR.

In an action to charge the defendant for negligently allowing a wharf to get out of repair, the fact that the door and fastening were in good repair when the defendant assigned the right to collect wharfage and cranage does not relieve the defendant from its duty to keep the wharf in a safe condition.

Motion for a New Trial.

*Herman H. Shook*, for plaintiff.

*Wheeler & Cortis*, for defendant.

Before LACOMBE and WHEELER, JJ.

PER CURIAM. There was sufficient in the evidence to warrant the jury in finding that the door or its fastening was in a condition of disrepair for a period long enough to justify the imputation of negligence. The fact, which was quite clearly shown, that the door and fastening were in good repair when the defendant assigned to the Spanish-American Company the right to collect wharfage and cranage at the pier did not relieve the defendant from its duty to keep the wharf in safe condition.