the Oregon upon the original libel to recover for the loss of the Clan Mackenzie was security for any claim that might be filed against such vessel up to the amount of the stipulation, and so Judge Deady of this court held. The prosecution of these claims against the owners of the vessel, however ineffective for other purposes, was sufficient to advise such owners that the interveners asserted these claims, and relieves the interveners of any imputation of laches. It is not every delay, but unreasonable delay, from which such an imputation arises. The grounds of laches are equitable. It is only when there has been such delay as is inconsistent with good faith, or as operates to the injury of the party proceeded against, that the bar of laches is allowed; and that is not this case.

It is argued that if the interveners had caused the arrest of the Oregon at the time of the interventions the lessee company would have provided security for the claims, and that, such lessee having in the meantime become insolvent, the owners of the Oregon are prejudiced by the fact that such security was not given. But this result is in no way attributable to the delay that has taken place. The owners were at all times advised of the liability of the leased property for damages of this character. If they did not secure themselves against it, they might have done so. The nature of the claims was made clear in the proceedings had upon the interventions. They knew that such claims were being prosecuted in good faith, and were enforceable against the Oregon in a proper proceeding; and the circumstances were such as to advise them that such a proceeding would be resorted to if the decision should be in favor of the sureties on the stipulation under which the ship was released.

The exceptions are sustained as to the intervention of Laidlaw and overruled as to the other interveners.

HINE et al. v. NEW YORK & BERMUDEZ CO.

(Circuit Court of Appeals, Second Circuit. April 7, 1896.)

1. CONSTRUCTION OF CHARTER PARTY—FITTINGS FOR ASPHALT CARGOES.
   A charter party negotiated for the owners by shipbrokers provided for voyages to South America, not south of the river Platte, "including Guanaco, Venezuela," and contained a stipulation, written into the printed form, that the ship was to be fitted "with shifting boards and bulkheads suitable for carrying asphalt cargoes safely, to be done by owners' agents, but at charterers' expense." *Held*, that the description "owners' agents" did not bind the brokers, individually, to make the fittings, in place of the owners, but, on the contrary, imposed on the owners the duty to deliver the vessel suitably fitted, as specified, for asphalt cargoes, they having been notified that such cargoes were to be loaded. 68 Fed. 920, affirmed.

2. SAME—ACQUIESCENCE OF CHARTERERS—INSPECTION AND ACCEPTANCE.
   Shifting boards not being permanent structures, a ship may be properly fitted with "suitable shifting boards," if they are on board, though stowed away until the necessity for their use arises; and therefore the fact that charterers, having a right to have the vessel thus fitted, have an opportunity to go aboard and inspect her before delivery and acceptance, does not estop them from afterwards asserting that the vessel was not so fitted.

Appeal from the District Court of the United States for the Southern District of New York.

This was a libel in admiralty by Wilfred Hine and another against the New York & Bermudez Company to recover from the latter, as charterers of the steamship San Domingo, certain expenses incurred at a port of refuge, and charter hire for the period of detention therein. The district court dismissed the libel (68 Fed. 920), and libelants have appealed.

J. Parker Kirlin, for appellants.

Geo. A. Black, for appellees.

Before WALLACE, LACOMBE, and SHIPMAN, Circuit Judges.

LACOMBE, Circuit Judge. The libelants are owners of the steamship San Domingo. They engaged the firm of Bowring & Archibald, shipbrokers in New York City, to effect a time charter of their vessel. Negotiations ensued between this firm and W. H. Hurlbut & Co., representing the respondents, which resulted in a charter executed by Bowring & Archibald, agents for owners, and by the New York & Bermudez Company, through its president. The material parts of the charter party are as follows:

"The said agents agree to let, and the said charterers agree to hire, the said steamship for a trip of about two calendar months from the day of delivery * * * in New York, * * * she being then stanch, strong, and every way fitted for the service, * * * and to be so maintained during the continuation of this charter party; to be employed in such lawful trades, between safe port $^{\text{and}}_{\text{or}}$ ports in British North America (not north of River St. Lawrence) $^{\text{and}}_{\text{or}}$ United States of America $^{\text{and}}_{\text{or}}$ West Indies $^{\text{and}}_{\text{or}}$ South America (not south of River Platte), *including Guanaco, Venezuela,* as charterers or their agents shall direct."

All of this clause was a part of the printed form used, except the words italicized. The words, "South America (not south of River Platte)," were broad enough, by themselves, to include any port in Venezuela. The insertion, therefore, of the words, "including Guanaco, Venezuela," was a distinct, positive, and explicit notice to the owners that their vessel was being chartered for use in trade with that port, and was to be stanch, strong, and in every way fitted for such service as employment in that trade would require of her.

Next follows a clause providing for payment by owners of wages, provisions, and stores. This is followed by a provision requiring charterers to pay for coals, port charges, etc.,—both clauses being part of the printed form. Then comes the clause which, by reason of the careless and inartificial way in which it was expressed, has caused the litigation now before this court for determination. It is in ink, containing provisions not contemplated by the printed form, and reads as follows:

"Steamer to be fitted with shifting boards and bulkheads suitable for carrying asphalt cargoes safely, to be done by owner's agents, but at charterers' expense."