

of her contract, she fully complied therewith by the tender made immediately upon her arrival at Boston.

It may be taken as settled that "detention at quarantine" is fairly included in the scope of that clause in this charter party which has reference to the "restraints of princes, rulers, and people." Quarantine regulations and health laws, so called, although often affecting in their operation a direct and palpable regulation of commerce, are constantly made and prescribed by states, and even by local municipal corporations, and pass everywhere, unchallenged, as the result of a legitimate exercise of that police power which resides in sovereignty. Such regulations would be worthless unless the enforcement were sure; and such certainty of enforcement is attained by virtue of the power of the people, as exhibited and exercised through their governmental agents. It follows, then, that enforced obedience to lawfully-prescribed quarantine regulations is a "restraint" of natural liberty of action devised by and proceeding from the "people." The Progreso was therefore clearly entitled to the benefit of this exception as a valid excuse for her default in performance of those terms and conditions of her contract, which the quarantine regulations at Charleston deprived her of ability to perform. What, then, were those terms and conditions? With the performance of what part of her contract did this "restraint" so seriously interfere? By the charter party the ship had contracted to arrive at Charleston on October 1st. Doubtless, if her freedom of sailing had not been interfered with by the quarantine regulations of that port, she could readily have complied with her agreement. But the enforcement of these regulations made it simply impossible for her to arrive at that port at the date designated. Not until a month later, November 1st, would she be permitted to reach Charleston, as she had been notified. Not until then could she be ready to load. But on that day there would be, at least, no "restraint of people" to bar her movements, or cause further delay and detention. Quarantine regulations were then to be done away with: Then and after that time they were as if they never had been. The ship would be free to come and go at that port as she pleased. The plain and indeed only result, then, of these quarantine regulations, was to work a temporary retardation in and hindrance of the ship's movements. The "restraint" could be for a limited time only. It operated, it is true, to delay the arrival of the Progreso at Charleston until November, but then its force would be spent. For such delay, so caused; this clause in the charter party afforded ample excuse and protection to the ship. An unsurmountable barrier had been placed in her course to Charleston by the strong hand of the law. Until that barrier was removed, she was helpless to keep and perform that part of her contract which demanded her presence at the port of loading on October 1st. But, when the cause of her helplessness was removed, her ability to perform was restored to her. Nowhere in the record is anything alleged as excusing her nonperformance after that date. Under the admitted circumstances, her failure to arrive at Charleston on the date fixed for arrival is therefore wholly excusable. But no valid excuse existed or has

been suggested for her failure to arrive there after her way had been cleared of obstacles. With the raising of the quarantine came free ingress to the port. Her course on November 1st to the Charleston wharves was straight and free. Her contract was "to proceed to Charleston with all convenient speed;" that is, with all speed possible under the circumstances. It cannot be doubted that the *Progreso* could have been at Charleston by November 1st if she had made "all speed possible under the circumstances" to arrive there, as she was bound by her contract to do. A charter party is to be construed in consonance with well-established rules which obtain in the construction of contracts generally; and no canon of construction is more often resorted to than that the language used by the contracting parties must receive a reasonable construction, expressive of the intent of the parties, and tending to promote the object in view. Here it was the obvious intent of the parties to this charter party that the *Progreso* should proceed to Charleston within a reasonable time to take on a cargo of cotton to be conveyed to Liverpool. The transportation of the cotton was the object to be attained. Whether that transportation commenced on October 1st or November 1st was not as material as that the cotton should be transported. This is evidenced by the fact that delay in arriving at the port of lading did not avoid the contract by its terms, but such avoidance for such cause lay solely in the discretion of the charterers. Delay might have been vexatious. If negligently caused by the ship, it was punishable; but mere delay, in itself, did not defeat or destroy the agreement. Such delay, unless it be so expressly stipulated in the writing, never defeats a contract, unless time be of its very essence, and then generally at the option, only, of the innocent party. Here it is clear that neither party regarded time as of the essence of the contract. As the learned judge who heard this cause in the court below tersely says in his opinion:

"So long as the circumstances remained substantially unchanged, the delay being no greater than might reasonably have been contemplated, the contract remained in force. The month which elapsed made no material change. The respondent was still engaged in carrying merchandise, and able to keep her engagement, and the libelants still had merchandise to carry. She bound herself to go to Charleston and carry it, if she could get there in reasonable time; a time which answered the purpose for which she contracted to go."

Her failure to report, therefore, within the reasonable time, to the charterers at the port of lading, being wholly without excuse, constituted a breach of the charter party, for which she must be held responsible.

Nor do we think that the offer to send the *Progreso* to Charleston, while she was in the port of Boston, in December, upon condition that the charterers would then signify their consent to load her, was in any way a compliance with the terms of the charter party. The demand then made by Belloni & Co. upon Street Bros. to exercise their option of accepting the ship after this delay in arriving at the port of lading was premature, and while appealing, possibly, to the courtesy of the charterers, could not have any legal effect upon the obligations of the ship yet to be performed. By the contract the option reserved to the charterers was