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

not to be exercised or declared until the Progreso had arrived at Charleston, and was ready to load. This reservation of option was a specific right secured to the charterers by their contract. The language creating such right is clear and unambiguous. The time and the place and the circumstances at and under which the right could be exercised were definitely fixed. The obligation of that contract was inviolable. It could neither be altered nor amended save by mutual consent of the parties interested. The demand made on behalf of the ship while she was lying in the port of Boston, upon the charterers, to declare, then and there, their option, was wholly unwarranted by the contract. To have yielded to such demand, and to have declared their option, would have been an assent by them to a material and substantial alteration of the contract in an important particular. They were clearly justified in refusing such assent, and in standing by the terms of the charter party. That charter party was still in force, and the only legitimate act for the ship was to proceed under it to Charleston, and tender herself, on arrival, ready to load. Nothing short of that would excuse. Nor do we think that any principle of equity can be cited which would justify the ship then in making such demand, under the admitted circumstances. Equity does not favor alteration of contracts fairly entered into. Parties are free to make their own bargains, and they are bound to stand by them when made. As was said by the learned judge of the district court when this cause was before him, "equity never relieves against terms of a contract sued upon, except for fraud, accident, or mistake." Neither appear to enter into the execution of this contract. It was voluntary in its inception, and wholly free from taint.

Some question has been made as to effect of the delay which occurred between November 1, 1888, when the ship should have been at Charleston, and December 19, 1888, when she arrived, in fact, at Boston, after her *ad interim* voyage, and tendered herself ready to proceed to the port of lading. Counsel for appellant strongly insist that for such delay the ship should not be chargeable in any way, as it was caused by the *ad interim* voyage. This matter is only important in connection with the assessment of the pecuniary damage which the libelants were justly entitled to by reason of the ship's default, and it is sufficient to say that we perceive no ground upon which to base any different conclusion from that arrived at in the court below. The ship was undoubtedly justified in seeking an *ad interim* voyage. But such voyage should have been undertaken only upon such conditions and to such places as would have enabled her to be at Charleston on November 1st. Voyages which prevented that were not justifiable, and delay caused by such voyages cannot be held excusable. We are satisfied, also, that the assessment of damages, made by the special commissioner to whom that matter was referred, is computed upon proper basis, and is just and correct. We find no error therein. The result is that the decree below is in all things affirmed.

The Glamorganshire.

Wiggin *et al.* v. The Glamorganshire.

(*District Court, S. D. New York.* May 16, 1892.)

1. Shipping—Damage to Cargo—Stowage—Usage.
Goods liable to injure each other may be carried in the same ship, if it be the general usage to carry them together, provided all proper means are employed to prevent injury.
2. Same—Tea and Camphor—Inference of Negligence.
But where tea and camphor were carried on the same vessel, there being no general usage to carry the two together, but this vessel being especially fitted with an air-tight compartment for the camphor, in spite of which the tea was delivered impregnated with the fumes of camphor, it was *held* that the inference of want of care was irresistible, and that the ship was liable.

In Admiralty. Libel for damage to cargo. Decree for libelants.

Evarts, Choate & Beaman, for libelants.

Wing, Shoudy & Putnam, for claimants.

Brown, District Judge. The evidence from Shanghai sufficiently establishes that the tea, when shipped, was in sound condition and free from camphor damage. This confirms the recital of the bill of lading that the tea was received "in good order and condition." The evidence also shows that all the tea consigned to the libelant was more or less damaged from the fumes of camphor, when delivered. The ship carried on board 400 tons of camphor, all in the aft compartment, separated by an iron bulkhead from the compartment next forward, in which, as well as in other parts of the ship, the tea was stowed. The defense is rested upon the alleged custom of bringing tea and camphor as parts of the same cargo, and on the claim that there was no lack of care on the part of the ship.

I cannot sustain the defense. The extreme susceptibility of tea to damage from the fumes of camphor has long been known. *The T. A. Goddard*, 12 Fed. Rep. 174. The value of tea in this market, however it may be in Europe, is greatly diminished by camphor infection.

Doubtless goods liable to injure each other may be carried in the same ship, if it be the general usage to carry them together, provided all proper means are employed to prevent injury. *Clark* v. *Barnwell*, 12 How. 280; *The Sabioncello*, 7 Ben. 357; *The Carrie Delap*, 1 Fed. Rep. 874. But no general usage is established to bring tea and camphor in the same vessel to this country. *Minis* v. *Nelson*, 43 Fed. Rep. 777; *Isaksson* v. *Williams*, 26 Fed. Rep. 642. Nor is there evidence of any custom anywhere to bring camphor in such a way as to impregnate with its fumes nearly a whole cargo of tea. The practice of sometimes bringing them together in the same vessel is of very recent date, and only in vessels specially designed and built to keep the camphor in air-tight compartments. When a large part of the cargo is found to be impregnated with camphor fumes on board a ship thus built, like the