the vicinity, which drought continued for a long time, and prevented this respondent from obtaining cargo for the loading of said vessel, notwithstanding he had made arrangements for procuring same in ample time to have loaded her within the period of twenty-two running days, but for said drought and storms."

This case also is similar to that of *Sorensen* v. *Keyser*, 52 Fed. Rep. 163, (just decided.) The differences are that the lay days for loading cargo are described as "running days, Sundays and legal holidays excepted," instead of working days, a lesser rate of demurrage, and that the cargo to be furnished was to be hewn or sawn pitch pine timber. From the demurrage days claimed, and ordinarily expiring on February 1st, we deduct February 8th, as a stormy day, leaving 35 days for which demurrage is due at £12 per day.

For the reason given in *Sorensen* v. *Keyser*, it is ordered that the decree of the district court appealed from be and the same is hereby reversed; and that this cause be remanded to the district court, with instructions to enter a decree in favor of libelants in the sum of $2,043.72, and costs, together with the costs of this appeal.

MARK *et al. v.* HOME INS. CO. OF NEW YORK. SAME *v.* ORIENT INS. CO. OF HARTFORD, CONN. SAME *v.* BRITISH-AMERICA INS. CO. OF TORONTO, CANADA.

(*District Court, S. D. New York.* July 28, 1892.)

MARINE INSURANCE—FIRE—RIDER—CONSTRUCTION—EXCEPTION OF PARTICULAR TRIP.

An insurance policy insured a vessel against fire on "all inland waters as far south as Norfolk, Va." Afterwards a rider was attached to the policy, giving permission to the tug to go as far south as Charleston, "but not to cover on trips either way between Norfolk and Charleston." On her way from Norfolk to Charleston, and while north of Norfolk, the tug caught fire and was burned. *Held* that, being at the time on a trip between Norfolk and Charleston, the wording of the rider prevented any recovery on the policy, even if the loss occurred on "inland waters."

In Admiralty. Libel on policies of marine insurance. Libel dismissed.

Benedict & Benedict, for libelant.

Carpenter & Mosher, for respondents.

BROWN, District Judge. In or about January, 1890, the respondents issued policies of marine insurance by which they insured the libelant for one year against loss by fire, etc., on the tug D. L. Flanagan, in the "bays and harbor of New York, East and North or Hudson rivers, waters of New Jersey, Long Island sound and shores, and as far as New Bedford, *and all inland waters as far south as Norfolk, Virginia*, and all waters adjacent, connecting, or tributary to any of the above waters." The description of the waters and places privileged to be used was in print, except the above clause in italics, which was in writing.

On June 12, 1890, a rider was attached to the policy as follows:

"Permission is hereby given the tug D. L. Flanagan to use port and harbor of Charleston, and to go as far as the jetties at Charleston, but not to cover on trips either way between Norfolk and Charleston."

On June 16, 1890, at 1:15 A. M., the steam tug left Norfolk, Va., on a trip to Charleston. At about 3:30 A. M. fire was discovered by the second engineer in the boiler room, and in a few moments the fire burst up through the hull, to the serious damage of the tug.

There is a serious conflict in the evidence as to the position of the tug, whether she was inside or outside of Cape Henry, at the time when the fire was discovered. I do not, however, find it necessary to determine this point, for the reason that there is no doubt that when the fire broke out the tug was not at Norfolk, nor within the port of Norfolk, but was upon a trip between Norfolk and Charleston; and I am of the opinion that the language of the rider is so explicit and unambiguous, that it cannot properly be narrowed by legal construction so as to make the policy cover any part of the trip to Charleston, even while within the inland waters of Chesapeake bay.

It is urged that the rider was intended as an additional privilege, and not to narrow the extent of the previous insurance which would at least cover the inland waters of Chesapeake bay, and the "waters adjacent thereto." This argument at first impressed me with considerable force. It seems to me wrong, however, to yield to it. The rider does, in some respects, undoubtedly, extend the scope of the insurance, by giving the privilege of the use of the port and harbor of Charleston, and the waters as far as the jetties. But in granting this additional privilege, which appears to have been without any additional consideration, it was surely competent to the insurers to annex to it such a condition, or exception, as they saw fit. And when they explicitly say, "not to cover on trips either way between Norfolk and Charleston," it seems to me that the court has no right to hold that the exclusion means anything less than what the words themselves import, namely, the whole trip from port to port.

If it were necessary, or proper even, to inquire what reason there might be for such an exception, it is quite plain that the conditions involved in the preparation the equipment of the tug for the prosecution of a trip between Norfolk and Charleston, would necessarily be quite different from her equipment and preparation for river, or harbor or inland business. The liability of the tug to accidents within the policy while prosecuting such a trip might be greater, not merely when on the high seas, but at all stages of the voyage. Without regard, however, to the increased risks, it is sufficient to say that the express exception of the rider is so clear and unambiguous as not to admit, as it seems to me, of any restriction under the rules of legal construction. On this ground the libels must be dismissed, with costs.

THE VIOLA.

MURRAY *v.* UNITED STATES.

(*Circuit Court, E. D. Pennsylvania.* July 1, 1892

1. SALVAGE—WHAT CONSTITUTES—TOWAGE.
Towing into port a lightship which had broken adrift during a severe storm, and been carried out to sea, is not a salvage service, when the lightship was not in peril when she was taken into tow, and could, with a little delay, have reached a place of safety without assistance.

2. TOWAGE SERVICES—COMPENSATION.
In determining the compensation for a towage service, the value of the towing vessel and cargo, the risk incurred, the fact that the vessel was not intended or adapted for towage service, the chance of endangering the towing vessel's insurance, the time spent in and the danger incurred by lying by the vessel towed before the towing could commence, and the time spent in deviating from her course, may be considered, although the service rendered does not amount to a salvage service.

Suit under Act March 3, 1887, (24 St. at Large, p. 505,) by Lawrence Murray, master of the British steamship Viola, to recover for services rendered in towing the United States lightship No. 45 into port. Decree for libelant.

John F. Lewis, (*Curtis Tilton*, of counsel,) for libelant, cited, as to what constituted a salvage service: *The Saragossa*, 1 Ben. 551; *The Charles Adolphe*, Swab. 155; *The Reward*, 1 W. Rob. 177; *The Charlotte*, 3 W. Rob. 71.

Robert Ralston, Asst. U. S. Atty., and *Ellery P. Ingham*, U. S. Atty.

The service rendered was not salvage, but towage, which has been described to be "the employment of one vessel to expedite the voyage of another, where nothing more is required than the accelerating her progress." Dr. LUSHINGTON, in *The Princess Alice*, 3 W. Rob. 138, at page 140; Carver, Carriage by Sea, § 340, p. 343.

BUTLER, District Judge. On the night of April 8th, during a very severe storm, the government lightship No. 45, worth about $50,000, (anchored off the coast of Delaware,) broke adrift, and was carried out to sea. She was well equipped for keeping afloat, and sufficiently provisioned for a three months' voyage. Her crew consisted of a mate and five men,—the master being on shore. While the storm lasted she was kept before the wind, and until it passed she could not get back, without aid. She raised a signal indicating her desire for towage, and, after passing two vessels unable to render this service, she met and came into communication with the steamship Viola, a large vessel loaded with sugar and bound for New York. This vessel, deeming it unsafe to attempt the service until the storm should abate or moderate, remained by until the next day when she took the lightship in tow, under the circumstances described by the witnesses, and brought her to Cape Henry, a distance of about 125 miles. In doing this the Viola was compelled

[1] Reported by Mark Wilks Collet, Esq., of the Philadelphia bar.