the salvage. It appears that his charter provided that he should pay port charges, pilotage, agencies, and commissions, the owner providing and paying for provisions and wages, consular, shipping, and discharging fees; and it also contained the following clause: "On account of the perishable nature of the cargoes that this ship is intended to carry, she is not allowed to stop to pick up any wreck, or in any way assist or tow any vessel, especially when by so doing she is liable to be detained." For delay of the steamer 24 hours the charterer paid the shipowner at the charter rate, $68, together with $28 for eight tons of coal. In my opinion, the insertion of such a clause in the charter party amounts to a waiver of any claim for salvage on the part of this charterer, if such claim existed. He made a contract which would prevent the rendition of salvage services, without the merciful exception of a deviation for the purpose of saving life, and he secured to himself a right of action against the shipowner. To that he must be confined. The libel of the charterer is therefore dismissed, and with costs.

No appearance having been entered in behalf of the vessel, and the proceeds of her sale having been eaten up in expenses, the only unsettled qustion is as to the amount of salvage to be paid by the freight and cargo. The freight has been valued at $494.17, and the cargo at $7,614.53. Taking all the circumstances into consideration, I am of the opinion that a suitable salvage compensation for the services rendered in towing in this dangerous derelict would be $3,000. Inasmuch as there has been no appearance for the freight, the whole of the freight, $494.17, may be awarded to the salvors, and, deducting that from $3,000, leaves the sum of $2,505.83 to be paid by the cargo.

THE IDLEHOUR.

(District Court, N. D. New York. October 19, 1894.)

SEAMEN'S WAGES—DISCHARGE.

Claims for wages are highly favored in admiralty courts, and discharges are not justified for trivial causes.

The libelant, Frederick Bradley, was employed as mate of the steamer Idlehour during the summer of 1894. The steamer made excursion trips from Buffalo to points on the Niagara river. The libelant was employed May 8, 1894. He was discharged July 15, 1894.

Both sides agree that he was to be boarded by the claimant, but there is a dispute as to the date when this agreement took effect. The steamer did not begin her regular trips until June 9, 1894. The libelant contends that he was entitled to be paid for his board for a month from May 8th to June 9th, although the crew had not been assembled and those that were employed were only engaged in fitting the vessel out for the summer's business. The claimant insists that the agreement to board the crew commenced when the steamer began running on June 9, 1894. The claimant also insists that the contract was not by the month but by the day "at the rate of $65 per month," and that the libelant is only entitled to a per diem com-

pensation for the days when he actually worked, prior to the time the steamer commenced her regular trips. The libelant maintains that the contract from its inception was by the month and that the claimant had no right to discharge him except at the end of a month. Before the Idlehour commenced running, but some time after the contract was made with the libelant, he was informed that it was a regulation of the claimant that the officers and crew should, when on duty, dress in uniform. The libelant demurred to this at first, but afterwards consented to purchase a uniform. He now seeks to recover the sums deducted from his wages in payment of this uniform. The master and the mate did not agree and the mate was discharged, the master maintaining that under the terms of the agreement he could do this at any time.

Urban C. Bell, for libelant.
Harry D. Williams, for claimant.

COXE, District Judge. I am convinced that the claimant did not agree to furnish board to the libelant until the Idlehour commenced her regular trips. After the crew were assembled arrangements could be made for boarding them together, not before. This would seem to be in accordance with custom and common sense. The claim for board prior to June 9th, is, therefore, disallowed.

The contract was clearly by the month and not by the day. The proof discloses no other agreement. The court cannot consider what the claimant intended to do but only what the parties actually did do. The deductions for May 30 and June 2 were unauthorized. If shipowners would observe ordinary precautions and require these agreements to be in writing controversies like the present would seldom occur.

The regulation that the crew of the Idlehour should dress in uniform was a perfectly proper one. In fact the claimant would have been subject to censure had he attempted to run an excursion steamer manned by a crew clad in the motley garments of landsmen. It is hardly to be supposed that every item of detail like this would have been remembered at the time the original agreement was made. Although the libelant objected at the outset he subsequently agreed to the purchase of the uniform.

The discharge was unauthorized. There was nothing in the libelant's conduct to warrant it. The claims of mariners for wages are highly favored by the courts and discharges are not justified unless for causes far graver than anything developed by this evidence. The Superior, 22 Fed. 927; The Garnet, 3 Sawy. 350, Fed. Cas. No. 5,244; The Maria, 1 Blatchf. & H. 331, Fed. Cas. No. 9,074; The Mentor, 4 Mason, 84, Fed. Cas. No. 9,427. It follows that the libelant is entitled to a decree for $59.90, and costs.

THE RICHMOND.

THE E. HEIPERSHAUSEN.

RILEY et al. v. THE RICHMOND and THE E. HEIPERSHAUSEN et al.

(Circuit Court of Appeals, Second Circuit. September 26, 1894.)

No. 110.

COLLISION — TOW AND ANCHORED VESSEL — NEGLIGENCE OF ANCHOR WATCH— TUG AND HELPER.

A tug going up the Hudson river with a flood tide, at night, with a tow consisting of 9 tiers of canal boats, with 4 boats in most of the tiers, and making a flotilla about 1,600 feet long, discovered a vessel half a mile ahead, lying at anchor outside the boundaries prescribed by the regulations of the secretary of the treasury. The tug and her helper undertook to draw to the opposite side of the river, but the last tier of the tow was swung by the force of the tide beyond the line of the tug, and libelants' boat, which was in such tier, struck the anchored vessel, and was sunk. The anchor watch on the anchored vessel saw the flotilla approaching when some distance away, and, if he had given his vessel chain, the tide would have carried her back and out of danger. He testified he attempted to let out the chain, but failed. *Held*, that both the tug and anchored vessel were in fault, and properly condemned to pay libelants damages. 56 Fed. 619, affirmed.

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

Libel by F. Riley and another against the steam tug E. Heipershausen and the steamship Richmond for collision. There was a decree for libelant against both vessels. 56 Fed. 619. The owners of the tug and steamship appeal. Affirmed.

Owen, Gray & Sturges, for appellant the Richmond.

Robert D. Benedict and Mr. Carpenter, for the Heipershausen.

Alexander Cameron, for appellees.

Before WALLACE, LACOMBE, and SHIPMAN, Circuit Judges.

WALLACE, Circuit Judge. The steamship Richmond and the steam tug Heipershausen were both adjudged in fault by the district court, and condemned to pay the libelants damages for the injuries inflicted upon the canal boat Thomas Flood and her cargo by the collision between the steamship and the canal boat. Both the owners of the steamship and of the tug have appealed, and each appellant assigns as error that the vessel of the other should have been found solely in fault by the district court. The collision took place about 9 o'clock in the evening of June 10, 1892, under the following circumstances: The Heipershausen started from the East river with a tow of canal boats bound for Albany. As she proceeded up the Hudson river, other canal boats were added to the flotilla, including the libelants' canal boat, which was taken from one of the piers at Hoboken. The flotilla then consisted of 9 tiers of canal boats, with 4 boats in most of the tiers, and the Heipershausen leading, with hawsers 550 feet long attached to the outside boats in the front tier, constituting a flotilla about 1,600 feet in length. The