

On the second point the Intervenant maintained that the seizure of the bonds in the hands of Ingram, who was in physical possession of them was perfectly legal and valid.

On behalf of the *Mis en cause*, it was submitted that the question of the validity or invalidity of these attachments was not a question for him to decide. Served on the one hand with a judgment ordering him to deliver these bonds to another guardian, and on the other hand with several writs requiring him not to dispossess himself of them until further ordered, he adopted the only prudent course, namely, to await the decision of the Court. Such conduct on the part of a guardian could not be construed into a contempt of Court.

On the 31st day of May, 1883, Torrance, J., rendered a judgment declaring the answers of the *Mis en cause* good and valid, dismissing the Petition of the defendants, and maintaining the Intervention.

The Court of Review unanimously confirmed this judgment.

*J. O'Halloran*, Q. C., for Plaintiffs.

*M. S. Lonergan*, for Defendants.

*Wotherspoon & Lafleur*, for *Mis en cause*.

*Judah & Branchaud*, for Intervenant.

#### UNITED STATES DECISIONS.

*Maritime Law—Demurrage—Detention of Boat by Business at Wharves.*—Where the voyage described in the charter-party was a voyage "to San Francisco, or as near thereto as the vessel can safely get," and the cargo was to be delivered "along-side of any craft, steamer, floating depot, wharf, or pier, as may be directed by the consignees," and the consignees named a wharf to which, by reason of its crowded state, the vessel could not enter for a time greater than that within which, by other provisions in the charter-party, the discharge was to be effected after it had been commenced, held, that the charterer was liable for the detention. It appears to be well settled in England, that where, by the charter-party, the ship is to be brought to a particular dock, or as near thereto as she can safely get, and she is prevented from getting to her primary destination by any permanent obstacle other than an accident of navigation, the ship-owner is entitled to damages for the detention by reason of the charterer's refusal to receive the cargo at the alternative

place of delivery, although the obstacle which prevented her from getting into the docks (viz., their crowded state) was not an obstacle endangering her safety. *Nelson v. Dahl*, 12 L. R., Ch. Div. 568, 583; *Ford v. Cotesworth*, L. R., 4 Q. B. 127; *Cross v. Beard*, 26 N. Y. 85. It is also settled that where the contract specifies a certain number of days for loading and unloading, and provides that for any detention beyond the lay days demurrage is to be paid at a fixed rate per day, the shipper is held very strictly to its terms; neither a municipal regulation of the port prohibiting the unloading for a limited period, nor delay occasioned by frost, tempest, or by the crowded state of the docks, will relieve him from the payment of demurrage. *Randall v. Lynch*, 2 Camp. 352. But where no particular period for loading or unloading is stipulated in the contract, the freighter is bound to receive the cargo within a reasonable time, and for the breach of his implied contract to that effect he is liable in damages. Thus, where the freighter was allowed "the usual and customary time" to unload the ship in her port of discharge, and the crowded state of the docks delayed the discharge, Lord Ellenborough held that as the evidence showed that it was usual and customary in the port of London for ships laden with wines to take their berths in the dock by rotation and to discharge into bonded warehouses, there was no breach of the implied covenant to discharge in the usual and customary time. *Rodgers v. Forrester*, 2 Camp. 483. In a subsequent case where the charter-party was silent as to the time for unloading, it was held by Sir James Mansfield that "the law could only raise an implied promise to do what was usually stipulated for by express covenant, viz., to discharge the ship in the usual and customary time for unloading such a cargo, and that had been rightly held to be the time within which a vessel can be unloaded in her turn, into the bonded warehouses." *Burmester v. Hodgson*, 2 Camp. 488. The case of *Davis v. Wallace*, 3 Cliff. 123, closely resembles the case at bar. The vessel was detained at the wharf designated by the charterer four days,—three because the berth was occupied, and one by lack of teams. The charterer was held liable for the detention. But the charter-party in that case provided for "quick dispatch" at the