conforming to the terms of the by-law and assuming the legal obligations cast upon him as licensee.

The defendant sought to shew that in carrying on his business of cartage he discriminated in his selection of customers, and that in some instances he refused to undertake the work of a carrier for those applying, but the effect of his evidence was that this was only where he had too many engagements, or that his men or horses were worn out or over-worked by the engagements he had undertaken or performed, and in consequence they both needed rest before resuming work. Apart from these special circumstances it is abundantly evident that he took the orders of all who might apply and who were esteemed good pay, and his billheads contained clear intimation that he was open to undertake the work of all persons seeking to employ him. He admits as to the plaintiff in this action he made no contract, stipulated no settled terms, and set no fixed prices; he simply took the order and understood that he was working by the hour. His account is rendered on this basis; he charged for the vans 60 cents per hour, being 15 cents less per hour than authorized by the tariff in by-law 26 of the Police Commissioners. He charges for the material used in the packing, and for the packers at so much an hour. In every particular he acted as one engaged in a public employment, and so far as reward was concerned appeared to assume that there was no necessity of making any special contract. His maximum prices, it is clear, were regulated by the by-law. He rendered his account at a moderate amount, somewhat below the fixed tariff, and was paid his charge by the plaintiff. The defendant further stated that as far as his business was concerned none of his vans for some years past had stood on any of the public express stands. This circumstance cannot alter his status. In carrying furniture it was open to him to limit his liability to any loss which might occur in carrying out his employment; he might have made a special contract upon special terms as to liability. The only limitation that was placed upon him was, he could not charge higher rates than those stated in the tariff. After a careful consideration of the whole case, I find no facts or circumstances in the evidence which support any other conclusion than that the defendant must be regarded as a common carrier.

A recent American case, *Farley* v. *Lavery*, 54 South Western Reporter (Kentucky) 840, in the Court of Appeals, January 13th, 1900, adopts the same conclusion in a case on all fours with the present case. It was there held that a person who held a license so to do and hauls goods within the limits of a city for any person desiring his services is a common carrier, and that as such common carrier he is liable for the loss of goods by fire, unless the fire was caused by the act of God, the public enemy, or the inherent quality of the goods. The goods in the case were household goods, and the fire occurred in much the same manner as in the present case, the carrier repudiating any negligence of himself or servants, and was unable to account for the occurrence of the fire. The Court thus expressed