

Case No. 6,127. HARRIS ET AL. V. THE PROMETHEUS.
[N. Y. Times, March 5, 1857.]

District Court, D. New York.¹

1857.

DAMAGES BY COLLISION—DEMURRAGE.

- [1. The rule of damages in collision for delay while undergoing repairs is the amount the vessel would have produced for chartering in the business in which she has usually been employed.]
- [2. There can be no recovery in collision for delays caused by storms, or by ice or obstructions in the harbor or river where a vessel may be, after necessary repairs are made.]

This case came up on exceptions to the report of the commissioner to whom it had been referred to compute the damages which the libelants [John A. Harris and others] were entitled to recover by reason of a collision between the schooner *Mechanic* and the steamship [Prometheus]. The commissioner, among other items of damage, reported “for what the vessel would have chartered for 76 days, while undergoing repairs, at \$27.50 per day, \$2,090,” to which the claimants excepted.

Beebe, Dean & Donohue, for libelants.

Clark & Rapallo, for claimants.

Before INGERSOLL, District Judge.

HELD BY THE COURT: That the rule in such cases is that the libelant recover for the use of his vessel during the time necessary to make the repairs; and by the use of the vessel is meant what she would produce for chartering her in the business in which she had been usually employed. That if, after the necessary repairs are made, the vessel is further detained and kept from her business, either by storms or other state of the weather, by ice or other obstructions in the harbor or river where she may be, or from any other cause not directly produced by the collision, for such further detention there can be no recovery. That from the evidence in this case it does not appear what number of days was necessary for the repairs. That if the amount allowed per day was what the vessel was worth with a full crew on board, then that amount is too large.

Referred back to commissioner for an additional report.

¹ [District not given.]