

Case No. 10,330.

NORTH SHORE STATEN ISLAND FERRY CO.
v. THE HUGUENOTS.¹

District Court, D. New York. April 1, 1863.

DAMAGES FOR COLLISION—DETENTION FOR
REPAIRS—INTEREST—COMMISSIONER'S
REPORT.

1. The owner of a vessel damaged by collision may recover for the necessary detention to make repairs when it is made to appear that she could have been profitably chartered or employed during the period of detention. Following *Williamson v. Barrett*, 13 How. [54 U. S.] 101.
2. He is also entitled to recover interest on the actual cost of the necessary repairs from the time payment therefor was actually made.
3. The report of a commissioner to assess damages in admiralty must be sustained unless it is quite apparent that he has erred.

This was a libel by the North Shore Staten Island Ferry Company against the steamboat Huguenots to recover damages for collision. A decree was heretofore rendered in favor of libelants. Case No. 10,323. The case now comes up on exceptions to the commissioner's report. The exceptions raised the question whether the libelants could 381 recover for the detention of their vessel while being repaired; whether they could recover interest on the amount of repairs; and what amount they should recover.

Clark & Hale, for libelants.

Mr. Williams, for claimants.

HELD BY THE COURT (HALL, District Judge):
That the right of a libelant in a cause of damage to recover for the necessary detention of his vessel, if it shall appear that his vessel could have been profitably chartered or employed during such detention, is firmly established. [*Williamson v. Barrett*] 13 How. [54 U. S.] 101; 2 W. Rob. Adm. 279; 3 W. Rob. Adm. 232.

That interest should be allowed on the actual cost of the necessary repairs from the time the payment therefor was actually made. The libelant is entitled to full indemnification for the injury sustained, and interest must be allowed, or he will not receive such indemnification. 2 W. Rob. Adm. 130; [St. John v. Paine] 10 How. [51 U. S.] 573, 574. That as to the sum allowed for repairs, although the evidence for the libelant is not as precise and definite and reliable as it might have been made by keeping a proper and separate account of the particular repairs rendered necessary by the collision, yet that of the claimants is still more unreliable. That as to all questions of fact the report of the commissioner must be sustained, unless it is quite apparent that he has erred. That as to the rate of demurrage, although the libelants' evidence is not of the most satisfactory character, yet the claimants offered no evidence in contradiction; and, in the absence of such evidence, the report should not be disturbed. Exceptions overruled and report confirmed.

¹ [Not previously reported.]

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