

Case No. 17,190. WARNER V. THE SOUTH AMERICA.
[Berts' Scr. Bk. 275.]

District Court, S. D. New York.

Sept 22, 1853.

ADMIRALTY—DAMAGES FOR COLLISION.

[The compensation for injuries to a vessel, caused by a collision, is to be determined by the market price or value of the services of the vessel for the time during which she is detained from her business for repairs.]

A decree had heretofore been rendered in this case in favor of the libellant [Sylvanus Warner] for damages occasioned by collision of the steamboat against his sloop, and a reference made to a commissioner to ascertain and report the amount of damages. The commissioner reported an allowance of \$20 per day demurrage for the detention of the sloop from her business while undergoing repairs, upon proof that at the time of the collision she was earning in her business \$20 per day. The owner of the steamboat excepted as to the allowance.

HELD BY THE COURT: That the compensation to the injured vessel could not be estimated upon the footing of the profits or earnings she was making per day, or might be supposed capable of making, unless she was under a charter at a stipulated hire. The rule of compensation is the market price or value of the services of the vessel for the time being, and proof should have been taken to determine that price. The owner of the sloop would be entitled to recover such sum in indemnification of his actual loss until the vessel was placed in a condition equal to that when injured. The exceptions allowed, and the report set aside with costs, with an order for re-reference.

Mr. Donohue, for libellant.

H. S. Dodge, for respondent.