

THE A. R. GRAY.

Circuit Court, E. D. New York.

May 27, 1882.

COLLISION—TUG AND TOW—FICTITIOUS
DAMAGES.

Where a boat was towed out of a crowded slip stern foremost by a tug, and was drawn against the bow of a canal-boat lying in the slip, the owner of which libelled the tug and claimed \$1,000 damages for the collision, and on the trial the damage proved was a crack in the bow-stem of the canal-boat so struck,—to repair which perfectly at the present time it might be necessary to take out the stem and rebuild the bow,—while the claimant of the tug brought many witnesses to show that the crack was a “season check,” the effect of weather and not the result of collision, and could have been drawn together with bolts at the time at a trifling expense, *held*, that the libel must be dismissed, on the evidence, with costs against the libellant.

T. C. Campbell, for libellant.

W. W. Goodrich, for respondent.

BENEDICT, D. J. I. entertain no doubt that the claim of \$1,000, now made for damage to the libellant’s boat by the collision referred to in the libel, is in great part, if not wholly, fictitious. The split in the stem which the libellant asserts was caused by the collision, but which many witnesses declare to be a “season check,” may have been caused by the collision referred to; but, if such be the fact, it does not follow that any appreciable damage to the boat resulted therefrom. There is a great weight of evidence to the effect that the boat was not injured. I am entirely clear in the conviction that 207 there is no foundation for any such claim as the libellant has sought to establish.

The proper course, under such circumstances, is to dismiss the libel and condemn the libellant in costs.

This volume of American Law was transcribed for use
on the Internet

through a contribution from [Nolo](#). 