THE JOHN H. STARIN.

Case No. 7,351.
{9 Ben. 331.}[1]

District Court, S. D. New York. Feb., 1878.

PRACTICE IN ADMIRALTY—EVIDENCE TAKEN IN FORMER SUIT.

Two suits in rem, in admiralty, were brought against the same vessel for a collision—one by the owners of a schooner, and the other by the master of the schooner in behalf of the owners of her cargo. The libellant in the latter suit moved for an order that he be allowed to read in evidence against the claimants in that suit a deposition which had been taken on behalf of the libellants in the former suit. *Held,* that the motion must be denied.

These were two suits in rem, in admiralty, against the same steamboat, for a collision one brought by the owners of a schooner, and the other brought by the master of the schooner on behalf of the owners of her cargo. The libellant in the latter suit moved for an order that he be allowed to read in evidence against the claimants in that suit a deposition which had been taken on behalf of the libellants in the former suit.

W. W. Goodrich, for the motion.

R. D. Benedict, opposed.

BLATCHFORD, District Judge. No case is cited where an application to allow the reading in one case of a deposition taken in another case has been granted, unless the parties to the two cases were the same. That was so in Grunninger v. Philpot {Case No. 5,853}. In the present case the parties are not the same. In the one suit, the owners of the schooner sue for the damages they sustained by the collision; in the other suit, the master of the schooner sues to recover for the damages sustained by the owners of the cargo by the collision. The causes of action are different, although both grow out of the same collision. In Grunninger v. Philpot the causes of action were the same. Even if the parties and the causes of action were the same, as in Brewer v. Caldwell {Id. 1,848}, I should feel bound to regard the decision in that case as a controlling one.

Certainly, the claimant in the second suit would have no right to read, as against the libellant in that suit, depositions which such claimant had, as claimant in the first suit, taken in that suit against the libellants therein. The right ought to be reciprocal, in any rule on the subject. The motion is denied.

[1] {Reported by Robert D. Benedict, Esq., and Benj. Lincoln Benedict, Esq., and here reprinted by permission.}