

STURGES V. THE MARY STAPLES ET AL.
 [Betts' Scr. Bk. 561.]

District Court, S. D. New York. Oct. 20, 1857.

PRACTICE IN ADMIRALTY—COSTS—PART
 OWNER—DEMAND FOR SECURITY.

The libelant [Daniel L. Sturges], owning one-eighth of the brig, filed his libel, alleging that the majority owners were about to send her on a voyage to which he had objected, and refused to give him a bond for her safe return. On the libel being filed and the vessel seized, the bond demanded by the libel was given by the majority owners, and the vessel discharged from custody. The libel was filed before any actual demand of the bond was made by the libelant of the other owners [Horace Staples and others], and they claimed that he was not entitled to recover costs against them.

Benedict, Burr & Benedict, for libelant.

Beebe, Dean & Donohue, for respondents.

HELD BY THE COURT: That a part owner has a right to protect his interest by admiralty process against the employment of the property against his dissent, until security is given him to the value of his interest that the vessel shall be safely restored to her home port. That his title to the appropriate remedy to maintain this right is not dependent upon any demand of the security from his co-owners. On his dissent to their putting her upon any particular voyage, their authority as representatives of the majority interest becomes suspended in that respect until they give him the indemnity appointed by law. That the libelant was not bound, therefore, to demand of the other owners the fulfillment of the duty cast upon them by law. That the submission of the majority owners to the requirement of the suit is tantamount to a decree of the court in his favor, and carries with it a right to

costs, as an incident of the result. The discretion of the court to grant or withhold costs, since the act of congress of February, 1853 [10 Stat. 161], must be regarded as rescinded in effect. Decree for libelant for costs.

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

through a contribution from [Google](#). 