

THE UNA.

{5 Ben. 198;¹ 14 Int. Rev. Rec. 6.}

District Court, S. D. New York.

June, 1871.

COLLISION—MASTER—PRESUMPTION OF ABSENCE.

1. The master of a vessel has authority, as such, to maintain an action in his own name for damages to such vessel by collision.
2. The owner of a foreign vessel, in such a case, is presumed to be absent till the contrary is shown.

{Cited in *The Tillie*, Case No. 14,049.}

In admiralty.

Stevens & Reymert, for libellant.

Beebe, Donohue & Cooke, for claimants.

BLATCHFORD, District Judge. This is a cause of collision, to recover for the damages caused to the Norwegian bark *Elizabeth* by a collision which took place between her and the lighter *Una* in the harbor of New York, on the 16th of July, 1868. The fault of the *Una* is admitted. In the libel, the libellant, Edward M. Jensen, describes himself as having been the master, the managing owner, and the ship's husband, of the bark, at the time of the collision. The answer admits that he was the master of the bark, but denies that he held any other relation to her, and takes the objection that he has no right to maintain this action in his own name. There is no proof that he sustained any other relation to the vessel than that of her master. But, his authority as master was sufficient to authorize him to bring this suit in his own name. Ben. Adm. (2d Ed.) § 384; *Houseman v. The North Carolina*, 15 Pet. [40 U. S.] 40, 49; *McKinlay v. Morrish*, 21 How. [62 U. S.] 343, 355; *The Commander in Chief*, 1 Wall. [68 U. S.] 43, 51. His position as master constituted him so far agent for the owners of the vessel, who, as the

vessel is shown to be a Norwegian vessel, must be presumed to be absent until the contrary is shown, that he could bring this suit in his own name, and receive on behalf of such owners the damages awarded.

On the merits, I award to the libellant \$108 43, with interest from July 30th, 1868, rejecting the item of \$20 for superintendence. I also reject the claim for demurrage and for permanent deterioration, and award no costs to either party as against the other.

¹ [Reported by Robert D. Benedict, Esq., and here reprinted by permission.]

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

through a contribution from [Google](#). 