

UNITED STATES *v.* ROSE.

Circuit Court, S. D. New York.

June 7, 1882.

1. SHIPPING—OBTAINING EMPLOYMENT FOR SEAMEN.

A person who is not a shipping commissioner is not authorized to charge any fee for shipping seamen.

2. SAME—PENALTY.

In an action for the penalty for shipping seamen without authority, and demanding a remuneration therefor, it is for the defendant to show himself within the exception stated in the act of congress.

The U. S. Dist. Atty., for plaintiff.

Goodrich, Dedy & Platt, for defendant.

WALLACE, C. J. It was error to require the plaintiff to show anything further than that the remuneration demanded by defendant for obtaining employment for the seamen was of a prohibited character. This was shown when it appeared that the defendant was not a shipping commissioner, and therefore was not authorized to charge any fee for shipping seamen. Conceding, for the purpose of this case, that the penalty is not recoverable when the seamen are shipped in vessels of the class mentioned in the act of June 9, 1874, it was for the defendant to show himself within the exemption, and it was not incumbent on the plaintiff to negative the existence of the exculpatory facts. *Spieres v. Parker*, 1 Term, 141; *Sheldon v. Clark*, 1 Johns. 513; *Bennet v. Hurd*, 3 Johns. 438; *Hart v. Cleis*, 8 Johns. 33.

Motion for new trial granted.

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

through a contribution from [Nolo](#). 