

50325 3 2 1 An anonymous and alleged unmarried listener, who insists he is not even considering matrimony, asks whether the master of a vessel has the authority to perform a valid marriage. He mentions a blurb in a recent issue of a reputable publication indicating that masters of certain U.S. vessels could no longer perform valid marriages.

In the case of Fisher v. Fisher, reported in 1929 AMC at page 659, a marriage ceremony performed by the captain of an american steamship, the LEVIATHAN, on the high seas was found valid, eventhough the marriage would have been invalid if occuring in New York state. The Court found that the marriage in question had the positive sanction of federal statute which is now codified at 46 US Code § 11301 and provides in pertinent part:

(a) Except a vessel on a voyage from a port in the United States to a port in Canada, a vessel of the United States shall have an official logbook if the vessel is--

(1) on a voyage from a port in the United States to a foreign port; or

(2) of at least 100 gross tons and is on a voyage between a port of the United States on the Atlantic Ocean and on the Pacific Ocean.

Subsection (b) provides: The master of the vessel shall make or have made in the official logbook the following entries:

Among the entries, subparagraph (8) provides: each marriage on board, with the names and ages of the parties.

The Court found that Congress had thus recognized that on board a ship at sea, notwithstanding the absence of municipal laws,

there is nonetheless a law of marriage. That law can be none other than the law, common to all nations which pronounces valid all consensual marriages between a man and woman who are, in the view of all civilized people, competent to marry. The rule in Fisher v. Fisher recognizes that marriage is a civil contract and that a formal ceremony of marriage, whether in due form or not, must be assumed to be by consent. When the contract is proved between competent persons, and when cohabitation follows the contract, the marriage is valid. We save for another time marriages on vessels in state territorial waters, or on vessels less than 100 gross tons, or on state registered vessels, or aboard vessels on voyages to Canada.

More next week on The Admiralty Docket. Until then, remember your rights and responsibilities may change as you approach the shore and may God Almighty grant you pleasant sailing. 50325

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