

Case No. 4,033. DOUGLASS V. THE WASHINGTON.
[Crabbe, 452.]¹

District Court, E. D. Pennsylvania.

Aug. Term, 1841.

ADMIRALTY PRACTICE—DELAY IN PROSECUTING LIBEL—DISMISSAL.

A case was called for hearing, and the parties were ready to proceed, but the libelant had not filed any replication; the court, at the request of both parties, appointed a particular day for the special hearing of the case, and, on its being then called, the libelant moved for a postponement, having no witnesses present, and having issued no subpoena till that day. The court gave the libelant the option of going to trial on the libel, answer, and replication, which being refused, the libel was dismissed.

This was a libel [by George H. Douglass against the ship *Washington*) for wages. The transactions on which the libel was founded occurred at Calcutta. The vessel was in port for about a month, and the libelant for two weeks, without any proceedings being had in the matter; but when the ship was on the point of sailing the libelant attached her. The case was called for a hearing at the regular time, and the libelant declared himself ready to go on; the respondent was also ready, with his witnesses in attendance, but the counsel for the libelant had not filed any replication: the 20th September, 1841, was then specially fixed for the hearing, at the request of both parties. The respondent then appeared with his witnesses, but the libelant moved for a postponement, having no witnesses in court, and having taken out a subpoena only on that morning. The respondent objected to the postponement, saying that he had already lost one witness, and feared to lose others.

HOPKINSON, District Judge, informed the libelant's counsel that if they chose to proceed with their case on the libel, answer, and

DOUGLASS v. The WASHINGTON.

replication, he was ready to hear them. This was declined, and the libel dismissed with costs; the libelant not being ready to proceed.

¹ [Reported by William H. Crabbe, Esq.]