

Case No. 5,210.  
[2 Gall. 45.]<sup>1</sup>

GAMMELL v. SKINNER.

Circuit Court, D. Massachusetts.

May Term, 1814.

PRACTICE IN ADMIRALTY—VERIFICATION OF ANSWER—SUIT FOR WAGES—SPECIAL INTERROGATORIES—INTEREST.

1. In causes on the instance side of the admiralty, the answer of the claimant should be verified by oath;<sup>2</sup> and in a suit for wages, the libellant may compel the adverse party to answer special interrogatories.

[Cited in *The David Pratt*, Case No. 3,597; *Hutson v. Jordan*, Id. 6,959.]

2. In suits for wages, interest is allowed from the time of a demand proved; and if no demand is proved, from the commencement of the suit.

[Cited in *The Elizabeth Frith*, Case No. 4,361; *The Grapeshot* Id. 5,703; *The Swallow*, Id. 13,665; *Burdett v. Williams*, 30 Fed. 698.]

[Cited in *Mahurin v. Bickford*, 6 N. H. 572; *McIlvaine v. Wilkins*, 12 N. H. 481.]

This was a libel for mariners wages. Some questions arose as to the practice in causes on the instance side of the court, and particularly in causes of this nature.

Mr. Selfridge, for libellant.

Mr. Townsend, for defendant

STORY, Circuit Justice. In causes on the instance side of the court, the answer of the claimant should be verified by his oath. This is the general practice both of courts of equity and courts of admiralty; and indeed of all courts proceeding according to the course of the civil law. 2 *Browne*, Civ. & Adm. Law, 416; *Clerke*, Praxis Adm. tit 14, 24; *Marr*. Forms, 363. In suits for mariners wages the libellant may compel the adverse party to answer special interrogatories, which are filed under the direction of the court, and are like the interrogating part of the bill in chancery. And in point of convenience this practice should be adhered to, for it brings distinctly before the court the points, on which the defence is intended to be rested. As to all facts denied, the burthen of proof lies on the plaintiff, except in the special case of the shipping paper and log book, as provided for in the statute regulating seamen in the merchants' service. Act July 20, 1790, c. 29, § 6 [1 Stat. 133].

Mr. Selfridge, for libellant, inquired, whether interest would be allowed on the amount of the wages due from the time of a demand made.

STORY, Circuit Justice. There is no difference in this respect between the practice of our courts of common law, and that of the admiralty. In the latter, interest is generally allowed from the time of a demand made for the wages; and if no special demand is proved, from the time of the commencement of the suit.

<sup>1</sup> [Reported by John A. Hayward, Esq., and Geo. C. Hazleton, Esq.]

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<sup>2</sup> See Dunl. Adm. Pr. 209.