

NELSON V. THE HERCULES.

[4 Law, Rep. 22.]

District Court, D. Massachusetts. March, 1841.

JOINDER OF SEAMEN IN SUITS FOR WAGES.

Libel by a seaman for wages on board the ship Hercules. The act of congress of 1790, c. 56, § 6, provides that in suits by seamen for wages, all the seamen (having cause of complaint of the like kind against the same vessel) shall be joined as complainants. In this case, the libellant was the only one of the crew in port, and brought his suit alone.

Mr. Bolles, for respondents, moved the court to add the names of the rest of the crew to the libel, that they might be concluded by the decree, and offered evidence to show that they had the same cause of action, in all respects, with the libellant. This would answer the object of the statute, which was to save the expense and trouble of several suits.

R. H. Dana, Jr., for libellant, contended that the statute applied only to cases where suits were actually commenced, and that absent parties could not be prevented from showing that their cause of action was different, and should not be concluded as to their claims by a trial upon evidence different from that which they might be able to produce.

DAVIS, Judge. The court has no power to make parties to the libel. The statute only requires the consolidating of several suits, when actually brought upon what is evidently the same cause of action.

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