

RULES OF PRACTICE

1914

COURT OF COMMON PLEAS

The contents and pagination of the Admiralty Rules as published in this Appendix are identical with the Admiralty Rules as originally published in pamphlet form by the Clerk of the Supreme Court of Admiralty.

APPENDIX

THE ADMIRALTY RULES

1914

Printed by the Government Printer

London: His Majesty's Stationery Office, 1914.

Price 1s. 6d.

Printed in Great Britain

THE CONTENTS AND PAGINATION OF THE ADMIRALTY RULES AS PUBLISHED IN THIS APPENDIX ARE IDENTICAL WITH THE ADMIRALTY RULES AS ORIGINALLY PUBLISHED IN PAMPHLET FORM BY THE CLERK OF THE SUPREME COURT OF THE UNITED STATES.

RULES OF PRACTICE

FOR THE

COURTS OF THE UNITED STATES

IN ADMIRALTY AND MARITIME
JURISDICTION

Promulgated by the
SUPREME COURT OF THE UNITED STATES

December 6, 1920.

To take effect March 7, 1921.

RULES OF PRACTICE

FOR THE

COURTS OF THE UNITED STATES

IN ADMIRALTY AND MARITIME
JURISDICTION

As amended by the
Supreme Court of the United States
December 8, 1850
To take effect March 7, 1851.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1920.

ORDER.

IT IS NOW HERE ORDERED BY THE COURT that the rules of practice for the Courts of Admiralty of the United States this day adopted and established by the Court be, and the same are hereby, promulgated as such to be in force on and after March 7, 1921.

December 6, 1920.

SUPREME COURT OF THE UNITED STATES

October Term, 1930.

ORDER.

It is now near Ourselves as that Court that the rules of practice for the Courts of Admiralty of the United States the day adopted and established by the Court be, and the same are hereby promulgated as such to be in force on and after March 7, 1931.

December 6, 1930.

INDEX

	Rule	Page
Amendments to libels	23	10
Answers—requisites of	26	12
Appeals in limited liability cases	55	28
Appraisal of ship, etc.	12	6
Arrest in suits <i>in personam</i>	2	1
Assault or beating—remedies	15	7
Bail	3	2
Bail in suits <i>in personam</i>	4	2
Bail, reduction of	8	4
Beating, suits for, etc.	15	7
Bond—in attachment suits <i>in personam</i>	5	2
Bond, reduction of, etc.	8	4
Bonds, bottomry, remedies in suits on	17	8
Bonds, premiums on taxable as costs	7	3
Bonds or stipulations—how given	6	3
Bottomry bonds—remedies	17	8
Bringing funds into court	37	17
Claim—how verified—claimant's bonds	25	11
Claimant's bonds, etc.	25	11
Claims against proceeds in registry	42	19
Commissioner, reference to	43	19
Collision, remedies in cases of	14	7
Costs, stipulations for	24	11
Costs, travel of witnesses	47	21
Courts having cognizance of limited liability procedure	54	28
Cross-libel, security on	50	24
Debt, imprisonment for, in what cases abolished	3	2
Decrees, execution on	20	9
Default decrees, reopening of	39	18
Default on failure to answer	28	13
Defense to claims in limited liability procedure	53	27
Discovery of documents before trial	32	14
Dismissal for failure to prosecute	38	17
Effect of failure to answer fully	29	13
Evidence, how taken	46	20
Exceptions to interrogatories	27	12
Exceptions to pleading for surplusage or scandal	35	16
Execution on decrees	20	9
Failure to answer, default on	28	13
Failure to answer fully, effect of	29	13
Failure to prosecute, dismissal for	38	17
Funds in court registry	41	19
Funds, when to be brought into court	37	17
Further proof on appeal	45	20
Garnishee, procedure against	36	16

	Rule	Page
How third party may intervene	34	15
How verification of answer to interrogatory obviated	33	15
Hypothecation, suits founded on	16	7
Imprisonment for debt, in what cases abolished	3	2
Instance cases, libel in	22	10
Interrogatories, exceptions to	27	12
Interrogatories may be required to be answered under oath	31	14
Interrogatory, answer to how obviated	33	15
Intervention by third party	34	15
Issue on new facts in answer	48	21
Joint liability, procedure in	56	29
Libel in instance causes, etc.	22	10
Libel of information, requisites of	21	9
Libel, process on filing	1	1
Libels, amendments to	23	10
Limitation of liability, how claimed	51	25
Limited liability cases, appeals in	55	28
Limited liability procedure, courts having cognizance of	54	28
Limited liability procedure, defense to claims	53	27
Limited liability procedure, proof of claims in	52	26
Maritime hypothecation—remedies	16	7
Marshal, property in custody of	57	30
Material-men, suits by, etc.	13	7
Monition to third parties in suits <i>in rem</i>	9	4
New facts in answer, issue on	48	21
New sureties, when required	8	4
Oath—when necessary to interrogatories	31	14
Objection to answering, when proper	30	14
Perishable goods, how disposed of	11	5
Petitory or possessory suits	19	8
Pilotage—collision—remedies	14	7
Pleadings—interrogatories—exceptions to	27	12
Possessory suits, etc.	19	8
Procedure against garnishee	36	16
Proceeds in registry, claims against	42	19
Process in filing libel	1	1
Process in suits <i>in personam</i>	2	1
Process in suits <i>in rem</i>	10	5
Proof, further, when to be taken	45	20
Proof of claims in limited liability procedure	52	26
Property in custody of marshal	57	30
Record on appeal	49	22
Record on appeal, what to be omitted from	49	23
Record on appeal, what to contain	49	22
Reduction of bail, bond or stipulation, etc.	8	4

INDEX TO ADMIRALTY RULES.

v

	Rule	Page
Reference to commissioners	43	19
Registry of court, funds in	41	19
Remedies in cases of assault or beating	15	7
Remedies, in claims for pilotage or collision	14	7
Remedies, in suits for salvage	18	8
Remedies, in suits on bottomry bonds	17	8
Remedies, in suits on maritime hypothecation	16	7
Remedies, of seamen and material-men	13	7
Reopening default decrees	39	18
Requisites of libel in instance causes	22	10
Requisites of libel of information	21	9
Right of trial courts to make rules of practice	44	20
Right to bring in party jointly liable	56	29
Rules of practice, right of trial courts to make	44	20
Sales in admiralty	40	18
Salvage—remedies	18	8
Seamen's wages—material-men—remedies	13	7
Security on cross-libel	50	24
Ship, how appraised, sold or bonded	12	6
Stipulations, how given	6	3
Stipulations for costs	24	11
Suits <i>in personam</i> , process in—arrest in same	2	1
Suits <i>in rem</i> , process in	10	5
Surplusage or scandal, exceptions as to	35	16
Third parties, monition to, etc	9	4
Travel of witnesses	47	21
Verification of answer, how obviated	33	15
Verification of claim, etc	25	11
Wages of seamen, etc	13	7
What either party may object to answering	30	14
Witnesses, travel of	47	21

ADMIRALTY RULES OF PRACTICE

1.

PROCESS ON FILING LIBEL.

No mesne process shall issue from the district court in any civil cause of admiralty and maritime jurisdiction until the libel, or libel of information, shall have been filed in the clerk's office from which such process is to issue. All process shall be served by the marshal or by his deputy, or, where he or they are interested, by some discreet and disinterested person appointed by the court.

2.

SUITS IN PERSONAM—PROCESS IN—ARREST IN SAME.

In suits *in personam* the mesne process shall be by a simple monition in the nature of a summons to appear and answer to the suit, or by a simple warrant of arrest of the person of the respondent in the nature of a *capias*, as the libellant may, in his libel or information pray for or elect; in either case with a clause therein to attach his goods and chattels, or credits and effects in the hands of the garnishees named in the libel to the amount sued for, if said respondent shall not be found within the District. But no warrant of arrest of the person of the respondent shall issue unless by special order of the court, on proof of the propriety thereof by affidavit or otherwise.

3.

BAIL—IMPRISONMENT FOR DEBT.

In all suits *in personam*, where a simple warrant of arrest issues and is executed, bail shall be taken by the marshal and the court in those cases only in which it is required by the laws of the State where an arrest is made on similar or analogous process issuing from the State court.

And imprisonment for debt, on process issuing out of the admiralty court, is abolished, in all cases where, by the laws of the State in which the court is held, imprisonment for debt has been, or shall be hereafter, abolished, on similar or analogous process issuing from a State court.

4.

BAIL IN SUITS IN PERSONAM.

The marshal shall take from the party arrested, as bail, either sufficient cash or a bond or stipulation in a sufficient sum, with sufficient sureties or an approved corporate surety, to be held by him to secure the appearance of the party so arrested in the suit. And upon such bond or stipulation summary process of execution shall be issued against the principal and sureties or corporate surety by the court to which the process is returnable.

5.

BOND IN ATTACHMENT SUITS IN PERSONAM.

In all suits *in personam*, where goods and chattels, or credits and effects, are attached under a process author-

izing the same, the attachment shall be dissolved by order of the court to which the process is returnable, on the giving of a bond or stipulation, with sufficient sureties, or an approved corporate surety, by the respondent whose property is so attached, or by someone on his behalf, conditioned to abide by all orders, interlocutory or final, of the court, and to pay the amount awarded by the final decree of the court to which the process is returnable, or in any appellate court, not exceeding, however, the value of the goods so attached with interest at six per centum per annum and costs; and upon such bond or stipulation, summary process of execution shall be issued against the principal and sureties or surety by the court to which the process is returnable, to enforce the final decree so rendered or on appeal by any appellate court.

6.

BONDS—STIPULATION—HOW GIVEN.

All bonds or stipulations in admiralty suits may be given and taken in open court, or at chambers, or before the clerk or a deputy clerk or before any commissioner of the court who is authorized by the court to take affidavits of bail and depositions in cases pending before the court, or before any commissioner of the United States authorized by law to take bail and affidavits in civil cases, or otherwise by written agreement of the parties or their proctors of record.

7.

BONDS—PREMIUMS—TAXABLE AS COSTS.

If costs shall be awarded by the Court to either or any party then the reasonable premiums or expense paid on

all bonds or stipulations or other security given by that party in that suit shall be taxed as part of the costs of that party.

8.

REDUCTION OF BAIL, BOND OR STIPULATION—
NEW SURETIES.

In all suits either *in rem* or *in personam*, where bail is given or a bond or stipulation is taken, the court may, on motion, for due cause shown, reduce the amount of such bail or may reduce the amount of security given by either bond or stipulation; and in all cases, either *in rem* or *in personam*, where a bond or stipulation is given, if either of the sureties or the corporate surety shall be or become insufficient or the security for costs shall for any reason be insufficient pending the suit, new or additional security may be required by order of the court on motion.

9.

MONITION TO THIRD PARTIES IN SUITS IN REM.

In all suits *in rem* against a ship, and/or her appurtenances if her appurtenances or any of them are in the possession or custody of any third person, the court shall, on due notice to such third person and after hearing, decree that the same be delivered into the custody of the marshal or other proper officer, if on hearing it appears that the same is required by law and justice.

10.

PROCESS IN SUITS IN REM.

In all cases of seizure, and in other suits and proceedings *in rem*, the process, if issued and unless otherwise provided for by statute, shall be by a warrant of arrest of the ship, goods, or other thing to be arrested; and the marshal shall thereupon arrest and take the ship, goods, or other thing into his possession for safe custody, and shall cause public notice thereof and of the time assigned for the return of such process and the hearing of the cause, to be given in such newspaper within the district as the district court shall order; and if there is no newspaper published therein, then in such other public places in the district as the court shall direct.

11.

PERISHABLE GOODS—HOW DISPOSED OF.

In all cases where any goods or other things are arrested, if the expense of keeping the same is excessive or disproportionate, or if the same are perishable, or are liable to deterioration, decay, or injury, by being detained in custody pending the suit, the court may, on the application of either party, order the same or any portion thereof to be sold; and the proceeds, or so much thereof as shall be full security to satisfy any decree, to be brought into court to abide the event of the suit; or the court may, on the application of the claimant, order a delivery thereof to him, either on the filing of a written agreement of the parties or their proctors of record to that effect, or on a

due appraisement, to be had under its direction, unless the value has been agreed to in writing by the parties or their proctors of record, on the claimant's depositing in court so much money as the court shall order, or on his giving a stipulation, with sufficient sureties or an approved corporate surety, in such sum as the court shall direct or as shall be agreed upon in writing by the parties or their proctors of record, conditioned to abide by and pay the money awarded by the final decree rendered by the court, or any appellate court, if any appeal intervenes, not to exceed however in any event such agreed or appraised value with interest at six per cent. per annum and costs, as the one or the other course shall be ordered by the court.

12.

SHIP—HOW APPRAISED, SOLD OR BONDED.

Where any ship shall be arrested, the same shall, on the application of the claimant, be delivered to him either on a due appraisement, to be had under the direction of the court, or on his filing an agreement in writing to that effect signed by the parties or their proctors of record, and on the claimant's depositing in court so much money as the court shall order, or on his giving a stipulation for like amount, with sufficient sureties, or an approved corporate surety, conditioned as provided in the foregoing rule; and if the claimant shall unreasonably neglect to make any such application, then the court may, on the application of either party, on due cause shown, order a sale of such ship, and require the proceeds thereof to be brought into court or otherwise disposed of.

13.

SEAMEN'S WAGES—MATERIAL-MEN—
REMEDIES.

In all suits for mariners' wages or by material-men for supplies or repairs or other necessaries, the libellant may proceed *in rem* against the ship and freight and/or *in personam* against any party liable.

14.

PILOTAGE—COLLISION—REMEDIES.

In all suits for pilotage or damage by collision, the libellant may proceed *in rem* against the ship and/or *in personam* against the master and/or the owner.

15.

ASSAULT OR BEATING—REMEDIES.

In all suits for an assault or beating on the high seas, or elsewhere within the admiralty and maritime jurisdiction, the suit shall be *in personam* only.

16.

MARITIME HYPOTHECATION—REMEDIES.

In all suits founded upon a mere maritime hypothecation of ship or freight, either express or implied, by the master for moneys taken up in a foreign port for supplies or repairs or other necessaries for the voyage, without any claim of maritime interest, the libellant may proceed *in rem* and/or *in personam* against the master and/or the owners.

17.

BOTTOMRY BONDS—REMEDIES.

In all suits on bottomry bonds, properly so called, the suit shall be *in rem* only against the property hypothecated, or the proceeds of the property, in whosoever hands the same may be found, unless the master has, without authority, given the bottomry bond, or by his fraud or misconduct has avoided the same, or has subtracted the property, or unless the owner has, by its own misconduct or wrong, lost or subtracted the property, in which latter cases the suit may be *in personam* against the wrong-doer.

18.

SALVAGE—REMEDIES.

In all suits for salvage, the suit may be *in rem* against the property saved, or the proceeds thereof, and/or *in personam* against any party liable for the salvage service.

19.

PETITORY OR POSSESSORY SUITS.

In all petitory and possessory suits between part owners or adverse proprietors, or by the owners of a ship or the majority thereof, against the master of a ship, for the ascertainment of the title and delivery of the possession, or for the possession only, or by one or more part owners against the others to obtain security for the return of the ship from any voyage undertaken without their consent,

or by one or more part owners against the others to obtain possession of the ship for any voyage, on giving security for the safe return thereof, the process shall be by an arrest of the ship, and by a monition to the adverse party or parties to appear and make answer to the suit.

20.

EXECUTION ON DECREES.

In all cases of a final decree for the payment of money, the libellant shall have a writ of execution, in the nature of a *feri facias*, commanding the marshal or his deputy to levy and collect the amount thereof out of the goods and chattels, lands and tenements, or other real estate of the respondent, claimant, or stipulators. And any other remedies shall be available that may exist under the State or Federal law for the enforcement of judgments or decrees.

21.

REQUISITES OF LIBEL OF INFORMATION.

All informations and libels of information upon seizures for any breach of the revenue, or navigation or other laws of the United States, shall state the place of seizure, whether it be on land or on the high seas, or on navigable waters within the admiralty and maritime jurisdiction of the United States, and the district within which the property is brought and where it then is. The information or libel of information shall also propound in distinct articles the matters relied on as grounds or causes of forfeiture, and aver the same to be contrary to the form of the statute

or statutes of the United States in such case provided, as the case may require, and shall conclude with a prayer of due process to enforce the forfeiture, and to give notice to all persons concerned in interest to appear and show cause at the return-day of the process why the forfeiture should not be decreed.

22.

REQUISITES OF LIBEL IN INSTANCE CAUSES.

All libels in instance causes, civil or maritime, shall be on oath or solemn affirmation and shall state the nature of the cause, as, for example, that it is a cause, civil and maritime, of contract, or a tort or damage, or of salvage, or of possession, or otherwise, as the same may be; and, if the libel be *in rem*, that the property is within the district; and, if *in personam*, the names and places of residence of the parties so far as known. The libel shall also propound and allege in distinct articles the various allegations of fact upon which the libellant relies in support of his suit, so that the respondent or claimant may be enabled to answer distinctly and separately the several matters contained in each article; and it shall conclude with a prayer for due process to enforce his rights *in rem*, or *in personam*, as the case may be, and for such relief and redress as the court is competent to give in the premises.

23.

AMENDMENTS TO LIBELS.

In all informations and libels in causes of admiralty and maritime jurisdiction, amendments in matters of form

may be made at any time, on motion to the court, as of course. And new counts may be filed, and amendments in matters of substance may be made, on motion, at any time before the final decree, on such terms as the court shall impose. And where any defect of form is set down by the respondent or claimant upon special exceptions, and is allowed, the court may, in granting leave to amend, impose terms on the libellant.

24.

STIPULATIONS FOR COSTS.

In all cases the court may, on the filing of a libel or on the appearance of any respondent, or claimant, or at any other time, require the libellant, respondent or claimant, or either of them to give a stipulation or an additional stipulation with sufficient sureties, or an approved corporate surety, in such sum as the court shall direct, to pay all costs and expenses which shall be awarded against him, it, or them, by the final decree of the court, or by any interlocutory order in the progress of the suit, or an appeal by any appellate court.

25.

CLAIM—HOW VERIFIED—CLAIMANT'S BONDS.

In suits *in rem* the party claiming the property shall verify his claim on oath or solemn affirmation, stating that the claimant by whom or on whose behalf the claim is made is the true and bona fide owner. And where the claim is put in by an agent or consignee, he shall also make oath that he is duly authorized thereto by the owner; or, if the

property be, at the time of the arrest, in the possession of the master of a ship, that he is the lawful bailee thereof for the owner. And, on putting in such claim, the claimant shall file a bond or stipulation for costs as above provided.

26.

ANSWERS—REQUISITES OF.

In all libels in causes of civil and maritime jurisdiction, whether *in rem* or *in personam*, the answers of or on behalf of the respondent or claimant to the libels and interrogatories shall be on oath or solemn affirmation; and all answers shall be full and explicit and distinct to each separate article and separate allegation in the libel, in the same order as numbered in the libel, and shall also answer in like manner or except to each interrogatory propounded by the libellant. But this rule shall not apply to cases where the sum or value in dispute does not exceed fifty dollars, exclusive of costs, unless the District Court shall be of opinion that the proceedings prescribed herein are necessary for the purposes of justice in the case before the court.

27.

PLEADINGS—INTERROGATORIES—
EXCEPTIONS TO.

Either party may except to the sufficiency, fullness, distinctness, relevancy or competency of any of the pleadings or interrogatories filed by the other party; and if the court shall so adjudge on a hearing on the exceptions, and

shall order further pleadings or answers to be filed by either party, such pleadings or answers shall be filed within such time and on such terms as the court may direct.

28.

DEFAULT ON FAILURE TO ANSWER.

If the respondent or claimant shall omit or refuse to make due answer to the libel upon the return-day of the process, or other day assigned by the court, the court may pronounce him to be in contumacy and default and thereupon shall proceed to hear the cause *ex parte*, and adjudge therein as to law and justice shall appertain. But the court may set aside the default, and upon the application of the respondent or claimant admit him to make answer to the libel on such terms as the court may direct.

29.

EFFECT OF FAILURE TO ANSWER FULLY.

In all cases where the respondent or claimant answers, but does not answer fully and explicitly and distinctly to all the matters in any article of the libel, and exception is taken thereto by the libellant, and the exception is allowed, the court may, by attachment or otherwise, compel the respondent or claimant to make further answer thereto; or may make such other order in the cause as it shall deem most fit to promote justice.

30.

WHAT EITHER PARTY MAY OBJECT TO ANSWERING.

Either party may object by proper pleadings to answering any allegation contained in any pleading or interrogatory filed by the other party, which will tend to expose him, it, or them, to any prosecution or punishment for crime, or for any penalty or any forfeiture of his, its or their property for any penal offense.

31.

INTERROGATORIES MAY BE REQUIRED TO BE ANSWERED UNDER OATH.

Either party shall have the right to require the personal answer of the other party or of its proper officer on oath or solemn affirmation to all interrogatories propounded by him, it, or them, in the libel, answer or otherwise as may be ordered by the court on cause shown and required to be answered. In default of due answer by either party to such interrogatories, the court may adjudge such party to be in default and enter such order in the cause as it shall deem most fit to promote justice.

32.

DISCOVERY OF DOCUMENTS BEFORE TRIAL.

After joinder of issue, and before trial, any party may apply to the court for an order directing any other party, his agent or representative, to make discovery, on oath, of

any documents which are, or have been, in his possession or power, relating to any matter or question in issue. And the court may order the production, by any party, his agent or representative, on oath, of such of the documents in his possession or power relating to any matter in question in the cause as the court shall think right, and the court may deal with such documents, when produced, in such manner as shall appear just.

33.

HOW VERIFICATION OF ANSWER TO INTERROGATORY OBIATED.

Where either the libellant or the respondent or claimant is out of the country, or unable, from sickness or other casualty, to make an answer to any interrogatory on oath or solemn affirmation at the proper time, the court may, in its discretion in furtherance of the due administration of justice, dispense therewith, or may award a commission to take the answer of the respondent or claimant when and as soon as it may be practicable or may receive a verification by agent or attorney with like force and effect as if made by the party.

34.

HOW THIRD PARTY MAY INTERVENE.

If any third person shall intervene in any cause of admiralty and maritime jurisdiction *in rem* for his own interest, and he is entitled, according to the course of admiralty proceedings, to be heard therein, he shall pro-

pound the matter in suitable allegations, to which, if admitted by the court, the other party or parties in the suit may be required, by order of the court, to make due answer; and such further proceedings shall be had and decree rendered by the court therein as to law and justice shall appertain. But every such intervenor shall be required, on filing his allegations, to give a stipulation with sufficient sureties or an approved corporate surety to abide by the final decree rendered in the cause, and to pay all such costs and expenses and damages as shall be awarded against him by the court on the final decree, whether it is rendered in the original or appellate court, not to exceed however in any event the agreed or appraised value of the property so claimed by him, it, or them, with interest at six per cent. per annum and costs.

35.

EXCEPTIONS TO PLEADINGS FOR SURPLUSAGE OR SCANDAL.

Exceptions may be taken to any libel, allegation, answer or other pleading for surplusage, impertinence or scandal; and if on hearing the matter excepted to shall be held to be so objectionable it shall be expunged on such terms as the court may direct.

36.

PROCEDURE AGAINST GARNISHEE.

In cases of foreign attachment, the garnishee shall be required to answer on oath or solemn affirmation as to

the debts, credits, or effects of the respondent or claimant in his hands, and to such interrogatories touching the same as may be propounded by the libellant; and if he shall refuse or neglect so to do, the court may award compulsory process *in personam* against him. If he admits any debts, credits or effects, the same shall be held in his hands, or paid into the registry of the court and shall be held in either case subject to the further order of the court.

37.

BRINGING FUNDS INTO COURT.

In cases of mariners' wages, or bottomry, or salvage, or other proceeding *in rem*, where freight or other proceeds of property are attached to or are bound by the suit, which are in the hands or possession of any person, the court may, on due application, by petition of the party interested, require the party charged with the possession thereof to appear and show cause why the same should not be brought into court to answer the exigency of the suit, and if no cause be shown, the court may order the same to be brought into court to answer the exigency of the suit, and on failure of the party to comply with the order, may award an attachment, or other compulsory process to compel obedience thereto.

38.

DISMISSAL FOR FAILURE TO PROSECUTE.

If, in any admiralty suit, the libellant shall not appear and prosecute his suit, and comply with the orders of the

court, he shall be deemed in default and contumacy; and the court may, on the application of the respondent or claimant, pronounce the suit to be deserted, and the same may be dismissed with costs.

39.

REOPENING DEFAULT DECREES.

The court may, in its discretion, on motion of the respondent or claimant and the payment of costs, rescind the decree in any suit in which, on account of his contumacy and default, the matter of the libel shall have been decreed against him, and grant a rehearing thereof at any time within sixty days after the decree has been entered, the respondent or claimant submitting to such further orders and terms in the premises as the court may direct; and the term of the court shall be deemed extended for this purpose until the expiration of such period of sixty days.

40.

SALES IN ADMIRALTY.

All sales of property under any decree of admiralty shall be made by the marshal or his deputy, or other proper officer assigned by the court, where the marshal is a party in interest, in pursuance of the orders of the court; and the proceeds thereof, when sold, shall be forthwith paid into the registry of the court by the officer making the sale, to be disposed of by the court according to law.

41.

FUNDS IN COURT REGISTRY.

All moneys paid into the registry of the court shall be deposited in some bank designated by the court, and shall be so deposited in the name of the court, and shall not be drawn out, except by a check or checks signed by a judge of the court and countersigned by the clerk, stating on whose account and for whose use it is drawn, and in what suit and out of what fund in particular it is paid. The clerk shall keep a regular book, containing a memorandum and copy of all of the checks so drawn and the date thereof.

42.

CLAIMS AGAINST PROCEEDS IN REGISTRY.

Any person having an interest in any proceeds in the registry of the court shall have a right, by petition and summary proceedings, to intervene *pro interesse suo* for delivery thereof to him, and on due notice to the adverse parties, if any, the court shall and may proceed summarily to hear and decide thereon, and to decree therein according to law and justice. And if such petition or claim shall be deserted, or on a hearing, be dismissed, the court may, in its discretion, award costs against the petitioner in favor of the adverse party.

43.

REFERENCE TO COMMISSIONERS.

In cases where the court shall deem it expedient or necessary for the purposes of justice, it may refer any

matters arising in the progress of the suit to one or two commissioners or assessors, to be appointed by the court, to hear the parties and make a report therein. And such commissioners or assessors shall have and possess all the powers in the premises which are usually given to or exercised by masters in chancery in references to them, including the power to administer oaths to and examine the parties and witnesses touching the premises.

44.

RIGHT OF TRIAL COURTS TO MAKE RULES
OF PRACTICE.

In suits in admiralty in all cases not provided for by these rules or by statute, the district courts are to regulate their practice in such a manner as they deem most expedient for the due administration of justice, provided the same are not inconsistent with these rules.

45.

FURTHER PROOF ON APPEAL.

Further proof taken by leave of a circuit court of appeals or the Supreme Court on an appeal in admiralty shall be taken in such manner as may be prescribed by statute or by said court.

46.

EVIDENCE—HOW TAKEN.

In all trials in admiralty the testimony of witnesses shall be taken orally in open court, except as otherwise provided

by statute, or agreement of parties. When deemed necessary by the court or the officer taking the testimony or by the parties, a stenographer may be employed who shall take down the testimony in shorthand or otherwise and, if requested by the court or either party, transcribe the same. The fees may be fixed by the court and taxed as costs.

47.

COSTS—TRAVEL OF WITNESSES.

Traveling expenses of any witness for more than one hundred miles to and from the Court or place of taking the testimony shall not be taxed as costs.

48.

ISSUE ON NEW FACTS IN ANSWER.

When the respondent or claimant in his answer, alleges new facts, these shall be considered as denied by the libellant, and no replication or reply, general or special, shall be filed, unless ordered by the court on proper cause shown. But within such time after the answer is filed as shall be fixed by the district court, either by general rule or by special order, the libellant may amend his libel so as to confess and avoid, or explain or add to, the new matters set forth in the answer; and within such time as may be fixed, in like manner, the respondent or claimant shall answer such amendments.

49.

RECORD ON APPEAL.

The Clerks of the District Courts shall make up the records to be transmitted to the Circuit Court of Appeals.

I. They shall contain the following:

A. The style of the court.

B. The names of the parties, setting forth the original parties, and those who have become parties before the appeal, if any change has taken place.

C. If bail was taken, or property was attached or arrested, the process of the arrest or attachment and the service thereof, all bail and stipulations, and, if any sale has been made, the orders, warrants, and reports relating thereto.

D. The libel, with exhibits annexed thereto.

E. The pleadings of the respondent or claimant with the exhibits annexed thereto.

F. The testimony as taken on the part of the libellant, and any exhibits not annexed to the libel.

G. The testimony as taken on the part of the respondent or claimant and any exhibits not annexed to his pleadings.

H. Any orders and opinions of the court.

I. Any report of a commissioner or assessor, if excepted to, with the orders of the court respecting the

same, and the exceptions to the report. If the report was not excepted to, only the fact that a reference was made, and so much of the report as shows what results were arrived at by the commissioner or assessor are to be stated.

J. The final decree.

K. The notice of or prayer for an appeal, and the assignment of errors.

II. The following shall be omitted:

A. The continuances.

B. All motions, rules, and orders which are merely preparatory for trial and to which no exception was taken or error assigned.

C. The commissions to take depositions, notices therefor, their captions, and certificates of their being sworn to, unless some exception to a deposition in the District Court was founded on some one or more of these; in which case so much of either of them as may be involved in the exception shall be set out. In all other cases it shall be sufficient to give the name of the witness, and to copy the interrogatories and answers, and to state the name of the commissioner, and the place where and the date when the deposition was sworn to; and in copying all depositions taken on interrogatories, the answer shall be inserted immediately following the question.

III. The Clerk of the District Court shall page the copy of the record thus made up, and shall make an index

thereto, and he shall certify the entire document at the end thereof under the seal of the court, to be a transcript of the record of the District Court in the cause named at the beginning of the copy made up pursuant to this rule.

IV. In making up the record to be transmitted to the Circuit Court of Appeals, the Clerk of the District Court shall omit therefrom any of the pleadings, testimony or exhibits which the parties, by their proctors, shall, by written stipulation, agree may be omitted; and shall receive and include in the record any statement of the case which may be signed by the proctors showing how the questions arose and were decided in the District Court and setting forth so much only of the facts alleged and proved, or sought to be proved, or of the evidence thereof, as is essential to a decision of such question by the Appellate Court, and such stipulation and statement shall be filed and certified up with the record.

50.

SECURITY ON CROSS-LIBEL.

Whenever a cross-libel is filed upon any counterclaim arising out of the same contract or cause of action for which the original libel was filed, and the respondent or claimant in the original suit shall have given security to respond in damages, the respondent in the cross-libel shall give security in the usual amount and form to respond in damages to the claims set forth in said cross-libel, unless the court, for cause shown, shall otherwise direct; and all proceedings on the original libel shall be stayed until such security be given unless the court otherwise directs.

51.

LIMITATION OF LIABILITY—HOW CLAIMED.

When any ship or vessel shall be libeled, or the owner or owners thereof shall be sued, for any embezzlement, loss, or destruction by the master, officers, mariners, passengers, or any other person or persons, of any property, goods, or merchandise, shipped or put on board of such ship or vessel, or for any loss, damage or injury by collision, or for any act, matter or thing, loss, damage or forfeiture, done, occasioned or incurred, without the privity or knowledge of such owner or owners, and he or they shall desire to claim the benefit of limitation of liability provided for in the third and fourth sections of the act of March 3, 1851, entitled "An Act to limit the liability of shipowners and for other purposes" now embodied in sections 4283 to 4285 of the Revised Statutes, as now or hereafter amended or supplemented, the said owner or owners shall and may file a libel or petition in the proper district court of the United States, as hereinafter specified, setting forth the facts and circumstances on which said limitation of liability is claimed, and praying proper relief in that behalf; and thereupon said court, having caused due appraisal to be had of the amount or value of the interest of said owner or owners, respectively, in such ship or vessel, and her freight, for the voyage, shall make an order for the payment of the same into court, or for the giving of a stipulation with sufficient sureties or an approved corporate surety for the payment thereof into court with interest at the rate of six per cent. per annum from the date of said stipulation and costs, whenever the same shall

be ordered; or, if the said owner or owners shall so elect, the said court shall, without such appraisement make an order for the transfer by him or them of his or their interest in such vessel and freight to a trustee to be appointed by the court under the fourth section of said act; and, upon compliance with such order, the said court shall issue a monition against all persons claiming damages for any such embezzlement, loss, destruction, damage or injury, citing them to appear before the said court and file their respective claims at or before a certain time to be named in said writ, not less than thirty days from the issuing of the same; and public notice of such monition shall be given as in other cases, and such further notice served through the post office, or otherwise, as the court, in its discretion, may direct; and the said court shall also, on the application of the said owner or owners, make an order to restrain the further prosecution of all and any suit or suits against said owner or owners in respect to any such claim or claims.

52.

PROOF OF CLAIMS IN LIMITED LIABILITY PROCEDURE.

Proof of all claims which shall be filed in pursuance of said monition shall thereafter be made before a commissioner to be designated by the court, or before the court as the court may determine, subject to the right of any person interested to question or controvert the same; and on the completion of said proofs, the commissioner shall make report, or the court its finding on the claims so

proven, and on confirmation of said commissioner's report, after hearing any exceptions thereto, or on such finding by the court, the moneys paid or secured to be paid into court as aforesaid, or the proceeds of said ship or vessel and freight (after payment of costs and expense) shall be divided pro rata amongst the several claimants in proportion to the amount of their respective claims, duly proved and confirmed as aforesaid, saving, however, to all parties any priority to which they may be legally entitled.

53.

DEFENSE TO CLAIMS IN LIMITED LIABILITY
PROCEDURE.

In the proceedings aforesaid, the said owner or owners shall be at liberty to contest his or their liability, or the liability of said ship or vessel for said embezzlement, loss, destruction, damage or injury (independently of the limitation of liability claimed under said act), provided he, it or they shall have complied with the requirements of Rule fifty-one and shall also have given a bond for costs and provided that, in his or their libel or petition, he or they shall state the facts and circumstances by reason of which exemption from liability is claimed; and any person or persons claiming damages as aforesaid, and who shall have filed his or their claim under oath, shall and may answer such libel or petition, and contest the right of the owner or owners of said ship or vessel, either to an exemption from liability, or to a limitation of liability under the said act of Congress, or both, provided such answer

shall in suitable allegations state the facts and circumstances by reason of which liability is claimed or right to limitation of liability should be denied.

54.

COURTS HAVING COGNIZANCE OF LIMITED LIABILITY PROCEDURE.

The said libel or petition shall be filed and the said proceedings had in any district court of the United States in which said ship or vessel may be libeled to answer for any such embezzlement, loss, destruction, damage or injury; or, if the said ship or vessel be not libeled, then in the district court for any district in which the said owner or owners may be sued in that behalf; when the said ship or vessel has not been libeled to answer the matters aforesaid, and suit has not been commenced against the said owner or owners, or has been commenced in a district other than that in which the said ship or vessel may be, the said proceedings may be had in the district court of the district in which the said ship or vessel may be, and where it may be subject to the control of such court for the purposes of the case as hereinbefore provided. If the ship shall have already been libeled or sold, the proceeds shall represent the same for the purposes of these rules.

55.

APPEALS IN LIMITED LIABILITY CASES.

All the preceding rules and regulations for proceeding in causes where the owner or owners of a ship or vessel

shall desire to claim the benefit of limitation of liability provided for in the act of Congress in that behalf, shall apply to the Circuit Courts of Appeals of the United States where such cases are or shall be pending in said courts on appeal from the District Courts.

56.

RIGHT TO BRING IN PARTY JOINTLY LIABLE.

In any suit, whether *in rem* or *in personam*, the claimant or respondent (as the case may be) shall be entitled to bring in any other vessel or person (individual or corporation) who may be partly or wholly liable either to the libellant or to such claimant or respondent by way of remedy over, contribution or otherwise, growing out of the same matter. This shall be done by petition, on oath, presented before or at the time of answering the libel, or at any later time during the progress of the cause that the court may allow. Such petition shall contain suitable allegations showing such liability, and the particulars thereof, and that such other vessel or person ought to be proceeded against in the same suit for such damage, and shall pray that process be issued against such vessel or person to that end. Thereupon such process shall issue, and if duly served, such suit shall proceed as if such vessel or person had been originally proceeded against; the other parties in the suit shall answer the petition; the claimant of such vessel or such new party shall answer the libel; and such further proceedings shall be had and decree rendered by the court in the suit as to law and justice shall appertain. But every such petitioner shall, upon

filing his petition, give a stipulation, with sufficient sureties, or an approved corporate surety, to pay the libellant and to any claimant or any new party brought in by virtue of such process, all such costs, damages, and expenses as shall be awarded against the petitioner by the court on the final decree, whether rendered in the original or appellate court; and any such claimant or new party shall give the same bonds or stipulations which are required in the like cases from parties brought in under process issued on the prayer of a libellant.

57.

PROPERTY IN CUSTODY OF MARSHAL.

No property in the custody of the marshal or other officer of the court shall be delivered up without an order of the court but, except in possessory actions, such order may be entered, as of course, by the clerk, on the filing of either a written consent thereto by the proctor on whose behalf it is detained, or an approved stipulation or bond given as provided by law and these rules; or upon the dismissal or discontinuance of the libel; except that in proceedings under Section 941 of the Revised Statutes the marshal shall not deliver any property so released until the costs and charges of the officers of the court shall first have been paid into the court by the party receiving such property subject to the decision of the court with respect to the amount of costs due such officers.