

GENERAL RULES,

PROMULGATED MAY 6TH, 1872.

AMENDMENT TO THE 6TH RULE.

All motions to dismiss appeals and writs of error, except motions to docket and dismiss under the ninth rule, must be submitted in the first instance on printed briefs or arguments. If the court desires further argument on that subject it will be ordered in connection with the hearing on the merits. The party moving to dismiss shall serve notice of the motion, with a copy of his brief or argument, on the counsel for plaintiff in error or appellant of record in this court, at least three weeks before the time fixed for submitting the motion, in all cases except where the counsel to be notified resides west of the Rocky Mountains, in which case the notice shall be at least thirty days.

Affidavit of the deposit in the mail of the notice and brief to the proper address of the counsel to be served, duly post-paid, at such time as to reach him by due course of mail, the three weeks or thirty days before the time fixed by the notice, will be regarded as *primâ facie* evidence of service on counsel who reside without the District of Columbia. On proof of such service, the motion will be considered, unless for satisfactory reasons further time be given by the court to either party.

AMENDMENT TO THE 41ST EQUITY RULE.

If the complainant, in his bill, shall waive an answer under oath, or shall only require an answer under oath with regard to certain specified interrogatories, the answer of the defendant, though under oath, except such part thereof as shall be directly responsive to such interrogatories, shall not be evidence in his

favor, unless the cause be set down for hearing on bill and answer only; but may nevertheless be used as an affidavit, with the same effect as heretofore, on a motion to grant or dissolve an injunction, or on any other incidental motion in the cause; but this shall not prevent a defendant from becoming a witness in his own behalf under Section 3 of the act of Congress of July 2d, 1864.

SUPPLEMENTARY RULES OF PRACTICE IN ADMIRALTY, under the act of March 3d, 1851, entitled "An act to limit the liability of ship-owners, and for other purposes."*

54. When any ship or vessel shall be libelled, 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 said act above recited, 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 such limitation of liability is claimed, and praying proper relief in that behalf; and thereupon said court, having caused due appraisement 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 sureties for payment thereof into court 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

* See *infra*, p. 125.

embezzlement, loss, destruction, damage, or injury, citing them to appear before the said court and make due proof of their respective claims at or before a certain time to be named in said writ, not less than three months 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 of any such claim or claims.

55. Proof of all claims which shall be presented in pursuance of said monition, shall be made before a commissioner to be designated by the court, subject to the right of any person interested, to question or controvert the same; and, upon the completion of said proofs, the commissioner shall make report of the claims so proven, and upon confirmation of said report, after hearing any exceptions thereto, 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 expenses), 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.

56. 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 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 presented his or their claim to the commissioner 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.

57. 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 libelled to answer for any such embezzlement, loss, destruction, damage, or injury; or, if the said ship or vessel be not libelled, then in the District Court for any

district in which the said owner or owners may be sued in that behalf. If the ship have already been libelled and sold, the proceeds shall represent the same for the purposes of these rules.

AMENDMENT TO THE 5TH RULE IN ADMIRALTY.

Ordered, That this rule be amended so as to read as follows, viz.:

Bonds, or stipulations in admiralty suits, may be given and taken in open court, or at chambers, 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 any commissioner of the United States authorized by law to take bail and affidavits in civil cases.

AMENDMENT TO THE 12TH RULE IN ADMIRALTY.

Ordered, That this rule be amended so as to read as follows:

In all suits by material-men for supplies or repairs, or other necessaries, the libellant may proceed against the ship and freight *in rem*, or against the master or owner alone *in personam*.

AMENDMENT TO THE 45TH RULE IN ADMIRALTY.

Ordered, That this rule be amended so as to read as follows, viz.:

All appeals from the District to the Circuit Court must be made while the court is sitting, or within such other period as shall be designated by the District Court by its general rules, or by an order specially made in the particular suit, or in case no such rule or order be made, then within thirty days from the rendering of the decree.