

THE  
MARITIME LAW ASSOCIATION OF THE UNITED STATES.

APRIL 15, 1919.

The twentieth annual meeting of The Maritime Law Association of the United States will be held in the Library of the New York Law Institute, 120 Broadway, New York City, Friday, May 2, 1919, at 4 o'clock P. M.

At that time the meeting will be adjourned to Friday, June 6, 1919, at 2 o'clock P. M. at the Association of the Bar of the City of New York, 42 West 44th Street, New York City.

Officers of the Association for the ensuing year will be elected.

The reports of the Secretary and Treasurer will be submitted and their approval asked and reports of any other special committee will be received which may be submitted.

The Committee on Admiralty Practice Rules Revision, authorized December 7, 1917, reports the General Committee's draft of a revision of the Admiralty Rules. The Committee's report is annexed containing a copy of the draft of the Revision and a general invitation is extended to all persons who may be interested to attend June 6, 1919, with any suggestion or criticism that they may have to submit.

A. GORDON MURRAY,  
*Secretary,*  
56 Pine Street,  
New York City.

THE REPORT OF THE COMMITTEE ON ADMIRALTY PRACTICE  
RULES REVISION.

Appointed December 7, 1917.

TO THE MARITIME LAW ASSOCIATION OF THE UNITED STATES.

Your Committee appointed December 7, 1917, begs leave to report that it submitted a preliminary report to this Association May 3, 1918. It was subsequently brought to the attention of the Chief Justice of the United States Supreme Court and pursuant to a suggestion made by him was printed and distributed to the Judges of the United States Circuit Courts of Appeals for the several Circuits with the request that each Court designate a member of a general committee to thoroughly study the subject. The Courts responded to the suggestion and request by the designation of the following committee:

- First Circuit—Edward E. Blodgett, Boston.
- Second “ —D. Roger Englar, New York.
- Third “ —William J. Conlen, Philadelphia.
- Fourth “ —Floyd Hughes, Norfolk.
- Fifth “ —Samuel B. Adams, Savannah.
- Sixth “ —Herman A. Kelley, Cleveland.
- Seventh “ —Charles E. Kremer, Chicago.
- Eighth “ —
- Ninth “ —Ira. A. Campbell, Washington.

The General Committee has had two meetings, February 21 and 22, 1919, and April 5, 1919. The Committee submits a draft, a copy of which is hereto annexed, which your Committee desires to submit herewith for the consideration of this Association.

Respectfully submitted,

EDWARD E. BLODGETT, Chairman,  
D. ROGER ENGLAR,  
FLOYD HUGHES.

Draft of Revision of The Admiralty Rules of Practice  
known as

THE ADMIRALTY RULES,

RULES OF PRACTICE

FOR

THE COURTS OF THE UNITED STATES

IN

ADMIRALTY AND MARITIME JURISDICTION, ON THE INSTANCE  
SIDE OF THE COURT, IN PURSUANCE OF THE ACT OF  
THE TWENTY-SECOND OF AUGUST, 1842.

CHAP. 188.

RULE 1.

No suggestion.

RULE 2.

“In suits *in personam* the mesne process may be by a simple warrant of arrest of the person of the defendant in the nature of a *capias*, or by a warrant of arrest of the person of the defendant, with a clause therein that if he cannot be found, to attach his goods and chattels to the amount sued for; or if such property cannot be found, to attach his credits and effects to the amount sued for in the hands of the garnishees named therein; or by a simple monition, in the nature of a summons to appear and answer to the suit, as the libellant shall, in his libel or information, pray for or elect, or in case the defendant is a non-resident of the state in which the district is comprised or is a corporation incorporated under the laws of another state or jurisdiction, then by such monition with a clause to attach the goods and chattels of the defendant to the amount sued for; or, if such property cannot be found, to attach his credits and effects to the amount sued for in the hands of the garnishees named therein.”

RULE 3.

“In all suits *in personam*, where a simple warrant of arrest issues and is executed, the marshal may take bail, with suffi-

cient sureties, from the party arrested, by bond or stipulation, upon condition that he will appear in the suit and abide by all orders of the court, interlocutory or final, in the cause, and pay the money awarded by the final decree rendered therein in the court to which the process is returnable or in any appellate court."

RULE 4.

"In all suits *in personam* where the goods and chattels or credits and effects are attached under such warrant authorizing the same, the attachment may be dissolved by order of the court to which the same warrant is returnable, upon the giving of a bond or stipulation with sufficient surety by the defendant, whose property is so attached, or by someone on his behalf, conditioned to abide by all orders, interlocutory or final, of the court, and pay the amount awarded by the final decree rendered in the court to which the process is returnable or in any appellate court."

RULE 5.

"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."

RULE 6.

No suggestion.

RULE 7.

"In suits *in personam* no warrant of arrest of the person of the defendant shall issue for a sum exceeding \$500, unless by the special order of the court upon affidavit or other proper proofs showing the propriety thereof." (therefor)

RULE 8.

No suggestion.

RULE 9.

No suggestion.

## RULE 10.

No suggestion.

## RULE 11.

No suggestion.

## RULE 12.

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

## RULE 13.

“In all suits for mariners’ wages the libellant may proceed against the ship, freight, and master, or, against the ship and freight, or against the owner or the master *in personam*.”

## RULE 14.

“In all suits for pilotage the libellant may proceed against the ship and master, or against the ship, or against the owner, or the master *in personam*.”

## RULE 15.

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

## RULE 16.

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

## RULE 17.

“In all suits against the ship or freight founded upon a mere maritime hypothecation, either express or implied, of the master, for moneys taken up in a foreign port for supplies or repairs, or other necessities for the voyage; without any claim of marine interest, the libellant may proceed either *in rem* or against the master or the owner *in personam*.”

## RULE 18.

No suggestion.

## RULE 19.

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

## RULE 20.

No suggestion.

## RULE 21.

“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 defendant or stipulators. And any other remedies shall be available that may exist under State or Federal law for the enforcement of judgments or decrees.”

## RULE 22.

No suggestion.

## RULE 23.

“All libels in instance causes, civil or maritime, shall state the nature of the cause; as, for example, that it is a cause, civil and maritime, of contract, or of tort or damage, or of salvage, or of possession, or otherwise, as the case 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. The libel shall also propound and articulate in distinct articles the various allegations of fact upon which the libellant relies in support of his suit, so that the defendant may be enabled to answer distinctly and separately the several matters contained in each article; and it shall conclude with a prayer of due process to enforce his rights *in rem*, or *in personam* (as the case may require), and for such relief and redress as the court is competent to give in the premises. And the libellant may further require the defendant to answer on oath all interrogatories propounded by him touching all and singular the allegations in the libel at the close or conclusion thereof.”

## RULES 24 TO 39 INCLUSIVE.

No suggestion.

## RULE 40.

“The court may, in its discretion, upon the motion of the defendant 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 defendant submitting to such further orders and terms in the premises as the court may direct.”

## RULE 41.

No suggestion.

## RULE 42.

No suggestion.

## RULE 43.

No suggestion.

## RULE 44.

“In cases where the court shall deem it expedient or necessary for the purpose of justice, the court may refer any matters arising in the progress of the suit to one or more 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.”

## RULE 45.

“All appeals from the District Court to the Circuit Court of Appeals shall be made as provided by statute, and, as matters not so provided, in accordance with the rules of the several Circuit Courts of Appeal.”

## RULE 46.

“In all cases not provided for by the foregoing rules the District Courts and the Circuit Courts of Appeals are to

regulate the practice of the said courts, respectively, in such manner as they shall deem most expedient for the due administration of justice in suits in admiralty.”

RULE 47.

No suggestion.

RULE 48.

No suggestion.

RULE 49.

“Further proof taken in a Circuit Court of Appeals upon an appeal in admiralty shall be taken in such manner as may be prescribed by statute or by said court.”

RULE 50.

“In all trials in Admiralty the testimony of witnesses shall be taken orally in open court, except as otherwise provided by statute, rule of court or agreement of parties. When deemed necessary by the court or the officer taking 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 (stenographer’s) fees may be fixed by the court and taxed as costs.”

RULE 51.

No suggestion.

RULE 52.

“The Clerks of the District Courts shall make up the records to be transmitted to the Circuit Courts of Appeals, so that the same shall contain the following:

1. The style of the court.
2. 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.
3. If bail was taken, or property was attached or arrested, the process of 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.



4. The libel with exhibits annexed thereto.
5. The pleadings of the defendant, with the exhibits annexed thereto.
6. The testimony on the part of the libellant, and any exhibits not annexed to the libel.
7. The testimony on the part of the defendant, and any exhibits not annexed to his pleadings.
8. Any order of the court to which exception was made. (If involved in the appeal.)
9. 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.
10. The final decree.
11. The prayer for an appeal, and the action of the District Court thereon and the assignment of errors.

The following shall be omitted :

1. The continuances.
2. All motions, rules and orders not excepted to which are merely preparatory for trial.
3. 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.

2. 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; and no other certificate of the record shall be needful or inserted.
3. Hereafter, 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 may include in place thereof a statement of the case 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, 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."

## RULE 53.

"Whenever a cross-libel is filed upon any counterclaim arising out of the same cause of action for which the original libel was filed, and the defendant 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, as claimed in said cross-libel, unless the court, on cause shown, shall otherwise direct; and all proceedings upon the original libel shall be stayed until such security be given."

## RULE 54.

"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, 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 the payment thereof into court with interest at the rate of 6 per cent. per annum from the date of said stipulation 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 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 postoffice, 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."

## RULE 55.

No suggestion.

## RULE 56.

No suggestion.

## RULE 57.

No suggestion.

## RULE 58.

No suggestion.

## RULE 59.

“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 corporate) 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, to pay to the libellant and to any claimant or 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 upon the final decree, whether rendered in the original or the appellate court; and any such claimant or new party shall

give the same bonds or stipulations which are required in like cases from parties brought in under process issued on the prayer of a libellant.”

**RULE 60.**

“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 an approved bond to the marshal, as provided by law; or upon the dismissal or discontinuance of the libel; provided, however, except in proceedings under Section 941 of the Revised Statutes, the marshal shall not deliver any property so released until the accrued costs and charges of the officers of the court shall first have been paid into court by the party receiving such property subject to the decision of the court with respect to the amount of costs due such officers.”