

THE
MARITIME LAW ASSOCIATION OF THE UNITED STATES.

The adjourned ^{twentieth} twenty-first annual meeting of The Maritime Law Association of the United States was held at the Association of the Bar, 42 West 44th Street, New York City, June 6, 1919.

There were present:

Hon. Henry Galbraith Ward,
Herbert R. Spencer,
George Whitefield Betts,
Robert M. Hughes,
Floyd Hughes,
Edward E. Blodgett,
Ira A. Campbell,
Charles R. Hickox,
D. Roger Engler,
Wm. H. McGrann,
A. Gordon Murray,
Van Vechten Veeder,
William Nelson.

The first business of the meeting was the election of officers for the ensuing year. The following were elected:

President: Charles M. Hough.

Secretary and Treasurer: A. Gordon Murray.

Executive Committee:

D. Roger Engler, New York.
Floyd Hughes, Norfolk.
C. C. Burlingham, New York.
H. Alan Dawson, Philadelphia.
Harvey D. Goulder, Cleveland.
Ira A. Campbell, Washington.
Edward E. Blodgett, Boston.
George H. Terriberry, New Orleans.

The Committee which was appointed December 7, 1917, of which Van Vechten Veeder was chairman, on the Salaries of Federal Judges, reported that in the last Congress, after various hearings and arguments before both Houses of Congress, a flat increase of \$1,500 was obtained, so that the Judges of the District Courts now receive \$7,500 per annum and the Judges of the Circuit Courts of Appeals \$8,500. It was accordingly voted that the Committee be discharged.

The Committee on the proposed bill allowing suits against government owned or requisitioned vessels reported that the Committee had considered the matter carefully and had favored a bill but that other bills were in contemplation, having a more or less comprehensive purpose, and would unquestionably be introduced in the present Congress. Under the circumstances it was moved and seconded that the Committee be continued with full power to act.

The Committee on Merchant Marine reported that it had organized but was not prepared to make a report.

The Committee on the Revision of Rules of Practice in Admiralty submitted a revised draft for consideration by the Association, and after a general discussion the chairman of the Committee stated that the Committee would be pleased to receive the suggestions of various members present who offered to submit their suggestions in writing to the Committee. It was so ordered. The draft is annexed.

Reports of the Secretary and Treasurer for the year 1918-19 were received and on motion were accepted and ordered on file, and copies of the same are attached hereto.

On motion, the meeting was adjourned.

Respectfully submitted,

A. GORDON MURRAY,

Secretary,

56 Pine St.,

New York.

Revised Draft (June 6) 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.

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 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.

No suggestion.

RULE 4.

“In all suits *in personam* where the goods and cattels or credits and effects are attached under such warrant author-

izing 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; and upon such bond or stipulation summary process of execution shall and may be issued against the principal and sureties by the court to which such warrant is returnable, to enforce the final decree so rendered, or upon appeal by the 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.”

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 necessaries, 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

No suggestion.

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 necessaries for the voyage, without any claim of maritime 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 that 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 be), 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 con-

clusion thereof, or otherwise, as may be ordered by the court upon cause shown.

RULES 24-26 INCLUSIVE.

No suggestion.

RULE 27.

“In all libels in causes of civil and maritime jurisdiction, whether *in rem* or *in personam*, the answer of the defendant to the allegations in the libel shall be on oath or solemn affirmation; and the answer 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 each interrogatory propounded at the close of the libel. 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.”

RULES 28 TO 31 INCLUSIVE.

No suggestion.

RULE 32.

“The defendant shall have a right to require the personal answer of the libellant upon oath or solemn affirmation to any interrogatories which he may, at the close of his answer, or otherwise, as may be ordered by the court upon cause shown, propound to the libellant touching matters charged in the libel, or touching any matter of defence set up in the answer, subject to the like exception as to matters which shall expose the libellant to any prosecution, or punishment, or forfeiture, as is provided in the 31st Rule. In default of due answer by the libellant to such interrogatories, the court may adjudge the libellant to be in default and dismiss the libel, or may compel his answer in the premises by attachment, or take the subject matter of the interrogatory *pro confesso* in favor of the defendant, as the court, in its discretion, shall deem most fit to promote public justice.”

RULES 33 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 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.”

RULE 45.

“All appeals from the District Court to the Circuit Court of Appeals shall be taken within the time provided by statute.”

RULE 46.

“In all cases not provided for by these rules the District Courts are to regulate their practice in such a manner as they

deem most expedient for the due administration of justice in suits in admiralty.”

RULE 47.

No suggestion.

RULE 48.

Added to suggested Rule 27 and so to be omitted.

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 described 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 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 same. The fees may be fixed by the court and taxed as costs.”

RULE 51.

No suggestion.

RULE 52.

I.—“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.
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.

II.—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.

III.—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, 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.”

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 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 post office, or otherwise, as the court, in its discretion, may direct; and the said court shall also, in 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.

“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.”

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 in admiralty 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 the 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 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 the 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."

NOTE:—It was suggested that Captions be added to the rules. Any further suggestions will be appreciated by the Committee and should be sent to the Secretary at once.

TO THE MARITIME LAW ASSOCIATION OF THE
UNITED STATES.

A. Gordon Murray, as Treasurer of The Maritime Law Association of the United States, submits his annual report for the year ending April 30th, 1919, as follows:

RECEIPTS.

April 30, 1918:

Balance carried over	\$797.97	
Annual dues received from 102 members.....	510.00	
Interest accrued and credited January 1, 1919...	1.64	
		\$1,309.61

DISBURSEMENTS.

Room Rent, N. Y. Law Inst. Ass'n. of the Bar...	\$ 35.50	
Printing, Douglas Taylor & Co.....	336.00	
Postage	48.85	
Stenography and Clerical Assistance.....	154.38	
Telegrams	2.16	
Entertainments and Dinner to Admiralty Rules Revision Committee	223.01	
		\$799.90

TOTAL RECEIPTS	\$1,309.61
TOTAL DISBURSEMENTS	799.90
BALANCE ON HAND, May 1, 1919.....	\$509.71

Respectfully submitted,

A. GORDON MURRAY,
Treasurer.

TO THE MARITIME LAW ASSOCIATION OF THE
UNITED STATES.

A. Gordon Murray, as Secretary of the Maritime Law Association of the United States, submits his report for the year ending April 30th, 1919, as follows:

There have been two regular meetings of the Association during the year as follows:

Annual meeting, May 3rd, 1918.

Autumn meeting, December 3rd, 1918.

At the December meeting, the Committee having charge of the Revision of the Rules of Practice in Admiralty made a preliminary report which was approved and the Committee was authorized to take further action as might seem advisable.

The Committee brought the matter to the attention of the Chief Justice of the Supreme Court of the United States, and at his suggestion a Committee was organized representing the various Circuits as follows:

1—Edward E. Blodgett, Boston, Chairman.

2—D. Roger Engler, New York.

3—William J. Conlen, Philadelphia.

4—Floyd Hughes, Norfolk.

5—Samuel B. Adams, Savannah.

6—Hermon A. Kelley, Cleveland.

7—Charles E. Kremer, Chicago.

8—Herbert R. Spencer, Duluth.

9—Ira A. Campbell, Washington, D. C.

This Committee has had two meetings and has adopted a Draft of Revision which is submitted to this Association at this meeting. It has been mailed to all of the Judges of the United States Circuit and Districts Courts and a general invitation has been extended to all persons interested in the matter to attend this meeting for the purpose of offering criticisms or proposing changes.

The Committee appointed May 7, 1917, on Salaries of the Federal Judiciary, consists of:

Van Vechten Veeder, New York, Chairman.

Charles S. Haight, New York.

Mark W. Maclay, Jr., New York.

This Committee in connection with other Committees presented a proposal to the last Congress for a comprehensive adjustment of the salaries of the Judges of the United States Court. Although the bill was favorably received and the plan considered, a very inadequate increase was obtained.

The Committee on Proceedings Against The Government For Losses Caused By Government Owned Or Requisitioned Vessels, appointed May 3rd, 1918, of which Van Vechten Veeder is Chairman and Edward E. Blodgett, Boston, and Floyd Hughes, of Norfolk, are members, has been working with the authorities and it is hoped that that Committee will present at least a preliminary report in the near future.

The Committee On The Merchant Marine authorized December 6, 1918, has been organized.

In connection with the interest of this Association in the subject of the American Merchant Marine, the Executive Committee deemed it expedient to request the President, on a trip to England and France, to take into consideration the subject and to that end on January 3rd, 1919, the Secretary dispatched to the Hon. Frank L. Polk, Acting Secretary of State, Washington, D. C., the following telegram:

“HON. FRANK L. POLK,
Acting Secretary of State,
Washington, D. C.

Maritime Law Association of United States, of which Judge Henry G. Ward is President, December sixth appointed committee on merchant marine, which with Executive Committee have requested Judge Ward visit England and Continent and secure all possible information on the subject. Association therefore respectfully requests State Department issue passports to Judge Ward and facilitate in every way his mission.

A. GORDON MURRAY,
Secretary.”

Our roll of Associate Members for the year has been increased by the addition of Hon. J. Whittaker Thompson, United States District Judge, Philadelphia, Pa.; Hon. John

M. Warrington, U. S. Circuit Judge, Cleveland, Ohio; Hon. Joseph W. Woodrough, U. S. District Judge, Omaha, Nebraska; and it has been depleted by the deaths of Hon. William L. Putnam, U. S. Circuit Judge, Portland, Me., and Hon. John D. McPherson, U. S. District Judge, Philadelphia, Pa.

Our roll of Government Service Members has been depleted by the death in service of Samuel J. Reid, Jr., who was killed in action in France, August 22nd, 1918. He was an Acting Captain of Battery A. 306th Field Artillery, A. E. F.

Our active list has been depleted by the death of J. P. K. Bryan, Charleston, South Carolina, October, 1918; Daniel H. Hayne, Baltimore, Md., January 21st, 1919; William R. Leaken, Savannah, Georgia, March 9, 1918; Benjamin Thompson, Portland, Me., December 6, 1918.

Our active membership has been increased by the addition of Earle Farwell, of New York City; Anthony M. Menkel, Frazer Lee Rice, New Orleans, Louisiana; William Waller Young, New Orleans, Louisiana; William H. Blymyer, New York City; A. Leo Everett, New York City; Everett H. Brown, Jr., Philadelphia, Pa., and Ralph James M. Bullowa, New York City.

Respectfully submitted,

A. GORDON MURRAY,
Secretary.