

PRIZE COURTS

1. *Procedure Rules.*

2. *Colonial Prize Courts,*
p. 664.

1. Procedure Rules

Proceedings in Vice-Admiralty Courts *see* the title "Colonial Court of Admiralty and Vice-Admiralty Court."

General Rules as to appeals to H.M. in Council *see* the title "Judicial Committee."

THE PRIZE COURT RULES, 1939.(a)

1939 No. 1466 (L. 23)

At the Court at Buckingham Palace, the 19th day of October,
1939.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas by section three of the Prize Courts Act, 1894, His Majesty in Council is authorised to make rules of court for regulating, subject to the provisions of the Naval Prize Act, 1864, and the said Act, the procedure and practice of prize courts within the meaning of the Naval Prize Act and the duties and conduct of the officers thereof and of the practitioners therein, and for regulating the fees to be taken by the officers of the courts and the costs, charges and expenses to be allowed to the practitioners therein :

27 & 28 Vict.
c. 25.

And whereas by section five of the Naval Prize Act, 1864, it is provided that every appeal from a prize court within the meaning of that Act shall be made in such manner and form and subject to such regulations (including regulations as to fees, costs, charges and expenses) as may for the time being be directed by Order in Council :

And whereas it is expedient that the Prize Court Rules, 1914, as amended by Orders in Council dated the 28th day of November, 1914, the 3rd day of February, 1915, the 29th day of April, 1915, and the 21st day of December 1917, should cease to have effect except in the Union of South Africa and Eire (b) :

And whereas by section one of the Prize Act, 1939, it is provided that the law relating to prize shall apply in relation to aircraft and goods carried therein as it applies in relation to ships and goods carried therein, and shall also apply notwithstanding that the aircraft is on or over land :

2 & 3 Geo. 6.
c. 65.

(a) These Rules supersede Provisional Rules to like effect approved by Order in Council 2nd September, 1939.

(b) The Prize Court Rules, 1914 and amendments thereof, are, on account of their limited application, omitted from this volume. They are printed in S.R. & O. 1914 (No. 1407 and 1701) III, pp. 103-212, 1915 (Nos. 135 and 357) III, pp. 87-9 and 1917 (No. 1349) p. 929.

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And whereas it is expedient that in the countries and territories herein-after mentioned the rules set out in the Schedule hereto should come into force :

And whereas the Dominion of Canada has requested and consented to the making of this Order so far as the same extends thereto :

56 & 57 Vict.
c. 66.

And whereas the provisions of the Rules Publication Act, 1893, have been complied with :

Now, therefore, His Majesty by virtue of the powers in this behalf by the said Prize Courts Act, 1894, and the said Prize Act, 1939, or otherwise in Him vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

Forthwith upon the making of this Order :—

- (1) The Prize Court Rules, 1914, as amended by the Orders in Council dated the 28th day of November, 1914, the 3rd day of February, 1915, the 29th day of April, 1915, and the 21st day of December, 1917,(a) shall, except in their application to the Union of South Africa and Eire, be revoked.
- (2) The rules contained in the Schedule hereto shall come into force in the following countries and territories, that is to say,—
 - (a) the United Kingdom, the Channel Islands and the Isle of Man,
 - (b) the Commonwealth of Australia and the Dominion of New Zealand,
 - (c) British India and British Burma,
 - (d) Newfoundland and every colony,
 - (e) every British protectorate, and
 - (f) every territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty, and is being exercised by His Majesty's Government in the United Kingdom, in the Commonwealth of Australia or in the Dominion of New Zealand,and (to the extent of His Majesty's jurisdiction therein in matters of prize) in every other country or territory in which for the time being His Majesty has such jurisdiction.

Rupert B. Howorth.

(a) See footnote (b) p. 561 above.

THE SCHEDULE

THE PRIZE COURT RULES, 1939

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THE PRIZE COURT RULES

ORDER I

Interpretation

1. In these Rules and the forms thereto annexed, unless the context otherwise requires, the following expressions shall have and include the meanings hereby assigned to them, that is to say :—

“ Captor ” shall mean any person taking or seizing, or having taken or seized, any ship, aircraft or goods as prize, and shall (for the purposes of proceedings in any cause or matter) include the captor’s solicitor (if any), or the proper officer of the Crown, and shall include re-captor;

“ Capture ” shall include re-capture;

“ Cause ” shall mean any prize proceeding instituted by a writ;

“ Claimant ” shall mean any person who shall assert a claim to ship, aircraft or goods taken or seized as prize, or to compensation, and shall (for the purposes of proceedings in any cause or matter) include the claimant’s solicitor (if any);

“ Consular officer ” shall include consul-general, consul, vice-consul, consular agent, and any person for the time being authorised to discharge the duties of consul-general, consul, or vice-consul;

“ Counsel ” shall include any barrister-at-law, advocate or other person entitled to practise and have audience in the Court;

“ High Court ” shall mean the High Court of Justice in England acting in the exercise of prize jurisdiction;

“ Court ” shall mean the High Court and any Court in any of the following countries and territories, that is to say,—

(a) the Commonwealth of Australia and the Dominion of New Zealand,

(b) British India and British Burma,

(c) Newfoundland and any colony,

(d) any British protectorate,

(e) any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty, and is being exercised by His Majesty’s Government in the United Kingdom, in the Commonwealth of Australia or in the Dominion of New Zealand, and

(f) any other country or territory in which for the time being His Majesty has jurisdiction in matters of prize,

being a Court for the time being duly authorised to exercise prize jurisdiction;

“ Crown ” shall include the Crown in its office of Admiralty;

“ Defendant ” shall (for the purposes of proceedings in any cause or matter) include the defendant’s solicitor (if any);

“ Judge ” shall mean any Judge of the Court acting in the exercise of prize jurisdiction;

“ Lords of the Admiralty ” shall mean the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral;

“ Marshal ” shall mean the marshal of the Probate, Divorce, and Admiralty Division of the High Court, or of any Court other than the High Court, or such other officer as shall be appointed by the Court to carry out the duties of the marshal under these Rules;

“ Month ” shall mean calendar month;

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"Owner" shall include any person to whom by operation of law the property in a ship or aircraft seized or taken as prize shall, in whole or part, have passed, and shall also include any person intervening in a cause on behalf of an owner, or intervening and claiming or alleging an interest in such ship or aircraft;

"Party" shall (for the purposes of the proceedings in any cause or matter) include the proper officer of the Crown and the party's solicitor (if any);

"Person" shall include company and corporation and body politic;

"Petitioner" shall (for the purposes of proceedings in any cause or matter) include the petitioner's solicitor (if any);

"Plaintiff" shall (for the purposes of proceedings in any cause or matter) include the plaintiff's solicitor (if any);

"President" shall mean the President of the Probate, Divorce, and Admiralty Division of the High Court, or the principal Judge of a Court other than the High Court as the case may be;

"Proper officer of the Crown" shall mean His Majesty's Procurator-General or other law officer or agent for the Crown authorised to conduct prize proceedings on behalf of the Crown within the jurisdiction of the Court;

"Registrar" shall mean the Admiralty Registrar of the Probate, Divorce, and Admiralty Division of the High Court, or any assistant or deputy Admiralty Registrar thereof, or the Admiralty Registrar of any Court other than the High Court, or such other officer as shall be appointed by the Court to carry out the duties of the Registrar under these Rules;

"Registry" shall mean the Admiralty Registry of the Probate, Divorce, and Admiralty Division of the High Court, or of any Court other than the High Court;

"Respondent" shall (for the purposes of proceedings in any cause or matter) include the respondent's solicitor (if any);

"Ship of war" shall include armed ship;

"Military aircraft" shall include armed aircraft;

"Solicitor" shall mean any solicitor, attorney, or proctor entitled to practise in the Court, and the proper officer of the Crown.

2. Unless the contrary intention appears, the provisions of these Rules relative to ships and aircraft shall extend and apply, *mutatis mutandis*, to goods and to freight (if any) due or to grow due; and for such purpose the terms "ship" or "aircraft" when used in these Rules shall include "goods" and "freight."

3. Unless the contrary intention appears, words and expressions in these Rules shall have the same meaning as in the Prize Acts, 1864 to 1939, as amended by any subsequent enactment.

ORDER II

Institution of Causes and Issue and Service of Writ

(a) Institution of Causes

1. Every cause in matters of prize shall be instituted by a writ.

2. Causes shall be numbered in the order in which they are instituted, and the number given to any cause shall be the distinguishing number of the cause, and shall be written or printed on all instruments and other documents in the cause as part of the title thereof, and the cause shall be entered in the minute book under such number.

Forms of the heading and title of a cause will be found in Appendix A, Nos. 1 (i. and ii.).

3. Every cause instituted for the condemnation of a ship or aircraft as prize, including causes under Rule 6, shall, except as hereinafter provided, be instituted in the name of the Crown; but the proceedings therein may, with the consent of the Crown (through the proper officer of the Crown), be conducted by the captors or any parties to whom the ship or aircraft would on condemnation be condemned as prize.

All other causes may be instituted in the name of the parties claiming or proceeding.

(b) Issue of Writs

4. Writs shall be issued out of the Registry.

5. A writ for the condemnation of a ship or aircraft as prize shall be in the form No. 2 of Appendix A.

The writ shall be issued on the application of the proper officer of the Crown.

Unless the Judge shall otherwise order, no writ for the condemnation of a ship or aircraft as prize shall be issued until an affidavit has been filed as to ship papers or aircraft papers.

6. Where the ship or aircraft has been destroyed or lost, or where goods have been destroyed or lost or removed from the ship or aircraft, the writ shall be in the form No. 3 of Appendix A.

7. In a cause instituted against a captor for restitution or damages, the writ shall be in the form No. 4 of Appendix A.

8. A cause instituted for the recovery of prize salvage (except where the ship or aircraft is brought in for adjudication) shall be commenced by writ in the form No. 5 of Appendix A.

9. In the cause instituted to enforce a claim of joint capture, the writ shall be in the form No. 6 of Appendix A.

(c) Service of Writs

10. In a cause for the condemnation of a ship or aircraft as prize, the writ shall be served by the marshal.

11. Service of the writ shall be effected in the manner following :—

(1) upon ship or aircraft, freight or goods on board, by affixing the original writ for a short time on a conspicuous part of the ship or aircraft, and by leaving a true copy fixed in its place when the original is removed;

(2) upon goods or freight where the goods have been landed or transhipped or are not on board a ship or aircraft, by attaching the writ for a short time to such goods, and by leaving a copy of the writ attached thereto; or, if the person having the custody of the goods refuses access thereto, by showing the writ to such person and by leaving with him a copy thereof;

(3) upon freight or proceeds of prize in the hands of any person other than a person holding the same on behalf of the court, by showing the writ to him, and by leaving with him a copy thereof;

(4) upon freight or proceeds in court, by showing the writ to the Registrar and by leaving with him a copy thereof.

12. The writ shall be filed by the party after service as aforesaid, with a certificate of service endorsed thereon. The certificate of service shall state the date and mode of service, and shall be signed by the person serving the same, and shall be taken as evidence of such service and of the date and mode thereof.

13. Service of a writ in a cause instituted as in Rule 6 mentioned, shall be effected by the writ being filed in the Registry by the captor, and notice of the institution of the cause shall be given in such manner as the Judge may direct.

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14. In a cause instituted as in Rule 7 and Rule 8 mentioned, the writ shall be served on the captors.

15. If it is made to appear to the Judge that service in the manner prescribed by these Rules is impracticable or cannot for any reason promptly be effected, the Judge may make such order for substituted or other service, or for the substitution for service of notice by advertisement or otherwise as may seem just. Every application for substituted service or for the substitution of notice for service shall be supported by an affidavit setting forth the grounds upon which the application is made.

(d) Service out of the Jurisdiction

16. Service of a writ may, by leave of the Judge, be allowed out of the jurisdiction.

17. Application for leave to serve a writ out of the jurisdiction shall be upon affidavit, stating that in the belief of the deponent the applicant has good cause for proceeding, and showing in what place or country the person, ship or aircraft to be served is or probably may be found, and the grounds upon which the application is made.

18. An order giving leave to effect service out of the jurisdiction shall limit a time after each service within which an appearance shall be entered.

19. Where the person to be served out of the jurisdiction is not a British subject, or the ship or aircraft is not the property of a British subject, notice of the writ and not the writ itself shall be served. Notice in lieu of service shall be served in the manner in which a notice of a writ of summons is served according to the procedure for the time being in force in the High Court. A form of notice in lieu of service will be found in Appendix A, No. 7.

20. Where under the practice of the High Court notice of writ is served through the diplomatic channel, the notice shall, if the writ is issued by the High Court, be transmitted to the Secretary of State for Foreign Affairs in accordance with such practice, and, if the writ is issued by a Court other than the High Court, be transmitted to the chief executive authority with a request for the further transmission of the same through the appropriate channel to the Government of the country in which service is to be effected.

(e) General

21. A writ for condemnation and the fact of service thereof shall be advertised by the Registrar forthwith in one or more of such newspapers and on one or more occasions as he shall think proper.

22. Where a writ is issued on the application of an alien enemy an affidavit shortly stating the grounds of the claim must be filed in the Registry before the writ is issued.

23. Where a writ is issued in respect of a ship or aircraft purporting to be neutral, notice of the institution of the cause shall be sent by the Registrar to the consular officer of the State to which the ship or aircraft purports to belong.

ORDER III

Appearance and Claim

1. Subject to the provisions of Rule 18 of Order II any person desiring to enter an appearance in a cause shall enter an appearance (Appendix A, Form No. 8) in the Registry within thirty days after service of the writ, or may by leave of the Court do so at any time before final adjudication. He shall thereupon become a party to the cause.

2. A person, on entering an appearance, shall give notice thereof to the party issuing the writ.

3. Where a person has no usual residence or place of business within the jurisdiction, appearance may be entered for him by the master of the ship or aircraft or by an agent duly authorised.
4. A party who has entered an appearance may make a claim in one of the forms marked No. 9 (i.) to (vii.) in Appendix A, with such variations as the circumstances may require.
5. An alien enemy shall, before entering an appearance, file in the Registry an affidavit stating the grounds of his claim.
6. Where no appearance has been entered the party issuing the writ may proceed in the cause subject to the filing of an affidavit of service of the writ. *See* Appendix A, Form No. 10.

ORDER IV

Affidavit as to Ship Papers and Aircraft Papers

1. An affidavit as to ship papers or aircraft papers shall, unless previously sworn, or otherwise ordered by the Judge, be sworn within ten days after the ship or aircraft is brought in for adjudication or is seized within the jurisdiction.
2. The affidavit shall, with the ship papers or aircraft papers exhibited thereto, be filed in the Registry within three days, or such longer period as the Judge may order, after the same is sworn as aforesaid, or, if sworn before the ship or aircraft is brought in for adjudication, within the like period after the ship or aircraft is brought in for adjudication.
3. If a captured ship or aircraft is destroyed or lost, the affidavit as to ship papers or aircraft papers shall, with the ship papers or aircraft papers exhibited thereto, be filed within three days of the institution of the cause.
4. Where ship papers or aircraft papers are in the custody or under the control of any person within the jurisdiction of the Court, the Judge may, on the application of the captor or of a claimant, order the person having such custody or control to bring the papers into Court; and thereupon such person shall bring in all ship papers or aircraft papers as exhibits to an affidavit in the form marked No. 11 (iv.) in Appendix A.
5. The ship papers or aircraft papers shall be exhibited to the affidavit and shall be numbered consecutively; and the person before whom the affidavit is sworn shall initial each of the documents.
6. Every affidavit as to ship papers or aircraft papers shall be sworn before a commissioner appointed to administer oaths, or before any other person lawfully authorised to administer oaths in prize matters, or before the Registrar. The person in charge of the ship or aircraft, or a person desiring to make an affidavit shall produce to the person before whom the affidavit is sworn all the ship papers or aircraft papers (if any) delivered up or found on board the ship or aircraft.
7. Where ship papers or aircraft papers are delivered up or found in ordinary course at the time of capture, the affidavit as to ship papers or aircraft papers shall be in the form marked No. 11 (i.) in Appendix A.

Where any ship papers or aircraft papers have, after being delivered up or found, been lost, mislaid, injured or altered, or where any ship papers or aircraft papers are found hidden or concealed, the affidavit shall be in the form marked No. 11 (ii.) in Appendix A, with such variations as the facts may require.

Where no ship papers or aircraft papers are delivered up or found on board the ship, the affidavit shall be in the form marked No. 11 (iii.) in Appendix A.

Provided that no affidavit shall be invalidated by reason only of a defect in form.

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ORDER V

Proceedings in case of failure to proceed by Captors

1. Where a ship or aircraft has been and still remains detained, whether captured as prize or not, and no cause is instituted against it within one month from the time it is so taken or seized, a claimant may, after issuing a writ as provided by Order II., apply for an order for the release of the ship or aircraft and its restoration to him, and the Judge upon such application may make such order as to the restoration of the ship or aircraft and as to damages or costs or as to proceeding to judgment as he may think fit.

2. Where a ship or aircraft has been captured as prize, but has been subsequently released by the captors, or has, by loss, destruction, or otherwise, ceased to be detained by them without proceedings for condemnation having been taken, any person interested in the ship or aircraft wishing to make a claim for costs and damages in respect thereof, shall issue a writ as provided by Order II.

3. Where, after a cause has been instituted, the captors fail to take any of the steps within the respective times provided by these Rules, or, in the opinion of the Judge, fail to prosecute with effect the proceedings for adjudication, the Judge may, upon the application of a claimant who has entered an appearance as provided by Order III., order the ship or aircraft to be released and to be restored to the claimant, and may make such order as to damages or costs as he may think fit.

4. Any person interested in a ship or aircraft may, without issuing a writ, under the circumstances stated in Rule 1, provided he does not intend to make a claim for restitution or damages, apply by summons for an order that the captors proceed to adjudication, and the Judge may, on the hearing of such summons, order the captors to proceed to adjudication or make such other order as he may think fit.

ORDER VI

Discontinuance

Proceedings may be discontinued by leave of the Judge, and not otherwise; such discontinuance may be in respect of all or any part of the subject matter of the cause. No order for discontinuance shall be made or taken to prejudice the right (if any) of a claimant to costs and damages. Notice of discontinuance (Appendix A, Form No. 12) shall be served on the other parties.

ORDER VII

Pleadings

1. In any cause, the Judge may, on the application of any party by summons, order such pleadings to be delivered as he may think fit.

2. A pleading shall be divided into short paragraphs numbered consecutively which shall state concisely the facts, and the effect of the documents, if any, on which the party relies, and shall be signed by the party or his solicitor or counsel.

3. A pleading may at any time be amended by consent of the parties, or by order of the Judge. If a party unreasonably refuses to give his consent he shall be liable to be condemned in the costs occasioned by such refusal.

4. A party may apply to the Judge to decide before the trial of the cause any question of law raised by any pleading, and the Judge shall thereupon make such order as he shall think fit.

5. Any person becoming a party after the filing of a petition, shall, after making a claim, or by leave of the Judge, be entitled to a copy of the petition, and shall within seven days of the receipt thereof plead thereto as in Rules 1 and 2 stated.

Forms of pleading will be found in Appendix A, Nos. 13 (i) to (iv).

ORDER VIII

Particulars

In any cause the Judge may, on the application of any party by summons, order particulars in writing of any allegation contained in any pleading or other document to be delivered by a party upon such terms as he may think just.

Forms of order and of particulars will be found in Appendix A, Nos. 14 and 15.

ORDER IX

Discovery, Inspection, and Admission of Documents and Facts

1. Any party to a cause or matter may apply to the Judge for an order directing any party other than the proper officer of the Crown to make discovery on oath of the documents which are or have been in his possession or power, relating to any matter in question therein, and the Judge shall make such order, either generally or limited to certain classes of documents, as he may think fit. Provided that discovery shall not be ordered unless the Judge shall be of opinion that it is necessary either for disposing fairly of the cause or for saving costs.

2. The affidavit, to be made by any person against whom an order for discovery of documents has been made under Rule 1, shall specify which, if any, of any of the documents therein mentioned he objects to produce and it shall be in the Form No. 16 of Appendix A with such variations as circumstances may require.

3. On the hearing of any application for discovery of documents the Judge in lieu of ordering an affidavit of documents to be filed may order that the party from whom discovery is sought shall deliver to the other parties a list of the documents which are or have been in his possession, custody or power relating to the matters in question. Such list shall as nearly as may be follow the form of the affidavit in the Form No. 16 of Appendix A. Provided that the ordering of such list shall not preclude the Judge from afterwards ordering the party to make and file an affidavit of documents.

4. Any party to a cause may, for the purposes of the hearing of a cause, serve a notice (Appendix A, Form No. 17) on any other party to produce, for inspection or for the purpose of being copied, any document in his possession or power relating to any matter in question in the cause.

5. If the party served with notice to produce omits or refuses to do so within the time specified in the notice, the adverse party may apply to the Judge for an order to produce, and the Judge may, if he thinks fit, make such order.

6. Notice to produce documents at the hearing or at an examination of witnesses shall be in the form No. 18 of Appendix A, with such variations as the circumstances may require.

7. Any party who has entered a claim, or, by leave of the Judge, any other party may inspect in the Registry and take copies of the ship papers or aircraft papers filed in the cause.

8. A party may, for the purposes of any hearing of a cause, serve a notice (Appendix A, Form No. 19) on any other party to admit any document or fact, saving all just exceptions, and a party not admitting it after such notice shall be liable for the costs of proving the document or fact; unless at the hearing the Judge shall certify that the refusal or omission to admit was reasonable.

Form of admission of facts will be found in Appendix A, No. 20.

ORDER X

Arrest of Prize.—Warrant

1. Where a ship or aircraft is taken as prize and brought within the jurisdiction of the Court, or seized as prize within such jurisdiction, or having been taken or seized as prize comes or is howsoever within the jurisdiction of the Court, but is not delivered up to the marshal of the Court, the Judge may, after claim made, and upon the application of the claimant, order a warrant for the arrest of the ship or aircraft to be issued.

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2. Where, in any proceeding, it shall be made to appear to the Judge by the Crown or any party to a cause other than a claimant that property taken or seized as prize is within the jurisdiction of the Court, and that it is necessary or desirable that such property should be within the custody of the Court, the Judge may, on the application of the Crown or such party, order a warrant for the arrest of such property to be issued.

3. A warrant (Appendix A, Form No. 21) for the arrest of property shall be issued only on the order of the Judge.

No warrants shall be issued for the arrest of property until an affidavit has been filed by the party applying for the warrant as hereinafter prescribed.

4. The affidavit shall state the grounds upon which the application is made and that the aid of the Court is required. Form of affidavit to lead warrant will be found in Appendix A, No. 22.

5. The warrant shall be issued out of the Registry, and lodged by the party applying for the same with the marshal, and it shall be served by the marshal in the like manner as writs are by Rule 11 of Order II directed to be served and the provisions of Rule 15 of that Order shall apply to warrants as they apply to writs.

A warrant served as provided in paragraph (3) of Rule 11 of Order II shall be deemed to be an order for payment into Court forthwith of the freight or proceeds in respect of which the warrant is issued: Provided that, instead of such warrant, the Judge may, if he sees fit, order the person holding or having received such freight or proceeds to pay the same into Court.

6. In urgent cases, the marshal may, after a warrant is placed in his hands for execution, authorise his substitute by telegram or telephone to detain such property until the service of the warrant can be duly effected as herein provided.

7. Warrants may be served on any day, including Sunday and any public holiday.

8. Warrants shall be filed by the marshal within one week after service thereof has been completed, with a certificate of service endorsed thereon.

9. This Order shall not apply to ships of war or military aircraft.

ORDER XI

Sale, Appraisalment, Safe Custody and Inspection of Prize

1. The Judge may, at any time on the application of the marshal or any party, make such order as to the removal, safe custody or preservation of a ship or aircraft as he may think fit, and may at any time order the ship or aircraft to be appraised, if not already appraised, and sold.

2. The appraisalment and sale of a ship or aircraft, the removal and survey thereof, and the unloading and warehousing of goods shall be effected by the marshal under the authority of a commission.

Forms of commission and (for the case of a ship) bills of sale by the marshal will be found in Appendix A, Nos. 23 and 25. In the case of an aircraft the contract of sale shall be in such terms as the Judge shall direct.

3. Where a ship or aircraft is ordered to be sold, such sale shall be by public auction unless the Judge shall for good cause otherwise order, and the gross proceeds thereof shall be paid into Court by the marshal.

Form showing conditions of sale usual in the case of a ship will be found in Appendix A, No. 26. In the case of an aircraft the conditions of sale shall be in such terms as the Judge shall direct.

4. Where the Judge orders any act or acts in Rule 2 mentioned to be done, the party who has obtained the order shall thereupon obtain out of the Registry a commission and shall lodge the same with the marshal for execution.

5. Every commission issued under Rule 2 shall, as soon as possible after its execution, be filed in the Registry by the marshal with a return, setting forth the manner in which it has been executed. The marshal shall, with the commission, file his accounts and the vouchers in support thereof.

Forms of marshal's certificate and accounts will be found in Appendix A, Nos. 24 and 27.

6. The Registrar shall on the application of any party review the marshal's accounts, and shall report the amount which he considers should be allowed; and any party to the cause may be heard before the Registrar on the review.

7. The Judge on the application of any party by summons may review the Registrar's decision.

8. The amount found due to the marshal shall be paid out to him on an order signed by the Judge.

9. All costs and expenses of and incidental to orders issued under Rule 2 shall in the first instance be borne and paid by the party on whose application the order is issued.

10. Where the Judge directs that goods be unladen, inventoried, and warehoused, they shall, unless the Judge otherwise orders, remain in the custody of the marshal until sale or restitution thereof.

11. The Judge may, if he thinks fit, upon the application of any party to a cause, order any property under the arrest of the Court or being the subject-matter of a cause to be inspected by any party thereto or by any person appointed by the Court.

ORDER XII

Bail

1. No property in the custody of the Court shall be released on bail or on payment into Court in lieu of bail except by order of the Judge or Registrar.

2. An application for release shall be made in chambers by summons (Appendix A, Form No. 48).

3. The amount of the bail or the amount to be paid into Court in lieu of bail as the case may be shall be the full value of the property sought to be released, and unless agreed such value shall be ascertained by appraisalment or in such other manner as the Judge or Registrar shall direct.

4. Bail shall be given by filing a bail bond, which shall be signed by two sureties, unless the Judge or Registrar shall order that one surety shall suffice, and it shall be taken before a commissioner authorized to administer oaths in the Court in the exercise of its ordinary jurisdiction, or before the Registrar, or by his direction before a clerk in the Registry, and in every case the sureties shall justify by affidavit.

Forms of bail bond and of affidavit of justification will be found in Appendix A, Nos. 28 and 29.

5. A bail bond shall not, unless by consent, be filed until after the expiration of twenty-four hours from the time when a notice (Appendix A, Form No. 30) containing the names and addresses of the sureties and of the commissioner before whom the bail was taken shall have been served upon the adverse solicitor, and a copy of the notice verified by affidavit shall be filed with the bail bond.

6. No commissioner shall take bail on behalf of any person for whom he or any person in partnership with him is acting as solicitor or agent.

7. A commission or fee paid to a person becoming surety to a bail bond or otherwise giving security may be recovered on taxation, provided that the amount of such commission or fee shall not in the aggregate exceed one pound per centum on the amount in which bail is given.

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8. If the adverse party is not satisfied with the sufficiency of a surety, he may file a notice of objection to such surety (Appendix A, Form No. 31). The surety shall thereupon be produced for cross-examination on his affidavit before the Registrar, who shall report on his sufficiency. If the Registrar reports against the sufficiency of the surety, a new bail bond shall be prepared.

9. Where bail is given in a cause for condemnation it shall be deemed to be given and to be answerable not merely to the actual captors, but to all parties having any rights in or against the property, including the Crown, and in respect of the decree of the Court or of any court authorised to hear appeals therefrom.

10. Every party filing a bail bond shall at the time of filing the same deliver to the Registrar a copy thereof. The Registrar shall keep every such copy in a register (to be called the Register of Bail Bonds) which may be inspected by any person at any time when the Registry is open.

11. Whenever by an order of the Judge bail is ordered to be estreated the proper officer of the Crown shall, unless the order otherwise directs, take all necessary steps to effect such estreatment and for that purpose the marshal shall on receipt of a written application so to do produce the bail bond to the Court or to such officer of the Court as may be required by the proper officer of the Crown.

ORDER XIII

Releases

1. Property in the custody of the Court whether under arrest or otherwise shall only be released under the authority of an instrument issued from the Registry (Appendix A, Form No. 32) to be called a release.

2. A release shall be issued at any time before adjudication upon the application of the proper officer of the Crown.

3. A release may be issued at any time upon the order of the Judge.

4. A release may (unless there is a caveat outstanding against the release of the property) be issued in the following cases upon the order of the Registrar :—

(a) upon a consent (conditional or otherwise) being filed by the proper officer of the Crown.

(b) where proceedings instituted by or on behalf of the Crown are discontinued.

(c) where property has been ordered to be released on bail and bail has been given in accordance with such order.

(d) where in the proceedings for the recovery of prize salvage the parties claiming salvage discontinue their proceedings.

(e) where in the proceedings for the recovery of prize salvage bail or other satisfactory security has been given for the amount of salvage claimed and costs.

5. No release shall affect the right (if any) of the owners of the property captured to costs and damages against the captor or the proper officer of the Crown unless so ordered by the Judge.

6. Where property has been arrested for prize salvage the release shall not be issued under the foregoing Rules, except on discontinuance of the proceedings or dismissal of the claim, until the value of the property arrested has been agreed upon between the parties or ascertained as by these Rules provided, unless the Judge shall otherwise order.

7. The release shall be lodged with the marshal by the party upon whose application it has been made and thereupon, upon the marshal being satisfied that the conditions (if any) imposed by the release have been fulfilled and upon payment to him of all fees due to and charges incurred by him or on his behalf in respect of the property, unless the release shall otherwise direct, the property shall be at once released.

8. Upon the property being released the marshal shall file a certificate (Appendix A, Form No. 33) recording such release and the date upon which it was effected indicating therein whether the release was absolute or only on bail and if on bail the amount of such bail.

9. This Order shall not apply to releases on requisition.

ORDER XIV

Caveats

1. Any person having any interest in or claim against any property in the custody of the Court, and desiring to prevent its release, shall file a notice in the Registry, and thereupon the Registrar shall enter a caveat in the caveat release book. Forms of notice and of caveat release will be found in Appendix A, Nos. 34 and 35.

2. Any person having any interest in or claim against any money in Court, and desiring to prevent its payment out of Court shall file a notice in the Registry, and thereupon the Registrar shall enter a caveat in the caveat payment book. Forms of notice and of caveat payment will be found in Appendix A, Nos. 36 and 37.

3. If the person entering a caveat is not a party to the cause, the notice shall state his name and address, and an address within three miles of the Registry at which it shall be sufficient to leave all documents required to be served upon him, and such person shall within seven days of the entry of the caveat enter an appearance in the cause, otherwise the caveat will cease to be effective.

4. The party at whose instance a caveat release or caveat payment is entered shall be condemned in all costs and damages occasioned thereby, unless he shall show to the satisfaction of the Judge good and sufficient reason for such entry.

5. Where a ship or aircraft is subject to a claim for prize salvage but is not under arrest, any person desiring to prevent the arrest of such ship or aircraft may file a notice in the Registry undertaking to enter an appearance in any cause for the recovery of prize salvage that may have been or may be instituted against such ship or aircraft, and to give bail in such cause in a sum not exceeding an amount to be stated in the notice, or to pay such sum into the Registry; and a caveat against the issue of a warrant for the arrest of the ship or aircraft shall thereupon be entered in the caveat warrant book.

Forms of notice and of caveat warrant will be found marked Nos. 38 and 39 respectively, in Appendix A.

6. A party taking proceedings for prize salvage against a ship or aircraft, in respect of which a caveat has been entered in the caveat warrant book, shall forthwith serve a copy of the writ instituting the proceedings upon the party on whose behalf the caveat has been entered, and within three days of the service of the copy of the writ the party on whose behalf the caveat has been entered shall, if the sum claimed does not exceed the amount for which he has undertaken, give bail in such sum or pay the same into the Registry.

7. If the party on whose behalf the caveat has been entered shall not within the three days prescribed by Rule 6 have given bail in such sum or paid the same into the Registry, the caveat may be over-ruled,

8. The entry of a caveat warrant shall not prevent the issue of a warrant for the arrest of any property, but a party at whose instance a warrant shall be issued for the arrest of any property in respect of which there is a caveat warrant outstanding shall be condemned in all costs and damages occasioned thereby, unless he shall show to the satisfaction of the Judge good and sufficient reason for such issue.

9. A caveat shall not remain in force for more than six months from the date of entering the same.

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10. A caveat may at any time be withdrawn by the person at whose instance it has been entered, on his filing a notice withdrawing it. A form of notice of withdrawal will be found in Appendix A, No. 40.

11. The Judge may over-rule any caveat.

ORDER XV

Evidence and Hearing

1. A cause for the condemnation of a ship of war or a military aircraft shall be heard upon the affidavit as to ship papers or aircraft papers, and the ship papers or aircraft papers, if any, exhibited thereto, either alone or upon such other evidence as the Judge may direct.

2. A cause for the condemnation of a ship or aircraft other than a ship of war or a military aircraft shall be heard upon the following evidence, namely :—

- (a) the affidavit as to ship papers or aircraft papers, and the ship papers or aircraft papers, if any, exhibited thereto;
- (b) the affidavits of the officers of the ship or aircraft concerned in the capture;
- (c) the depositions of the witnesses, if any, examined before the hearing, whether such witnesses belong to the captured ship or aircraft or are tendered on behalf of the captors or of any other party;
- (d) the evidence given at the hearing of any witnesses, whether on behalf of the captors or of any other party; and
- (e) such further evidence, if any, as may be admitted by the Judge.

3. The Judge may in any cause where it shall appear necessary for the purposes of justice make an order for the examination upon oath before the Judge or any officer of the Court or any other person, and at any place, of any witness or person, and may empower any party to any such cause to give such deposition in evidence therein on such terms, if any, as the Judge may direct.

4. The Judge may make such order as he shall think fit as to the hearing of the cause, the bringing in of claims, pleadings, discovery by interrogatories, discovery and inspection of documents, or as to any other matter upon such terms as the nature of the case may require.

5. Where in any cause whether for condemnation or otherwise claims have been made by two or more parties, the Judge may, on the application of any party, make an order for the hearing of one or some of such claims in priority to the others. Upon such hearing the Judge may make such decree or order as he might have made if no other claims had been made, but he may if he thinks fit order the stay of any proceedings consequent thereon until the hearing of the other claim or claims is completed.

6. Where any two or more causes whether for condemnation or otherwise are pending the Judge may on the application of any party to any of such causes order that they or such of them as may be specified in the order be consolidated.

7. After the day has been fixed for the hearing of a cause the Registrar shall send notice to all parties that the cause will be heard on the appointed day.

8. At the hearing of a cause the party by whom it has been instituted shall begin, unless the Judge shall otherwise order. If there are several claimants the Judge shall direct which of them shall begin. At the hearing of claims on joint capture the persons claiming to be joint captors shall begin.

9. No ship or aircraft shall be condemned at the hearing in the absence of an appearance or claim until six months have elapsed from the service of the writ, which shall be verified by an affidavit of service (Appendix A, Form No. 10), unless there be on the ship papers or aircraft papers, and on the evidence, if any, of the witnesses from the captured ship or aircraft, sufficient proof that such ship or aircraft belongs to the enemy, or is otherwise liable to condemnation.

10. Any party in any cause may by leave of the Judge at the hearing invoke and give in evidence the ship papers or aircraft papers brought in and filed in any other cause.

11. If a witness is out of the jurisdiction of the Court, the Judge may order that he shall be examined before an examiner specially appointed for the purpose, or may order, in lieu of a commission, the issue of a request to examine such witness.

Forms of a commission to examine witnesses, and of a request, and of a return to a commission to examine witnesses, will be found in Appendix A, Nos. 41, 42 and 43.

12. The evidence of every witness taken before the hearing shall be taken down in writing by the Judge, Registrar, or examiner, before whom such witness is examined, or by a shorthand writer, appointed by the Judge, Registrar, or examiner, or agreed upon by the parties, and such written evidence, or a transcript of the shorthand writer's notes, shall be certified as correct by the Judge, Registrar, examiner, or shorthand writer.

13. The certified evidence taken before the hearing shall be lodged in the Registry by the party on whose behalf the witness has been examined, or, if taken out of the jurisdiction of the Court, shall forthwith be transmitted by the examiner to the Registry, together with his commission.

14. As soon as the evidence taken before the hearing has been filed or received in the Registry, it may be used as evidence in the cause, saving all just exceptions.

15. When evidence is given at the hearing by the oral examination of witnesses such evidence may be taken down by a shorthand writer appointed by the Judge and a transcript of the shorthand writer's notes, certified by him to be correct, shall be admitted to prove the oral evidence of a witness.

16. Any examination of a witness may be adjourned, if necessary, from time to time, and from place to place, as the Judge, Registrar, or examiner before whom such examination is taken shall direct.

17. The Judge may order any person within the jurisdiction of the Court who has made an affidavit in a cause to attend for cross-examination thereon before the Judge.

18. Where witnesses are examined orally, whether before the Judge, the Registrar, or an examiner, the parties, their counsel, solicitors, or agents may attend the examination, and the witnesses shall be examined, cross-examined, and re-examined in such order as the Judge, Registrar, or examiner may direct; and questions may be put to any witness by the Judge, Registrar, or examiner as the case may be.

19. The Judge may disallow any questions put in cross-examination of any party or witness which may appear to him to be vexatious or not relevant to any matter proper to be inquired into in the cause.

20. Any person wilfully disobeying any order or subpoena requiring his attendance for the purpose of being examined, or cross-examined, or producing any document, or, on attending, refusing to answer any proper question, shall be deemed guilty of contempt of Court and may be dealt with accordingly.

21. Where any ship papers, aircraft papers or other documents have to be translated for use in a cause, such translation shall be made by an interpreter, appointed by the party who desires to use such translation, or, if necessary, by a person appointed for the purpose by the Judge. The parties to any proceeding may agree, or, if there is no party other than the Crown or the captor, the proper Officer of the Crown may direct, which and what parts, if any, of the ship papers or aircraft papers and documents shall be translated.

22. Notwithstanding anything contained in these Rules the proper Officer of the Crown may apply to the Judge for leave to administer interrogatories for the examination of any person whether a party to the cause or not.

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ORDER XVI

Assessors

One or more Trinity Masters or other assessors may, on the application of any party, or without such application if the Judge sees fit, be called in to advise the Court upon any matters requiring nautical or other professional knowledge. Such application shall be made by letter or notice lodged in the Registry six days at least before the attendance of the Trinity Masters or other assessors is required.

The fees of the Trinity Masters or other assessors shall be paid in the first instance by the party on whose demand they are summoned.

ORDER XVII

References

1. The Judge may refer the assessment of damages, the taking of any accounts, or any other matter which he may think fit, to the Registrar either alone or assisted by one or more merchants or other assessors.

2. Within twenty-one days from the day when the order for the reference is made, or an agreement for a reference is filed, the claimant shall file the claim and vouchers and affidavits, if any, and serve copies on the opposite party.

3. The claimant shall, after the filing of the claim and vouchers, obtain a day for the reference either by summons or by agreement, and when such day has been obtained he shall lodge in the Registry a notice praying to have the reference placed in the list for hearing with the stamps for the reference affixed thereto.

4. At the time appointed for the reference, if any party be present, the reference may be proceeded with, but the Registrar may adjourn the reference from time to time, as he may deem proper.

5. Evidence may be given *viva voce* or by affidavit or by documents, and the evidence shall, on the application of either party, but at the expense in the first instance of the party on whose behalf the application is made, be taken down by a shorthand writer appointed by the Court, and a transcript of the shorthand writer's notes, certified by him to be correct, shall be admitted to prove the oral evidence of the witnesses on an objection to the Registrar's report.

6. When a reference has been heard, the Registrar shall draw up a report in writing of the result of the reference, showing any further particulars and reasons that may be necessary. The Registrar shall report whether any and what part of the costs of the reference should be allowed and to whom.

The report shall be in the Form No. 44 of Appendix A, or in such other form as the circumstances of the case may require.

7. The claimant who has received notice from the Registry that the report is ready shall, within six days from the time when he has received such notice, file the report and serve a notice of such filing on the opposite party, and shall forthwith apply for an order (Appendix A, Form No. 45) confirming the report.

8. If the claimant shall not take the steps prescribed in the last preceding Rule, the adverse party may take up and file the report, and apply for its confirmation, or may apply to the Judge to have the claim dismissed.

9. A party intending to object to the Registrar's report shall, within fourteen days from the filing of the report, file in the Registry a notice (Appendix A, Form No. 46) that he objects to the report, and a copy thereof shall be served on the adverse party.

10. An objection to a report shall be brought before the Judge by motion, or on pleadings consisting of a petition in objection to the report and an answer thereto. A notice of motion in objection to a report shall be filed within ten days from the filing of the notice of objection and a copy shall be served on the adverse

party, and a petition shall be filed within the same period, and a copy served on the adverse party, and the answer thereto shall be filed within ten days from the service of the petition, and a copy served on the adverse party.

Forms of notice of motion and of pleadings respectively will be found in Appendix A, Nos. 47 and 13 (iv).

ORDER XVIII

Costs and Security for Costs

1. The costs of and incident to all causes shall except when otherwise provided by any agreement, or by statute, be in the discretion of the Judge.

2. Any person instituting a cause, other than a cause for condemnation, or making a claim, and being ordinarily resident out of the jurisdiction of the Court, may be ordered to give security for costs, though he may be temporarily resident within the jurisdiction of the Court, and the proceedings may be stayed until such security is given.

3. In any cause in which security for costs is required, the security shall be of such amount, and be given at such times and in such manner or form, as by bond, payment into Court or otherwise, as the Judge shall direct.

ORDER XIX

Taxation of Costs

1. A party desiring to have a bill of costs taxed either between party and party or between solicitor and client, shall file the bill in the Registry.

2. In all cases of taxation the Registrar shall be the taxing officer and the taxation shall proceed, in the High Court in accordance with the law and practice governing the taxation of costs in the High Court in the exercise of its Admiralty jurisdiction, or, in a Court other than the High Court, in accordance with the law and practice governing the taxation of costs in such Court in the exercise of its ordinary jurisdiction.

ORDER XX

Interlocutory Applications

1. Any application to the Judge at any time other than at the hearing of a cause shall, if made in Court, be made by motion, or, if made in chambers, by summons (Appendix A, Form No. 48).

2. Every application to the Judge other than applications which are by these Rules directed to be made by motion, may be made in chambers by summons, but a summons may be adjourned by the Judge into Court.

3. Every notice of motion (Appendix A, Form No. 47) or summons shall be served upon the adverse party at least 24 hours before the date of the return thereof, unless by consent of the adverse party, or by order of the Judge, the time for such service is shortened.

4. Every notice of motion or summons shall state the nature of the order desired, and the day on which the application is to be made.

5. When the motion or summons comes on for hearing the Judge may, after hearing the parties, or in the absence of any of them, on proof that the notice of motion or summons has been duly served, make such order as he shall deem right.

6. Save as hereinafter provided, no motion or summons shall be heard without previous notice to or service on the parties affected thereby, but the Judge, if satisfied that the delay caused by proceeding in the ordinary way would, or might, entail irreparable or serious mischief, may make any order *ex parte* upon such terms as to costs or otherwise, and subject to such undertaking, if any, as the Judge may think just; and any party affected by such order may move to set it aside.

7. Any application made in chambers *ex parte* shall, if the Judge think fit so to require, be made by summons.

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8. The Registrar may transact all such business and exercise all such authority and jurisdiction in respect of the same as under these Rules may be transacted or exercised by the Judge in chambers, except in respect of the following proceedings and matters, that is to say—

- (1) all matters relating to the liberty of the subject or attachments;
- (2) awarding of costs other than the costs of or relating to any proceeding before the Registrar and costs which, by these Rules or by the order of the Judge, the Registrar is authorised to award;

Provided that the Registrar shall only transact such business and exercise such authority and jurisdiction where he has power to transact the like business and exercise the like authority and jurisdiction in matters arising out of the ordinary jurisdiction of the Court.

Provided, further, that any application in chambers may, if required by any party thereto, be heard by the Judge.

9. Any party affected by any order or decision of the Registrar may appeal to the Judge by summons, and such appeal shall be made within three days after the order appealed from.

10. The Judge may on due cause shown vary or rescind any order or decision previously made on motion or summons other than an order made in Court on an appeal from chambers.

11. An appeal from the decision of the Registrar in chambers shall be no stay of proceedings unless so ordered by the Judge or Registrar.

ORDER XXI

Affidavits

1. Every affidavit shall be intitled in the cause or matter in which it is sworn, or, if sworn before the commencement of a cause, it shall be headed with the name of the captured ship or, in the case of an aircraft, with the word "Aircraft," followed by the nationality and registration marks of the captured aircraft, and shall be divided into short paragraphs numbered consecutively, and shall be in the first person, and signed by the deponent.

2. The name, address and description of every person making an affidavit shall be inserted therein.

Where an affidavit is made by two or more persons, the names of all such persons, and the dates when, and the places where, it is sworn, shall be inserted in the jurat.

Form of heading and jurat to an affidavit will be found in Appendix A, No. 49.

3. When an affidavit is made by any person who is blind, or who, from his signature or otherwise, appears to be illiterate, the person before whom the affidavit is sworn shall certify that the affidavit was read over to the deponent, and that the deponent appeared to understand the same, and made his mark or wrote his signature thereto in the presence of the person before whom the affidavit was sworn.

4. When an affidavit is made by a person who does not speak the English language, the affidavit shall be taken down and read over to the deponent by interpretation of a person previously sworn faithfully to interpret the affidavit.

5. Affidavits sworn within the jurisdiction shall be sworn before the Judge, Registrar, commissioner, or officer empowered under these Rules to administer oaths.

6. Affidavits sworn out of the jurisdiction may be sworn before the following persons :—

- (1) If sworn in any place being a part of His Majesty's dominions before any person authorised to administer oaths in such place.

- (2) If sworn in any place not being a part of His Majesty's dominions, before any person authorised to administer oaths under the Commissioners for Oaths Act, 1889, sections 4 and 6, or under the Commissioners for Oaths Act, 1891, section 2, or under the Commissioners for Oaths (Prize Proceedings) Act, 1907, or before a notary public, or before a Judge or magistrate, the signature of such notary public, Judge or magistrate being authenticated by the official seal of the Court to which he is attached, or by the official seal of the Supreme Court of the country where the affidavit is sworn, or by the certificate of a consular officer.

7. The reception of any affidavit as evidence may be objected to, if the affidavit has been sworn before the solicitor for the party on whose behalf it is offered, or before a partner or clerk of such solicitor.

8. Every affidavit shall, before being used as evidence, be filed in the Registry together with all exhibits thereto, and a copy of such affidavit shall be served on the other parties to the cause.

ORDER XXII

Oaths

1. The Registrar, any commissioner for oaths, any officer of Customs and Excise authorised by the Commissioners of Customs and Excise and any other person directed or empowered to administer oaths in prize proceedings may administer oaths therein.

2. The Judge may appoint any person to administer oaths in causes either generally or in any particular proceeding.

3. Any person to whom an oath is administered shall swear in the manner provided by the Oaths Act, 1909, or in such manner as is provided by the law regulating the manner of taking oaths in the Court.

4. If any person tendered for the purpose of giving evidence, whether orally or by affidavit, objects to take an oath or is not a Christian, or is objected to as incompetent to take an oath, or is by reason of any defect of religious knowledge or belief incapable of comprehending the nature of an oath, the Judge or person authorised to administer the oath shall, if satisfied that the taking of an oath would have no binding effect on his conscience, permit him, in lieu of an oath, to make a declaration.

5. Forms of oaths and declarations in lieu of oaths will be found in Appendix A, Nos. 50 and 51.

ORDER XXIII

Consents and Agreements

Any consent or agreement in writing, signed by the parties or by their solicitors, may, if the Registrar think it reasonable, be filed, and shall thereupon become an order of the Court, and have the same effect as if such order had been made by the Judge.

ORDER XXIV

Subpœnas

1. Any party desiring to compel the attendance of a witness for the purpose either of giving evidence or of producing any document may serve him with a subpœna, which shall be prepared by the party and issued under the seal of the Court.

Forms of subpœna shall be such as are for the time being in force in the High Court, or in the case of a Court other than the High Court such as are for the time being in force in that Court in the exercise of its ordinary jurisdiction.

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2. A subpœna may contain the names of any number of witnesses, or may be issued with the names of the witnesses in blank.
3. Service of the subpœna must be personal, and may be made by the party or his agent, and shall, if necessary, be proved by affidavit.
4. Refusal or neglect to attend on subpœna issued as aforesaid, or to give evidence on attendance thereunder, shall be deemed to be contempt of Court and may be dealt with accordingly.

ORDER XXV

Copies. Printing. Office Copies

1. Depositions, pleadings, affidavits, and all other documents and copies thereof may be either written, typed, or printed as may be most convenient, except transcripts of the evidence of a witness taken before a hearing, which shall be printed, unless the Registrar shall otherwise order. Any dispute between the parties as to whether a document should be written, typed, or printed shall be decided by the Registrar on the application, without a summons, of any party.
2. Where a document is printed the rules as to printing for the time being in force in the High Court, or in the case of a Court other than the High Court the rules as to printing for the time being in force in that Court in the exercise of its ordinary jurisdiction shall have effect as if such rules were part of these rules.
3. Any person entitled to inspect any document in a cause, shall on payment of the proper charges for the same be entitled to an office copy thereof.

ORDER XXVI

Payments into and out of Court

1. In causes instituted in the High Court all funds and moneys to be paid into Court, and all securities to be placed to the credit of any such causes, shall be dealt with in the manner in which moneys or securities paid or transferred into Court are usually dealt with in the exercise of the ordinary jurisdiction of the Court.
2. In causes instituted in a Court other than the High Court all funds and moneys to be paid into Court, and all securities to be placed to the credit of any such causes, shall be transferred, paid, or placed to the account or credit of the proper officer of the Court to whom moneys paid into Court are usually paid in the exercise of the ordinary jurisdiction of the Court, and shall be placed in the books of the said officer to the credit of "Prize Moneys," and of the particular ship or aircraft in respect of which the same shall be transferred, paid, or placed. If there is no such officer as above, the payments shall be made to the Registrar who shall open an account in a bank to be approved by the Judge in respect of the particular ship or aircraft in respect of which the said moneys shall be transferred, paid, or placed.
3. No money shall be paid out of Court except in pursuance of a decree or order of the Judge.

ORDER XXVII

Enforcement and Execution of Decrees and Orders

1. Where the Judge condemns property as prize the decree of condemnation may be enforced :—
 - (1) if the property is still under arrest, by sale of such property :
(Provided that on the application of the proper officer of the Crown) the Court shall order delivery of the property to the Crown in lieu of sale, and if at the time of such application an order of sale has already been made but no sale has taken place, the order for sale shall be rescinded for the purpose of giving effect to such application, but the order for delivery to the Crown may, if the Court thinks fit, be made

subject to payment by the Crown of such costs, expenses, or other sums, other than fee 49 in Appendix B, as might have been ordered to be paid out of the proceeds of sale if the property had been sold under order of the Court.

- (2) if the property has been sold before condemnation and the proceeds have not already been paid into Court, by order to the persons holding the same to pay the same into Court.
- (3) in respect of freight found due for the carriage of goods in a ship or aircraft condemned as prize, by arrest of the goods so carried until payment into Court of such freight or by order against the owner of the goods, or other persons holding, or responsible for, such freight, to pay the same into Court.
- (4) so far as a decree deals with costs and expenses (other than costs and expenses ordered to be paid out of proceeds), by order against the parties ordered to pay the same or their bail.
- (5) if the property has been released on bail before condemnation, by order against the bail.

2. Where the Judge decrees property taken or seized as prize to be restored to the owner thereof the decree shall be carried out by means of a release as prescribed in Order XIII.: Provided that the Judge may order such release upon such terms as to the payment of costs and expenses and freight (if any is due), or otherwise, as to the Judge may seem just, and if such terms are not complied with or such payments are not made within a time to be named in the order, may direct the appraisal and sale of such property and the payment into Court of the proceeds of sale, and the payment thereof of such costs and expenses or freight.

3. Where in a decree restoring a ship or aircraft it is pronounced that freight is due in respect of cargo carried therein and payment of such freight is ordered, the decree may be enforced as regards the payment of freight against the cargo or the owners thereof :—

- (1) if the cargo has been condemned, by payment out of the proceeds of the sale of such cargo.
- (2) if the cargo has been unladen and sold before adjudication and the proceeds of the sale are still in Court, by payment out of the proceeds of sale.
- (3) if the cargo has been unladen, but still remains under the arrest of the Court, by sale of such cargo and payment out of the proceeds of sale.
- (4) if the cargo has been unladen and has been restored to the owner on bail, by order against the bail to pay the freight into Court.
- (5) if the cargo has been unladen and has been restored to the owner without bail, by order against the owner or person to whom the same has been restored, or against any person having received or being in possession of such cargo or freight, to pay such freight into Court.

4. Any decree or order other than a decree of condemnation or restitution and not expressly provided for by the Prize Acts, 1864 to 1939, or by these Rules, may be enforced by order against the parties against whom such decree or order is made, or may be enforced in the same manner as a judgment, decree or order of the High Court in the exercise of its Admiralty jurisdiction, or, in the case of a Court other than the High Court, in the same manner as a judgment, decree or order of that Court in the exercise of its ordinary jurisdiction may be enforced.

5. Forms of orders and decrees will be found in Appendix A, Nos. 52 and 53 (i.) to (xxviii.).

6. The Rules of this Order shall apply to the enforcement by the Court of decrees or orders of any other Court or of the Judicial Committee of the Privy Council.

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ORDER XXVIII

Detention

1. Where it is held in a suit for condemnation that the ship or aircraft is an enemy ship or aircraft but in pursuance of some international convention or otherwise is only liable to detention and not to condemnation, the decree (Appendix A, Form 53, ii. and iv.) shall direct the marshal to retain the ship or aircraft in his custody until further orders.

2. Where a decree of detention has been made under Rule 1 the ship or aircraft shall be kept at such port or place as the Court may from time to time direct.

ORDER XXIX

Requisition

1. Where it is made to appear to the Judge on the application of the proper officer of the Crown that it is desired to requisition on behalf of His Majesty a ship or aircraft in respect of which no final decree of condemnation has been made, he may order that the ship or aircraft shall be appraised, and that upon an undertaking being given in accordance with Rule 5 of this Order the ship or aircraft shall be released and delivered to the Crown.

2. Where a decree for the detention of a ship or aircraft has been made in accordance with Order XXVIII., the proper officer of the Crown may file a notice (Appendix A, Form No. 54) that the Crown desires to requisition the same, and thereupon a commission (Appendix A, Form No. 55) to the marshal directing him to appraise the ship or aircraft shall issue. Upon an undertaking being given in accordance with Rule 5 of this Order the ship or aircraft shall be released, and delivered to the Crown.

Service of this notice shall not be required before filing, but copies thereof shall be served upon the parties by the proper officer of the Crown as soon thereafter as possible.

3. Where in any case of requisition under this Order it is made to appear to the Judge on behalf of the Crown that the ship or aircraft is required for the service of His Majesty forthwith, the Judge may order the same to be forthwith released, and delivered to the Crown, without appraisalment.

4. In any case where a ship or aircraft has been requisitioned under the provisions of this Order, and whether or not an appraisalment has been made, the Court may, on the application of any party, fix the amount to be paid by the Crown in respect of the value of the ship or aircraft.

5. In every case of requisition under this Order an undertaking in writing shall be filed by the proper officer of the Crown for payment into Court on behalf of the Crown of the appraised value of the ship or aircraft, or of the amount fixed under Rule 4 of this Order, as the case may be, at such time or times as the Court shall declare by order that the same or any part thereof is required for the purpose of payment out of Court.

6. Where in any case of requisition under this Order it is made to appear to the Judge on behalf of the Crown that the Crown desires to requisition the ship or aircraft temporarily, the Court may, in lieu of an order of release, make an order for the temporary delivery of the ship or aircraft to the Crown, and subject as aforesaid the provisions of this Order shall apply to such a requisition; provided that, in the event of the return of the ship or aircraft to the custody of the Court, the Court may make such order as it thinks fit for the release of the undertaking given on behalf of the Crown or the reduction of the amount undertaken to be paid thereby, as the case may be; and provided also that, where the ship or aircraft so requisitioned is subject to the provisions of Order XXVIII, Rule 1, relating to detention, the amount for which the Crown shall be considered liable in respect of such requisition shall be the amount of the damage, if any, which the ship or aircraft has suffered by reason of such temporary delivery as aforesaid.

7. The proceedings in respect of a ship or aircraft requisitioned under this Order shall continue notwithstanding the requisition.

8. In any case of requisition of a ship or aircraft in respect of which no cause has been instituted, any person interested in such ship or aircraft may, without issuing a writ, provided he does not intend to make a claim for restitution or damages, apply by summons for an order that the amount to be paid in respect of such ship or aircraft be fixed by the Court, and the Judge may, on the hearing of such summons, order the ship or aircraft to be appraised or to be valued or give such other directions for fixing the amount as he may think fit.

ORDER XXX

Prize Salvage

1. A ship or aircraft brought within the jurisdiction for adjudication after recapture from the enemy, but liable to restoration on payment of salvage, shall (except as hereinafter provided) be proceeded against by writ, and, if so ordered by the Judge, on pleadings, in the same form and manner as all other ships or aircraft captured as prize.

Forms of writ and of pleadings in prize salvage will be found in Appendix A, Nos. 5 and 13 (ii).

2.—(a) Where a ship or aircraft, on recapture from the enemy by any of His Majesty's ships or military aircraft, or by any persons other than its own crew, which, if brought within the jurisdiction by the recaptors, would have been liable to restoration on payment of salvage, is with the consent of the recaptors allowed to prosecute its voyage, or otherwise parts company with or ceases to be in the possession of the recaptors : or

(b) Where a ship or aircraft captured by the enemy is recaptured by the crew of such ship or aircraft :

In either case the recaptors may take proceedings to recover the salvage due in respect of recapture (if any), either *in rem* or *in personam*.

3. Within twelve days after a writ has been served, the owner shall file an affidavit setting out the value of the property claimed or alleged to have been salvaged, or an agreement with the recaptors as to such value.

Forms of affidavit and of agreement of value will be found in Appendix A, Nos. 56 and 57.

4. Where no claim is made by an owner, or no appearance is entered, or default is made in filing an affidavit or agreement of value, or where the recaptors are dissatisfied with the value deposed to, the Judge may, on the application of the recaptors, direct the property to be appraised by the marshal or otherwise valued.

5. If no appearance is entered the recaptors may, subject to the filing of an affidavit of service (Appendix A, Form 10), set the case down for hearing by default; in all other cases the recaptors may at any time after appearance entered, apply for a day for the hearing.

6. Where at the time of a decree or order awarding prize salvage the ship or aircraft is under arrest, the decree or order of the Court may be enforced by sale thereof and payment of the amount due out of the proceeds of sale.

7. Where a ship or aircraft under arrest has been released on security being given, the decree or order awarding prize salvage may be enforced :

- (1) if money has been paid into court, by order for payment out;
- (2) if bail has been given, by order for payment against the bail, and execution against the bail in default of payment.

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8. Where the proceedings for prize salvage have been taken *in personam*, the decree or order may be enforced against the owner, and execution issued against him. If the owner makes default in payment, the Judge may direct a warrant to issue for the arrest of the ship or aircraft on its coming within the jurisdiction of the Court, and may order a sale thereof and payment of the award to be made out of the proceeds of such sale.

9. Where any salvage is awarded to any persons other than officers and crews of His Majesty's ships of war or military aircraft, either alone or conjointly with such officers and crews, the Judge may make an order apportioning such salvage between such persons or between such persons and such officers and crews, in such proportions as to the Judge shall seem fit.

Provided that nothing herein contained shall be taken to authorise the distribution of salvage among such officers and crews or to affect any proclamation of His Majesty as to the distribution of prize money.

Forms of decree in prize salvage will be found in Appendix A, No. 53 (xiii) to (xvii).

10. No decree or order for the payment of salvage to salvors shall be made unless and until the Judge is satisfied that no persons other than the said salvors are entitled to share in such salvage.

ORDER XXXI

Land Expeditions and Conjunct Capture with Ally

A ship taken by land expedition within the meaning of the Naval Prize Act, 1864, section 34, or by a conjunct capture with an ally within the meaning of section 35 of the said Act, shall be proceeded against and dealt with, as far as possible in the same manner as hereinbefore provided in the case of any other ship captured as prize.

ORDER XXXII

Joint Capture, Flag Officers' Claims, and other Conflicting Claims between Captors

1. Any person claiming to share as joint captor (hereinafter called "the petitioner"), may, at any time after the institution of a cause relating to a ship or aircraft in respect of which he claims a share, proceed as hereinafter provided :

- (1) A writ (Appendix A, Form No. 6) shall be issued by the petitioner in the Registry, instituting a cause of joint capture.
- (2) If the cause is instituted before condemnation of the ship or aircraft in respect of which the petitioner claims to share, or in prize salvage before adjudication, the petitioner shall, except in the case of a flag officer claiming to share by virtue of his flag, within six days after issuing his writ give security to the satisfaction of the Court to contribute to the actual captors a just proportion of any costs, charges, expenses or damages that may be incurred by or awarded against the actual captors on account of the capture and detention of the prize. Within ten days after such security is given the petitioner shall file in the Registry a petition setting out the material facts on which he relies to establish his claim to share as aforesaid.
- (3) If the cause is instituted after condemnation of the ship or aircraft in respect of which the petitioner claims to share, or in prize salvage after adjudication, the Judge shall, upon sufficient cause being shown by affidavit why the application was not presented before condemnation or adjudication, and upon payment being made and security being given (as hereinbefore provided), allow the writ to be served upon the party to whom the ship or aircraft has been condemned (hereinafter called "the respondent"), or in prize salvage on the captors, who shall show cause why the petitioner should not be pronounced to be a joint captor of the said ship or aircraft.

(4) Where the cause is instituted after condemnation, the petitioner shall, within ten days after such payment has been made and such security has been given, file a petition setting out all the material facts on which he relies to establish his claim to share as aforesaid, and serve the same as hereinbefore provided.

(5) The respondent shall appear to the writ by entering an appearance (Appendix A, Form No. 8) in the Registry within the time named in the writ.

2. The respondent, if he desires to contest the right of the petitioner to share, shall file an answer.

If the respondent admits the right of the petitioner to share, he shall file an admission in the Registry.

A copy of every pleading shall be served on the opposite party.

Forms of the above pleadings will be found in Appendix A, No. 13 (iii).

3. Upon the answer, and the reply thereto (if any), or admission being filed, the petition shall be heard in Court, on an early day to be appointed by the Registrar, upon the application of either party, upon such evidence as the Judge shall think fit.

4. If in a cause instituted against a ship or aircraft for condemnation as prize, or in a cause for prize salvage, a cause of joint capture is instituted before condemnation or adjudication, the Judge may, at the hearing of the principal cause, upon condemnation of the ship or aircraft as lawful prize to the Crown, determine the title of the petitioner to share as aforesaid.

Forms of decree in joint capture will be found in Appendix A, No. 53 (xviii) to (xxi).

5. The costs of and occasioned by the petition shall, as the Judge shall direct, be borne by the petitioner or respondent or be paid out of the proceeds of the ship or aircraft if condemned.

6. Except by special leave of the Judge no party shall be admitted to claim to share as a joint captor in a prize, or in prize salvage, unless he shall institute his cause and file his petition within six months from the date on which the Judge shall have pronounced any other party entitled to such prize, or prize salvage.

7. A claim by a flag officer to share in prize, or prize salvage, by virtue of his flag shall not be made until after condemnation, and shall then be made in the same form and manner, and the same proceedings shall be had thereon, as in cases of asserted joint capture :

Provided that such flag officer shall not be required to pay costs or give security for costs.

8. Where in any proceedings instituted for condemnation, or for prize salvage, the title or interest of the party instituting such proceedings is denied by any other party who asserts that he has as captor the sole title or interest in the prize, or prize salvage, proceedings may be taken for the purpose of determining such title or interest in the form and manner herein provided for determining the title and interest in a claim of joint capture. Provided, that the petitioner shall not be required to give any security or pay any costs before so proceeding unless so ordered by the Judge, and that the form of proceedings shall assert such sole title and interest instead of a joint title and interest, and that the petition shall be filed within ten days after the cause is instituted by the petitioner instead of after security given.

9. All other applications to share in prize proceeds, or prize salvage, shall, unless the Judge shall otherwise direct, be made by motion.

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ORDER XXXIII

Prize Bounty

In claims for prize bounty the procedure shall be as follows :—

- (1) where the ship is brought in for adjudication the application for a decree under the Naval Prize Act, 1864, section 43, shall be made in Court at the hearing of the principal cause, or as soon thereafter as possible.
- (2) where the ship has been destroyed, or, having been taken, has not been brought in for adjudication, the application for a decree as aforesaid shall be made by motion in Court.
- (3) not less than four clear days before such application, notice thereof shall be served upon the proper officer of the Crown.
- (4) the witnesses in support of the application shall be examined before the Judge in Court, or their evidence may be given by affidavit.
- (5) if the Judge makes a decree in favour of the application and there are no parties other than the original applicants claiming to share in the bounty, the Judge may upon the hearing of the application, or at a later date if he shall see fit, make a decree declaring the title of the applicants to the prize bounty, and stating the amount thereof. If there are other persons claiming to share in the bounty, the Judge may make a decree that bounty is due, stating the amount thereof, but reserving the question to whom the said bounty is due.

Forms of decree will be found in Appendix A, No. 53 (xxv.) to (xxviii.).

- (6) all claims to share as joint captors in prize bounty shall be, as far as possible, subject to the same procedure and rules, and be heard and determined in the same manner, as hereinbefore provided in the case of claims to share as joint captors in prize.

ORDER XXXIV

Distribution and Naval Agency(a)

In questions concerning the distribution or investment of prize moneys, whether the proceeds of prize, prize salvage, or prize bounty, distributable under the provisions of the Naval Agency and Distribution Act, 1864, or otherwise, and in questions concerning the remuneration of ships' agents under the said Act, the procedure shall be as follows :—

- (1) any application for distribution or investment of such money shall be by motion.
- (2) no motion shall be heard unless four days' previous notice thereof, intituled in the cause to the credit of which such money stands or in which such money has been pronounced due, has been served by the applicant upon all parties interested, including (if they are not applicants) the Lords of the Admiralty.
- (3) the Judge may, if he thinks fit, direct any application for distribution or investment to be heard on pleadings.
- (4) evidence on such applications shall be by affidavit, but the Judge may direct any witness to be examined or cross-examined.
- (5) in the taxation of the costs, charges, and expenses of the officers and crew of any of His Majesty's ships or of any ships' agent under section 13 of the Naval Agency and Distribution Act, 1864, the same procedure shall be followed as is hereinbefore provided for the taxation of costs.

(a) Attention should be called to section 22 of the Naval Agency and Distribution Act, 1864.

- (6) where any difference within the meaning of section 20 of the Naval Agency and Distribution Act, 1864, arises between ships' agents as to the apportionment of their percentage, any such agent may take out a summons intituled in the cause in which the question arises calling upon all other persons interested to show cause why the matter should not be referred to the Registrar, and upon such summons and proof of due service thereof on such persons an order may be made referring such difference to the Registrar. Upon report made by the Registrar any party may object to the same. Order XVII shall apply, as far as possible, to references under this Order.

ORDER XXXV

Instruments and other Documents, and the Service thereof

1. Every warrant, release, commission, and other instrument to be executed by any officer of, or commissioner acting under the authority of, the Court, shall be prepared in the Registry, and shall be issued under the seal of the Court.
2. The seal of the Court to be used for the purposes of these Rules shall be such as the President shall from time to time direct.
3. Every document issued under the seal of the Court shall bear date on the day of sealing, and shall be deemed to be issued at the time of the sealing thereof.
4. Every instrument to be executed by the marshal shall be left with the marshal by the party at whose instance it is issued, with written instructions for the execution thereof.
5. Except in the case of an order for committal, it shall not be necessary to the regular service of an order that the original order be shown if an office copy be exhibited.
6. All notices, pleadings, summonses, orders, and other documents, proceedings, and written communications in respect of which personal service is not required shall be sufficiently delivered or served if left within the prescribed hours at the address for service of the person to be served with any person resident at or belonging to such place. The prescribed hours shall be such as are appointed by the President by general order a copy of which shall be affixed in some prominent place in the Court of Registry.
7. Where no appearance has been entered for a party, or where a party has omitted to give an address for service, all notices, pleadings, summonses, orders and other documents, proceedings, and written communications in respect of which personal service is not required may be served by filing them in the Registry.
8. All orders (except as in these Rules otherwise provided), disobedience to which would render a party liable to committal, shall be served personally.
9. Where personal service of any order, notice, pleading, summons, or other document, proceeding, or written communication is required by these Rules or otherwise, the service shall be effected by showing it to the party to be served and by leaving with him a copy thereof.
10. Where personal service of any notice, pleading, summons, order or other document, proceeding, or written communication is required by these Rules or otherwise, and it is made to appear to the Judge that the person to be served is under disability or that prompt personal service cannot be effected, the Judge may order upon whom, or in what manner, substituted or other service is to be made, or may order notice by letter, advertisement or otherwise to be given in lieu of service.
11. The service of every warrant or other instrument by the marshal shall be verified by his certificate. Form of certificate of service will be found in Appendix A, No. 58.

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12. The Judge may direct that any summons, order, notice, or other instrument shall be served on any party or person in a foreign country, and the procedure prescribed by Order II, Rules 16 to 19 inclusive, with reference to service of notice of a writ shall apply to the service of any summons, order, notice, or other instrument so directed to be served.

ORDER XXXVI

Notices from the Registry

Any notice from the Registry may be either left at, or sent by post to, the address for service of the party to whom the notice is to be given; and the time at which the notice if posted would be delivered in the ordinary course shall be considered the time of service thereof.

ORDER XXXVII

Filing

1. Documents shall be filed by leaving the same in the Registry, with a minute stating the nature of the document, and the date of filing it. A form of minute on filing documents will be found in Appendix A, No. 59.

2. Any number of documents in the same cause may be filed with one and the same minute.

3. Save as otherwise provided by these Rules, before any document, except affidavits as to ship papers, aircraft papers, bail bonds, documents issued from the Registry and minutes, is filed, a copy thereof shall be delivered to or served on the adverse party, if any, and no document, except as aforesaid, shall be filed without a certificate endorsed thereon, signed by the party filing the same, that a copy thereof has been so delivered or served upon such adverse party, if any.

ORDER XXXVIII

Time: Enlargement and Abridgment

1. In all matters in regard to the time for doing any act or taking any proceeding, the ordinary procedure in regard to time in force in the High Court, or, in the case of a Court other than the High Court, the procedure in regard to time in force in that Court in the exercise of its ordinary jurisdiction, shall prevail.

2. The Judge may, on the application of either party, enlarge or abridge the time prescribed by these Rules or forms, or by any order made under them, for doing any act or taking any proceeding, upon such terms as to him shall seem fit, and any such enlargement may be ordered, although the application for the same is not made until after the expiration of the time prescribed.

ORDER XXXIX

Marshal

1. For the performance of any of his duties the marshal may appoint or employ competent persons as his substitutes.

2. The marshal shall execute all instruments issued from the Court which are addressed to him, and shall make returns thereof.

3. Whenever in respect of any place within the jurisdiction at which a ship or aircraft taken as prize may be there is no person appointed or employed to act as substitute of the marshal, then for the purposes of the execution and service of warrants and other instruments, the custody of prize and for such other purposes as the President may direct,

(a) in a cause relating to a ship, the principal officer of Customs at such place, and

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- (b) in a cause relating to an aircraft, such person as the President shall appoint, shall be deemed to be the substitute of the marshal and for such purposes shall be an officer of the Court.
4. Persons may be appointed or employed to act as substitutes of the marshal for the purposes mentioned in Rule 3 in the ports of any ally in war of His Majesty, or for the purpose of the service of any process out of the jurisdiction.

ORDER XL

Hours and Holidays

The Registry and the marshal's office shall be open for the transaction of prize matters at such times as they are open for the transaction of the business of the Court when exercising its ordinary jurisdiction. Provided, that the Registrar shall make arrangements for the issue of process in all urgent cases when the offices are closed.

ORDER XLI

Records of the Court

1. There shall be kept in the Registry a book to be called the minute book, in which shall be entered in order of date under the head of each cause, and on a page numbered with the number of the cause, a record of the institution of the cause, of all appearances entered, of all documents issued or filed, of all witnesses examined, and of all acts done, and in which shall in the like order be entered in full all orders and decrees of the Court, whether made by the Judge, or by the Registrar, or by consent of the parties in the cause.

Form of minutes of examination of witnesses will be found in Appendix A, No. 60.

2. A copy of any order or decree certified by the Registrar as correct shall be deemed to be a true copy of such order or decree for all purposes.

3. There shall be kept in the Registry a caveat warrant book, a caveat release book, and a caveat payment book, in which all such caveats respectively and the withdrawal thereof shall be entered.

ORDER XLII

Certificates of Sale, Condemnation, and Restitution

1. Where property taken or seized as prize is sold by order or decree of the Court, any person to whom such property is sold may, within one month from the date of the sale or condemnation of the property, whichever last happens, and after notice to the proper officer of the Crown, apply to the Judge for an order directing the issue of a certificate of condemnation and sale, or of sale only; and upon such application the Judge shall, unless good cause is shown to the contrary, direct a certificate to be issued, and the same shall be issued in one of the forms in Appendix A, Nos. 61, 62, 63, 64.

2. Where such certificate is issued in respect of a ship, the applicant shall be entitled to have a like certificate endorsed on the bill of sale by which the ship is sold to him, on production of the bill of sale to the Registrar.

Where such certificate is issued in respect of an aircraft or of goods or cargo, the applicant shall be entitled to have a like certificate endorsed on the contract or sold note (if any) under which such aircraft goods or cargo were sold to him on production of such contract or sold note to the Registrar.

3. Where the property taken or seized as prize is restored to the owner thereof by order or decree of the Court, the owner may within one month from the date of the order or decree, and after notice to the proper officer of the Crown, apply to the Judge for an order directing the issue of a certificate of restitution, and the Judge shall, unless good cause is shown to the contrary, direct a certificate to be issued in one of the forms in Appendix A, Nos. 65 or 66.

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ORDER XLIII

Forms, Fees and Costs

1. The forms in Appendix A shall be followed with such variations as the circumstances may require.

2.—(a) The fees to be taken in prize matters in a Court (other than a Colonial Court of Admiralty within the meaning of the Colonial Courts of Admiralty Act, 1890) duly authorised to exercise prize jurisdiction by the Court and the officers thereof shall be those set out in Appendix B or so near thereto as the currency in use in the place in which such Court is situate will permit. The said fees, other than fees Nos. 46 and 49 (which shall be paid by transfer from the proceeds in Court to the account of fees on proceedings) shall be taken by means of stamps. Stamps shall be of the same nature and design and shall be affixed and cancelled in the same manner as stamps used for the taking of fees in respect of the same or similar items in the ordinary business of such Court.

(b) The fees to be taken in prize matters in a Court, being a Colonial Court of Admiralty within the meaning of the Colonial Courts of Admiralty Act, 1890, duly authorised to exercise prize jurisdiction shall be fixed, collected and applied in the manner provided by section 3 (4) of the Prize Courts Act, 1894, that is to say in like manner as the fees arising in respect of the Admiralty business of such Court under the Colonial Courts of Admiralty Act, 1890.

3. No document shall be filed, no process issued, no decree or order made, nor act done by the Court or Registrar until the fees due and payable in respect of such filing, issue, decree, order or act respectively, shall have been paid into the Registry unless it is otherwise ordered by the Judge.

4. The costs, charges and expenses to be allowed to the practitioners in the Court in prize matters shall be those set out in Appendix C or so near thereto as the currency in use in the place in which such Court is situate will permit, increased by the same percentage as that which is for the time being provided by Order LXV, Rule 10 (2), of the Rules of the Supreme Court, 1883, or any Rule amending the same, as the percentage by which the total in any bill of costs of the fees prescribed by that Order shall be increased.

ORDER XLIV

Appeals

1. In this Order, unless the context otherwise requires :—

“ Appeal ” means “ Appeal to His Majesty in Council.”

“ Judgment ” includes decree, order or decision.

“ Record ” means the aggregate of papers relating to an appeal (including the pleadings, proceedings, evidence, and judgment) proper to be laid before His Majesty in Council on the hearing of the appeal.

2. Applications to the Court for the admission of an appeal as of right, or for leave to appeal, shall, if not made at the time that the judgment appealed from is delivered by the Court, be made by motion within seven days from the date of such judgment, and the applicant shall give to the opposite party notice of his intended application.

3. An appeal shall only be admitted, or leave to appeal granted, by the Court—

(a) upon the appellant, within a period to be fixed by the Court, entering into sufficient security to the satisfaction of the Court, if so required, for the due prosecution of the appeal and the payment of all such costs as may become payable to the respondent in the event of the appeal being dismissed for non-prosecution or of His Majesty in Council ordering the appellant to pay the respondent's costs of the appeal; and

- (b) upon such conditions, if any, as to the time or times within which the appellant shall take the necessary steps for the purpose of procuring the preparation of the record and the despatch thereof to the Privy Council as the Court, having regard to all the circumstances of the case, may think it reasonable to impose.
4. The Court shall have power, when admitting the appeal or granting leave to appeal, either to direct that the said judgment shall be carried into execution or that the execution thereof shall be suspended pending the appeal, and, in case the Court shall direct the said judgment to be carried into execution, the person in whose favour it was given shall, before the execution thereof, enter into sufficient security, to the satisfaction of the Court, for the due performance of such order as His Majesty in Council shall think fit to make thereon.
5. As soon as an appeal has been admitted, whether by an order of the Court or by an order of His Majesty in Council granting special leave to appeal, the appellant shall without delay take all necessary steps to have the record prepared forthwith.
6. The preparation of the record shall be subject to the supervision of the Court, and the parties may submit any disputed question arising in connection therewith to the Court.
7. The Registrar as well as the parties shall endeavour to exclude from the record all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal, and generally to reduce the bulk of the record as far as practicable.
8. Records in appeals to His Majesty in Council shall be printed in the form known as demy quarto and may be printed either in or out of England. The number of lines in each page shall be forty-seven or thereabouts and every tenth line shall be numbered in the margin.
- Where the record is printed out of England, the Registrar shall, at the expense of the appellant, transmit to the Registrar of the Privy Council forty printed copies of such record, one of which copies he shall certify to be correct by affixing thereto the seal of the Court.
- Where the record relates to an appeal from a Court out of England and is to be printed in England, or where the record relates to an appeal from the High Court in England, the Registrar shall, at the expense of the appellant, transmit to the Registrar of the Privy Council one certified copy of such record, together with an index of all the papers and exhibits in the case.
9. Where there are two or more appeals arising out of the same matter the Court may direct the appeals to be consolidated.
10. An appellant may, at any time before the record is transmitted to the Privy Council, withdraw his appeal on such terms as to costs and otherwise as the Court may direct.
11. Where an appellant fails to show due diligence in the prosecution of his appeal before the transmission of the record to the Privy Council, the Court may, on an application made by the respondent, dismiss the appeal or make such order as to costs or otherwise as the Court shall think fit.
12. Where at any time before the hearing of the appeal the record becomes defective by reason of the death or change of status of a party to the appeal, the Court shall, on an application made by any person interested, grant a certificate showing who, in the opinion of the Court, is the proper person to be substituted on the record in place of, or in addition to, the party who has died or undergone a change of status.
13. Where His Majesty in Council directs a party to bear the costs of an appeal incurred in the Court below, such costs shall be taxed by the proper officer of the Court in accordance with Order XIX, Rule 2.

PRIZE COURTS

14. The Court shall enforce any order or judgment of His Majesty in Council in like manner as any judgment or order of the Court.

15. An appellant whose appeal has been admitted shall prosecute his appeal in accordance with the Rules for the time being regulating the general practice and procedure in appeals to His Majesty in Council, so far as such rules may be applicable.

ORDER XLV

Cases not provided for

In all cases not provided for by these Rules, the practice of the late High Court of Admiralty of England in prize proceedings shall be followed, or such other practice as the President may direct.

ORDER XLVI

Short Title

These Rules may be cited as "The Prize Court Rules, 1939."

O. XLIII.

APPENDIX A

FORMS

[Note.—Every document issued from the Court or Registry must bear the Seal of the Court.]

No. 1

O. II. r. 2.

HEADING AND TITLES OF CAUSES

(i) *In Rem.*

19 . (*Here put number.*)

In the High Court of Justice. Probate, Divorce, and Admiralty Division
[or other Court having prize jurisdiction].

In Prize.

(If the cause is instituted against a ship (or aircraft) only, or against a ship (or aircraft) and cargo, or against a ship (or aircraft), cargo, and freight, the title should be the name of the ship, or, as the case may be, the word "Aircraft" followed by the nationality and registration marks of the aircraft, and the name of the master:)

The (Aircraft)

(or, if the cause is instituted against cargo only:)

Cargo *ex*

(or, if the cause is instituted against goods other than cargo:)

Goods taken at

(or, if the cause is instituted against the proceeds realised by the sale of ship (or aircraft) or cargo or goods:)

The proceeds of the ship (aircraft)

(or)

The proceeds of the cargo *ex*

(or)

The proceeds of the goods taken at

(ii) *In Personam.*

No.

[Heading as above.]

Between A.B., plaintiff,

and

C.D., and E.F., the owners of the ship (aircraft)
, defendants,

or

C.D. and E.F., the owners of the cargo *ex*
ship (aircraft), defendants.

Procedure Rules

No. 2

WRIT OF SUMMONS IN A CAUSE (*General Form*)

O. II. r. 5.

(*Heading and Title as in No. 1.*)

George the Sixth, by the Grace of God, of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith.

To the owners and parties interested in the ship (aircraft)
of the port of (registered in) and the goods laden
therein (*if the cause is instituted against the ship (or aircraft) or cargo only, these words must be adapted accordingly*), (*if the cause is instituted against goods other than cargo, say*, To the owners and parties interested in the goods taken at
hereinafter specified), seized and taken as prize by our ship of war
, Commander (*or*) by our Officers of Customs at
or (*as the case may be*).

We command you that within thirty days after the service of this writ (*in a cause in personam add on you*), inclusive of the day of such service, you do cause appearances (*or an appearance*) to be entered for you in the Registry of our said Court in a cause instituted on our behalf by our Procurator General or other the proper officer of the Crown (*if the proceeding is against a droit of Admiralty, add in Our Office of Admiralty*) against the said ship (aircraft) and goods for the condemnation thereof as good and lawful prize (*if claimed as droit of Admiralty, add, and as droits and perquisites of Us in Our Office of Admiralty*).

And take notice that in default of your so doing our said Court (*or, in a cause in personam, the plaintiff*) may proceed therein and judgment may be given in your absence.

Witness, &c. (*in accordance with the form generally in use in the Court*).

Memorandum to be subscribed on the Writ

N.B.—This writ is to be served within twelve calendar months from the date thereof, or, if renewed, within six calendar months from the date of the last renewal, including the day of such date, and not afterwards.

Appearance hereto may be entered either personally or by solicitor at the Admiralty Registry, Royal Courts of Justice, London (*or as the case may be*).

Indorsements to be made on the Writ before issue thereof

This writ was issued by the said , who resides at
or, this writ was issued by of , whose
address for service is , solicitor for the said
who resides at , or, this writ was issued by
of , whose address for service is , agent
for , of , solicitor for the said
who resides at .

(*If writ is issued by an officer of the Crown, state his name, title and address for service.*)

[*Note.—The address for service must be within three miles of the Registry.*]

Indorsement to be made on the writ after service thereof, and signed by the person serving the same.

This writ was served by me by (*state mode in which service was effected, whether on the ship, cargo or freight, or otherwise, according to Order II; or, if in personam, state the name of the person served and the place of service*) on day, the day of , 19 .

Indorsed the day of , 19 .

(Signed)

(Address)

PRIZE COURTS

No. 3

O. II. rr. 6, 13. WRIT OF SUMMONS IN A CAUSE FOR CONDEMNATION WHERE THE SHIP (AIRCRAFT)
OR GOODS HAVE BEEN DESTROYED OR LOST

(Heading and Title as in No. 1 (i).)

George the Sixth, &c. *(as in No. 2).*

To the owners and parties interested in the ship (aircraft), &c.
(as in No. 2), seized and taken as prize by our ship of war
, Commander *(or by Our Officers of Customs at the port*
of *or as the case may be)*, the said ship (aircraft) and goods
having been destroyed *(or lost)* *(state generally the circumstances of the destruction*
or loss) *(if the goods have been removed and brought in for adjudication without the ship*
(aircraft), add, and the said goods having been removed from the said ship (aircraft)
and being now in custody of our said Court).

(Remainder of form, indorsements, &c., as in No. 2.)

[Note.—If ship (aircraft) or goods only have been destroyed or lost, the above form must be altered accordingly.]

No. 4

O. II. rr. 7, 14. WRIT OF SUMMONS IN A CAUSE INSTITUTED AGAINST A CAPTOR

(Heading and Title as in No. 1 (ii).)

George the Sixth, &c. *(as in No. 2).*

To

We command you that within thirty days after the service of this writ on you,
inclusive of the day of such service, you do cause an appearance to be entered for
you in the Registry of our said Court in an action at the suit of
a subject of *(state nationality of petitioner)*,
claiming restitution of the ship (aircraft) , and damages for her (its)
detention *(or damages for the loss or destruction of the said ship (aircraft)).*

And take notice, &c. *(as in No. 2).*

Witness, &c. *(as in No. 2).*

(Indorsements, &c., as in No. 2).

No. 5

O. II. rr. 8, 14.
O. XXX. r. 1. WRIT OF SUMMONS IN PRIZE SALVAGE

(Heading and Title as in No. 1 (ii).)

George the Sixth, &c. *(as in No. 2).*

To C.D., the owner *(or as the case may be)* of the ship (aircraft),

We command you that within thirty days after the service of this writ, inclusive
of the day of such service, you do cause an appearance to be entered for you in the
Admiralty Registry of our said Court in a cause of prize salvage instituted against
you on behalf of

And take notice, &c. *(as in No. 2).*

Witness, &c. *(as in No. 2).*

(Indorsements, &c., as in No. 2.)

Procedure Rules

No. 6

WRIT OF SUMMONS IN JOINT CAPTURE OR RECAPTURE

(Heading and Title as in No. 1 (ii).)

O. II. r. 9.

O. XXXII.

r. 1 (1).

George the Sixth, &c. (as in No. 2).

To _____
(the persons originally claiming as captors or recaptors).

We command you that within thirty days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in the Registry of our said Court in a cause of joint capture (or recapture) instituted against you on behalf of (insert names of persons claiming, as e.g., A.B., the Commander, and the crew of our ship of war _____) asserting a claim to be pronounced joint captors (or recaptors) with you of the said ship (aircraft) _____, and the goods, wares and merchandise laden on board of her (it) (or, of the goods, wares and merchandise ex the said ship (aircraft) _____), and to share in the proceeds thereof, (or, in the salvage payable in respect thereof).

And take notice, &c., (as in No. 2).

Witness, &c. (as in No. 2).

(Indorsements, &c., as in No. 2.)

No. 7

NOTICE IN LIEU OF SERVICE OF A WRIT OUT OF THE JURISDICTION

(Heading and Title as in No. 1.)

O. II. r. 19.

O. XXXV.

r. 12.

To _____, of _____

Take notice, that _____, of _____, has instituted a cause against you, in the (here insert the name of the Prize Court), by writ of that Court, dated the _____ day of _____, 19____, for (copy the words of the writ showing the object for which the cause is instituted), and you are required within _____ days after the receipt of this notice, inclusive of the day of such receipt, to cause an appearance to be entered for you in the Registry of the said Court to the said cause; and in default of your so doing the said Court may proceed therein and judgment may be given in your absence.

You may appear to the said writ by entering an appearance personally or by your solicitor at the (here insert the Registry of the Court).

(Signed) _____ of _____, &c.
or _____ of _____ &c.,

Solicitor for

N.B.—This notice is to be used where the person to be served out of the jurisdiction is not a British subject, or the ship (aircraft) or goods are not the property of a British subject.

No. 8

ENTRY OF APPEARANCE

(Heading and Title as in No. 1.)

O. III. r. 1.

O. XXX.

O. XXXII.

r. 1.

Enter an appearance for _____, owner of the ship (aircraft) _____ above-mentioned (or as the case may be).

Dated the _____ day of _____, 19____.

(Signed) _____, of _____

*Address for service

Solicitor for the above-named

for _____, of _____

above-named

_____, or agent

_____, Solicitor for the

*An address for service within three miles of the Registry must be given.

PRIZE COURTS

No. 9

Ø. III. r. 4.

CLAIMS IN CAUSES FOR CONDEMNATION

(Headings and Titles as in No. 1)

(i) *Claim by Master*

The claim of _____, the master of the _____, a subject of His Majesty the King of _____ (or a citizen of _____, as the case may be), on behalf of (fill in the name of owner of ship or aircraft), of (residence of owner), also a subject of His Majesty the King of _____ (or as above), the true, lawful, and sole owner of the said ship, her tackle, apparel, and furniture (or, the said aircraft), at the time she was taken and seized as prize by His Majesty's ship (aircraft) _____, Commander, and brought into _____ (and, if the ship (aircraft) owners are also owners of the cargo or of part thereof) and of (describe the cargo, giving numbers, weight, and description) laden on board the said ship (aircraft) at the time of the capture thereof aforesaid (and if claim is made on behalf of cargo owners) :

Also on behalf of _____, of _____, merchants, subjects (or citizens, &c., as above) of _____, the true, lawful, and sole owners of _____ (describe goods as above), also laden on board the said ship (aircraft) at the time of the capture aforesaid (and, if he has a private adventure) :

And also for his private adventure consisting of _____ for the said ship (aircraft), goods, and private adventure, as the true, lawful, sole, and entire property of _____ (subjects or citizens), of _____ as aforesaid, and for freight, demurrage, and all such loss, costs, charges, damages, and expenses, as have arisen and been incurred, or may arise and be incurred, by reason of the capture and detention aforesaid.

(Signed) _____ C.D.,
Claimant.

(ii) *Claim by Agent*

The claim of _____, of _____ merchant (or as the case may be), on behalf of Messrs. _____ and _____, of _____, merchants, the true, lawful, and sole owners of _____ (enumerate and describe goods), which were laden and on board the said ship (aircraft) at the time of the capture thereof by His Majesty's ship (aircraft) _____, Commander, and brought into _____; for the said goods as the property of neutral subjects, and for all such costs, losses, damages, and expenses which have arisen, or shall or may arise, by reason of the capture and detention thereof as aforesaid.

(Signed) _____ C.D.,
Claimant.

(iii) *Claim by Managing Owner*

The claim of _____, of _____ shipowner (aircraft-owner) on behalf of himself and others, as the true and lawful owners of the above-named ship _____, her tackle, apparel, and furniture (or, the above-named aircraft _____), at the time she (it) was taken and seized as prize by His Majesty's ship (aircraft), _____ Commander, and brought into _____ (or, at the time of her (its) seizure by the officers of His Majesty's Customs at _____), for the said ship (aircraft) and for all losses, costs, charges, damages, demurrage, and expenses which have arisen, or shall or may arise, by reason of the seizure and detention of the said ship (aircraft) as prize.

(Signed) _____ C.D.,
Claimant.

Procedure Rules

(iv) Claim by Master and Sole Owner

The claim of _____, the master of the said ship (aircraft) _____, a subject of His Majesty the King of _____, for and on behalf of himself, the true, lawful, and sole owner of the said ship, her tackle, apparel, and furniture (or, the said aircraft), at the time she (it) was taken and seized as prize by His Majesty's ship (aircraft) _____, Commander, and brought into _____ (or, at the time she (it) was taken and seized as prize whilst lying at _____ by the officers of His Majesty's Customs); for the said ship (aircraft) and for freight, demurrage, and all such loss, costs, and charges, damages and expenses as have arisen and been incurred, or shall or may arise and be incurred by reason of the capture and detention aforesaid.

(Signed) _____ C.D.,
Claimant.

(v) Claim by authority of Neutral Government

The claim of _____, of _____ merchant, by authority of His Excellency the (Ambassador, Minister for Foreign Affairs), (or as the case may be) of the (Emperor, King, &c., as the case may be) of _____ on behalf of His Majesty the _____ of _____, for the said ship (aircraft) _____ whereof _____ was master * [her tackle, apparel, and furniture], and for all and singular the goods, wares, and merchandise laden on board the same, at the time when the said ship (aircraft) and cargo were taken and seized as prize whilst in the ports or roads of _____, or in waters within three miles of the coast of _____ (or wherever the capture took place), of _____, by the _____, Commander, and carried to _____, for the said ship (aircraft) and cargo as having been seized within the territories and jurisdiction of His Majesty aforesaid, the _____ of _____, and contrary to, and in violation of, the law of nations and of the rights and territories of the Crown of His Majesty aforesaid, the _____ of _____, (or as the case may be) (and contrary to, and in violation of, existing treaties between His Britannic Majesty and His Majesty aforesaid, the _____ of _____,) and for all freight, losses, costs, charges, damages, demurrage, and expenses which have arisen, or shall or may arise, by reason of the capture and detention of the said ship (aircraft) or cargo.

*Omit in case of aircraft.

(Signed) _____ C.D.,
Claimant on behalf of the Government (or as the case may be) of _____

(vi) Claim for Droit of Admiralty on Seizure in Port

The claim of C.D., Admiralty Proctor (or as the case may be), on behalf of Our Sovereign Lord the King, in His office of Admiralty, for the said ship the _____, whereof _____ was master, her tackle, apparel, and furniture, and any goods laden therein, seized and taken in port, in the United Kingdom (or as the case may be), by His Majesty's ship the _____, Commander, and proceeded against in the (here fill in the name of the Prize Court,) as prize to the said ship.

For the said ship the _____, her tackle, apparel, and furniture, and any goods laden therein, seized and taken as aforesaid, and as such or otherwise subject to confiscation as prize, and as droits and perquisites of His Majesty in His office of Admiralty; and for all costs, losses, damages, and expenses that have arisen, or shall or may arise, and be due in the premises.

(Signed) _____ C.D.,
Claimant on behalf of the Admiralty.

PRIZE COURTS

(vii) *Claim for Droit of Admiralty on Capture by Non-Commissioned Ship.*

The claim of C.D., Admiralty Proctor (*or as the case may be*), on behalf of Our Sovereign Lord the King, in His office of Admiralty, for the said ship, the Alpha, whereof _____ was master, her tackle, apparel, and furniture, and any goods laden therein, seized and taken by the ship Beta, _____, Commander, and proceeded against as prize to the said ship, the Beta (*or His Majesty as the case may be*).

For the said ship, the Alpha, her tackle, apparel, and furniture, and any goods laden therein, seized and taken as aforesaid by a ship other than a ship of war of His Majesty, and as such or otherwise subject to confiscation as prize, and as a droit and perquisite of His Majesty in His office of Admiralty.

(Signed) _____ C.D.,
Claimant on behalf of the Admiralty.

Note.—Every claim must be endorsed by the claimant or his solicitor, with the grounds on which the claim is made, *as follows* :—

The grounds of the said claim are :—

- 1.
- 2.
- 3.

(*State grounds concisely and in general terms.*)

No. 10

AFFIDAVIT OF SERVICE OF WRIT

(*Heading and Title as in No. 1.*)

O. III. r. 6.
O. XV. r. 9.
O. XXX. r. 5.

I (*name, address, and description of deponent*) make oath and say as follows :—

I did, on the _____ day of _____, 19____, serve the writ (*or notice of the writ*) herein by (*state mode of service, or, if in personam state name of person served and the place of service*) in accordance with the manner and form prescribed by the Rules of this Court.

(Signed)

Address.

or, Solicitor for

Sworn this _____ day of _____, 19____, before me (*name and authority of person before whom the affidavit is sworn*).

No. 11

AFFIDAVITS AS TO SHIP PAPERS, OR AIRCRAFT PAPERS

O. IV. r. 7.

(i) *Ordinary Affidavit*

(*Heading and Title as in Form 49.*)

The
I, A.B., a _____ in His Majesty's navy, and of His Majesty's ship
(aircraft) _____, whereof _____ is Com-
mander (*or as the case may be*), make oath and say as follows :—

1. The papers and writings hereunto annexed, and numbered from No. _____ to No. _____ inclusive, are all the ship papers (aircraft papers) which were delivered up or otherwise found on board the ship (aircraft) called the _____, whereof _____ was master or Commander, and lately taken by His Majesty's said ship (*or as the case may be*), at which capture I, the said deponent, was present.

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2. The said papers and writings are brought in and delivered as they were received and taken, without fraud, addition, subduction, or embezzlement, and in the same condition (save the numbering thereof) as the same were delivered up or found on board the said ship (aircraft).

Sworn by the said _____ on the _____ day of _____, 19____ (Signed) *A.B.*

Before me (*name, rank and authority of person before whom the affidavit is sworn.*)

(ii) *Where Ship Papers or Aircraft Papers injured, altered, lost, mislaid, thrown overboard, found concealed, &c.* O. IV. r. 7.

(*Heading and commencement as in Form (i).)*

1. The papers and writings hereunto annexed, and numbered from No. _____ inclusive, are all the ship papers (aircraft papers) which were delivered up and found on board the ship (aircraft) _____, whereof _____ was master or Commander and lately taken by His Majesty's said ship (aircraft), at which capture I, the said deponent, was present.

2. By order of the said _____, I took charge of the captured ship (aircraft) to bring her in for adjudication.

3. After I so took charge (*set out the facts as they occurred.*)
(*Where ship papers (aircraft papers) lost, mislaid, or thrown overboard, describe as accurately as possible each such document.*)

4. Save as aforesaid, the said papers and writings are brought in and delivered as they were received and taken, without any fraud, addition, subduction, or embezzlement, and in the same condition as received (save the numbering thereof).

Sworn, &c.

(Signed) *A.B.*

[Note.—This form must be adapted in accordance with the facts].

(iii) *Where no Ship papers (Aircraft Papers) delivered up or found.*

(*Heading and commencement as in Form (i).)*

O. IV. r. 7.

1. I was present at the capture of the said ship (aircraft) _____ whereof _____ was master or Commander, and lately taken by His Majesty's said ship (aircraft).

2. No ship papers (aircraft papers) of any sort were delivered up or found on board the said ship (aircraft) or elsewhere at the time of the seizure or afterwards.

3. (*If anything has occurred to account for the absence of papers state the facts.*)

(Signed) *A.B.*

Sworn, &c.

(iv) *By Person having control of Ship Papers (Aircraft Papers) within the Jurisdiction.*

(*Heading as in Form (i).)*

O. IV. r. 4.

I, *A.B.*, merchant, of _____, make oath and say as follows:—

1. I am agent (*or as the case may be*) in this country for the owners of the said ship (aircraft) _____, and consignee of her (its) cargo.

2. The said ship (aircraft) arrived at _____ on the _____ day of _____, in the ordinary course of her voyage, and was about to discharge her cargo when she was seized as prize by the officers of His Majesty's Customs there.

3. Prior to such seizure the several papers and writings set out below were delivered to me in the ordinary course as agent (*or as the case may be*) aforesaid, to enable me to enter the said ship (aircraft) and procure the discharge of her (its) cargo.

PRIZE COURTS

4. The papers and writings hereto annexed and numbered from No. to No. , inclusive, are all the ship papers (aircraft papers) which were so delivered to me, or came into my possession or control, and are brought in and delivered as they were received and taken, without any fraud, addition, subduction, or embezzlement, and in the same condition (save the numbering thereof) as received. Sworn, &c.

(Signed)

A.B.

No. 12

O. VI.

NOTICE OF DISCONTINUANCE

(Heading and Title as in No. 1.)

Take notice, that this cause is hereby discontinued (*or, if not against all the parties appearing, as against the claimant , or as the case may be. (If the discontinuance is as to part only of the subject-matter of the cause, so far as it relates to .)*

(*If by a claimant, that the claimant hereby discontinues his claim in this cause (or, as against, &c., or, so far as it relates to, &c., as above).*)

Dated this day of
(Signed)

, 19
G.H., of
or Solicitor for the

No. 13

PLEADINGS (a)

O. VII.

(i) PLEADINGS IN PROCEEDINGS FOR CONDEMNATION

Petition

(Heading and Title as in No. 1.)

Writ issued

19

Petition

J.K., solicitor for the claimants C.D., and E.F., says as follows :—

1. The owners of the above-named ship (aircraft) are C.D. and E.F. The said C.D. resides at and is a subject of . The said E.F. resides at and is a subject of .

2. On the day of , the said C.D. purchased the said ship from G.H., of , a subject of , who assigned the said ship to the said C.D., by bill of sale dated the day of .

3. Prior to such assignment, the said ship was named the , and immediately thereafter the said C.D. changed the name of the said ship to that of the , and such change of name was duly entered at .

4. Immediately after such purchase and assignment, the said C.D., by bill of sale dated the day of , assigned shares in the said ship to the said E.F., and on the day of the said ship was duly registered in the names of the said C.D. and E.F. at , and a certificate of registry, dated the day of , was issued by , whereby it appears that the said C.D. and E.F. are the owners of the said ship, and they were at the time of such registration, and still are, the owners thereof.

(a) *Note.*—These pleadings are given as examples only, and the forms should be adapted to the facts of each particular case.

Procedure Rules

5. On the day of , the said ship loaded at a cargo of and subsequently sailed therewith on a voyage from aforesaid bound to .

6. The said cargo consisted of (*describe the cargo, giving numbers, weight, &c.*), and was on the account and risk of , who are merchants carrying on business at , and are subjects of , and upon the account and risk of no other person whatsoever.

7. Whilst upon the voyage aforesaid, the said ship was taken as prize by , and although all the ship papers relating to the said ship and the said cargo were shown to the captors, she was brought into the port of for adjudication.

8. There were at the time of such capture no contraband goods on board the said ship, and no subject of (*insert the name of the Government at war with Great Britain*) or enemy of Great Britain had at the time of such capture, or at any other time material to the matters in this cause, any share, right, title, or interest in the said ship or cargo, or any part thereof.

9. There was no just ground for the capture and bringing in of the said ship.

* The said J.K. prays that the Judge will decree restitution of the said ship to the said C.D. and E.F., with damages and costs.

[*Or, if bail has been given*, that the Judge will pronounce that the bail given on behalf of the said claimants to answer the value of the said ship (and goods) may be released and discharged, and that the said (*insert names of captors*) may be condemned in the damages and costs sustained by and occasioned to the said claimants by reason of such capture, and bringing in.]

(Signed) W.X.,

Counsel (*or Party*).

Delivered this day of .

Answer

(*Heading and Title as in No. 1.*)

Answer

G.H., solicitor for the commander, officers, and crew of His Majesty's ship , the captors of the said ship , in answer to the petition of the claimants, says as follows :—

1. The said ship and her cargo were taken as prize and brought in for adjudication by the captors under the circumstances herein-after described.

2. On the day of , His Majesty's ship was cruising off , when the said ship came into sight and was signalled and duly boarded by a boat from the , and the ship papers and documents and the cargo of the were duly inspected and examined.

3. Upon one of the bulkheads, and on one of the boats of the said ship , was found a name (the), which was not the present name of the ship, and the name of the port of , which is in enemy territory, and upon inquiry of the master of the said ship, it appeared that the said ship immediately prior to the purchase by her present owners and to the existing war, had been owned by a firm carrying on business at the said port of , in enemy territory, and that the said master had been in command of the said ship whilst she belonged to the said firm.

4. On receiving such information, the captors brought in the said ship for adjudication upon the suspicion that the sale and transfer of the said ship to the present alleged owners was not *bonâ fide*, and that she still belonged to her former enemy owners.

PRIZE COURTS

5. The transfer and assignment of the said shares in the said ship by *C.D.* to the claimant *E.F.* in the petition alleged took place as therein alleged, but at the time of such transfer the said *C.D.* was a member of the said firm of _____, carrying on business as aforesaid, and the transfer and assignment of the said shares was made and executed by the said *C.D.* as agent of the said firm, and was a mere colourable and fraudulent transfer to cover the enemy character of the said ship, and the said ship at the time of capture remained the property, and was navigated for the account and at the risk of the said firm of _____, and was in fact enemy property.

(If the cargo or any part thereof was enemy property, allege it, stating the alleged ownership thereof; or if the cargo or any part thereof was contraband, allege it.)

6. Save as aforesaid the respondents deny all and every the allegations in the petition contained.

And the said *G.H.* prays the Judge to pronounce that the said ship (and her cargo) were at the time of capture property of enemies of the Crown of Great Britain, or otherwise liable to condemnation, and to condemn the same as lawful prize to the captors, or to pronounce for just cause of capture.

(Signed) *Y.Z.*,
Counsel (or Party).

Delivered this _____ day of _____

O. VII.
O. XXX.
Naval Prize
Act, 1864,
s. 40.

(ii) PLEADINGS IN PRIZE SALVAGE
Petition alleging Special Difficulty or Danger
(Heading and Title as in No. 1.)

Writ issued _____, 19 _____

Petition

G.H., solicitor for *A.B.*, commander, and the officers and crew of His Majesty's ship _____, the recaptors of the above-named ship, the plaintiffs (or as the case may be), says as follows :—

1. The recaptors are the commander, officers and crew of His Majesty's ship _____, which is a cruiser of the second class (or as the case may be) armed with _____, and carrying a crew of _____ hands all told, and fitted with engines of _____ horse-power effective.

2. On the _____ day of _____, at about 11 a.m., His Majesty's said ship was proceeding from _____ to _____ in pursuance of her instructions to cruise off the coast of _____ and to assist and protect British vessels whilst passing such coast. At such time as aforesaid it was blowing a heavy gale from the _____ and the weather showed no signs of improvement.

3. Whilst proceeding as aforesaid, those on board the _____ sighted a steamship, appearing to be a British mail steamer, steaming to the _____ on about an opposite course to the _____. Signals were at once made to the said steamship, which proved to be the _____ of _____ but no answer was made, and although a gun was fired, the _____ altered her course and proceeded in towards the coast of _____, apparently making for the port of _____ in enemy's territory.

4. The recaptors having thereon reason to believe that the _____ was in possession of the enemy, immediately altered the course of the _____ and chased the _____, gradually gaining upon her.

5. After hours' chase the and the
had come within 10 miles of the coast of , and the
 was about half-a-mile astern of the said
At this time it was seen that an enemy warship was coming out of the said port of
 , and thereupon extra steam was raised on the
and she succeeded in getting in between the said and the entrance
of the said port, and forced her to alter her course to seaward.

6. The said enemy warship, which proved to be the
of guns, and to be carrying a crew of hands, came on, and with
the assistance of some torpedo boats which were following her engaged the
 , but after a fierce engagement, lasting about half-an-hour, the said
enemy war ship was beaten off and returned to the port of with the
torpedo boats, whereupon the said surrendered to the recaptors,
and the prize crew in charge of her having been taken on board the ,
and a prize crew from the having been put on board the
 , the two vessels in company proceeded towards
and the was brought in safety into , where she
now lies.

7. At the time of the said engagement, His Majesty's said ship was close to the
island of , and owing to the gale and the dangerous nature of
the coast she ran great risk of being driven on the rocks in manoeuvring during the
said engagement, and the lives of the recaptors were thereby exposed to great
risk and danger. In the said engagement the had men killed
and men wounded, including officers.

8. By reason of the premises the and her cargo were saved from
condemnation as prize to the enemy under circumstances of special difficulty
and danger.

The said *G.H.* prays the Judge to award the recaptors one-fourth of the value
of the said and her cargo, or such other sum as to the Judge shall
seem just, and costs.

(Signed)

W.X.,

Counsel (or Party).

Delivered this day of

Answer.

(Heading and Title as in No. 1.)

Answer

J.K., solicitor for *C.D.*, the owner (and claimant) of the said ship, and *E.F.*,
owner of the cargo thereof, defendants (or as the case may be), in answer to the
petition of the recaptors says as follows :—

1. The defendants (or as the case may be) admit that the said ship and her cargo
were recaptured from the enemy by the recaptors, but deny that the recapture
thereof was made under circumstances of special danger or difficulty entitling the
recaptors to a larger part of the value of the said ship and cargo than one-eighth
part.

2. The defendants (or as the case may be) do not admit that His Majesty's said
ship was at the time of such recapture engaged in protecting British
ships as alleged. At the said time, His Majesty's said ship was engaged, in con-
junction with other vessels, in watching the said port of and in
endeavouring to intercept and capture the said enemy's ship of war the ,
and for such purpose was endeavouring to entice her out of the said port and bring
about an engagement with her, and the fact that the said mail steamer the
made for such port in fact brought about the engagement so wished for and intended
and such engagement was not brought about and did not happen merely for the
purpose of the recapture of the said ship, but took place in the ordinary course
of duty and under the express instructions given to His Majesty's said ship.

PRIZE COURTS

The said *J.K.* prays the Judge to pronounce that the recaptors are entitled to one-eighth of the value of the said ship and her cargo, and no more, and to condemn the recaptors in the costs of and occasioned by their claim for a larger sum.

(Signed) *Y.Z.*,
Counsel (*or Party*).

Delivered this day of .

O. VII.
O. XXXII. r.
Naval Prize
Act, 1864,
s. 36.

(iii) PLEADINGS IN JOINT CAPTURE OR RECAPTURE

Petition

(*Heading and Title as in No. 1.*)

Writ issued 19 .

Petition

J.K., solicitor for the plaintiffs (*or as the case may be*), says as follows :—

1. The plaintiffs (*or as the case may be*) are the commander, officers, and crew of His Majesty's ship

2. On the day of , His Majesty's said ship sailed in company with and under the order of His Majesty's ship , and under such order and in such company was cruising off the coast of ,
(*or describe position at the time*).

3. About (*state hour*) on the said day, a steamship was sighted bearing about , and signals were made by His Majesty's ship to chase, and His Majesty's said ships both steamed after the said steamship.

(*Set out in separate paragraphs the circumstances founding a right of joint capture or joint recapture, commencing by adapting the above paragraphs, to the facts of the case, and conclude:*)

And the said *J.K.* prays that the Judge will pronounce that His Majesty's said ship is a joint captor (*or recaptor*) of the said ship (and her cargo), and as such entitled to share therein.

Delivered this day of .
(Signed) *W.X.*,
Counsel (*or Party*).

Answer

(*Heading and Title as in No. 1.*)

Answer

G.H., solicitor for the defendants (*or as the case may be*), in answer to the petition of the plaintiff (*or as the case may be*), says as follows :—

1. The defendants (*or as the case may be*) are the commander, officers, and crew of His Majesty's (*or the*) ship

2. About 7 a.m. (*set out in short paragraphs the facts upon which the defendants (or as the case may be) rely to show that they were the sole captors*).

3. The defendants (*or as the case may be*) deny that the plaintiffs (*or as the case may be*) were in sight at the time of the said capture (*or recapture*) (*or, assisted in making the said capture [or recapture], or as the case may be*).

And the said *G.H.* prays that the Judge will pronounce that the prize was taken solely by the (*defendants' ship*) and that the (*plaintiffs' ship*) was not aiding, (*or that the* (*plaintiffs' ship*) was not present, or in sight of) or adding to the encouragement of the said capture (*or recapture*) or the terror of the enemy, and was not acting in concert with the (*defendants' ship*) in the said chase, or assisting in the said capture (*or recapture*).

(Signed) *Y.Z.*,
Counsel (*or Party*).

Delivered this day of .

Procedure Rules

Admission

(Heading and Title as in No. 1.)

Admission

I, *G.H.*, solicitor for the defendants (*or as the case may be*) in the above cause, admit that His Majesty's ship , and the commander, officers, and crew thereof (*or such persons as may be entitled*) are entitled to share as joint captors (*or recaptors*) in the ship (and her cargo.)

Dated this day of

(Signed) *G.H.*,
Solicitor.

(iv) PETITION IN OBJECTION TO REGISTRAR'S REPORT

(Heading and Title as in No. 1.)

O. VII.
O. XVII.
r. 10.

, solicitors for the , in objection to the Registrar's Report, filed in this cause on the , 19 , say as follows :—

- 1.
- 2.
- 3.

Set out separately and concisely the objections to the Report and the grounds thereof.

Wherefore the pray this Honourable Court to vary the Report by (*set out as shortly as possible the variation required*) and to condemn the in the costs of this appeal or to make such other or further order as to the Court may seem fit.

(Signed by Council or Party.)

Filed and delivered this day of , 19 . by (*name and address of solicitors and agents, if any*) 's solicitors.

ANSWER TO PETITION IN OBJECTION TO THE REGISTRAR'S REPORT

(Heading and Title as in No. 1.)

, solicitors for the , say as follows :—

- 1.
- 2.
- 3.

State briefly the reason why each ground of objection in the petition is inadequate.

Wherefore the pray this Honourable Court to confirm the said Report and to condemn the in the costs of and incident to their objections to the said Report and that further and otherwise right and justice may be administered to the premises.

(Signed by Counsel or Party.)

Filed and delivered, &c.

No. 14

ORDER FOR PARTICULARS

O. VIII.

(Heading and Title as in No. 1.)

Upon hearing and upon reading the affidavit of , filed the day of , 19 , and

It is ordered that the deliver to the (*state name of parties affected*) an account in writing of the particulars of (*state matters of which particulars are required*) alleged in (*specify the pleading or other document in which the allegations are contained*) in this cause, and that, unless such particulars be delivered within days from the

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date of this order, all further proceedings be stayed until the delivery thereof (or the said allegations be struck out, or upon such other terms as the Court shall think fit), and that the costs of this application be

Dated the day of , 19 .

O. VIII.

No. 15

PARTICULARS

(Heading and Title as in No. 1.)

The following are the particulars of the allegations contained in the (*pleading or other document*) herein, delivered pursuant to the order of the Court dated the day of , 19 .

- 1.
- 2.
- 3.

Dated this day of , 19 .
(Signed)
or Solicitor for

To

No. 16

O. IX. r. 2, 3.

AFFIDAVIT OF DISCOVERY

(Heading and Title as in No. 1.)

I, *A.B.*, the (plaintiff, claimant, or as the case may be), make oath and say as follows :—

1. I have in my possession or power the documents relating to the matters in question in this cause, set forth in the first and second parts of the first schedule hereto.

2. I object to produce the documents set forth in the second part of the said first schedule on the ground that [*state grounds of objection and verify the facts as far as may be*].

3. I have had, but have not now, in my possession or power the documents relating to the matters in question in this cause set forth in the second schedule hereto.

4. The last-mentioned documents were last in my possession or power on [*state what has become of the last-mentioned documents and in whose possession they now are*].

6. According to the best of my knowledge, information, and belief I have not now, and never had, in my possession, custody, or power, or in the possession, custody, or power of my solicitor or agent, or of any other person or persons on my behalf, any deed, account, book of account, voucher, receipt, letter, memorandum, paper or writing, or any copy of or extract from any such document, or any other document whatsoever, relating to the matters in question in this cause, or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except the documents set forth in the said first and second schedules hereto.

SCHEDULE NO. I

PART 1

[*Set out documents.*]

PART 2

[*Set out documents.*]

Procedure Rules

SCHEDULE NO. II

[Set out documents.]

Sworn, &c.

(Signed)

A.B.

No. 17

NOTICE TO PRODUCE FOR INSPECTION OR TRANSCRIPTION

O. IX. r. 4.

(Heading and Title as in No. 1.)

Take notice that the (plaintiff, claimant, *or as the case may be*) requires you to produce for his inspection (*or, for transcription by him*), on or before the day of _____, the following documents :—

[*Here briefly describe the documents required to be produced.*]

Dated this _____ day of _____

(Signed)

G.H.,
Solicitor for the plaintiff (*or as the case may be*).

To C.D. (*or J.K.*, solicitor for the)
defendant (*or as the case may be*).

No. 18

NOTICE TO PRODUCE AT HEARING OR ON EXAMINATION OF WITNESSES

O. IX. r. 6.

(Heading and Title as in No. 1.)

Take notice that you are hereby required to produce and show to the Court at the hearing of (*or at the examination of* _____, witnesses in) this cause all books, papers, letters, copies of letters, and other writings and documents in your custody, possession or power, containing any entry, memorandum or minute relating to the matters in question in this cause, and particularly (*specify or describe documents particularly required*).

Dated the _____ day of _____, 19 _____

(Signed)

or solicitor for

To

No. 19

NOTICE TO ADMIT

O. IX. r. 8.

(i) Documents

(Heading and Title as in No. 1.)

Take notice that the plaintiff A.B. (*or as the case may be*) in this cause proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the defendant (*or as the case may be*) his solicitor or agent at _____, on _____, between the hours of _____ and _____; and the defendant is hereby required within 48 hours (*or insert such longer time as may be reasonable under the circumstances*) from the last-mentioned hour, to admit that such of the said documents as are specified to be originals were respectively written, signed, or executed, as they purport respectively to have been; that such as are specified as copies are true copies; and such documents as are stated to have

PRIZE COURTS

been served, sent, or delivered, were so served, sent or delivered respectively; saving all just exceptions to the admissibility of all such documents as evidence in this cause.

Dated this day of

(Signed) *G.H.*,
Solicitor for the plaintiff (*or as*
the case may be).

To *C.D.* (*or J.K.*, solicitor for the) defendant (*or as the case may be*).

Originals

Description of Documents.	Dates.
(<i>Here briefly describe documents.</i>)	(<i>Here state date of each document.</i>)
1.	
2.	

Copies

Description of Documents.	Dates	Time and mode of Service, Delivery, &c.
1.		<i>Sent by general post January 1,</i> <i>19</i>
2.		<i>Served January 5th, 19, on</i> <i>defendant's solicitor by F.G.,</i> <i>of</i>

(ii) Facts

(*Heading and Title as in No. 1.*)

Take notice that the plaintiff, *A.B.* (*or as the case may be*), in this cause requires the defendant (*or as the case may be*) to admit, for the purposes of this cause only, the several facts respectively hereunder specified; and the defendant (*or as the case may be*) is hereby required within four days (*or such longer time as may be reasonable under the circumstances*) from the service of this notice, to admit the said several facts, saving all just exceptions to the admissibility of such facts as evidence in this cause.

Dated this day of

G.H.,
Solicitor for the plaintiff
(*or as the case may be*).

To *C.D.* (*or J.K.*, solicitor for the), defendant (*or as the case may be*).

The facts, the admission of which is required, are :—

1. That
2. That
3. That

Procedure Rules

No. 20

ADMISSION OF FACTS PURSUANT TO NOTICE

O. IX. r. 8.

(*Heading and Title as in No. 1.*)

The defendant (*or as the case may be*) in this cause for the purposes of this cause only, hereby admits the several facts respectively hereunder specified, subject to the qualifications or limitations, if any, hereunder specified, saving all just exceptions to the admissibility of such facts, or any of them, as evidence in this cause.

Provided that this admission is made for the purposes of this cause only and is not an admission to be used against the defendant (*or as the case may be*) on any other occasion, or by anyone other than the plaintiff (*or whoever requires the admission*).

Delivered this day of

(Signed) *J.K.*,
Solicitor for the defendant
(*or as the case may be*).

To *A.B.* (*or G.H.*, solicitor for the), plaintiff
(*or as the case may be*).

Facts admitted	Qualifications or Limitations, if any, subject to which they are admitted.
1. That, &c. 2. That, &c. 3. 4. 5.	3. But not that, &c. 4. But not that, &c.

No. 21

WARRANT OF ARREST

O. X. r. 3.

(*Heading and Title as in No. 1.*)

George the Sixth, &c. (*as in No. 2.*)

To the Marshal of the (*here fill in the name of the Prize Court*).

We hereby command you to arrest the ship (aircraft) of the port of (registered in) and the freight due for the transportation of the cargo now or lately laden therein (*or, if both ship (aircraft) and cargo to be arrested*, and the cargo now or lately laden therein, together with the freight due for the transportation thereof), and to keep the same under arrest until you shall receive further orders from Us.

Witness, &c. (*as in No. 2.*)

Taken out by

No. 22

AFFIDAVIT TO LEAD WARRANT OF ARREST

O. X. r. 4.

(*Heading and Title as in No. 1.*)

I, , make oath and say as follows :—

1. I am the owner* [of sixty-fourth shares] (*or master, or as the case may be*) of the ship (aircraft) , (*or cargo &c.*) (*or I am the commander of His Majesty's ship (aircraft) , or what-ever rank, title, or position is held by the deponent*).

*Omit in the case of aircraft.

PRIZE COURTS

2. The said ship (aircraft) has been taken as prize and brought into (or seized and is now at) within the jurisdiction of this Court, but has not been delivered up to the Marshal of this Court.

3. (State circumstances, if any, showing probability of ship (aircraft) not remaining within the jurisdiction.)

4. The aid and process (or I am informed and believe that the aid and process) of this Court are required to restrain the said ship (aircraft) from proceeding out of the jurisdiction of this Court (or to enable me to enforce my said claim or to obtain restitution of the said ship (aircraft), or as the case may be)

Sworn, &c.

(Signed)

No. 23

O. XI. r. 2.

COMMISSION OF APPRAISEMENT AND SALE

(Heading and Title as in No. 1.)

George the Sixth, &c. (as in No. 2).

To the Marshal of the (here fill in the name of the Prize Court), Greeting.

Whereas in a cause for instituted in Our said Court on behalf of (if in personam, add against) :

The Judge has ordered the said (state whether ship (aircraft) cargo or part of cargo, as the case may be) to be appraised and sold. We therefore hereby authorize and command you to reduce into writing an inventory of the said ship ((aircraft), &c., as above) and, having chosen one or more experienced person or persons, to swear him or them to appraise the same according to the true value thereof, and, upon a certificate of such value having been reduced into writing, to cause the said (ship, &c., as above) to be sold by public auction for the highest price, not under the appraised value thereof, that can be obtained for the same. And We further command you, immediately upon the sale being completed, to pay the proceeds arising therefrom into Court, and to file the certificate of appraisement signed by you and the appraiser or appraisers, and an account of the sale signed by you, together with this Commission.

Witness, &c. (as in No. 2).

Commission of appraisement and sale,

Taken out by

(Where appraisement or sale only is ordered the words not required in the above form must be omitted.)

(Where the order is for removal, survey, safe custody, or otherwise, the above form must be adapted accordingly.)

No. 24

CERTIFICATE OF APPRAISEMENT

O. XI. r. 5.

(Heading and Title as in No. 1.)

I, , Marshal of the (here fill in the name of the Prize Court), do certify that, by virtue of a Commission of dated the day of , 19 , and issued in this cause, I have chosen of who are (or who, I am informed and believe, are) two experienced persons and have sworn them to appraise the (ship, aircraft, cargo, part of cargo, &c., as the case may be) according to the true value thereof.

Procedure Rules

And we the said _____ and _____ whose names are hereunto subscribed, do certify that by virtue of our said oaths, we have faithfully and justly appraised the said (ship, &c., as above) at the sum of _____

In witness whereof we have hereunto respectively set our hands this day of _____, 19 _____

(Signatures of Marshal and Appraisers.)

(Where there are more or less than two appraisers the above form must be altered accordingly.)

No. 25

BILLS OF SALE BY MARSHAL

O. XI. r. 2.

(i) Of Foreign Ship

Know all men by these presents that I, _____ Marshal of the (here fill in the name of the Prize Court), in obedience to and by virtue of a Commission to me directed under the seal of the said Court, bearing date the _____, and for and in consideration of the sum of _____ pounds of lawful money of Great Britain (or as the case may be) to me in hand at or before the en sealing and delivery of these presents well and truly paid, the same being the highest sum which was bid by _____ at a public auction held on the _____ day of _____ one thousand _____, and the receipt of which sum I do hereby acknowledge, have granted, bargained, sold, assigned, and set over, unto the said _____ executors, administrators, and assigns, the entirety of the foreign ship called the _____, together with the appurtenances thereto belonging as specified in the inventory herewith, now lying _____: To have and hold the said foreign ship called the _____ and the said appurtenances unto the said _____ executors, administrators, and assigns, to _____, their own use and uses, and as _____ their own proper goods and chattels, from henceforth for ever. And I, the said _____, Marshal of the said Court, do hereby covenant, promise, and agree, to and with the said _____ executors, administrators and assigns in manner following; that is to say, that at the time of en sealing and delivery hereof, I have, in and by the Commission aforesaid, good right, full power, and lawful authority to grant, bargain, sell, assign, and set over the hereby-bargained premises unto the said _____ executors, administrators, and assigns, in manner and form aforesaid. And that the said hereby-bargained premises, and every part thereof, now are and so from henceforth for ever shall be, remain and continue unto the said _____ executors, administrators, and assigns.

In witness whereof I have hereunto set my hand and seal this _____ day of _____, in the year of our Lord one thousand _____

Marshal.

Signed, sealed, and delivered by the said _____ in the presence of _____

(ii) Of British Ship

Know all men by these presents that I, _____ Marshal of the (here fill in the name of the Prize Court), in obedience to and by virtue of a Commission to me directed under the seal of the said Court, bearing date the _____ day of _____, and for and in consideration of the sum of _____ pounds of lawful money of Great Britain (or as the case may be), to me in hand at or before the en sealing and delivery of these presents well and truly paid, the same

PRIZE COURTS

being the highest sum which was bid by _____ at a public auction
held on the _____ day of _____ one thousand _____
_____, and the receipt of which sum I do hereby acknowledge,
have granted, bargained, sold, assigned, and set over, and by these presents do
fully, freely, and absolutely grant, bargain, sell, assign, and set over unto the said
_____, executors, administrators, and assigns, sixty-four sixty-fourth
parts or shares, being the entirety of the ship called the _____ now
lying _____, together with the appurtenances thereto
belonging as specified in the inventory herewith, which said ship is more
particularly mentioned and described as follows :—

Official No.	Name of Ship.	Number, Date, and Port of Registry.

Number, Date, and Port of previous Registry (if any).

Whether British or Foreign Built	Whether a Sailing or Steam Ship; and if a Steam Ship, how propelled	Where Built	When Built	Name and Address of Builders

Number of decks	Head	Length from fore part of stem, under the bowsprit, to the aft side of the head of the stern-post	Feet. Tenths.
Number of Masts	Framework and description of	Length at quarter of depth from top of weather deck at side amidships to bottom of keel	
Rigged	vessel	Main breadth to outside of plank	
Stern	Number of bulk- heads	Depth in hold from tonnage deck to ceil- ing at midships	
Build	Number of water ballast tanks, and their capa- city in tons	Depth in hold from upper deck to ceiling at midships in the case of three decks and upwards	
Galleries		Depth from top of beam amidships to top of keel	
		Depth from top of deck at side amidships to bottom of keel	
		Round of beam	
		Length of engine room, if any	

Procedure Rules

PARTICULARS OF DISPLACEMENT

Total to quarter the depth from weather deck at side amidships to bottom of keel tons.
Ditto per inch immersion at same depth tons.

PARTICULARS OF ENGINES (if any)

No. of Engines	Description	Whether British or Foreign made	When made	Name and Address of Makers	No. of and Diameter of Cylinders	Length of Stroke	N.H.P., I.H.P., Speed of Ship
	Engines		Engines	Engines			
	Boilers Number Iron or steel Pressure when loaded		Boilers	Boilers			

PARTICULARS OF TONNAGE

GROSS TONNAGE	No. of Tons	DEDUCTIONS ALLOWED	No. of Tons
Under tonnage deck.... Closed-in spaces above the tonnage deck, if any :— Space or spaces between deck Poop Forecastle Round house Other closed-in spaces for machinery, light and air, if any		On account of space required for propelling power On account of spaces occupied by seamen or apprentices, and appropriated to their use, and certified under the statutory regulations. These spaces are the following, viz. :— On account of space used exclusively for accommodation of master for working of the helm, the capstan and the anchor gear or for keeping the charts, signals, and other instruments of navigation and boatswain's stores and for space occupied by donkey engine and boiler, and in case of sailing ships for space used for storage of sails Cubic metres	
Gross tonnage			
Deductions as per contra			
Registered tonnage		Total deductions	

To have and hold the said ship and the said appurtenances unto the said , executors, administrators, and assigns, to , their own use and uses, and as their

PRIZE COURTS

own proper goods and chattels, from henceforth for ever. And I, the said

Marshal of the said Court, do hereby covenant, promise, and agree, to and with the said

executors, administrators, and assigns, in manner following; that is to say that at the time of en sealing and delivery hereof, I have, in and by the Commission aforesaid, good right, full power, and lawful authority to grant, bargain, sell, assign, and set over the said hereby-bargained premises unto the said

executors, administrators, and assigns, in manner and form aforesaid. And that the said hereby-bargained premises, and every part thereof, now are and so from henceforth for ever shall be, remain and continue unto the said executors, administrators, and assigns.

In witness whereof I have hereunto set my hand and seal this day of in the year of our Lord one thousand

Marshal.

Signed, sealed, and delivered by the said , in the presence of

[Note.—In the above Forms of bills of sale the spaces left blank for the insertion of the names of the buyer or buyers should be filled in with such names in full, followed by the word "his," "her," or "their" (executors, &c.) as the case may be.]

No. 26

O. XI. r. 3.

CONTRACT FOR SALE OF A SHIP

By virtue of a Commission of Sale from the (*here fill in the name of the Prize Court*), the ship called the now lying in

Particulars of which ship's registry are as follows, viz. :—(*Set out particulars exactly as in Bill of Sale, No. 25 (ii), supra.*)

Is exposed to Sale on the Conditions following:—

I.—The buyer is to sign the agreement to purchase and to take the said ship, her tackle, apparel, furniture and stores including machinery and appurtenances, with all faults, in the condition in which they lie, without any allowance or abatement for weights, lengths, qualities, quantities, errors of description, or any defects or injuries whatsoever, and neither the age, tonnage, description of the ship, nor the description of the machinery, appurtenances, and stores, as expressed in the inventories or printed particulars, are warranted.

II.—The buyer is immediately to pay to the Marshal, or to his substitute, one part of the purchase-money and the remainder thereof within days in cash, to the said Marshal, and upon such payment of the remainder of the purchase-money he will be put into possession of the said ship, her tackle, apparel and furniture, including machinery and appurtenances as afore-mentioned. But in case of non-payment of the remainder of the purchase-money, within such time, the deposit aforesaid of one part shall be and is hereby declared to be forfeited, and the said ship, her tackle, apparel and furniture, including machinery and appurtenances, may again be exposed to, and sold at public or private sale, and the deficiency, if any, by such re-sale, shall be made good by the defaulter at this sale, together with the expenses attending such re-sale; and neither the Honourable the Judge, the Marshal, any other officer of the said Court, nor the auctioneers, shall be sued, at law, for the said money paid in part, and forfeited as aforesaid; but the buyer so neglecting shall be liable for all loss, costs and damages which may arise thereby.

Procedure Rules

- III.—If delivery of the property to an agent is required, such agent must produce the buyer's written authority to that effect, duly signed, and addressed to the Marshal.
- IV.—In order to prevent detention of the ship for non-payment of dock or other dues, the buyer must give three days' notice to the Marshal, or auctioneers, of the day on which he will complete the purchase.
- V.—The buyer (if he requires it) may have the Marshal's bill of sale for the said ship.
- VI.—The ship will be at the risk of the buyer immediately after he receives an order for the delivery thereof.
- Lastly.—If any question arises at the auction as to who is the buyer of the said ship, the Marshal, or his aforesaid substitute, is to determine the same. Not less than pounds (*or dollars, or as the case may be*), to be advanced at each bidding.
- I do hereby acknowledge to have bought the aforesaid vessel, her tackle, apparel, and appurtenances, under the above conditions at the sum of and have paid the sum of in part of the purchase money.
- Witness my hand this day of , one thousand nine hundred and
- Witness

No. 27

MARSHAL'S ACCOUNTS

O. XI. r. 5.

(*Heading and Title as in No. 1.*)

The Marshal's account sales of the ship (aircraft) lying
sold by public auction at , on the
day of 19 , by virtue of the annexed Commission of
appraisalment and sale, dated the day of , 19 :—

Received of being the Gross Proceeds of Sale											
Disburse- ments (as on p. 2).	Disbursements and Fees on Appraisalment and Sale			Other Disbursements and Fees			Total				
Official Fees (as on p. 3).											

, 19

(Signed)
Marshal (*or as the case may be*).

PRIZE COURTS

P.2.

Disbursements carried to 1st page	No. of Voucher	DISBURSEMENTS					
		On Appraisalment and Sale			Other payments		

P.3.

	FEES					
	On Appraisalment and Sale			Other Fees		
On Request of Payment of Proceeds into Court						
On Order for Payment of this Account						
On Attending, Appointing and Swearing appraiser						
On Attending Sale of Ship (Aircraft)						
Poundage on Gross Proceeds						
On Attending and Delivering Possession to Purchaser						
Possession of Ship (Aircraft) from the day of , days at per day						
Fees carried to 1st page						

No. 28

BAIL BOND

O. XII. r. 4.

(Heading and Title as in No. 1.)

Whereas a cause of _____ has been instituted in the (here fill in the name of the Prize Court), on behalf of _____, against the ship (aircraft) _____ and her (its) cargo (and against _____ intervening):

Now therefore we, _____ and _____, hereby jointly and severally submit ourselves to the jurisdiction of the said Court, and consent that if he the said _____ shall not pay what may be adjudged against him in the said cause with costs (or, if for costs only, for costs), execution

may issue forth against us, our heirs, executors, and administrators, goods and
chattels, for a sum not exceeding pounds.

(To be signed before the Registrar,
or one of the clerks in the Registry,
or before a Commissioner for Oaths.)

(Signature of Surety.)

(Signed) P.Q.,
Marshal.

Dated the day of , 19 .
To .

PRIZE COURTS

O. XIII. r. 1.
O. XXVII. r. 2.
O. XXIX.
rr. 1, 2, 3.

No. 32

RELEASE

(Heading and Title as in No. 1.)

(i) On Restitution

George the Sixth, &c. (as in No. 2).

To the Marshal of the (*here fill in the name of the Prize Court*), Greeting.

Whereas in a cause for _____ instituted in Our
said Court on behalf of _____ against the said ship (aircraft)
(*or cargo, &c., or, if in personam, name the party*) :

The Judge has ordered the said (*state whether ship, aircraft, cargo, or part of cargo, as the case may be*) to be restored to the claimant _____ for the use of the owners thereof (*or as the case may be, following the words of the order*) :

Now We do hereby command you to release the said (*ship, &c., as above*) from your custody, possession, or control, and to deliver and restore the same unto the said (*insert name of claimant*) for the use of _____ the owners thereof (*or otherwise, according to terms of order*).

Witness, &c. (as in No. 2).

Release

Taken out by

(ii) From Arrest.

(Commencement and recital as in No. (i) and continue as follows:—)

We did command you to arrest the said (*ship, aircraft, cargo, part of cargo, &c.*) and to keep the same under safe arrest until you should receive further order from Us.

Now We do hereby command you to release the said (*ship, &c., as above*) from the arrest effected by virtue of Our warrant in the said cause, upon payment being made to you of all costs, charges, and expenses attending the care and custody of the property whilst under arrest in that cause.

Witness, &c. (as in No. 2).

Release

Taken out by

No. 33

O. XIII. 8.

CERTIFICATE OF RELEASE

On the _____ day of _____ 19 _____ the ship, aircraft, &c.
was released [absolutely] [on bail in the sum of £ _____]
[on payment into Court of the sum of £ _____ in lieu of bail].

(Signed)

Marshal.

No. 34

O. XIV. r. 1.

NOTICE FOR CAVEAT RELEASE

(Heading and Title as in No. 1.)

Take notice that I, C.D. (*description of applicant*) in a cause instituted on behalf of (*state name, &c., of claimant, &c.*) against the (*state name and nature of property*), apply for a caveat against the release of (*state name and nature of property*).

(*If the person applying for the caveat is not a party to the cause, he must also state his address and an address for service within three miles of the Registry.*)

Dated this _____ day of _____

(Signed)

C.D.

Procedure Rules

No. 35

CAVEAT RELEASE

O. XIV. r. 1.

(Heading and Title as in No. 1.)

Caveat entered this day of against the release of
(state name and nature of property), by (state name and address of person entering
caveat, and his address for service).

On withdrawal of caveat add: Caveat withdrawn this day of .

No. 36

NOTICE FOR CAVEAT PAYMENT

O. XIV. r. 2.

(Heading and Title as in No. 1.)

Take notice that I, C.D. (description of applicant), in the above-named cause,
apply for a caveat against the payment of any money (if for costs, add for costs)
out of the proceeds of the sale (or of the freight of) the ship
(or as the case may be) now remaining in Court, without notice being first given to
me.

(If the person applying for the caveat is not a party to the cause, he must also state
his address, and an address for service within three miles of the Registry.)

Dated this day of .
C.D. (Signed)

No. 37

CAVEAT PAYMENT

O. XIV. r. 2.

(Heading and Title as in No. 1.)

Caveat entered this day of , against the payment of any
money (if for costs, add for costs) out of the proceeds of the sale of the ship
(or of the freight of) (or as the case may be) now remaining in Court,
without notice being first given to (state name and address of person to whom, and
address at which, notice is to be given).

On withdrawal of the caveat add: Caveat withdrawn this day
of .

No. 38

NOTICE FOR CAVEAT WARRANT

O. XIV. r. 5.

(Heading and Title as in No. 1.)

Take notice that I, C.D. (description of applicant) apply for a caveat against the
issue of any warrant for the arrest of (state name and nature of property), and I
hereby undertake to enter an appearance in any cause for prize salvage that may
be commenced in the Court against the said ship (or, state nature of property),
and within three days after I shall have been served with notice of the institution
of the cause, to give bail therein in a sum not exceeding (state the amount for
which the undertaking is given), or to pay such sum into the Admiralty Registry.

My address for service is

Dated this day of .
(Signed) C.D.

PRIZE COURTS

O. XIV. r. 5.

No. 39

CAVEAT WARRANT

(Heading and Title as in No. 1.)

Caveat entered this day of against the issue of any warrant for the arrest of (*state name and nature of property*) without notice being first given to (*state name and address of person to whom, and address at which, notice is to be given*), who has undertaken to appear and to give bail in any cause for prize salvage which may have been or may be instituted against the said property in this Court.

On withdrawal of caveat, add: Caveat withdrawn this day of

O. XIV. r. 10.

No. 40

NOTICE OF WITHDRAWAL OF CAVEAT

(Heading and Title as in No. 1.)

Take notice that I withdraw the caveat (warrant, release, or payment *as the case may be*) entered by me in this cause.

Dated this day of (Signed) C.D.

O. XV. r. 11.

No. 41

COMMISSION TO EXAMINE WITNESSES

(Heading and Title as in No. 1.)

George the Fifth, &c. (*as in No. 2*).

To (*state name and address of examiner or commissioner appointed*), Greeting.

Whereas in a cause for commenced in Our said Court on behalf of against (*ship or cargo, &c.*, or *as the case may be*) the Judge has ordered a commission to be issued for the examination of witnesses concerning the truth of the matters at issue in the said cause:

We, therefore hereby authorize you upon the day of 19 , at , in the presence of the parties, their counsel or solicitors, or in the presence of their or either of their lawfully appointed substitutes, or otherwise notwithstanding the absence of either of them, to swear the witnesses who shall be produced before you for examination in the said cause, and cause them to be examined, and their depositions to be reduced into writing. We further authorize you to adjourn, if necessary, the said examinations from time to time and from place to place, as you may find expedient. And We command you, upon the examinations being completed, to transmit the depositions and the whole proceedings had and done before you, together with this commission, to the Registry of Our said Court.

Witness, &c. (*as in No. 2*).

Commission to examine witnesses.

Taken out by

O. XV. r. 11.

No. 42

REQUEST

To the President and Judges of (*or as the case may be*).

Whereas a cause is now pending in the (*here fill in the name of the Prize Court*), in prize and the said cause is instituted on behalf of His Britannic Majesty for the condemnation of the ship and her cargo (*or as the case may be*) as prize, and the said ship and cargo (*or as the case may be*) is claimed by C.D.,

Procedure Rules

a subject of (or, and the said cause is instituted for the recovery of prize salvage or to establish a claim of joint capture by *E.F.* against *A.B.*):

And whereas it has been represented to the said Court that it is necessary for the purposes of justice, and for the due determination of the matters in dispute in the said cause, that the following persons should be examined as witnesses upon oath touching such matters, that is to say :—

T.U., of
W.X., of
and *Y.Z.*, of

And it appearing that such witnesses are resident within the jurisdiction of your honourable Court:

Now I, _____, President (or, one of the Judges, as the case may be) of the said (here fill in the name of the Prize Court), have the honour to request that for the reasons aforesaid and for the assistance of the Court you as the President and Judges of the said (here fill in the name of the Court to which the request is addressed), or some one or more of you, will be pleased to summon the said witnesses [and such other witnesses as the said *C.D.* or his agents may humbly request you in writing so to summon] to attend at such time and place as you shall appoint before some one or more of you, or such other person as according to the procedure of your Court is competent to take the examination of witnesses, and that if due notice has before such time appointed been given of such examination to the agent acting on behalf of His said Majesty (or as the case may be) in this matter, you will cause such witnesses to be examined upon the interrogatories which accompany this letter of request (or *viva voce*) touching the matters in question in this cause in the presence of the agents of the parties, or such of them as shall, on due notice given, attend such examination.

And I further have the honour to request that you will be pleased to cause the answers to the said witnesses to be reduced into writing, and all books, letters, papers, and documents produced upon such examination to be duly marked for identification, and that you will be further pleased to authenticate such examination by the seal of your tribunal, or in such other way as is in accordance with your procedure, and to return the same together with such request in writing, if any, for the examination of other witnesses through His Majesty's Secretary of State for Foreign Affairs (or His Majesty's Secretary of State for the Colonies, or the governor of _____) for transmission to the said (here fill in the name of the Prize Court).

(Signed)

President (or Judge of the Probate, Divorce,
and Admiralty Division of the High
Court of Justice of England
or as the case may be).

[Note.—If the request is directed to the High Court in India it should be transmitted direct and the concluding sentence of the form altered accordingly.]

No. 43

RETURN TO COMMISSION TO EXAMINE WITNESSES

O. XV. r. 11.

(Heading and Title as in No. 1.)

I, *R.S.* the (examiner or) commissioner named in the commission hereto annexed, bearing date the _____ day of _____, hereby certify as follows :—

(1) On the _____ day of _____ I opened the said commission at _____, and in the presence of (state who were present, whether both parties, their counsel, or solicitors, or as the case may be), administered an oath to

PRIZE COURTS

and caused to be examined the under-named witnesses who were produced before me on behalf of the _____ to give evidence in the above-named cause, viz :—

(Here state names of witnesses.)

(2) On the _____ day of _____ I proceeded with the examinations at the same place (or if not stated where) and in the presence of (as above) administered an oath to and caused to be examined the under-named witnesses who were produced before me on behalf of _____, to give evidence in the said cause, viz :—

(State names of witnesses.)

(3) Annexed hereto is the evidence of all the said witnesses certified by me to be correct.

Dated this _____ day of _____

(Signed) _____ R.S.,
Examiner or Commissioner.

No. 44

O. XVII. r. 6.

REGISTRAR'S REPORT AND REASONS

(Heading and Title as in No. 1.)

Whereas the damages occasioned to the claimant _____ (or as the case may be,) by reason of the (capture, seizure, detention, &c.) of the ship (aircraft) _____ (or cargo, &c.) have been pronounced for by the Court (and whereas such decree has been affirmed by His Majesty in Council), subject, however, to a reference to the Registrar (assisted by merchants) to assess the amount thereof :

Now I do hereby report that I have with the assistance of (state names and descriptions of assessors, if any) examined the claim filed on behalf of _____ and having, on the _____ day of _____, heard the evidence of witnesses (and also what was urged by counsel on both sides) I find that there is due to the _____ in respect of _____ claim the sum and interest in the schedule hereto annexed.

The _____ are entitled to the costs of proving their claim (or as the case may be).

(Signed) _____ N.O.,
Registrar.

Dated this _____ day of _____

SCHEDULE annexed to the foregoing report.

No.		Claimed			Allowed		
1	} Here state as briefly as possible the several items of the claim with the amount claimed and allowed on each item in the columns for figures opposite the item.						
2							
3							
4, &c.							
	Total						

With interest thereon from the _____ day of _____, at the rate of _____ per cent. per annum until paid.

(Signed) _____ N.O.,
Registrar.

O. XVII. r. 7.

Dated the day of , 19 .

O. XVII. r. 9.

Dated the day of , 19 .

Solicitors for

Dated the day of , 19 .

To

O. XX. r. 1.

Solicitors for the

PRIZE COURTS

No. 49

O. XXI. r. 2.

HEADING AND JURAT TO AFFIDAVIT

No.

In the (here fill in the name of the Prize Court).

(If sworn before a cause has been instituted the above heading must be omitted.)

In Prize.

The

I, _____, of _____ (describe capacity of deponent),
(if a cause has been instituted, say in the above-named cause), make oath and say
as follows :—

1.

2.

(a) Sworn at _____ this _____ day of _____,
(if by interpretation add by the interpretation of C.D., who was previously sworn
that he was well acquainted with the English and _____ languages,
and that he would faithfully interpret this affidavit).

Before me,

R.S. (give name, rank, and authority
of person before whom the
affidavit is sworn).

This affidavit is sworn on behalf of _____

(a) Where there are two or more deponents: if all the deponents are not sworn at the
same time then a separate jurat must be written for each occasion on which the oath is
administered. If both or all are sworn at the same time, the jurat should run Sworn by
both (or all) the above-named deponents at, &c.

No. 50

O. XXII. r. 5.

OATHS

(These oaths should be said, or repeated after the officer administering the oath.)

(i) Oath to be Administered to a witness

I swear by Almighty God that the evidence given by me shall be the truth, the
whole truth, and nothing but the truth.

(ii) Oath to be administered to a Deponent

I swear by Almighty God that this is my name and handwriting, and that the
contents of this affidavit are true.

(iii) Oath to be Administered to a Shorthand Writer

I swear by Almighty God that I will faithfully report and transcribe the evidence
of the witnesses to be produced in this cause.

(iv) Oath to be Administered to an Interpreter

(a) General Form

I swear by Almighty God that I well understand the English and
languages and that I will truly interpret and explanation make to the Court and
the witness of all such matters and things as shall be required of me to the best of
my skill and understanding.

(b) Before Swearing a Deponent

I swear by Almighty God that I well understand the English and
languages, and that I have truly, distinctly, and audibly interpreted the contents
of this affidavit to the deponent _____, and that I will truly interpret
the oath about to be administered unto him.

(Note.—The interpreter need not sign the affidavit).

Procedure Rules

No. 51

DECLARATIONS IN LIEU OF OATHS

O. XXII. r.

(i) *By Witness*

I solemnly promise and declare that the evidence given by me shall be the truth, the whole truth, and nothing but the truth.

(ii) *By Deponent*

I solemnly declare that this is my name and handwriting, and that the contents of this affidavit are true.

No. 52

ORDER (GENERAL FORM)

O. XXVII.

(Heading and Title as in No. 1.)

(Insert name of Judge or Registrar and whether in Court or Chambers.)

Upon hearing (counsel, solicitors or witnesses, as the case may be) and upon reading the affidavit of _____, filed the _____ day of _____, 19____, and (state all further evidence before the Court)

It is ordered that
and that the costs of this application be

Dated the _____ day of _____, 19____.

No. 53

DECREES

O. XXVII.

- (i) *On Condemnation of Ship, Aircraft, or Cargo, or Ship and Cargo, or Aircraft and Cargo; where Claim made.*

(Heading and Title as in No. 1.)

On the _____ day of _____

Before

President (or Judge),

The President (or Judge) having heard the claim of *A.B.*, claimant of the said ship (aircraft) _____ (and of the cargo thereof) (or if there is a separate claim for cargo, and of *C.D.*, claimant of the cargo of the said ship (aircraft) _____), and the evidence thereon, and counsel for (insert the names and descriptions of the parties heard) and having been assisted by (here state names and descriptions of assessors, if any), rejected the said claim (or claims), pronounced the said ship (aircraft) _____ (and the said cargo) (or the said cargo) to have belonged at the time of capture and seizure thereof to enemies of the Crown, and, as such or otherwise, subject and liable to confiscation, and condemned the same, (if, on condemnation of ship (aircraft) alone, freight is due, add as also the freight due for the transportation of the cargo lately laden therein) as good and lawful prize, and as taken by His Majesty's ship (aircraft) _____, commander, and ordered the said ship (aircraft) _____, to be appraised and sold by the marshal (or if both ship and cargo, or aircraft and cargo, or cargo alone, ordered the said cargo to be unladen and appraised and sold by the marshal). (and if the Judge should give the claimants their costs and expenses, add) but directed the costs and expenses of the claimants to be paid out of the proceeds of such sale of ship (aircraft) (or cargo), and referred such costs and expenses to the Registrar to ascertain the amount thereof.

(ii) *For Detention*

(Commencement as in Form (i).)

O. XXVIII.

The President (or Judge) having heard the claim of *A.B.*, claimant of the said ship (aircraft) _____ (and of the cargo thereof) (or as the case may be), and the evidence thereon, and counsel for the Crown and (insert the name and description of the claimant heard), pronounced the said ship (aircraft)

PRIZE COURTS

(and the said cargo) *(or as the case may be)* to have belonged at the time of seizure to enemies of the Crown and to have been seized under such circumstances as to be entitled to detention in lieu of confiscation, and ordered the said ship (aircraft) and cargo to be detained by the Marshal until further order is issued by the Court.

O. XV. r. 8.

(iii) *On Condemnation by Default*

(Commencement as in Form (i).)

The President *(or Judge)* having heard the evidence and counsel for the *(Crown or)* captors, in default of appearance and claim of *(insert owners of ship, aircraft, or as the case may be)*, pronounced, &c. *(adapt Form (i).)*

O. XXVIII.

(iv) *For Detention on Condemnation by Default*

(Commencement as in Form (i).)

The President *(or Judge)* having heard the evidence and counsel for the Crown, in default of appearance and claim of *(insert owners of ship (aircraft) or as the case may be)* pronounced the said ship (aircraft) to have belonged at the time of seizure &c. *(as in Form (ii)).*

(v) *On Condemnation of a Ship of War or a Military Aircraft*

(Commencement as in Form (i).)

The President *(or Judge)* having heard the evidence and counsel for the Crown *(or captors)*, in default of appearance and claim pronounced the said ship (aircraft) to have belonged at the time of capture and seizure to enemies of the Crown, and, as such or otherwise, subject and liable to confiscation, as having been a ship of war, *(or military aircraft)*, and condemned the same* [together with her tackle, apparel, furniture, stores, arms, and ammunition] as good and lawful prize, [generally reserving the question by whom taken,]† [and also the consideration of prize bounty] *[or as taken by His Majesty's ship , commander, and (if head money is given) pronounced and declared that the officers and crew of His Majesty's said ship (or such of them as are entitled) are entitled to prize bounty as having been present at the taking of the said ship of war (or military aircraft) and that at the beginning of the engagement there were on board the said ship of war persons, and that the amount of prize bounty aforesaid is the sum of]*.

*Omit in the case of captured aircraft.

†Omit the rest of this form in the case of captures by an aircraft.

O. XXXIII.
Naval Prize
Act, 1864,
s. 42.

(vi) *On Condemnation of a Neutral Ship or Aircraft*

(Commencement as in Form (i).)

The President *(or Judge)* &c. *(follow Form (i) with the necessary adaptations down to the word "rejected," and continue:)* the said claim *(or claims)*, pronounced the said ship (aircraft) *(and the said cargo) (or the said cargo)* to be liable to confiscation upon the ground that *(here state the grounds for confiscation)*, and condemned the same &c. *(adapt Form (i)).*

(vii) *On Condemnation, where Ship (Aircraft) has been destroyed*

(Commencement as in Form (i).)

The President *(or Judge)* &c. *(follow Form (i) with the necessary adaptations down to the word "commander," and continue:)* and declared the destruction of the said ship (aircraft) *(or cargo, &c.)* to have been necessary *(here state the grounds on which the Court held the destruction to be justified).*

(viii) *On Restoration*

(Commencement as in Form (i).)

The President *(or Judge)* having heard the claim of A.B., claimant of the said ship (aircraft) , *(and of the cargo thereof) (or, if there is a separate claim for cargo, and of C.D., claimant of the cargo of the said ship (aircraft))* and the evidence thereon, and counsel for *(insert names and descriptions*

of the parties heard), and having been assisted by (*here state names and descriptions of assessors if any*) admitted the said claim (*or claims,*) pronounced the said ship (aircraft) (and cargo) (*or the said cargo*) to have belonged as claimed, and decreed the said ship (aircraft) (*if the freight is due,* with freight and expenses to be a charge on the cargo) (together with the said cargo) to be restored to the claimants for the use of the owners thereof [on payment of the captors' expenses *or* and condemned the captors (*insert name or names*) in the costs and damages sustained by the owners of the said ship (aircraft) and of the said cargo (*or of the said cargo*) by reason of the capture and detention thereof by , and referred the amount of such costs and damages to the Registrar to report thereon].

(ix) *Condemning Ship (Aircraft) and Restoring Cargo*
(Commencement as in Form (i).)

The President (*or Judge*) having heard, &c. (*adapt Form (i)*), pronounced the said ship (aircraft) to have belonged at the time of capture and seizure thereof to enemies of the Crown of Great Britain, and, as such or otherwise, subject and liable to confiscation, and condemned the same (as also the freight due for the transportation of the cargo lately taken therein) as good and lawful prize, and as taken by His Majesty's ship (aircraft) , commander, and ordered the said ship (aircraft) to be appraised and sold by the marshal, and pronounced the said cargo to have belonged as claimed and decreed the said cargo to be restored to the claimant for the use of the owners thereof (upon payment of the captors' expenses, and upon payment of the freight due for the transportation of the said cargo, and referred the amount of such freight to the Registrar to report thereon).

(x) *Restoring Ship (Aircraft) and condemning Cargo*
(Commencement as in Form (i).)

The President (*or Judge*) having heard, &c. (*adapt Form (i)*), admitted the claim for the said ship (aircraft) , and pronounced the said ship (aircraft) to have belonged as claimed, and decreed the said ship (aircraft) to be restored to the claimant for the use of the owners thereof (*if freight is due,* and pronounced freight and expenses to be due upon the cargo of the said ship (aircraft)), and rejected the said claim for the said cargo, and pronounced the same to have belonged at the time of the capture and seizure thereof, to enemies of the Crown of Great Britain, and, as such or otherwise, subject and liable to confiscation, and condemned the same (*as in Form (i)*), and ordered the said cargo to be unladen and appraised, and sold by the marshal.

(xi) *Restoring Neutral Ship (Aircraft) and Condemning Cargo*
(Commencement as in Form (i).)

The President (*or Judge*) having heard &c. (*adapt Form (x) and proceed*) and rejected the said claim for the said cargo (*if part of cargo only condemned, describe the part condemned and say being part of the said cargo*) and pronounced the same to be contraband (*or as the case may be*) and, as such or otherwise, subject and liable to confiscation, and condemned the same (*as in Form (i)*), and ordered the said cargo (*or the said part of the said cargo*) to be unladen and appraised, and sold by the marshal.

(xii) *Condemnation as Droit of Admiralty*
(Commencement as in Form (i).)

The President (*or Judge*) having heard, &c. (*adapt Form (i) to words "good and lawful prize," and proceed*) and as droits and perquisites of His Majesty, in His Office of Admiralty, seized by the officers of His Majesty's Customs, at the port of (or, as taken by the non-commissioned ship or the officers and crew of the non-commissioned ship , as the case may be, and conclude as in Form (i) or as required).

Naval Prize
Act, 1864,
s. 39.

PRIZE COURTS

O. XXX.
Naval Prize
Act, 1864,
s. 40.

(xiii) *In Prize Salvage*

Where Ship is brought in and remains under Arrest

(Commencement as in Form (i).)

The President (or Judge) having heard the claim and evidence thereon, and counsel on both sides, and having been assisted by (*here state the names and descriptions of assessors, if any*), admitted the claim of *A.B.*, the claimant of the said ship (aircraft) (and her cargo), pronounced the said ship (aircraft) (and her cargo) to have belonged to subjects of His Majesty (or to His Majesty the King of *state style and title of the allied Government*, and his subjects), and to have been taken from them by the (*state name of enemy nation*), and retaken by His Majesty's ship (aircraft) *commander*, and decreed the same to be restored to the claimants for the use of the former owners thereof (or of his said Majesty, *name of allied state*, and his subjects, the former owners thereof) on payment of one-eighth part (*or such other part as the Judge may determine*) of the value of the said ship (aircraft) (*or the cargo of the said ship (aircraft)*), to the recaptors. The President (or Judge) further decreed that the costs of the recaptors of and incidental to this cause should be paid by the claimants (*or insert such other order as to costs as the Judge may make*). The President (or Judge) further ordered and directed that the said value should be ascertained by appraisalment of the said ship (aircraft) (*or the cargo of the said ship (aircraft)*) by the marshal, and decreed that in default of payment by the claimant of the said part of the said value so ascertained as aforesaid, and the said costs) within days after the return of the said appraisalment by the marshal, the said ship (aircraft) (*or the cargo of the said ship (aircraft)*) should be sold by the marshal, and the proceeds of such sale paid into Court, and that the said part (and the said costs) be paid to the recaptors out of the said proceeds.

O. XXX. r. 3.

(xiv) *In Prize Salvage*

Where Value Sworn or Agreed

(Commencement as in Form (i).)

The President (or Judge) having heard, &c. (*follow last preceding decree down to "on payment of" and proceed*) the sum of *being one-eighth part (or such other part as the Judge may determine)* of the value of the said ship (aircraft), as proved by the owner and accepted by the recaptors, and approved by the Court (*or as agreed between the owner and the recaptors and approved by the Court*).

The President (or Judge) further decreed that the costs of the recaptors of and incidental to this cause should be paid by the claimant. He further decreed that in default of payment by the claimant of the said sum of *and the said costs within six days*, the said ship (aircraft) should be appraised and sold by the marshal, and the proceeds of such sale paid into Court, and that the said sum of *and the said costs*, be paid to the recaptors out of the said proceeds.

O. XXX.

(xv) *In Prize Salvage*

Where Ship (Aircraft) restored but Cargo condemned

(Commencement as in Form (i).)

The President (or Judge) having heard the claim, and evidence thereon, and counsel (*&c. as in Form (i)*), rejected the claim of *A.B.*, the claimant of the cargo of the said ship (aircraft) and pronounced the same to have belonged (*&c. as in Form (i)*), and condemned the same as taken by His Majesty's ship (aircraft) *commander*, and further pronounced that freight and expenses are due to the said ship (aircraft) in respect of the said cargo, and ordered that such freight and expenses should be a charge on the said cargo; admitted the claim of *C.D.*, claimant of the said ship (aircraft); pronounced the

said ship (aircraft) to have belonged, &c. (*as in Form (xiii) down to "on payment of," and proceed*) of one-eighth part (*or as the case may be*) of the value of the said ship (aircraft) and of the said freight (*if the value has to be ascertained, continue as in Form (xiii), and proceed*) and referred the question of freight to the Registrar to ascertain the amount thereof.

[*Note.—In cases where a sale of ship (aircraft) or cargo takes place, and the Judge directs the costs and expenses of all parties to be paid out of the value, the foregoing decrees can be adapted by inserting words to the following effect: "On payment of one-eighth part of the value of the said ship (aircraft) or cargo, after deducting therefrom the costs and expenses of all parties."*]

(xvi) *In Prize Salvage*

O. XXX.
O. XII.

Where Ship (Aircraft) is brought in and released on Bail

(Commencement as in Form (i).)

The President (*or Judge*), having heard the claim, and the evidence thereon, and counsel on both sides, and, having been assisted by (*here state the names and descriptions of the assessors, if any*) pronounced due and awarded to , the recaptors, the sum of , being one-eighth part (*or such other part as the Judge may determine*) of the appraised value of the said ship (aircraft) (*or of the estimated value of the said ship (aircraft) as agreed on between the claimant and owner and the recaptors, and approved by the Court*) and further decreed that the costs of the captors of and incidental to this cause should be paid by the claimant, and condemned the claimant and his bail in the said sum of , and the said costs.

(xvii) *In Prize Salvage*

O. XXX. r. 2.
Naval Prize
Act, 1864,
s. 41.

Where the Ship (Aircraft) has been allowed to prosecute her Voyage

(Commencement as in Form (i).)

The President (*or Judge*), having heard the evidence and counsel on both sides, and having been assisted by (*here state the names and descriptions of assessors, if any*), pronounced due and awarded to the recaptors, the sum of , being one-eighth part (*or such other part as the Judge may determine*) of the value of the said ship (aircraft) as proved by the owners, and accepted by the recaptors, and approved by the Court (*or of the estimated value of the said ship (aircraft) as agreed on between the owner and the recaptors, and approved by the Court, or as ascertained by appraisal of the marshal (as the case may be)*) and further decreed that the costs of and incidental to this cause should be paid by the owner, and condemned the said ship (aircraft) (and cargo) in the said sum of , and the said costs; ordered and directed the said ship (aircraft) to be appraised (*if not already appraised*) and sold by the marshal, and the said sum of and costs to be paid to the recaptors out of the proceeds of such sale; but ordered and directed that if the said owner should pay the said sum of and costs within days from the date hereof, the said ship (aircraft) (and cargo) should be released to the said owner (*or if the ship (aircraft) has not been arrested*, condemned the said owner in the said sum of , and the said costs, and ordered him to pay the same, *or* ordered and directed a warrant to issue for the arrest of the said ship (aircraft) and cargo).

(xviii) *In Joint Capture*

O. XXXII.r.8.

Pronouncing on Condemnation for or against Title to Share

(Commencement as in Form (i).)

The President (*or Judge*), having heard the claim, and the evidence thereon, and counsel for the claimants *A.B.*, &c., and for the captors *C.D.*, &c., and for the alleged joint captors *E.F.*, &c., and having been assisted by (*here state the names and descriptions of assessors, if any*) rejected the said claim; pronounced the said ship (aircraft) to have belonged at the time of capture and seizure

PRIZE COURTS

thereof to enemies of the Crown of Great Britain, and, as such or otherwise, subject and liable to confiscation; pronounced for (or against) the title of the said *E.F.*, &c., to share as joint captors of the said ship (aircraft) and condemned the said ship (aircraft) (as also the freight due for the transportation of the cargo lately laden therein, *if any*) as good and lawful prize, and as taken by His Majesty's ship (name of ship of original captors, and *if the title of the joint captors is pronounced for, add, jointly with His Majesty's ship (name of ship of joint captors)),* (and further decreed that the costs of the said *E.F.*, &c.,) (or the said *C.D.*, &c.,) of be paid by the said *C.D.*, &c., or *E.F.*, &c.).

The President (or Judge) further ordered the said ship (aircraft) to be appraised and sold by the marshal.

O. XXXII.

(xix) *In Joint Capture*

On Condemnation, reserving Question, by whom taken

(Commencement as in Form (i).)

(Proceed as in last preceding Form down to the words "liable to confiscation," and continue) and condemned the said ship (aircraft) (as also the freight due for the transportation of the cargo lately laden therein, *if any*) as good and lawful prize, but reserved the question by whom taken. The President (or Judge) further ordered the said ship (aircraft) to be appraised and sold by the marshal.

O. XXXII.

(xx) *In Joint Capture*

Subsequent to Condemnation

Pronouncing for or against Title to Share

(Commencement as in Form (i).)

The President (or Judge), having heard the claim and the evidence thereon, and counsel on both sides, pronounced against (or for) the title of *E.F.*, &c., to share as joint captors of the said ship (aircraft), and condemned the said ship (aircraft) (as also the freight due for the transportation of the cargo lately laden therein, *if any*) as taken by His Majesty's ship , , commander (or as taken by His Majesty's ship , , commander together with His Majesty's ship , , commander); and he condemned *E.F.*, &c. (or *C.D.*, &c.) in the costs of .

(xxi) *In Joint Capture*

O. XXXII.

Before or subsequent to Condemnation

Admitting Petition to Proof, or Dismissing Petition

(Commencement as in Form (i).)

The President (or Judge), having read the petition of *A.B.*, and having heard counsel for the petitioner and for the respondent, admitted the said petition to proof (or dismissed the said petition, and condemned the said *A.B.* in the costs of the respondent).

(xxii) *In Joint Recapture*

O. XXXII.r.8.

Pronouncing for Joint Title or Interest

(Commencement as in Form (i).)

The President (or Judge), having heard the claim, and the evidence thereon, and counsel for *A.B.*, &c., the claimants, *C.D.*, &c., the recaptors, and *E.F.*, &c., the alleged joint recaptors, and having been assisted by (*here state the names and descriptions of assessors, if any*), admitted the claim of *A.B.*, &c. (proceed as in Form (xiii) to the words "of the value of the said ship (aircraft) (or the cargo of the said ship (aircraft))", and pronounced the said *E.F.*, &c., to be joint recaptors of the said ship (aircraft) (or of the cargo of the said ship (aircraft) and entitled to share in the said part.

The President (or Judge) further decreed that the costs of the recaptors of and incidental to this cause should be paid by the claimants, and that the costs of *E.F.*, &c., the said joint recaptors, should be paid by (or such order as to costs as the Judge may make).

The President (or Judge) further ordered and directed that the said value should be ascertained by appraisement of the said ship (aircraft) (or the cargo of the said ship (aircraft)) by the marshal, and decreed that in default of payment by the claimants of the said part of the said value so ascertained as aforesaid, and of the said costs within days after the return of the said appraisement by the marshal, the said ship (aircraft) (or the cargo of the said ship (aircraft)) should be sold by the marshal, and the proceeds of such sale paid into Court, and that the said part and the said costs be paid to the recaptors out of the said proceeds, subject to the joint recaptors to share in the said part.

(xxiii) *In Joint Recapture*
Reserving Question to whom Due
(Commencement as in Form (i).)

O. XXXII. r.8.

The President (or Judge, &c. (*proceed as in last preceding Form to words of the value of the said ship (aircraft), or the cargo of the said ship (aircraft), and then proceed*), reserving the question to whom such salvage is due and further reserving all questions of costs.

(xxiv) *Rejecting Claim of alleged Joint Recaptors and pronouncing for sole Title or Interest*

O. XXXII. r.8.

(Commencement as in Form (i).)

(*Proceed as in Form (xiii) until the end of the clause decreeing restitution, and continue*) and rejected the claim of the said *E.F.*, &c., to share as joint recaptors in the said part (and condemned the said *E.F.*, &c., in the costs of the said *C.D.*, &c., occasioned by the said claim of *E.F.*, &c., to share as joint recaptors).

(*The rest of this decree is as in Form (xiii).)*

(xxv) *In Prize Bounty*
(Commencement as in Form (i).)

O. XXXIII.
Naval Prize
Act, 1864,
ss. 42, 43.

The President (or Judge), having heard the notice of motion and the evidence thereon, and having heard counsel for the applicants (*name and describe them*), and for (*any other parties appearing*), pronounced and declared that the said applicants being the (or some of the) officers and crew of His Majesty's ship , commander, are entitled to prize bounty as being actually present at the taking (or destroying) of the armed ship , belonging at the time of capture (or destruction) thereof to an enemy of His Majesty, to wit (the King of , or as the case may be), and (if head money is given) that at the beginning of the engagement there were on board the said enemy's ship persons, and that the amount of prize bounty aforesaid is the sum of

(xxvi) *In Prize Bounty*
On Claim to share as Joint Captors before Title declared
(Commencement as in Form (i).)

O. XXXIII.

The President (or Judge) having heard the notice of motion and the petition of , the alleged joint captors, and the answer of the applicants and respondents, and the evidence thereon, and having heard counsel for the several parties, pronounced and declared prize bounty to be due in respect of the taking (or destroying) of the armed ship , belonging at the time of capture (or the destruction) thereof to an enemy of His Majesty, to wit

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(the King of _____, or as the case may be), and (if head money is given) that at the beginning of the engagement there were on board the said enemy's ship _____ persons, and that the amount of prize bounty aforesaid is the sum of _____, admitted (or rejected) the claim of the petitioners, and further pronounced and declared that the applicants being the (or some of the) officers and crew of His Majesty's ship _____, commander (if the claim of the alleged joint captors is admitted add together with the petitioners, being the (or some of the) officers and crew of His Majesty's ship _____, commander) are entitled to the said prize bounty as being actually present at the taking (or destroying) of the said armed ship

[*Note.*—For decree awarding bounty on condemnation of a ship of war, see Form (v).]

O. XXXIII.

(xxvii) *In Prize Bounty*

On Claim to share after Decree for Prize Bounty made

(Commencement as in Form (i).)

The President (or Judge), having heard the petition and answer read, and the evidence thereon, and having heard counsel for the several parties admitted (or rejected) the claim of the petitioners, and pronounced and declared that the petitioners being the (or some of the) officers and crew of His Majesty's ship _____, commander, were (or were not) entitled to share with the officers and crew of His Majesty's ship _____, commander in the prize bounty awarded and declared due by the decree of this Court.

O. XXXIII.

(5).

(xxviii) *In Prize Bounty*

Reserving the Question to whom the Bounty is due

(Commencement as in Form (i).)

(Proceed as in Form (xxvi) down to the words "the sum of _____" inclusive or as required, and continue:) but reserve the question as to the persons entitled to such bounty or to share therein.

No. 54

NOTICE OF REQUISITION BY THE CROWN

O. XXIX.r. 2.

(Heading and Title as in No. 1.)

Take notice that the Crown desires to requisition [forthwith] the property mentioned in the schedule hereto which was condemned as prize (or ordered to be detained as the case may be) by the Court on the _____ day of _____

Dated the _____ day of _____

Schedule

No. 55

O. XXIX. r. 2.

COMMISSION OF APPRAISEMENT OF PROPERTY REQUISITIONED BY THE CROWN

(Heading and Title as in No. 1.)

George the Sixth &c. (as in No. 2).

To the Marshal of the (here fill in the name of the Prize Court), Greeting.

Whereas a cause for condemnation has been instituted in Our said Court in respect of the undermentioned property, and whereas the said property has been condemned as prize (or "ordered to be detained"), and whereas the Crown desires to requisition the said property,

Procedure Rules

We therefore hereby authorize and command you to reduce into writing an inventory of the said property and, having chosen one or more experienced person or persons, to swear him or them to appraise the same according to the true value thereof and to reduce into writing a certificate of such value. And We further command you to file in the Registry the certificate of appraisal signed by you and the appraiser or appraisers together with this commission.

Witness &c. (*as in* No. 2).

Commission of Appraisement.

Taken out by

No. 56

AFFIDAVIT OF VALUE IN A CAUSE OF PRIZE SALVAGE

O. XXX. r. 3.

(*Heading and Title as in* No. 1.)

I, C.D., of _____, one of the owners of the said ship (aircraft) _____, make oath and say as follows :—

That the value of the said ship (aircraft) is _____ or thereabouts, and of the cargo (now or) lately laden therein _____, and that the gross value of the freight earned by the said ship (aircraft) on her voyage in which the salvage services are alleged to have been rendered to her, amounts to the sum of _____ or thereabouts, and that the expenses of earning such freight are _____ (*set them out*).

Sworn, &c.

(Signed) C.D.

No. 57

AGREEMENT OF VALUE OF SHIP (AIRCRAFT), CARGO, AND FREIGHT IN A CAUSE OF PRIZE SALVAGE

O. XXX. r. 3.

(*Heading and Title as in* No. 1.)

We, the undersigned, the owners of the ship (aircraft) _____ (*or as the case may be*), and _____ the recaptors, the parties to this cause, do hereby agree the ship (aircraft) _____, and the cargo (now or) lately laden therein, and the freight due for the transportation thereof, being the ship (aircraft), cargo, and freight proceeded against in this cause, to have been at the time of the salvage services in question, together of the value of _____ (that is to say) :—

Value of ship (aircraft)

Value of cargo

Value of freight

Dated this _____ day of _____

C.D.,

(*or Solicitors for*) owners.

E.F.,

(*or Solicitors for*) recaptors.

No. 58

CERTIFICATE OF SERVICE

O. XXXV. r. 11.

I certify that a copy of the within _____, was duly served on J.K., the solicitor for the plaintiff (*or as the case may be*), on the _____ day of _____

(Signed) L.M.,

Solicitor (*or his clerk for him*).

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No. 59

O. XXXVII.
r. 1.

MINUTE ON FILING DOCUMENTS

(Heading and Title as in No. 1.)

I, *A.B.* (plaintiff, claimant, or as the case may be), file the following documents,
viz.,

(Here describe the documents filed.)

Dated this day of

(Signed) *A.B.*

No. 60

O. XLI. r. 1.

MINUTE OF EXAMINATION OF WITNESSES

(Heading and Title as in No. 1.)

On the day of
Before

, President (or Judge).

C.D. (claimant, or as the case may be) produced as witnesses (here state names of witnesses in full), who having been sworn (or as the case may be) were examined orally (or, if by interpretation, add by interpretation of).

No. 61

O. XLII. r. 1.

CERTIFICATE OF CONDEMNATION AND SALE OF SHIP (AIRCRAFT)

It is hereby certified that the (here fill in the name of the Prize Court), being duly authorized to take cognizance of and judicially proceed in matters of prize, did, by its order (or decree) dated the day of , made in a cause instituted on behalf of His Britannic Majesty for the condemnation of the ship (aircraft) , formerly of the port of (registered in) in the kingdom (or as the case may be) of , and claimed in the said cause by or on behalf of as the owner thereof, condemn the said ship (aircraft) as good and lawful prize to His Britannic Majesty and order the said ship (aircraft) to be sold by the marshal of the said Court, and that the said ship (aircraft) was sold accordingly by the said marshal* [and was by bill of sale (if the certificate is endorsed thereon, add upon which this certificate is endorsed), dated the day of , sold and assigned] to (insert name of purchaser).

*Omit in the
case of aircraft.

Issued under the seal of the said Court, this day of

(Signed) *N.O.*,
Registrar.

No. 62

O. XLII. r. 1.

CERTIFICATE OF SALE OF SHIP (AIRCRAFT)

It is hereby certified that the (here insert the name of the Prize Court), being duly authorized to take cognizance of and judicially proceed in matters of prize, did, by its order (or decree) dated the day of , made in a cause instituted on behalf of His Britannic Majesty for the condemnation of the ship (aircraft) , formerly of the port of (registered in) in

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the kingdom (*or as the case may be*) of _____ and claimed in the said cause by or on behalf of _____ as the owner thereof, order, on account of the condition of the said ship (aircraft) [*or on application made on behalf of the said _____, the owner of the said ship (aircraft) (or with the consent of the said _____, the owner of the said ship (aircraft))*], the said ship (aircraft) to be sold by the marshal of the said Court; and that the said ship (aircraft) was sold accordingly* [*and was by bill of sale (if the certificate is endorsed thereon, add upon which this certificate is endorsed)*] dated the _____ day of _____, sold and assigned] to (*insert name of purchaser*).

*Omit in the case of aircraft.

Issued under the seal of the said Court, this _____ day of _____.
(Signed) _____ N.O.,
Registrar.

No. 63

CERTIFICATE OF CONDEMNATION AND SALE OF GOODS *or* CARGO

It is hereby certified that the (*here insert the name of the Prize Court*), being O. XLII. r. 1.
duly authorized to take cognizance of and judicially proceed in matters of prize, did, by its order (*or decree*) dated the _____ day of _____, made in a cause instituted on behalf of His Britannic Majesty for the condemnation of (*describe the goods, giving numbers, weight, description, and marks (if any)*) being cargo (*or part of the cargo*) which was laden on board the ship (aircraft) at the time of the capture and seizure thereof by His Majesty's ship (aircraft) (*or, if the goods did not form part of the cargo of a ship (aircraft), state where and how taken*) and which were claimed in the said cause by or on behalf of _____ as the owner thereof, condemn the said goods as good and lawful prize to His Britannic Majesty, and order the said goods to be sold by the marshal of the said Court; and that the said goods were sold accordingly by the said marshal and were under a contract or sold note (*if the certificate is endorsed thereon add upon which this certificate is endorsed*) dated the _____ day of _____, purchased by and sold to (*insert name of purchaser*).

Issued under the seal of the said Court, this _____ day of _____.
(Signed) _____ N.O.,
Registrar.

No. 64

CERTIFICATE OF SALE OF GOODS *OR* CARGO

It is hereby certified that the (*here insert the name of the Prize Court*), being O. XLII. r. 1.
duly authorized to take cognizance of and judicially proceed in matters of prize, did, by its order (*or decree*) dated the _____ day of _____, made in a cause instituted on behalf of His Britannic Majesty for the condemnation of (*describe the goods, giving numbers, weight, description, and marks (if any)*), being part of the cargo which was laden on board the ship (aircraft) at the time of capture and seizure thereof by His Majesty's ship (aircraft) (*or, if the goods did not form part of the cargo of a ship (aircraft), state where and how taken*) and which were claimed in the said cause by or on behalf of _____ as the owner thereof, order, on account of the condition of the said goods [*or on application made on behalf of the said _____, the owner of the said goods (or with the consent of the said _____, the owner of the said goods)*], the said goods to be sold by the marshal of the said Court; and that the said goods were sold accordingly by the said marshal, and were under

PRIZE COURTS

a contract or sold note (*if the certificate is endorsed thereon, add upon which this certificate is endorsed*) dated the day of , purchased by and sold to (*insert name of purchaser*).

Issued under the seal of the said Court, this day of .

(Signed) N.O.,
 Registrar.

No. 65

O. XLII. r. 3.

CERTIFICATE OF RESTITUTION OF SHIP (AIRCRAFT)

It is hereby certified that the (*here fill in the name of the Prize Court*), being duly authorized to take cognizance of and judicially proceed in matters of prize, did, by its decree dated the day of , made in a cause instituted on behalf of His Britannic Majesty for the condemnation of the ship (aircraft) [of the port of] [registered in] , in the kingdom (*or as the case may be*) of , and claimed in the said cause by or on behalf of as the owners thereof, admit the said claim on behalf of the said , pronounce the said ship to have belonged as claimed, and decree the said ship (aircraft) to be released and to be restored to the claimant for the use of the said , the owners thereof.

Issued under the seal of the said Court, this day of .

(Signed) N.O.,
 Registrar.

No. 66

O. XLII. r. 3.

CERTIFICATE OF RESTITUTION OF GOODS OR CARGO

It is hereby certified that the (*here fill in the name of the Prize Court*), being duly authorized to take cognizance of and judicially proceed in matters of prize, did, by its decree dated the day of , made in a cause instituted on behalf of His Britannic Majesty for the condemnation of (*describe the goods, giving numbers, weight, description, and marks (if any)*), being part of the cargo which was laden on board the ship (aircraft) at the time of the capture and seizure thereof by His Majesty's ship (aircraft) (*or if the goods did not form part of the cargo of a ship, state where and how taken*) and which were claimed in the said cause by or on behalf of as the owners thereof, admit the said claim on behalf of the said , pronounce the said goods to have belonged as claimed, and decree the said goods to be restored to the claimant for the use of the said , the owners thereof.

Issued under the seal of the said Court, this day of .

(Signed) N.O.,
 Registrar.

Procedure Rules

APPENDIX B

FEES TO BE TAKEN IN PRIZE MATTERS BY THE COURT AND ITS OFFICERS

Summonses, Notices, Commissions, and Warrants

	£	s.	d.
1. On sealing a writ for commencement of a cause	1	10	0
2. On sealing an amended writ for commencement of a cause	0	5	0
3. On sealing a subpoena, for each witness	0	2	6
4. On sealing or issuing a summons	0	5	0
5. On filing a notice to have a reference to the Registrar placed in the list for hearing	0	15	0
6. On a notice for the issue of any instrument under the seal of the Court	1	0	0
7. On sealing or issuing a commission to take oaths or affidavits in prize matters (to be paid by the applicant), for each person appointed thereby	5	0	0
8. On every other commission or letter of request	2	0	0
9. On marking a copy of a petition of right for service	0	7	6
10. On filing a notice to enter or withdraw a caveat	0	7	6

Appearances

11. On entering an appearance or amending the same, for each person	0	2	6
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Copies

12. On a copy of a written deposition of a witness to enable a party to print the same, for each folio	0	0	5
13. On examining a written or printed copy, and marking or sealing same as an office copy, for each folio	0	0	3
14. On making a copy and marking same as an office copy, for each folio	0	0	8
15. On a copy in a foreign language—the actual cost.			
16. On a copy of a plan, map, section, drawing, photograph, or diagram—the actual cost.			
17. On a printed copy of an order, not being an office or certified copy, for each folio	0	0	2

Attendances

18. On any application, with or without a subpoena, for any officer to attend as a witness, or to produce records or documents to be given in evidence (in addition to the reasonable expenses of the officer), for each day or part of a day he shall necessarily be absent from his office	2	0	0
The officer may require a deposit of stamps on account of any further fees, and a deposit of money on account of any further expenses which may probably become payable beyond the amount paid for fees and expenses on the application, and the officer or his clerk taking such deposit shall thereupon make a memorandum thereof on the application.			

Oaths, &c.

19. On swearing an affidavit or making a declaration [except for the purpose of receipt of dividends from the Paymaster-General], for each person making the same	0	2	0
20. And in addition thereto for each exhibit therein referred to and required to be marked	0	1	4

PRIZE COURTS

Filing

	£	s.	d.
21. On filing a petition of right	1	10	0
22. For every instrument or document (other than an exhibit, or any instrument or document previously issued from the Registry or the marshal's office) unless otherwise provided	0	5	0
23. On an application to search for an appearance or an affidavit, and inspecting the same	0	1	0
24. On an application to search an index, and inspect a pleading, judgment, decree, order, minute, or other record, unless otherwise expressly provided for by any Act of Parliament or this order, for each hour or part of an hour occupied	0	2	6
25. Not exceeding one day	0	10	0

Examination of Witnesses

26. On the issue of an order for an examination to be taken before the Judge, Registrar, or examiner, or for letters of request	0	5	0
27. For examining witnesses, except by the Judge or Registrar, <i>vivâ voce</i> , per day or part of a day	2	2	0
	4	4	0
28. On an examination of witnesses by any examiner at a greater distance than three miles from the Registry, a reasonable sum for travelling and other expenses in addition			
<p>The officer may require a deposit of stamps on account of fees and a deposit of money on account of expenses which may probably become payable beyond any amount paid for fees and expenses upon the examination, and the officer, or his clerk, taking such deposit shall thereupon make a memorandum thereof and deliver the same to the party making the deposit</p> <p>The officer may also require an undertaking, in writing, to pay any further fees and expenses which may become payable beyond the amount so paid and deposited.</p>			
29. For the examination of witnesses by the Judge or Registrar, whether by interpretation or not, for each witness	1	0	0
30. For preparing affidavits as to ship papers (aircraft papers), for every folio	0	2	6
31. For sorting and numbering ship papers (aircraft papers)	0	10	0

Hearing

32. On entering or setting down, or re-entering or re-setting down any cause or matter for hearing	2	0	0
33. On writing for the attendance of Trinity Masters or other assessors on the hearing	0	10	0
34. On setting down any petition or a reference	0	10	0

Judgments, Decrees, and Orders

On drawing up and entering decrees and orders—

35. If made in Court on the hearing of a cause, or on the hearing of a petition	2	0	0
36. If an order of course on a petition of right	0	10	0
37. If an order for a commission on a petition of right	1	0	0
38. On any other order including a consent or agreement filed pursuant to Order XXIII, and filing same	0	10	0
39. On a memorandum to enter an order <i>nunc pro tunc</i>	0	5	0

Procedure Rules

On References before a Registrar

	£	s.	d.
40. On any reference to the Registrar, including examination of witnesses, if any, having regard to the nature and importance of the accounts and other matters, and to the time occupied	From	1	1 0
	to	15	15 0
40A. If the reference occupies more than one day, for each additional day or part thereof a further fee not exceeding		15	15 0
41. If the attendance of one or more merchants is required, for each merchant the same fees as to the Registrar	From	1	1 0
	to	15	15 0

In cases of great intricacy, or very large amount, occupying more than one full day, larger fees may be taken.

The fees Nos. 40-41 inclusive, shall be paid in the first instance by the party setting down the reference for hearing, as hereinafter provided :

To the notice mentioned in Order XVII, Rule 3, the party setting down shall affix the stamp for the reference, and, if the Registrar shall so require, a deposit in stamps to an amount which in the opinion of the Registrar will cover the reference fees. If any further amount becomes due in respect of the proceedings, such amount shall be paid by the said party on the report of the result of the reference, or if no report is made, on the completion of the proceedings on the reference, or if not completed, a due proportion shall be paid on so much of the proceedings as shall have taken place, the amount to be fixed by the Registrar. Such further amounts shall be paid by stamps impressed upon or affixed to a memorandum stating on what account such fees are paid.

In the Marshal's Office

42. On the execution of a warrant or on taking possession of a ship (aircraft) in pursuance of section 16 of the Naval Prize Act	2	0	0
43. On the execution of an attachment, for every person attached	1	0	0
44. On the execution of any decree, order, commission, or other instrument, other than those herein provided for, which is required to be executed by a marshal	1	0	0
45. On attending, appointing, and swearing appraisers	1	0	0
46. On delivering up a ship (aircraft) or goods to a purchaser agreeably to the inventory	2	0	0
47. On attending the unlivery of cargo, or sale or removal of a ship (aircraft) or goods, per day	2	0	0
48. On retaining possession of a ship (aircraft) with or without cargo, the expenses per day in respect of a shipkeeper (aircraft keeper).			
The marshal shall be entitled to his reasonable expenses for travelling, board, and maintenance, in addition to the above fees.			
49. On the sale of any ship (aircraft) or goods sold pursuant to a decree or order of the Court, for every £100 or fraction of £100 gross proceeds realised	1	0	0
50. On the release of any ship (aircraft), goods, or person from arrest	2	0	0

PRIZE COURTS

Taxation of Costs

	£	s.	d.
51. On taxing a bill of costs where the amount allowed does not exceed £4	0	2	0
52. Where the amount exceeds £4, for every £2 allowed or a fraction thereof	0	1	0

On Proceedings in the Pay Office of the Supreme Court

53. On a certificate of the amount and description of any money, funds, or securities, including the request therefor	0	2	0
54. On a transcript of an account for each opening, including the request therefor	0	2	0
55. On a request to the paymaster, Bank of England, the Registrar, or other official for any of the following purposes : paying, lodging, transferring, or depositing money, funds, or securities in Court without an order, or money in addition to the amount directed by an order to be paid in; paying out of Court any money without an order or a certificate of a taxing officer; information in writing in respect of any money, funds, or securities, or any transaction in the pay office	0	2	0
56. On a request for information respecting any money, funds, or securities to the credit of any cause or matter contained in any list prepared by the paymaster of causes and matters to the credit of which any money, funds, or securities have not been dealt with during 15 years	0	2	6
57. On an affidavit for the purpose of paying, transferring, or depositing any money, funds, or securities in Court pursuant to the Trustee Act, 1925	0	1	0
58. On preparing a power of attorney	0	5	0

Miscellaneous

59. On a fiat of a Judge	0	5	0
60. On signing, settling, or approving an advertisement	0	10	0
61. On taking a recognisance or bond whether one or more than one recognisor or obligor, and whether entered into by all at one time or not	0	10	0
62. On assignment of a bond	0	5	0
63. By a commissioner on taking bail	1	1	0
64. On a commitment	0	5	0
65. On registering in the Registry a power of attorney for a King's ship generally and a copy thereof for the accountant general of the Navy	1	10	0
66. On registering same specially	0	10	0
67. On taking accounts by the Registrar in naval prize matters	0	5	0
68. On an inspection of the Register of Bail Bonds	0	1	0

APPENDIX C

FEES TO BE CHARGED BY AND ALLOWED TO PRACTITIONERS IN PRIZE MATTERS
IN THE COURT

Writs, Warrants, and Summonses

	£	s.	d.
Writ for the commencement of any cause	0	6	8
Notice of a writ for service out of jurisdiction	0	4	0
Warrant for arrest (including attendance on the marshal)	0	10	0
<i>Subpoena ad testificandum</i> or <i>duces tecum</i>	0	6	8
<i>Subpoena ad testificandum</i> for any number of persons not exceeding three	0	6	8
And if more than four folios, for each folio beyond four	0	1	4
Any order or warrant not included in the above	0	6	8
These fees include all indorsements and copies for the officer sealing them, and attendances to issue or seal, except where otherwise provided, but not the Court fees.			
Summonses to attend at Judge's chambers	0	3	0
or if special, at taxing officer's discretion, not exceeding	0	13	4
Copy for the Judge, or Registrar, when required	0	2	0
or per folio	0	0	4

Services, Notices, and Demands

Service, or filing in lieu of service, of any writ, summons, warrant, petition, order, or notice on a party who has not entered an appearance, and if not authorised to be served by post	0	5	0
If served at a distance of more than two miles from the nearest place of business, or office of the solicitor serving the same, for each mile beyond such two miles therefrom	0	1	0
or such reasonable sum for out-of-pocket expenses, and for the time occupied as the taxing officer shall think fit.			
Where, in consequence of the distance of the party to be served, it is proper to effect such service through an agent (other than the London agent), for correspondence in addition	0	7	0
Where more than one attendance is necessary to effect service, or to ground an application for substituted service, such further allowance may be made as the taxing officer shall think fit.			
Service (where an appearance has been entered) on the solicitor or party	0	2	6
or, if authorised to be served by post	0	1	6
In addition to the above fees, the following allowances are to be made :—			
As to writ, if exceeding two folios, for copy for service beyond such two, per folio	0	0	4
As to summonses to attend at the Judge's chambers, for each copy to serve	0	1	0
or per folio	0	0	4

PRIZE COURTS

	£	s.	d.
For preparing notice to produce for inspection, or on the hearing of a cause, or notice to admit	0	5	0
If special or necessarily long, such allowance as the taxing officer shall think proper, not exceeding per folio	0	0	8
And for each copy, not exceeding per folio	0	0	4
For preparing notice of motion	0	3	0
<i>or</i> per folio	0	1	0
Copy for service	0	1	0
<i>or</i> per folio	0	0	4
For preparing any necessary or proper notice, not otherwise provided for	0	1	6
<i>or</i> if special, and necessarily exceeding three folios, for preparing same for each folio beyond three	0	1	0
And for each copy for service, per folio beyond such three	0	0	4
Copies for service of petitions, and of orders with necessary notices (if any) to accompany, per folio	0	0	4
Except as otherwise provided, the allowances for services include copies for service.			

Where notice of filing affidavits is required, only one notice is to be allowed for a set of affidavits filed, or which ought to be filed together.

* *Appearances*

Entering any appearance	0	6	8
If entered at one time, for more than one person, for every party beyond the first	0	1	0

* *Instructions*

To institute proceedings for condemnation or other proceedings	0	6	8
To appear and claim or defend	0	6	8
For petition or claim under O. III. or on a reference	0	13	4
For answer	0	6	8
For reply	0	6	8
To amend any pleading	0	6	8
For any special case or affidavit, except an affidavit of service for which no fee for instructions shall be allowed	0	6	8
For bail bond	0	6	8
To appeal against order of Judge or Registrar, and to appear thereon	0	13	4
To add parties by order of Judge or Registrar	0	6	8
For counsel to advise on evidence when the evidence in chief is to be taken orally	0	6	8
<i>or</i> not to exceed	1	1	0
For counsel to make any application to the Judge or Registrar where no other brief	0	6	8
<i>or</i> such further allowance as the taxing officer shall consider reasonable, having regard to the nature of the application.			

For brief on hearing of a cause, or a reference, or objection to Registrar's report, such fee may be allowed as the taxing officer shall think fit, having regard to all the circumstances of the case, and to other allowances, if any, for attendances on witnesses, procuring evidence, and perusal of documents.

An allowance for instructions for brief may be made if the cause or application has not come on for hearing, if, in the opinion of the taxing officer, it was reasonable that preparation should be made for the hearing of the cause or application.

Procedure Rules

Drawing Pleadings and other documents

	£	s.	d.
Petition claim, or claim on reference	0	10	0
<i>or per folio</i>	0	1	0
Answer	0	5	0
<i>or per folio</i>	0	1	0
Reply, and any other pleading, and amendments of any pleading	0	5	0
<i>or per folio</i>	0	1	0
Notice of motion	0	10	0
Particulars, breaches, and objections, when required, and one copy to deliver	0	5	0
<i>or such amount as the taxing officer may think fit, not exceeding per folio</i>	0	0	8
If more than one copy to be delivered, for each other copy per folio	0	0	4
Special case, admissions and affidavits, per folio	0	1	0
<i>or such further allowance for work, labour, and expenses, in and about the preparation of such documents as the taxing officer in his discretion may think proper.</i>			
Bail bond, including copy	0	6	8
Brief, on trial or hearing of cause, issue of fact, references, assessment of damages, examination of witnesses, special case or petition before a Judge, Registrar, examiner or officer of the Court, when necessary and proper, including necessary and proper observations, per folio	0	1	0
Brief on motion or summons	0	6	8
<i>or per folio</i>	0	1	0
Accounts, statements, and other documents for the Judge's chambers, when required, not exceeding per folio	0	0	8
Advertisements, including attendance therefor	0	6	8
Bill of costs for taxation, including copy for the taxing officer, per folio	0	0	8

Copies

Of pleadings, briefs, and other documents where no other provision is made, at per folio	0	0	4
Where, pursuant to Rules or Order of Court, any pleading, special case, or petition of right, or evidence is printed, the solicitor of the party printing shall be allowed for a copy for the printer (except when made by the officer of the Court), at per folio	0	0	4
And for examining the proof print, at per folio	0	0	2
And for printing the amount actually and properly paid to the printer, the amount allowed for in Admiralty actions.			
And in addition for every 20 beyond the first 20 copies, at per folio	0	0	1½

And where any part shall properly be printed in a foreign language, or as a facsimile, or in any unusual or special manner, or where any alteration in the document being printed becomes necessary after the first proof, such further allowance shall be made as the taxing officer shall think reasonable.

The solicitor for a party entitled to take printed copies shall be allowed, for such number of copies as he shall necessarily or properly take, the amount he shall pay therefor.

In addition to the allowances for printing and taking printed copies, there shall be allowed for such printed copies as may be necessary or proper for the following but for no other purposes (*videlicet*).

PRIZE COURTS

	£ s. d.
Of any pleading for delivery to the opposite party, or filing in default of appearance.	
Of any petition of right for presentation, if presented in print, and for the solicitor of the Treasury, and service on any party.	
Of any pleading, special case, or petition of right, for the use of the Judge or Registrar.	
Of any affidavit to be sworn to in print.	
And of any pleading, special case, petition of right, or evidence for the use of counsel in Court, and in country agency causes when proper to be sent as a close copy for the use of the country solicitor at per folio	0 0 2
Such additional allowances for printed copies for the Judge or Registrar, and for counsel, are not to be made where written copies have been made previously to printing, and are not in any case to be made more than once in the progress of the cause.	
Close copies, whether printed, typed, or written, are not to be allowed as of course, but the allowance is to depend on the propriety of making or sending the copies, which in each case is to be shown and considered by the taxing officer.	
Inserting amendments in a printed copy of any pleading, special case, or petition of right, when not reprinted	0 1 0
or per folio	0 0 4

Perusals

Of petitions, answer, reply, claim on reference, and other pleading by the solicitor of the party other than the party filing or delivering the same	0 6 8
or per folio	0 0 4
Of amendment of any such pleading in writing	0 6 8
or per folio	0 0 4
If same reprinted	0 6 8
or per folio of amendment	0 0 4
Of interrogatories to be answered by a party by his solicitor	0 6 8
or per folio	0 0 4
Of notice to produce on hearing of cause or examination of witnesses, and notice to admit by the solicitor of the party served	0 6 8
or if to admit facts, per folio	0 1 0
Of affidavits by the solicitor of the party against whom the same can be read per folio	0 0 4

Attendances

To deliver, or file in lieu of delivery, any pleading and a special case	0 3 4
To file any document or instrument, or notice of motion, including the minute	0 6 8
To inspect, or produce for inspection, documents pursuant to a notice to admit	0 6 8
or per hour	0 6 8
To examine and sign admissions	0 6 8
To obtain or give any necessary or proper consent	0 6 8
To obtain an appointment to examine witnesses	0 6 8
In the marshal's office, on leaving with him any instrument required to be served by him	0 6 8
On examination of witnesses before any examiner, commissioner, officer, or other person	0 13 4
or according to circumstances, not to exceed	2 2 0

Procedure Rules

	£	s.	d.
On deponents being sworn, or by a solicitor or his clerk to be sworn, to an affidavit in answer to interrogatories or other affidavit	0	6	8
When there are several deponents, or it is necessary for the purpose of an affidavit being sworn to go to a distance beyond two miles, or to employ an agent, the taxing officer may make such further allowance as he shall consider reasonable.			
On a summons at Judge's chambers	0	6	8
or according to the circumstances, not to exceed	1	1	0
On counsel with brief or other papers—			
If counsel's fee one guinea	0	3	4
If more and under five guineas	0	6	8
If five guineas and under 20 guineas	0	6	8
If 20 guineas	0	13	4
If more, for each 10 guineas or part thereof above 20 guineas	0	6	8
On consultation or conference with counsel	0	13	4
To enter or set down cause or special case, for hearing or trial	0	6	8
In Court on every motion, each day	0	6	8
On same when heard, each day	0	13	4
or according to circumstances, not to exceed	2	2	0
On hearing or trial of any cause, or matter, or issue of fact, or on assessment of damages, when in the paper or when heard or tried, each day	0	10	0
or according to circumstances, not to exceed	3	3	0
If the solicitor does not carry on business in the town in which the Prize Court sits, the Registrar may in his discretion allow him for each day he is necessarily absent from his place of business any sum not exceeding, per day	3	3	0
And expenses (besides actual reasonable travelling expenses) each day, including Sundays, not exceeding	1	1	0
If the solicitor has to attend on more than one hearing or assessment at the same time and place the expenses in such case to be rateably divided			
To hear judgment when same adjourned	0	6	8
or according to circumstances, not exceeding	0	13	4
Before the Registrar or before the Registrar and merchants, on a reference From £1 1s. to	5	5	0
To deliver papers (when required) for the use of a Judge prior to a hearing	0	6	8
On taxation of a bill of costs	0	6	8
or according to circumstances, not to exceed	3	3	0
To pay reference fees	0	6	8
To arrange for and on completion of bail papers	0	13	4
To enquire as to sufficiency of sureties, in respect of each surety	0	6	8
or such further amount as the taxing officer may think reasonable, if any special enquiries have been made.			
Inspecting bail papers when filed	0	6	8
To obtain or give an undertaking to appear	0	6	8
On printer to insert advertisements, or for any other necessary purpose	0	6	8
On Registrar to certify that a cause set down is settled, or for any reason not to come into the paper for hearing	0	6	8
To advise, or receive instructions from, a client, where rendered necessary by anything done by an opposite party during the progress of a cause or matter, for each attendance	0	6	8
or such further allowance as the taxing master shall consider reasonable.			

PRIZE COURTS

	£	s.	d.
On any other attendance (whether before the Judge in chambers, before the Registrar, a commissioner, examiner, or the marshal, or upon a witness or a party or his solicitor) which the taxing officer shall deem necessary, and for which a fee has not been specially provided	0	6	8

Oaths and Exhibits

Commissioners to take oaths or affidavits. For every oath or declaration	0	2	0
The solicitor for preparing each exhibit	0	1	0
The commissioner for marking each exhibit	0	1	4

Letters

For every letter written by the solicitor which does not fall under the head of instructions for brief, and which the taxing officer shall deem reasonable and necessary	0	3	6
or according to circumstances not to exceed	0	5	0
For every letter in the nature of a notice sent by a solicitor to his own client or any other person	0	1	6
And in addition, in respect of correspondence between a solicitor and his client, other than correspondence allowed for by the taxing officer under the head of instructions for brief, for every letter which the taxing officer shall deem reasonable and necessary	0	3	6
or according to circumstances not to exceed	0	5	0

In addition to the above an allowance is to be made for the necessary expense of postages, carriage, and transmission of documents.

Evidence

As to evidence such just and reasonable charges and expenses as appear to have been properly incurred in procuring evidence and attendance of witnesses are to be allowed.

Counsel

Fees to counsel shall be allowed in cases where such fees would be allowed in like proceedings in Admiralty business and to the like amount, provided that, as to refresher fees, the taxing officer shall allow such fees as in his discretion he shall consider reasonable.

Bail

The commission or fee paid to persons becoming sureties to bail bonds or otherwise giving security may be allowed provided that the amount thereof shall not in the aggregate exceed one pound per centum.

General

On every taxation the taxing master shall allow all such costs, charges and expenses as appear to him to have been necessary or proper for the attainment of justice, or for defending the rights of any party, but save as against the party who incurred the same no costs shall be allowed which appear to the taxing master to have been incurred or increased through over caution, negligence, or mistake, and the fees hereinbefore mentioned are subject to this general rule.

In addition to the fees hereinbefore mentioned, the taxing officer may allow to the solicitor such remuneration as he may consider just and reasonable, in respect of work and labour, which is not specifically provided for by the above scale, and which in the opinion of the taxing officer was reasonably necessary for the conduct of the cause or matter.

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