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ADMIRALTY RULES.

IN THE SUPREME COURT OF VICTORIA.
IN ADMIRALTY.

THURSDAY, THE 8TH MAY, A.D., 1913.

RULES FOR REGULATING THE PROCEDURE AND PRACTICE OF THE
SUPREME COURT OF VICTORIA IN THE EXERCISE OF THE
JURISDICTION CONFERRED BY THE *COLONIAL COURTS OF
ADMIRALTY ACT* 1890.

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Thursday, the 8th day of May, A.D. 1913.

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ACT 1890.

It is ordered by the Honorable Sir John Madden, G.C.M.G., the Chief Justice of the State of Victoria, and Sir Thomas a'Beckett, Knight, Henry Edward Agincourt Hodges, Joseph Henry Hood, and Leo Finn Bernard Cussen, Puisne Judges of His Majesty's Supreme Court of the said State, in pursuance and execution of the power and authority vested in them by the *Colonial Courts of Admiralty Act* 1890 and of all other powers and authorities enabling them in that behalf, as follows :—

1. These Rules shall come into operation on the first day of the month succeeding the month in which the approval thereof by His Majesty in Council shall be notified in the *Government Gazette* of Victoria, and shall apply to all actions commenced on or after that day. Actions commenced before that day may, by consent of the parties and with permission of the Judge, be continued under these Rules on such terms as to the Judge may seem fit.

REPEAL.

2. From and after the day on which these Rules come into operation, all previous Rules and Regulations relating to proceedings in the Admiralty jurisdiction of the Court, together with all forms thereto annexed, and all tables of fees then in force relating to such proceedings, shall be annulled, except in regard to Admiralty actions commenced before that day.

CONSTRUCTION.

3. In the construction of these Rules, and of the forms and tables of fees annexed thereto, the following terms shall (if not inconsistent with the context or subject-matter) have the respective meanings hereinafter assigned to them ; that is to say :—

“ Court ” shall mean the Supreme Court of Victoria ;

“ Registry ” shall mean the Registry of the Court ;

“ Judge ” shall mean the Chief Justice or any Judge or Judges of the Court nominated by him under these Rules.

“ Registrar ” shall mean the Registrar of the Court, or any deputy or assistant Registrar thereof ;

“ Marshal ” shall mean the Marshal of the Court, or any deputy or assistant Marshal thereof ;

"Action" shall mean any action, cause, suit, or other proceeding instituted in the Court in the exercise of the jurisdiction conferred on it by the *Colonial Courts of Admiralty Act 1890*;

"Plaintiff" shall include the plaintiff's solicitor, if he sues by a solicitor;

"Defendant" shall include the defendant's solicitor, if he appears by a solicitor;

"Party" shall include the party's solicitor, if he sues or appears by a solicitor;

"Ship" shall include every description of vessel used in navigation not propelled by oars only;

"Surety" shall include any company authorized to become a surety;

And unless there is something in the context inconsistent therewith, the provisions of the *Acts Interpretation Act 1890*, relating to the definition of terms, shall apply to these Rules.

4. The Admiralty jurisdiction conferred upon the Court by the *Colonial Courts of Admiralty Act 1890* shall, subject to the right of appeal hereinafter contained, be exercised by the Chief Justice, or by such Judge or Judges as he shall from time to time nominate in writing.

ACTIONS.

5. Actions shall be of two kinds—actions *in rem* and actions *in personam*.

Crown Actions.

6. Actions for condemnation of any ship, boat, cargo, proceeds, slaves, or effects, or for recovery of any pecuniary forfeiture or penalty, shall be instituted in the name of the Crown.

Title of Actions.

7. All actions shall be numbered in the order in which they are instituted, and the number given to any action shall be the distinguishing number of the action, and shall be written or printed on all documents in the action as part of the title thereof. Forms of the title of an action will be found in the Appendix hereto, Nos. 1, 2, and 3.

Præcipe for and date of Instruments.

8. Every instrument (other than a writ of summons) under the seal of the Court and prepared in an action shall be issued on a præcipe filed by the party applying for the same, and shall bear date on the day on which it is issued.

WRIT OF SUMMONS.

9. Every action shall be commenced by a writ of summons, which, before being issued, shall be indorsed with a statement of the nature of the claim, and of the relief or remedy required, and of the amount claimed, if any. Forms of writ of summons and of the indorsements thereon will be found in the Appendix hereto, Nos. 4, 5, 6, and 7.

10. In an action for seamen's or master's wages, or for master's wages and disbursements, or for necessities, or for bottomry, or in any action in which the plaintiff desires an account, the indorsement on the writ of summons may include a claim to have an account taken.

11. The writ of summons shall be indorsed with the name and address of the plaintiff, and with an address, to be called an address for service, not more than 3 miles from the Registry, at which it shall be sufficient to leave all documents required to be served upon him.

12. The writ of summons shall be prepared and indorsed by the plaintiff, and shall be issued under the seal of the Court, and a copy of the writ and of all the indorsements thereon shall be left in the Registry at the time of sealing the writ.

13. The Judge may allow the plaintiff to amend the writ of summons and the indorsements thereon in such manner and on such terms as to the Judge shall seem fit.

Service of Writ of Summons.

14. In an action *in rem*, the writ of summons shall be served—

(a) Upon a ship, or upon cargo, freight, or other property, if the cargo or other property is on board a ship, by nailing or affixing the writ for a short time to the mainmast or the single mast, or to some other conspicuous part of the ship, and on taking off the writ, leaving a copy of it nailed or affixed in its place.

(b) Upon cargo, freight, or other property, if the cargo or other property is not on board a ship, by placing the writ for a short time on such cargo or property, and on taking off the writ, leaving a copy upon it.

(c) Upon freight in the hands of any person, by showing the writ to him, and by leaving with him a copy thereof.

(d) Upon proceeds in Court, by showing the writ to the registrar, and by leaving with him a copy thereof.

15. If access cannot be obtained to the property on which it is to be served, the writ may be served by showing it to any person appearing to be in charge of such property, and by leaving with him a copy thereof.

16. In an action *in personam*, the writ of summons shall be served by showing it to the defendant, and by leaving with him a copy thereof.

17. A writ of summons against a firm may be served upon any member of the firm, or upon any person appearing at the time of service to have the management of the business of the firm.

18. A writ of summons against a corporation or a public company may be served in the mode, if any, provided by law for service of any other writ or legal process upon such corporation or company.

19. Where no such provision exists, a writ of summons against a corporation may be served upon the mayor or other head officer, or upon the town clerk, clerk, treasurer, or secretary of the corporation, and a writ of summons against a public company may be served upon the secretary of the company, or may be left at the office of the company.

20. If the person to be served is under disability, or if for any cause personal service cannot, or cannot promptly, be effected, or if in any action, whether *in rem* or *in personam*, there is any doubt or difficulty as to the person to be served, or as to the mode of service, the Judge may order upon whom, or in what manner service is to be made, or may order notice to be given in lieu of service.

21. The writ of summons, whether *in rem* or *in personam*, may be served by the plaintiff or his agent, within *six months* from the date thereof, and shall, after service, be filed, with a certificate of service indorsed thereon.

22. The certificate shall state the date and mode of service, and shall be signed by the person who served the writ. A form of certificate of service will be found in the Appendix hereto, No. 8.

APPEARANCE.

23. In actions *in rem* no service of writ or warrant shall be required where the solicitor of the defendant agrees to accept service, enter an appearance, and put in bail, or pay money into Court in lieu of bail.

24. A solicitor not accepting service or entering an appearance, or putting in bail, or paying money into Court in lieu of bail in an action *in rem* in pursuance of his written undertaking so to do, shall be liable to an attachment.

25. A party appearing to a writ of summons shall file an appearance in the Registry.

26. A party not appearing within the time limited by the writ may, by consent of the other parties or by permission of the Judge, appear at any time on such terms as the Judge shall order.

27. If the party appearing has a set-off or counterclaim against the plaintiff, he may indorse on his appearance a statement of the nature thereof, and of the relief or remedy required, and of the amount, if any, of the set-off or counterclaim. But if in the opinion of the Judge such set-off or counterclaim cannot be conveniently disposed of in the action he may order it to be struck out.

28. The appearance shall state the name and address of the party appearing, and an address, to be called an address for service, not more than 3 miles from the Registry at which it shall be sufficient to leave all documents required to be served upon him. Forms of appearance and of indorsement of set-off or counterclaim will be found in the Appendix hereto, Nos. 9 and 10.

PARTIES.

29. Any number of persons having interests of the same nature arising out of the same matter may be joined in the same action whether as plaintiffs or as defendants.

30. The Judge may order any person who is interested in the action, though not named in the writ of summons, to come in either as plaintiff or as defendant.

31. For the purposes of the last preceding Rule an underwriter or insurer shall be deemed to be a person interested in the action.

32. The Judge may order upon what terms any person shall come in, and what notices and documents, if any, shall be given to and served upon him, and may give such further directions in the matter as to the Judge shall seem fit.

CONSOLIDATION OF ACTIONS.

33. Two or more actions in which the questions at issue are substantially the same, or for matters which might properly be combined in one action, may be consolidated by order of the Judge upon such terms as to him shall seem fit.

34. The Judge may order several actions to be tried at the same time, and on the same evidence, or the evidence in one action to be used as evidence in another, or may order one of several actions to be tried as a test action, and the other actions to be stayed to abide the result.

WARRANTS.

35. In an action *in rem* a warrant for the arrest of property may be issued by the Registrar at the instance either of the plaintiff or of the defendant at any time after the writ of summons has issued, but no warrant shall be issued until an affidavit by the party or his agent has been filed, and the following provisions complied with:—

- (a) The affidavit shall state the name and description of the party at whose instance the warrant is to be issued, the nature of the claim or counterclaim, the name and nature of the property to be arrested, and that the claim or counterclaim has not been satisfied. A form of affidavit to lead warrant will be found in the Appendix hereto, No. 11.

- (b) In an action of wages, or of possession, the affidavit shall state the national character of the ship proceeded against; and if against a foreign ship, that notice of the commencement of the action has been given to the Consular representative of the State to which the ship belongs, if there be one resident in Melbourne, and a copy of the notice shall be annexed to the affidavit.
- (c) In an action between co-owners relating to the ownership, possession, employment, or earnings of a ship, registered in Victoria, the affidavit shall state the port at which the ship is registered, and the number of shares in the ship owned by the party proceeding.
- (d) In an action of bottomry, the bottomry bond, and if in a foreign language also a notarial translation thereof, shall be produced for the inspection and perusal of the Registrar, and a copy of the bond, or of the translation thereof, certified to be correct, shall be annexed to the affidavit.

36. The Registrar, if he thinks fit, may issue a warrant, although the affidavit referred in Rule 35 does not contain all the prescribed particulars, and, in an action for bottomry, although the bond has not been produced; or he may refuse to issue a warrant without an order of the Judge.

37. The warrant shall be signed by the Registrar, and issued under the seal of the Court. A form of warrant will be found in the Appendix hereto, No. 12.

38. The warrant shall be served by the Marshal, or his officer, in the manner prescribed by these Rules for the service of a writ of summons in an action *in rem*, and thereupon the property shall be deemed to be arrested.

39. The warrant may be served on Sunday, Good Friday, or Christmas Day, as well as on any other day.

40. The warrant shall be filed by the Marshal within one week after service thereof has been completed, with a certificate of service indorsed thereon.

41. The certificate shall state by whom the warrant has been served, and the date and mode of service, and shall be signed by the Marshal. A form of certificate of service will be found in the Appendix hereto, No. 13.

BAIL.

42. Whenever bail is required by these Rules, it shall be given by filing one or more bail bonds, each of which shall be signed by two sureties, unless the Judge shall order that one surety shall suffice.

43. Every bail bond shall be signed before the Registrar, or before a Commissioner for Affidavits, and in every case the sureties shall justify. Forms of bail bond and of affidavit of justification will be found in the Appendix hereto, Nos. 14 and 15.

44. Sureties may attend to sign a bond either separately or together.

45. No Commissioner shall be entitled to take bail in any action in which he, or any person in partnership with him, is acting as solicitor or agent.

46. A bail bond shall not, unless by consent, be filed until after the expiration of twenty-four hours from the time when a notice, containing the names and addresses of the sureties and of the person before whom the bail was taken, has been served upon the adverse party; and a copy of the notice, verified by affidavit, shall be filed with the bail bond. A form of notice of bail will be found in the Appendix hereto, No. 16.

47. If the adverse party is not satisfied with the sufficiency of any surety he shall forthwith give notice of his objection to the Registrar, and serve upon the party tendering the bail bond a notice requiring him to attend before the Registrar, and produce such surety for examination as to his sufficiency. Forms of notice of objection to bail, and of notice requiring surety to attend before the Registrar, will be found in the Appendix hereto, Nos. 17 and 18.

48. If the Registrar is of opinion that such objection was made without reasonable cause, he may direct the party objecting to pay the costs thereby incurred.

RELEASES.

49. A release for property arrested by warrant may be issued by order of the Judge.

50. A release may also be issued by the Registrar, unless there is a caveat outstanding against the release of the property—

- (a) On payment into Court of the amount claimed, or of the appraised value of the property arrested, or where cargo is arrested for freight only, of the amount of the freight verified by affidavit.
- (b) On one or more bail bonds being filed for the amount claimed, or for the appraised value of the property arrested.
- (c) On the application of the party at whose instance the property has been arrested.
- (d) On a consent in writing being filed signed by the party at whose instance the property has been arrested.
- (e) On discontinuance or dismissal of the action in which the property has been arrested.

51. Where property has been arrested for salvage, the release shall not be issued under the foregoing Rule, except on discontinuance or dismissal of the action, until the value of the property arrested has been agreed upon between the parties or determined by the Judge.

52. The Registrar may refuse to issue a release without the order of the Judge.

53. The release shall be signed by the Registrar, and issued under the seal of the Court. A form of release will be found in the Appendix hereto, No. 19.

54. The release shall be delivered to the Marshal, either personally or by leaving it at his office, by the party by whom it is taken out.

55. On delivery of the release and on payment to the Marshal of all fees due to and charges incurred by him in respect of the arrest and custody of the property, the property shall thereupon be released.

PRELIMINARY ACTS.

56. In an action for damage by collision, each party shall, within seven days from an appearance being entered, file a Preliminary Act, sealed up, signed by the party, and containing a statement of the following particulars:—

- (1) The names of the ships which came into collision, and the names of their masters.
- (2) The time of the collision.
- (3) The place of the collision.
- (4) The direction and force of the wind.
- (5) The state of the weather.
- (6) The state and force of the tide.

- (7) The course and speed of the ship when the other was first seen.
- (8) The lights, if any, carried by her.
- (9) The distance and bearing of the other ship when first seen.
- (10) The lights, if any, of the other ship which were first seen.
- (11) The lights, if any, of the other ship, other than those first seen, which came into view before the collision.
- (12) The measures which were taken, and when, to avoid the collision.
- (13) The parts of each ship which first came into collision.
- (14) What sound signals, if any, and when were given.
- (15) What sound signals, if any, and when were heard from the other ship.
- (16) What fault or default, if any, is attributed to the other ship.

The Court or a Judge may order the "Preliminary Act" to be opened and the evidence to be taken thereon without its being necessary to deliver any pleadings. But, in such case, if either party intends to rely on the defence of compulsory pilotage, he may do so, and shall give notice thereof in writing to the other party, within two days from the opening of the "Preliminary Act." As soon as such order shall have been made the pleadings as between the parties shall be deemed to be closed.

PLEADINGS.

57. Every action shall be heard without pleadings, unless the Judge shall otherwise order.

58. If an order is made for pleadings, the plaintiff shall, within seven days from the date of the order, file his statement of claim, and within seven days from the filing thereof, the defendant shall file his answer, and within seven days from the filing of the answer the plaintiff shall file his reply, if any; and there shall be no pleading beyond the reply, except by permission of the Judge.

59. The defendant may, in his answer, plead any set-off or counterclaim. But if, in the opinion of the Judge, such set-off or counterclaim cannot be conveniently disposed of in the action, the Judge may order it to be struck out.

60. Every pleading shall be divided into short paragraphs, numbered consecutively, which shall state concisely the facts on which the party relies, and shall be signed by the party filing it. Forms of pleadings will be found in the Appendix hereto, No. 20.

61. It shall not be necessary to set out in any pleading the words of any document referred to therein, except so far as the precise words of the document are material.

62. Either party may apply to the Judge to decide forthwith any question of fact or of law raised by any pleading, and the Judge shall thereupon make such order as to him shall seem fit.

63. Any pleading may at any time be amended, either by consent of the parties or by order of the Judge.

INTERROGATORIES.

64. At any time before the action is set down for hearing, any party desirous of obtaining the answers of the adverse party on any matters material to the issue, may apply to the Judge for leave to administer interrogatories to the adverse party to be answered on oath, and the Judge may direct within what time and in what way they shall be answered, whether by affidavit or by oral examination.

65. The Judge may order any interrogatory that he may consider objectionable to be amended or struck out; and if the party interrogated omits to answer or answers insufficiently, the Judge may order him to answer, or to answer further, and either by affidavit or by oral examination. Forms of interrogatories and of answers will be found in the Appendix hereto, Nos. 21 and 22.

DISCOVERY AND INSPECTION.

66. The Judge may order any party to an action to make discovery, on oath, of all documents which are in his possession or power relating to the matter in question therein.

67. The affidavit of discovery shall specify which, if any, of the documents therein mentioned the party objects to produce. A form of affidavit of discovery will be found in the Appendix hereto, No. 23.

68. Any party to an action may file a notice to any other party to produce for inspection or transcription, any document in his possession or power relating to any matter in question in the action. A form of notice will be found in the Appendix hereto, No. 24.

69. If the party served with the 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.

ADMISSION OF DOCUMENTS AND FACTS.

70. Any party may give a notice to 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, whatever the result of the action may be, unless the Court or a Judge certify that the refusal to admit was reasonable. Forms of notice to admit will be found in the Appendix hereto, Nos. 25 and 26.

71. No cost of proving any document shall be allowed, unless notice to admit shall have been previously given, or the taxing officer shall be of opinion that the omission to give such notice was a saving of expense.

SPECIAL CASE.

72. Parties may agree to state the questions at issue for the opinion of the Judge in the form of a special case.

73. If it appears to the Judge that there is in any action a question of law which it would be convenient to have decided in the first instance, he may direct that it shall be raised in a special case or in such other manner as he may deem expedient.

74. Every special case shall be divided into paragraphs, numbered consecutively, and shall state concisely such facts and documents as may be necessary to enable the Judge to decide the question at issue.

75. Every special case shall be signed by the parties, and may be filed by any party.

MOTIONS.

76. Every application to the Judge under these Rules shall be by notice of motion supported by affidavit which, unless he otherwise order, shall be filed and served two days before the application comes on to be heard. A form of notice of motion will be found in the Appendix hereto, No. 27.

77. The Judge may vary or rescind any order previously made.

TENDERS.

78. A party desiring to make a tender in satisfaction of the whole or any part of the adverse party's claim shall pay into Court the amount tendered by him, and shall file a notice of the terms on which the tender is made.

79. Within seven days from the filing of the notice, the adverse party shall file a notice, stating whether he accepts or rejects the tender, and if he shall not do so, he shall be held to have rejected it. Forms of notice of tender and of notice accepting or rejecting it will be found in the Appendix hereto, Nos. 28 and 29.

80. Pending the acceptance or rejection of a tender, the proceedings shall be suspended.

EVIDENCE.

81. Evidence shall be given either by affidavit or by oral examination, or partly in one mode, partly in another.

82. Evidence on a motion shall in general be given by affidavit, and at the hearing by the oral examination of witnesses; but the mode or modes in which evidence shall be given, either on any motion or at the hearing, may be determined either by consent of the parties or by order of the Judge.

83. The Judge may order any person who has made an affidavit in an action to attend for cross-examination thereon before the Judge, or the Registrar, or a Commissioner specially appointed.

AFFIDAVITS.

84. Affidavits may, by permission of the Judge, be used as evidence in an action, saving all just exceptions:

- (1) If sworn to in the United Kingdom of Great Britain and Ireland, or in any British possession, before any person authorized to administer oaths in the said United Kingdom or in such possession respectively;
- (2) If sworn to in any place not being a part of His Majesty's dominions, before a British Minister, consul, vice-consul, or notary public, or before a Judge or Magistrate, the signature of such Judge or Magistrate, being authenticated by the official seal of the Court to which he is attached.

EXAMINATION OF WITNESSES BEFORE TRIAL.

85. The Judge may order that any witness, who cannot conveniently attend at the trial of the action, shall be examined previously thereto, before either the Judge, or the Registrar, who shall have power to adjourn the examination from time to time and from place to place, if he shall think necessary. A form of order for examination of witnesses will be found in the Appendix hereto, No. 30.

86. If the witness cannot be conveniently examined before the Judge or the Registrar, or is beyond the limits of the possession, the Judge may order that he shall be examined before a Commissioner specially appointed for the purpose.

87. The Commissioner shall have power to swear any witnesses produced before him for examination, and to adjourn, if necessary, the examination from time to time, and from place to place. A form of commission to examine witnesses will be found in the Appendix hereto, No. 31.

88. The parties, their counsel and solicitors, may attend the examination, but, if counsel attend, the fees of only one counsel on each side shall be allowed on taxation, except by order of the Judge.

89. The evidence of every witness shall be taken down in writing, and shall be certified as correct by the Judge, or Registrar, or by the Commissioner, as the case may be.

90. The certified evidence shall be lodged in the Registry, or, if taken by commission, shall forthwith be transmitted by the Commissioner to the Registry, together with his commission. A form of return to commission to examine witnesses will be found in the Appendix hereto, No. 32.

91. As soon as the certified evidence has been received in the Registry, it may be taken up and filed by either party, and may be used as evidence in the action, saving all just exceptions.

SHORTHAND-WRITER.

92. The Judge may order the evidence of the witnesses, whether examined before him or the Registrar, or a Commissioner, to be taken down by a shorthand-writer, who shall have been previously sworn faithfully to report the evidence, and a transcript of the shorthand-writer's notes certified by him to be correct and approved by the Judge, Registrar, or Commissioner, as the case may be, shall be lodged in or transmitted to the Registry as the certified evidence of such witnesses. A form of oath to be administered to the shorthand-writer will be found in the Appendix hereto, No. 33.

SETTING DOWN FOR TRIAL.

93. An action shall be set down for trial by filing a notice of trial. A form of notice of trial will be found in the Appendix hereto, No. 34.

94. If there has been no appearance, the plaintiff may set down the action for trial, on obtaining from the Judge leave to proceed *ex parte*—

- (a) In an action *in personam*, or an action against proceeds in Court, after the expiration of fourteen days from the service of the writ of summons;
- (b) In an action *in rem* (not being an action against proceeds in Court), after the expiration of fourteen days from the filing of the warrant.

95. If there has been an appearance, either party may set down the action for trial—

- (a) After the expiration of seven days from the entry of the appearance, unless an order has been made for pleadings, or an application for such an order is pending;
- (b) If pleadings have been ordered, when the last pleading has been filed, or when the time allowed to the adverse party for filing any pleading has expired without such pleading having been filed.

MODE OF TRIAL.

96. Except as hereinafter mentioned, actions shall be tried by the Judge without a jury.

97. The Judge may direct any question of fact arising in any suit to be tried by a special or common jury before him.

98. Where any question of fact has been ordered to be tried before the Judge and a jury, the Judge may make such orders as may be made by the Court in its other civil proceedings, and generally for all purposes of or auxiliary to the trial of such question may also make any other orders in relation thereto which may seem requisite to him.

99. Every such jury shall be summoned, struck, called, and sworn in like manner as if summoned for the trial of an action in the Supreme Court.

100. Where any such question has been tried by a jury, any party to the action may, within the prescribed time, move the Full Court to set aside or vary the verdict or finding, or to direct a new trial of such question. Such party shall proceed in the like manner as is prescribed by Order 39 of the Supreme Court Rules.

101. The Full Court shall have the same powers and jurisdiction in respect to new trials as belong to the Full Court under the provisions of Order 39 of the Supreme Court Rules.

102. The Judge, on the application of any party, or without any such application, if he shall consider that the nature of the case requires it, may appoint one or more assessors to advise him upon any matters requiring nautical or other professional knowledge.

103. The fees of the assessors shall be paid in the first instance by the plaintiff, unless the Judge shall otherwise order.

104. Where the writ of summons has been indorsed with a claim to have an account taken, or the liability has been admitted or determined, and the question is simply as to the amount due, the Judge may, on the application of either party, fix a time within which the accounts and vouchers, and the proofs in support thereof, shall be filed, and at the expiration of that time either party may have the matter set down for trial.

105. Upon the trial of an action, upon default of appearance the claim must be proved to the satisfaction of the Judge.

REFERENCES.

106. The Judge may refer the assessment of damages and the taking of any account to the Registrar, either alone or assisted by one or more merchants as assessors.

107. Within twelve days from the day when the order for the reference is made, the claimant or his solicitor shall, unless the Judge otherwise order, file his claim, accounts, and vouchers.

108. Within three days from the expiration of the time allowed for filing the claim, accounts, and vouchers, the claimant or his solicitor shall file in the Registry a notice praying to have the reference set down for hearing; and if he does not do so, the adverse party or his solicitor may apply to the Judge to have the claim dismissed with costs.

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

110. Witnesses may be produced before the Registrar for examination, and the evidence may, on the application of either party, but at the expense in the first instance of the applicant, be taken down by a shorthand-writer, who shall be sworn faithfully to take down and transcribe the evidence, and a transcript of such 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.

111. Counsel may attend the hearing of any reference, but the costs so incurred shall not be allowed on taxation unless the Registrar shall certify that the attendance of counsel was necessary.

112. When a reference has been heard, the Registrar shall draw up a report in writing of the result, showing the amount, if any, found due, and to whom, together with any further particulars that may be necessary. A form of the report will be found in the Appendix hereto, No. 35.

113. The Registrar may, if he think fit, report whether any and what part of the costs of the reference should be allowed and to whom.

114. When the report is ready, notice shall be sent to the parties, and either party may thereupon take up and file the report.

115. Within fourteen days from the filing of the Registrar's report, either party may file a notice of motion to vary the report, specifying the items objected to.

116. At the hearing of the motion, the Judge may make such order thereon as to him shall seem fit, or may remit the matter to the Registrar for further inquiry or report.

117. If no notice of motion to vary the report is filed within fourteen days from filing the Registrar's report, the report shall stand confirmed.

APPEAL.

118. Any person aggrieved by any decree or order of the Judge, sitting in open Court, may appeal therefrom to the Full Court.

119. Every such appeal shall be by notice of motion, and the proceedings thereon shall be regulated by the provisions of Order 58 of the Supreme Court Rules so far as the same are applicable.

120. The Full Court shall have all the powers and duties as to amendment and otherwise of the Judge, together with full discretionary power to receive further evidence upon questions of fact.

121. Every such appeal shall be by way of rehearing, and the Full Court shall have power to make any decree or order which ought to have been made and such further or other order as the case may require.

COSTS.

122. In general, costs shall follow the result; but the Judge may in any case make such order as to the costs as to him shall seem fit.

123. If any plaintiff (other than a seaman suing for his wages or for the loss of his clothes and effects in a collision), or any defendant making a counterclaim is not resident in this State, the Judge may, on the application of the adverse party, order him to give security for costs.

124. A party claiming an excessive amount, either by way of claim or of set-off or counterclaim, may be condemned in all costs and damages thereby occasioned.

125. If a tender is rejected, but is afterwards accepted, or is held by the Judge to be sufficient, the party rejecting the tender shall, unless the Judge shall otherwise order, be condemned in the costs incurred after tender made.

126. Any party pleading at unnecessary length or taking any unnecessary proceeding in an action may be condemned in all costs thereby occasioned.

127. The scale of costs applicable to actions in other Civil proceedings shall apply to all proceedings hereunder.

FEES TO COUNSEL.

128. On taxation, the same fees may be allowed to counsel as are allowed in other actions in the Supreme Court.

WITNESSES' EXPENSES.

129. The allowances to witnesses shall be according to the scale for the time being in force applicable to witnesses in other actions in the Supreme Court.

APPRAISEMENT AND SALE, ETC.

130. The Judge may, either before or after final judgment, order any property under the arrest of the Court to be appraised, or to be sold with or without appraisement, and either by public auction or by private contract.

131. If the property is deteriorating in value, the Judge may order it to be sold forthwith.

132. If the property to be sold is of small value, the Judge may, if he think fit, order it to be sold without a commission of sale being issued.

133. The Judge may, either before or after final judgment, order any property under arrest of the Court to be removed, or any cargo under arrest on board ship to be discharged.

134. The appraisement, sale, and removal of property, the discharge of cargo, and the demolition and sale of a ship condemned under any Slave Trade Act, shall, except as provided by Rule 132 be effected under the authority of a commission addressed to the Marshal, and executed by the Marshal or his officers. Forms of commissions of appraisement, sale, appraisement and sale, removal, discharge of cargo, and demolition and sale, will be found in Appendix hereto, Nos. 36 to 41.

135. The commission shall, as soon as possible after its execution, be filed by the Marshal, with a return setting forth the manner in which it has been executed.

136. As soon as possible after the execution of a commission of sale the Marshal shall pay into Court the gross proceeds of the sale, and shall with the commission file his accounts and vouchers in support thereof.

137. The Registrar shall tax the Marshal's account, and shall certify the amount at which he considers it should be allowed; and any party who is interested in the proceeds may be heard before the Registrar on the taxation.

138. Application may be made to the Judge on motion to review the Registrar's taxation.

139. The Judge may, if he think fit, order any property under the arrest of the Court to be inspected. A form of order for inspection will be found in the Appendix hereto, No. 42.

DISCONTINUANCE.

140. The plaintiff may, at any time, discontinue his action by filing a notice to that effect, and the defendant shall thereupon be entitled to have judgment entered for his costs of action on filing a notice to enter the same. The discontinuance of an action by the plaintiff shall not prejudice any action consolidated therewith or any counterclaim previously set up by the defendant. Forms of notice of discontinuance and of notice to enter judgment for costs will be found in the Appendix hereto, Nos. 43 and 44.

CONSENTS.

141. Any consent in writing signed by the parties may, by permission of the Registrar, be filed, and shall thereupon become an order of Court.

PAYMENTS OUT OF COURT.

142. No money shall be paid out of Court except upon an order of the Court or the Judge. Forms of order for payment out of Court will be found in the Appendix hereto, Nos. 45 and 46.

CAVEATS.

143. A party, desiring to prevent the arrest of any property, may cause a caveat against the issue of a warrant for the arrest thereof to be entered in the Registry.

144. For the purpose of the last preceding Rule mentioned, the party shall cause to be filed in the Registry a notice, signed by himself or his solicitor, undertaking to enter an appearance in any action that may be commenced against the said property, and to give bail in such action in a sum not exceeding an amount to be stated in the notice, or pay such sum into the Registry; a caveat against the issue of a warrant for the arrest of the property shall thereupon be entered in a book to be kept in the Registry, called the "Caveat Warrant Book." Forms of notice of caveat warrant and of caveat will be found in the Appendix hereto, Nos. 47 and 48.

145. A party commencing an action against any property in respect of which a caveat has been entered in the "Caveat Warrant Book" shall forthwith serve a copy of the writ upon the party on whose behalf the caveat has been entered, or upon his solicitor.

146. Within three days from the service of the writ, or copy thereof, the party on whose behalf the caveat has been entered shall, if the sum in respect of which the action is commenced does not exceed the amount for which he has undertaken, give bail in such sum, or pay the same into the Registry.

147. After the expiration of twelve days from the filing of the notice in Rule 144 mentioned, if the party on whose behalf the caveat has been entered shall not have given bail in such sum, or paid the same into the Registry, the plaintiff's solicitor may proceed with the action as upon default of appearance.

148. If, when the action comes before the Judge, he is satisfied that the claim is well founded, he may pronounce for the amount which appears to him to be due, and may enforce the payment thereof by attachment against the party on whose behalf the caveat has been entered, and by the arrest of the property, if it then be or thereafter come within the jurisdiction of the Court.

149. Nothing in this order shall prevent a party from taking out a warrant for the arrest of any property, notwithstanding the entry of a caveat in the "Caveat Warrant Book"; but the party at whose instance any property, in respect of which a caveat is entered, shall be arrested, shall be liable to have the warrant discharged and to be condemned in costs and damages, unless he shall show, to the satisfaction of the Judge good and sufficient reason for having taken out such warrant.

150. Any person desiring to prevent the release of any property under arrest shall file a notice, and thereupon the Registrar shall enter a caveat in the caveat release book hereinafter mentioned. Forms of notice and of caveat release will be found in the Appendix hereto, Nos. 49 and 50.

151. Any person desiring to prevent the payment of money out of Court shall file a notice, and thereupon the Registrar shall enter a caveat in the caveat payment book hereinafter mentioned. Forms of notice of caveat payment will be found in the Appendix hereto, Nos. 51 and 52.

152. If the person entering a caveat is not a party to the action, the notice shall state his name and address, and an address within 3 miles of the Registry, at which it shall be sufficient to leave all documents required to be served upon him.

153. 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 Court or the Judge good and sufficient reason to the contrary.

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

155. 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 the Appendix hereto, No. 53.

156. The Court or the Judge may overrule any caveat.

157. 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 by the Registrar.

158. Any solicitor may, free of charge, inspect the caveat books.

ORDERS FOR PAYMENT.

159. On application by a party to whom any sum has been found due, the Court or the Judge may order payment to be made out of any money in Court applicable for the purpose.

If there is no such money in Court, or if it is insufficient, the Court or the Judge may order that the party liable shall pay the sum found due, or the balance thereof, as the case may be, within such time as to the Court or the Judge shall seem fit. Forms of order for payment will be found in the Appendix hereto, Nos. 54 and 55.

INSTRUMENTS, ETC.

160. Every instrument to be executed by any officer, or Commissioner acting under the authority of the Court, shall be prepared in the Registry and signed by the Registrar, and shall be issued under the seal of the Court.

161. 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.

162. Every document requiring to be served shall be served within six months from the date thereof, otherwise the service shall not be valid.

163. 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.

164. The Marshal shall execute by himself or his officer all instruments issued from the Court which are addressed to him, and shall make returns thereof.

RECORDS OF THE COURT.

165. There shall be kept in the Registry a book, to be called the Process Book, in which the Registrar shall enter in order of date, under the head of each action, and on a page numbered with the number of the action, a record of the commencement of the action, of all appearances entered, all documents issued or filed, all acts done, and all orders and decrees made therein.

FEES.

166. Subject to the foregoing Rules, the fees set forth in the tables of fees in the Appendix hereto shall be allowed on taxation.

CASES NOT PROVIDED FOR.

167. In all cases not provided for by these Rules, the practice of the Court in its Civil jurisdiction shall be followed, or in cases therein unprovided for the practice of the Admiralty Division of the High Court of Justice of England shall be followed.

FORMS.

168. The forms contained in the Appendix hereto may be used with such alterations as the circumstances of the case may render necessary; but any variation therefrom, not being in matter of substance, shall not affect the validity or regularity of the proceedings. Forms of decree will be found in the Appendix hereto, No. 56.

APPENDIX.

No. 1.

TITLE OF ACTION *in rem*.

No. [here insert the number of the action].

A.B., Plaintiff,
against

- (a) The Ship
or (b) The Ship
or (c) The Ship
- and freight.
her cargo and freight.
or (if the action is against cargo only),
(d) The cargo *ex* the ship [state name of ship on board of which the cargo now is or lately was laden].
or (if the action is against the proceeds realized by the sale of the ship and cargo),
(e) The proceeds of the Ship
or (f) The proceeds of the cargo *ex* the Ship

or as the case may be
Action for [state nature of action, whether for damage by collision, wages, bottomry, &c., as the case may be].

No. 2.

TITLE OF ACTION *in personam*.

No. [here insert the number of the action].

A.B., Plaintiff,
against

The Owners of the Ship , [or as the case may be].
Action for [state nature of action as in preceding form].

No. 3.

TITLE OF ACTION IN THE NAME OF THE CROWN.

No. [insert number of action].

Our Sovereign Lord the King.
[add, where necessary, in His Office of Admiralty.]
against

- (a) The Ship , [or as the case may be],
or,
(b) A.B., &c. [the person or persons proceeded against].
Action for [state nature of action].

No. 4.

WRIT OF SUMMONS *in rem*.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Here insert Title of Action].

GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British
Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.
To the owners and all others interested in the Ship
[her cargo and freight, &c., or as the case may be].

We command you that, within eight 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 our Supreme Court of Victoria, in the above-named action; and take notice
that in default of your so doing the said action may proceed, and judgment may be given in your absence.

Witness the Honorable Sir JOHN MADDEN, Knight Grand Cross of the Most Distinguished Order of Saint
Michael and Saint George, Chief Justice of our said Court at Melbourne, this day of

Memorandum to be subscribed on the Writ.

This writ may be served within six months from the date thereof, exclusive of the day of such date, but not afterwards.

The Defendant (or Defendants) may appear hereto by entering an appearance (or appearances) either personally or
by solicitor at the Registry of the said Court situate at Law Courts, William-street, Melbourne.

(4) *Towage :*

The Plaintiffs, as owners of the Ship "Ocean" claim the sum of £ for towage services rendered by the said Ship, to the Ship "Wild Wave" [her cargo and freight, &c., or as the case may be], on the day of , 19 , at or near [state where the services were rendered]; and £ for costs.

(5) *Master's wages and disbursements :*

The Plaintiff claims the sum of £ for his wages and disbursements as master of the Ship "Ocean," and to have an account taken thereof; and £ for costs.

(6) *Seamen's wages :*

The Plaintiffs, as seamen on board the Ship "Ocean," claim the sum of £ , for wages due to them, as follows; and £ for costs:

To A.B., the mate, £30 for two months' wages from the day of ;

To C.D., able seaman, £ , &c., &c.

[and the Plaintiffs claim to have an account taken thereof].

(7) *Necessaries, repairs, &c. :*

The Plaintiffs claim the sum of £ for necessaries supplied (or repairs done, &c., as the case may be) to the Ship "Ocean" at the port of on the day of ; and £ for costs [and the Plaintiffs claim to have an account taken thereof].

(8) *Possession :*

(a) The Plaintiff, as sole owner of the Ship "Ocean," of the port of , claims possession of the said Ship.

(b) The Plaintiff, as owner of 48-64th shares of the Ship "Ocean," of the port of , claims possession of the said Ship as against C.D., owner of 16-64th shares of the same Ship.

(9) *Mortgage :*

The Plaintiff, under a mortgage dated the day of , claims against the proceeds of the Ship "Ocean" the sum of £ , as the amount due to him for principal and interest, and £ for costs.

(10) *Claims between Co-Owners :*

(a) The Plaintiff, as part owner of the Ship "Ocean," claims against C.D., part owner of the same Ship, the sum of £ as part of the earnings of the said Ship due to the Plaintiff, and £ for costs; and to have an account taken thereof.

(b) The Plaintiff, as owner of 24-64th shares of the Ship "Ocean" being dissatisfied with the management of the said Ship by his Co-owners, claims that his co-owners shall give bail in the sum of £ , the value of his said shares, for the safe return of the Ship to this State (or possession).

(11) *Bottomry :*

The Plaintiff, as assignee of a bottomry bond, dated the day of , and granted by C.D., as master of the ship "Ocean," of to A.B. at the port of , claims the sum of £ against the Ship "Ocean" [her cargo and freight, &c., or as the case may be], as the amount due to him under the said bond, and £ for costs.

(12) *Derelict :*

A.B., suing for our Lord the King, claims to have the derelict Ship "Ocean" [or cargo, &c., as the case may be] condemned as forfeited to His Majesty, in His Office of Admiralty.

(13) *Piracy :*

A.B., Commander of H.M.S. "Katoomba," suing for our Lord the King, claims to have the Chinese junk "Hong-kong" and her cargo condemned as forfeited to His Majesty as having been captured from pirates.

(14) *Under Pacific Islanders Protection Act :*

A.B., as Commander of H.M.S. "Illawarra," suing for our Lord the King, claims to have the British Ship "Wyong" and her cargo condemned as forfeited to His Majesty for violation of the Pacific Islanders Protection Acts 1872 and 1875.

(15) *Under Foreign Enlistment Act :*

A.B. claims to have the British ship "Wild Wave," suing for our Lord the King, together with the arms and munitions of war on board thereof, condemned as forfeited to His Majesty for violation of the Foreign Enlistment Act 1870.

(16) *Under Customs Act :*

A.B., suing for our Lord the King, claims to have the Ship "Victory" [or as the case may be] condemned as forfeited to His Majesty for violation of [state Act under which forfeiture is claimed].

(17) *Recovery for pecuniary forfeiture or penalty :*

A.B., suing for our Lord the King, claims judgment against the Defendants for penalties for violation of [state Act under which penalties are claimed].

No. 8.

CERTIFICATE OF SERVICE TO BE INDORSED ON THE WRIT AFTER SERVICE THEREOF.

This writ was served by X.Y. [here state the mode in which the service was effected, whether on the owner, or on the ship, cargo, or freight, &c., as the case may be] on the day of , 19 .

(Signed)

X.Y.

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No. 9.

APPEARANCE.

(1) *By Defendant in person.*

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[*Title of Action.*]

Take notice that I appear in this action.
Dated this day of , 19 .

C.D., Defendant.

My address is
My address for service is

APPEARANCE.

(2) *By Solicitor for Defendant.*

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[*Title of Action.*]

Take notice that I appear for *C.D.* of [*insert address of C.D.*] in this action.
Dated this day of , 19 .

*X.Y.,
Solicitor for C.D.*

My place of business is
My address for service is

No. 10.

INDORSEMENT OF SET-OFF OR COUNTER-CLAIM.

The Defendant [*or, if he be one of several Defendants, the Defendant C.D.*] owner of the Ship "Ocean" [*or as the case may be*] claims from the Plaintiff [*or claims to set-off against the Plaintiff's claim*] the sum of for [*state the nature of the set-off or counter-claim and the relief or remedy required as in Form No. 7, mutatis mutandis*] and for costs.

No. 11.

AFFIDAVIT TO LEAD WARRANT.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[*Title of Action.*]

I, of [*add the place and degree, calling, or description*], make oath, and say as follows:—I have a claim against the Ship "Ocean" for [*state nature of claim*].
And I further make oath and say that the said claim has not been satisfied, and that the aid of this Court is required to enforce it.

Sworn at day of 19 ,
the before me—

}
A Commissioner of the Supreme Court of the State of Victoria
for taking Affidavits.

or,

Where the action is in the name of the Crown.

I, of , &c., claim to have the Ship "Ocean" and her cargo
[*or the ship, name unknown, or the cargo ex the Ship "Ocean," &c., or as the case may be*] condemned to His Majesty—

- (a) as having been fitted out for or engaged in the Slave Trade in violation of [*state Act or Treaty alleged to have been violated*];
- or (b) as having been captured from pirates;
- or (c) as having been found Derelict;
- or (d) for violation of [*state Act alleged to have been violated, or as the case may be*].

I further make oath and say that the aid of this Court is required to enforce the said claim.

Sworn, &c.

No. 12.
WARRANT.In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

GEORGE THE FIFTH, ETC.

To the Marshal of our Supreme Court of Victoria.

We hereby command you to arrest the Ship [her cargo and freight, &c., or as the case may be],
and to keep the same under safe arrest until you shall receive further orders from us.

Witness, &c.

Warrant.
Taken out by

(Signed)

J. W. O'H.,
Registrar.

No. 13.

CERTIFICATE OF SERVICE TO BE INDORSED ON THE WARRANT AFTER SERVICE THEREOF.

This warrant was served by [state by whom and in what mode of service was effected], on , the
day of , 19(Signed) I.M.,
Marshal.No. 14.
BAIL BOND.In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Know all men by these presents that we [insert names, addresses, and descriptions of the sureties in full] hereby jointly and severally submit ourselves to the jurisdiction of the said Court, and consent that if the said [insert name of party for whom bail is to be given, and state whether Plaintiff or Defendant] shall not pay what may be adjudged against him in the above-named action, with costs, [or for costs, if bail is to be given only for costs], execution may issue against us, our heirs, executors, and administrators, goods and chattels, for a sum not exceeding [state sum in letters] pounds.

This Bail Bond was signed by the said
and the day of 19 , in the
registry of the Supreme Court of Victoria, Admiralty
Jurisdiction [or as the case may be].the sureties,
, in the
Admiralty

Signatures of Sureties.

Before me,
J. W. O'H.,
Registrar.

[or clerk in the registry, or Commissioner to take bail, as the case may be.]

No. 15.

AFFIDAVIT OF JUSTIFICATION.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

I, of &c., one of the proposed sureties for [state name, address, and description of person for whom bail is to be given] make oath and say. I am worth more than the sum of [state in letters the sum in which bail is to be given] pounds after the payment of all my debts.

[State the nature, &c., of the property and whether unencumbered.]

Sworn, &c.

(Signature of Surety.)

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No. 16.
NOTICE OF BAIL.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Take notice that I tender the undermentioned persons as bail on behalf of [state name, address, and description of party for whom bail is to be given, and whether Plaintiff or Defendant] in the sum of [state sum in letters and figures] to answer judgment in this action [or judgment and costs, or costs only, as the case may be].

Names, addresses, and descriptions of
SURETIES.

(1)

(2)

[Name of person before whom bond taken.]

Dated this day of , 19 .

(Signed) X. Y.

No. 17.
NOTICE OF OBJECTION TO BAIL.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Take notice that I object to the bail proposed to be given by [state name, address, and description of surety or sureties objected to] in the above-named action.

Dated the day of 19 .

(Signed) A. B.

No. 18.
NOTICE REQUIRING ATTENDANCE OF SURETY BEFORE REGISTRAR.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Take notice that I require you to produce [state name, address, and description of surety required to attend] before the Registrar for examination as to his sufficiency.

Dated this day of , 19 .

(Signed) A. B.

No. 19.
RELEASE.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

GEORGE THE FIFTH, ETC.

To the Marshal of our Supreme Court of Victoria, greeting. Whereas by our warrant issued in the above-named action on the day of 19 , we did command you to arrest [state name and nature of property arrested] and to keep the same under safe arrest until you should receive further orders from us. We do command hereby you to release the said [state name and nature of property to be released] from the said arrest upon payment being made to you of all fees due to and charges incurred by you in respect of the arrest and custody thereof.

Witness, &c.

Release

Taken out by

(Signed) J. W. O'H.,
Registrar.

No. 20.

PLEADINGS.

(1) *In an Action for Damage by Collision :*
a. (*The "Newcastle."*)

STATEMENT OF CLAIM.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Writ issued 19 .

1. Shortly before 7 p.m. on the 31st of January, 1908, the brig "Hexham," of 250 tons register, of which the Plaintiff Arthur Brown, was then owner, whilst on a voyage from Newcastle to Queenscliff, in Victoria, laden with coals, and manned with a crew of nine hands, all told, was about fifteen miles S.E. $\frac{1}{2}$ E. from the Cape Everard Light.

2. The wind at that time was about E.N.E., a moderate breeze, the weather was fine, but slightly hazy, and the tide was about slack water, and of little force. The "Hexham" was sailing under all plain sail, close hauled on the port tack, heading about S.E. and proceeding through the water at the rate of about five knots per hour. Her proper regulation side sailing lights were duly placed and exhibited and burning brightly, and a good look-out was being kept on board of her.

3. At that time those on board the "Hexham" observed the red light of a sailing vessel, which proved to be the "Newcastle," at the distance of about from one mile and a half to two miles from the "Hexham," and bearing about one point on her port bow. The "Hexham" was kept close hauled by the wind on the port tack. The "Newcastle" exhibited, her green light and shut in her red light, and drew a little on to the starboard bow of the "Hexham," and she was then seen to be approaching and causing immediate danger of collision. The helm of the "Hexham" was thereupon put hard down, but the "Newcastle," although loudly hailed from the "Hexham," ran against and with her stem and starboard bow struck the starboard quarter of the "Hexham" abaft the main rigging, and did her so much damage that the "Hexham" soon afterwards sank, and was with her cargo wholly lost, and four of her hands were drowned.

4. There was no proper look-out kept on board the "Newcastle."

5. Those on board the "Newcastle" improperly neglected to take in due time proper measures for avoiding a collision with the "Hexham."

6. The helm of the "Newcastle" was ported at an improper time.

7. The said collision, and the damages and losses consequent thereon, were occasioned by the negligent and improper navigation of those on board the "Newcastle."

The Plaintiff claims—

1. A declaration that he is entitled to the damage proceeded for.
2. The condemnation of the Defendants [and their bail] in such damage and in costs.
3. To have an account taken of such damage with the assistance of merchants.
4. Such further or other relief as the nature of the case may require.

Dated the day of , 19 .

(Signed) A.B., Plaintiff.

ANSWER AND COUNTER-CLAIM.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

1. The Defendants are the owners of the English barque "Newcastle" of 850 tons register, carrying a crew of nineteen hands all told, and at the time of the circumstances hereinafter stated bound on a voyage to Newcastle.

2. A little before 6.30 p.m., of the 31st of January, 1908, the "Newcastle" was about fifteen miles S.E. by S. of Cape Everard. The wind was E.N.E. The weather was hazy. The "Newcastle," under foresail, fore and main topsails, main topgallant sail, and jib, was heading about W.S.W., making from five to six knots an hour with her regulation lights duly exhibited and burning, and a good look-out being kept on board her.

3. In these circumstances the red lights of two vessels were observed pretty close together, about half a mile off, and from two to three points on the starboard bow. The helm of the "Newcastle" was put to port in order to pass on the port sides of these vessels. One, however, of the vessels, which was the "Hexham," altered her course, and exhibited her green light, and caused danger of collision. The helm of the "Newcastle" was then ordered to be steadied, but before this order could be completed, was put hard-a-port. The "Hexham" with her starboard side by the main rigging, struck the stem of the "Newcastle," and shortly afterwards sank, her master and four of her crew being saved by the "Newcastle."

4. Save as is hereinbefore admitted, the several statements in the Petition are denied.

5. The "Hexham" was not kept on her course as required by law.

6. The helm of the "Hexham" was improperly starboarded.

7. The collision was caused by one or both of the things stated in the fifth and sixth paragraphs hereof, or otherwise by the negligence of the Plaintiffs, or of those on board the "Hexham."

8. The collision was not caused or contributed to by the Defendants, or by any of those on board the "Newcastle." And by way of counterclaim the Defendants say,—

They have suffered great damage by reason of the collision.

And they claim as follows—

1. Judgment against the Plaintiff [and his bail] for the damage occasioned to the Defendants by the collision, and for the costs of this action.
2. To have an account taken of such damage with the assistance of merchants.
3. Such further and other relief as the nature of the case may require.

Dated the day of , 19 .

(Signed) C.D., &c., Defendants.

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REPLY.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

The Plaintiff denies the several statements contained in the Answer and Counter-claim [or admits the several statements contained in paragraphs and of the Answer and Counter-claim, but denies the other statements contained therein].

Dated the day of , 19 (Signed) A.B., Plaintiff.

b. (The "Myee.")

STATEMENT OF CLAIM.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Writ issued 19 .

1. At about 2 a.m. on the 4th day of September, 1906, the steamship "Illawarra," of 2,500 tons register, and 500 horse-power, of which the Plaintiffs were owners, whilst on a voyage from Hong Kong, and other ports to Melbourne, with a cargo of tea and other goods, was about eighty miles south-west of Cape Howe.

2. The wind at such time was about south-west, the weather was a little hazy and occasionally slightly thick, and the "Illawarra" was under steam and sail, steering south-west, and proceeding at the rate of about ten knots per hour. Her proper regulation masthead and side lights were duly exhibited and burning brightly, and a good look-out was being kept.

3. At such time the masthead and red lights of a steamship, which proved to be the above-named ship, "Myee," were seen at the distance of about two miles from and ahead of the "Illawarra," but a little on her port bow. The helm of the "Illawarra" was ported and hard-a-ported, but the "Myee" opened her green light to the "Illawarra," and although the engines of the "Illawarra" were immediately stopped, and her steam whistle was blown, the "Myee" with her stem struck the "Illawarra" on her port side, abreast of her red light, and did her so much damage that her master and crew were compelled to abandon her, and she was lost with her cargo. The "Myee" went away without rendering assistance to those on board the "Illawarra," and without answering signals which were made by them for assistance.

4. Those on board the "Myee" neglected to keep a proper look-out.

5. Those on board the "Myee" neglected to duly port the helm of the "Myee."

6. The helm of the "Myee" was improperly starboarded.

7. The "Myee" did not duly observe and comply with the provisions of Article 16 of the "Regulations for Preventing Collisions at Sea."

8. The said collision was occasioned by the improper and negligent navigation of the "Myee."

The Plaintiffs claim—

A declaration that they are entitled to the damage proceeded for, and the condemnation of the said steamship "Myee," and the Defendants therein, and in costs.

2. To have an account taken of such damage with the assistance of merchants.

3. Such further and other relief as the nature of the case may require.

Dated the day of , 19 (Signed) A.B., &c., Plaintiffs.

ANSWER AND COUNTER-CLAIM.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

1. The Defendants are the owners of the French screw steamship "Myee," of about 1,500 tons register, and worked by engines of 600 horse-power nominal, with a crew of thirty hands, which left Marseilles on the 2nd of August, 1906, with a general cargo, bound to New Caledonia.

2. About 2.45 a.m. of the 4th of September, 1906, the "Myee," in the course of her said voyage, was off the coast of Victoria. The weather was thick, with a drizzling rain, and banks of fog and a stiff breeze blowing from S.S.W., with a good deal of sea. The "Myee" under steam alone, was steering N.N.W. $\frac{1}{2}$ W. by bridge steering compass, and was making about ten knots an hour. Her regulation lights were duly exhibited and burning brightly, and a good look-out was being kept on board her.

3. In the circumstances aforesaid those on board the "Myee" saw the green and masthead lights of a steamship, the "Illawarra," about two miles off, and about two points on the starboard bow. The "Myee" was kept on her course, but after a short time the "Illawarra" opened her red light and caused danger of collision. The helm of the "Myee" was thereupon put hard-a-port, and her engines stopped and almost immediately reversed full speed, but, nevertheless, the "Illawarra" came into collision with the "Myee," striking with the port side her stem and port bow, and doing her considerable damage.

4. The ships separated immediately. The engines of the "Myee" were then stopped, and her pumps sounded. She was making much water, and it was found necessary to turn her head away from the wind and sea. As soon as it could be done without great danger, she was steamed in the direction in which those on board her believed the "Illawarra" to be; but when day broke and no traces of the "Illawarra" could be discovered, the search was given up, and the "Myee," being in a very disabled state, made her way to a port of refuge.

5. Save as hereinbefore appears, the several statements contained in the Petition are denied.

6. A good look-out was not kept on board the "Illawarra."

7. The helm of the "Illawarra" was improperly ported.

8. Those on board the "Illawarra" improperly neglected or omitted to keep her on her course.

9. Those on board the "Illawarra" did not observe the provisions of Article 16 of the "Regulations for Preventing Collisions at Sea."

10. The collision was occasioned by some or all of the matters and things alleged in the 6th, 7th, 8th, and 9th paragraphs hereof, or otherwise by the default of the "Illawarra," or those on board her.

11. No blame in respect of the collision is attributable to the "Myee" or to any of those on board her.

And by way of counter-claim the Defendants say that the collision caused great damage to the "Myee."

And they claim—

1. The condemnation of the Plaintiffs [and their bail] in the damage caused to the "Myee," and in the costs of this action.

2. To have an account taken of such damage with the assistance of merchants.

3. Such further and other relief as the nature of the case may require.

Dated the day of , 19 .

(Signed) C.D., &c., Defendants.

REPLY.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

The Plaintiffs deny the several statements contained in the answer and counter-claim [or, as the case may be].

Dated the day of , 19 .

(Signed) A.B., &c., Plaintiffs.

(2) In an action for Salvage :

a. (The "Platypus.")

STATEMENT OF CLAIM.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Writ issued . 19 .

1. The "Wombat" is an iron screw steamship of 1,200 tons net register tonnage, fitted with engines of 450 horse-power nominal, is of the value of £25,000, and was at the time of the services hereinafter stated manned with a crew of twenty-three hands under the command of George John Smith, her master.

2. At about 9 a.m. on the 29th April, 1907, while the "Wombat"—which was in ballast proceeding on a voyage to Brisbane to load a cargo of sugar—was between Cape Schanck and Wilson's Promontory, those on board her saw a steamship ashore on a reef situated about ten miles to the north-eastward of Cape Schanck. The "Wombat" immediately steamed in the direction of the distressed vessel which made signals for assistance.

3. On nearing the distressed vessel, which proved to be the "Platypus," one of the "Wombat's" boats was sent to the "Platypus," in charge of the second mate of the "Wombat," and subsequently the master of the "Platypus" boarded the "Wombat," and at the request of the master of the "Platypus" the master of the "Wombat" agreed to endeavour to tow the "Platypus" afloat.

4. The "Platypus" at this time was fast aground, and was lying with her head about N.N.W.

5. The master of the "Wombat" having ascertained from the master of the "Platypus" the direction in which the "Platypus" had got upon the reef, the "Wombat" steamed up on the starboard side of the "Platypus" and was lashed to her.

6. The "Wombat" then set on ahead and attempted to tow the "Platypus" afloat, and so continued towing without effect until the hawser which belonged to the "Wombat" broke.

7. The masters of the two vessels being then both agreed in opinion that it would be necessary to lighten the "Platypus" before she could be got afloat, it was arranged that the cargo from the "Platypus" should be taken on board the "Wombat."

8. The "Wombat" was again secured alongside the "Platypus," and the hatches being taken off cargo was then discharged from the "Platypus" into the "Wombat," and this operation was continued until about 6 p.m., by which time about 100 tons of such cargo had been so discharged.

9. When this had been done both vessels used their steam, and the "Wombat" tried again to get the "Platypus" off, but without success. The "Wombat" then towed with a hawser ahead of the "Platypus," and succeeded in getting her afloat, upon which the "Platypus" steamed to an anchorage and then brought up.

10. The "Wombat" steamed after the "Platypus" and again hauled alongside of her and commenced putting the transhipped cargo again on board the "Platypus," and continued doing so until about 6 a.m. of the 30th of April, by which time the operation was completed, and the "Platypus" and her cargo being in safety the "Wombat" proceeded on her voyage.

11. By the services of the Plaintiffs the "Platypus" and her cargo were rescued from a very dangerous and critical position, as in the event of bad weather coming on whilst she lay aground she would have been in very great danger of being lost with her cargo.

12. The "Wombat" encountered some risk in being lashed alongside the "Platypus," and she ran risk of also getting aground and of losing her charter.

13. The value of the hawser of the "Wombat," broken as herein stated, was £50.

14. The "Platypus" is an iron screw steamship of 1,118 tons net (1,498 gross) register tonnage. As salvaged the "Platypus" and her cargo and freight have been agreed for the purposes of this action at the value of £48,450.

The Plaintiffs claim—

1. Such an amount of salvage, regard being had to the said agreement, as the Court may think fit to award.
2. The condemnation of the Defendants [and their bail] in the salvage and in costs.
3. Such further and other relief as the case may require.

Dated the day of , 19 .

(Signed) A.B., &c., Plaintiffs.

ANSWER.

In the Supreme Court of
Victoria.
Admiralty Jurisdiction.

[Title of Action.]

1. The Defendants admit that the statement of facts contained in the Petition is substantially correct, except that the reshipping of the cargo on board the "Platypus" was completed by 4 a.m. on the 30th April.

2. The Defendants submit to the judgment of the Court to award such a moderate amount of salvage to the Plaintiffs under the circumstances aforesaid as to the said Court shall seem meet.

(Signed) C.D., &c., Defendants.

REPLY.

In the Supreme Court of
Victoria.
Admiralty Jurisdiction.

[Title of Action.]

The Plaintiffs deny the statement contained in the first paragraph of the answer, that the shipment of the cargo was completed by 4 a.m. on the 30th April.

Dated the day of , 19 .

(Signed) A.B., &c., Plaintiffs.

b. (*The "Kangaroo."*)

STATEMENT OF CLAIM.

In the Supreme Court of
Victoria.
Admiralty Jurisdiction.

[*Title of Action.*]

Writ issued , 19

1. The "Emu" is a steam-tug belonging to Benwick Brothers (Limited), of 80 tons register, with engines of 90 horse-power nominal, and was at the time of the circumstances hereinafter stated manned by a crew of five hands.
2. Just before midnight on the 22nd of July, 1909, when the "Emu" was lying in Hobson's Bay, her master was informed that a screw steamship was ashore off Barwon Head. He at once got up steam, but was not able, owing to a fog, to leave the harbor till about 1.45 a.m. of the 23rd.
3. About 3 a.m. the "Emu" reached the screw steamship, which was the "Kangaroo," which was fast upon the rocks, with a kedge and warp out. The wind was about S.E., blowing fresh; the sea was smooth, but rising; the tide was flood.
4. The master of the "Emu" offered his services, which were at first declined by the master of the "Kangaroo"; shortly afterwards the kedge warp broke, and the "Kangaroo" swung square upon the land and more upon the rocks. The master of the "Kangaroo" then asked the master of the "Emu" to tow him off, and after some conversation it was agreed that the remuneration should be settled on shore.
5. About 5 a.m. those on board the "Emu" got a rope from the "Kangaroo" on board and began to tow. After some towing this rope broke. The tow line of the "Kangaroo" was then got on board the "Emu," and the "Emu" kept towing and twisting the "Kangaroo," but was unable to get her off till about 7 a.m., when it was near high water. The master of the "Emu" then saw that it was necessary to try a click or jerk in order to get the "Kangaroo" off, and accordingly, at the risk of straining his vessel, he gave a strong click in a westerly direction, and got the "Kangaroo" off.
6. The master of the "Emu" then asked if the "Kangaroo" was making water, and was told a little only, but as he saw that the hands were at the pumps he kept the "Emu" by the "Kangaroo" until she was abreast of Port Phillip Heads. He then inquired again if any assistance was wanted, and being told that the "Kangaroo" was all right, and should proceed on her voyage, he steamed the "Emu" back into Hobson's Bay about 12 noon.
7. About 11 a.m. a gale from S.E., which continued all that day and the next, came on to blow with a high sea. If the "Kangaroo" had not been got off before the gale came on she would have gone to pieces on the rocks.
8. By the services aforesaid the "Kangaroo" and her cargo, and the lives of those on board her were saved from total loss.
9. The "Kangaroo" is a screw steamship of 300 tons register, and was bound from Adelaide to Eden with a cargo of timber and five passengers. The value of the "Kangaroo," her cargo and freight, including passage money, are as follows:—

The "Kangaroo," £5,000; her cargo, £2,000; freight and passage money, £35;—in all, £7,035.

The Plaintiffs claim—

1. The condemnation of the Defendants [and their bail] in such an amount of salvage remuneration as to the Court may seem just, and in the costs of this action.
2. Such further and other relief as the nature of the case may require.

Dated the day of , 19

(Signed) A.B., &c., Plaintiffs.

ANSWER.

In the Supreme Court of
Victoria.
Admiralty Jurisdiction.

[*Title of Action.*]

1. At about 6.45 p.m. on the 22nd of July, 1909, the iron screw steam-ship "Kangaroo," of 300 tons register, propelled by engines of 75 horse-power, and manned by twelve hands, her master included, whilst proceeding on a voyage from Adelaide to Eden, with cargo and passengers, ran aground off Barwon Heads, on the coast of Victoria.
2. The tide at this time was first quarter ebb, the weather was calm, and the sea was smooth, and the "Kangaroo," after grounding as aforesaid, sat upright and lay quite still, heading about N.E. Efforts were then made to get the "Kangaroo" again afloat by working her engines, but it was found that this could not be done in the then state of the tide.
3. At about 10 p.m. of the said day a kedge, with a warp attached to it, was carried out from the "Kangaroo" by one of her own boats and dropped to seawards, and such warp was afterwards hove taut and secured on board the "Kangaroo" with the view of its being hove upon when the flood tide made.
4. At about 3 a.m. the following morning the steam tug "Emu," whose owners, master, and crew are the Plaintiffs in this action, came to the "Kangaroo" and offered assistance, which was declined.

5. The flood tide was then making, and by about 5 a.m. the "Kangaroo" had floated forward, and attempts were made to get the stern of the "Kangaroo" also afloat, and the warp attached to the aforesaid kedge was attempted to be hove in, but the said warp having parted, the master of the "Kangaroo" endeavoured ineffectually to make an agreement with the master of the "Emu" to assist in getting the "Kangaroo" afloat, and at about 6 a.m. a rope was given to the "Emu" from the starboard bow of the "Kangaroo," and directions were given to the "Emu" to keep the head of the "Kangaroo" to the eastward in the same way as it had been kept by the aforesaid kedge anchor and warp. The "Emu" then set ahead and almost immediately the said rope was broken. A coir hawser was thereupon given to the "Emu," and those on board her were directed not to put any strain on it, but to keep the "Emu" paddling ahead sufficiently to steady the head of the "Kangaroo," and to keep her head to the eastward. This the "Emu" did and continued to do until about 7 a.m., when the "Kangaroo" by means of her own engines, was moved off from the ground, and the "Emu" was brought broad on the port bow of the "Kangaroo," and the "Emu" had to stop towing and to shift the rope from her starboard bollard, where it was fast to her towing hook, but the "Kangaroo" continuing to go ahead, the said rope had to be let go on board the "Emu," and it was then hauled in on board the "Kangaroo." The "Kangaroo," under her own steam, then commenced proceeding north, the wind at the time being S.S.E. and light, and the weather fine. It was afterwards ascertained that the "Kangaroo" was making a little water in her afterhold, and her hand pumps were then worked, and they kept the "Kangaroo" free.

6. The "Emu" proceeded back with the "Kangaroo" as far as Port Phillip Heads, and the "Kangaroo" then continued on her voyage and arrived at Eden on the 27th July.

7. During the time aforesaid the master, crew, and passengers of the "Kangaroo" remained on board the "Kangaroo," and no danger was incurred in their so doing.

8. Save as herein appears, the Defendants deny the truth of the several statements contained in the Petition.

9. The Defendants have paid into Court and tendered to the Plaintiffs for their services the sum of £100, and have offered to pay their costs, and the Defendants submit that such tender is sufficient.

Dated the day of , 19 (Signed) C.D., &c., Defendants.

(3) *In an Action for distribution of salvage :*

STATEMENT OF CLAIM.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]
Writ issued , 19 .

1. Describe briefly the salvage services, stating the part taken in them by the Plaintiffs, and the capacity in which they were serving.

2. The sum of £ has been paid by the owners of the ship, &c. [state name of ship or other property saved], to the Defendants, as owners of the ship [state name of salvaging ship], and has been accepted by them in satisfaction of their claim for salvage, but the said Defendants have not paid and refuse to pay any part of that sum to the Plaintiffs for their share in the said salvage services.

The Plaintiffs claim—

1. An equitable share of the said sum of £ , to be apportioned among them as the Court shall think fit, and the costs of this action.
2. Such other relief as the nature of the case may require.

Dated the day of , 19 (Signed) A.B., &c., Plaintiffs.

(4) *In an Action for master's wages and disbursements :*

a. ("The Kookooburra.")

STATEMENT OF CLAIM.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]
Writ issued , 19 .

1. The Plaintiff, on the 10th day of February, 1909, was appointed by the owner of the British ship "Kookooburra," proceeded against in this action, master of the said ship, and it was agreed between the Plaintiff and the said owner that the wages of the Plaintiff as master should be £20 per month.

2. The Plaintiff acted as master of the said ship from the said 10th day of February until the 10th day of October, 1909, and there is now due to him for his wages as master during that time the sum of £160.

3. The Plaintiff as master of the said ship expended various sums of money for necessary disbursements on account of the said ship; and there is now due to him in respect of the same a balance of £95 10s.

The Plaintiff claims—

1. A decree pronouncing the said sums, amounting in the whole to £255 10s., to be due to him for wages and disbursements, and directing the said vessel to be sold and the amounts due to him to be paid to him out of the proceeds.
2. Such further and other relief as the nature of the case may require.

Dated the day of , 19 (Signed) A.B., Plaintiff.

b. (The "Cockatoo.")

STATEMENT OF CLAIM.

In the Supreme Court of
Victoria.
Admiralty Jurisdiction.

[Title of Action.]

Writ issued , 19 .

1. In or about the month of July, 1907, the Plaintiff was engaged by the owners of the British ship "Cockatoo" to serve on board her as master, at wages after the rate of £18 per month, and he entered into the service of the said ship as her master accordingly, and thenceforward served on board her in that capacity and at that rate of wages until he was discharged as hereinafter stated.

2. When the Plaintiff so entered into the service of the said ship she was lying at the port of Melbourne, in the State of Victoria, and she thence sailed to Auckland, New Zealand, and thence to divers other ports abroad, and returned home to Melbourne, where she arrived on the 1st day of October, 1908.

3. The "Cockatoo," after having received divers repairs at Melbourne, left that port on the 5th day of November 1908, under command of the Plaintiff on a voyage, which is thus described in the ship's articles signed by the Plaintiff and her crew before commencing the same, viz.: "A voyage from Melbourne to Auckland, or Wellington, and any ports or places in North or South America, Pacific Ocean, China or Eastern Seas, to and fro if required, for any period not exceeding three years, but finally to a port of discharge in the State of Victoria."

4. The "Cockatoo," after so leaving Melbourne, met with bad weather and suffered damage, and was compelled to put back to Newcastle for repairs before again proceeding on her voyage.

5. The Plaintiff was ready and willing to continue in the service of the "Cockatoo," and to perform his duty as her master on and during the said voyage, but the Defendants, the owners of the "Cockatoo," wrongfully and without reasonable cause discharged the Plaintiff on the 23rd day of November from his employment as master, and appointed another person as master of the "Cockatoo" on the said voyage in the place of the Plaintiff, and thereby heavy damage and loss have been sustained by the Plaintiff.

6. The Plaintiff, whilst he acted as master of the "Cockatoo," earned his wages at the rate aforesaid; and he also as such master made divers disbursements on account of the "Cockatoo"; and there was due and owing to the Plaintiff in respect of such his wages and disbursements at the time of his discharge a balance of £187 12s. 9d., which sum the Defendants without sufficient cause have neglected and refused to pay to the Plaintiff.

The Plaintiff claims—

1. Payment of the sum of £187 12s. 9d., the balance due to the Plaintiff for his wages and disbursements, with interest thereon.
2. Ten days double pay, according to the provisions of section 135 of the *Merchant Shipping Act 1894*.
3. Damages in respect of his wrongful discharge by the Defendants.
4. The condemnation of the Defendants [and their bail] in the amounts claimed by or found due to the Plaintiff.
5. To have an account taken [with the assistance of merchants] of the amount due to the Plaintiff in respect of his said wages and disbursements, and for damages in respect of such wrongful discharge.
6. Such further and other relief as the nature of the case may require.

Dated the day of , 19 .

(Signed) A.B., Plaintiff.

ANSWER.

In the Supreme Court of
Victoria.
Admiralty Jurisdiction.

[Title of Action.]

1. The Defendants admit the statements made in the 1st, 2nd, 3rd, and 4th articles of the Plaintiff's petition.

2. Whilst the "Cockatoo" was upon her voyage in the said 3rd article mentioned, and before and until she put into Newcastle, as in the said 4th article mentioned, the Plaintiff was frequently under the influence of drink.

3. During the night of the 10th November, 1908, and the morning of the 11th November, 1908, whilst a violent gale was blowing and the ship was in danger, the Plaintiff was wholly drunk and was incapable of attending to his duty as master of the said ship; and in consequence of the condition of the Plaintiff much damage was done to the said ship, and the said ship was almost put ashore.

4. The damage in the 4th article of the Petition mentioned was wholly or in part occasioned by the drunken condition of the Plaintiff during the said voyage from Melbourne to Newcastle.

5. The Defendants having received information of the above facts on the arrival of the said ship at Newcastle, and having made due inquiries concerning the same, had reasonable and probable cause to and did discharge the Plaintiff from his employment as master of the said ship on the 23rd November, 1908.

6. The Plaintiff, on the 12th day of November, 1908, whilst the said ship was at Newcastle, wrongfully and improperly tore out and destroyed certain entries which had been made by the mate of the said ship in her log-book relating to the said voyage from Melbourne to Newcastle; and the Plaintiff substituted in the said log-book entries made by himself with intent to conceal the true facts of the said voyage from the Defendants.

7. The Defendants bring into Court the sum of £145 in respect of the Plaintiff's claim for wages and disbursements, and say that the said sum is enough to satisfy the Plaintiff's said claim in that behalf. The Defendants offered to pay the Plaintiff's costs to this time in respect to those two causes of action.

Dated the day of , 19 .

(Signed) C.D., E.F., &c., Defendants.

May 29, 1913

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Victoria Gazette

REPLY.

In the Supreme Court of
Victoria.
Admiralty Jurisdiction.

[Title of Action.]

The Plaintiff denies the several statements contained in the answer [or as the case may be].

Dated the day of , 19 .

(Signed) A.B., Plaintiff.

(5). In an Action for Seamen's wages :

STATEMENT OF CLAIM.

In the Supreme Court of
Victoria.
Admiralty Jurisdiction.

[Title of Action.]

Writ issued , 19 .

1. The Plaintiff, A.B., was engaged as mate of the British schooner "Wyong," at the rate of £ per month, and in pursuance of that engagement served as mate on board the said schooner from the day of 19 , to the day of 19 , and during that time as mate of the said schooner earned wages amounting to £ . After giving credit for the sum received by him on account, as shown in the schedule hereto, there remains due to him for his wages a balance of £ .

2. The Plaintiffs C.D., E.F., and G.H. were engaged as able seamen on board the said schooner, and having in pursuance of that engagement served as able seamen on board the said schooner during the periods specified in the schedule hereto, earned thereby as wages the sums set forth in the same schedule, and after giving credit for the sums received by them respectively, on account of the said wages, there remain due to them the following sums, namely :—

To C.D. the sum of £ ,
To E.F. " £ ,
To G.H. " £ ,

3. The Plaintiffs I.K. and L.M. were engaged as ordinary seamen on board the said schooner, and having served on board the same in pursuance of the said engagement during the periods specified in the schedule hereto, earned thereby the sums set forth in the same schedule, and after giving credit for the sums received by them respectively, on account of the said wages, there remain due to them the following sums, namely :—

To I.K. the sum of £ ,
To L.M. " £ .

SCHEDULE referred to above.

Wages due to A.B., mate, from the		19 , the	19 ,	months and
days at £	per month		£ :	
	Less received on account	£ :	
	Balance due	£ :	
Wages due to C.D., able seaman, from the		19 , to the	19 ,	
months and	days, at £ per month.		£ :	
	Less received on account	£ :	
	Balance due	£ :	

[so on with the wages due to the other Plaintiffs.]

The Plaintiffs claim—

The several sums so due to them respectively with the costs of this action.

2. Such double pay as they may be entitled to under sec. 135 of the Merchant Shipping Act 1894.

3. Such other relief as the nature of the case may require.

Dated the day of , 19 .

(Signed) A.B. &c., Plaintiffs.

(6) *In an Action for Bottomry :*

STATEMENT OF CLAIM.

In the Supreme Court of
Victoria.
Admiralty Jurisdiction.

[Title of Action.]

Writ issued , 19 .

1. In the month of July, 1906, the French barque " Rouen " was lying in Port Chalmers, in the Dominion of New Zealand, and Alexandre Dumas, her master, being in want of funds, was compelled to borrow on bottomry of the said barque and her freight from Brown Brothers, the sum of £3,478 7s. 11d. for the necessary and indispensable repairs, charges, and supplies of the said vessel in Port Chalmers, and to enable her to prosecute her voyage from Port Chalmers to Iquique and thence to Melbourne.

2. Accordingly by a bond of bottomry, dated the 11th day of the said month of July and duly executed by him, the said Alexandre Dumas, in consideration of the sum of £3,478 7s. 11d., lent by the said Brown Brothers upon the said adventure upon the said barque and freight at the maritime premium of 23 per cent., bound himself and the said barque and the freight to become payable in respect of the said voyage to pay the said Brown Brothers, their executors, administrators, or assigns the sum of £4,278 8s. 7d. (which included the principal charges and the maritime interest due thereon), within 30 days after the said barque should arrive at her port of discharge; and the said bond provided that the said Brown Brothers should take upon themselves the maritime risk of the said voyage.

3. The " Rouen " has since successfully prosecuted her said intended voyage for which the aforesaid bond was granted, and arrived at Melbourne as her port of discharge on or about the 30th day of March, 1907.

4. Before the issue of the writ in this action the said bond became due and payable, and was duly endorsed by the said Brown Brothers to the Plaintiffs who thereby became and are legal holders thereof, and the said sum of £4,278 8s. 7d. is now due and owing thereon to the Plaintiffs.

The Plaintiffs claim—

1. A declaration for the force and validity of the said bond.
2. The condemnation of the said barque " Rouen " and her freight in the sum of £4,278 8s. 7d., with interest thereon at £4 per cent. per annum from the time when the said bond became payable, and in costs.
3. A sale of the said barque and the application of the proceeds of her sale and of her freight in payment to the Plaintiffs of the said amount, and interest and costs.
4. Such further and other relief as the case may require.

Dated the day of 19 .

(Signed) A.B., &c., Plaintiffs.

(7) *In an Action for Mortgage :*

STATEMENT OF CLAIM.

In the Supreme Court of
Victoria.
Admiralty Jurisdiction.

[Title of Action.]

Writ issued , 19 .

1. The above-named brigantine or vessel " Bega " is a British ship belonging to the port of , of the registered tonnage of 109 tons or thereabouts, and at the time of the mortgage hereinafter mentioned, Joseph Curfey, of , was the registered owner of the said brigantine.

2. On the 4th day of July, 1905, 32-64th parts or shares of the said brigantine were mortgaged by the said Joseph Curfey to the Plaintiff, to secure the payment by the said Joseph Curfey to the Plaintiff of the sum of £400, together with interest thereon at the rate of 5 per cent. per annum, on or before the 1st day of July, 1906.

3. The said mortgage of the " Bega " was made by an instrument dated the 4th day of July, 1905, in the form prescribed by the 31st section of the *Merchant Shipping Act 1894*, and was duly registered in accordance with the provisions of the said Act.

4. No part of the said principal sum or interest has been paid, and there still remains due and owing to the Plaintiff on the said mortgage security the principal sum of £400, together with a large sum of money for interest and expenses, and the Plaintiff, although he has applied to the said Joseph Curfey for payment thereof, cannot obtain payment without the assistance of this Court.

The Plaintiff claims—

1. Judgment for the said principal sum of £400, together with interest and expenses.
2. To have an account taken of the amount due to the Plaintiff.
3. Payment out of the proceeds of the said brigantine now remaining in Court, of the amount found due to the Plaintiff, together with costs.
4. Such further and other relief as the nature of the case may require.

Dated the day of 19 .

(Signed) A.B., Plaintiff.

(8) *In an Action between co-owners (for account):*

STATEMENT OF CLAIM.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Writ issued , 19 .

1. The "Kiama" is a sailing ship of about 40 tons register trading between and
 2. By a bill of sale duly registered on the 11th day of June, 1907, the Defendant, Francis Faylis, who was then sole owner of the above-named ship "Kiama", transferred to Charles Everley, of , 32-64th parts of shares of the ship for the sum of £320.
 3. By a subsequent bill of sale duly registered on the 16th December, 1909, the said Charles Everley transferred his said 32-64th shares of the ship to Mark Paddison, the Plaintiff, for the sum of £175.
 4. The Defendant, Francis Faylis, has had the entire management and the command of the said ship from the 11th day of June, 1907, down to the present time.
 5. The Defendant has from time to time up to and including the 24th September, 1909, rendered accounts of the earnings of the ship to the aforementioned Charles Everley, but since the said 24th September, 1909, the Defendant has rendered no accounts of the earnings of the ship.
 6. Since the 16th December, 1907, the ship has continued to trade between and , and the Plaintiff has made several applications to the Defendant, Francis Faylis, for an account of the earnings of the ship, but such applications have proved ineffectual.
 7. The Plaintiff is dissatisfied with the management of the ship, and consequently desires that she may be sold.
- The Plaintiff claims—
1. That the Court may direct the sale of the said ship "Kiama."
 2. To have an account taken of the earnings of the said ship, and that the Defendant may be condemned in the amount which shall be found due to the Plaintiff in respect thereof, and in the costs of this action.
 3. Such further or other relief as the nature of the case may require.

Dated the day of , 19 .

(Signed) A.B., Plaintiff.

ANSWER.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

1. The Defendant denies the statements contained in paragraph 2 of the petition.
2. The Defendant further says that he never at any time signed any bill of sale transferring any shares whatever of the said ship "Kiama" to the said Charles Everley, and further says that if any such bill was registered as alleged on the 11th June in the said 2nd paragraph (which the Defendant denies) the same was made and registered fraudulently and without the knowledge, consent, or authority of the Defendant.
3. The Defendant does not admit the statements contained in the 3rd paragraph of the petition, and says that if the said Charles Everley transferred any shares of the said ship to the Plaintiff as alleged (which the Defendant does not admit), he did so wrongfully and unlawfully, and that he had not possession of or any right to or in respect of the said shares.
4. The Defendant denies the statements contained in paragraph 5 of the petition, and says that he never rendered any such accounts as alleged therein.
5. The Defendant does not admit the statements contained in paragraph 6 of the petition.

Dated the day of , 19 .

(Signed) C.D., Defendant.

REPLY.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

The Plaintiff denies the several statements in the Answer

Dated the day of , 19 .

(Signed) A.B., Plaintiff.

(9) *In an Action for possession :*

STATEMENT OF CLAIM.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Writ issued , 19 .

1. The Plaintiffs are registered owners of 44-64th shares in the British ship "Lyre Bird," and such shares are held by them respectively as follows:—

Joseph Phillips is owner of 16-64th shares, William Deane of 8-64th shares, William Holt of 4-64th shares, Henry Lloyd of 8-64th shares, and Herbert Morris of 8-64th shares.

2. The only owner of the said ship other than the Plaintiffs is John Billet, who is the registered owner of the remaining 20-64th shares of the said ship, and has hitherto acted as managing owner and ship's husband of the said ship, and has possession of and control over the said ship and her certificate of registry.

3. The Defendant, the said John Billet, has not managed the said ship to the satisfaction of the Plaintiffs, and has, by his management of her, occasioned great loss to the Plaintiffs; and the Plaintiffs, in consequence thereof, before the commencement of this action, gave notice to the Defendant to cease acting as managing owner and ship's husband of the said ship, and revoked his authority in that behalf, and demanded from the Defendant the possession and control of the said ship and of her certificate of registry, but the Defendant has refused and still refuses to give possession of the said ship and certificate to the Plaintiffs, and the Plaintiffs cannot obtain possession of them without the assistance of this Court.

4. The Defendant has neglected and refused to render proper accounts relating to the management and earnings of the said ship, and such accounts are still outstanding and unsettled between the Plaintiffs and the Defendant.

The Plaintiffs claim—

1. Judgment giving possession to the Plaintiffs of the said ship and of her certificate of registry.

2. To have an account taken, with the assistance of merchants, of the earnings of the ship.

3. A sale of the Defendant's shares in the said ship.

4. Payment out of the proceeds of such sale of the balance (if any) found due to the Plaintiffs and of the costs of this action.

5. Such further and other relief as the nature of the case may require.

Dated the day of , 19 .

(Signed) A.B., &c. Plaintiffs.

(10) *In an Action for Necessaries :*

STATEMENT OF CLAIM.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Writ issued , 19 .

1. The Plaintiffs at the time of the occurrences hereinafter mentioned carried on business at the port of as bonded store and provision merchants and ship chandlers.

2. The "Seiho" is a Japanese ship, and in the months of June, July, August, and September, 1908, was lying in the said port of , under the command of one Tom Amemia, a foreigner, her master and owner, and in the said month of September she proceeded on her voyage to Moji.

3. The Plaintiffs, at the request and by the direction of the said master, supplied during the said months of June, July, August, and September, 1908, stores and other necessaries for the necessary use of the said ship upon the said then intended voyage to the value of £412 16s. 9d., for which sum an acceptance was given by the said Tom Amemia to the Plaintiffs; but on the 4th day of February, 1909, the said acceptance, which then became due, was dishonoured, and the said sum of £412 16s. 9d., with interest thereon from the said 4th day of February, 1909, still remains due and unpaid to the Plaintiffs.

4. In the month of August aforesaid the Plaintiffs, at the request of the said master, advanced to him the sum of £100 for the necessary disbursements of the said ship at the said port of , and otherwise on account of the said ship; and also at his request paid the sum of £11, which was due for goods supplied for the necessary use of the ship on the said voyage; and of the sums so advanced and paid there still remains due and unpaid to the Plaintiffs the sum of £61, with interest thereon from the 5th day of January, 1909, on which last-mentioned day a promissory-note given by the said Tom Amemia to the said Plaintiffs for the said sum of £61 was returned to them dishonoured.

5. The Plaintiffs also at the said master's request, between the 1st of September, 1908, and the commencement of this action, paid various sums amounting to £84 17s. for the insurance of their said debt.

6. The said goods were supplied and the said sums advanced and paid by the Plaintiffs upon the credit of the said ship, and not merely on the personal credit of the said master.

The Plaintiffs claim—

1. Judgment for the said sums of £412 16s. 9d., £61, and £84 17s., together with interest thereon.

2. That the Defendant [and his bail] be condemned therein, and in costs:

or
2. A sale of the said ship, and payment of the said sums and interest out of the proceeds of such sale, together with costs.

3. Such further and other relief as the case may require.

Dated the day of , 19 .

(Signed) A.B., &c. Plaintiffs.

(11) *In an Action for condemnation of a ship or cargo, &c. :*

STATEMENT OF CLAIM.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Writ issued , 19 .

State briefly the circumstances of the seizure.

A.B. [state name of person suing in the name of the Crown] claims—

1. The condemnation of the said ship [and her cargo, or as the case may be], for violation of the Pacific Islanders Protection Acts 1872 and 1875 [or as having been captured from pirates, or for violation of the Act , s. , or as the case may be].
2. Such further and other relief as the nature of the case may require.

Dated the day of , 19 .

(Signed) A.B.

(12) *In an Action for restitution of a ship or cargo :*

STATEMENT OF CARGO.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Writ issued , 19 .

State briefly the circumstances of the seizure.

C.D. [state name of person claiming restitution] claims—

1. The restitution of the said vessel [and her cargo, or as the case may be] together with costs and damages for the seizure thereof [or as the case may be].
2. Such further and other relief as the nature of the case may require.

Dated the day of , 19 .

(Signed) C.D., &c., Plaintiffs.

(13) *In a Piracy case, where the captors intend to apply for Bounty, add—*

A.B. further prays the Court to declare—

- (1) That the persons attacked or engaged were pirates.
- (2) That the total number of pirates so engaged or attacked was , of whom were captured.
- (3) That the vessel [or vessels and boats] engaged [or were] [and] .

Dated the day of , 19 .

(Signed) A.B.

(14) *In an Action for recovery of any pecuniary forfeiture or penalty :*

STATEMENT OF CLAIM.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Writ issued 19 .

State briefly the circumstances, and the Act and section of Act under which the penalty is claimed.

I, A.B., claim to have the Defendant condemned in a penalty of £ , and in the costs of this action.

Dated the day of 19 .

(Signed) A.B.

No. 21.

INTERROGATORIES.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Interrogatories on behalf of the Plaintiff, *A.B.* [or Defendant, *C.D.*] for the examination of the Defendant, *C.D.*, and *E.F.* [or Plaintiff, *A.B.*, or as the case may be].

1. Did not, &c.

2. Have not, &c.

The Defendant, *C.D.*, is required to answer the interrogatories numbered

The Defendant, *E.F.*, is required to answer the interrogatories numbered

Dated the day of , 19

(Signed) *A.B.* [or *C.D.*, as the case may be].

No. 22.

ANSWERS TO INTERROGATORIES.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

The answers of the Defendant, *C.D.*, [or Plaintiff, *A.B.*, &c.] to the interrogatories filed for his examination by the Plaintiff, *A.B.* [or Defendant, *C.D.*, &c.].

In answer to the said interrogatories I, the above-named, *C.D.* [or *A.B.*, &c.], make oath, and say as follows:—

1.

2.

Sworn, &c.

&c.

&c.

&c.

(Signed) *C.D.* [or *A.B.*]

No. 23.

AFFIDAVIT OF DISCOVERY.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

I, the Defendant, *C.D.* (or Plaintiff, *A.B.*, &c.) make oath and say as follows:—

1. I have in my possession or power the documents relating to the matters in question in this action, 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 action as set forth in the Second Schedule hereto.

4. The last-mentioned documents were last in my possession or power on [state when].

5. [Here 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 action, 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.

[Here set out documents.]

Part 2.

[Set out documents.]

SCHEDULE No. II.

[Set out documents.]

Sworn, &c.

May 29. 1913

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No. 24.

NOTICE TO PRODUCE.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Take notice that the Plaintiff, A.B. [or Defendant, C.D.] requires you to produce for his inspection, or before the day of , the following documents:—

[Here describe the documents required to be produced.]

Dated day of 19 .

(Signed) A.B., Plaintiff (or C.D., Defendant).

To C.D., Defendant [or as the case may be].

No. 25.

NOTICE TO ADMIT DOCUMENTS.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Take notice that the Plaintiff, A.B. [or Defendant, C.D.] in this action proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the Defendant [or Plaintiff], his solicitor or agent, at on , between the hours of and , and the Defendant [or Plaintiff] is hereby required, within forty-eight hours from the last-mentioned hour, to admit that such of the said documents as are specified as 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 that such documents as are stated to have 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 action.

Description of Documents.	Dates.	Time and mode of service or delivery, &c.
[Here briefly describe documents] (1) Originals. (2) Copies.	[Here state the date of each document.]	[Here state whether the original or a duplicate was sent by post, or served, or delivered, and when and by whom.]

Dated the day of 19 .

(Signed) A.B., Plaintiff [or C.D., Defendant.]

To C.D., Defendant [or as the case may be].

No. 26.

NOTICE TO ADMIT FACTS.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Take notice that the Plaintiff, A.B. [or Defendant C.D.] demands admission of the under-mentioned facts, saving all just exceptions.

1. [Here state briefly the facts of which admission is demanded.]
2. }

Dated the day of 19 .

(Signed) A.B., Plaintiff [or C.D., Defendant.]

To C.D., Defendant [or as the case may be].

No. 27.

NOTICE OF MOTION.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Take notice that on [state day of week] the day of , the Plaintiff [or Defendant] will [by counsel, or by his solicitor, if the motion is to be made by counsel or solicitor] move the Judge in Court [or in Chambers, as the case may be] to order that [state nature of order to be moved for. In a notice of motion to vary a report of the Registrar, the items objected to must be specified.]

Dated the day of , 19 . (Signed) A.B., Plaintiff [or C.D., Defendant].

No. 28.

NOTICE OF TENDER.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Take notice that I have paid into Court, and tender in satisfaction of the Plaintiff's claim [or, as the case may be] [if the tender is for costs also, add including costs] the sum of [state sum tendered both in letters and figures, and on what terms, if any, the tender is made.]

Dated the day of , 19 . (Signed) C.D., Defendant.

No. 29.

NOTICE ACCEPTING OR REJECTING TENDER.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Take notice that I accept [or reject] the tender made by the Defendant in this action.

Dated the day of , 19 . (Signed) A.B., Plaintiff.

No. 30.

ORDER FOR EXAMINATION OF WITNESSES.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

On the day of 19 .
Before Judge.

It is ordered that [state the names of witnesses so far as it can be done, witnesses for the Plaintiff [or Defendant], shall be examined before the Judge [or Registrar], at [state place of examination.] on [state day of week], the day of instant [or as the case may be], at o'clock in the noon.

(Signed) J. W. O'H.,
Registrar.

May 29, 1913

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Victoria Gazette

No. 31.

COMMISSION TO EXAMINE WITNESSES.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Victoria, &c.

To [state name and address of Commissioner], greeting.

Whereas the Judge of our Supreme Court of _____ has decreed that a Commission shall be issued for the examination of witnesses in the above-named action. We, therefore, hereby authorize you upon the _____ day of _____ 19____, at _____, in the presence of the parties, their counsel, and solicitors, or, in the absence of any of them, to swear the witnesses who shall be produced before you for examination in the said action, and cause them to be examined, and their evidence to be reduced into writing. We further authorize you to adjourn, if necessary, the said examination from time to time, and from place to place, as you may find expedient. And we command you, upon the examination being completed, to transmit the evidence duly certified, together with this commission, to the registry of our said Court.

Given at _____ in our said Court, under the seal thereof, this _____ day of _____ 19____.
(Signed) J. W. O'H.,
Registrar.

Commission to examine Witnesses.
Taken out by _____

No. 32.

RETURN TO COMMISSION TO EXAMINE WITNESSES.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

I, A.B., the Commissioner named in the Commission hereto annexed, bearing date the _____ day of _____ 19____, hereby certify as follows:—

(1). On the _____ day of _____ 19____, 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 and caused to be examined the under-named witnesses who were produced before me on behalf of the [state whether Plaintiff or Defendant] to give evidence in the above-named action, viz.:—

[Here state names of witnesses.]

(2). On the _____ day of _____ 19____, I proceeded with the examinations at the same place [or at some other place, as the case may be], and in the presence of [state who were present, as above] administered an oath to and caused to be examined the under-named witnesses who were produced before me on behalf of [state whether Plaintiff or Defendant] to give evidence in the said action, viz.:—

[State names of witnesses.]

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

Dated the _____ day of _____ 19____.
(Signed) _____
Commissioner.

No. 33.

SHORTHAND WRITER'S OATH.

You swear that you will faithfully report the evidence of the witnesses to be produced in this action.
So help you GOD.

No. 34.

NOTICE FOR TRIAL.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Take notice that I set down this action for trial.

Dated the _____ day of _____, 19____.
(Signed) A.B., Plaintiff,
[or C.D., Defendant.]

No. 35.

REGISTRAR'S REPORT.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

To the Honorable , a Judge of the Supreme Court of Victoria.

Whereas by your decree of the 19 , you were pleased to pronounce in favour of the Plaintiff [or Defendant], and to condemn the Defendant [or Plaintiff] and the ship [or as the case may be] in the amount to be found due to the Plaintiff [or Defendant] (and in costs), and you were further pleased to order that an account should be taken, and to refer the same to the Registrar [assisted by merchants] to report the amount due:

Now, I do report that I have [with the assistance of *here state names and description of assessors if any*] carefully examined the accounts and vouchers and the proofs brought in by the Plaintiff [or Defendant] in support of his claim [or counterclaim], and having on the day of heard the evidence of [state names] who were examined as witnesses on behalf of the Plaintiff and of [state names] who were examined as witnesses on behalf of the Defendant [and having heard the solicitors (or counsel) on both sides, or as the case may be], I find that there is due to the Plaintiff [or Defendant] the sum of £ [state sum in letters and figures] together with interest thereon as stated in the schedule hereto annexed. I am also of opinion that the Plaintiff [or Defendant] is entitled to the costs of this reference [or as the case may be].

Dated

19 .

(Signed) J. W. O'H.,
Registrar.

SCHEDULE annexed to the foregoing report.

No.		Claimed.			Allowed.		
		£	s.	d.	£	s.	d.
1							
2							
3							
4	[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.]						
5							
&c.							
Total							

With interest thereon from the day of , 19 , at the rate of per cent. per annum until paid.

(Signed) J. W. O'H.,
Registrar.

No. 36.

COMMISSION OF APPRAISEMENT.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

GEORGE THE FIFTH, &c.

To the Marshal of our Supreme Court of Victoria.

Greeting.

Whereas the Honorable , a Judge of our said Court has ordered that [state whether ship or cargo, and state name of ship and, if part only of cargo, state what part], shall be appraised.

We, therefore, hereby command you to reduce into writing an inventory of the said ship [or cargo, &c., as the case may be], and having chosen one or more experienced persons 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, and signed by yourself and by the appraiser or appraisers to file the same in the registry of our said Court, together with this Commission.

Witness, &c.

(Signed) J. W. O'H.,
Registrar.

Commission of Appraisalment.
Taken out by

No. 37.

COMMISSION OF SALE.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

GEORGE THE FIFTH, &c.
To the Marshal of our Supreme Court of Victoria.
Greeting.

Whereas the Judge of our said Court has ordered that [state whether ship or cargo and state name of ship, and if part only of cargo, what part] shall be sold: We, therefore, hereby command you to reduce into writing an inventory of the said [ship or cargo, &c., as the case may be], and to cause the said [ship or cargo, &c.] to be sold by public auction for the highest price that can be obtained for the same.

And we further command you, as soon as the sale has been completed, to pay the proceeds arising therefrom into our said Court, and to file an account sale signed by you, together with this Commission.

Witness, &c.

(Signed) J. W. O'H.,
Registrar.

Commission of Sale.
Taken out by

No. 38.

COMMISSION OF APPRAISEMENT AND SALE.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

GEORGE THE FIFTH, &c.
To the Marshal of our Supreme Court of Victoria.
Greeting.

Whereas the Judge of our said Court has ordered that [state whether ship or cargo, and state name of ship, and if part only of cargo, what part] shall be appraised and sold: We therefore hereby command you to reduce into writing an inventory of the said [ship or cargo, &c., as the case may be], 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 when a certificate of such value has been reduced into writing and signed by yourself and by the appraiser or appraisers, to cause the said [ship or cargo, &c., as the case may be] 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, as soon as the sale has been completed, to pay the proceeds arising therefrom into our said Court, and to file the said certificate of appraisement and an account sale signed by you, together with this Commission.

Witness, &c.

(Signed) J. W. O'H.,
Registrar.

Commission of Appraisement and Sale.
Taken out by

No. 39.

COMMISSION OF REMOVAL.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

GEORGE THE FIFTH, &c.
To the Marshal of our Supreme Court of Victoria.
Greeting.

Whereas the Honorable _____, a Judge of our said Court, has ordered that the [state name and description of ship] shall be removed from _____ to _____ on a policy of insurance in the sum of £ _____ being deposited in the registry of our said Court: And whereas a policy of insurance for the said sum has been so deposited: We therefore hereby command you to cause the said ship to be removed accordingly: And we further command you, as soon as the removal has been completed, to file a certificate thereof, signed by you, in the said registry, together with this Commission.

Witness, &c.

(Signed) J. W. O'H.,
Registrar.

Commission of Removal.
Taken out by

No. 40.

COMMISSION FOR DISCHARGE OF CARGO.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

GEORGE THE FIFTH, &c.
To the Marshal of our Supreme Court of Victoria.
Greeting.

Where the Judge of our Supreme Court has ordered that the cargo of the ship shall be discharged :
We therefore hereby command you to discharge the said cargo from on board the said ship, and to put the same into
some fit and proper place of deposit : And we further command you, as soon as the discharge of the said cargo has been
completed, to file your certificate thereof in the registry of our said Court, together with this Commission.

Witness, &c.

Commission for Discharge of Cargo.
Taken out by

(Signed) J. W. O'H.,
Registrar.

No. 41.

COMMISSION FOR DEMOLITION AND SALE.

(In a Slave Trade case.)

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

GEORGE THE FIFTH, &c.
To the Marshal of our Supreme Court of Victoria.
Greeting.

We hereby command you, in pursuance of the decree of the Judge of our said Court to that effect, to cause the
tonnage of the vessel to be ascertained in accordance with the provisions of the Merchant Shipping Acts
1894 to 1907 or by such rule as shall for the time being be in force for the admeasurement of British vessels, and further to
cause the said vessel to be broken up, and the materials thereof to be publicly sold in separate parts (together with her
cargo, if any) for the highest price that can be obtained for the same.

And we further command you, as soon as the sale has been completed, to pay the proceeds arising therefrom into
our said Court, and to file an account sale signed by you, and a certificate signed by you of the admeasurement and tonnage
of the vessel, together with this Commission.

Witness, &c.

Commission for Demolition and Sale.
Taken out by

(Signed) J. W. O'H.,
Registrar.

No. 42.

ORDER FOR INSPECTION.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

On the day of , 19 .
Before Judge.

The Judge on the application of [state whether Plaintiff or Defendant] ordered that the ship should
be inspected by [state whether by the Marshal or by the assessors of the Court, or as the case may be], and that a report in
writing of the inspection should be lodged by him [or them] in the Registry.

(Signed) J. W. O'H.,
Registrar.

No. 43.

NOTICE OF DISCONTINUANCE.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Take notice that this action is discontinued.
Dated the day of , 19 .

(Signed) A.B., Plaintiff.

May 29, 1913

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No. 44.

NOTICE TO ENTER JUDGMENT FOR COSTS.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Take notice that I apply to have judgment entered for my costs in this action.

Dated the day of , 19 .

(Signed) C.D., Defendant.

No. 45.

ORDER OF COURT FOR PAYMENT OUT OF COURT.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Suit.]

On the day of , 19 .

It is ordered that payment of the sum of [state sum in letters and figures] being the amount [state whether found due for damages or costs, or tendered in the action, or as the case may be] be made to [state name and address of party or solicitor to whom the money is to be paid], out of the [proceeds of sale of ship, &c., or as the case may be], now remaining in Court.

(Signed) J. W. O'H.,
Registrar.

No. 46.

ORDER OF JUDGE FOR PAYMENT OUT OF COURT.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

I, , a Judge of the Supreme Court of Victoria, hereby order payment of the sum of [state sum in letters and figures], being the amount [state whether found due for damages or costs, or tendered in the action, or as the case may be] to be made to [state name and address of party or solicitor to whom the money is to be paid] out of the [proceeds of sale of ship, &c., or as the case may be] now remaining in Court.

Dated the day of , 19 .

Witness,
J. W. O'H.,
Registrar.

(Signed) J.M.,
Judge.

No. 47.

NOTICE FOR CAVEAT WARRANT.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

Take notice, that I, A.B., of , apply for a caveat against the issue of any warrant for the arrest of [state name and nature of property], and I undertake, within three days after being required to do so, to give bail to any action or counterclaim that may have been or may be brought against the same in this Court in a sum not exceeding [state sum in letters] pounds, or to pay such sum into Court.

My address for service is

Dated the day of , 19 .

(Signed) A.B.

No. 48.

CAVEAT WARRANT.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[State Name of Ship, &c.]

Caveat entered this day of , 19 , 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 give bail to any action or counterclaim that may have been or may be brought in the said Court against the said [state name and nature of property].

On withdrawal of caveat add—

Caveat withdrawn the day of , 19 .

No. 49.
NOTICE FOR CAVEAT RELEASE.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Take notice that I, A.B., Plaintiff [or Defendant] in the above-named action, 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 action, he must also state his address, and an address for service within three miles of the Registry.]

Dated the day of , 19 .

(Signed) A.B.

No. 50.
CAVEAT RELEASE.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Caveat entered this day of , 19 . against the issue of any 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 , 19 .

No. 51.
NOTICE FOR CAVEAT PAYMENT.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Take notice that I, A.B., Plaintiff [or Defendant] in the above-named action, apply for a caveat against the payment of any money [if for costs, add for costs or as the case may be] out of the proceeds of the sale of [state whether ship or cargo, and name of ship, &c.] now remaining in Court, without notice being first given to me.

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

Dated the day of , 19 .

(Signed) A.B.

No. 52.
CAVEAT PAYMENT.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Caveat entered this day of , 19 . against the payment of any money [if for costs, add for costs, or as the case may be] out of the proceeds of the sale of [state whether ship or cargo, and if ship state name of ship, &c.] 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 , 19 .

May 29, 1913

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No. 53.

NOTICE FOR WITHDRAWAL OF CAVEAT.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

Take notice that I withdraw the caveat [state whether caveat, warrant, release, or payment] entered by me in this action
[or as the case may be].

Dated the day of , 19 .

(Signed) A.B.

No. 54.

ORDER OF COURT FOR PAYMENT.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

On the day of , 19 .
It is ordered that A.B. [Plaintiff or Defendant, &c.] do pay to C.D. [Defendant or Plaintiff, &c., within days
from the date hereof the sum of £ [state sum in letters and figures] being the amount [or balance of the amount
found due from the said A.B. to the said C.D. for [state whether for damages, salvage, or costs, or as the case may be] in the
above-mentioned action.

(Signed) J. W. O'H.,
Registrar.

No. 55.

ORDER OF JUDGE FOR PAYMENT.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

I, , a Judge of the Supreme Court of Victoria, do hereby order A.B. [Plaintiff or Defendant, &c.],
to pay to C.D. [Defendant or Plaintiff, &c.], within days from the date hereof the sum of [state sum in letters and
figures] being the amount [or balance of the amount] found due from the said A.B. to the said C.D. [state whether for damages,
salvage, or costs, or as the case may be] in the above-mentioned action.

Dated the day of , 19 .

Witness—

J. W. O'H.,
Registrar.

(Signed) J.M.,
Judge.

No. 56.

DECREE.

In the Supreme Court of
Victoria,
Admiralty Jurisdiction.

[Title of Action.]

On the day of , 19 .
Before .

(1) Decree for an ascertained sum :

Judge.

The Judge having heard [state whether Plaintiff and Defendant, or their counsel or solicitors, or as the case may be], and
having been assisted by [state names and descriptions of assessors, if any] pronounced the sum of [state sum in letters and
figures] to be due to the Plaintiff or Defendant], in respect of his claim [or counterclaim], together with costs [if the decree
is for costs]. And he condemned—

(a) In an action in rem where Bail has not been given,
the ship [or cargo ex the ship , or proceeds of the ship

(b) In an action in personam or in rem where Bail has been given,
the Defendant [or Plaintiff] and his bail [if bail has been given] in the said sum [and in costs].

(2) *Decree for a sum not ascertained :*

The Judge having heard, &c. [as above], pronounced in favour of the Plaintiff's claim [or Defendant's counterclaim] and condemned the ship [or cargo, &c., or the Defendant [or Plaintiff] and his bail [if bail has been given] in the amount to be found due to the Plaintiff [or Defendant] [and in costs]. And he ordered that an account should be taken, and

(a) *If the amount is to be assessed by the Judge,*
that all accounts and vouchers, with the proofs in support thereof, should be filed within
days [or as the case may be].

(b) *If the Judge refers the assessment to the Registrar,*
referred the same to the Registrar [assisted by merchants], to report the amount due, and ordered that all accounts, &c. [as above].

(3) *Decree on dismissal of action :*

The Judge having heard, &c. [as above], dismissed the action [if with costs, add] and condemned the Plaintiff and his bail [if bail has been given] in costs.

(4) *Decree for condemnation of a derelict subject to salvage :*

The Judge having heard, &c. [as above] pronounced the sum of [state sum in letters and figures] to be due to A.B., &c., for salvage, together with costs, and subject thereto, condemned the said ship [or cargo, or proceeds of ship or of cargo, &c., as the case may be] as a droit and perquisite of His Majesty in His office of Admiralty.

(5) *Decree in Action for possession :*

The Judge having heard, &c., decreed that possession of the ship should be given to the Plaintiff and condemned the Defendant [and his bail] in costs.

(6) *Decree in case of capture from pirates :*

The Judge having heard, &c., pronounced that the said junk "Tecumseh" [and her cargo] had been at the time of the capture thereof by H.M.S. "Torch" the property of pirates, and condemned the same as a droit and perquisite of His Majesty in His office of Admiralty.

Or

pronounced that the said junk "Tecumseh" [and her cargo] had prior to her recapture by H.M.S. "Torch," &c., been captured by pirates from the claimant [state name and description of former owner] and he decreed that the same should be restored to the said claimant as the lawful owner thereof, on payment to the re-captors of one-eighth part of the true value thereof in lieu of salvage. The Judge also directed that the said junk [and her cargo] should be appraised :

If the junk, &c., has been captured after an engagement with the pirates, and if there is a petition for bounty, add

The Judge further declared that the persons attacked or engaged by H.M.S. "Torch," &c., on the occasion of the capture of the said junk were pirates, that the total number of pirates so attacked or engaged was about [state number], that of that number were captured, and that the only vessel engaged was H.M.S. "Torch" [or as the case may be].

(7) *Decree of condemnation under Pacific Islanders Protection Act :*

The Judge having heard, &c., pronounced that the ship [state name and description] had been at the time of her seizure [or during the voyage on which she was met] employed [or fitted out for employment] in violation of the Pacific Islanders Protection Acts 1872 and 1875, and he condemned the said ship [and her cargo, and all goods and effects found on board, or as the case may be] as forfeited to His Majesty.

The Judge further ordered that the said ship [and her cargo, and the said goods and effects] should be sold by public auction, and that the proceeds should be paid into Court.

(8) *Decree of condemnation under Foreign Enlistment Act :*

The Judge having heard, &c., pronounced that the ship [state name and description] had been [built, equipped, commissioned, despatched, or used, as the case may be] in violation of the Foreign Enlistment Act 1870, and he condemned the said ship and her equipment [and the arms and munitions of war on board thereof, or as the case may be] as forfeited to His Majesty.

(9) *Decree of condemnation under Customs or Revenue Acts :*

The Judge having heard, &c., condemned the ship [state name and description] [or cargo or proceeds, &c., as the case may be] as forfeited to His Majesty for violation of the Act [state what Act].

(10) *Decree for pecuniary forfeiture or penalty under Customs Act or other Act :*

The Judge having heard, &c., pronounced the said goods to have been landed [or other illegal act to have been done] in violation of the Act [state what Act] and condemned the Defendant C.D. [the owner of the said goods, or as the case may be] in the penalty of £ [state sum] imposed by the said Act [and in costs].

II.—TABLES OF FEES TO BE TAKEN BY THE REGISTRAR, MARSHAL, AND PRACTITIONERS, &C., IN THE ADMIRALTY JURISDICTION OF THE SUPREME COURT OF NEW SOUTH WALES.

I.—BY THE REGISTRAR.

The fees to be collected by the Registrar shall be the same as those now taken by the Prothonotary in respect of business transacted in the Common Law Jurisdiction of the said Court, and in addition the following:—

	£	s.	d.
For preparing any warrant, release, commission, attachment, or other instrument, required to be sealed, or any bail bond	0	10	0
For preparing any other document, for every folio	0	2	0

Note.—The fees for preparing shall include drawing and fair copying or engrossing.

II.—ASSESSORS.

	£	s.	d.
For each nautical or other assessor, whether at the examination of witnesses or at the trial or an action, } From 1 0 0			
or upon any assessment of damages, or taking of an account, according to the case, per day } To 5 0 0			

Note.—The above fees shall be paid to the Registrar, for the assessors, and in the first instance by the party preferring the claim.

III.—BY A COMMISSIONER TO TAKE BAIL.

	£	s.	d.
For attending the execution of any bail bond	0	10	0
For taking any affidavit of justification	0	2	6

IV.—BY THE MARSHAL.

The same fees shall be collected by the Marshal as are now taken by the Sheriff of the Supreme Court in its Common Law Jurisdiction for the service and execution of process, and in addition the following:—

	£	s.	d.
On release of any ship, goods, or person from arrest	0	10	0
For attending the unlivery of cargo, for each day	2	0	0
For executing any commission of appraisement, sale, or appraisement and sale, exclusive of the fees, if any, paid to the appraiser and auctioneer	1	0	0
For executing any other commission or instrument	1	0	0
On the gross proceeds of any ship, or goods, &c., sold by order of the Court:—			
If not exceeding £100	1	0	0
For every additional £100 or part thereof	0	10	0

Note.—No fee shall be allowed to the Marshal for the custody and possession of property under arrest, if it consists of money in a bank, or of goods stored in a bonded warehouse, or if it is in the custody of a Customs House officer or other authorized person.

If the Marshal or his officer is required to go any distance in execution of his duties, a reasonable sum may be allowed for travelling, boat hire, or other necessary expenses in addition to the preceding fees.

JOHN MADDEN, C.J.

THOS. A'BECKETT, J.

HENRY HODGES, J.

J. H. HOOD, J.

L. F. CUSSEN, J.

L.S.

By the Court,

J. W. O'HALLORAN,
Registrar.