

demand must be satisfied, or competent bail given before the property or person is released from the arrest.

In order to avoid unnecessary detention when the arrest is to take place at a distance from the Court, a commission for taking bail is to accompany the warrant, as an authority to the party serving the warrant or release the individual or the property on sufficient bail being given.

§ 10. *Proceeding by Default.*

In the case of property arrested, and no party appearing after the return of the warrant, the cause may proceed by default, or *pœnam contumaciæ*. To this end, on the day the warrant is returned, the parties cited and not appearing, are, at the petition of the Proctor, to be pronounced by the Judge or Surrogate to be in default, and an entry to that effect is to be added by the Registrar to the minute on the return of the warrant in the Assignment.*

At the expiration of two months from the return of the warrant, if no appearance be given, the parties cited are again to be pronounced in default, and the promoter is to be entitled to a decree pronouncing for the amount of his demand, and given him a lien on the property; which decree is to be drawn by the Proctor, who, after it has been perused and settled by the Registrar, is to make a fair copy of it for the Court.†

An affidavit in verification of all the facts mentioned in a decree is to be made by the party proceeding, which affidavit is to be drawn by the Proctor, and submitted to the Registrar.‡

The Proctor is then to prepare a short case detailing the proceedings, which, with, a copy of the affidavit, he is to deliver to counsel as instructions to move the Court to sign the decree, of which, when signed by the Judge, to the Registrar is to make a minute in the Assignment Book.§

On the same Court day, or on any subsequent adjourned Court day, if an affidavit ¶ of two persons is exhibited, stating that the property proceeded against is perishable and likely to deteriorate in value, the Judge is to direct a decree of appraisement and sale to issue, of which the Registrar is also to make an entry.¶¶ This decree is then to be delivered by the Registrar to the Proctor, and by the latter to the Marshal, with instructions for its execution.** The Marshal is thereupon to select a broker, or other person conversant with the value of the property, and to administer an oath to him justly and faithfully to inventorize and appraise the ship her tackle, apparel and furniture, or the goods, as the case may be. An inventory and appraisement are then to be made, and the Marshal is to cause the property to be publicly advertised by printed bills or otherwise, and, after sufficient public notice of the intended sale, to be sold by auction. The sale being completed, the Marshal is to return the decree (with his certificate as to the execution thereof) into Court, or before the Judge or Surrogate in Chambers, and to bring in at the same time the inventory and appraisement, with a more extended return of the Marshal†† and appraiser, signed by them, setting forth the particulars and the value of the ship or goods as appraised; and he is also to bring the account of sales and proceeds into the Registry within the time specified in the decree.‡‡

If the property be of considerable value, two brokers or appraisers may be employed, provided there is sufficient reason for the same. The property is never to be sold under the appraised value, unless by special order of the Court; and if the appraised value cannot be obtained after an attempt to sell, the Marshal is to

* See Form of Minute, No. 40.

† See Forms Nos. 41 and 42.

‡ See Forms Nos. 43 and 44.

§ See Forms Nos. 45 and 46.

¶ See Form No. 47.

¶¶ See Minute on granting a Decree of Appraisement and Sale, No. 48.

** See Decrees of Appraisement and Sale, Nos. 49 and 50.

†† See Forms of Return, Nos. 51 and 52.

‡‡ See Form of Minute, No. 53.