for wages and disbursements as master of "The Dominion," I have found upon the taking of the accounts a balance in favor of the plaintiff for nine hundred and fifty-six dollars and ninety-three cents ($956.93).

Both vessels have been sold under the direction of the Court, and the gross proceeds of both vessels was the sum of one thousand four hundred dollars ($1,400) only. Deducting the costs of sale, there will not be a sufficient balance of the proceeds in Court to satisfy the plaintiff's claim, apart from any question of costs.

There is no reason why the rule as to the incidence of costs in partnership actions, adopted by the Courts of law, should not apply to actions between co-owners in the Admiralty Court. That rule appears to be, where there are assets, to direct the payment of the costs of taking the partnership accounts out of the partnership assets.

Where there is a deficiency of assets, the aggregate costs of the plaintiff and defendant ought to be paid equally by the plaintiff and defendant. The Court of Admiralty has power to make an order that the costs of a proceeding shall be paid personally by the owners; at least that is the rule in damage actions. *The Dundee*, Holmes, 1; Haggard, 109. *The John Dunn*, Place, 1; William Robinson, 159. *The Volant*, 1; William Robinson. 390; *Ex parte Rayne*, 1 Q. B. 982.

I cannot see any reason for not following this practice in actions for an account between co-owners.

I make the following order as to the disposition of the proceeds of the sale of these two vessels:

1. The costs of the sale of the "Arctic" will be paid out of the proceeds of that vessel, so far as the proceeds will allow. I understand that in the case of that ship the sale did not produce sufficient funds to pay these costs in full.

2. In the case of the "Dominion" the costs of the sale shall be first paid out of the proceeds.

3. The claim of the plaintiff, as far as the proceeds will allow, he producing a voucher of payment to Magann of the sum of $363.79, which sum forms part of his claim as awarded him. In this case, too, I believe, after paying the costs of the sale, there will not remain sufficient funds to pay the plaintiff's claim in full.

4. The total amount of the party and party costs of both the co-owners (there are only two), parties in each action, shall be taxed, and the plaintiff, Sidley or Peters, the other co-owner, as the case may be, must pay to the said Peters or the plaintiff Sidley, the difference between one moiety of the total amount of the party and party costs and his own party and party costs. *Austin* v. *Jackson*, 11 Chy. Div. 942; *Hamer* v. *Giles*, 11 Chy. Div. 942; *Re Potter*, 13 Chy. Div. 845.

The only remaining question is as to the costs of the intervening mortgagee Magann. As the claim of the plaintiff for wages and disbursements absorbs the whole fund, Magann's mortgage only covering thirty-two shares, the plaintiff is entitled to be paid in priority to the mortgage.

I dismiss the claim of the mortgagee intervening against the res or proceeds, without costs.

Dated, Toronto, August 26th, 1896.