

An affidavit * of the party is first to be made setting forth the number of shares of which he is the legal owner, that he is dissatisfied with the management of the ship, and is desirous of obtaining bail for her safe return to the port to which she belongs, to the amount of the value of his shares, which value is to be stated in the affidavit. And upon this affidavit, which need not previously be left in the Registry, the Judge or Surrogate in chambers is to be moved by Counsel to issue the warrant of arrest. †

The action should be entered in the amount of the value of the shares of the party proceeding, and in a further moderate sum to cover the costs; and on bail ‡ being given, the vessel is to be released and allowed to proceed on her voyage.

In case of the parties differing as to the value of the vessel, she must be appraised under the authority of the Court; and the actual value of the shares of the party proceeding at the period of giving bail, whether the ship be appraised or not, is the amount to be recovered in case the bond shall ultimately be pronounced to be forfeited.

The costs of the arrest are to be borne by the party proceeding; and the costs of giving bail by the defendant, unless the Judge shall see cause to order otherwise.

In the event of the loss of the vessel before her return to the port to which she belongs, (until which time the bail bond remains in force,) the party principle and his sureties may be called on by monition § to shew cause why they should not bring in the amount of their recognizances, in order to abide the judgment of the Court. To obtain this monition an affidavit must be exhibited, shewing that the bond has become forfeited, and it must be moved for by Counsel before the Judge or Surrogate. The monition when obtained requires personal service.

Should an appearance be given and the suit be contested, the Proctor of the party proceeding is to be assigned to deliver an act on petition to the adverse Proctor, and the cause is then to take the same course as other cases conducted by act on petition.

§ 22. *Derelict Cases.*

In cases of derelict the action is to be entered and the warrant extracted by the Proctor for the Admiralty, without any amount of action being stated in the Action Book or on the warrant, and no affidavit is necessary to obtain the warrant, which, when issued, is to be served by affixing it for a short time on the ship or goods found derelict, and by leaving thereon affixed a true copy thereof. The warrant is then to be returned by the Proctor into the Registry.

After the lapse of three months from the return of the warrant, (the property remaining in the custody of the Court,) the Judge, on the next regularly adjourned Court-day, at the petition of the Proctor, and on his allegation ¶ in Court that the warrant has been returned upwards of three months, and that no appearance has been given, is to decree a monition ¶¶ to issue, calling upon all persons to appear and shew cause why the property should not be condemned, at the expiration of a year and a day from the return of the warrant, as droits and perquisites of His Majesty in his office of Admiralty. The monition is to be made returnable at three months after its date, and is to be served by affixing the original for a short time either on the Court House or on the Exchange, or place of common resort of merchants, or as the usage of the colony or settlement may be, and by leaving thereon affixed a true copy thereof. The object of this general service is to give the utmost publicity, so that the contents of the monition may be most likely to reach the knowledge of all parties interested. After this service, the monition is to be returned into the Registry, with a certificate of service indorsed thereon.

If the property be in a perishable condition, and the Judge be satisfied by affidavit at any period after the arrest that it would be for the benefit of all parties

* See Form, No. 159.

† See Minute, No. 160.

‡ See Form of Bond, No. 161.

§ See Form, No. 162.

¶ See Minute, No. 163.

¶¶ See Monition, No. 164.