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This Report is Appx. P.P.P.
1) ... in the Assembly
1852-3. Vol. XI No. 9

...

Vol. 6

Duplicated in post

REPORT

Of the Committee appointed to inquire into the Admiralty Tariff of Fees.

Your Committee have given the subject all the time they could conveniently devote to it, and as the result of their inquiry, respectfully submit to your Honorable House the evidence taken before them, that your Honorable House may be in possession of the information given to your Committee in the prosecution of the duties assigned to them.

H. DUBORD, *Chairman*.
G. O. STWART,
W. BADGLEY.

Hon. Henry Black called in, and examined:—

Are you Judge of the Vice Admiralty Court?—I am.

From whom do you hold your Commission, and produce the same, or a copy thereof?—I hold the Office in virtue of Letters Patent issued by Her Majesty under the Great Seal of the High Court of Admiralty of England, bearing date the seventh of October, 1838, of which I produce a copy.

What is your yearly salary, and do you receive any fees?—The salary of the Office is two hundred pounds sterling per annum, at which it was fixed so far back as the year 1769. I have never received any fees, nor are any attached to the Office.

What is the tariff of fees received in the Vice Admiralty Court, and please produce the same, or a copy thereof?—There is no tariff of fees received in the Vice Admiralty Court. I produce a copy of the tariff of fees to be taken by the Officers and Practitioners of the Court for all acts to be done therein.

By what authority and at what time was that tariff established, and produce that authority, or a copy thereof?—It was established by Her Majesty with the advice of Her Privy Council, at the Court at Buckingham Palace, on the 2nd of March, 1848, pursuant to an Act of the Imperial Parliament (2 Will. 4, c. 51) specially passed for the regulation of the practice, and for the establishment of fees to be taken in the Courts of Vice Admiralty throughout the Colonial Possessions of the Crown. A copy of Her Majesty's Order in Council will be found annexed to the rules and regulations touching the practice to be observed in suits and proceedings in the several Courts of Vice Admiralty, and the table of fees produced by me.

Look at the account of the Registrar's fees in the suit of Lapointe against the Virginie, marked A, and say whether the charge of £10 15s. 6d. sterling, equal to £13 2s. 2d., currency, is correct?—The charges appear to be correct. They are certified to be so by the Registrar, whose accuracy I have no reason to doubt.

What would be the amount of costs in the Circuit Court for a similar case?—I have never had occasion to examine the tariff of the Circuit Court, and I am unable to say. If the object of this question be to draw a comparison between the Vice Admiralty Court and the Circuit Court, I may be permitted to add, that from the extensive nature of the jurisdiction of the Vice Admiralty Courts, as connected with the administration of one uniform system of Marine law throughout the Empire, no fair comparison could be instituted.

Look at the account of the Attorney for Plaintiff, amounting to £10 15s.

sterling, equal to £13 1s. 7d., currency, and say whether it is correct?—The account appears to be correct. The Registrar certifies that it is.

What would be the amount of costs in the Circuit Court for a similar suit?—I cannot say.

Look at the account of the Attorney for Defendant, amounting to £8 18s 3d., currency, and say whether it is correct?—This account is also certified by the Registrar to be correct, and appears to be so.

Could such a suit have been brought before the Circuit Court?—The Courts of Common Law have concurrent jurisdiction with the Admiralty in such matter.

If the *Virginie* had been owned by a party in this Province, had the Circuit Court jurisdiction?—The ownership of the *Virginie* would not affect the question of jurisdiction in a case of this nature.

Do you think that it is the interest of Attorneys to prosecute in the Vice Admiralty Court, in preference to the other Courts; if so, what reason do you assign?—The duty of Attorneys is to consult the interests of their clients. There are cases in which the Common Law Courts can afford no adequate remedy, and in such cases Attorneys have no alternative.

Look at the Registrar's fees in the case of *Jacques Tremblay vs. David Tarar*, marked B, amounting to £11 2s. 4d., currency, and say whether it is correct?—The charges appear to be correct; they are certified to be so by the Registrar.

What would be the amount of costs in the Circuit Court, for a similar suit?—I cannot say.

Look at the account of the Proctor in this case, amounting to £20 9s 2d., currency, and say whether it is correct?—It appears to be correct: the Registrar certifies that it is so.

What would be the amount of costs in the Circuit Court for a similar suit?—I cannot say.

Look at the account of the Marshal in this case, and say whether it is correct?—The Registrar's certificate shews that this account also is correct.

Look at the item "principal," amounting to £8 11s., and say whether it is correct?—It is; the costs would seem to be large in proportion to the amount referred to in this question. But for some reason which I do not know, the parties thought proper to adopt plenary proceedings, instead of obtaining an order that the proceedings should be summary, and the evidence taken *viva voce*, as may be done in matters involving small pecuniary value and interest.

Look at the account marked C, and say whether the charges are correct?—The charges in the account referred to in this question are, I presume, correct; though without seeing the bills prepared and certified by the proper Officer, I am unable to give a positive answer. The account itself gives no information respecting the matter in controversy, and is calculated to produce an erroneous impression on the subject. It was a contested cause of damage, by collision, brought by the steamer, "*Crescent*" against the ship, "*Blanche*," a vessel of the burthen of, I think, about 800 tons, wherein the Court, having the assistance of Captain, now Admiral Boxer, as an Assessor, pronounced that the damage occurred through the inattention or want of skill of the persons on board of the *Blanche*, and referred the amount of such damage, with all accounts and vouchers, to the Registrar, directing him to take to his assistance one or two Merchants, and to investigate and report as is usual in proceedings of this nature; whereupon the parties, to avoid further costs, agreed to adjust the amount of the damage sustained by the *Crescent*, at £5 currency. In this case no less than seventeen witnesses appear to have been examined.

Do you think the Vice Admiralty Court necessary, and what are the grounds of your opinion; and do you think that suits brought before that Court, might not be tried in the Court of Queen's Bench, or any other Common Court of Law?—I do think the Court of Vice Admiralty necessary in this as well as in the other Colonial Possessions of the Crown. In whatever view the question is looked

at, the nature of the jurisdiction of the Court is essentially involved, and it is therefore proper I should state what I conceive to be the character of the Court. The Vice Admiralty Courts in the possessions abroad, of the United Kingdom, are not Local but National Courts, as a reference to the objects to which their jurisdiction applies must render apparent. With the exception of that branch of Admiralty jurisdiction which embraces captures and questions *Jure belli*, the Vice Admiralty Court here exercises of right the Admiralty and Maritime jurisdiction conferred upon it, in common with the Vice Admiralty Courts in the various possessions of the United Kingdom. This jurisdiction comprehends the two great classes of cases, whereof the one depends upon locality, and the other upon the nature of the contract. The first respecting, as it does, acts or injuries done upon the high seas, where all nations claim a common right and common jurisdiction, are not of mere municipal jurisdiction, but are appropriated to the Admiralty Courts as to national tribunals. The second class of cases may sometimes affect the commerce and navigation of Foreign nations, and when they do so, they are to be assimilated to the first; but even when the interests of Foreigners or the rights of Foreign nations are not involved therein, they have relation to the trade, navigation and commerce of the United Kingdom, and are therefore also fitly appropriated to these national tribunals. The jurisdiction of the Vice Admiralty Courts under the laws relating to trade or navigation, conferred upon these Courts by Statutes of the Imperial Parliament, is derived from a national source, and is also of a national character. If the view which I have thus far taken of the subject be correct, the jurisdiction of the Vice Admiralty Court would seem to be indispensable.

Has the Legislature of this Province power to reduce the fees received in the Vice Admiralty Court?—The Legislature of the Province has not the power of reducing the fees to be received by the Officers or Practitioners of the Vice Admiralty Court. The power of creating Admiralty Courts is a power incident to Sovereignty, and this power as well as the incidental power of regulating them can only be exercised by a Sovereign and independent State. The question then under consideration, does not touch the powers which may or ought to be exercised by the Colonial Legislature, but has relation to a known and universally acknowledged power belonging to Sovereignty, which it is the interest of every portion of the Empire—and of none more than of the Colonies themselves—to have maintained in its full and absolute integrity. Any regulations too, touching Vice Admiralty Courts, seem to be directly within the scope of the authority of the Supreme Legislature to regulate the trade and commerce of the Empire, a power which is expressly declared by the Constitutional Act of Canada (3 and 4 Vic., c. 35, s. 43). As these Admiralty Courts are National Courts as to all Foreign States, so they may also be considered as National Courts in a more restricted sense, with reference to the dependencies of the Crown, and in relation to the trade and commerce of the Empire, the regulation whereof is in the Metropolitan State. In either point of view, their creation and regulation belongs to the Metropolitan authority; and this draws along with it, of necessary consequence, and as incident to the main power, the power of establishing the fees of the Officers of these Courts either mediately or immediately.

Independently of these more general considerations, it is to be observed that the Statute 2 Will. IV, c. 51, prohibits the taking of any other than the fees established under the authority of that Statute, and that by a provision contained in the Statute 8 and 9 Vic., cap. 93, sec. 63, re-enacting almost in the same words a provision of 7 and 8 Will. III, cap. 22, sec. 9, repealed by 6 Geo. IV, c. 105—“All laws, By-laws, usages and customs, at the time of the passing of this Act, or which hereafter shall be in practice, or endeavoured or pretended to be in force or practice, in any of the British Possessions in America, which are in any wise repugnant to this Act, or to any Act of Parliament, made or hereafter to be made in the United Kingdom, so far as such Act shall relate to and mention the said possessions, are and shall be null and void to all intents and purposes whatsoever.” Therefore, any establish-

ment of a table of fees by the authority of the Provincial Legislature, during the continuance of the before-mentioned Statute, 2 Will. IV., cap. 51, would, in my humble opinion, be repugnant to that Statute, and consequently null and void.

From the copies of Correspondence and Documents which I now produce, it will be seen that the Table of Fees mentioned in Her Majesty's Order in Council of the 2nd of March, 1848, was not adopted until a Commission of Canadian Lawyers and Merchants had been appointed, under instructions from the Lords Commissioners of the Treasury, to prepare the same, nor until the Report of such Commissioners had been laid before the Legislature of Canada; and I think it but right to add, that as yet I have seen no sufficient reason to alter or reduce the fees thus established. They cannot be said to press with undue weight upon the trade of the port; for if the Returns made by the Officers of the Court be looked at, the fees they have received in the last three years will appear to be as follows:—By the Registrar in 1850, £29 0s. 10d.; in 1851, £122 8s. 10d.; and in 1852, £72 5s. 4d.; amounting to £223 5s., and averaging not quite £75 per annum. By the Marshal in 1850, £167 9s. 10d.; in 1851, £68 12s.; and in 1852, £48 15s.; amounting to £284 16s. 10d., and averaging not quite £95 per annum; whilst the number of vessels at this Port during the same period, is as follows:—

Number of Vessels, Tons, and Men—Inwards and Outwards at Quebec—
1850–51–52.

	INWARDS,			OUTWARDS.		
	Vessels.	Tons.	Men.	Vessels.	Tons.	Men.
1850	1196	465804	16992	1275	494021	16991
1851	1300	533427	17753	1342	566605	18527
1852	1221	502422	16453	1226	517781	16881

New Vessels, cleared outwards, included in the above.

	Vessels.	Tons.	Men:
1850.	31	28317	850
1851.	43	39364	1185
1852.	29	26422	800

} About

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To Our well beloved HENRY BLACK, Esquire—*Greeting*:

We do, by these presents, make, ordain, nominate, and appoint you, the said Henry Black, to be Our Commissary in Our Vice Admiralty Court, in our Province of Lower Canada, in America and Territories thereunto belonging. And we do hereby grant unto you full power to take cognizance of, and proceed in, all Causes Civil and Maritime, and in Complaints, Contracts, Offences, or Suspected Offences, Crimes, Pleas, Debts, Exchanges, Policies of Assurances, Accounts, Charter Parties, Agreements, Bills of Lading of Ships, and all Matters and Contracts, which in any manner whatsoever relate to Freight due for Ships hired and let out, and transport Money or Maritime Usury, otherwise Bottomry, or which do any ways concern Suits, Trespasses, Injuries, Extortions, Demands, and Affairs Civil and Maritime whatsoever between Merchants; or between Owners and Proprietors of Ships or other vessels, and Merchandizes, or other persons whomsoever, with such Owners

and Proprietors of Ships and all other Vessels whatsoever, employed or used, or between any other persons howsoever, had, began, made or contracted, for any Matter, Cause or Thing, Business or Injury whatsoever, done or to be done as well in, upon or by the Sea or Public Streams, Fresh Waters, Ports, Rivers, Creeks and places overflowed whatsoever within the ebbing and flowing of the Sea or High Water mark, as upon any of the Shores or Banks adjoining to them or either of them, together with all and singular their Incidents, Emergents, Dependencies, annexed and connexed causes whatsoever, and such Causes, Complaints, Contracts, and other the Premises aforesaid, or any of them, howsoever the same may happen to arise, be contracted, had or done, to hear and determine, according to the Civil and Maritime Laws and Customs of our High Court of Admiralty of England, in our said Province of Lower Canada and Maritime parts of the same, and thereto adjacent whatsoever; and also with power to sit and hold Courts in any Cities, Towns and places in our Province of Lower Canada aforesaid, for the hearing and determining of all such Causes and Businesses, together with all and singular their Incidents, Emergencies, and Dependencies, annexed and connexed causes whatsoever, and to proceed judicially and according to law in administering justice therein; and moreover, to compel Witnesses, in case they withdraw themselves for interest, fear, favor, or ill will, or any other cause whatsoever, to give evidence to the truth in all and every causes above mentioned, according to the Exigencies of the Law. And further, to take all manner of Recognizances, Cautions, Obligations, and Stipulations, as well to our use as at the instance of any parties for Agreements or Debts, or other Causes and Businesses whatsoever, and to put the same in execution, and to cause and command them to be executed, and duly to search and inquire of and concerning all Goods of Traitors, Pirates, Manslayers, Felons, Fugitives, and Felons of themselves, and concerning the bodies of persons drowned, killed, or by any other means coming to their death in the sea, or in any ports, rivers, public streams, or creeks, and places overflowed, and also concerning Mayhan happening in the aforesaid places, and Engines, Toils, and Nets prohibited and unlawful, and the occupiers thereof: And moreover, concerning Fishes Royal, namely: Whales, Riggs, Gram-pusses, Dolphins, Sturgeons, and all other fishes whatsoever, which are of a great and very large bulk or fatness, by right or custom any ways used, belonging to us and to the Office of our High Admiral of England; and also of and concerning all casualties at Sea, Goods wrecked, Flotzon, Jetson, Lagon, Shares, things cast over-board, and wreck of the sea, and all Goods taken and to be taken as derelict, or by chance found or to be found, and all other Trespasses, Misdemeanors, Offences, Enormities and Maritime Crimes whatsoever done and committed, or to be done and committed, as well in and upon the High Sea, as in all Ports, Rivers, Fresh Waters and Creeks and Shores of the Sea to High water mark, from all first bridges towards the sea in and throughout our said Province of Lower Canada, and Maritime Coasts thereof, and thereunto belonging, howsoever, whensoever or by what means soever arising or happening, and all such things as are discovered and found out, as also all fees, mullets, amercements, and compositions due and to be due in that behalf, to tax moderate, demand, collect and levy, and to cause the same to be demanded, levied and collected, and according to law to compel and command them to be paid; and also to proceed in all and every the causes and businesses above recited and in all other Contracts, causes, contempts, and offences whatsoever, howsoever contracted or arising, so that the Goods or Persons of the Debtors may be found within the jurisdiction of the Vice Admiralty Court in our Province of Lower Canada aforesaid, according to the Civil and Maritime Laws and customs of our said High Court of Admiralty of England anciently used, and by all other lawful ways, means, and methods, according to the best of your skill and knowledge; and all such Causes and Contracts to hear, examine, discuss, and finally determine, (saving nevertheless the right of appealing to us in Council, and saving always the right of our said High Court of Admiralty of England, and of the Judge and Registrar of our

said Court, from whom or either of them it is not our intention in any thing to derogate by these presents,) and also to arrest, and cause and command to be arrested all Ships, Persons, Things, Goods, Wares, and Merchandizes for the Premises, and every of them, and for other causes whatsoever concerning the same, wheresoever they shall be met with or found within our Province of Lower Canada aforesaid, and Maritime parts thereof, either within liberties or without, and to compel all manner of persons in that behalf, as the case shall require, to appear and to answer, with power of using any temporal coercion and of inflicting any other penalty or mulct, according to the Laws and customs aforesaid, and to do and minister Justice according to the right order and course of the Law, summarily and plainly looking only into the truth of the fact; and we empower you in this behalf to Fine, Correct, Punish, Chastise and Reform and Imprison, and cause and command to be Imprisoned in any Gaol, being within our Province of Lower Canada aforesaid, and Maritime parts of the same, the Parties guilty and Violators of the Law and Jurisdiction of our Admiralty aforesaid, and Usurpers, Delinquents, and contumacious Absenters, Masters of Ships, Mariners, Rowers, Fishermen, Shipwrights, and other workmen and Artificers whomsoever, exercising any kind of Maritime affairs as well, according to the aforementioned Civil and Maritime Laws and Ordinances and Customs aforesaid, and their demerits, as according to the Statutes and Ordinances aforesaid, and those of our United Kingdom of Great Britain and Ireland, for the Admiralty of England in that behalf made and provided, and to deliver and absolutely discharge, and cause and command to be discharged whatsoever other persons imprisoned in such cases, who are to be delivered, and to promulge and interpose all manner of Sentences and Decrees, and to put the same in execution with cognizance and jurisdiction of whatsoever other causes, Civil and Maritime, which relate to the Sea, or which in any manner of ways respect or concern the Sea or Passage over the same, or Naval or Maritime Voyages performed or to be performed, or the Maritime jurisdiction aforesaid, with power also to proceed in the same, according to the Civil and Maritime Laws and customs of our aforesaid Court anciently used, as well those of mere Office mixed or promoted, as at the instance of any Party, as the case shall require and seem convenient. And we do by these presents, which are to continue during our Royal will and pleasure only, further give and grant unto you, Henry Black, our said Commissary, the power of taking and receiving all and every the Wages, Fees, Profits, Advantages, and Commodities whatsoever, in any manner due and anciently belonging to the said Office, according to the customs of Our High Court of Admiralty of England, committing unto you Our power, authority, concerning all and singular the premises in the several places above expressed, saving in all things the prerogative of Our High Court of Admiralty of England aforesaid; together with power of deputing and surrogating in your place, for and concerning the Premises, one or more Deputy or Deputies: Provided always, that the power of deputing and surrogating one or more Deputy or Deputies in your place and stead, shall only be exercised on good and sufficient cause shewn, and that cause to be approved by Our Captain General and Governor in Chief in and over Our said Province of Lower Canada, or Lieutenant Governor or the Officer administering the Government of Our said Province for the time being. And further, We do in Our name command, and firmly and strictly charge all and singular Our Governors, Commanders, Justices of the Peace, Mayors, Sheriffs, Marshals, Keepers of all our Gaols and Prisons, Bailiffs, Constables, and all other Our Officers and Ministers and faithful and liege Subjects in and throughout Our aforesaid Province of Lower Canada, and the Maritime parts of the same and thereto adjacent, that in the execution of this Our Commission they be from time to time aiding, assisting, and yield obedience in all things, as is fitting unto you and your Deputy whomsoever, under pain of the Law and the peril which will fall thereon. Given at London, in the High Court of Our Admiralty of England aforesaid, under the Great Seal thereof, the twenty-seventh day of October, in the year of our

Lord one thousand eight hundred and thirty-eight, and of Our Reign the Second.

ARDEN,
Registrar.

Rules and Regulations made in pursuance of an Act of Parliament passed in the Second year of the Reign of His Majesty, King William the Fourth, touching the practice to be observed in Suits and Proceedings in the several Courts of Vice Admiralty abroad, and established by the King's Order in Council.

WHEREAS by an Act passed in the Second Year of His present Majesty, King William IV., entitled, "An Act to regulate the Practice and the Fees in the Vice-Admiralty Courts abroad, &c.," His Majesty is empowered to make such Rules, Regulations and Fees, and to alter them from time to time, as may be found expedient, in the Vice Admiralty Courts abroad; and whereas, by an Order in Council of the 23rd of June, 1832, His Majesty has been pleased to authorize us to carry into effect the following Rules, Regulations, and Tables of Fees, to be taken and received by the respective Officers of the said Courts. We send you herewith a book containing copy of the aforesaid Act, Order in Council, Table of Fees, and the Regulations of Practice to be observed in the Vice-Admiralty Court under your jurisdiction; and hereby desire and direct, that the Judge, Officers and Practitioners in the said Court be governed by the same accordingly.

J. R. G. GRAHAM,
T. M. HARDY,
G. H. L. DUNDAS,
S. JOHN BROOKE PETCHELL,
G. BARRINGTON,
H. LABOUCHERE.

To the Vice-Admiral, and the respective
Officers and Practitioners of the Vice-
Admiralty Court of Quebec.

By Command of their Lordships,
JOHN BARROW.

ANNO SECUNDO GULLIELMI IV. REGIS.

CAP. LI.

An Act to regulate the Practice and the Fees in the Vice Admiralty Courts abroad, and to obviate Doubts as to their Jurisdiction.—
23rd June, 1832.

WHEREAS it is expedient that provision should be made for the Regulation of the practice to be observed in the Suits and Proceedings in the Courts of Vice Admiralty in His Majesty's Possessions abroad, and for the establishment of Fees to be allowed and taken in the said Courts by the respective Judges, Officers, and Practitioners therein: Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, that it shall be lawful for His Majesty, with the Advice of His Privy Council, from time to time to make and ordain such Rules and Regulations as shall be deemed expedient touching the practice to be observed in Suits and Proceedings in the several Courts of Vice Admiralty at present or hereafter to be established in any of His Majesty's Possessions abroad, and likewise from time to time to make, ordain, and establish Tables of Fees to be taken or received by the Judges, Officers, and Practitioners in the said Courts, for all Acts to be done therein, and also from time to time, as shall be found expedient, to alter any such Rules, Regulations, and Fees, and to make

any new Regulations and Table or Tables of Fees; and that all such Rules, Regulations, and Fees, after the same shall have been so made and established or altered, from time to time be entered or enrolled in the Public Books or Records of the said Courts, so far as such Practice and Fees shall relate or apply to each of such Courts respectively.

II. And be it further enacted, That a Copy of every Table of Fees so to be from time to time made and established or altered, shall be laid before the House of Commons within three calendar months next after the making and establishment or alteration thereof respectively, if Parliament shall be then sitting, and if not, then within one calendar month next after the subsequent meeting of Parliament.

III. And be it further enacted, that the several Fees so to be established, and no other, shall, from and after the making and establishment thereof, and the entry and enrollment thereof as aforesaid, be deemed and taken to be the lawful Fees of the several Judges, Officers, Ministers and Practitioners of the said respective Courts; and such Fees only shall and may be demanded, received and taken accordingly.

IV. And to the intent that all such Regulations and Fees may be promulgated and publicly made known, be it further enacted, That the Judge and Registrar of every such Court shall cause to be kept constantly hung up and preserved in some conspicuous part of every such Court, and in the Office of the Registrar, a copy of the Table of Fees so to be from time to time ordained and established in such Courts respectively, so that the said Table may be seen and read by all persons having any business in any such Court and Office respectively; and that the books or records containing the entries of the said Regulations and Tables of Fees, as the same shall be in force, shall be at all seasonable times open to the inspection of the Practitioners and Suitors in every such Court.

V. And be it further enacted, that in all cases in which proceedings may be had in any of the said Vice Admiralty Courts, if any person shall feel himself aggrieved by the charges made by any of the Officers or Practitioners therein, and the allowance thereof by such Vice Admiralty Court, by reason that such charges are not warranted by the Tables hereinbefore mentioned, it shall be lawful for such person or his agent, under the Regulations to be established in pursuance of the powers given by this Act, by summary application to the High Court of Admiralty, to have the said charges taxed by the authority thereof.

VI. And whereas in certain cases doubts may arise as to the Jurisdiction of Vice Admiralty Courts in His Majesty's Possessions abroad, with respect to suits for seamen's wages, pilotage, bottomry, damage to a ship by collision, contempt in breach of the Regulations and Instructions relating to His Majesty's Service at sea, salvage, and Droits of Admiralty: Be it therefore enacted, That in all cases where a ship or vessel, or the Master thereof, shall come within the local limits of any Vice Admiralty Court, it shall be lawful for any person to commence proceedings in any of the suits hereinbefore mentioned in such Vice Admiralty Court, notwithstanding the cause of action may have arisen out of the local limits of such Court, and to carry on the same in the same manner as if the cause of action had arisen within the said limits.

At the Court of St. James's, the 27th day of June, 1832.

PRESENT :

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS there was this day read at the Board a Memorial from the Right Honorable the Lords Commissioners of the Admiralty, dated the 19th instant, in the words following, viz:—

“Whereas by an Act passed in the second year of Your Majesty's Reign for the regulation of the practice to be observed in the Suits and Proceedings in the Courts

of Vice Admiralty in Your Majesty's Possessions abroad, and for the establishment of Fees to be allowed and taken in the said Courts by the respective Judges, Officers, and Practitioners therein, it is enacted that it shall be lawful for Your Majesty, with the advice of Your Privy Council, from time to time to make and ordain such Rules and Regulations as shall be deemed expedient, touching the practice to be observed in Suits and Proceedings in the several Courts of Vice Admiralty, at present or hereafter to be established in any of Your Majesty's Possessions abroad; and likewise, from time to time, to make, ordain, and establish Tables of Fees to be taken or received by the Judges, Officers, and Practitioners in the said Courts, for all acts to be done therein; and also, from time to time as shall be found expedient, to alter any such Rules, Regulations, and Fees, and to make any new Regulations, and Table or Tables of Fees; and that all such Rules, Regulations, and Fees, after the same shall have been so made and established or altered, shall, from time to time, be entered or enrolled in the public books or records of the said Courts, so far as such Practice and Fees shall relate or apply to each of such Courts respectively.

"And whereas among other provisions of the said Act it is ordained, with respect to doubts that may arise as to the jurisdiction of Vice Admiralty Courts in His Majesty's Possessions abroad, or to suits for seamen's wages, pilotage, bottomry, Damage to a Ship by collision, contempt in breach of the Regulations and Instructions relating to His Majesty's Service at sea, Salvage and Droits of Admiralty, that in all cases where a ship or vessel, or the Master thereof, shall come within the local limits of any Vice Admiralty Court, it shall be lawful for any person to commence proceedings in any of the suits before-mentioned in such Vice Admiralty Court, and to carry on the same in the same manner as if the cause of action had arisen within the said limits.

"And whereas we deem it of great importance that one uniform system of practice should prevail in all the Vice Admiralty Courts in Your Majesty's Colonies, we would most humbly submit to Your Majesty that Your Majesty will be pleased by Your Order in Council, to authorize us to carry into effect the said Rules and Regulations touching the practice in suits and proceeding in the said Courts, as laid down in a Report of certain Referees appointed by the Lords Commissioners of Your Majesty's Treasury, and approved by the Judge and other competent Law Authorities of the High Court of Admiralty of England; and also that the Tables of Fees proposed and approved by the said Authorities may be established by Your Majesty's Order in Council, as the only Fees to be taken and received by the Judges, Registrars, Marshals, Advocates and Proctors of the Vice Admiralty Courts of the respective Colonies, as laid down by the Referees, and approved by the Law Authorities above mentioned.

"And further that we be authorized to carry into execution all other provisions contained and set forth in the Act of Parliament aforesaid"

His Majesty, having taken the said Memorial into consideration, was pleased, by and with the advice of His Privy Council, to approve of what is therein proposed; and the Right Honorable the Lord Commissioners of the Admiralty are to give the necessary directions therein accordingly.

W. L. BATHURST.

CONTENTS.

1. As to the holding of Courts.
2. Surrogates.
3. Registrar and Marshal to be sworn.
4. Registry Office.
5. Registrar's Duties.
6. Marshal's Duties.

7. Proceedings by Action.
 8. Execution of Warrants.
 9. Appearance and Bail.
 10. Proceeding by Default.
 11. Contested Suits.
 12. Proceedings by Plea and Proof.
 13. Examination of Witnesses.
 14. Proceeding by Act on Petition.
 15. Suits for Mariner's Wages.
 16. Suits for Pilotage.
 17. Suits for Bottomry.
 18. Causes of Damage by Collision.
 19. Suits for Salvage.
 20. Causes of Possession.
 21. Action to obtain Security for the safe Return of a Vessel.
 22. Derelict Cases.
- Sections 23, 24, 25 and 26, relating to Pirates, have been omitted.
27. Prosecutions for Breach of the Revenue or Navigation Laws.
 28. General Rules to be observed in Practice.
 29. Tender.
 30. References.
 31. Taxation of Costs.
 32. Incidental Monitions.
 33. Commissions.
 34. Acts on Petition.
 35. Appeals.
 36. Regulations as to the Sittings of the Court.
 37. As to the Return and Service of Warrants, Monitions, and other Instruments.
 38. Interlocutory Decree.
 39. Monitions.
 40. Proxies.
 41. Other General Rules.

Rules and Regulations to be observed in the several Courts of Vice Admiralty.

§ 1. *As to the holding of Courts.*

Courts are to be regularly held at short intervals by adjournment from day to day; but the Judge is authorized to sit on any intermediate day as herein after provided, in case the despatch of business, or other necessity shall require. The practice which has prevailed in many of the Vice Admiralty Courts of presenting a petition to the Judge to appoint a day for holding a Court is from henceforth to cease.

The Judge is to be at convenient times accessible to his chambers, that he may be, if necessary, consulted by the Registrar on any incidental matter, or for the purpose of hearing a motion by Counsel, or directing the sale of perishable goods, or doing any other act which the emergency of a case may render requisite to be done.

§ 2. *Surrogates.*

The admitted Advocates of each Court are to be appointed Surrogates, to do, in the absence of the Judge, ordinary, or common-form acts (but none other), such as the administering an oath to a witness, decreeing a monition, taking bail, and the like; but in those Courts in which the Advocate is allowed to act as a Proctor also,

no judicial act of any kind is to be sped by a practitioner in any cause in which he may be professionally retained or interested.

When an Advocate is to be admitted a Surrogate, he is to attend with the Registrar before the Judge, and, on being sworn faithfully to execute his office, is to be admitted. The Registrar is then to make an entry of such admission in the Minute or Assignment Book, and attest the same.

§ 3. *Registrar and Marshal to be sworn.*

The persons to be appointed to execute the several offices of Registrar and Marshal are to be sworn faithfully to perform their respective duties.

§ 4. *Registry Office.*

The Registry of the Court is to be accessible to suitors at convenient hours in the day throughout the year; and a person of competent skill and knowledge is to be in regular attendance there, for all requisite purposes.

§ 5. *Registrar's Duties.*

The duty of the Registrar is to attend all sittings of the Court, and also before the Judge, or Surrogate in Chambers, and to make minutes of every act of Court or decree, and to enter the same in an Assignment Book, to be kept for the purpose, which is to form a record of the proceedings of the Court; he is to file, or take the custody of all pleas, depositions, documents, exhibits, and papers brought into Court, recording the receipt thereof in the Assignment Book, briefly stating the papers so received, and the date of their receipt. He is to take the depositions of all witnesses examined upon pleas and interrogatories. If from illness, or any other sufficient cause, he should be unable to perform this duty, he may, with the consent of the Judge, appoint some other competent person to act for him on those occasions. He is to make, or procure to be made, translations of such documents in foreign languages brought into Court as may be required by the Judge, or by the Proctor of either party. He is to make and to attest copies of all records, documents, and papers that may be requisite. He is to draw all bail bonds, or recognizances, and to be present at and attest the execution thereof before the Judge or Surrogate. He is to prepare, sign, and seal all warrants, commissions, and instruments issuing under the seal of the Court. He is also to collect from the practitioners, and receive for the Judge's use, the fees payable to him. He is to have the custody of all monies paid into Court, and to remit them when required, by bills of exchange or other valid securities, to England. He is prohibited from acting either as Advocate or Proctor in any suit, matter, or proceeding in the Court of which he is a Registrar.

§ 6. *Marshal's Duties.*

The Marshal is to attend the Judge in Court on all Court days. He is to enquire and report as to the sufficiency of persons proposed for bail. He is to execute all such warrants, decrees, monitions, and other instruments as shall be issued from the Court, and be directed to him; and he is to make due returns thereof.

In cases where, in order to avoid expense, it may be deemed requisite to employ others than the Marshal to execute process at any great distance from the Court, the instrument is to be addressed as follows:—

“To all and singular Mayors, Justices of the Peace, Bailiffs, Constables, Officers and ministers of Justice, or literate persons whomsoever, and more especially to the Collector and Comptroller of our Customs at the port of——;” or in some similar form, if more appropriate to the existing authorities in the colony.

And on those occasions either the Collector or Comptroller of the Customs is to be preferred, unless they are parties to, or interested in the suit.

And with the same view of avoiding expense, it is expedient that other duties which properly belong to the office of Marshal, and which require to be performed at a distance from the Court, be executed by others; in which cases, commissions are to be addressed specially to any competent persons, by name, resident near the place where such duties are to be performed.

§ 7. *Proceedings by Action.*

These are to commence with an entry by a Proctor, in a book to be kept in the Registry for that purpose, called the "Action Book*" of the action in a given sum sufficient to cover the demand and the probable amount of costs; but this sum is on no account to be excessive. Before any warrant is issued, the party applying for the same is to exhibit to the Registrar an affidavit,† setting forth the nature of the demand, that application for payment has been made without effect to the parties concerned, and that the aid and process of the Court are required for the enforcement thereof. Upon the leaving of this affidavit in the Registry, a warrant,‡ specifying the amount of the action, may issue to arrest the property proceeded against or the persons in cases where personal arrest is lawful; but personal arrest is never to be resorted to when the ends of justice can be otherwise obtained. The Proctor, having obtained the warrant from the Registrar, is to make a copy of it, and then deliver the warrant and copy to the Marshal, with instructions for the execution of the process. If the instrument is to be served on a ship, cargo, and freight at different places, as many different copies thereof as are requisite, must be made by the Proctor for that purpose. Every copy is to be examined with the original by the Marshal, or the person serving the instrument.

§ 8. *Execution of Warrants.*

When a ship is, or a ship and cargo are, to be arrested, the warrant is to be affixed on the mainmast or some conspicuous part of the vessel for a short time, and a collated copy of it left on board; and when goods only are to be arrested, (either for the purpose of proceeding against such goods or the freight due thereon,) the warrant is to be affixed for a short time on part of the goods, and a collated copy thereof left thereon, or with any person in whose actual custody the goods may be.

In cases of personal arrest the warrant under the seal of the Court must be shewn to the party before he is taken into custody.

A certificate § of the service of every warrant executed by the Marshal is to be indorsed thereon, and signed by him, in which he is to set forth the time when, and the mode by which the service was effected.

When a warrant is served by any other person than the Marshal, there must be, in addition to a similar certificate of the person serving it, his affidavit in the verification thereof.¶

The warrant having been served is to be delivered back to the Proctor, to be by him returned into the Registry at the time when it purports to be returnable; and the Registrar is then to attend with the Proctor before a Judge or Surrogate, and enter a minute in the Assignment Book, that the warrant has been returned duly served and executed.¶

§ 9. *Appearance and Bail.*

After the entry of an action, and before the issue of a warrant, the defendant may voluntarily appear, and give bail, and thus avoid the expense consequent on the issue of process.

An appearance alone, without any bail, may be sufficient for the purpose of contesting a suit, but in cases of the arrest of property or of the person, either the

* See forms of Actions, No. 1 to 14.

† See Affidavits to lead Warrants, No. 15 to 20.

‡ See forms of Warrants, No. 21 to 34.

§ See Forms No. 35 to 37.

¶ See the Form of this Affidavit, No. 38.

¶ See Form of Minute, No. 39.

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 apprisement, 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.

exhibit an affidavit,* of at least two persons, stating that the property had been only advertised and put up at public auction, when only a certain sum was bid for the same. And if the Judge be then satisfied that all has been done as properly and fairly as if the owner himself had been selling his own property, he is to direct the same to be sold at a reduced price, but not for less than a sum which he in his discretion is to fix. A minute† of such order is to be entered by the Registrar in the Assigment Book, and the property is then to be offered again to sale by public auction.

When the proceeds are brought into the Registry, the Registrar may pay out of the Court to the party proceeding, on his application for that purpose, the amount of the debt pronounced for, together with the costs of the suit, the same being first duly taxed and allowed by the Judge.

When a decree pronouncing for the interest of a party proceeding by default has been signed by the Judge, if any other party should also proceed against the property, he will be entitled, on motion of Counsel, to have his interest pronounced for by an interlocutory decree,‡ after the warrant has been returned two, months, and a second default has been incurred in his particular suit. On this occasion a similar affidavit must be exhibited to that required on obtaining the decree for the interest of the party who had originally proceeded by default.

The balance of proceeds, if any remain in the Registry after satisfying the amount pronounced for and costs, may, on production of the Ship's Register, or other satisfactory evidence of ownership, be paid out to the owner. But if his application be made within a year and a day from the return of the warrant, he is to give bail to answer latent demands.§

The sufficiency of sureties is to be reported upon by the Marshal, and the bail must be given in the manner hereinafter mentioned respecting, bail to answer an action in a contested suit.

In a case proceeding by default or in *pœnam*, the owners of the property are to be allowed to contest the suit at any time before the expiration of a year and a day from the return of the warrant; but if they neglect to appear until they have been pronounced in default, they must on appearing, pay contumacy fees, viz., all the costs occasioned by such their neglect, including the charges for keeping possession beyond the time specified in the warrant for its return, which costs are to be taxed by the Court.

§ 11. Contested Suits

In contested suits the property remains in the custody of the Court, but if the release thereof be a material object to the owner, or to the party defendant, it may be delivered to him on sufficient bail by two persons severally in the amount for which the action has been entered. Causes of possession, however, are not bailable unless by the special direction of the Judge. Bail to answer an action, and all bail bonds or recognizances are to be given, in the following manner:

The Proctor who is to produce the sureties is to furnish the Marshal and also the adverse Proctor with the particulars, in writing, of the names of the proposed bail, their address and occupation; and the Marshal, having made due enquiry as to their sufficiency, is to deliver his report || thereon to the Proctor proposing the bail, who is then to instruct the Registrar to prepare the bail-bond.¶ The Registrar, the two Proctors, and their sureties, are then to attend the Judge or Surrogate, and, upon the recognizances being duly entered into, the property is to be released upon an instrument** to be drawn by the Marshal and issued immediately after bail has been given. This form is to be dispensed with when the bail is taken by commission.

* See Form No. 54.

† See Form No. 55.

‡ See Form No. 56.

§ See Form of Bond, No. 57.

|| See Form of Report, No. 58.

¶ See Bail Bonds, No. 59 to 67.

** See Form of Release, No. 68.

It is competent to the adverse Proctor to object to the proposed sureties, in which case the Judge is immediately to decide on the validity of the objections. If the adverse Proctor do not attend at the production of the sureties, the bail may be taken *ex parte* upon an affidavit,* to be prepared by the Proctor producing them, that he has given twenty-four hours' notice in writing of their names, address, and occupation, which affidavit is to be left in the Registry.

Should a party appear under protest, either objecting to the jurisdiction of the Court or on any other ground on which he means to contend that he is not liable to answer the action, his appearance must be entered by the Registrar in the Assignment Book as given under protest, and the party so appearing is to be assigned to deliver his act on protest to the adverse Proctor within a limited time.† The same course of proceeding is to be pursued on the act on protest as in cases of acts on petition (hereafter stated) up to the time of the hearing, when the Judge is either to pronounce for the protest and dismiss the suit, or overrule the protest and assign the party to appear absolutely, and the cause is then to proceed as if no appearance on protest had been given.

In contested suits the facts may be established either by libel or plea, and the examination of witness thereon styled "Plea and Proof;" or by an "Act on Petition," supported by affidavits, to which may be annexed exhibits or other documents to be verified in the affidavits.

§ 12. *Proceedings by Plea and Proof.*

When an appearance has been entered, the defendant is entitled to an assignation on the plaintiff to exhibit a libel within a time to be limited by the Judge.

The libel or plea is to be drawn by the plaintiff's Proctor‡ and settled by Counsel, and then a fair copy, signed by Counsel, is to be made for the Court, and brought in pursuant to the assignation; § a copy is also to be delivered to the adverse Proctor, and each Proctor is entitled to make copies for the use of his Counsel at the hearing.

There may be annexed to the libel or plea, documents or exhibits pleaded or referred to therein, of which copies are to be made in like manner, the originals being brought into Court. And upon the libel or plea being brought in, the Judge is to assign to hear, on admission thereof, on the next Court day, or at the time to be named by him: The defendant's Proctor may then lay the libel or plea before Counsel for his advice, if the same be opposable, and if it be deemed by him not sufficient in law (supposing it be true) to warrant the plaintiff's prayer, the admission of it may be opposed; whereby if the plaintiff has no legal cause of action, the suit may be stopped *in limine*, it being the duty of the Judge to reject all pleas, which, if assumed to be true, will not justify him in pronouncing a decree for the party giving in such plea. Or if the plea contains matter unnecessary or irrelevant to the cause of action, or is drawn too diffuse or argumentative a manner, the admission thereof may be opposed. Upon these objections coming to be debated, the Judge will order the plea to be admitted, reformed, or altogether rejected as he shall see cause. If ordered to be reformed, the Judge will in his discretion direct the objectionable matter to be expunged and other points modified. || If ordered to be rejected, such rejection puts an end to the suit.

On the libel being debated, a case on each side is to be prepared by the respective Proctors, and delivered to the Counsel with copies of the libel and of the exhibits, if any, which copies, however, must afterwards serve for the use of the Counsel at the final hearing.

* See Form of Affidavit, No. 69.

† See Form of Act, No. 70.

‡ See Libels, No. 71 to 75.

§ See Form of Minute on bringing in Libel, No. 76.

|| See Minute admitting, reforming or rejecting Libel, No. 77 to 80.

Pleas, the admissibility of which is not objected to, are admitted to proof, of course.

Pleas or allegations given in a subsequent stage of a cause, may be admitted, reformed, or rejected in a similar manner.

On the libel being admitted, the Proctor giving in the same is to be assigned to prove its contents by evidence within a time to be limited by the Judge, and the party giving in the plea is entitled, if he desires it, to the personal answers in writing of the adverse party.* In that case a decree for answers is to be extracted from the Registry and served on the party, by shewing him the original under seal, and leaving with him a copy thereof. The answers are to be drawn by the Proctor for the party required to give in the same, who must answer specifically to all the facts or allegations in the plea which are within his own knowledge, by either admitting or denying the same; and as to all matters, he must answer to his belief or disbelief.

No extraneous or irrelevant matter is to be introduced, but the party may set forth any matter necessary to explain his answer. If any facts are introduced which are capable of proof by witnesses, they must be established by evidence regularly taken on a plea. The answers † are to be settled by Counsel, and then the party attended by his Proctor is to be sworn ‡ to the truth thereof before the Judge or Surrogate in the presence of the Registrar, who is to make and sign an attestation at the foot thereof. The Registrar is then to file them and make a minute § in the Assignment Book, of their having been sworn and brought into Court. The adverse Proctor may immediately inspect them without waiting for publication, and may have an office copy of them. And if they be insufficient, redundant, or contain matter not pertinent, may be objected to in the same manner as a libel or plea.

If after the return of a plea personally served, the party does not give in his answer within the time assigned, the Judge may decree an attachment against him for his contumacy: but, notwithstanding this measure, the Proctor for the plaintiff may proceed with the production of his witnesses and take other requisite steps in the cause.

§. 13. *Examination of Witnesses.*

The name of the witness || and a designation of the specific articles of the libel or plea on which he is to be examined, must be delivered to the adverse Proctor and to the Registrar or Examiner, whereupon the Proctor giving in the plea is to attend the witness and produce him before the Judge or Surrogate, in Court or chambers, when the witness is to be immediately sworn in the presence of the Registrar. ¶ Due notice of his intended production must be given to the adverse Proctor, who may attend if he think fit. On the witness being sworn, the Registrar is to make an entry thereof in the Assignment Book.**

The deposition in chief is not to be taken upon written interrogatories, but by relevant questions put *viva voce* by the Registrar or Examiner, †† and arising out of circumstances pleaded, but not so put as to lead the witness. If there are several pleas, witnesses are to be examined on each plea. The witness must not be dismissed until the lapse of twenty-four hours from the time of his production, so that the adverse Proctor may have an opportunity to cross-examine him by interrogatories in writing if he think fit; and this time may be extended on reasonable cause to be shewn by the Proctor through the Registrar to the Judge. †† Such interrogatories are to be drawn by the adverse Proctor, and, when practicable, settled by Counsel. They are then to be copied for and signed by Counsel, and delivered to

* See Decree for Answers, No. 81.

† See Answers, No. 82 to 85.

‡ See Oath, No. 86.

§ See Minute, No. 87.

|| See Form, No. 88.

¶ See Oath, No. 89.

** See Minute No. 90.

†† See Forms used in the High Court of Admiralty, No. 91 to 95.

†† See Forms, No. 96 to 99.

the Registrar, with instructions as to the particular interrogatories to be administered to each witness. When the witness has been examined in chief, and also upon interrogatories, if any are to be administered, the depositions in chief, and also the answers to the interrogatories (if any,) are to be read over to or by the witnesses and signed by him, and he is then to attend with the Registrar before the Judge or Surrogate in chambers, and make a declaration that he knows the contents of his deposition, and that the same are true in virtue of the oath by him taken on his being produced; and an attestation thereof is to be made at the foot of the deposition by the Registrar or Examiner.

The evidence of the witnesses is in all cases to be kept closely sealed, and the contents thereof are not to be divulged until publication shall have been passed; after which, but not sooner, the Proctor administering the interrogatories, if any are administered, is to deliver a copy thereof to the Proctor producing the witness.

In the event of any witness refusing to attend to be examined, his necessary expenses having been tendered to him (but not otherwise,) a compulsory or subpoena,* to be prepared by the Registrar, may be extracted, and served on the person so refusing to attend, by shewing to him the original instrument under seal, and leaving with him a collated copy thereof, and if he do not appear to this process, an attachment may issue against him for his contempt.

The witnesses for the plaintiff being all examined, his Proctor may on the first court-day afterwards pray publication of the evidence, which is to be decreed to take place at a time to be fixed by the Judge; † and at the expiration of that time it is imperative on the opposite party to plead if he intends to do so at all; for this purpose, he is to attend before the Registrar or Surrogate, and declare in a minute ‡ of Court that he intends to offer an allegation § or counter-plea, and the same must be brought into Court within a reasonable time, to be assigned by the Judge. In that case, publication of the evidence must be stayed until the allegation be disposed of, either by being admitted or rejected by the Court, or by the party abandoning the intention of giving it in. If admitted, publication must be stayed until the whole evidence in the cause be taken. In the event of no allegation or counter-plea being given, or, if given, being rejected by the Court, or withdrawn by the party, publication of the evidence is to take place; and thereupon the depositions may be inspected on each side, and copies thereof furnished to the parties at the request of their Proctors, who may make copies thereof for their respective Counsel.

After the evidence has been inspected, neither party can claim as a matter of right to give any further plea or allegation in the principle cause; but if the Judge shall be satisfied by affidavit that there is any matter important to the issue, which could not have been pleaded before by reason that knowledge thereof had not come to the party prior to, or that the fact had occurred after the publication, the Judge in his discretion may allow such matter to be pleaded.

Allegations exceptive to the testimony of witnesses || may be given after publication in cases only where the matter on which they are founded, arises out of the evidence of the witness or witnesses excepted to, and where the contradiction, if proved, would tend materially to destroy his or their credit; but no allegation exceptive to the testimony of witnesses is to be admitted, if the facts it contains either have been or could have been pleaded before publication. After publication, no allegation, pleading generally that the witness is not worthy to be believed on his oath, is to be received. Any such allegation, when offered, must precede publication, and must plead generally that the witness is of bad character and reputation, and not to be believed on his oath without imputing to him any specific charges.

* See Form No. 100.

† See Minute, No. 101.

‡ See Minute No. 102.

§ See Forms of Allegation, No. 103 to 107.

|| See Forms Nos. 108 and 109.

When several pleas are given in a cause, witnesses are to be examined on each plea; and all other steps are to be pursued in the same manner as directed in respect of the plaintiff's libel.

It is the duty of the Proctors to take especial care that the libel and defensive allegation contain all the facts material to the decision of the cause, so that several pleas may not unnecessarily be given.

When publication shall have taken place on all pleas, the cause is to be set down to be heard at a time to be appointed by the Judge. Counsel are to be furnished with copies of all material papers, viz., pleas, exhibits, and depositions of witnesses, but not of warrants, decrees, or other formal instruments, unless from circumstances the contents of such instruments may be material to the discussion of the cause. A case for hearing on each side is to be prepared by the respective Proctors, briefly stating the proceedings which have taken place, and calling the attention of Counsel to the decree which each party may pray the Judge to pronounce. The evidence is not to be abstracted, nor are documents of which Counsel are furnished with copies to be more than merely described in the case. All lengthened details are to be avoided, but the attention of Counsel is to be directed to the principal points. A reasonable fee is to be paid to Counsel on the hearing; and if the case takes more than one day in argument, a moderate additional or refreshing fee is to be given for each subsequent day. Definitive sentences in writing are only requisite in derelict and piratical cases. In other causes the Judgment may be given by interlocutory* decree, and entered by the Registrar in the Assiguation Book.

If it become necessary to enforce a Judgment, a monition† is to be taken out against the party principal and his bail, and served in the manner before directed in regard to instruments requiring personal service. Upon the return into Court of the monition, with a certificate of its due service indorsed thereon, and the tenor thereof not being obeyed, the Judge, upon motion of Counsel, may decree an attachment‡ against the person of the party monished for his contempt; directing either the attachment to issue immediately, or to be suspended for a reasonable time, as circumstances may in his judgment require. This attachment§ is to be extracted from the Registry. The previous service of a monition may not always be necessary. Where the disobedience is manifest upon the face of the proceedings, and it is clear that the order of the Court must be known to the party, an attachment may be decreed without a previous monition; but in cases where sureties are to be attached, a previous monition is indispensable. Upon compliance with the order for disobedience of which the attachment issued, and upon payment of the costs of the attachment, the Marshal, or other person executing it, is to release the party, certifying to the Judge fully what has been done, but in cases of doubt he may resort to the Judge for directions previous to the release.

§ 14. *Proceeding by Act on Petition.*

In case bail has been given to the action, a minute is to be made in the Assiguation Book by the Registrar, assigning the Proctor for the party proceeding to deliver his act on petition to the adverse Proctor by a time to be fixed by the Judge. The Proctor is then to set forth the facts of his case || in a plain narrative manner, without argument, and concluding with his prayer. This, having been settled by Counsel (for which purpose he is to be furnished with a copy), is to be copied fair for the Court, and then delivered to the adverse Proctor that he may reply thereto, and with the reply, it must be returned to the Proctor of the party proceeding, that he may make a rejoinder thereto if necessary. The reply and rejoinder must also be settled by Counsel in the same manner as the act.

* See Interlocutory Decrees, No. 110 to 130.

† See Monitions, No. 131 to 135.

‡ See Minutes, No. 136 to 139.

§ See Attachments, No. 140 to 145.

|| See Acts on Petition, No. 146 to 148.

The facts alleged in the act on petition are to be supported by affidavits; and any necessary exhibits, or documents annexed thereto, are to be verified in such affidavits, which are to be confined to the material averments, and are not to be settled by Counsel.

Should any delay occur in the delivery of the act from one Proctor to the other, either of them may allege the same, in the presence of the Registrar, before the Judge, who is to direct the act to be returned by a time to be specified; and if it be not returned by that time, or good cause shewn for the delay, the Judge is to assign to hear the act on petition *ex parte*, that no unnecessary postponement may take place, for which purpose a copy of the act, instead of the original, together with the affidavits on behalf of the party, must be brought in by the Proctor applying to have the cause so heard.

When the article is concluded, it is to be signed by both Proctors who are to attend before the Judge or Surrogate, in the presence of the Registrar, to bring in the same, together with the original affidavits and exhibits. No further affidavits or documents are to be afterwards received, unless by leave of the Judge obtained on special application. The Judge is then to appoint the cause for hearing, and thereupon one copy of the affidavits and exhibitions is to be made for each of the Counsel, and one for the adverse Proctor, to be delivered to him when the originals are brought in. The adverse Proctor is also to make copies for his own Counsel. The same rules, as to the preparing the case for hearing, delivering copies of papers, fees to Counsel, and the same proceedings for enforcing obedience to the decree, are to be observed as in a cause conducted by plea and proof.

§ 15. Suits for Mariners' Wages.

The same regulations as to the arrest of a Ship, the subsequent proceeding by default or *in pœnam*, and the rules for conducting a cause by plea and proof, are to be applicable to the suit of a mariner for his wages, which is called a cause of subtraction of wages, in which the mariner may proceed against the ship, freight, and master, or the ship and freight, or the owner or the master alone; and any number of mariners, not exceeding six, may proceed jointly in one action.

When an appearance is given, the Proctor for the party proceeding is entitled to an assignation on the defendant* to bring into Court the mariner's contract and ship's books; and he is not compelled to file his libel until they are so brought in.

The libel, if in common form and pleading no special matter, should state the hiring, rate of wages, performance of service, and the refusal of payment; and should have annexed to it a schedule, stating the whole amount of wages, with the sum received on account, and the balance claimed to be due. This plea is termed a summary petition, and should not be settled by Counsel.

§ 16 Suits for Pilotage.

Suits for the recovery of pilotage, where no party appears to defend the action, may be conducted by default or *in pœnam*. When contested, the proceeding will be by plea and proof; the libel or plea, as in suits for wages, if containing no special matter, is also called a summary petition, and need not be settled by Counsel.

§ 17. Suits of Bottomry.

These suits may likewise be conducted by default or *in pœnam*, and ships may be sold, in virtue of a decree of the Court, for the payment of bottomry bonds without any appearance having been given to defend the action.

When the validity of the bond is contested, the cause generally proceeds by act on petition and affidavits, but the party promoting the cause may, if he thinks proper, proceed by plea and proof; and it is competent to defendant, on his appearance, to require the cause to be conducted in that manner, for which purpose he must pray the Judge to assign the promoter to bring in a libel.

* See Minute, No. 149.

Before the warrant is extracted from the Registry, the original bond must be exhibited to the Registrar in addition to the usual affidavit.

§ 18 *Causes of damage by Collision.*

These causes may also be prosecuted by default or *in penam*. When defended, the suit is conducted by plea and proof, and differs in no respect from that mode of proceeding already detailed.

Suits of Damage by Beating or Assault on the High Sea.

In these cases the suit is by plea and proof, and the warrant is necessarily against the person.

Prosecutions for contempt in breach of the Maritime Law, and of the Regulations and Instructions relating to His Majesty's Service at Sea.

These prosecutions can only be instituted on complaint by an Officer in His Majesty's Navy, and under the directions of the Lord High Admiral or the Commissioners, for executing the office of Lord High Admiral of the United Kingdom, or of some one of the Admirals or Commanders in Chief of the naval squadrons abroad, and are to be conducted in the following manner:—

An affidavit* of two persons is to be exhibited by the Proctor for the Crown, stating the name and description of the party intended to be proceeded against, and detailing the particulars of the offence committed, which affidavit, with a short case, is to be delivered to the Advocate for the Crown to move the Judge to decree the warrant of arrest, who in making the decree, is to specify the amount of the bail to be given as he shall consider sufficient to ensure the personal appearance of the party prosecuted when judgment shall be pronounced. This amount is to be stated in the Action Book and on the face of the warrant. The Marshal is then to execute the warrant by the arrest of the person of the offender, who is to be liberated on giving sufficient bail, which is to be taken in the usual manner.

On the appearance being given, the Proctor for the Crown † is to be assigned to exhibit articles pleading the offence within a short time to be specified by the Judge.

These articles are to be prepared by the Proctor for the Crown, and may be settled by Counsel, and the cause is then to proceed like other suits, by plea and proof, with the following exceptions:

1st. On the articles or plea being admitted to proof, the defendant must be assigned to declare in act of Court, within a reasonable time, generally whether he denies the facts pleaded, which is termed giving a negative issue, or whether he confesses them, which is termed giving an affirmative issue.

2ndly. In case of an affirmative issue, the Judgment of the Court may be immediately pronounced, on which occasion the defendant is to be allowed to exhibit affidavits in mitigation of punishment, but not to deny the offence charged.

3rdly. Extended personal answers in writing to the different positions or averments of the articles cannot be required from the defendant.

4thly. Where a negative issue is given the defendant may be at liberty to offer a defensive plea.

After the evidence is taken, if the Judge shall decide that the charge is established, he will proceed to give sentence, imposing the fines due by law on the defendant and condemning him in the costs. In very aggravated cases the defendant may also be imprisoned for a limited time. Affidavits in mitigation may be offered and are to be received when the offence has been proved by evidence.

§ 19. *Suits for Salvage.*

The ordinary course of proceeding is by act on petition, but in cases where no

* See Affidavit, No. 150.

† See Form, No. 151.

appearance is given these suits may be prosecuted by default or *in penam*. The property must on no account be released from arrest until a value shall be agreed upon between the parties and alleged in minute * of Court, which is to be entered by the Registrar in the Assignment Book.

If the value cannot be agreed upon, a decree † of appraisement must be extracted by the Proctor for the salvors, and executed and returned into Court before the property is released. This constat of the value is necessary both for regulating the amount of bail to be taken, and for guiding the Judge at the final hearing in fixing a proper remuneration for the services of the salvors, with reference to the value of the property saved.

§ 20. Causes of Possession.

These causes are to commence by the entry of an action at the suit of the owners or owner of a majority of interest in the ship, and a warrant is to be issued to obtain possession thereof from any party who may withhold the same. No amount of action need be inserted in the Action Book or on the face of the warrant.

An Affidavit ‡ of the party proceeding is to be prepared by the Proctor, and laid before Counsel, with a short case stating the circumstances, in order to move for the warrant, which can be obtained only on motion of Counsel. The affidavit need not previously, as in other cases, be left in the Registry. On this occasion the Judge or Surrogate is to be attended by the Proctor, Counsel, and Registrar; and the Judge on reading the affidavit, if it be satisfactory, will, on motion of Counsel, § decree the warrant citing all persons in general to appear and answer to the party proceeding in a cause of possession. The warrant having been served on the ship, is to be returned into the Registry, and if no appearance be given within a month from such return, the Judge, if satisfied that the party proceeding has a majority of the legal interest, is, on the affidavit originally brought in or on further proofs, if necessary, being exhibited on motion of Counsel on the next regularly adjourned Court-day, by interlocutory decree to order possession of the ship to be delivered to the party proceeding, or if necessary assign a further limited time for entering an appearance, and on any subsequent regularly adjourned Court-day in like manner pronounce his decree, which is issued by the Registrar from the Registry. ¶

Should any party appear to contest the right of possession, the cause is to proceed by act on petition and affidavits, the ship remaining in the custody of the Court until the final hearing, because the object of the suit which is to obtain actual possession of the property cannot otherwise be secured.

Upon an interlocutory decree being pronounced in favor of either party, a decree of possession is to be issued accordingly.

During the dependence of the suit on proof by affidavit being exhibited that the ship's Register is in the possession of any person whomsoever, a monition ¶ may be issued requiring him to bring it in, or shew cause why it should not be brought into the Registry to abide the event of the suit. Or after the hearing, should the ship's Register remain in the possession of any person, the Judge may on proof thereof issue a monition ** directing him to deliver up the same to the party in whose favor the decree has been made.

Causes of possession may also be conducted by plea and proof at the option of either party.

§ 21. Action to obtain Security for the safe Return of a Vessel.

Actions of this description occur when a part owner is dissatisfied with the management of his co-owners, and requires the ship to be restrained from proceeding on a voyage until bail shall be given for her safe return to the port to which she belongs.

* See Minute, No. 152.

† See Decree, No. 153.

‡ See Form, No. 154.

§ See Minute, No. 155.

¶ See Form, No. 156.

** See Form, No. 157.

** See Form, No. 158.

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.

interested therein that the same should be forthwith sold, it may be appraised and sold under the direction and authority of the Court, and the proceeds paid into the Registry.

At the expiration of a year and a day from the return of the warrant, if no claim or appearance be given for the owners, the Judge, on the next regularly adjourned Court-day, is to proceed to condemn by sentence the property as droits and perquisites of His Majesty in his office of Admiralty. The sentence* is to be prepared by the Proctor, who is to make a fair copy thereof for the Judge's signature, which is to be signed in Court in presence of the Registrar, and a certificate † is to be added by the Registrar on the sentence, and a minute made in the Assignment Book of the same having been so signed.

The owner of property proceeded against as derelict, may appear at any time before the termination of the cause, and claim the same without being liable to any fees of contumacy incurred prior to their appearance. The claim, with an affidavit ‡ in verification thereof, is to be drawn by the Proctor, and should set forth the name, residence, and occupation of the owner, the title of the party to, and the identity of the ship or goods claimed. Documents or exhibits in support of the affidavit may be annexed thereto. When the claim and affidavit have been settled by Counsel, the Proctor is to attend his party before the Judge or Surrogate, to be sworn to the same in the presence of the Registrar, and the Judge will then assign to hear on admission thereof on the next Court-day, or at any other time to be by him fixed, of which notice is to be given to the parties. A copy of the affidavit and claim is to be given to the Proctor for the Crown, and if the Counsel for the Crown be satisfied that the party claiming is entitled to restitution of the property, he is to consent to the same being restored, which on motion of Counsel § before the Judge may be immediately done on payment of the salvage, and the expenses on behalf of the Crown. The instrument of restitution || is to be prepared by the Registrar, and extracted from the Registry by the Proctor for the claimant. The interests of salvors are always to be protected, and to this end, if restitution be consented to, and if salvage has not been previously paid, bail ¶ to our Sovereign Lord the King, in his office of Admiralty, in a sum sufficient to answer salvage, must be given by two persons on behalf of the owners before the instrument of restitution is to be issued.

If the title to the property is contested, the cause must come on to be heard in Court; a case and papers being delivered to Counsel as in other contested causes.

§ 27. *Prosecutions for breach of the Revenue or Navigation Laws.*

An affidavit** is to be made by the seizer, detailing the grounds of the seizure and the circumstances attending the same, to which, in the case of a vessel being seized, is to be annexed all original papers that have been delivered up at the time of seizure, and which must be verified in the affidavit. Or if the ship's papers have been concealed, thrown overboard, or destroyed, the fact of such concealment or destruction should be stated in the affidavit.

The affidavit †† is to be exhibited to the Judge or Surrogate, who is to decree a monition †† to issue, returnable fourteen days after service, citing by name the owners or persons implicated (if known) in special, and all others in general, to appear and shew cause why the forfeiture should not be decreed, and the penalties due by law pronounced for; but where the parties are not known the monition must only cite all persons in general.

When the monition specifies the names of the parties cited, it must be personally served on them like other instruments requiring personal service, and must also, like other monitions where the names of parties are not mentioned, be served on the

* See Sentence, No. 165.

† See Minute, No. 166.

‡ See Forms, Nos. 167 and 168.

§ See Forms of Interlocutorys, No. 128 to 130.

¶ See Form, No. 169.

¶ See Form of Bond, No. 170.

** See Forms, Nos. 203 and 204.

†† See Minutes decreeing same, Nos. 205 and 207.

‡‡ See Monitions, Nos. 208 and 211.

Exchange or Court-house, or other public place, as before directed respecting instruments requiring service against all persons in general.

The monition having been served and no appearance being given, the Judge is to proceed by interlocutory decree to condemn the property; but such condemnation is not to take place on any other than a regularly adjourned Court-day, and not until the expiration of fourteen days from the return of the monition, and if it has been personally served, the Judge may, without requiring any further evidence than the affidavit to lead the monition, pronounce for the penalties due by law.

If a personal service of the monition cannot be effected by reason that the persons named therein have purposely absented themselves to avoid the service, the Judge may pronounce a similar decree; but if he has reason to believe that the persons named in the monition are *bonâ fide* ignorant thereof, he is to reserve his judgment so far as relates to the penalties sued for, and also as to the property, should any doubt arise upon the evidence.

In the case of a monition citing all persons in general, and not describing any person by name, no penalties can be pronounced for, but if the persons by whom the offence was committed shall afterwards be discovered, a subsequent monition may be issued in the same suit against him or them for the recovery of the penalties.

In order to move for the interlocutory decree,* a case, with a copy of the affidavit, must be delivered to Counsel.

A claim may be given on behalf of the owners at any time before the interlocutory decree, and the claimant may, if he think fit, require the seizer to fyle an information or libel, to which the claimant may give in a responsive plea or allegation, and the case will then proceed by plea and proof in the manner before mentioned.

To the claim must be annexed an affidavit, containing the names, descriptions, and residence of the owners, and a detail of all the circumstances on which the claimant means to rely as the grounds of his defence.

The claim and affidavit † are to be prepared and given in as directed in derelict cases; but in compliance with the Act 6 Geo. IV., cap. 114, sec. 62, security must be given on behalf of the claimant in the sum of £60 sterling, ‡ to answer costs before any claim can be received.

Upon a claim being fyled, the Judge, with the consent of the Collector and Comptroller of the Customs, may order the delivery of the property to the claimant, on his giving bond, with two sufficient sureties, to answer double the value of the same, as provided by the 58th section of the said Act.

The Court, on the application of the officer of the Customs, or parties interested may, at any time before condemnation, direct the property to be sold, if it shall satisfactorily appear by affidavit that a sale will be beneficial to all parties interested.

When a claim is given, and no libel prayed, the Court may proceed to adjudge the case upon the facts and circumstances stated in the affidavits on both sides; § but if it shall appear to the Judge that the case is not sufficiently proved by such evidence, he may direct an information or libel to be fyled by the seizer, || and give leave to the claimant to fyle a responsive allegation; in which case witnesses are to be examined on both sides, and the cause will proceed as in plea and proof cases. ¶ After condemnation, the sale must take place according to the provisions of the 56th section of the said Act.

In order to remedy complaints which have been made of the burthensome law charges in the Colonies, on proceedings in revenue cases of small value, it is directed that any number of seizures, not exceeding in the aggregate value £300, and not individually exceeding the sum of £100 may be included in one monition, and that different seizing officers may proceed conjointly in the same prosecution,—care

* See Forms, Nos. 212 and 213.

† See Forms, Nos. 214 and 215.

‡ See Bond, No. 216.

§ See Interlocutory Decrees, Nos. 217 and 218.

|| See Libel, No. 219.

¶ See Interlocutory Decrees, Nos. 220 and 221.

being taken that the monition, and also the libel where that proceeding is required, be drawn conformably with the several circumstances, and that the different seizures be described in separate articles or counts of the libel or information. And to obviate any possible delay in the proceedings of the seizing officer,* any claimant is to be at liberty to take out a monition † against the seizer, returnable three days after service thereof, requiring him immediately to proceed to the adjudication of the property seized. For this purpose and also to enable the seizer to determine whether to proceed separately as to one seizure, or to wait for the chance of including other seizures in the same process, by a consideration of the expenses of warehousing and custody of the seizure, the seizer is, without delay, in all cases where the probable amount of the seizure does not exceed in value £100, to report the facts to the Registrar of the Court.

In cases where it shall be deemed necessary to proceed immediately without waiting for other seizures, and the value is under £100, the several charges of the proceeding and adjudication are to be reduced to £25 per cent. upon the usual charges; and if the property separately proceeded against does not exceed the value of £50, one half of the usual fees only are to be charged.

§ 28. *General Rules to be observed in Practice.*
Subduction of an Action.

If a party proceeding, determine to abandon his suit, or has compromised the same, he may at any period be allowed to subduct the action; to which end, the Proctor who has extracted the warrant is to sign a short entry to that effect in the Action Book, and the property, if any have been arrested, is to be immediately released.

§ 29. *Tender.*

Whenever a tender is made on behalf of a defendant to pay a certain sum of money, the sum tendered must be brought into the Registry, and an undertaking given for payment of the costs incurred up to that time; this must be done before the Judge or Surrogate, in the presence of the Registrar and the adverse Proctor, and a minute ‡ thereof is to be entered in the Assignment Book, and the Proctor for the plaintiff is to be assigned to declare whether he will accept the tender or not, within a time to be limited by the Judge.

If the tender be refused, and the Courts shall ultimately consider the same to have been sufficient, the plaintiff, in general cases, is to be subject to all the costs incurred subsequent to the refusal, but under special circumstances, where the enforcement of this rule may be attended with injustice or hardship, the Court may exercise its discretion by forbearing to condemn him in costs.

§ 30. *References.*

In cases where a reference of the subject in litigation may be expedient, the Judge, either for his own satisfaction or at the instance of either of the parties, may refer any accounts or demands, or any matter incidental thereto, to the Registrar, directing him to take to his assistance one or two merchants, and to investigate and report on the matter. The merchants to be selected by the Registrar and approved by the Judge.

The reference being ordered, the Registrar is forthwith to make an appointment with the Proctors of the parties and with the assistant merchant or merchants, and all necessary documents being produced, the Registrar and merchants are to hear the matters in dispute discussed by the Proctors and the parties principal, or their agents. The Registrar is afterwards to draw up the result of the investigation, and of their joint deliberation thereon, in a written report, § to be brought into

* See Minute, No. 222.

† See Monition, No. 223.

‡ See Minute, No. 224.

§ See Report, No. 225.

Court, and a minute* to that effect is to be thereupon made in the Assignment Book.

The Judge is to direct the report to be confirmed, unless objected to by either party by the succeeding adjourned Court-day, or within a time to be limited by him. The report may be confirmed at the prayer of either of the Proctors,† and either may object to the report wholly or in part; but the party objecting must so declare in act of Court, and is to be assigned by the Judge to deliver in an act on petition, setting forth his objections to the adverse Proctor, within a time to be limited. And the subsequent proceedings are then to be conducted as on all other acts on petition.

§ 31. *Taxation of costs.*

The Proctor of the party who has obtained a decree or order condemning another party in the costs, is to furnish the adverse Proctor and the Registrar each with a copy of his bill, and to attend the Registrar to procure an appointment to tax the same, of which notice is to be given to the adverse Proctor, that he may be present thereat; and if he shall decline, or neglect to attend, the taxation may proceed in his absence upon an affidavit being exhibited to and fyled with the Registrar, shewing that a copy of the bill had been furnished, and that twenty-four hours previous notice of the appointment had been given to him.

If the amount of the costs ascertained by the Registrar be not forthwith paid, the Registrar is to report the amount to the Court, when, if no objection be made, the Judge is to sign the bill, which completes the taxation, and a minute‡ thereof is to be entered in the Assignment Book.

If the adverse Proctor be dissatisfied with the amount proposed to be allowed, he is, on the same being reported and before the bill is signed by the Judge, so to declare in Court; and in that case the Judge is to assign him to deliver an act on petition§ in objection to the taxation within a short time to be specified, and subsequently the same course is to be pursued as in other acts on petition.

When the Judge has signed the bill, whether as originally reported by the Registrar, or with any subsequent alteration, he is to decree a monition|| for payment thereof: and if the costs be not immediately paid, such monition may be extracted and served as usual, and may be followed up by attachment if necessary.

§ 32. *Incidental Monitions.*

In any cause, however commenced, monitions may incidentally become necessary, which are to be made returnable at a period to be fixed by the Judge; and if the tenor of the monition be not complied with, the Judge, on proof that it has been duly served, may enforce obedience thereto by attachment.

§ 33. *Commissions.*

Commissions to take bail, to take the answers of parties to a libel or allegation, to take the oaths of parties or others to affidavits, to examine witnesses, and the like, may, under the authority and at the discretion of the Judge, issue in cases where the parties reside at so great a distance that the transaction of the business by commission will be attended with less expense than their personal appearance before the Court.

Commissions may also issue for the unlivery of a cargo, for the appraisement or sale of a ship or cargo, or for the appraisement and sale of a ship and cargo, in cases when, by reason of the distance, the Marshal cannot be conveniently employed for the purpose without great expense.¶

* See Minute, No. 226.

† See Minute, No. 227.

‡ See Minute, No. 228.

§ See Minute, No. 229.

|| See Monition, No. 135.

¶ See Forms, No. 230 to 235.

All commissions are to be directed to respectable merchants, or professional men named by the Proctors; and when they can agree thereto, one Commissioner will be sufficient, otherwise a Commissioner is to be nominated by each party.

§ 34. *Acts on Petition.*

In cases where any incidental matter may become the subject of dispute, and either of the parties shall desire it, or if the Judge shall deem it necessary for his own satisfaction to have the facts further elucidated, he may direct the circumstances to be set forth in an act on petition.

§ 35. *Appeals.*

All appeals from decrees of the Vice Admiralty Courts are to be asserted by a party in the suit within fifteen days after the date of the decree, which is to be done by the Proctor declaring the same in Court; and a minute thereof is to be entered in the Assigment Book.* And the party must also give bail within fifteen days from the assertion of the appeal in the sum of £100 sterling, to answer the costs of such appeal.

In all cases, however, in which an appeal is asserted, except respecting slaves, the Judge may proceed to carry his sentence into execution, provided the party in whose favor the decree has been made give bail to avoid the event of the appeal, † by two sureties in the amount of the value of the property or subject in dispute, together with the further sum of £100 sterling to answer costs, in the event of the same being awarded by the superior Court.

The party appealing, having complied with these regulations, is then to cause the Judge and Registrar to be served with an inhibition from the High Court of Admiralty, restraining them from further proceedings in the cause, and also with a monition to transmit the process.

This process will consist of a fair copy of the proceedings under the seal of the Vice Admiralty Court, to be made and signed by the Registrar, at the expense of the party ordering the same, which is to be transmitted to the Superior Court, pursuant to the monition.

The proceeds, if in Court, or in the hands of any individual, must, on a special monition for that purpose being served, be remitted to the Registrar of the High Court of Admiralty or Court of Appeal.

§ 36. *Regulations as to the Sittings of the Court.*

Before the rising of the Court, the Judge is always to adjourn the same to a day to be by him fixed at his discretion, and proclamation thereof is thereupon to be made in open Court, by the Marshal or Officer of the Court. It is, however, competent to the Judge, notwithstanding such adjournment, subsequently to appoint an intermediate day or days, as may appear to him to be necessary, for the expediting any particular cause or causes before the Court.

Forty-eight hours notice of such intermediate Court-days must always be published in the Gazette, or public newspaper of the Colony, by the Registrar, at the expense of the party at whose instance or for whose benefit the Court is to be so called, which expense is to be paid by the Proctor.

Care is always to be taken that on such intermediate Court-days, no assignation be sped, or order made, precluding the right, or to the manifest injury of any absent party, when it shall appear that he cannot have received sufficient notice of the sitting of the Court; and absent parties are always to be entitled to the favourable consideration of the Judge, if on the next succeeding regularly adjourned Court-day cause shall be shewn why an assignation made on any intermediate Court-day had not been complied with.

* See Form, No. 236.

† See Form, No. 237.

In like manner, when an assignation has been made for an act to be done by a limited time, shall not have been duly complied with, and an intermediate Court-day shall be subsequently held, parties who cannot by possibility have been cognizant of such intermediate Court, and who may have very conclusive reasons to allege why they have been unable to comply with such assignation, are not to be prejudiced by the enforcement of the same on such intermediate Court-day.

§ 37. *As to the Return and Service of Warrants, Monitions, and other Instruments.*

In general cases, warrants, monitions, and other instruments are to be made returnable, and parties cited to appear at the Registry, either on a certain day mentioned, or at the expiration of a certain number of days after service, to be specified in the instrument, and between any two hours of the day most usually appropriated to public business.

Monitions to pay costs or a sum of money, or to do any specific act within a certain number of days, are to be returnable at the expiration of the usual hours of business at the Registry, on the furthest or last day assigned to the party to do the act.

If no appearance be given thereto, the Registrar is immediately on the expiration of the time specified to attend before the Judge or Surrogate in Court or Chambers, with the Proctor who is to return the instrument; and the proceedings are subsequently to be continued according to the requisites of the cause. The day of such return is the period from which is to be reckoned, for all future purposes, the contumacy or default of the party cited and not appearing.

Instruments against all persons in general, and which are served only on the ship or goods, or on the Exchange, or principal resort of Merchants, or on the Court-house, can only be further proceeded or *in pœnam* on the regularly adjourned Court-days. But an instrument which has been personally served and duly returned, may be followed up by all further proceedings, even to attachment, without more regard to the regularly adjourned Court-days than would be necessary respecting any other incident in the proceedings, because in such cases the party who has been served must always be aware of the liabilities to which he is exposed by his own laches, or contempt.

If an instrument be served on a ship, or goods laden on board a ship, when the master is on board, and the action be one to which he ought to appear and become a defendant, such service may, for the purpose of future proceedings, be considered equivalent to a personal service on him.

Whenever any monition or other instrument is served by any other person than the Marshal, the certificate* of the service thereof must be verified by an affidavit of the person serving the same.

All warrants, monitions and other instruments requiring ulterior proceeding *in pœnam*, in case of no appearance or of non-obedience, must be duly returned at the time specified for their return; and if not then duly returned, no further proceedings can be had thereon.

§ 38. *Interlocutory Decree.*

The interlocutory decree, which must always be moved by Counsel, is the final act of adjudication in the principal cause of action in any suit. But in some few instances a suit may be terminated without it, viz:—

Where a libel is rejected.

Where a defendant is dismissed because the promoter does not bring in his libel.

Where a protest is pronounced for, and the party appearing under protest is dismissed.

Where an action is subducted.

If sureties apply to be dismissed from their recognizances, it must be done by interlocutory decree; but if they are dismissed by the interlocutory decree in the principal cause, no further decree of that kind is necessary for their dismissal.

* See Form of Certificate and Affidavit, No. 238.

The fees due to the Judge and Officers on an interlocutory decree, are chargeable to all parties who received benefit under the same; thus, in a case of derelict, the fees are chargeable to the claimant who obtains restitution of the property, and to the salvors to whom salvage may be awarded.

No decree is to be made, nor Act of Court to be sped by the Judge or Surrogate, without the presence of the Registrar, by whom a minute or record thereof must be made and attested, except only in case of the Registrar's unavoidable absence, on which occasion the Judge or Surrogate may assume an actuary to attest *pro hac vice* the act to be done. Any Practitioner of the Court, provided he be not concerned in the suit in which the act is to be done, may perform this part of the Registrar's duty, attesting by his signature the entry of the act in the Assignment Book.

§ 39. *Monitions.*

If a monition be not decreed at the time an interlocutory decree is made, it may, at the petition of the Proctor on either side, be decreed on any Court-day afterwards.

No monition to pay costs can be extracted until after such costs shall have been regularly taxed by the Court.

§ 40. *Proxies.*

Although proxies are not usually exhibited in maritime suits, yet they may sometimes be required, in order to prevent Proctors from proceeding in causes on instructions from parties not being themselves entitled to intervene, or not having a legal *persona standi* to prosecute a cause.*

§ 41. *Other General Rules.*

Upon the execution of commissions to take bail, the sureties must always justify their sufficiency before the Commissioners, by being sworn to an affidavit,† to be drawn by the Registrar and annexed to the commission; and when bail is not taken by commission, and the Court orders the sureties to justify, a similar affidavit must be made.

When a cargo has been delivered to the consignee, and he has not paid the freight, or when freight has been paid, and is in possession of the owner of the ship, master, broker, or any other person, such freight may be arrested by service of a warrant, upon the consignee or the person in whose hands the freight remains.

The same course is to be pursued when, under similar circumstances, a monition is to be served to bring the freight into the Registry.

All commissions of unlivery, of appraisement, and of appraisement and sale, are to be extracted by the Proctor for the plaintiff or promoter in the cause.

In those Courts in which it may be necessary that the same individual should act as Advocate and Proctor, he may elect in which of the two capacities his fee, in those instances where the duties are necessarily exercised together, shall be charged, and the Practitioner is in no instance to be allowed to receive fees for the same business in both capacities, nor to take a fee as Counsel where the act of a Proctor only is necessary. The same rule will apply to the fee specified in the table for a consultation in any intermediate stage of the proceeding, should a "necessity arise to resort to Counsel for advice;" but an Advocate's fee or consultation is not to be charged on any occasion where a reference to Counsel would not have been necessary. The Practitioner in such cases is only to be entitled to the fee for consultation as a Proctor.

If the Practitioner charges the Advocate's fee for motion necessarily made by Counsel before the Judge in the progress of the cause, he is not to charge or be allowed the Proctor's fee for attending such motion, and where he charges the

* See Proxy, No. 239.

† See Form of Affidavit, No. 240.

Advocate's fee "for the hearing," he is not also to charge or be allowed the Proctor's fee "for attending informations on the final hearing;" nor is he in any case, when acting as Counsel in the cause, to charge the Proctor's fee for attendance to fee Counsel.

In the case of the charges for drawing, and the fee for settling any plea, affidavits, interrogatories, answers, and the like, the Practitioner acting in both capacities is not to be entitled to the full fee for drawing, and to charge a copy to settle, and also a fee for settling the same; but may be allowed, instead thereof, to charge such fee as the table prescribes for the Advocate on settling, and also a moiety of the charges allowed by the table to the Proctor for drawing and copying.

It being provided by the 5th section of the Act, under the authority of which these Regulations are established, that persons feeling themselves aggrieved by the allowance of any charges made by any Officers or Practitioners in the said Vice Admiralty Courts, as not warranted by the established Tables of Fees, may have such charges retaxed by the authority of the High Court of Admiralty of England, upon summary application thereto.

It is requisite, when such applications are intended to be made to that Court, that a set of the copies of all papers previously made out and used in the proceedings upon which the charges objected to have arisen, or so many of them as may be necessary to explain or support the disputed charges, be transmitted to England; or if such copies cannot be transmitted without incurring an expense disproportionate to the object, it will be sufficient, as a substitute for the same, that an affidavit be made stating summarily the nature of the proceedings and the decree in the cause, a description of the different papers and the number of folios contained in each of them, and such facts or circumstances as will explain the nature of the cause and the charges objected to; which affidavit is to be filed in the Registry of the Vice Admiralty Court, to give the Officer or Practitioner whose charges may be objected to, an opportunity of replying thereto, which he should do within a period not exceeding fourteen days, to be limited by the Judge, who is then to order the costs already taxed to be referred for revision to the High Court of Admiralty, with copies of the affidavits. But, previous to any such order of reference being made, the party complaining must pay to the adverse Proctor such part of the allowed charges as is not objected to, and must bring the remainder into the Registry of the Vice Admiralty Court, to abide the decision of the High Court of Admiralty.

NOTE.—The foregoing Rules and Regulations touching the practice and proceedings in the several Courts of Vice Admiralty abroad, are extracted from a Report addressed to the Lords Commissioners of His Majesty's Treasury, drawn up and signed by

JAMES FARQUHAR,
H. B. SWABEY,
WILLIAM ROTHERY,

and perused and approved by

HERBERT JENNER,
JOHN DODSON,
STEPHEN LUSHINGTON,

And the whole, together with the Table of Fees for the respective Colonies (regulated and approved by the same persons), were submitted to and approved by the Right Honorable Sir CHRISTOPHER ROBINSON, Judge of the High Court of Admiralty.

TABLE of Fees to be taken by the Judge, Registrar, Marshal, Advocates, and Proctors of the Vice Admiralty Court at Quebec.

JUDGE.

Sterling Money.
£. s. d.

No Fees to be allowed to the Judge. His Salary to be, in lieu of all Fees 200 0 0

BY THE SURROGATE.

Fees in the Progress of a Suit or Cause.

For administering an Oath as to a Witness or Party in a Cause. Taking Bail, whether by one or more persons. Decreeing Monition, Commission, Attachment, or any other Instrument; or for any Judicial Act done before or after the hearing of the Cause,..... 0 1 6

BY THE REGISTRAR.

1. *Fees on Instruments prepared by the Registrar.*

For Drawing and Engrossing—Warrant to arrest Ship, Goods, or Person—
Copy and Fyling Affidavit,..... 0 4 6
Bail Bond,..... 0 4 6
Monition, Commission, or Decree, whether of Unlivery, Appraisement or Sale, or otherwise,..... 0 9 0
Writ or Instrument of Restitution,..... 0 9 0
Compulsory or Subpœna against Witnesses,..... 0 3 0
Writ of Attachment,..... 0 9 0
If either of the preceding Instruments exceed in length ten folios, for every folio beyond ten,..... 0 1 0

Note.—The folio mentioned throughout this Table of Fees must contain ninety words, reckoning each figure as a word.

Should the Registrar be required to prepare any other Document, Instrument or matter whatsoever, not specified in this Table, he will be entitled to the same charge as a Proctor, viz:—

For Drawing, for every folio,..... 0 1 0
For Fair Copying or Engrossing, for every folio, 0 0 6

2. *Fees on Documents not prepared by the Registrar, but by the Proctor, Solicitor, or Advocate in a Cause.*

On a decree, pronouncing for the interest of a Party proceeding *in poenam*, being signed by the Judge, including the drawing the Act,..... 0 6 0
On fyling Affidavit or Protest of a Master or Mariners, without reference to the number of persons making the same,..... 0 1 6
On fyling Libel, Information, Claim, Proxy, or similar Document,..... 0 2 3
On fyling Exhibit annexed thereto, or to any Affidavit,..... 0 0 6
On signing (or fyling) personal answers of a Party in a Suit, including drawing the Act,..... 0 3 0

3. *Fees on taking the Examination of Witnesses.*

On the Examination of every Witness on an Information, Libel, Interrogatories or Plea, (whether *vidâ voce* or otherwise) a fee of..... 0 4 6
For each folio to which the Examination shall extend, if in English,..... 0 1 0
If by Interpretation (Interpreter included,)..... 0 2 0

NOTE.—It should be understood, that the Registrar, or whoever acts as the Examiner for him, should take Depositions in chief of the Witnesses, on the Libel, Information, or Plea itself, without written Interrogatories; putting each relevant questions, *vidâ voce*, as may suggest themselves; and care should be taken not to lead the Witness. The Libel, Information, or Plea, should therefore always be drawn sufficiently precise and full to enable the Examiner to take the Examinations accordingly.

The Cross-examinations must, of course, be taken on written Interrogatories.

4. *Fees on Office Copies of Papers or Proceedings.*

For office Copy of Sentence or Interlocutory Decree, certified under Seal,	0	6	0
For Office Copy of any Affidavit, Examination, Answers of a Party, or other documents, or Proceedings in a Cause, or Extract therefrom, if under twelve folios,.....	0	4	6
If exceeding twelve folios, for each folio beyond twelve,.....	0	0	6
Office Copies of Papers and Proceedings to form a Process, to be transmitted to the Court of Appeal, or for any other purpose, for each folio contained therein,.....	0	6	0

5. *Fees on Translation of Papers.*

Where papers are translated, the Registrar should charge the Disbursement actually made to the Translator, with an addition of one-fourth, to compensate himself for his trouble, advance, &c.

6. *Incidental Fees in the Progress of a Cause.*

	Sterling Money.		
	£	s.	d.
On Subduction of an Action.....	0	4	6
For entering every ordinary Act of Court not specified in this Table....	0	1	0
On every Default pronounced against Parties in Contempt, in Cases proceeding <i>in panam</i>	0	4	6
On every Interlocutory Decree, or Sentence, including drawing the Act, to be paid by the Party succeeding	0	9	0
For every Attendance before a Judge or Surrogate, at which any Decree is made, other than an Interlocutory or Sentence including the Act, drawing the Act.....	0	4	6
For a Receipt for original Documents delivered out of the Registry.....	0	1	6
On a Search or Examination of the Records, by any person not being a Party in the cause in which the Search is made.....	0	1	0

NOTE.—No Fee to be charged to a Party in the Cause, or to any Seamen, applying for a Search.

For advertising an intermediate or Extra Court Day, in addition to the sum paid for Advertisement.....	0	4	6
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7. *On Paying out Money.*

For preparing Receipt for Money to be paid out of the Registry.....	0	1	6
Poundage on Money paid out of the Registry, for every Pound sterling...	0	0	2

8. *Taxing Costs.*

For taxing a Bill of Costs, if under six folios, from the Party at whose instance the Taxation takes place.....	0	4	6
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9. *References of Accounts, &c., by the Judge, to the Registrar and Merchants.*

To the Registrar.....	2	2	0
To the Assistant Merchant.....	2	2	0

If two Merchants, Two Guineas each.

BY THE MARSHAL.

For arresting a Vessel, Goods, or Person.....	0	18	0
For keeping possession of a Vessel and Cargo, jointly, or either of them singly, when the same are not under the responsible charge and custody of the Officers of the Customs, for each day in which they remain in the Marshal's charge, exclusive of charge for keepers when necessary	0	3	0

NOTE.—This Fee not to be chargeable in cases where the Goods have been put into Store or Warehouse.

For inquiring into and certifying the sufficiency of Persons proposed as Sureties in any Suit.....	0	2	3
For release of a Vessel, Goods, or Person from arrest.....	0	2	3
For executing any Monition, or Decree for Answers of a Party, or Compulsory, or other Instrument not specified.....	0	4	6
For every Default or Decree, pronounced for the interest of a Party proceeding <i>in paenam</i>	0	3	0
For every attendance in Court, when a Sentence or Interlocutory Decree is pronounced	0	4	6
For executing any Decree or Commission of Appraisement, exclusive of the Appraiser's Fees, but including the making of the Inventory, if the value should not exceed £500 sterling.....	1	1	0
For the like Duty, when the value exceeds £500 sterling.....	1	16	0
For executing every Decree or Commission of Sale of Ship, or Goods, by Public Auction, when the gross proceeds are under £200 sterling... And on every additional £100 sterling.	1	1	0
On attending the execution of a Decree or Commission of Unlivery of Cargo (when not done for the purpose of Sale), per Day.....	0	10	6
For taking a Person in Execution after Sentence, if the Sum due from such Person does not exceed £20 sterling.....	0	16	0
For the like Duty when the Sum is above £20 and under £50 sterling... For the like Duty when the Sum is above £50 and under £100 sterling, for every Pound sterling due	1	16	0
And on every additional Pound sterling after the first £100.....	0	1	0
	0	0	6

NOTE.—Should it be necessary for the Marshal to go any distance to execute any of the above Duties, there should be paid to him for Loss of Time and Travelling Expenses, in addition to the preceding Fees, the following :—

If the distance exceeds Four and be under Six Miles.....	1	1	0
If the distance be still greater, the allowance to be increased by an addition of 2s. 3d. for each additional league and his reasonable disbursements.			

BY THE ADVOCATES.

As the professions of Advocate and Proctor are not as yet separated in Lower Canada, the Fees of both are inserted under the following head.

BY THE ADVOCATES AND PROCTORS.

Retaining Fee, Instructions to prosecute or defend.....	0	10	6
For attending before the Judge, or Judge Surrogate, either in Court or Chambers.....	0	6	0
On extracting any Warrant, Monition, Commission, Writ, or other Instrument.....	0	6	0
Drawing Libel, Information, Claim and Affidavit, Act on Petition, Responsive Plea (or Replication) to Libel or Information, or Act on Petition.....	0	18	0
Engrossing Copies, each.....	0	9	0
Drawing Interrogatories, Answers, Affidavits, or any other Proceeding whatever; not herein specified, for each folio.....	0	1	0
Fair Copying or Engrossing, for every folio.....	0	0	6

NOTE.—It should be understood that in preparing Interrogatories for the Cross-examination of Witnesses, they are not to be drawn separately for each Witness to whom the same are to be administered, but that when practicable, as in most instances will be the case, one set of Interrogatories should be prepared generally applicable to all the Witnesses.

For Consultation with Party, for the purpose of taking Instructions for the Libel, Information, Plea, Act on Petition, or for any other important purpose, during the dependence of a Suit.....	0	6	0
The Fee for the final Hearing must depend upon the length of the Evidence, and the importance and difficulties of the Cause; but in cases of no great intricacy, the Fee should be from Two to Three Guineas, and not to exceed the latter sum, unless where the Proceedings are voluminous or unusually important or difficult, and in this last case not to exceed Five Guineas	2	2	0
	3	3	0
	5	5	0
For any necessary Attendance on the Registrar, or on the adverse Proctor, during the progress of a Cause, to adjust any incidental point in the Suit, or on the Marshal, to instruct him as to the service of any Instrument, reporting Bail, &c.....	0	4	6
On all Office Copies of Depositions, &c., obtained from the Registrar, one-third of the actual sum paid at the Registry is to be added for the trouble of collating and extracting the same.			
For perusing and considering any Papers, Exhibits, or Documents, furnished or introduced into a Cause, by the adverse Party, or furnished by a party to his own Proctor, for the purpose of being brought forward as Evidence in the Suit, if not exceeding twelve folios.....	0	3	0
For every additional twelve folios.....	0	1	6
For attending Informations on the final Hearing of a Cause, when it occupies only a short time, 10s.; if a few hours, 16s. 8d.; if a whole day, £1 6s. 8d.....	0	10	0
	0	16	8
		or	
	1	6	8

NOTE.—In some of the Vice Admiralty Courts, Proceedings for the Forfeitures of Ships, or Goods, and for the Recovery of Penalties consequent thereon, have, in some instances, been carried on by two separate Suits; one for the condemnation of the Property, and the other for the Penalties. This mode of proceeding should be discontinued, one Suit only being necessary to accomplish both objects.

In all cases under £20 sterling, wherein the Judge shall see fit to order that the Proceedings be summary, and the Evidence taken *viva voce*, the Fees to be taken by the several Officers of the Court shall become half of the foregoing Fees, and no more, save and except as to the Fee for the Warrant of Arrest, Arrest and Bail Bond, which shall remain as above.

So also as to cases under £20 sterling, settled before the return of the Warrant.

Supplementary Rules.

The Rules and Regulations established by the King's Order in Council of the 27th June, 1832, are not to be construed to have set aside the former practice in the Courts of Vice Admiralty, of allowing the Defendant to require from the Promoter to Libel with Sureties, unless the promoter should be admitted by the Court to his jutory caution.

From the shortness of the season of the navigation at the port of Quebec, and the danger and risk to ships towards the close of the navigation in the autumn, from even so short as twenty-four hours' notice of bail to answer an action, this period of notice of bail as provided by the 11th Section of the above Rules and Regulations, shall not be required, where the Parties who are proposed as the Bail make oath that they are respectively worth more than the amount for which they are proposed as Bail or Security, over and above the amount of all their just debts.

(Signed,)

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“

“

J. FODSON,
JOSEPH PHILLIMORE,
WM. ROTHERY,
H. B. SWABEY.

At the Court at Buckingham Palace, the second day of March, 1848.

Present :

The Queen's Most Excellent Majesty in Council.

WHEREAS there was this day read at the Board:—a Memorial of the Right Honorable the Lords Commissioners of the Admiralty, dated the 16th February, 1848, in the words following, viz:

“Whereas by His late Majesty's Order in Council, of the 27th June, 1832, certain Tables of Fees were established for the several Courts of Vice Admiralty; and by a subsequent Order in Council, of his late Majesty, dated 20th November, 1835—so much of the preceding Order in Council as related to the establishment of a Table of Fees, to be taken by the several Officers of the Vice Admiralty Court at Quebec, was revoked; And, whereas, the Lords Commissioners of Your Majesty's Treasury have represented to us that it would be desirable to establish a Table of Fees, for the said Vice Admiralty Court, at Quebec. We do, therefore, most humbly submit to Your Majesty—that Your Majesty will be most graciously pleased, by your Order in Council, to authorize us to carry into effect the proposal of the Lords Commissioners of Your Majesty's Treasury; and, that the Table of Fees hereunto annexed, which has been proposed by Your Majesty's Advocate General, and other competent Authorities of the High Court of Admiralty of England, may be established, by Your Majesty's Order in Council, as the only Fees to be taken or received by the Officers and Practitioners of the Vice Admiralty Court at Quebec.”

Her Majesty having taken the said Memorial into consideration was pleased, by and with the advice of Her Privy Council, to approve thereof, and of the Table of Fees accompanying the same (copy whereof is hereunto annexed), and the Right Honorable the Lords Commissioners of the Admiralty are to give the necessary directions herein accordingly.

(Signed,)

C. GREVILLE.

Entered and Enrolled in the Vice-Admiralty Court at Quebec, the 27th day of June, 1848.

J. P. BRADLEY, Registrar.

RETURN to an Address from the Legislative Assembly to His Excellency the Governor General, dated the 16th July, 1847, and praying His Excellency to cause to be laid before the House, Copies of the Order in Council of the 20th November, 1835, revoking and annulling, in respect to the Vice Admiralty Court of Lower Canada, the Tariff of Fees established by the Order in Council of the 27th June, 1832, for the Vice-Admiralty Courts abroad, under the authority of the Imperial Statute, 2 Will. IV., cap. 51, and of the Petition of the Bar of Quebec to Her Majesty, in relation to the said Tariff and the said Order, in Council, transmitted through His Excellency the late Lord Metcalfe in November, 1843; together with Copies of all Correspondence and Documents in His Excellency's possession, having reference to the establishment of a Tariff of Fees for the said Court.

By Command,

D. DALY,

Secretary.

Secretary's Office,
Montreal, 26th July, 1847.

(Copy.)

CASTLE ST. LEWIS,
QUEBEC, 2nd Feb., 1836.

The following communications having been addressed to His Excellency Lord Gosford, by order of the Lords Commissioners of the Admiralty, I have received His Excellency's commands to cause the same to be published in the Official Gazette, for the information and guidance of all concerned.

(Signed,) STEPHEN WOLCOTT,
Civil Secretary.

ADMIRALTY, 25th Nov., 1835.

MY LORD,—His Majesty having been pleased, by His Order in Council, dated 20th instant, to revoke and annul so much of the Order in Council, of the 27th June, 1832, as established a Table of Fees to be taken by the several Officers of the Vice Admiralty Court at Quebec; I am recommended by My Lords Commissioners of the Admiralty, to transmit to your Lordship herewith, for your information and guidance, a Copy of the said Order in Council of the 20th instant.

I am, my Lord,
Your Lordship's
Most humble servant,
(Signed,) JOHN BARROW.

The Earl of Gosford,
Vice Admiral, Quebec.

(Copy.)

L. S.

AT THE COURT AT BRIGHTON,
The 20th of November, 1835.

PRESENT :

The King's Most Excellent Majesty in Council.

WHEREAS, there was this day read, at the Board, a Memorial of the Right Honorable the Lords Commissioners of the Admiralty, dated the 18th instant, in the words following, viz :—

Whereas Your Majesty, by Your Order in Council, of the 27th June, 1832, was pleased to establish certain Rules, Regulations and Fees for the several Courts of Vice Admiralty in Your Majesty's Possessions abroad, under the authority of an Act passed in the second year of Your Majesty's Reign; And whereas the Lords Commissioners of Your Majesty's Treasury have lately represented to us, upon a communication from Your Majesty's Secretary of State for the Colonies, that it is expedient that so much of the said Order in Council as relates to the establishment of a Table of Fees to be taken by the several Officers of the Vice Admiralty Court at Quebec, be revoked: We do, therefore, most humbly submit to Your Majesty, that Your Majesty will be most graciously pleased, by Your Order in Council, to revoke and annul so much of the said Order in Council of the 27th June, 1832, as relates to the establishment of a Table of Fees in the said Vice Admiralty Court at Quebec, accordingly.

His Majesty having taken the said Memorial into consideration, was pleased by and with the advice of His Privy Council, to approve thereof, and to order, as it is ordered, that so much of the said Order in Council of the 27th June, 1832, as relates

to the establishment of a Table of Fees in the said Vice Admiralty Court at Quebec, be revoked and annulled; and the Right Honorable the Lords Commissioners of the Admiralty are to give the necessary directions herein accordingly.

(Signed,) C. GREVILLE.

Certified to be True Copy of the Order in Council, published in the *Quebec Official Gazette* of the 4th of February, 1836.

E. PARENT,
Assistant Secretary.

NOTE—The Petition of the Bar of Quebec, referred to in the Address, was transmitted to the Colonial Secretary in the Original, and no Copy of it kept.

(Copy.)
No. 53.

GOVERNMENT HOUSE,
KINGSTON, 5th March, 1842.

MY LORD,—With reference to Lord Seaton's Despatch of the 29th January, 1839, and to other Correspondence mentioned in the margin, I have the honor to transmit to Your Lordship, herewith, the copy of a further letter from Mr. Black, the Judge of the Vice Admiralty Court at Quebec, repeating his solicitations for the establishment of a Tariff of Fees for that Court.

The circumstances which led to the abrogation of the Tariff formerly in existence are so fully explained in the correspondence above referred to, and in that which took place in the year 1834 with Lord Alymer, that it is unnecessary for me here to enter into any recapitulation of them.

In his Despatch of the 15th August, 1838, Lord Glenelg announced to the Earl of Durham that it was the intention of Her Majesty's Government to send out a series of questions by which to elicit from the Vice Admiralty Court, all the information necessary for their guidance in the preparation of a new Tariff. I cannot find that this intention was ever carried into effect, or that any answer was returned to Lord Seaton's Despatch of January, 1839. The matter, therefore, still remains in the same position in which it was left by the revocation of the Order in Council of the 27th June, 1832. But as the want of a proper Table of Fees is very injurious to the efficiency of this Court, and as the power of establishing such fees has been vested by the Imperial Parliament in the Queen in Council, I beg to request Your Lordship's early attention to the question with a view to its settlement on a permanent and satisfactory basis.

I have, &c.,
(Signed,) CHARLES BAGOT.

The Right Hon. Lord Stanley,
&c., &c., &c.

(Copy.)

GOVERNMENT HOUSE,
KINGSTON, 23rd March, 1843.

MY LORD,—Having received a further application from Mr. Black, the Judge of the Vice Admiralty Court at Quebec, respecting the necessity which exists for establishing a Tariff of Fees for that Court, I have the honor herewith to transmit a copy of his letter of the 15th March to Your Lordship, and to request Your Lord-

ship's attention to this subject, in connexion with the Despatch which I addressed to Your Lordship on the 5th March, 1842, (No. 53) referring to Mr. Black's former correspondence upon it.

I have, &c.,
(Signed,) CHARLES BAGOT.

The Right Hon. Lord Stanley,
&c., &c., &c.

(Copy.)
No. 88.

DOWNING STREET,
16th September, 1843.

SIR,—I have to acknowledge the receipt of your Despatch No. 47, of the 23rd March, requesting the decision of Her Majesty's Government upon the Tariff of Fees which it would be proper to establish for the payment of the Officers of the Court of Vice Admiralty at Quebec.

The subject to which your Despatch relates, having been for some time under the consideration of the Lords Commissioners of the Treasury, I transmitted to that Board a copy of your Despatch, and of its inclosure, accompanied by my request that a decision might be formed upon the question contained in it without further delay; and I have since received a letter from one of the Secretaries to their Lordships, inclosing the Draft of a Table of Fees to be taken by the respective officers of the Court of Vice Admiralty at Quebec, of which and of the whole correspondence which has passed on the subject between this office and the Treasury, I now enclose you copies for your information.

You will observe that the Lords of the Treasury have no objection to the revision of the proposed Table of Fees by a Commission of Canadian Lawyers or Merchants, appointed by you for that purpose, or to the adoption of any other scale of fees that you, or the proposed Commission, may recommend; but they state that it will be necessary not only that the scale which shall eventually be adopted, should receive the sanction of the Queen in Council, but that, in consideration of the extensive nature of the jurisdiction of the Vice Admiralty Courts, and of the expediency of making the same scale of fees applicable to the Courts of Nova Scotia, New Brunswick, Newfoundland, and Prince Edward Island, it will be desirable that before any amended Table of Fees be sanctioned by the Queen in Council, it should be submitted for the opinion of Her Majesty's Advocate and the Advocate of the Admiralty,

Under these circumstances it is open to you to appoint a Commission, composed, according to my suggestion, of Canadian Merchants and Lawyers, or to nominate any other local authority which you may think more qualified for this duty. But I wish further to receive your opinion whether there would be any objection to the promulgation of the amended Tariff by an Order in Council to be issued in pursuance of the Act of Parliament, or whether there is any motive in favor of proceeding by local legislation sufficiently strong to overrule the reasons of the Board of Treasury in favor of adhering to the course of proceeding hitherto observed in such cases.

I have, &c.,
(Signed,) STANLEY.

Sir C. T. Metcalfe, Bart.,
&c., &c., &c.

TREASURY CHAMBERS,

26th June, 1843.

SIR,—I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit to you the enclosed copy of a Report from Mr. Rothery, dated the 19th instant, relative to the establishment of a Tariff of Fees for the Vice Admiralty Court at Quebec, in order that the same may be submitted for the information of Lord Stanley, with reference to your letter of the 25th April last, and to the previous communications from His Lordship's Department on the subject of the revision of the Table of Fees in the Vice Admiralty Court in the North American Provinces.

I have, &c.,
(Signed,)

C. E. TREVELYAN.

James Stephen, Esq.,
&c., &c., &c.

To the Right Honorable the Lords Commissioners of Her Majesty's Treasury:

MAY IT PLEASE YOUR LORDSHIPS,

In obedience to Your Lordships' commands, I have perused and considered the letter herewith returned, from James Stephen, Esq., together with a copy of a Despatch from the Governor of Canada, and copy of a letter from the Judge of the Vice Admiralty Court at Quebec, in which he inquires whether Her Majesty's Government have yet decided on the establishment of a Tariff of Fees for that Court, and Mr Stephen, in reference to his letter dated 18th May, 1842, as well as to the previous correspondence on the subject, states, that Lord Stanley hopes that this question may be decided upon, without further delay.

I do most humbly report to Your Lordships that I have in conjunction with Mr. Swabey, the Registrar of the High Court of Admiralty, at various periods, endeavoured to obtain from different sources the best information that could be procured to warrant us in making such alterations as appeared to be proper in the fees to be established in the Vice Admiralty Court in question, and we think that we have obtained sufficient information to enable us to conclude the same. At present, however, it is in the middle of the Term, but so soon as the present Term ends, every exertion shall be used to terminate the duties assigned to him.

All which is most humbly submitted to Your Lordships' Wisdom.

(Signed,) WM. ROTHERY.

Stratford Place,
19th June, 1843.

DOWNING STREET,

13th July, 1843.

SIR,—I am directed by Lord Stanley to acknowledge the receipt of your letter of the 26th ultimo, on the subject of the revision of the Tariff of Fees to be established for the Vice Admiralty Court at Quebec.

Lord Stanley would be very reluctant to address to the Governor General of British North America a Despatch communicating to that Officer the explanations which the Lords Commissioners of the Treasury have received of the causes which have so very long delayed the completion of this work. His Lordship fears that the Legislative and Judicial authorities of Canada would regard with serious discontent the apology that the gentlemen to whom this duty has been confided by the Lords Com-

missioners are too much occupied with the business of the Term at Westminster Hall to attend to so important a Provincial interest; especially as the reference to those Gentlemen has been pending before them for more than fourteen months.

The dissatisfaction of the Province would (as Lord Stanley fears) be increased by the Statement of the difficulty (so tardily admitted) with which the referees of the Treasury have had to contend in obtaining the requisite information as to the material facts of the case, and by the further statement of the very imperfect means of knowledge now at their command.

It appears to Lord Stanley not to be really doubtful that the subject is beyond the competency of any persons in this country, and that there can be no sufficient reason why the arrangement of the Fees of the Court of Admiralty at Quebec should not be left to the local Authorities.

His Lordship is fully convinced of the far superior qualifications of those Authorities for such a task, but even in the opposite hypothesis, he cannot doubt that a Tariff of Fees of local origin is much the most likely to be acceptable to the parties interested.

Lord Stanley would propose therefore, unless the Lords Commissioners of the Treasury perceive any very serious and decisive objection, to instruct Sir Charles Metcalfe to appoint a Commission of Canadian Lawyers and Merchants for the preparation of the Tariff, and to submit it when so prepared to the Legislature of Canada for their sanction.

If there is any Act of Parliament or Order in Council which would interfere with the execution of this purpose, Lord Stanley would recommend the immediate repeal of it.

I have, &c.

(Signed,)

JAMES STEPHEN.

C. E. Trevelyan, Esq.,
&c., &c., &c.

(Copy.)

TREASURY CHAMBERS,
11th September, 1843.

SIR,—The Lords Commissioners of Her Majesty's Treasury having had under their consideration your letter of the 13th July last, relative to the revision of the Tariff of Fees for the Vice Admiralty Court at Quebec; I have it in command, with reference to the previous correspondence which has taken place upon this subject, to request that you will acquaint Lord Stanley that Mr. Rothery having now reported the steps that had been taken by him, in conjunction with the Registrar of the High Court of Admiralty, for the preparation of the Tariff in question, and for the necessary revision in connexion with any new Regulation that may be adopted in the Court at Quebec, of the fees chargeable in the other Vice Admiralty Courts in North America, My Lords have directed Extracts from such Report with Table of Fees to which it refers, to be forwarded to you, in order that they may be laid before Lord Stanley; in doing which, you will observe to his Lordship that the report having been submitted by Mr. Rothery to Her Majesty's Advocate and the Advocate of the Admiralty, have been approved by those Officers.

You will further state to Lord Stanley that My Lords have not omitted, at the same time, to advert to the suggestions in the communication above mentioned, of the 13th July last, "that the arrangement of the fees of the Court of Admiralty at Quebec should be left to the local Authorities, and that with this view Sir Charles Metcalfe should be instructed to appoint a Commission of Canadian Lawyers and Merchants for the preparation of the Tariff, and to submit it when so prepared to

the Legislature of Canada for their sanction, and that any Act of the Imperial Parliament or Order in Council that would interfere with the execution of this purpose should be immediately repealed."

Referring to these suggestions you will observe to His Lordship that it is in the first place to be borne in mind that the charges in the Vice Admiralty Court at Quebec or other Vice Admiralty Courts in the Colonies are not confined to the locality of the Colony, as the fees may become payable by any class of Her Majesty's subjects whose vessels, from various accidental circumstances may become subject to the adjudication of the particular Vice Admiralty Court; and that in consequence it is to be presumed, of this extensive jurisdiction it is required by the Act 2nd Will. IV., chap., 51, specially passed for the regulation of the practice and for the establishment of fees to be taken in the Courts of Vice Admiralty throughout the Colonial Possessions of the Crown, that the Rules, Regulations, and Table of Fees of these Courts should only be established or altered by Order of Her Majesty in Council.

My Lords, however, apprehend that there can be no objection to any revision of the proposed Table of Fees previous to the legalization of it in the manner pointed out by the Act, by any competent persons in Canada, or to the adoption or legalization by Her Majesty in Council of any other Scale of Fees that may be recommended by the Canadian Government or by the Commission that has been suggested; and referring to the strong opinion on this subject signified in your letter of the 13th July, you will apprise Lord Stanley that My Lords see no possible objection to any instructions His Lordship may seem fit to convey to the Governor of Canada in these respects, or to the transmission to the Canadian Government of the Table of Fees now forwarded to His Lordship, either in order to its revision, or for the information merely of any Commission His Lordship may direct the Governor to appoint. But you will at the same time point out to Lord Stanley's attention that it will not only be necessary that any Scale of Fees eventually be adopted, shall receive the sanction of Her Majesty in Council, but likewise that the consideration before adverted to, connected with the extensive nature of the Jurisdiction of Vice Admiralty Courts, as well as the expediency suggested in Mr. Rothery's Report, of making the same Scale of Fees applicable to the Courts at Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island, will render it advisable, that previously to any revised or amended Table being laid before Her Majesty for such sanction, it should be submitted to Her Majesty's Advocate, and the Advocate of the Admiralty for their consideration and opinion thereon.

I am, &c.,

(Signed,)

G. CLARK.

EXTRACT from Mr. Rothery's Report, dated the 31st August, 1843.

"In obedience to directions received from Your Lordships' Board, signified to me by Francis Thos. Baring, Esq., in his letter dated 12th November, 1838, I have perused and considered copies of a letter from Mr. Stephen, Under Secretary of State for the Colonial Department, dated the 24th October, 1838, and of its several inclosures, on the subject of the Rules, Regulations, and Fees of the Vice Admiralty Court at Quebec, and signifying the opinion of the Board that the same course which had been adopted in pursuance of their Lordships' Minute dated the 14th January, 1831, on the subject of the charges of the Vice-Admiralty Courts in the Colonies, should be pursued for the purpose of ascertaining what Rules and Regulations it might be proper to establish for the Vice Admiralty Courts at Quebec and Halifax, as well as of forming a Scale of Fees for the officers of both those Courts, and desiring me to communicate with Mr. Swabey, the Registrar of the High Court of Admiralty, and with Mr. Fairbanks, then Judge of the Vice Admiralty Court at Halifax, and

after consultation with Her Majesty's Advocate and the Advocate of the Admiralty, to submit to Your Lordships' Board such Regulations on this subject as might appear to be expedient.

I have the honor to report that in the execution of these directions, I have in addition to the preceding documents, perused and considered the following also transmitted to me by command of Your Lordships' Board, and communicated the same to Mr. Swabey likewise for his perusal.

Letter from F. T. Baring, Esq., dated the 29th December, 1838, with letter from Mr. Hy. Bliss, dated 29th November, 1838, relative to the expediency of applying such Rules, Regulations and Scale of Fees, as might be recommended in the cases of Canada and Nova Scotia, to the Vice Admiralty Court of New Brunswick.

Letter from Mr. Pennington, dated 4th April, 1839, with copies of two Despatches from Sir John Colborne, dated from Montreal the 29th January, in that year, transmitted by direction of Your Lordships' Board; together with two letters from H. Black, Esq., Judge of the Vice Admiralty Court at Quebec, dated the 24th and 25th of the said month of January.

Letter from Mr. Stephen to Your Lordships' Secretary, dated the 20th November, 1839, with a copy of a letter from Sir Colin Campbell, the Lieutenant Governor of Nova Scotia, dated, Halifax, 19th October, 1839, together with with a letter from Mr. Fairbanks, then Judge of the Vice Admiralty Court at Halifax.

Letter from Mr. Stephen to Your Lordships' Secretary, dated the 13th May, 1842, with copy of a letter from the late Sir Charles Bagot, Governor of Canada, dated the 5th of the previous month of March; as also copy of a further letter from Mr. Black, the Judge of the Vice Admiralty Court, at Quebec, dated the 12th February, 1842.

Further letter from Mr. Stephen to Your Lordships' Secretary with a copy of a further letter from the late Sir Charles Bagot, dated the 23rd of the said month of March, with a further letter from Mr. Black, dated the 15th of that month.

I have also attentively perused and considered the several other documents hereunder mentioned, more particularly relating to the Scale of Fees at the Vice-Admiralty Court at Quebec, and communicated the same to Mr. Swabey, viz:

Copies of a letter from Sir George Grey, dated 16th May, 1835; and a Despatch from Lord Aylmer, the Governor of Quebec, as also my Report thereon, dated the 12th June, 1835.

Letter from the Honorable J. Stewart, dated the 5th December, 1835, with a copy of a letter and its enclosure, from the Board of Admiralty, being a copy of an Order in Council, dated the 20th November, 1835, revoking Table of Fees for the Vice Admiralty Court at Quebec.

Copy of a letter from J. Stephen, Esq., dated the 3rd March, 1838, with copies of Despatches from the Earl of Gosford, and of the replies returned to them; also of a further letter from Mr. Stephen, dated the 8th of said March, with a copy of a Despatch from the Earl of Gosford, and my Report thereon, dated the 19th April, 1838.

Copy of Your Lordship's Minute dated 30th April, 1838.

Copy of a letter from A. G. Spearman, Esq., dated 13th July, 1838, with letter from Mr. Stephen, and copy of a Minute of Your Lordships' as well as the previous correspondence which had taken place on the subject of the establishment of a new Tariff of Fees, and copy of my letter to Mr. Spearman, in reply, dated the 26th October, 1838.

Letter from Mr. Stephen, dated the 13th July, last, stating, &c.—

On the subject of this recommendation from Lord Stanley, I beg to refer Your Lordships to a separate Report of this day's date to Your Lordships, and shall pro-

ceed in this Report to state every thing which has been done for the purpose of framing a Table of Fees proper to be established in these Vice Admiralty Courts; and for this purpose, exclusive of the oral testimony received from the late Mr. Fairbanks, the Judge of the Vice Admiralty Court at Halifax, from Mr. Black, the Judge of the Vice Admiralty Court at Quebec—Mr. Archibald, the present Judge of the Vice Admiralty Court at Halifax—Mr. Young, a gentleman having considerable practice in that Court—and from a variety of other persons, from whom it was most likely the best information could be procured, Mr. Swabey and myself are of opinion that the Scale of Fees formerly established at Quebec, was too high and should be reduced, and we have prepared a Table of Fees, such as we consider would be proper to be received by the Judge, Officers and Practitioners of this Vice Admiralty Court of Quebec. I beg, however, to observe, that no Table of Fees can be regularly established for any Vice Admiralty Court, except by an Order of H. M. in Council, in conformity with the Act of the 2nd Will. the 4th, cap. 51.

I beg further to report that we are also of opinion that the same fees which are to be established at Quebec, should be made available to the two other Vice Admiralty Courts, to which, by direction of Your Lordships, our attention has been called, viz: Halifax and New Brunswick; and notwithstanding these are the only Vice Admiralty Courts for which we have been directed to prepare a Table of Fees, yet we are of opinion that similar Tables should be applied to the Vice Admiralty Courts established at Newfoundland and Prince Edward's Island.

In preparing this Scale of Fees, we have, in order to enable us to discharge more properly the duties confided to us, also found it necessary to have reference to the following documents, viz:—

The Reports of the Commissioners employed in preparing Tables of Fees in prize causes, for certain of the Vice Admiralty Courts, which Tables were afterwards established by His Majesty's Order in Council, dated the 15th July, 1813.

The Reports of the Commissioners for examining into the duties, salaries and emoluments of the Officers of the several Courts of Justice in England, particularly those relating to the High Court of Chancery and Exchequer.

The High Courts of Admiralty and Prize Appeals, and the principal Ecclesiastical Courts.

Also in the Act of the 2nd Will. the 4th, cap. 51, to regulate the practice and the fees in the Vice Admiralty Courts abroad, and to obviate doubts as to their jurisdiction, together with the Rules, Regulations, and Tables of Fees thereby ordained and established.

QUEBEC.

TABLE OF FEES.

BY THE JUDGE.

Fees in the progress of a Suit or Cause

STERLING
MONEY.
£. S. D.

For administering an oath to a witness or party in a cause, taking bail, whether by one or more persons, decreeing monition, commission, attachment, or any other instrument, or for any judicial act done before or after the hearing of a cause, and not otherwise mentioned herein., 0 2 0

The above fee of 2s. to be taken by the Surrogate whenever he performs the duty.

On subduction of an action,.....	0	2	8
On pronouncing a party to be in default,.....	0	6	8
On signing a decree pronouncing for the interest of a party proceeding in pœnam,.....	0	6	8
On a sentence or interlocutory decree,.....	1	0	0

Fees upon the Sealing of Instruments.

Warrant of arrest, monition, commission, decree, restitution or attachment,	0	4	4
Compulsory or subpoena, or any instrument not otherwise mentioned,.....	0	2	8
Exemplification of any document or proceeding,.....	0	6	8
Process transmitted to the Court of Appeal,.....	0	4	4

BY THE REGISTRAR.

1. Fees on instruments prepared by the Registrar.

For drawing and engrossing—

Warrant to arrest ship, goods or person,.....	0	3	6
Bail Bond,.....	0	3	6
Monition, commission or decree, whether of unlivery, appraisement or sale, or otherwise,.....	0	10	0
Writ or Instrument of restitution,.....	0	12	0
Compulsory or subpoena against witnesses,.....	0	5	0
Writ of Attachment,.....	0	12	0
If either of the preceding instruments exceed in length ten folios, for every folio beyond ten,.....	0	1	0

* The folio mentioned throughout this Table of Fees must contain ninety words, reckoning each figure as a word.

Should the Registrar be required to prepare any other document, instrument or matter whatsoever, not specified in this Table, he will be entitled to the same charge as a Proctor, viz:

For drawing every folio,.....	0	1	0
For fair copying or engrossing for every folio,.....	0	0	6

2. Fees on documents not prepared by the Registrar, but by the Proctor Solicitor, or Advocate, in a cause.

On a decree pronouncing for the interest of a party, proceeding in pœnam, being signed by the Judge,.....	0	6	8
On fying affidavit or protest of a master or mariners, without reference to the number of persons making the same,.....	0	2	8
On fying libel, information, claim, proxy, or similar document,.....	0	4	0
On fying exhibit annexed thereto, or to any affidavit,.....	0	1	0
On entering (or engrossing) personal answers of a party in a suit, for each folio,....	0	0	6

3. Fees on taking the examination of witnesses.

In taking the *examination of every witness on an information, libel, interrogatories or plea, a fee of.....	0	6	8
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* Note.—It should be understood that the Registrar or, whoever acts as the Examiner for him, should take the depositions in chief of the witnesses, on the libel, information or plea itself, without interrogatories; putting such relevant questions *visa vice*, as may suggest themselves, and care should be taken not to lead the witness; the libel, information or plea should therefore always be drawn sufficiently precise and full to enable the Examiner to take the examinations accordingly. The cross-examinations must, of course, be taken on written interrogatories.

For each folio to which the examination shall extend, if in English,.....	0	1	0
If by interpretation, (interpreter included,)	0	2	0
4. Fees on office copies of papers or proceedings.			
For office copy of sentence or interlocutory decree certified under seal,...	0	9	0
For office copy of any affidavit, examination, answers of a party or other documents, or proceedings in a cause or extract therefrom, if under twelve folios,.....	0	5	0
If exceeding twelve folios, for every folio beyond twelve,.....	0	0	6
Office copies of papers and proceedings to form a process to be transmitted to the Court of Appeal, or for any other purpose, for each folio contained therein,.....	0	0	6
5. Fees on translation of papers.			
Where papers are translated, the Registrar should charge the disbursements actually made to the Translator, with an addition of one-fourth, to compensate himself for his trouble, advance, &c.			
6. Incidental fees in the progress of a cause.			
On subduction of an action,.....	0	5	0
For ordering every ordinary act of Court,.....	0	1	0
On every default pronounced against parties in contempt in cases proceeding in pœnam,.....	0	3	4
On every interlocutory decree or sentence, including drawing the act, to be paid by the party succeeding,.....	0	10	0
For every attendance before a Judge or Surrogate, at which any decree is made, other than an interlocutory or sentence.....	0	3	6
For a receipt for original documents delivered out of the Registry,.....	0	1	4
On a *search or examination of the records by any person not being a party in the cause in which the search is made,.....	0	2	6
*Note.—No fee to be charged to a party in the cause, or to any seaman applying for search.			
For advertising an intermediate or extra Court day, in addition to the sum paid for advertisement.....	0	5	0
7. On paying out money.			
For preparing Receipt for money to be paid out of the Registry,.....	0	1	0
Poundage on money paid out of the Registry, for every pound sterling,..	0	0	2
8. Taxing costs.			
For taxing a Bill of Costs if under six folios from each party who attends the taxation.	0	3	4
If the Bill of Costs exceed six folios, for every additional folio (besides the Fees above mentioned) to be paid in equal proportions by each person who attends; and if but one party attend, to be paid by him solely,.....	0	0	4
9. References of accounts, &c., by the Judge to the Registrar and Merchants.			
To the Registrar,.....	3	3	0
To the Assistant Merchant,.....	3	3	0
If two Merchants, three guineas each.			

BY THE MARSHAL.

For arresting a vessel, goods or person,	1	1	0
For keeping possession of a vessel and cargo jointly, or either of them singly, when the same are not under the responsible charge and custody of the Officers of the Customs, for each day in which they remain in the Marshal's charge,.....	0	4	0

For enquiring into and certifying the sufficiency of persons proposed as sureties in any suit, for each surety.....	0	4	0
For release of a vessel, goods or person from arrest,.....	0	5	0
For executing every monition or decree for answers of a party, or compulsory or other instrument not specified,.....	0	6	8
For every default or decree pronouncing for the interest of a party proceeding in pœnam,.....	0	4	4
For every attendance in Court, when a sentence or interlocutory decree is pronounced,.....	0	8	8
For executing every decree or commission of appraisement, exclusive of the appraiser's fees, but including the making of the inventory, if the value should not exceed £500 sterling,.....	1	6	8
For the like duty when the value exceeds £500 sterling,.....	2	0	0
For executing every decree or commission of sale of ship or goods by public auction, when the gross proceeds are under £200 sterling,....	1	0	0
And on every additional £100 sterling,.....	0	10	0
On attending the execution of a decree or a commission of unlivery of cargo (when not done for the purpose of sale,) per day,.....	2	2	0
For taking a person in execution after sentence, if the sum due from such person does not exceed £20 sterling,.....	1	0	0
For the like duty when the sum is above £20 and under £50 sterling,....	2	0	0
And on every additional pound sterling after fifty pounds,.....	0	0	6
NOTE. Should it be necessary for the Marshal to go any distance beyond two miles to execute any of the above duties, there should be paid to him for loss of time and travelling expenses, in addition to the preceding fees, for every mile so travelled in going to and returning from the place of service,.....	0	1	0

BY THE ADVOCATES.

It is not easy to lay down any precise rules respecting fees to Counsel, inasmuch as the amount must depend upon the circumstances of each particular case, with reference to its length, importance and difficulty.

In all undefended cases, and in matters of no great difficulty, one Counsel ought to be considered sufficient.

Subject to these observations, the following suggestions are made for the guidance of the Proctor in feeing Counsel, upon matters which most frequently occur in the progress of a Suit:—

Retaining fee to an Advocate.....	1	1	0
For perusing, settling and signing information or libel, claim and affidavit, act on petition, responsive plea (or replication) to libel, or information or act on petition, according to the length or difficulty.....	0	10	6
For perusing, settling and signing *interrogatories, answers, &c., when the same do not exceed 12 folios in length.....	0	10	6
For every additional fifteen folios to the extent of sixty.....	0	10	6

The necessity for consultations with Counsel may of course occasionally arise, particularly in cases of great nicety and difficulty, but these ought not too frequently to occur, and it is obvious that no specific amount of fee can be fixed for such occasion; the Chancery practice may therefore afford a sufficient analogy for the proper fee to be paid to Counsel.

* It should be understood, that in preparing interrogatories for the cross-examination of witnesses, they are not to be drawn separately for each witness to whom the same are to be administered; but that when practicable (as in most instances will be the case), one set of interrogatories should be prepared, generally applicable to all the witnesses.

For any motion necessarily made by Counsel before the Judge in the progress of a cause.....	}	0	10	6
		2	2	0
The fee for the final hearing must depend upon the length of the evidence and the importance and difficulties of the cause; but in cases of no great intricacy, the fee should be from two to five guineas, and should not exceed the latter sum, unless where the proceedings are voluminous or unusually important or difficult.....	}	2	2	0
		5	5	0

BY THE PROCTORS.

Retaining fee.....	0	5	0	
For attending before the Judge or Judge Surrogate, either in Court or Chambers.....	0	5	0	
On extracting any warrant, monition, commission, writ, or other instrument	0	6	8	
Drawing libel, information, plea, claim, affidavit, act on petition, interrogatories, answers, or any other proceeding whatever, not herein specified, for every folio.....	0	1	0	
Fair copying or engrossing, for every folio.....	0	0	6	
For consultation with party for the purpose of taking instructions for the libel, information, plea, act on petition, or for any other important purpose during the dependence of a suit.....	0	6	8	
For consultation with Counsel, if any such should be found requisite, preparatory to the final hearing of a cause or otherwise.....	0	6	8	
Or if special.....	0	13	4	
And if for any great length of time and the case be important, the fee may be increased under the sanction of the Judge.				
For *attendance on Counsel to see him, to peruse, settle or sign any information, libel, replication or other plea, claim, affidavit, act on petition, answers, interrogatories or other matter, or upon any other occasion that may arise on delivering papers and seeing Counsel....	0	6	8	
For any necessary attendance on the Registrar, or on the adverse Proctor, during the progress of a cause, to adjust any incidental point in the suit, or on the Marshal to instruct him as to the service of any instrument reporting bail, &c.....	0	5	0	
On all office copies of depositions, &c., obtained from the Registrar, one-third of the actual sum paid at the Registry, is to be added for trouble of collating and extracting the same.				
For perusing and considering any papers, exhibits or documents, furnished or introduced into a cause by the adverse party, or furnished by a party to his own Proctor for the purpose of being brought forward as evidence in the suit, if not exceeding 12 folios.....	0	3	4	
For every additional 12 folios.....	0	2	0	
For attending informations on the final hearing of a cause when it occupies only a short time, 6s. 8d., if a few hours, 13s. 4d., if a whole day, £1. 1.....	}	0	6	8
		0	13	4
		1	1	0

* NOTE.—Care should be taken not to increase the number of attendances or consultations with Counsel, which ought only to be resorted to when absolutely necessary.

(Copy.)

No. 150.

GOVERNMENT HOUSE,
KINGSTON, 28th December, 1843.

MY LORD,—At the request of Mr. Black, Judge of the Vice Admiralty Court, and M. P. P. for Quebec, on the part of the Bar of the City, I have the honour to submit a Petition to Her Majesty in Council, praying for a Tariff of Fees in the Vice Admiralty Court of Canada. The Report desired by Your Lordship's Despatch of the 16th September, No. 88, shall be hereafter submitted.

I have, &c.,

(Signed,)

C. T. METCALFE.

The Right Honble. Lord Stanley,
&c., &c., &c.

CIVIL SECRETARY'S OFFICE,
MONTREAL, 2nd August, 1844.

SIR,—I am directed by the Governor General to request your attention to the subject of the Secretary of State's Despatch of the 16th September, 1843, No. 88, which was transferred to you for the purpose of obtaining the Report called for by Her Majesty's Government, on the proposed new Tariff of Fees to be established for the Vice Admiralty Court at Quebec.

I have the honor to be,

Sir,

Your most obedient servant,

J. M. HIGGINSON.

The Hon. the Provincial Secretary,
&c., &c., &c.

SECRETARY'S OFFICE,
MONTREAL, 17th August, 1844.

SIR,—I have the honor, by command of the Governor General, to inform you that His Excellency would be happy to avail himself of your services as a Commissioner, conjointly with the Honorable Messrs. _____ and _____ Esquires, to examine and report as to the establishment of a Tariff of Fees, for the payment of the Officers of the Vice Admiralty Court at Quebec, for the information of Her Majesty's Government. And I am to request that you will be pleased to inform me at your early convenience, whether or not you will be willing to act as such Commissioner.

I have the honor to be,

Sir,

Your most obedient servant,

D. DALY, Secretary.

NOTE.—A letter to the foregoing effect was addressed to the Honorable Wm. Walker, Honorable F. W. Primrose, Honorable George Pemberton, John Duval and Henry Lemesurier, Esquires, who accepted the appointment of Commissioners.

SECRETARY'S OFFICE,
MONTREAL, 23rd August, 1844.

GENTLEMEN,—I have the honor, by command of the Governor General, to inform you that His Excellency is pleased hereby to name you to be Commissioners to report to His Excellency, for the information of Her Majesty's Government, on the subject of the establishment of a suitable Tariff of Fees, for the payment of the Officers of the Vice Admiralty Court at Quebec.

I enclose accordingly for your perusal, the accompanying copy of a Despatch from Her Majesty's Principal Secretary of State for the Colonies, suggesting the appointment of a Commission for this object, and transmitting several documents to which your attention will, in the outset of your investigation, require to be given.

It will also be desirable that you should avail yourselves of the information and suggestions of the Honorable Judge of the Admiralty Court, who will, no doubt, be happy to render you every assistance in his power. Should you have occasion to call on any other Officer of the Court, you will understand that His Excellency has directed that every facility should be afforded you by them.

I have the honor to be,
Gentlemen,
Your most obedient servant,

D. DALY, Secretary.

Honorable Wm. Walker,
Hon. F. W. Primrose,
Hon. Geo. Pemberton;
John Duval,
Henry Lemesurier, Esquires,
&c., &c., &c.
Quebec.

SECRETARY'S OFFICE,
MONTREAL, 23rd August, 1844.

SIR,—I have the honor, by command of the Governor General, to inform you that His Excellency has been pleased to name the Honorable Messrs. W. Walker, F. W. Primrose and George Pemberton, and Messrs. Duval and Henry LeMesurier, to be Commissioners to report to His Excellency, for the information of Her Majesty's Government, on the subject of the establishment of a suitable Tariff of Fees, for the payment of the Officers of the Vice Admiralty Court at Quebec.

His Excellency does not doubt that they will be desirous to avail themselves of your information and suggestions, and that you will readily afford them every assistance in your power, in the prosecution of their inquiry.

Should they have occasion to call upon any other Officer of the Court, I am to request that you will be pleased to signify to such Officer His Excellency's desire that he should afford them any information they may seek.

I have the honor to be, Sir,
Your most obedient servant,

D. DALY, Secretary.

To His Excellency the Right Honorable SIR CHARLES THEOPHILUS METCALFE, Baronet, Knight Grand Cross of the Most Honorable Order of the Bath, One of Her Majesty's Most Honorable Privy Council, Governor General of British North America, and Captain General and Governor in Chief in and over the Provinces of Canada, New Brunswick, Nova Scotia and the Island of Prince Edward, &c., &c., &c.

MAY IT PLEASE YOUR EXCELLENCY :

WE, the undersigned Commissioners named to report to Your Excellency, for the information of Her Majesty's Government, on the subject of the establishment of a suitable Tariff of Fees for the payment of the Officers of the Vice Admiralty Court at Quebec, have the honor to lay before Your Excellency, a statement of our proceedings and the opinion we have formed on the subject referred to us by the Honorable Mr. Secretary Daly, dated the 23rd August last.

Having, in the first place, given a careful attention to the Despatch from Her Majesty's Principal Secretary of State for the Colonies and the documents accompanying it, which had been transmitted to us, we conceived it to be our duty before proceeding further, to request the Honorable the Judge of the Vice Admiralty Court at Quebec, to communicate to us in such shape as might appear to him, most convenient, his opinion as to the amount and scale of Fees to be inserted in such Tariff, with such observations and suggestions in reference to the subject as his experience might enable him to form. In compliance with this request, the Honorable Judge transmitted to us, on the 21st September last, a Tariff of Fees, such as he thought should be established for the Officers of the Vice Admiralty Court at Quebec, accompanied by a letter explanatory of his views upon the subject, both of which documents are attached to this Report. We afterwards thought it necessary to obtain the opinions of the Registrar and Marshal of the Court, on the subject, as also that of the Quebec Bar, more particularly of those gentlemen of the profession who most usually practice in the Vice Admiralty Court, and for this purpose we obtained the attendance of the Registrar and of several of the Advocates, whose evidence having been taken down in writing, will be found in an Appendix to this Report. The severe illness of the Marshal prevented his attendance before the Commissioners, and we have thus been deprived of the assistance to be derived from his information and experience.

Having in this manner obtained all the local information which was within our reach, connected with the subject matter referred to us, and having carefully compared the different Tariffs, namely, the one which was established in 1832 under the 2nd William IV., cap. 51, and which had since been abrogated; that now transmitted by Her Majesty's Principal Secretary of State for the Colonies, as proposed for adoption; and the one recommended by the Honorable the Judge of the Vice Admiralty Court at Quebec; and having maturely considered the various documentary and oral evidence and information which we had obtained, together with what might be derived from our own knowledge and experience on the matters bearing upon this question, we have unanimously agreed upon the following Report, which we respectfully submit to Your Excellency.

We are decidedly of opinion that the Tariff which was established by an Order of His late Majesty in Council in 1832, before referred to, is much too high, and neither adapted to the means and circumstances of those upon whom it would operate in this Colony, nor to the class of cases which usually come before the Court of Vice Admiralty at Quebec.

We are also decidedly of opinion that the general objections acknowledged by all enlightened persons to the payment of Judicial Officers by fees apply in their fullest extent to the Judges of the Vice Admiralty Courts, and recommend that no fees to the Judges be inserted in the Tariff to be established agreeing completely

with the view taken by the present Judge of the Vice Admiralty Court at Quebec on that subject. We would remark that at present, and ever since 1769, the Judge of that Court has received, in lieu of fees, as salary of £200, sterling, per annum, which is paid out of the Provincial funds; but there being no law prohibiting him from taking fees, if any such be legally established, he would have an option to relinquish the salary and take the fees; this, in our opinion, ought to be avoided, by giving the Judge an adequate annual salary, which, we respectfully submit, considering his rank and station, the character and dignity of the Court over which he presides, and how desirable it is that the individual filling that office should be selected from among the most distinguished members of the profession, ought not to be less than £500, sterling, per annum. The present salary was fixed at a remote period, when the other Judicial Officers in the Colony were paid at the same rate: the salaries of all the other Judges have since been increased, whilst that of the Judge of the Vice Admiralty Court has remained the same.

We would further remark, that even if the proper authorities should ultimately decide upon inserting fees to the Judge in the Tariff to be established, the amount which might be received at Quebec, either upon the scale of the Tariff made in 1832, or of that transmitted by Her Majesty's Provincial Secretary of State for the Colonies, would not, in all probability, be equal to the small salary the Judge at present receives.

We are of opinion that the fees proposed to be granted to the Registrar and Marshal in the Tariff transmitted by the Right Honorable Lord Stanley would not be too high, if neither of those officers are to receive any salary in compensation for their services; but we are also clearly of opinion that, under the peculiar circumstances of this Colony, it is not desirable that these Officers should be paid wholly by fees. We agree with the Judge of the Vice Admiralty Court at Quebec, that it would be preferable that these Officers should have a moderate fixed salary as part of their emoluments, and that a reduced scale of fees should be established for them, to make up with such salaries a proper remuneration for his services. If this suggestion can be adopted, we recommend the establishment of the Table of Fees proposed by the Judge of the Vice Admiralty Court at Quebec for the Registrar and Marshal, with the exception of the item of 4s. 6d. to the Registrar for the examination of each witness, *viva voce*. This fee, in our opinion, should be confined to the examinations taken in writing, and 1s. sterling, for each witness examined *viva voce* would be sufficient. In recommending these parts of the last mentioned Tariff, it is on the supposition that the Registrar shall receive, in addition, £100, sterling, fixed salary, and the Marshal £50, fixed salary, as recommended by the Judge, which we think reasonable allowances. We have come to these conclusions upon this part of the subject from the following considerations:

It is certain that since the Tariff of 1832 was abrogated, and the Registrar and Marshall have been allowed compensation for their services, not paid by the suitors, the number of suits in the Vice Admiralty Court at Quebec has increased nearly threefold, owing, we have no doubt, chiefly to there being no check, in the shape of necessity of incurring the expense of certain disbursements and the fear of ultimate costs, to the instituting of the most unfounded proceedings. We therefore think that such a check should exist by the establishment of a Tariff of Fees. On the other hand, as nine-tenths of the suits heretofore brought have been for Seamen's wages, which are usually commenced by the seizure of the vessel to which they belong, whether we consider the interest of the Shipowners, who, even when successful, having to do with opponents generally unable to pay costs, have to sustain a very heavy and unjust burthen in all such cases, or if we look to the class of persons who seek redress upon whom a Tariff of Fees equal to the remuneration of the services of the Officers would operate nearly as a denial of justice, we think that by making that Tariff lower than what would be a proper compensation for the ser-

VICES of these Officers, and making up the difference by annual salaries, both these evils would be avoided as far as regulations can tend to do so. Another objection to these Officers being paid wholly by fixed salaries exists in the unnecessary trouble often given to them on the one hand, and in the want of a sufficient impulse towards the expeditious and correct discharge of their duty on the other.

We have made these observations and formed these conclusions from an experience of the past, and in connection with the provisions of the Merchant Seamen's Act now in force, not being aware at the time that the Imperial Legislature at its last Session had passed a new Merchant Seamen's Act to come into operation on the 1st January next, when, having accidentally learned the fact, we procured the loan of a copy, with which we were kindly favoured by the Collector at this Port, and we have given to it our most serious consideration; but after having done so, we have not found any reason to alter our opinion either as to the Tariff or the salaries which we have recommended by this Report. We cannot refrain from expressing our regret that the jurisdiction in respect to Seamen's wages in cases under £20 has been taken from the Admiralty Court and transferred to Magistrates, being of opinion that it would be much for the interest of all parties concerned if a decision could be had on these as well as others of a like nature in the Vice Admiralty Court, without entailing a ruinous expense, and we would rather, therefore, see facilities afforded for a resort to that tribunal than otherwise, and if our views in this respect could be fully accomplished, we would contemplate with satisfaction the repeal of this part of the Merchant Seamen's Act.

We are induced to submit the foregoing observations, notwithstanding the changes introduced by the new Merchant Seamen's Act, from the necessity derived from experience of establishing a Tariff of Fees to operate as a check on the institution of unfounded proceedings, as previously observed by us in this Report.

With respect to the fees for Advocates and Proctors, we are of opinion that inasmuch as these professions are united in this Province, the Tariff proposed by the Honorable Judge of the Vice Admiralty Court at Quebec, as far as respects these Officers is to be preferred to that proposed by the Home Authorities, and being, in our opinion, reasonable in amount, we at all events recommend its adoption.

We have not failed to advert to the desire which has been expressed that, if practicable, a Tariff should be formed applicable to all the Colonies in North America; but in the absence of information as to the practice and the relative position of the different Officers of the Vice Admiralty Courts of the other Colonies compared with that of Canada, we have felt that we have best discharged the duty imposed upon us, by confining ourselves to suggesting what we conceived to be most desirable for the Vice Admiralty Court of this Province. Before concluding it may be proper for us to state, that in the recommendations we have made, we have reference only to what in our judgment we thought to be advisable on general principles, without taking into consideration the hardships that the present Registrar and Marshal will necessarily sustain by the operation of the new Merchant Seamen's Act, which will have the effect of taking away the greater part of the fees proposed for them, deeming that to be a question wholly beyond the purview of the reference made to us.

We would likewise state that the Honorable George Pemberton, one of the Commissioners appointed by Your Excellency, having been unavoidably obliged to go to Europe before the labours of the Commission were completed he could not sign this Report, but we have reason to believe that if present, he would have concurred in its general import.

The whole, nevertheless, humbly submitted to Your Excellency, by
Your most obedient and very humble servants,

(Signed,)

WM. WALKER.
F. W. PRIMROSE,
J. DUVAL,
H. LEMESURIER!

Quebec, 18th December, 1844.

APPENDIX.

MINUTES OF PROCEEDINGS.

A meeting of the Commissioners appointed by His Excellency the Governor General, to report to His Excellency, for the information of Her Majesty's Government, on the subject of a suitable Tariff of Fees for the payment of the Officers of the Vice Admiralty Court at Quebec, was held on the 19th September, 1844.

Present :

Hon. W. Walker,
 Hon. F. W. Primrose,
 Hon. Geo. Pemberton,
 John Duval, Esq., and
 Henry LeMesurier, Esq.

Mr. George Irvine, was appointed Clerk—a letter was written to the Hon. H. Black, Judge of the Vice Admiralty Court, requesting him to communicate in such shape as might appear to him most convenient, as to the amount and scale of fees to be inserted in the Traiff, with such observations and suggestions in reference to the subject as his experience might enable him to form, or which might appear to him useful.

The documents transmitted to the Commissioners, by the Honorable Mr. Secretary Daly, were read

2nd December, 1844.

A meeting was held at the Office of Mr. Duval.

Present :

Hon. Wm. Walker,
 Hon. F. W. Primrose,
 J. Duval, Esq., and
 Henry LeMesurier, Esq.

A letter from the Honorable H. Black, dated 21st September, 1844, was read.

Letters were written to Messrs. Bradley, Parkyn, Ross and Macguire, requesting their attendance, on Wednesday, the 4th instant, to give such information and make such suggestions in reference to the amount and scale of fees to be inserted in the Tariff as they might think expedient.

A letter was also written to Geo. Vanfelson, Esq., for the information of the gentlemen of the Quebec Bar, stating that the Commissioners would be happy to avail themselves of any suggestions which might be made to them, by the gentlemen of the Bar.

4th December, 1844.

A meeting was held at Mr. Duval's Office,

Present :

Hon. W. Walker,
 Hon. J. W. Primrose,
 John Duval, Esq., and
 Henry LeMesurier, Esq.

Joseph P. Bradley, Esq., Registrar of the Vice Admiralty Court, Quebec, attended, and gave the following testimony :—

I have been Registrar of the Vice Admiralty Court, since 1st January, 1842, and I performed part of the duties of that Office for several years previous to that date.

The number of Actions issued in

Year.	Number of Actions.	Registrar's Fees. Amount.
1833,	86	£277 8 2½
1834,	120	301 17 9
1835,	101	280 7 11

The above fees were received under the Tariff established by the King in Council, in 1832, abolished in 1836.

The number of Actions issued since 1839, is as follows:—

1840,	133	1842,	283
1841,	187	1843,	417
		1844,	336

during which latter years the Registrar has had an annual salary of £150, sterling, in lieu of all fees. This was considered a temporary arrangement to provide for the Registrar until a Tariff was made. This annual salary, I consider inadequate as a remuneration for the services performed, as will appear by the amounts received by the Registrar, under the late Tariff, during the years 1833, 1834, 1835, and the number of actions issued during those years, compared with the number of action issued during the subsequent years. This annual salary was granted on the recommendation of Lord Gosford, then Governor in Chief; and Lord Durham, Governor General of the Canadas, subsequently recommended an annual salary of £250 or £300, sterling,—I cannot be positive which sum. Lord Gosford's recommendation was acted upon before Lord Durham's Despatch was received in England.

Since January last up to the present time there have been forty-three cases finally disposed of on the merits. The great majority of cases brought before the Court of Vice-Admiralty is for the recovery of Seamen's wages. The Court sits regularly twice a week during navigation season, that is between 1st of May and the end of November, and frequently on other days, on special application from the parties.

During the remainder of the season the Court sits occasionally as the business requires.

It appears that since the fees have been abolished the number of actions issued have greatly increased.

In the following years the number of Judgments pronounced were as follows:—

	Actions returned.	Judgment for Promoter.	Judgment against Promoter.
1833,	8	8	8
1834,	32	7	9*
1835,	28	8	4
1842,	127	24	49
1843,	158	27	70†
1844,	127	20	23

I attribute the increase of business in this Court to the absence of a Tariff.

I have attentively examined the Table of Fees proposed by the Worshipful

* During these years, the Officers received fees in virtue of the Tariff since abolished.

† During these years, the Officers received no fees.

Henry Black, Judge of the Vice Admiralty Court at Quebec. I consider the fees therein allowed to the Advocates both moderate and just. I am of opinion that it would be right to give the Court a discretionary power to tax Advocate's fees in a case of sufficient importance to require a second Advocate, say from three to ten guineas.

From the experience I have had in performing the duties of Registrar during the above period, I consider that an annual salary of £150, sterling, ought to be allowed in addition to the fees proposed by the Judge's Table, and £75, sterling, to the Marshal, in addition to the fees proposed.

I am averse to the payment of the Registrar and Marshal by an annual salary, exclusive of fees, because it enables suitors to harass the Officers unnecessarily; I would prefer a Tariff, however low, with a competent salary. Without an annual salary to the Officers, I am of opinion that the Tariff of 1832 affords no more than an adequate remuneration to them for the services performed—with such a Tariff in force the number of cases would be greatly diminished.

I would suggest the necessity of providing in a suitable manner for a Crier, by a small fee from each party on every case returned into Court.

5th December, 1844.

Present :

Hon. Wm. Walker,
Hon. F. W. Primrose,
John Duval, Esq., and
Henry LeMesurier, Esq.

Dunbar Ross, Esquire, Advocate of Quebec, attended, and gave the following testimony :—

I have practiced in the Vice Admiralty Court at Quebec for the last ten years. I am of opinion that the Tariff of 1832, established by the Order in Council, is too high for the general class of cases tried in that Court, which are for Seamen's wages, but not for cases of Salvage, Collision, and others of like importance.

I have had an opportunity of looking over the Tariff proposed by the present Judge, and I think it too low; and I do not approve of his proposal to do away with the distinction between the fees paid to a Proctor and an Advocate, being of opinion that the distinction which prevails in England between an Advocate and a Proctor ought to prevail in this and all other Colonies; at the same time that I think that in all Colonies where the professions are united the Proctor ought to be permitted to take all the ordinary and reasonable fees allowed by the Tariff to one Advocate or additional Counsel, without charging twice for the same service, and subject to the discretion of the Registrar and Judge in taxation.

I think it would be desirable in practice, though it would be a violation of principle, to make a separate Tariff for such suits for the recovery of Seamen's wages.

As to the Registrar and Marshal, I am of opinion that they should be paid by an annual salary only, with the exception of furnishing copies of documents and such like services, for which a fee should be allowed. I am, notwithstanding, also of opinion that the payment of these Officers by salaries, instead of fees, has a tendency to increase the number of unfounded suits: I am of opinion that £250, sterling, for the Registrar, and £150, sterling, for the Marshal, are proper salaries; and as to the Registrar I make this estimate more in consideration of the important functions to be performed by the Registrar of the Admiralty, than with regard to the amount of business in the Vice-Admiralty at Quebec.

I am of opinion that the Table of Fees proposed by the present Judge would be excessive for the Registrar without any salary, as they would amount to about

£400, per annum, and this, notwithstanding the reduction in the number of cases which the Tariff would occasion; the number of cases would then amount to about 300.

I am of opinion that the fees proposed by the same Tariff for the Marshal are upon too high a scale.

I am decidedly against any fees being allowed to the Judge: public opinion is opposed to it. The present salary of £200, sterling, is totally inadequate to the duties and dignity of a Judge.

Letters were directed to be addressed to Messrs. O. Stuart and Macguire, requesting their attendance on Friday, the 6th instant.

6th December, 1844.

Present:

Hon. Wm. Walker,
 Hon. F. W. Primrose,
 J. Duval, Esq.,
 Henry LeMesurier, Esq.

John Macguire, Esq., of Quebec, Advocate, attended, and gave the following testimony:—

I have practised in the Vice-Admiralty Court at Quebec for ten years; I have examined the Tariff of 1832 established by an Order in Council, and I have also witnessed its effects on the Vice-Admiralty Court at Quebec. I am of opinion that it is too high for the ordinary class of cases there which are for Seamen's wages, but for cases of Salvage, Collision and others of like importance I do not consider it too high. I have examined the Table of Fees proposed by the present Judge of the Vice-Admiralty Court at Quebec, and in my opinion the fees proposed for the Advocates and Proctors are reasonable. The great majority of cases brought before the Vice-Admiralty Court at Quebec are instituted for the recovery of Seamen's wages; I think that it would be desirable that there should be a separate Tariff for Seamen's wages, subject to the provisions contained in the Merchant Seamen's Act. As to the Registrar and Marshall, I am of opinion that they ought to be paid by a fixed annual salary, and not to be allowed fees on any proceeding whatever. I should consider £250, sterling, a year, an adequate remuneration for the services performed by the Registrar, and £150, sterling, for the Marshall, this latter sum in lieu of fees for all proceedings whatever, his disbursements not included; the Registrar to be allowed also a moderate fee for copies of all documents that are asked for by the parties, not including copies of proceedings served on either party during the prosecution of a suit.

I think that the payment of a fixed annual salary in lieu of all fees has a tendency to increase the number of suits, as it affords a greater facility to suitors. I am of opinion that the fees proposed by the present Judge to be paid to the Registrar without any fixed salary would afford an adequate remuneration for his services. As to the Marshal, I consider the fee of 18s for the execution of a warrant to be excessive. I am of opinion that one-half, namely, 9s, would be sufficient, allowing him his disbursements. As to the Judge I am of opinion that he ought to be paid by a salary without fees: the same reasons that exist against allowing fees to the Judges of the Common Law Courts apply to the Judge of the Vice-Admiralty Court.

I have seen the Tariff of Fees sent out by Lord Stanley to His Excellency the Governor General, and I prefer the modification of it, as proposed by the present Judge of the Vice-Admiralty Court. In my opinion, if a Tariff were established the number of cases would be reduced to about two hundred annually.

George Okill Stuart, Esq., of Quebec, Advocate, also attended, and gave the following testimony:—

I have practised several years in the Vice-Admiralty Court at Quebec, and occasionally perform the duties of Deputy Judge, under a deputation which I now hold. The Tariff established by an Order in Council of 1832, I have always considered not at all adapted to this country, and the fees therein allowed by far too high for the generality of suitors: since that Tariff has been in disuse the Registrar and Marshal have been paid by annual salaries out of the Provincial Revenue; and the business of the Court has greatly increased, which I attribute to the facility afforded to the obtaining of the process of the Court without paying for it,—this has led to a great deal of oppression, and injustice to Shipowners; a number of vexatious suits have been instituted, and vessels arrested, particularly when on the point of sailing, without a shadow of ground, and with the view of extorting money from the Shipowners. I am of opinion that it would be preferable to pay the Officers of the Court by fees on each proceeding, and these fees adapted to different classes of suits. I would provide separately for Seamen's suits; they comprise at least nine-tenths of the business of the Court, and they are almost invariably disposed of in a summary manner, giving little trouble either to the Officers or Proctors concerned. I am of opinion that £200, sterling, annually, would afford an adequate remuneration for the duties performed by the Registrar, and £75, for the Marshal, allowing him his disbursements; and I think the duties ought to be performed by him in person, which I believe is not now the practice. In a Seaman's suit brought for the recovery of wages, and conducted to final judgment in a summary manner, the Registrar's fees altogether ought not to amount to more than 9s, sterling; in the same case the Marshal's fees ought not to amount to more than 7s, sterling, exclusive of disbursements; and the Attorney, for each party, from £3 to £4. In other cases I should recommend the Tariff proposed by the present Judge.

I am decidedly opposed to the allowance of fees to the Judge; it is as objectionable in the Admiralty Court as it is in the Common Law Courts. I would pay him by a fixed salary of £500 a year.

10th December, 1844.

Present :

Hon. W. Walker,
Hon. F. W. Primrose,
John Duval, Esq.,
Henry LeMesurier, Esq.

The Commissioners considered and agreed upon the different heads of their Report, a Draft of which the Honorable Mr. Primrose was requested to prepare.

13th December, 1844.

Present :

Hon. W. Walker,
Hon. F. W. Primrose,
John Duval, Esq.,
Henry LeMesurier, Esq.

The draft of the Report was read and finally agreed upon, and directed to be engrossed by the Clerk.

18th December, 1844.

Present :

Hon. W. Walker,
 Hon. F. W. Primrose,
 John Duval, Esq.,
 Henry LeMesurier, Esq.,

The new Merchant Seamen's Act of the 7th and 8th Victoria, c. 112, was read and considered. The Report, with a slight alteration and addition was concurred in.

(Signed,)

GEO. IRVINE.

Clerk to the Commission.

The foregoing is a true copy of our proceedings.

(Signed,)

WM. WALKER,
 F. W. PRIMROSE,
 J. DUVAL,
 H. LEMESURIER.

QUEBEC, 21st September, 1844.

GENTLEMEN,—I have the honor to acknowledge the receipt of your letter of the 19th instant, requesting me to communicate to you my opinion as to the amount and scale of fees to be allowed to the Officers of the Vice-Admiralty Court for Lower Canada, for the services which they perform, with such suggestions in reference to the subject as might appear to me useful towards the duty which has been cast upon you.

The subject is one which I have found to be of peculiar difficulty. Important as the functions of the Court are, as connected with the administration of one uniform system of Maritime Law throughout the Empire, and taking cognizance, as it does, of Revenue cases concurrently with the Courts of Supreme Jurisdiction within this Province, the majority of the cases tried before it involve, however, but small pecuniary amounts. A Table of Fees producing an income corresponding with the rank in life which the Registrar and Marshal of the Court must be, and affording to them an adequate remuneration for the services which they are called upon to perform, would press with undue weight upon the trade of the port. I would submit, therefore, the expediency of allowing the Registrar and Marshal a moderate salary each, in addition to the fees to be allowed them, those fees to be graduated on a scale not to be burthensome to the trade, and sufficient, with the addition of such salary, to afford them an adequate remuneration. In this view of the subject, I conceive that a salary of £100, sterling, to the Registrar, and £50, sterling, to the Marshal, per annum, would be reasonable. If this suggestion should meet the views of Her Majesty's Government, the draught of a Table of Fees, which I have the honor of submitting herewith, would, with these salaries, I should hope, attain the object contemplated.

It will be seen in the proposed Table that it differs from the preceding Tables, in allowing no fees to the Judge. This omission is made advisedly, and on the conviction, founded on past experience, that the Court cannot have that place in the confidence of suitors and of the public which it ought to possess, if the Judge received fees.

I have the honor to be, Gentlemen,

Your most obedient humble servant,

(Signed,)

H. BLACK

To The Honorable William Walker,
 Francis Ward Primrose,
 George Pemberton,
 John Duval, and
 Henry LeMesurier.

Proposed Table of Fees to be taken by the Officers and Practitioners of the Vice-Admiralty Court at Quebec.

JUDGE.

No fees to be allowed to the Judge, his salary to be in lieu of all fees.

BY THE SURROGATE.

Fees in the progress of a suit or cause.

	STERLING MONEY.		
	£	s.	d.
For administering an oath to a witness or party in a cause, taking bail, whether by one or more persons, decreeing monition, commission, attachment, or any other instrument, or for any judicial act done before or after the hearing of a cause.....	0	1	6

BY THE REGISTRAR.

1. Fees on instruments prepared by the Registrar.

For drawing and engrossing :—

Warrant to arrest ship, goods or person, copy, and filing affidavit,.....	0	4	6
Bail bond.....	0	4	6
Monition, commission or decree, whether of unelivery, appraisalment or sale or otherwise,.....	0	9	0
Writ or instrument of Restitution,.....	0	9	0
Compulsory or subpoena against witnesses,.....	0	3	6
Writ of attachment,.....	0	9	0
If either of the preceding instruments exceed in length ten folios, for every folio beyond ten,.....	0	1	0

NOTE.—The folio mentioned throughout this Table of Fees, must contain ninety words, reckoning each figure as a word.

Should the Registrar be required to prepare any other document, instrument or matter whatsoever not specified in this Table, he will be entitled to the same charge as a Proctor, viz :

For drawing, for every folio.....	0	1	0
For fair copying or engrossing, for every folio,.....	0	0	6

2. Fees on documents prepared not by the Registrar, but by the Proctor, Solicitor or Advocate in a cause.

On a decree, pronouncing for the interest of a party proceeding in pœnam, being signed by the Judge, including drawing the act,.....	0	6	0
On filing affidavit or protest of a master or mariners, without reference to the number of persons making the same.....	0	1	6
On filing libel, information, claim, proxy or similar document,.....	0	2	6
On filing exhibit annexed thereto, or to any affidavit,.....	0	0	6
On signing and filing personal answers of a party in a suit, including drawing the act,.....	0	3	0

3. Fees on taking the examination of witnesses.

On the examination of every witness on an information, libel, interrogatories or plea, (whether <i>viva voce</i> or otherwise,) a fee of.....	0	4	6
For each folio to which the examination shall extend, if in English.....	0	1	0
If by interpretation, interpreter included,.....	0	2	0

NOTE.—It should be understood that the Registrar, or whoever acts as examiner for him, should take the depositions in chief of the witnesses on the libel, information or plea itself, without written interrogatories, putting such relevant questions, *vivâ voce*, as may suggest themselves, and care should be taken not to lead the witness. The libel, information or plea, should therefore always be drawn sufficiently precise and full to enable the Examiner to take the examinations accordingly.

The cross-examinations must, of course, be taken in written interrogatories.

4. Fees on office copies of papers or proceedings.

For office copy of sentence or interlocutory decree, certified under seal, ..	0	6	0
For office copy of any affidavit, examination, answers of a party, or other document or proceedings in a cause, or extract therefrom, if under twelve folios,	0	4	6
If exceeding twelve folios, for each folio beyond twelve,	0	0	6
Office copies of papers and proceedings to form a process, to be transmitted to the Court of Appeal, or for any other purposes, for each folio contained therein,	0	0	6

5. Fees on translation of papers.

Where papers are translated, the Registrar should charge the disbursement actually made to the Translator, with an addition of one-fourth, to compensate himself for his trouble, advance, &c.

6. Incidental fees in the progress of a cause.

On subduction of an action	0	4	6
For entering every ordinary act of Court not specified in this Table,	0	1	0
On every default pronounced against parties in contempt, in cases proceeding in <i>pœnam</i> ,	0	4	6
On every interlocutory decree or sentence, including drawing the act, to be paid by the party succeeding,	0	9	0
For every attendance before a Judge or Surrogate at which any decree is made other than an interlocutory or sentence including the act, drawing the act,	0	4	6
For a receipt for original documents delivered out of the Registry,	0	1	6
On a search or examination of the records by any person not being a party in the cause in which the search is made,	0	2	6

NOTE.—No fee to be charged to a party in the cause, or to any seaman applying for a search.

For advertising an intermediate Court day, in addition to the sum paid for the advertisement,	0	4	6
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7. On paying out money.

For preparing receipt for money to be paid out of the Registry,	0	1	6
Poundage on money paid out of the Registry, for every pound sterling, ...	0	0	2

8. Taxing costs.

For taxing a bill of costs, if under six folios, from the party at whose instance the taxation takes place,	0	4	6
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9. References on Accounts, &c., by the Judge to the Registrar and Merchants.

To the Registrar,	2	2	0
To the Assistant Merchant,	2	2	0

If two merchants, two guineas each.

BY THE MARSHAL.

For arresting a vessel, goods or person,.....	0	18	0
For keeping possession of a vessel and cargo jointly, or either of them separately, when the same are not under the responsible charge and custody of the Officers of the Customs, for each day they remain in the Marshal's charge, exclusive of the charge of keepers when necessary,.....	0	3	0

NOTE.—This fee not to be chargeable in cases where the goods have been put in store, in which case he shall be entitled to a sum equal to one-third of the sum actually paid for storage for this duty

For enquiry into, and certifying, the sufficiency of persons proposed as sureties in any suit,.....	0	2	3
For release of a vessel, goods or person from arrest,.....	0	2	3
For executing every monition or decree for answers of a party, or compulsory or other instrument not specified,.....	0	4	6
For every default or decree pronouncing for the interest of a party proceeding in pœnam,.....	0	3	
For every attendance in Court when a sentence or interlocutory decree is pronounced,.....	0	4	6
For executing every decree or commission of appraisement, exclusive of the Appraiser's fee, but including the making of the inventory, if the value should not exceed £500 sterling,.....	1	1	0
For the like duty when the value exceeds £500 sterling,.....	1	16	0
For executing every decree or commission of sale of ship or goods by public auction, when the gross proceeds are under £200 sterling,.....	1	1	6
And on every additional £100 sterling,.....	0	10	0
On attending the execution of a decree or commission of unlivery of cargo (when not done for the purpose of sale), per day,.....	0	16	0
For taking a person in execution after sentence, if the sum due from such person does not exceed £20 sterling,.....	0	18	0
For the like duty, when the sum is above £20 and under £50 sterling,...	1	16	0
For the like duty when the sum is above £50 and under £100 sterling, for every pound sterling due,.....	0	1	0
On every additional pound sterling after the first £100,.....	0	0	6

NOTE.—Should it be necessary for the Marshal to go any distance to execute any of the above duties, there should be paid to him, for the loss of time and travelling expenses, in addition to the preceding fees, the following:—

If the distance exceed four and be under six miles,.....	1	1	0
If the distance be still greater, the allowance to be increased by an addition of 2s. 3. for each additional league and his reasonable disbursements.			

BY THE ADVOCATES.

The professions of Advocate and Proctor not being separated in Lower Canada, the fees of both are inserted under the following head:—

BY THE ADVOCATES AND PROCTORS.

Retaining fee, instructions to prosecute or defend,.....	0	10	6
For attending before the Judge or Judge Surrogate, either in Court or in Chambers,.....	0	6	0
For extracting any warrant, monition, commission, writ or other instrument	0	6	0

Drawing libel, information, claim and affidavit, act on petition, responsive plea (or replication) to libel or information or act on petition.....	0	18	0
Engrossing copies, each	0	9	0
Drawing interrogatories, answers, affidavits or any other proceeding whatever, not herein specified, for each folio.....	0	1	0
Fair copying or engrossing, for every folio	0	0	6

NOTE.—It should be understood that in preparing interrogatories for the cross-examination of witnesses, they are not to be drawn separately for each witness to whom the same are to be administered, but that when practicable (as in most instances will be the case,) one set of interrogatories should be prepared generally applicable to all the witnesses.

For consultation with a party for the purpose of taking instructions for the libel, information, plea, act on petition, or for any other important purpose during the dependence of a suit.	0	6	0
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The fee for the final hearing must depend upon the length of the evidence and the importance and difficulties of the cause; but in cases of no great intricacy, the fee should be from two to three guineas, and not to exceed the latter sum, unless where the proceedings are voluminous or unusually important or difficult, and in this last case not to exceed five guineas.

For any necessary attendance on the Registrar or on the adverse Proctor during the progress of a cause, to adjust any incidental point in the suit, or on the Marshall, to instruct him as to the service of any instrument, reporting bail, &c.....	0	4	6
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On all office copies of depositions, &c., obtained from the Registrar, one-third of the actual sum paid at the Registry is to be added for the trouble of collating and extracting the same.

For perusing and considering any papers, exhibits or documents furnished or introduced into a cause by the adverse party, or furnished by a party to his own Proctor, for the purpose of being brought forward as evidence in the suit, if not exceeding twelve folios.....	0	3	0
For every additional twelve folios.....	0	1	6
For attending informations on the final hearing of a cause, when it occupies only a short time.....	0	10	0
If a few hours	0	16	8
If a whole day.....	1	6	8

In some of the Vice Admiralty Courts, proceedings for the forfeiture of ships or goods, and for the recovery of penalties consequent thereon, have, in some instances, been carried on by two separate suits—one for the condemnation of the property, and the other for the penalties. This mode of proceeding should be discontinued, one suit being only necessary to accomplish both objects.

In all cases under £20 sterling, wherein the Judge shall see fit to order that the proceedings be summary and the evidence taken *vidæ voce*, the fees to be taken by the several Officers of the Court shall be one-half of the foregoing fees, and no more, save and except as to the fee for the warrant of arrest, arrest and bail bond, which shall remain as above.

So also as to cases under £20 sterling, settled before the return of the warrant.

SUPPLEMENTARY RULES.

The Rules and Regulations established by the King's Order in Council, of the 27th June, 1832, are not to be construed to have set aside the former practice in the Courts of Vice Admiralty, of allowing the defendant to require from the Promoter to libel with sureties, unless the Promoter should be admitted by the Court to his juratory caution.

From the shortness of the season of navigation at the Port of Quebec, and the danger and risk to ships towards the close of the navigation in the autumn, from even so short as twenty-four hours notice of bail to answer an action, this period for notice of bail as provided by the eleventh section of the above Rules and Regulations, shall not be required, but two hours shall be deemed sufficient if served on the adverse Proctor in person.

(Copy.)

No. 102.

GOVERNMENT HOUSE,
Montreal, 28th July, 1846.

SIR,—I have the honor to acknowledge the receipt of your Despatch No. 54, of the 17th of April last, enclosing a letter from Mr. George Pemberton, on the subject of the delay in establishing a Table of Fees for the Vice Admiralty Court at Quebec, and instructing me, in the absence of the Report which Lord Metcalfe had intended to submit, to furnish you with my own Report on the subject.

I find that according to the suggestions contained in Lord Stanley's Despatch, No. 88, of the 16th of September, 1843, my predecessor appointed a Commission to revise the draft of the Table of Fees transmitted in that Despatch, and to report to him on the subject. The Commissioners made their Report on the 21st of December, 1844, and on the 25th of January following, Lord Metcalfe referred it for the consideration and Report of the Executive Council. At the time of His Lordship's departure from this Government, the subject was still under the consideration of that Board, which prevented him from fulfilling his intention of reporting to you the result of the enquiries that had been instituted in this Province. I have now the honor to submit a copy of the Commissioners' Report, together with copies of the papers which accompanied it, and a copy of an approved Report thereon of a Committee of the Executive Council, in order that they may be submitted to the proper Officers before the final enactment by Her Majesty in Council of a Tariff of Fees for the several Courts of Vice Admiralty in British North America.

I have, &c.,

(Signed)

CATHCART.

The Right Honorable

W. E. Gladstone,

&c. &c. &c.

SECRETARY'S OFFICE, 27th July, 1847.

NOTE.—No reply to the foregoing Despatch has yet been received from Her Majesty's Government.

Quebec:
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