

U. S. Supreme Court.

10

# RULES

OF THE

## SUPREME COURT OF THE UNITED STATES

ADOPTED

JANUARY 7, 1884,

AND THE

## RULES OF PRACTICE

FOR THE

CIRCUIT AND DISTRICT COURTS OF THE UNITED STATES  
IN EQUITY AND ADMIRALTY CASES,

AND

ORDERS IN REFERENCE TO APPEALS FROM COURT OF CLAIMS.



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# RULES

OF THE

## SUPREME COURT OF THE UNITED STATES.

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### 1.

#### CLERK.

1. The clerk of this court shall reside and keep the office at the seat of the National Government, and he shall not practice, either as attorney or counsellor, in this court, or in any other court, while he shall continue to be clerk of this court.

2. The clerk shall not permit any original record or paper to be taken from the court-room, or from the office, without an order from the court, except as provided by Rule 10.

### 2.

#### ATTORNEYS AND COUNSELLORS.

1. It shall be requisite to the admission of attorneys or counsellors to practice in this court, that they shall have been such for three years past in the supreme courts of the States to which they respectively belong, and that their private and professional character shall appear to be fair.

2. They shall respectively take and subscribe the following oath or affirmation, viz :

I, ———, do solemnly swear [or affirm] that I will demean myself, as an attorney and counsellor of this court, uprightly, and according to law; and that I will support the Constitution of the United States.

## 3.

## PRACTICE.

This court considers the former practice of the courts of king's bench and of chancery, in England, as affording outlines for the practice of this court; and will, from time to time, make such alterations therein as circumstances may render necessary.

## 4.

## BILL OF EXCEPTIONS.

The judges of the circuit and district courts shall not allow any bill of exceptions which shall contain the charge of the court at large to the jury in trials at common law, upon any general exception to the whole of such charge. But the party excepting shall be required to state distinctly the several matters of law in such charge to which he excepts; and those matters of law, and those only, shall be inserted in the bill of exceptions and allowed by the court.

## 5.

## PROCESS.

1. All process of this court shall be in the name of the President of the United States.

2. When process at common law or in equity shall issue against a State, the same shall be served on the governor, or chief executive magistrate, and attorney-general of such State.

3. Process of subpoena, issuing out of this court, in any suit in equity, shall be served on the defendant sixty days before the return-day of the said process; and if the defendant, on such service of the subpoena, shall not appear at the return-day, the complainant shall be at liberty to proceed *ex parte*.

## 6.

## MOTIONS.

1. All motions to the court shall be reduced to writing, and shall contain a brief statement of the facts and objects of the motion.

2. One hour on each side shall be allowed to the argument of a motion, and no more, without special leave of the court, granted before the argument begins.

3. No motion to dismiss, except on special assignment by the court, shall be heard, unless previous notice has been given to the adverse party, or the counsel or attorney of such party.

4. All motions to dismiss writs of error and appeals, except motions to docket and dismiss under Rule 9, must be submitted in the first instance on printed briefs or arguments. If the court desires further argument on that subject, it will be ordered in connection with the hearing on the merits. The party moving to dismiss shall serve notice of the motion, with a copy of his brief of argument, on the counsel for plaintiff in error or appellant of record in this court, at least three weeks before the time fixed for submitting the motion, in all cases except where the counsel to be notified resides west of the Rocky Mountains, in which case the notice shall be at least thirty days. Affidavits of the deposit in the mail of the notice and brief to the proper address of the counsel to be served, duly post-paid, at such time as to reach him by due course of mail, the three weeks or thirty days before the time fixed by the notice, will be regarded as *prima facie* evidence of service on counsel who reside without the District of Columbia. On proof of such service, the motion will be considered, unless, for satisfactory reasons, further time be given by the court to either party.

5. There may be united, with a motion to dismiss a writ of error or an appeal, a motion to affirm on the ground that, although the record may show that this court has jurisdiction, it is manifest the writ or appeal was taken for delay only, or that the question on which the jurisdiction depends is so frivolous as not to need further argument.

6. The court will not hear arguments on Saturday (unless for special cause it shall order to the contrary), but will devote that day to the other business of the court. The motion-day shall be Monday of each week; and motions not required by the rules of the court to be put on the docket shall be entitled to preference immediately after the reading of opinions, if such motions shall be made before the court shall have entered upon the hearing of a case upon the docket.

## 7.

## LAW LIBRARY.

1. During the session of the court, any gentleman of the bar having a case on the docket, and wishing to use any book or books in the law library, shall be at liberty, upon application to the clerk of the court, to receive an order to take the same (not exceeding at any one time three) from the library, he being thereby responsible for the due return of the same within a reasonable time, or when required by the clerk. It shall be the duty of the clerk to keep, in a book for that purpose, a record of all books so delivered, which are to be charged against the party receiving the same. And in case the same shall not be so returned, the party receiving the same shall be responsible for and forfeit and pay twice the value thereof, and also one dollar per day for each day's detention beyond the limited time.

2. The clerk shall deposit in the law library, to be there carefully preserved, one copy of the printed record in every case submitted to the court for its consideration, and of all printed motions, briefs, or arguments filed therein.

3. The marshal shall take charge of the books of the court, together with such of the duplicate law-books as Congress may direct to be transferred to the court, and arrange them in the conference-room, which he shall have fitted up in a proper manner; and he shall not permit such books to be taken therefrom by any one except the justices of the court.

## 8.

## WRIT OF ERROR, RETURN AND RECORD.

1. The clerk of the court to which any writ of error may be directed shall make return of the same, by transmitting a true copy of the record, and of the assignment of errors, and of all proceedings in the case, under his hand and the seal of the court.

2. In all cases brought to this court, by writ of error or appeal, to review any judgment or decree, the clerk of the court by which such judgment or decree was rendered shall annex to and transmit with the record a copy of the opinion or opinions filed in the case.

3. No case will be heard until a complete record, containing in itself, and not by reference, all the papers, exhibits, depositions, and other proceedings which are necessary to the hearing in this court, shall be filed.

4. Whenever it shall be necessary or proper, in the opinion of the presiding judge in any circuit court, or district court exercising circuit-court jurisdiction, that original papers of any kind should be inspected in this court upon writ of error or appeal, such presiding judge may make such rule or order for the safe-keeping, transporting, and return of such original papers as to him may seem proper, and this court will receive and consider such original papers in connection with the transcript of the proceedings.

5. All appeals, writs of error, and citations must be made returnable not exceeding thirty days from the day of signing the citation, whether the return day fall in vacation or in term time, and be served before the return day.

6. The record in cases of admiralty and maritime jurisdiction, when under the requirements of law the facts have been found in the court below, and the power of review is limited to the determination of questions of law arising on the record, shall be confined to the pleadings, the findings of fact, and conclusions of law thereon, the bills of exceptions, the final judgment or decree, and such interlocutory orders and decrees as may be necessary to a proper review of the case.

## 9.

### DOCKETING CASES.

1. It shall be the duty of the plaintiff in error or appellant to docket the case and file the record thereof with the clerk of this court by or before the return day, whether in vacation or in term time. But, for good cause shown, the justice or judge who signed the citation, or any justice of this court, may enlarge the time, by or before its expiration, the order of enlargement to be filed with the clerk of this court. If the plaintiff

in error or appellant shall fail to comply with this rule, the defendant in error or appellee may have the cause docketed and dismissed upon producing a certificate, whether in term time or vacation, from the clerk of the court wherein the judgment or decree was rendered, stating the case and certifying that such writ of error or appeal has been duly sued out or allowed. And in no case shall the plaintiff in error or appellant be entitled to docket the case and file the record after the same shall have been docketed and dismissed under this rule, unless by order of the court.

2. But the defendant in error or appellee may, at his option, docket the case and file a copy of the record with the clerk of this court; and, if the case is docketed and a copy of the record filed with the clerk of this court by the plaintiff in error or appellant within the period of time above limited and prescribed by this rule, or by the defendant in error or appellee at any time thereafter, the case shall stand for argument.

3. Upon the filing of the transcript of a record brought up by writ of error or appeal, the appearance of the counsel for the party docketing the case shall be entered.

4. In all cases where the period of thirty days is mentioned in rule 8, it shall be extended to sixty days in writs of error and appeals from California, Oregon, Nevada, Washington, New Mexico, Utah, Arizona, Montana, Wyoming, North Dakota, South Dakota, Alaska and Idaho.

## 10.

### PRINTING RECORDS.

1. In all cases the plaintiff in error or appellant, on docketing a case and filing the record, shall enter into an undertaking to the clerk, with surety to his satisfaction, for the payment of his fees, or otherwise satisfy him in that behalf.

2. The clerk shall cause an estimate to be made of the cost of printing the record, and of his fee for preparing it for the printer

and supervising the printing, and shall notify to the party docketing the case the amount of the estimate. If he shall not pay it within a reasonable time, the clerk shall notify the adverse party, and he may pay it. If neither party shall pay it, and for want of such payment the record shall not have been printed when a case is reached in the regular call of the docket, after March 1, 1884, the case shall be dismissed.

3. Upon payment by either party of the amount estimated by the clerk, twenty-five copies of the record shall be printed, under his supervision, for the use of the court and of counsel.

4. In cases of appellate jurisdiction the original transcript on file shall be taken by the clerk to the printer. But the clerk shall cause copies to be made for the printer of such original papers, sent up under Rule 8, section 4, as are necessary to be printed; and of the whole record in cases of original jurisdiction.

5. The clerk shall supervise the printing, and see that the printed copy is properly indexed. He shall distribute the printed copies to the justices and the reporter, from time to time, as required, and a copy to the counsel for the respective parties.

6. If the actual cost of printing the record, together with the fee of the clerk, shall be less than the amount estimated and paid, the amount of the difference shall be refunded by the clerk to the party paying it. If the actual cost and clerk's fee shall exceed the estimate, the amount of the excess shall be paid to the clerk before the delivery of a printed copy to either party or his counsel.

7. In case of reversal, affirmance, or dismissal, with costs, the amount of the cost of printing the record and of the clerk's fee shall be taxed against the party against whom costs are given, and shall be inserted in the body of the mandate or other proper process.

8. Upon the clerk's producing satisfactory evidence, by affidavit or the acknowledgment of the parties or their sureties, of having served a copy of the bill of fees due by them, respectively, in this court, on such parties or their sureties, an attachment shall issue against such parties or sureties, respectively, to compel payment of said fees.

9. The plaintiff in error or appellant may, within ninety

days after filing the record in this court, file with the clerk a statement of the errors on which he intends to rely, and of the parts of the record which he thinks necessary for the consideration thereof, and forthwith serve on the adverse party a copy of such statement. The adverse party, within ninety days thereafter, may designate in writing, filed with the clerk, additional parts of the record which he thinks material; and, if he shall not do so, he shall be held to have consented to a hearing on the parts designated by the plaintiff in error or appellant. If parts of the record shall be so designated by one or both of the parties, the clerk shall print those parts only; and the court will consider nothing but those parts of the record, and the errors so stated. If at the hearing it shall appear that any material part of the record has not been printed, the writ of error or appeal may be dismissed, or such other order made as the circumstances may appear to the court to require. If the defendant in error or appellee shall have caused unnecessary parts of the record to be printed, such order as to costs may be made as the court shall think proper.

The fees of the clerk under Rule 24, section 7, shall be computed, as at present, on the folios in the record as filed, and shall be in full for the performance of his duties in the execution hereof.

## 11.

### TRANSLATIONS.

Whenever any record transmitted to this court upon a writ of error or appeal shall contain any document, paper, testimony, or other proceedings in a foreign language, and the record does not also contain a translation of such document, paper, testimony, or other proceeding, made under the authority of the inferior court, or admitted to be correct, the record shall not be printed; but the case shall be reported to this court by the clerk, and the court will thereupon remand it to the inferior court, in order that a translation may be there supplied and inserted in the record.



**12.**

## FURTHER PROOF.

1. In all cases where further proof is ordered by the court, the depositions which may be taken shall be by a commission, to be issued from this court, or from any circuit court of the United States.

2. In all cases of admiralty and maritime jurisdiction, where new evidence shall be admissible in this court, the evidence by testimony of witnesses shall be taken under a commission to be issued from this court, or from any circuit court of the United States, under the direction of any judge thereof; and no such commission shall issue but upon interrogatories, to be filed by the party applying for the commission, and notice to the opposite party or his agent or attorney, accompanied with a copy of the interrogatories so filed, to file cross-interrogatories within twenty days from the service of such notice: Provided, however, That nothing in this rule shall prevent any party from giving oral testimony in open court in cases where by law it is admissible.

**13.**

## OBJECTIONS TO EVIDENCE IN THE RECORD.

In all cases of equity or admiralty jurisdiction, heard in this court, no objection shall hereafter be allowed to be taken to the admissibility of any deposition, deed, grant, or other exhibit found in the record as evidence, unless objection was taken thereto in the court below and entered of record; but the same shall otherwise be deemed to have been admitted by consent.

**14.**

## CERTIORARI.

No *certiorari* for diminution of the record will be hereafter awarded in any case, unless a motion therefor shall be made in writing, and the facts on which the same is founded shall, if not admitted by the other party, be verified by affidavit. And all motions for *certiorari* must be made at the first term of the entry

of the case ; otherwise, the same will not be granted, unless upon special cause shown to the court, accounting satisfactorily for the delay.

**15.**

## DEATH OF A PARTY.

1. Whenever, pending a writ of error or appeal in this court, either party shall die, the proper representatives in the person-  
ality or realty of the deceased party, according to the nature of the case, may voluntarily come in and be admitted parties to the suit, and thereupon the case shall be heard and determined as in other cases ; and if such representatives shall not voluntarily become parties, then the other party may suggest the death on the record, and thereupon, on motion, obtain an order that unless such representatives shall become parties within the first ten days of the ensuing term, the party moving for such order, if defendant in error, shall be entitled to have the writ of error or appeal dismissed ; and if the party so moving shall be plaintiff in error, he shall be entitled to open the record, and on hearing have the judgment or decree reversed, if it be erroneous : Provided, however, That a copy of every such order shall be printed in some newspaper of general circulation within the State, Territory, or District from which the case is brought, for three successive weeks, at least sixty days before the beginning of the term of the Supreme Court then next ensuing.

2. When the death of a party is suggested, and the representatives of the deceased do not appear by the tenth day of the second term next succeeding the suggestion, and no measures are taken by the opposite party within that time to compel their appearance, the case shall abate.

3. When either party to a suit in a circuit court of the United States shall desire to prosecute a writ of error or appeal to the Supreme Court of the United States, from any final judgment or decree, rendered in the circuit court, and at the time of suing out such writ of error or appeal the other party to the suit shall be dead and have no proper representative within the jurisdiction of the court which rendered such final judgment or decree, so that the suit can not be revived in that court, but shall have a proper representative in some State or Territory of the United States, the party desiring such writ

of error or appeal may procure the same, and may have proceedings on such judgment or decree superseded or stayed in the same manner as is now allowed by law in other cases, and shall thereupon proceed with such writ of error or appeal as in other cases. And within thirty days after the commencement of the term to which such writ of error or appeal is returnable, the plaintiff in error or appellant shall make a suggestion to the court, supported by affidavit, that the said party was dead when the writ of error or appeal was taken or sued out, and had no proper representative within the jurisdiction of the court which rendered said judgment or decree, so that the suit could not be revived in that court, and that said party had a proper representative in some State or Territory of the United States, and stating therein the name and character of such representative, and the State or Territory in which such representative resides; and, upon such suggestion, he may, on motion, obtain an order that, unless such representative shall make himself a party within the first ten days of the ensuing term of the court, the plaintiff in error or appellant shall be entitled to open the record, and, on hearing, have the judgment or decree reversed, if the same be erroneous: Provided, however, That a proper citation reciting the substance of such order shall be served upon such representative, either personally or by being left at his residence, at least sixty days before the beginning of the term of the Supreme Court then next ensuing: And provided, also, That in every such case if the representative of the deceased party does not appear by the tenth day of the term next succeeding said suggestion, and the measures above provided to compel the appearance of such representative have not been taken within time as above required, by the opposite party, the case shall abate: And provided, also, That the said representative may at any time before or after said suggestion come in and be made a party to the suit, and thereupon the case shall proceed, and be heard and determined as in other cases.

**16.****NO APPEARANCE OF PLAINTIFF.**

Where no counsel appears and no brief has been filed for the plaintiff in error or appellant, when the case is called for trial,

the defendant may have the plaintiff called and the writ of error or appeal dismissed, or may open the record and pray for an affirmance.

**17.**

## NO APPEARANCE OF DEFENDANT.

Where the defendant fails to appear when the case is called for trial, the court may proceed to hear an argument on the part of the plaintiff and to give judgment according to the right of the case.

**18.**

## NO APPEARANCE OF EITHER PARTY.

When a case is reached in the regular call of the docket, and there is no appearance for either party, the case shall be dismissed at the cost of the plaintiff.

**19.**

## NEITHER PARTY READY AT SECOND TERM.

When a case is called for argument at two successive terms, and upon the call at the second term neither party is prepared to argue it, it shall be dismissed at the cost of the plaintiff, unless sufficient cause is shown for further postponement.

**20.**

## PRINTED ARGUMENTS.

1. In all cases brought here on writ of error, appeal, or otherwise, the court will receive printed arguments without regard to the number of the case on the docket, if the counsel on both sides shall choose to submit the same within the first ninety days of the term; and, in addition, appeals from the Court of Claims may be submitted by both parties within thirty days after they are docketed, but not after the first day of April; but twenty-five copies of the arguments, signed by attorneys or counsellors of this court, must be first filed.

2. When a case is reached in the regular call of the docket, and a printed argument shall be filed for one or both parties, the case shall stand on the same footing as if there were an appearance by counsel.

3. When a case is taken up for trial upon the regular call of the docket, and argued orally in behalf of only one of the parties, no printed argument for the opposite party will be received, unless it is filed before the oral argument begins, and the court will proceed to consider and decide the case upon the *ex parte* argument.

4. No brief or argument will be received, either through the clerk or otherwise, after a case has been argued or submitted, except upon leave granted in open court after notice to opposing counsel.

## 21.

### BRIEFS.

1. The counsel for plaintiff in error or appellant shall file with the clerk of the court, at least six days before the case is called for argument, twenty-five copies of a printed brief, one of which shall, on application, be furnished to each of the counsel engaged upon the opposite side.

2. This brief shall contain, in the order here stated—

(1.) A concise abstract, or statement of the case, presenting succinctly the questions involved and the manner in which they are raised.

(2.) A specification of the errors relied upon, which, in cases brought up by writ of error, shall set out separately and particularly each error asserted and intended to be urged; and in cases brought up by appeal the specification shall state, as particularly as may be, in what the decree is alleged to be erroneous. When the error alleged is to the admission or to the rejection of evidence, the specification shall quote the full substance of the evidence admitted or rejected. When the error alleged is to the charge of the court, the specification shall set out the part referred to *totidem verbis*, whether it be instructions given or instructions refused. When the error alleged is to a ruling upon the report of a master, the specification shall state the exception to the report and the action of the court upon it.

(3.) A brief of the argument, exhibiting a clear statement of the points of law or fact to be discussed, with a reference to the pages of the record and the authorities relied upon in support of each point. When a statute of a State is cited, so much

thereof as may be deemed necessary to the decision of the case shall be printed at length.

3. The counsel for a defendant in error or an appellee shall file with the clerk twenty-five printed copies of his argument, at least three days before the case is called for hearing. His brief shall be of like character with that required of the plaintiff in error or appellant, except that no specification of errors shall be required, and no statement of the case, unless that presented by the plaintiff in error or appellant is controverted.

4. When there is no assignment of errors, as required by section 997 of the Revised Statutes, counsel will not be heard, except at the request of the court; and errors not specified according to this rule will be disregarded; but the court, at its option, may notice a plain error not assigned or specified.

5. When, according to this rule, a plaintiff in error or an appellant is in default, the case may be dismissed on motion; and when a defendant in error or an appellee is in default, he will not be heard, except on consent of his adversary, and by request of the court.

6. When no oral argument is made for one of the parties, only one counsel will be heard for the adverse party.

## 22.

### ORAL ARGUMENTS.

1. The plaintiff or appellant in this court shall be entitled to open and conclude the argument of the case. But when there are cross-appeals they shall be argued together as one case, and the plaintiff in the court below shall be entitled to open and conclude the argument.

2. Only two counsel will be heard for each party on the argument of a case.

3. Two hours on each side will be allowed for the argument, and no more, without special leave of the court, granted before the argument begins. The time thus allowed may be apportioned between the counsel on the same side, at their discretion: Provided, always, That a fair opening of the case shall be made by the party having the opening and closing arguments.

## 23.

## INTEREST.

1. In cases where a writ of error is prosecuted to this court, and the judgment of the inferior court is affirmed, the interest shall be calculated and levied, from the date of the judgment below until the same is paid, at the same rate that similar judgments bear interest in the courts of the State where such judgment is rendered.

2. In all cases where a writ of error shall delay the proceedings on the judgment of the inferior court, and shall appear to have been sued out merely for delay, damages at a rate not exceeding 10 per cent., in addition to interest, shall be awarded upon the amount of the judgment.

3. The same rule shall be applied to decrees for the payment of money in cases in equity, unless otherwise ordered by this court.

4. In cases in admiralty, damages and interest may be allowed if specially directed by the court.

## 24.

## COSTS.

1. In all cases where any suit shall be dismissed in this court, except where the dismissal shall be for want of jurisdiction, costs shall be allowed to the defendant in error or appellee, unless otherwise agreed by the parties.

2. In all cases of affirmance of any judgment or decree in this court, costs shall be allowed to the defendant in error or appellee, unless otherwise ordered by the court.

3. In cases of reversal of any judgment or decree in this court, costs shall be allowed to the plaintiff in error or appellant, unless otherwise ordered by the court. The cost of the transcript of the record from the court below shall be a part of such costs, and be taxable in that court as costs in the case.

4. Neither of the foregoing sections shall apply to cases where the United States are a party; but in such cases no costs shall be allowed in this court for or against the United States.

5. In all cases of the dismissal of any suit in this court, it

shall be the duty of the clerk to issue a mandate, or other proper process, in the nature of a *procedendo*, to the court below, for the purpose of informing such court of the proceedings in this court, so that further proceedings may be had in such court as to law and justice may appertain.

6. When costs are allowed in this court, it shall be the duty of the clerk to insert the amount thereof in the body of the mandate, or other proper process, sent to the court below, and annex to the same the bill of items taxed in detail.

7. In pursuance of the Act of March 3, 1883, authorizing and empowering this court to prepare a table of fees to be charged by the clerk of this court, the following table is adopted :

For docketing a case and filing and indorsing the transcript of the record, five dollars.

For entering an appearance, twenty-five cents.

For entering a continuance, twenty-five cents.

For filing a motion, order, or other paper, twenty-five cents.

For entering any rule, or for making or copying any record or other paper, twenty cents per folio of each one hundred words.

For transferring each case to a subsequent docket and indexing the same, one dollar.

For entering a judgment or decree, one dollar.

For every search of the records of the court, one dollar.

For a certificate and seal, two dollars.

For receiving, keeping, and paying money in pursuance of any statute or order of court, two per cent. on the amount so received, kept, and paid.

For an admission to the bar and certificate under seal, ten dollars.

For preparing the record or a transcript thereof for the printer, indexing the same, supervising the printing and distributing the printed copies to the justices, the reporter, the law library, and the parties or their counsel, fifteen cents per folio.

For making a manuscript copy of the record, when required under Rule 10, twenty cents per folio, but nothing in addition for supervising the printing.

For issuing a writ of error and accompanying papers, five dollars.



For a mandate or other process, five dollars.

For filing briefs, five dollars for each party appearing.

For every copy of any opinion of the court or any justice thereof, certified under seal, one dollar for every printed page, but not to exceed five dollars in the whole for any copy.

## 25.

### OPINIONS OF THE COURT.

1. All opinions delivered by the court shall, immediately upon the delivery thereof, be handed to the clerk to be recorded. And it shall be the duty of the clerk to cause the same to be forthwith recorded, and to deliver a copy to the reporter as soon as the same shall be recorded.

2. The original opinions of the court shall be filed with the clerk of this court for preservation.

3. Opinions printed under the supervision of the justices delivering the same need not be copied by the clerk into a book of records; but at the end of each term the clerk shall cause such printed opinions to be bound in a substantial manner into one or more volumes, and when so bound they shall be deemed to have been recorded within the meaning of this rule.

## 26.

### CALL AND ORDER OF THE DOCKET.

1. The court, on the second day in each term, will commence calling the cases for argument in the order in which they stand on the docket, and proceed from day to day during the term in the same order (except as hereinafter provided); and if the parties, or either of them, shall be ready when the case is called, the same will be heard; and if neither party shall be ready to proceed in the argument, the case shall go down to the foot of the docket, unless some good and satisfactory reason to the contrary shall be shown to the court.

2. Ten cases only shall be considered as liable to be called on each day during the term. But on the coming in of the court on each day the entire number of such ten cases will be called, with a view to the disposition of such of them as are not to be argued.

3. Criminal cases may be advanced by leave of the court on motion of either party.

4. Cases once adjudicated by this court upon the merits, and again brought up by writ of error or appeal, may be advanced by leave of the court on motion of either party.

5. Revenue and other cases in which the United States are concerned, which also involve or affect some matter of general public interest, may also by leave of the court be advanced on motion of the Attorney-General.

6. All motions to advance cases must be printed, and must contain a brief statement of the matter involved, with the reasons for the application.

7. No other case will be taken up out of the order on the docket, or be set down for any particular day, except under special and peculiar circumstances to be shown to the court. Every case which shall have been called in its order and passed and put at the foot of the docket shall, if not again reached during the term it was called, be continued to the next term of the court.

8. Two or more cases, involving the same question, may, by the leave of the court, be heard together, but they must be argued as one case.

9. If, after a case has been passed under circumstances which do not place it at the foot of the docket, the parties shall desire to have it heard, they may file with the clerk their joint request to that effect, and the case shall then be by him reinstated for call ten cases after that under argument, or next to be called at the end of the day the request is filed. If the parties will not unite in such a request, either may move to take up the case, and it shall then be assigned to such place upon the docket as the court may direct.

10. No stipulation to pass a case without placing it at the foot of the docket will be recognized as binding upon the court. A case can only be so passed upon application made and leave granted in open court.

## 27.

### ADJOURNMENT.

The court will, at every term, announce on what day it will adjourn at least ten days before the time which shall be fixed

upon, and the court will take up no case for argument, nor receive any case upon printed briefs, within three days next before the day fixed upon for adjournment.

**28.**

## DISMISSING CASES IN VACATION.

Whenever the plaintiff and defendant in a writ of error pending in this court, or the appellant and appellee in an appeal, shall in vacation, by their attorneys of record, sign and file with the clerk an agreement in writing directing the case to be dismissed, and specifying the terms on which it is to be dismissed as to costs, and shall pay to the clerk any fees that may be due to him, it shall be the duty of the clerk to enter the case dismissed, and to give to either party requesting it a copy of the agreement filed; but no mandate or other process shall issue without an order of the court.

**29.**

## SUPERSEDEAS.

*Supersedeas* bonds in the circuit courts must be taken, with good and sufficient security, that the plaintiff in error or appellant shall prosecute his writ or appeal to effect, and answer all damages and costs if he fail to make his plea good. Such indemnity, where the judgment or decree is for the recovery of money not otherwise secured, must be for the whole amount of the judgment or decree, including just damages for delay, and costs and interest on the appeal; but in all suits where the property in controversy necessarily follows the event of the suit, as in real actions, replevin, and in suits on mortgages, or where the property is in the custody of the marshal under admiralty process, as in case of capture or seizure, or where the proceeds thereof, or a bond for the value thereof, is in the custody or control of the court, indemnity in all such cases is only required in an amount sufficient to secure the sum recovered for the use and detention of the property, and the costs of the suit, and just damages for delay, and costs and interest on the appeal.

**30.**

## REHEARING.

A petition for rehearing after judgment can be presented only at the term at which judgment is entered, unless by special leave granted during the term; and must be printed and briefly and distinctly state its grounds, and be supported by certificate of counsel; and will not be granted, or permitted to be argued, unless a justice who concurred in the judgment desires it, and a majority of the court so determines.

**31.**

## FORM OF PRINTED RECORDS AND BRIEFS.

All records, arguments, and briefs printed for the use of the court must be in such form and size that they can be conveniently bound together, so as to make an ordinary octavo volume.

**32.**

WRITS OF ERROR AND APPEALS UNDER THE ACT OF FEBRUARY 25, 1889, CHAPTER 236, OR UNDER SECTION 5 OF THE ACT OF MARCH 3, 1891, CHAPTER 517.

Cases brought to this court by writ of error or appeal, under the act of February 25, 1889, chapter 236, or under section 5 of the act of March 3, 1891, chapter 517, where the only question in issue is the question of the jurisdiction of the court below, will be advanced on motion, and heard under the rules prescribed by rule 6, in regard to motions to dismiss writs of error and appeals.

**33**

## MODELS, DIAGRAMS, AND EXHIBITS OF MATERIALS.

1. Models, diagrams, and exhibits of material forming part of the evidence taken in the court below, in any case pending in this court, on writ of error or appeal, shall be placed in the custody of the marshal of this court at least one month before the case is heard or submitted.

2. All models, diagrams, and exhibits of material, placed in the custody of the marshal for the inspection of the court on the hearing of a case, must be taken away by the parties within

one month after the case is decided. When this is not done, it shall be the duty of the marshal to notify the counsel in the case, by mail or otherwise, of the requirements of this rule; and if the articles are not removed within a reasonable time after the notice is given, he shall destroy them, or make such other disposition of them as to him may seem best.

**34.**

## CUSTODY OF PRISONERS ON HABEAS CORPUS.

1. Pending an appeal from the final decision of any court or judge declining to grant the writ of habeas corpus, the custody of the prisoner shall not be disturbed.

2. Pending an appeal from the final decision of any court or judge discharging the writ after it has been issued, the prisoner shall be remanded to the custody from which he was taken by the writ, or shall, for good cause shown, be detained in custody of the court or judge, or be enlarged upon recognizance as hereinafter provided.

3. Pending an appeal from the final decision of any court or judge discharging the prisoner, he shall be enlarged upon recognizance, with surety, for appearance to answer the judgment of the appellate court, except where, for special reasons, sureties ought not to be required.

**35.**

## ASSIGNMENT OF ERRORS.

1. Where an appeal or a writ of error is taken from a district court or a circuit court direct to this court, under section 5 of the act entitled "An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891, the plaintiff in error or appellant shall file with the clerk of the court below, with his petition for the writ of error or appeal, an assignment of errors, which shall set out separately and particularly each error asserted and intended to be urged. No writ of error or appeal shall be allowed until such assignment of errors shall have been filed. When the error alleged is to the admission or to the rejection of evidence, the assignment

of errors shall quote the full substance of the evidence admitted or rejected. When the error alleged is to the charge of the court, the assignment of errors shall set out the part referred to *totidem verbis*, whether it be in instructions given or in instructions refused. Such assignment of errors shall form part of the transcript of the record, and be printed with it. When this is not done counsel will not be heard, except at the request of the court; and errors not assigned according to this rule will be disregarded, but the court, at its option, may notice a plain error not assigned.

2. The plaintiff in error or appellant shall cause the record to be printed, according to the provisions of sections 2, 3, 4, 5, 6, and 9, of Rule 10.

### 36.

#### APPEALS AND WRITS OF ERROR.

1. An appeal or a writ of error from a circuit court or a district court direct to this court, in the cases provided for in sections 5 and 6 of the act entitled "An act to establish circuit courts of appeals, and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891, may be allowed, in term time or in vacation, by any justice of this court, or by any circuit judge within his circuit, or by any district judge within his district, and the proper security be taken and the citation signed by him, and he may also grant a supersedeas and stay of execution or of proceedings, pending such writ of error or appeal.

2. Where such writ of error is allowed in the case of a conviction of an infamous crime, or in any other criminal case in which it will lie under said sections 5 and 6, the circuit court or district court, or any justice or judge thereof, shall have power, after the citation is served, to admit the accused to bail in such amount as may be fixed.

### 37.

#### CASES FROM CIRCUIT COURT OF APPEALS.

1. Where, under section 6 of the said act, a circuit court of appeals shall certify to this court a question or proposition of law, concerning which it desires the instruction of this court for

its proper decision, the certificate shall contain a proper statement of the facts on which such question or proposition of law arises.

2. If application is thereupon made to this court that the whole record and cause may be sent up to it for its consideration, the party making such application shall, as a part thereof, furnish this court with a certified copy of the whole of said record.

3. Where application is made to this court under section 6 of the said act to require a case to be certified to it for its review and determination, a certified copy of the entire record of the case in the circuit court of appeals shall be furnished to this court by the applicant, as part of the application.

### 38.

#### INTEREST, COSTS, AND FEES.

The provisions of Rules 23 and 24 of this court, in regard to interest and costs and fees, shall apply to writs of error and appeals and reviews under the provisions of sections 5 and 6 of the said act.

### 39.

#### MANDATES.

Mandates shall issue as of course after the expiration of thirty days from the day the judgment or decree is entered, unless the time is enlarged by order of the court, or of a justice thereof when the court is not in session, but during the term.





# ORDER

IN REFERENCE TO

## APPEALS FROM THE COURT OF CLAIMS.

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REGULATIONS PRESCRIBED BY THE SUPREME COURT OF THE UNITED STATES  
UNDER WHICH APPEALS MAY BE TAKEN FROM THE COURT OF CLAIMS  
TO SAID SUPREME COURT.

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### **Rule 1.**

In all cases hereafter decided in the Court of Claims in which, by the act of Congress, such appeals are allowable, they shall be heard in the Supreme Court upon the following record, and none other:

1. A transcript of the pleadings in the case, of the final judgment or decree of the court, and of such interlocutory orders, rulings, judgments, and decrees as may be necessary to a proper review of the case.

2. A finding by the Court of Claims of the facts in the case established by the evidence in the nature of a special verdict, but not the evidence establishing them; and a separate statement of the conclusions of law upon said facts, upon which the court founds its judgment or decree. The finding of facts and conclusions of law to be certified to this court as a part of the record. ✓

### **Rule 2.**

In all cases in which judgments or decrees have heretofore been rendered, where either party is by law entitled to an appeal, the party desiring it shall make application to the Court of Claims by petition for the allowance of such appeal. Said petition shall contain a distinct specification of the errors alleged to have been committed by said court in its rulings, judgment,

or decree in the case. The court shall, if the specification of the alleged error be correctly and accurately stated, certify the same, or may certify such alternations and modifications of the points decided and alleged for error as, in the judgment of said court, shall distinctly, fully, and fairly present the points decided by the court. This, with the transcript mentioned in Rule 1 (except the statement of facts and law therein mentioned), shall constitute the record on which those cases shall be heard in the Supreme Court.

### **Rule 3.**

In all cases an order of allowance of appeal by the Court of Claims, or the chief-justice thereof in vacation, is essential, and the limitation of time for *granting* such appeal shall cease to run from the time an application is made for the allowance of appeal.

### **Rule 4.**

In all cases in which either party is entitled to appeal to the Supreme Court, the Court of Claims shall make and file their finding of facts, and their conclusions of law therein, in open court, before or at the time they enter their judgment in the case.

### **Rule 5.**

In every such case, each party, at such time before trial and in such form as the court may prescribe, shall submit to it a request to find all the facts which the party considers proven and deems material to the due presentation of the case in the finding of facts.

OCTOBER TERM, 1882.

Ordered, That Rule 1, in reference to appeals from the Court of Claims, be, and the same is hereby, made applicable to appeals in all cases heretofore or hereafter decided by that court under the jurisdiction conferred by the act of June 16, 1880, c. 243, "to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes."

RULES OF PRACTICE  
FOR THE  
COURTS OF EQUITY OF THE UNITED STATES.

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PRELIMINARY REGULATIONS.

1.

The circuit courts, as courts of equity, shall be deemed always open for the purpose of filing bills, answers, and other pleadings; for issuing and returning mesne and final process and commissions; and for making and directing all interlocutory motions, orders, rules, and other proceedings, preparatory to hearing of all causes upon their merits.

2.

The clerk's office shall be open, and the clerk shall be in attendance therein, on the first Monday of every month, for the purpose of receiving, entering, entertaining, and disposing of all motions, rules, orders, and other proceedings, which are grantable of course and applied for, or had by the parties or their solicitors, in all causes pending in equity, in pursuance of the rules hereby prescribed.

3.

Any judge of the circuit court, as well in vacation as in term, may, at chambers, or on the rule-days at the clerk's office, make and direct all such interlocutory orders, rules, and other proceedings, preparatory to the hearing of all causes upon their merits in the same manner and with the same effect as the circuit court could make and direct the same in term, reasonable notice of the application therefor being first given to the adverse party, or his solicitor, to appear and show cause to the contrary, at the next rule-day thereafter, unless some other time is assigned by the judge for the hearing.

## 4.

All motions, rules, orders, and other proceedings, made and directed at chambers, or on rule-days at the clerk's office, whether special or of course, shall be entered by the clerk in an order-book, to be kept at the clerk's office, on the day when they are made and directed; which book shall be open at all office hours to the free inspection of the parties in any suit in equity, and their solicitors. And, except in cases where personal or other notice is specially required or directed, such entry in the order-book shall be deemed sufficient notice to the parties and their solicitors, without further service thereof, of all orders, rules, acts, notices, and other proceedings entered in such order-book, touching any and all the matters in the suits to and in which they are parties and solicitors. And notice to the solicitors shall be deemed notice to the parties for whom they appear and whom they represent, in all cases where personal notice on the parties is not otherwise specially required. Where the solicitors for all the parties in a suit reside in or near the same town or city, the judges of the circuit court may, by rule, abridge the time for notice of rules, orders, or other proceedings not requiring personal service on the parties, in their discretion.

## 5.

All motions and applications in the clerk's office for the issuing of mesne process and final process to enforce and execute decrees; for filing bills, answers, pleas, demurrers, and other pleadings; for making amendments to bills and answers; for taking bills *pro confesso*; for filing exceptions; and for other proceedings in the clerk's office which do not, by the rules hereinafter prescribed, require any allowance or order of the court or of any judge thereof, shall be deemed motions and applications grantable of course by the clerk of the court. But the same may be suspended, or altered, or rescinded by any judge of the court, upon special cause shown.

## 6.

All motions for rules or orders and other proceedings, which are not grantable of course or without notice, shall, unless a

different time be assigned by a judge of the court, be made on a rule-day, and entered in the order-book, and shall be heard at the rule-day next after that on which the motion is made. And if the adverse party, or his solicitor, shall not then appear, or shall not show good cause against the same, the motion may be heard by any judge of the court *ex parte*, and granted, as if not objected to, or refused, in his discretion.

## PROCESS.

## 7.

The process of subpœna shall constitute the proper mesne process in all suits in equity, in the first instance, to require the defendant to appear and answer the exigency of the bill; and, unless otherwise provided in these rules, or specially ordered by the circuit court, a writ of attachment, and, if the defendant can not be found, a writ of sequestration, or a writ of assistance to enforce a delivery of possession, as the case may require, shall be the proper process to issue for the purpose of compelling obedience to any interlocutory or final order or decree of the court.

## 8.

Final process to execute any decree may, if the decree be solely for the payment of money, be by a writ of execution, in the form used in the circuit court in suits at common law in actions of *assumpsit*. If the decree be for the performance of any specific act, as, for example, for the execution of a conveyance of land or the delivering up of deeds or other documents, the decree shall, in all cases, prescribe the time within which the act shall be done, of which the defendant shall be bound, without further service, to take notice; and upon affidavit of the plaintiff, filed in the clerk's office, that the same has not been complied with within the prescribed time, the clerk shall issue a writ of attachment against the delinquent party, from which, if attached thereon, he shall not be discharged, unless upon a full compliance with the decree and the payment of all costs, or upon a special order of the court, or of a judge thereof, upon motion and affidavit, enlarging the time for the performance

thereof. If the delinquent party can not be found, a writ of sequestration shall issue against his estate upon the return of *non est inventus*, to compel obedience to the decree.

**9.**

When any decree or order is for the delivery or possession, upon proof made by affidavit of a demand and refusal to obey the decree or order, the party prosecuting the same shall be entitled to a writ of assistance from the clerk of the court.

**10.**

Every person, not being a party in any cause, who has obtained an order, or in whose favor an order shall have been made, shall be enabled to enforce obedience to such order by the same process as if he were a party to the cause; and every person, not being a party in any cause, against whom obedience to any order of the court may be enforced, shall be liable to the same process for enforcing obedience to such orders as if he were a party in the cause.

SERVICE OF PROCESS.

**11.**

No process of subpoena shall issue from the clerk's office in any suit in equity until the bill is filed in the office.

**12.**

Whenever a bill is filed, the clerk shall issue the process of subpoena thereon, as of course, upon the application of the plaintiff, which shall be returnable into the clerk's office the next rule-day, or the next rule-day but one, at the election of the plaintiff, occurring after twenty days from the time of the issuing thereof. At the bottom of the subpoena shall be placed a memorandum, that the defendant is to enter his appearance in the suit in the clerk's office on or before the day at which the writ is returnable; otherwise the bill may be taken *pro confesso*. Where there are more than one defendant, a writ of subpoena may, at the election of the plaintiff, be sued out separately for each defendant, except in the case of husband and wife defendants, or a joint subpoena against all the defendants.

**13.**

The service of all subpoenas shall be by a delivery of a copy thereof by the officer serving the same to the defendant personally, or by leaving a copy thereof at the dwelling-house or usual place of abode of each defendant, with some adult person who is a member or resident in the family.

**14.**

Whenever any subpoena shall be returned not executed as to any defendant, the plaintiff shall be entitled to another subpoena, *toties quoties*, against such defendant, if he shall require it, until due service is made.

**15.**

The service of all process, mesne and final, shall be by the marshal of the district, or his deputy, or by some other person specially appointed by the court for that purpose, and not otherwise. In the latter case, the person serving the process shall make affidavit thereof.

**16.**

Upon the return of the subpoena as served and executed upon any defendant, the clerk shall enter the suit upon his docket as pending in the court, and shall state the time of the entry.

## APPEARANCE.

**17.**

The appearance-day of the defendant shall be the rule-day to which the subpoena is made returnable, provided he has been served with the process twenty days before that day; otherwise his appearance-day shall be the next rule-day succeeding the rule-day when the process is returnable.

The appearance of the defendant, either personally or by his solicitor, shall be entered in the order-book on the day thereof by the clerk.

## BILLS TAKEN PRO CONFESSO.

**18.**

It shall be the duty of the defendant, unless the time shall be otherwise enlarged, for cause shown, by a judge of the court,

upon motion for that purpose, to file his plea, demurrer, or answer to the bill, in the clerk's office, on the rule-day next succeeding that of entering his appearance. In default thereof, the plaintiff may, at his election, enter an order (as of course) in the order-book, that the bill be taken *pro confesso*; and thereupon the cause shall be proceeded in *ex parte*, and the matter of the bill may be decreed by the court at any time after the expiration of thirty days from and after the entry of said order, if the same can be done without an answer, and is proper to be decreed; or the plaintiff, if he requires any discovery or answer to enable him to obtain a proper decree, shall be entitled to process of attachment against the defendant to compel an answer, and the defendant shall not, when arrested upon such process, be discharged therefrom, unless upon filing his answer, or otherwise complying with such order as the court or a judge thereof may direct as to pleading to or fully answering the bill, within a period to be fixed by the court or judge, and undertaking to speed the cause.

#### 19.

When the bill is taken *pro confesso* the court may proceed to a decree at any time after the expiration of thirty days from and after the entry of the order to take the bill *pro confesso*, and such decree rendered shall be deemed absolute, unless the court shall, at the same term, set aside the same, or enlarge the time for filing the answer, upon cause shown upon motion and affidavit of the defendant. And no such motion shall be granted, unless upon the payment of the cost of the plaintiff in the suit up to that time, or such part thereof as the court shall deem reasonable, and unless the defendant shall undertake to file his answer within such time as the court shall direct, and submit to such other terms as the court shall direct, for the purpose of speeding the cause.

#### FRAME OF BILLS.

#### 20.

Every bill, in the introductory part thereof, shall contain the names, places of abode, and citizenship of all the parties, plaintiffs and defendants, by and against whom the bill is brought.



The form, in substance, shall be as follows: "To the judges of the circuit court of the United States for the district of —: A. B., of —, and a citizen of the State of —, brings this his bill against C. D., of —, and a citizen of the State of —, and E. F., of —, and a citizen of the State of —. And thereupon your orator complains and says that," &c.

#### 21.

The plaintiff, in his bill, shall be at liberty to omit, at his option, the part which is usually called the common confederacy clause of the bill, averring a confederacy between the defendants to injure or defraud the plaintiff; also what is commonly called the charging part of the bill, setting forth the matters or excuses which the defendant is supposed to intend to set up by way of defense to the bill; also what is commonly called the jurisdiction clause of the bill, that the acts complained of are contrary to equity, and that the defendant is without any remedy at law; and the bill shall not be demurrable therefor. And the plaintiff may, in the narrative or stating part of his bill, state and avoid, by counter-averments, at his option, any matter or thing which he supposes will be insisted upon by the defendant by way of defense or excuse to the case made by the plaintiff for relief. The prayer of the bill shall ask the special relief to which the plaintiff supposes himself entitled, and also shall contain a prayer for general relief; and if an injunction, or a writ of *ne exeat regno*, or any other special order, pending the suit, is required, it shall also be specially asked for.

#### 22.

If any persons, other than those named as defendants in the bill, shall appear to be necessary or proper parties thereto, the bill shall aver the reason why they are not made parties, by showing them to be without the jurisdiction of the court, or that they can not be joined without ousting the jurisdiction of the court as to the other parties. And as to persons who are without the jurisdiction and may properly be made parties, the bill may pray that process may issue to make them parties to the bill if they should come within the jurisdiction.

**23.**

The prayer for process of subpoena in the bill shall contain the names of all the defendants named in the introductory part of the bill, and if any of them are known to be infants under age, or otherwise under guardianship, shall state the fact, so that the court may take order thereon, as justice may require upon the return of the process. If an injunction, or a writ of *ne exeat regno*, or any other special order, pending the suit, is asked for in the prayer for relief, that shall be sufficient, without repeating the same in the prayer for process.

**24.**

Every bill shall contain the signature of counsel annexed to it, which shall be considered as an affirmation on his part that, upon the instructions given to him and the case laid before him, there is good ground for the suit, in the manner in which it is framed.

**25.**

In order to prevent unnecessary costs and expenses, and to promote brevity, succinctness, and directness in the allegations of bills and answers, the regular taxable costs for every bill and answer shall in no case exceed the sum which is allowed in the State court of chancery in the district, if any there be; but if there be none, then it shall not exceed the sum of three dollars for every bill or answer.

## SCANDAL AND IMPERTINENCE IN BILLS.

**26.**

Every bill shall be expressed in as brief and succinct terms as it reasonably can be, and shall contain no unnecessary recitals of deeds, documents, contracts, or other instruments, in *hæc verba*, or any other impertinent matter, or any scandalous matter not relevant to the suit. If it does, it may, on exceptions, be referred to a master, by any judge of the court, for impertinence or scandal; and if so found by him, the matter shall be expunged at the expense of the plaintiff, and he shall pay to the defendant all his costs in the suit up to that time, unless the court or a judge

thereof shall otherwise order. If the master shall report that the bill is not scandalous or impertinent, the plaintiff shall be entitled to all costs occasioned by the reference.

**27.**

No order shall be made by any judge for referring any bill, answer, or pleading, or other matter or proceeding, depending before the court, for scandal or impertinence, unless exceptions are taken in writing and signed by counsel, describing the particular passages which are considered to be scandalous or impertinent; nor unless the exceptions shall be filed on or before the next rule-day after the process on the bill shall be returnable, or after the answer or pleading is filed. And such order, when obtained, shall be considered as abandoned, unless the party obtaining the order shall, without any unnecessary delay, procure the master to examine and report for the same on or before the next succeeding rule-day, or the master shall certify that further time is necessary for him to complete the examination.

## AMENDMENT OF BILLS.

**28.**

The plaintiff shall be at liberty, as a matter of course, and without payment of costs, to amend his bill, in any matters whatsoever, before any copy has been taken out of the clerk's office, and in any small matters afterwards, such as filing blanks, correcting errors of dates, misnomer of parties, misdescription of premises, clerical errors, and generally in matters of form. But if he amend in a material point (as he may do of course) after a copy has been so taken, before any answer or plea or demurrer to the bill, he shall pay to the defendant the costs occasioned thereby, and shall, without delay, furnish him a fair copy thereof, free of expense, with suitable references to the places where the same are to be inserted. And if the amendments are numerous, he shall furnish, in like manner, to the defendant, a copy of the whole bill as amended; and if there be more than one defendant, a copy shall be furnished to each defendant affected thereby.

**29.**

After an answer, or plea, or demurrer is put in, and before replication, the plaintiff may, upon motion or petition, without

notice, obtain an order from any judge of the court to amend his bill on or before the next succeeding rule-day, upon payment of costs or without payment of costs, as the court or a judge thereof may in his discretion direct. But after replication filed, the plaintiff shall not be permitted to withdraw it and to amend his bill, except upon a special order of a judge of the court, upon motion or petition, after due notice to the other party, and upon proof by affidavit that the same is not made for the purpose of vexation or delay, or that the matter of the proposed amendment is material, and could not with reasonable diligence have been sooner introduced into the bill, and upon the plaintiff's submitting to such other terms as may be imposed by the judge for speeding the cause.

### 30.

If the plaintiff so obtaining any order to amend his bill after answer, or plea, or demurrer, or after replication, shall not file his amendments or amended bill, as the case may require, in the clerk's office on or before the next succeeding rule-day, he shall be considered to have abandoned the same, and the cause shall proceed as if no application for any amendment had been made.

### DEMURRERS AND PLEAS.

### 31.

No demurrer or plea shall be allowed to be filed to any bill, unless upon a certificate of counsel, that in his opinion it is well founded in point of law, and supported by the affidavit of the defendant; that it is not interposed for delay; and, if a plea, that it is true in point of fact.

### 32.

The defendant may at any time before the bill is taken for confessed, or afterward with the leave of the court, demur or plead to the whole bill, or to part of it, and he may demur to part, plead to part, and answer as to the residue; but in every case in which the bill specially charges fraud or combination, a plea to such part must be accompanied with an answer fortifying the plea and explicitly denying the fraud and combination, and the facts on which the charge is founded.

**33.**

The plaintiff may set down the demurrer or plea to be argued, or he may take issue on the plea. If, upon an issue, the fact stated in the plea be determined for the defendant, they shall avail him as far as in law and equity they ought to avail him.

**34.**

If, upon the hearing, any demurrer or plea is overruled, the plaintiff shall be entitled to his costs in the cause up to that period unless the court shall be satisfied that the defendant has good ground, in point of law or fact, to interpose the same, and it was not interposed vexatiously or for delay. And, upon the overruling of any plea or demurrer, the defendant shall be assigned to answer the bill, or so much thereof as is covered by the plea or demurrer, the next succeeding rule-day, or at such other period as, consistently with justice and the rights of the defendant, the same can, in the judgment of the court, be reasonably done; in default whereof, the bill shall be taken against him *pro confesso*, and the matter thereof proceeded in and decreed accordingly.

**35.**

If, upon the hearing, any demurrer or plea shall be allowed, the defendant shall be entitled to his costs. But the court may, in its discretion, upon motion of the plaintiff, allow him to amend his bill, upon such terms as it shall deem reasonable.

**36.**

No demurrer or plea shall be held bad and overruled upon argument, only because such demurrer or plea shall not cover so much of the bill as it might by law have extended to.

**37.**

No demurrer or plea shall be held bad and overruled upon argument, only because the answer of the defendant may extend to some part of the same matter as may be covered by such demurrer or plea.

**38.**

If the plaintiff shall not reply to any plea, or set down any plea or demurrer for argument on the rule-day when the same

is filed, or on the next succeeding rule-day, he shall be deemed to admit the truth and sufficiency thereof, and his bill shall be dismissed as of course, unless a judge of the court shall allow him further time for that purpose.

## ANSWERS.

## 39.

The rule, that if a defendant submits to answer he shall answer fully to all the matters of the bill, shall no longer apply in cases where he might by plea protect himself from such answer and discovery. And the defendant shall be entitled in all cases by answer to insist upon all matters of defense (not being matters of abatement, or to the character of the parties, or matters of form) in bar of or to the merits of the bill, of which he may be entitled to avail himself by a plea in bar; and in such answer he shall not be compellable to answer any other matters than he would be compellable to answer and discover upon filing a plea in bar and an answer in support of such plea, touching the matters set forth in the bill to avoid or repel the bar, or defense. Thus, for example, a *bona-fide* purchaser, for a valuable consideration without notice, may set up that defense by way of answer instead of plea, and shall be entitled to the same protection, and shall not be compellable to make any further answer or discovery of his title than he would be in any answer in support of such plea.

## 40.

A defendant shall not be bound to answer any statement or charge in the bill, unless specially and particularly interrogated thereto; and a defendant shall not be bound to answer any interrogatory in the bill, except those interrogatories which such defendant is required to answer; and where a defendant shall answer any statement or charge in the bill to which he is not interrogated, only by stating his ignorance of the matter so stated or charged, such answer shall be deemed impertinent.

DECEMBER TERM, 1850.

*Ordered*, That the fortieth rule, heretofore adopted and promulgated by this court as one of the rules of practice in suits in

equity in the circuit courts, be, and the same is hereby, repealed and annulled. And it shall not hereafter be necessary to interrogate a defendant specially and particularly upon any statement in the bill, unless the complainant desires to do so, to obtain a discovery.

**41.**

The interrogatories contained in the interrogating part of the bill shall be divided as conveniently as may be from each other and numbered consecutively 1, 2, 3, etc.; and the interrogatories which each defendant is required to answer shall be specified in a note at the foot of the bill, in the form or to the effect following, that is to say: "The defendant (A. B.) is required to answer the interrogatories numbered respectively 1, 2, 3," etc.; and the office copy of the bill taken by each defendant shall not contain any interrogatories except those which such defendant is so required to answer, unless such defendant shall require to be furnished with a copy of the whole bill.

DECEMBER TERM, 1871.

*Amendment to 41st Equity Rule.*

If the complainant, in his bill, shall waive an answer under oath, or shall only require an answer under oath with regard to certain specified interrogatories, the answer of the defendant, though under oath, except such part thereof as shall be directly responsive to such interrogatories, shall not be evidence in his favor, unless the cause be set down for hearing on bill and answer only; but may nevertheless be used as an affidavit, with the same effect as heretofore, on a motion to grant or dissolve an injunction, or on any other incidental motion in the cause; but this shall not prevent a defendant from becoming a witness in his own behalf under section 3 of the act of Congress of July 2, 1864.

**42.**

The note at the foot of the bill, specifying the interrogatories which each defendant is required to answer, shall be considered and treated as part of the bill, and the addition of any such note to the bill, or any alteration in or addition to such note, after the bill is filed, shall be considered and treated as an amendment of the bill.

**43.**

Instead of the words of the bill now in use, preceding the interrogating part thereof, and beginning with the words "To the end therefore," there shall hereafter be used words in the form or to the effect following: "To the end, therefore, that the said defendants may, if they can, show why your orator should not have the relief hereby prayed, and may, upon their several and respective corporal oaths, and according to the best and utmost of their several and respective knowledge, remembrance, information, and belief, full, true, direct, and perfect answers make to such of the several interrogatories hereinafter numbered and set forth, as by the note hereunder written they are respectively required to answer; that is to say—

"1. Whether, &c.

"2. Whether, &c."

**44.**

A defendant shall be at liberty, by answer, to decline answering any interrogatory, or part of an interrogatory, from answering which he might have protected himself by demurrer; and he shall be at liberty so to decline, notwithstanding he shall answer other parts of the bill from which he might have protected himself by demurrer.

**45.**

No special replication to any answer shall be filed. But if any matter alleged in the answer shall make it necessary for the plaintiff to amend his bill, he may have leave to amend the same with or without the payment of costs, as the court, or a judge thereof, may in his discretion direct.

**46.**

In every case where an amendment shall be made after answer filed, the defendant shall put in a new or supplemental answer on or before the next succeeding rule-day after that on which the amendment or amended bill is filed, unless the time is enlarged or otherwise ordered by a judge of the court; and upon his default, the like proceedings may be had as in cases of an omission to put in an answer.



## PARTIES TO BILLS.

**47.**

In all cases where it shall appear to the court that persons, who might otherwise be deemed necessary or proper parties to the suit, can not be made parties by reason of their being out of the jurisdiction of the court, or incapable otherwise of being made parties, or because their joinder would oust the jurisdiction of the court as to the parties before the court, the court may, in their discretion, proceed in the cause without making such persons parties; and in such cases the decree shall be without prejudice to the rights of the absent parties.

**48.**

Where the parties on either side are very numerous, and can not, without manifest inconvenience and oppressive delays in the suit, be all brought before it, the court in its discretion may dispense with making all of them parties, and may proceed in the suit, having sufficient parties before it to represent all the adverse interest of the plaintiffs and the defendants in the suit properly before it. But, in such cases, the decree shall be without prejudice to the rights and claims of all the absent parties.

**49.**

In all suits concerning real estate which is vested in trustees by devise, and such trustees are competent to sell and give discharges for the proceeds of the sale, and for the rents and profits of the estate, such trustees shall represent the persons beneficially interested in the estate, or the proceeds, or the rents and profits, in the same manner and to the same extent as the executors or administrators in suits concerning personal estate represent the persons beneficially interested in such personal estate; and in such cases it shall not be necessary to make the persons beneficially interested in such real estates, or rents and profits, parties to the suit; but the court may, upon consideration of the matter on the hearing, if it shall so think fit, order such persons to be made parties.

**50.**

In suits to execute the trusts of a will, it shall not be necessary to make the heir at law a party; but the plaintiffs shall be at liberty to make the heir at law a party where he desires to have the will established against him.

**51.**

In all cases in which the plaintiff has a joint and several demand against several persons, either as principals or sureties, it shall not be necessary to bring before the court as parties to a suit concerning such demand all the persons liable thereto; but the plaintiff may proceed against one or more of the persons severally liable.

**52.**

Where the defendant shall, by his answer, suggest that the bill is defective for want of parties, the plaintiff shall be at liberty, within fourteen days after answer filed, to set down the cause for argument upon that objection only; and the purpose for which the same is so set down shall be notified by an entry, to be made in the clerk's order-book, in the form or to the effect following, (that is to say;) "Set down upon the defendant's objection for what of parties." And where the plaintiff shall not so set down his cause, but shall proceed therewith to a hearing, notwithstanding an objection for want of parties taken by the answer, he shall not, at the hearing of the cause, if the defendant's objection shall then be allowed be entitled as of course to an order for liberty to amend his bill by adding parties. But the court, if it thinks fit, shall be at liberty to dismiss the bill.

**53.**

If a defendant shall, at the hearing of a cause, object that a suit is defective for want of parties not having by plea or answer taken the objection, and therein specified by name or description of parties to whom the objection applies, the court (if it shall think fit) shall be at liberty to make a decree saving the rights of the absent parties

## NOMINAL PARTIES TO BILLS.

## 54.

Where no account, payment, conveyance, or other direct relief is sought against a party to a suit, not being an infant, the party, upon service of the subpoena upon him, need not appear and answer the bill, unless the plaintiff specially requires him so to do by the prayer of his bill; but he may appear and answer at his option; and if he does not appear and answer he shall be bound by all the proceedings in the cause. If the plaintiff shall require him to appear and answer he shall be entitled to the costs of all the proceedings against him unless the court shall otherwise direct.

## 55.

Whenever an injunction is asked for by the bill to stay proceedings at law, if the defendant do not enter his appearance and plead, demur, or answer to the same within the time prescribed therefor by these rules, the plaintiff shall be entitled as of course, upon motion, without notice, to such injunction. But special injunctions shall be grantable only upon due notice to the other party by the court in term, or by a judge thereof in vacation, after a hearing, which may be *ex parte*, if the adverse party does not appear at the time and place ordered. In every case where an injunction—either the common injunction or a special injunction—is awarded in vacation, it shall, unless previously dissolved by the judge granting the same, continue until the next term of the court, or until it is dissolved by some other order of the court.

## BILLS OF REVIVOR AND SUPPLEMENTAL BILLS.

## 56.

Whenever a suit in equity shall become abated by the death of either party, or by any other event, the same may be revived by a bill of revivor or a bill in the nature of a bill of revivor, as the circumstances of the case may require, filed by the proper parties entitled to revive the same, which bill may be filed in the clerk's office at any time; and, upon suggestion of the facts, the proper process of subpoena shall, as of course, be issued by

the clerk, requiring the proper representatives of the other party to appear and show cause, if any they have, why the cause should not be revived. And if no cause shall be shown at the next rule-day which shall occur after fourteen days from the time of the service of the same process, the suit shall stand revived, as of course.

**57.**

Whenever any suit in equity shall become defective from any event happening after the filing of the bill (as, for example, by change of interest in the parties), or for any other reason a supplemental bill, or a bill in the nature of a supplemental bill, may be necessary to be filed in the cause, leave to file the same may be granted by any judge of the court on any rule-day upon proper cause shown and due notice to the other party. And if leave is granted to file such supplemental bill, the defendant shall demur, plead, or answer thereto on the next succeeding rule-day after the supplemental bill is filed in the clerk's office, unless some other time shall be assigned by a judge of the court.

**58.**

It shall not be necessary in any bill of revivor or supplemental bill to set forth any of the statements in the original suit, unless the special circumstances of the case may require it.

## ANSWERS.

**59.**

Every defendant may swear to his answer before any justice or judge of any court of the United States, or before any commissioner appointed by any circuit court to take testimony or depositions, or before any master in chancery appointed by any circuit court, or before any judge of any court of a State or Territory, or before any notary public.

## AMENDMENT OF ANSWERS.

**60.**

After an answer is put in, it may be amended, as of course, in any matter of form, or by filling up a blank, or correcting a date, or reference to a document, or other small matter, and be re-

sworn, at any time before a replication is put in, or the cause is set down for a hearing upon bill and answer. But after replication, or such setting down for a hearing, it shall not be amended in any material matters, as by adding new facts or defenses, or qualifying or altering the original statements, except by special leave of the court, or of a judge thereof, upon motion and cause shown, after due notice to the adverse party, supported, if required, by affidavit; and in every case where leave is so granted, the court or the judge granting the same may, in his discretion, require that the same be separately engrossed, and added as a distinct amendment to the original answer, so as to be distinguishable therefrom.

#### EXCEPTIONS TO ANSWERS.

##### 61.

After an answer is filed on any rule-day, the plaintiff shall be allowed until the next succeeding rule-day to file in the clerk's office exceptions thereto for insufficiency, and no longer, unless a longer time shall be allowed for the purpose, upon cause shown to the court, or a judge thereof; and, if no exception shall be filed thereto within that period, the answer shall be deemed and taken to be sufficient.

##### 62.

When the same solicitor is employed for two or more defendants, and separate answers shall be filed, or other proceedings had, by two or more of the defendants separately, costs shall not be allowed for such separate answers, or other proceedings, unless a master, upon reference to him, shall certify that such separate answers and other proceedings were necessary or proper, and ought not to have been joined together.

##### 63.

Where exceptions shall be filed to the answer for insufficiency, within the period prescribed by these rules, if the defendant shall not submit to the same and file an amended answer on the next succeeding rule-day, the plaintiff shall forthwith set them down for a hearing on the next succeeding rule-day thereafter, before a judge of the court, and shall enter, as of course, in the order-

book, an order for that purpose ; and if he shall not so set down the same for a hearing, the exceptions shall be deemed abandoned, and the answer shall be deemed sufficient ; provided, however, that the court, or any judge thereof, may, for good cause shown, enlarge the time for filing exceptions, or for answering the same, in his discretion, upon such terms as he may deem reasonable.

**64.**

If, at the hearing, the exceptions shall be allowed, the defendant shall be bound to put in a full and complete answer thereto on the next succeeding rule-day ; otherwise the plaintiff shall, as of course, be entitled to take the bill, so far as the matter of such exceptions is concerned, as confessed, or, at his election, he may have a writ of attachment to compel the defendant to make a better answer to the matter of the exceptions ; and the defendant, when he is in custody upon such writ, shall not be discharged therefrom but by an order of the court, or of a judge thereof, upon his putting in such answer, and complying with such other terms as the court or judge may direct.

**65.**

If, upon argument, the plaintiff's exceptions to the answer shall be overruled, or the answer shall be adjudged insufficient, the prevailing party shall be entitled to all the costs occasioned thereby, unless otherwise directed by the court, or the judge thereof, at the hearing upon the exceptions.

## REPLICATION AND ISSUE.

**66.**

Whenever the answer of the defendant shall not be excepted to, or shall be adjudged or deemed sufficient, the plaintiff shall file the general replication thereto on or before the next succeeding rule-day thereafter ; and in all cases where the general replication is filed, the cause shall be deemed, to all intents and purposes, at issue, without any rejoinder or other pleading on either side. If the plaintiff shall omit or refuse to file such replication within the prescribed period, the defendant shall be entitled to an order, as of course, for a dismissal of the suit ; and the suit shall thereupon stand dismissed, unless the court, or

a judge thereof, shall, upon motion, for cause shown, allow a replication to be filed *nunc pro tunc*, the plaintiff submitting to speed the cause, and to such other terms as may be directed.

## TESTIMONY—HOW TAKEN.

## 67.

After the cause is at issue, commissions to take testimony may be taken out in vacation as well as in term, jointly by both parties, or severally by either party, upon interrogatories filed by the party taking out the same in the clerk's office, ten days' notice thereof being given to the adverse party to file cross-interrogatories before the issuing of the commission; and if no cross-interrogatories are filed at the expiration of the time the commission may issue *ex parte*. In all cases the commissioner or commissioners may be named by the court or by a judge thereof; and the presiding judge of the court exercising jurisdiction may, either in term time or in vacation, vest in the clerk of the court general power to name commissioners to take testimony.

Either party may give notice to the other that he desires the evidence to be adduced in the cause to be taken orally, and thereupon all the witnesses to be examined shall be examined before one of the examiners of the court, or before an examiner to be specially appointed by the court. The examiner, if he so request, shall be furnished with a copy of the pleadings.

Such examination shall take place in the presence of the parties or their agents, by their counsel or solicitors, and the witnesses shall be subject to cross-examination and re-examination, all of which shall be conducted as near as may be in the mode now used in common-law courts.

The depositions taken upon such oral examination shall be reduced to writing by the examiner, in the form of question put and answer given; provided, that, by consent of parties, the examiner may take down the testimony of any witness in the form of narrative.

At the request of either party, with reasonable notice, the deposition of any witness shall, under the direction of the examiner, be taken down either by a skillful stenographer or by a skillful typewriter, as the examiner may elect, and when taken stenographically shall be put into typewriting or other writing; provided, that such stenographer or typewriter has been appointed by the court, or is approved by both parties.

The testimony of each witness, after such reduction to writing, shall be read over to him and signed by him in the presence of the examiner and of such of the parties or counsel as may attend; provided, that if the witness shall refuse to sign his deposition so taken, then the examiner shall sign the same, stating upon the record the reasons, if any, assigned by the witness for such refusal.

The examiner may, upon all examinations, state any special matters to the court as he shall think fit; and any question or questions which may be objected to shall be noted by the examiner upon the deposition, but he shall not have power to decide on the competency, materiality, or relevancy of the questions; and the court shall have power to deal with the costs of incompetent, immaterial, or irrelevant depositions, or parts of them, as may be just.

In case of refusal of witnesses to attend, to be sworn, or to answer any question put by the examiner, or by counsel or solicitor, the same practice shall be adopted as is now practiced with respect to witnesses to be produced on examination before an examiner of said court on written interrogatories.

Notice shall be given by the respective counsel or solicitors to the opposite counsel or solicitors, or parties, of the time and place of the examination, for such reasonable time as the examiner may fix by order in each cause.

When the examination of witnesses before the examiner is concluded, the original depositions, authenticated by the signature of the examiner, shall be transmitted by him to the clerk of the court, to be there filed of record, in the same mode as prescribed in section 865 of the Revised Statutes.



Testimony may be taken on commission in the usual way, by written interrogatories and cross-interrogatories, on motion to the court in term time, or to a judge in vacation, for special reasons, satisfactory to the court or judge.

Where the evidence to be adduced in a cause is to be taken orally, as before provided, the court may, on motion of either party, assign a time within which the complainant shall take his evidence in support of the bill, and a time thereafter within which the defendant shall take his evidence in defense, and a time thereafter within which the complainant shall take his evidence in reply; and no further evidence shall be taken in the cause, unless by agreement of the parties or by leave of court first obtained, on motion for cause shown.

The expense of the taking down of depositions by a stenographer and of putting them into typewriting or other writing shall be paid in the first instance by the party calling the witness, and shall be imposed by the court, as part of the costs, upon such party as the court shall adjudge should ultimately bear them.

Upon due notice given as prescribed by previous order, the court may, at its discretion, permit the whole, or any specific part, of the evidence to be adduced orally in open court on final hearing.

#### 68.

Testimony may also be taken in the cause, after it is at issue, by deposition, according to the act of Congress. But in such case, if no notice is given to the adverse party of the time and place of taking the deposition, he shall, upon motion and affidavit of the fact, be entitled to a cross-examination of the witness, either under a commission or by a new deposition taken under the acts of Congress, if a court or judge thereof shall, under all the circumstances, deem it reasonable.

**69.**

Three months, and no more, shall be allowed for the taking of testimony after the cause is at issue, unless the court, or a judge thereof, shall, upon special cause shown by either party, enlarge the time; and no testimony taken after such period shall be allowed to be read in evidence at the hearing. Immediately upon the return of the commissions and depositions containing the testimony into the clerk's office, publication thereof may be ordered in the clerk's office, by any judge of the court, upon due notice to the parties, or it may be enlarged, as he may deem reasonable, under all the circumstances; but, by consent of the parties, publication of the testimony may at any time pass into the clerk's office, such consent being in writing, and a copy thereof entered in the order-books, or indorsed upon the deposition or testimony.

## TESTIMONY DE BENE ESSE.

**70.**

After any bill filed and before the defendant hath answered the same, upon affidavit made that any of the plaintiff's witnesses are aged and infirm, or going out of the country, or that any one of them is a single witness to a material fact, the clerk of the court shall, as of course, upon the application of the plaintiff, issue a commission to such commissioner or commissioners as a judge of the court may direct, to take the examination of such witness or witnesses *de bene esse*, upon giving due notice to the adverse party of the time and place of taking his testimony.

## FORM OF THE LAST INTERROGATORY.

**71.**

The last interrogatory in the written interrogatories to take testimony now commonly in use shall in the future be altered, and stated in substance thus: "Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer."

## CROSS-BILL.

## 72.

Where a defendant in equity files a cross-bill for discovery only against the plaintiff in the original bill, the defendant to the original bill shall first answer thereto before the original plaintiff shall be compellable to answer the cross-bill. The answer of the original plaintiff to such cross-bill may be read and used by the party filing the cross-bill at the hearing, in the same manner and under the same restrictions as the answer praying relief may now be read and used.

## REFERENCE TO AND PROCEEDINGS BEFORE MASTERS.

## 73.

Every decree for an account of the personal estate of a testator or intestate shall contain a direction to the master to whom it is referred to take the same to inquire and state to the court what parts, if any, of such personal estate are outstanding or undisposed of, unless the court shall otherwise direct.

## 74.

Whenever any reference of any matter is made to a master to examine and report thereon, the party at whose instance or for whose benefit the reference is made shall cause the same to be presented to the master for a hearing on or before the next rule-day succeeding the time when the reference was made; if he shall omit to do so, the adverse party shall be at liberty forthwith to cause proceedings to be had before the master, at the costs of the party procuring the reference.

## 75.

Upon every such reference, it shall be the duty of the master, as soon as he reasonably can after the same is brought before him, to assign a time and place for proceedings in the same, and to give due notice thereof to each of the parties, or their solicitors; and if either party shall fail to appear at the time and place appointed, the master shall be at liberty to proceed *ex parte*, or,

in his discretion, to adjourn the examination and proceedings to a future day, giving notice to the absent party or his solicitor of such adjournment; and it shall be the duty of the master to proceed with all reasonable diligence in every such reference, and with the least practicable delay, and either party shall be at liberty to apply to the court, or a judge thereof, for an order to the master to speed the proceedings and to make his report, and to certify to the court or judge the reason for any delay.

**76.**

In the reports made by the master to the court, no part of any state of facts, charge, affidavit, deposition, examination, or answer brought in or used before them shall be stated or recited. But such state of facts, charge, affidavit, deposition, examination, or answer shall be identified, specified, and referred to, so as to inform the court what state of facts, charge, affidavit, deposition, examination, or answer were so brought in or used.

**77.**

The master shall regulate all the proceedings in every hearing before him, upon every such reference; and he shall have full authority to examine the parties in the cause, upon oath, touching all matters contained in the reference; and also to require the production of all books, papers, writings, vouchers, and other documents applicable thereto; and also to examine on oath, *viva voce*, all witnesses produced by the parties before him, and to order the examination of other witnesses to be taken, under a commission to be issued upon his certificate from the clerk's office or by deposition, according to the act of Congress, or otherwise, as hereinafter provided; and also to direct the mode in which the matters requiring evidence shall be proved before him; and generally to do all other acts, and direct all other inquiries and proceedings in the matters before him, which he may deem necessary and proper to the justice and merits thereof and the rights of the parties.

**78.**

Witnesses who live within the district may, upon due notice to the opposite party, be summoned to appear before the commissioner appointed to take testimony, or before a master or

examiner appointed in any cause, by subpoena in the usual form, which may be issued by the clerk in blank, and filled up by the party praying the same, or by the commissioner, master, or examiner, requiring the attendance of the witnesses at the time and place specified, who shall be allowed for attendance the same compensation as for attendance in court; and if any witness shall refuse to appear or give evidence it shall be deemed a contempt of the court, which being certified to the clerk's office by the commissioner, master, or examiner, an attachment may issue thereupon by order of the court or of any judge thereof, in the same manner as if the contempt were for not attending, or for refusing to give testimony in the court. But nothing herein contained shall prevent the examination of witnesses *viva voce* when produced in open court, if the court shall, in its discretion, deem it advisable.

**79.**

All parties accounting before a master shall bring in their respective accounts in the form of debtor and creditor; and any of the other parties who shall not be satisfied with the account so brought in shall be at liberty to examine the accounting party *viva voce*, or upon interrogatories, in the master's office, or by deposition, as the master shall direct.

**80.**

All affidavits, depositions, and documents which have been previously made, read, or used in the court upon any proceeding in any cause or matter may be used before the master.

**81.**

The master shall be at liberty to examine any creditor or other person coming in to claim before him, either upon written interrogatories or *viva voce*, or in both modes, as the nature of the case may appear to him to require. The evidence upon such examinations shall be taken down by the master, or by some other person by his order and in his presence, if either party requires it, in order that the same may be used by the court if necessary.

**82.**

The circuit courts may appoint standing masters in chancery in their respective districts, (a majority of all the judges thereof, including the justice of the Supreme Court, the circuit judges, and the district judge for the district, concurring in the appointment,) and they may also appoint a master *pro hac vice* in any particular case. The compensation to be allowed to every master in chancery for his services in any particular case shall be fixed by the circuit court, in its discretion, having regard to all the circumstances thereof, and the compensation shall be charged upon and borne by such of the parties in the cause as the court shall direct. The master shall not retain his report as security for his compensation; but when the compensation is allowed by the court, he shall be entitled to an attachment for the amount against the party who is ordered to pay the same, if, upon notice thereof, he does not pay it within the time prescribed by the court.

## EXCEPTIONS TO REPORT OF MASTER.

**83.**

The master, as soon as his report is ready, shall return the same into the clerk's office, and the day of the return shall be entered by the clerk in the order book. The parties shall have one month from the time of filing the report to file exceptions thereto; and, if no exceptions are within that period filed by either party, the report shall stand confirmed on the next rule-day after the month is expired. If exceptions are filed, they shall stand for hearing before the court, if the court is then in session; or, if not, then at the next sitting of the court which shall be held thereafter, by adjournment or otherwise.

**84.**

And, in order to prevent exceptions to reports from being filed for frivolous causes, or for mere delay, the party whose exceptions are overruled shall, for every exception overruled, pay costs to the other party, and for every exception allowed shall be entitled to costs; the cost to be fixed in each case by the court, by a standing rule of the circuit court.

## DECREES.

## 85.

Clerical mistakes in decrees or decretal orders, or errors arising from any accidental slip or omission, may, at any time before an actual enrollment thereof, be corrected by order of the court or a judge thereof, upon petition, without the form or expense of a rehearing.

## 86.

In drawing up decrees and orders, neither the bill, nor answer, nor other pleadings, nor any part thereof, nor the report of any master, nor any other prior proceeding, shall be recited or stated in the decree or order; but the decree and order shall begin, in substance, as follows: "This cause came on to be heard (or to be further heard, as the case may be) at this term, and was argued by counsel; and thereupon, upon consideration thereof, it was ordered, adjudged, and decreed as follows, viz: " [Here insert the decree or order.]

## GUARDIANS AND PROCHEIN AMIS.

## 87.

Guardians *ad litem* to defend a suit may be appointed by the court, or by any judge thereof, for infants or other persons who are under guardianship, or otherwise incapable to sue for themselves. All infants and other persons so incapable may sue by their guardians, if any, or by their *prochein ami*; subject, however, to such orders as the court may direct for the protection of infants and other persons.

## 88.

Every petition for a rehearing shall contain the special matter or cause on which such rehearing is applied for, shall be signed by counsel, and the facts therein stated, if not apparent on the record, shall be verified by the oath of the party or by some other person. No hearing shall be granted after the term at which the final decree of the court shall have been entered and

recorded, if an appeal lies to the Supreme Court. But if no appeal lies, the petition may be admitted at any time before the end of the next term of the court, in the discretion of the court.

**89.**

The circuit courts (a majority of all the judges thereof, including the justice of the Supreme Court, the circuit judges, and the district judge for the district, concurring therein) may make any other and further rules and regulations for the practice, proceedings, and process, mesne and final, in their respective districts, not inconsistent with the rules hereby prescribed, in their discretion, and from time to time alter and amend the same.

**90.**

In all cases where the rules prescribed by this court or by the circuit court do not apply, the practice of the circuit court shall be regulated by the present practice of the high court of chancery in England, so far as the same may reasonably be applied consistently with the local circumstances and local conveniences of the district where the court is held, not as positive rules, but as furnishing just analogies to regulate the practice.

**91.**

Whenever, under these rules, an oath is or may be required to be taken, the party may, if conscientiously scrupulous of taking an oath, in lieu thereof make solemn affirmation to the truth of the facts stated by him.

DECEMBER TERM, 1863.

**92.**

*Ordered,* That in suits in equity for the foreclosure of mortgages in the circuit courts of the United States, or in any court of the Territories having jurisdiction of the same, a decree may be rendered for any balance that may be found due to the complainant over and above the proceeds of the sale or sales, and execution may issue for the collection of the same, as is provided in the eighth rule of this court regulating the equity practice, where the decree is solely for the payment of money.



## OCTOBER TERM, 1878.

## INJUNCTIONS.

**93.**

When an appeal from a final decree, in an equity suit, granting or dissolving an injunction, is allowed by a justice or judge who took part in the decision of the cause, he may, in his discretion, at the time of such allowance, make an order suspending or modifying the injunction during the pendency of the appeal, upon such terms, as to bond or otherwise, as he may consider proper for the security of the rights of the opposite party.

## OCTOBER TERM, 1881.

**94.**

Every bill brought by one or more stockholders in a corporation against the corporation and other parties, founded on rights which may properly be asserted by the corporation, must be verified by oath, and must contain an allegation that the plaintiff was a shareholder at the time of the transaction of which he complains, or that his share had devolved on him since by operation of law, and that the suit is not a collusive one to confer on a court of the United States jurisdiction of a case of which it would not otherwise have cognizance. It must also set forth with particularity the efforts of the plaintiff to secure such action as he desires on the part of the managing directors or trustees, and, if necessary, of the shareholders, and the causes of his failure to obtain such action.

*The following provisions relating to equity practice are to be found in the Act of 1st of June, 1872 :*

SEC. 7. That whenever notice is given of a motion for an injunction out of a circuit or district court of the United States, the court or judge thereof may, if there appear to be danger of irreparable injury from delay, grant an order restraining the act sought to be enjoined until the decision upon the motion. Such order may be granted with or without security, in the discretion of the court or judge: *Provided*. That no justice of the Supreme

Court shall hear or allow any application for an injunction or restraining order except within the circuit to which he is allotted, and in causes pending in the circuit to which he is allotted, or in such causes at such place outside of the circuit as the parties may in writing stipulate, except in causes where such application can not be heard by the circuit judge of the circuit, or the district judge of the district.

SEC. 13. That when in any suit in equity, commenced in any court in the United States, to enforce any legal or equitable lien or claim against real or personal property within the district where such suit is brought, one or more of the defendants therein shall not be an inhabitant of or found within the said district, or shall not voluntarily appear thereto, it shall be lawful for the court to make an order directing such absent defendant to appear, plead, answer, or demur to the complainant's bill at a certain day therein to be designated, which order shall be served on such absent defendant, if practicable, wherever found; or where such personal service is not practicable, such order shall be published in such a manner as the court shall direct; and in case such absent defendant shall not appear, plead, answer, or demur within the time so limited, or within some further time to be allowed by the court, in its discretion, and upon proof of the service or publication of said order, and of the performance of the directions contained in the same, it shall be lawful for the court to entertain jurisdiction, and proceed to the hearing and adjudication of such suit in the same manner as if such absent defendant had been served with process within the said district; but such adjudication shall, as regards such absent defendant without appearance, affect his property within such district only.

RULES OF PRACTICE  
FOR  
THE COURTS OF THE UNITED STATES  
IN

*Admiralty and maritime jurisdiction, on the instance side of the court, in pursuance of the act of the 23d of August, 1842, chapter 188.*

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1.

No *mesne* process shall issue from the district courts in any civil cause of admiralty and maritime jurisdiction until the libel, or libel of information, shall be filed in the clerk's office from which such process is to issue. All process shall be served by the marshal or by his deputy, or, where he or they are interested, by some discreet and disinterested person appointed by the court.

2.

In suits *in personam*, the *mesne* process may be by a simple warrant of arrest of the person of the defendant, in the nature of a *capias*, or by a warrant of arrest of the person of the defendant, with a clause therein, that if he can not be found, to attach his goods and chattels to the amount sued for; or if such property can not be found, to attach his credits and effects to the amount sued for in the hands of the garnishees named therein; or by a simple monition, in the nature of a summons to appear and answer to the suit, as the libellant shall, in his libel or information, pray for or elect.

3.

In all suits *in personam*, where a simple warrant of arrest issues and is executed, the marshal may take bail, with sufficient

sureties, from the party arrested, by bond or stipulation, upon condition that he will appear in the suit and abide by all orders of the court, interlocutory or final, in the cause, and pay the money awarded by the final decree rendered therein in the court to which the process is returnable, or in any appellate court. And upon such bond or stipulation summary process of execution may and shall be issued against the principal and sureties by the court to which such process is returnable, to enforce the final decree so rendered, or upon appeal by the appellate court.

4.

In all suits *in personam*, where goods and chattels, or credits and effects, are attached under such warrant authorizing the same, the attachment may be dissolved by order of the court to which the same warrant is returnable, upon the defendant whose property is so attached giving a bond or stipulation, with sufficient sureties, to abide by all orders, interlocutory or final, of the court, and pay the amount awarded by the final decree rendered in the court to which the process is returnable, or in any appellate court; and upon such bond or stipulation, summary process of execution shall and may be issued against the principal and sureties by the court to which such warrant is returnable, to enforce the final decree so rendered, or upon appeal by the appellate court.

5.

Bonds or stipulations in admiralty suits may be given and taken in open court, or at chambers, or before any commissioner of the court who is authorized by the court to take affidavits of bail and depositions in cases pending before the court, or any commissioner of the United States authorized by law to take bail and affidavits in civil cases.

6.

In all suits *in personam*, where bail is taken, the court may, upon motion, for due cause shown, reduce the amount of the sum contained in the bond or stipulation therefor; and in all cases where a bond or stipulation is taken as bail, or upon dissolving an attachment of property as aforesaid, if either of the sureties

shall become insolvent pending the suit, new sureties may be required by the order of the court, to be given, upon motion, and due proof thereof.

**7.**

In suits *in personam*, no warrant of arrest, either of the person or property of the defendant, shall issue for a sum exceeding five hundred dollars, unless by the special order of the court, upon affidavit or other proper proof showing the propriety thereof.

**8.**

In all suits *in rem* against a ship, her tackle, sails, apparel, furniture, boats, or other appurtenances, if such tackle, sails, apparel, furniture, boats, or other appurtenances are in the possession or custody of any third person, the court may, after a due monition to such third person, and a hearing of the cause, if any, why the same should not be delivered over, award and decree that the same be delivered into the custody of the marshal or other proper officer, if, upon the hearing, the same is required by law and justice.

**9.**

In all cases of seizure, and in other suits and proceedings *in rem*, the process, unless otherwise provided for by statute, shall be by a warrant of arrest of the ship, goods, or other thing to be arrested; and the marshal shall thereupon arrest and take the ship, goods, or other thing into his possession for safe custody, and shall cause public notice thereof and of the time assigned for the return of such process and the hearing of the cause, to be given in such newspaper within the district as the district court shall order; and if there is no newspaper published therein, then in such other public places in the district as the court shall direct.

**10.**

In all cases where any goods or other things are arrested, if the same are perishable, or are liable to deterioration, decay, or injury, by being detained in custody pending the suit, the court may, upon the application of either party, in its discretion,

order the same or so much thereof to be sold as shall be perishable or liable to depreciation, decay, or injury; and the proceeds, or so much thereof as shall be a full security to satisfy in decree, to be brought into court to abide the event of the suit; or the court may, upon the application of the claimant, order a delivery thereof to him, upon a due appraisement, to be had under its direction, either upon the claimant's depositing in court so much money as the court shall order, or upon his giving a stipulation, with sureties, in such sum as the court shall direct, to abide by and pay the money awarded by the final decree rendered by the court, or the appellate court, if any appeal intervenes, as the one or the other course shall be ordered by the court.

**11.**

In like manner, where any ship shall be arrested, the same may, upon the application of the claimant, be delivered to him upon a due appraisement, to be had under the direction of the court, upon the claimant's depositing in court so much money as the court shall order, or upon his giving a stipulation, with sureties, as aforesaid; and if the claimant shall decline any such application, then the court may, in its discretion, upon the application of either party, upon due cause shown, order a sale of such ship, and the proceeds thereof to be brought into court or otherwise disposed of, as it may deem most for the benefit of all concerned.

**12.**

In all suits by material-men for supplies or repairs, or other necessaries, the libellant may proceed against the ship and freight *in rem*, or against the master or owner alone *in personam*.

**13.**

In all suits for mariners' wages, the libellant may proceed against the ship, freight, and master, or against the ship and freight, or against the owner or the master alone *in personam*.

**14.**

In all suits for pilotage the libellant may proceed against the ship and master, or against the ship, or against the owner alone or the master alone *in personam*.

**15.**

In all suits for damage by collision, the libellant may proceed against the ship and master, or against the ship alone, or against the master or the owner alone *in personam*.

**16.**

In all suits for an assault or beating on the high seas, or elsewhere within the admiralty and maritime jurisdiction, the suit shall be *in personam* only.

**17.**

In all suits against the ship or freight, founded upon a mere maritime hypothecation, either express or implied, of the master, for moneys taken up in a foreign port for supplies or repairs or other necessaries for the voyage, without any claim of marine interest, the libellant may proceed either *in rem* or against the master or the owner alone *in personam*.

**18.**

In all suits on bottomry bonds, properly so called, the suit shall be *in rem* only against the property hypothecated, or the proceeds of the property, in whosoever hands the same may be found, unless the master has, without authority, given the bottomry bond, or by his fraud or misconduct has avoided the same, or has subtracted the property, or unless the owner has, by his own misconduct or wrong, lost or subtracted the property, in which latter cases the suit may be *in personam* against the wrong-doer.

**19.**

In all suits for salvage, the suit may be *in rem* against the property saved, or the proceeds thereof, or *in personam* against the party at whose request and for whose benefit the salvage service has been performed.

**20.**

In all petitory and possessory suits between part owners or adverse proprietors, or by the owners of a ship or the majority thereof, against the master of a ship, for the ascertainment of

the title and delivery of the possession, or for the possession only, or by one or more part owners against the others to obtain security for the return of the ship from any voyage undertaken without their consent, or by one or more part owners against the others to obtain possession of the ship for any voyage, upon giving security for the safe return thereof, the process shall be by an arrest of the ship, and by a monition to the adverse party or parties to appear and make answer to the suit.

**21.**

In all cases of a final decree for the payment of money, the libellant shall have a writ of execution, in the nature of a *feri facias*, commanding the marshal or his deputy to levy and collect the amount thereof out of the goods and chattels, lands and tenements, or other real estate, of the defendant or stipulators.

**22.**

All informations and libels of information upon seizures for any breach of the revenue, or navigation, or other laws of the United States, shall state the place of seizure, whether it be on land or on the high seas, or on navigable waters within the admiralty and maritime jurisdiction of the United States, and the district within which the property is brought and where it then is. The information or libel of information shall also propound in distinct articles the matters relied on as grounds or causes of forfeiture, and aver the same to be contrary to the form of the statute or statutes of the United States in such case provided, as the case may require, and shall conclude with a prayer of due process to enforce the forfeiture, and to give notice to all persons concerned in interest to appear and show cause at the return-day of the process why the forfeiture should not be decreed.

**23.**

All libels in instance causes, civil or maritime, shall state the nature of the cause; as, for example, that it is a cause, civil and maritime, of contract, or of tort or damage, or of salvage, or of possession, or otherwise, as the case may be; and, if the libel be *in rem*, that the property is within the district; and, if *in per-*



*sonam*, the names and occupations and places of residence of the parties. The libel shall also propound and articulate in distinct articles the various allegations of fact upon which the libellant relies in support of his suit, so that the defendant may be enabled to answer distinctly and separately the several matters contained in each article; and it shall conclude with a prayer of due process to enforce his rights, *in rem* or *in personam* (as the case may require), and for such relief and redress as the court is competent to give in the premises. And the libellant may further require the defendant to answer on oath all interrogatories propounded by him touching all and singular the allegations in the libel at the close or conclusion thereof.

#### 24.

In all informations and libels in causes of admiralty and maritime jurisdiction, amendments in matters of form may be made at any time, on motion to the court, as of course. And new counts may be filed, and amendments in matters of substance may be made, upon motion, at any time before the final decree, upon such terms as the court shall impose. And where any defect of form is set down by the defendant upon special exceptions, and is allowed, the court may, in granting leave to amend, impose terms upon the libellant.

#### 25.

In all cases of libels *in personam*, the court may, in its discretion, upon the appearance of the defendant, where no bail has been taken, and no attachment of property has been made to answer the exigency of the suit, require the defendant to give a stipulation, with sureties, in such sum as the court shall direct, to pay all costs and expenses which shall be awarded against him in the suit, upon the final adjudication thereof, or by any interlocutory order in the progress of the suit.

#### 26.

In suits *in rem*, the party claiming the property shall verify his claim on oath or solemn affirmation, stating that the claimant by whom or on whose behalf the claim is made is the true and *bona fide* owner, and that no other person is the owner

thereof. And, where the claim is put in by an agent or consignee, he shall also make oath that he is duly authorized thereto by the owner; or, if the property be, at the time of the arrest, in the possession of the master of a ship, that he is the lawful bailee thereof for the owner. And, upon putting in such claim, the claimant shall file a stipulation, with sureties, in such sum as the court shall direct, for the payment of all costs and expenses which shall be awarded against him by the final decree of the court, or, upon an appeal, by the appellate court.

**27.**

In all libels in causes of civil and maritime jurisdiction, whether *in rem* or *in personam*, the answer of the defendant to the allegations in the libel shall be on oath or solemn affirmation; and the answer shall be full and explicit and distinct to each separate article and separate allegation in the libel, in the same order as numbered in the libel, and shall also answer in like manner each interrogatory propounded at the close of the libel.\*

**28.**

The libellant may except to the sufficiency, or fullness, or distinctness, or relevancy of the answer to the articles and interrogatories in the libel; and, if the court shall adjudge the same exceptions, or any of them, to be good and valid, the court shall order the defendant forthwith, within such time as the court shall direct, to answer the same, and may further order the defendant to pay such costs as the court shall adjudge reasonable.

**29.**

If the defendant shall omit or refuse to make due answer to the libel upon the return-day of the process, or other day assigned by the court, the court shall pronounce him to be in contumacy and default; and thereupon the libel shall be adjudged to be taken *pro confesso* against him, and the court shall proceed to hear the cause *ex parte*, and adjudge therein as to law and justice shall appertain. But the court may, in its discretion, set aside the default, and, upon the application of the defendant,

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\* Vide *post*, 49th rule, page 71.

admit him to make answer to the libel, at any time before the final hearing and decree, upon his payment of all the costs of the suit up to the time of granting leave therefor.

**30.**

In all cases where the defendant answers, but does not answer fully and explicitly and distinctly to all the matters in any article of the libel, and exception is taken thereto by the libellant, and the exception is allowed, the court may, by attachment, compel the defendant to make further answer thereto, or may direct the matter of the exception to be taken *pro confesso* against the defendant, to the full purport and effect of the article to which it purports to answer, and as if no answer had been put in thereto.

**31.**

The defendant may object, by his answer, to answer any allegation or interrogatory contained in the libel which will expose him to any prosecution or punishment for crime, or for any penalty or any forfeiture of his property for any penal offense.

**32.**

The defendant shall have a right to require the personal answer of the libellant upon oath or solemn affirmation to any interrogatories which he may, at the close of his answer, propound to the libellant touching any matters charged in the libel, or touching any matter of defense set up in the answer, subject to the like exception as to matters which shall expose the libellant to any prosecution, or punishment, or forfeiture, as is provided in the thirty-first rule. In default of due answer by the libellant to such interrogatories the court may adjudge the libellant to be in default, and dismiss the libel, or may compel his answer in the premises, by attachment, or take the subject-matter of the interrogatory *pro confesso* in favor of the defendant, as the court, in its discretion, shall deem most fit to promote public justice.

**33.**

Where either the libellant or the defendant is out of the country, or unable, from sickness or other casualty, to make an answer to any interrogatory on oath or solemn affirmation at the

proper time, the court may, in its discretion, in furtherance of the due administration of justice, dispense therewith, or may award a commission to take the answer of the defendant when and as soon as it may be practicable.

**34.**

If any third person shall intervene in any cause of admiralty and maritime jurisdiction *in rem* for his own interest, and he is entitled, according to the cause of admiralty proceedings, to be heard for his own interest therein, he shall propound the matter in suitable allegations, to which, if admitted by the court, the other party or parties in the suit may be required, by order of the court, to make due answer; and such further proceedings shall be had and decree rendered by the court therein as to law and justice shall appertain. But every such intervenor shall be required, upon filing his allegations, to give a stipulation, with sureties, to abide by the final decree rendered in the cause, and to pay all such costs and expenses and damages as shall be awarded by the court upon the final decree, whether it is rendered in the original or appellate court.

**35.**

The stipulations required by the last preceding rule, or on appeal, or in any other admiralty or maritime proceeding, shall be given and taken in the manner prescribed by rule fifth as amended.

**36.**

Exceptions may be taken to any libel, allegation, or answer for surplusage, irrelevancy, impertinence, or scandal; and if, upon reference to a master, the exception shall be reported to be so objectionable, and allowed by the court, the matter shall be expunged, at the cost and expense of the party in whose libel or answer the same is found.

**37.**

In cases of foreign attachment, the garnishee shall be required to answer on oath or solemn affirmation as to the debts, credits, or effects of the defendant in his hands, and to such interroga-

tories touching the same as may be propounded by the libellant ; and if he shall refuse or neglect so to do, the court may award compulsory process *in personam* against him. If he admits any debts, credits, or effects, the same shall be held in his hands, liable to answer the exigency of the suit.

**38.**

In cases of mariners' wages, or bottomry, or salvage, or other proceeding *in rem*, where freight or other proceeds of property are attached to or are bound by the suit, which are in the hands or possession of any person, the court may, upon due application, by petition of the party interested, require the party charged with the possession thereof to appear and show cause why the same should not be brought into court to answer the exigency of the suit ; and if no sufficient cause be shown, the court may order the same to be brought into court to answer the exigency of the suit, and upon failure of the party to comply with the order, may award an attachment, or other compulsive process, to compel obedience thereto.

**39.**

If, in any admiralty suit, the libellant shall not appear and prosecute his suit, according to the course and orders of the court, he shall be deemed in default and contumacy ; and the court may, upon the application of the defendant, pronounce the suit to be deserted, and the same may be dismissed with costs.

**40.**

The court may, in its discretion, upon the motion of the defendant and the payment of costs, rescind the decree in any suit in which, on account of his contumacy and default, the matter of the libel shall have been decreed against him, and grant a rehearing thereof at any time within ten days after the decree has been entered, the defendant submitting to such further orders and terms in the premises as the court may direct.

**41.**

All sales of property under any decree of admiralty shall be made by the marshal or his deputy, or other proper officer as-

signed by the court, where the marshal is a party in interest, in pursuance of the orders of the court; and the proceeds thereof, when sold, shall be forthwith paid into the registry of the court by the officer making the sale, to be disposed of by the court according to law.

**42.**

All moneys paid into the registry of the court shall be deposited in some bank designated by the court, and shall be so deposited in the name of the court, and shall not be drawn out, except by a check or checks signed by a judge of the court and countersigned by the clerk, stating on whose account and for whose use it is drawn, and in what suit and out of what fund in particular it is paid. The clerk shall keep a regular book, containing a memorandum and copy of all the checks so drawn and the date thereof.

**43.**

Any person having an interest in any proceeds in the registry of the court shall have a right, by petition and summary proceeding, to intervene *pro interesse suo* for delivery thereof to him; and upon due notice to the adverse parties, if any, the court shall and may proceed summarily to hear and decide thereon, and to decree therein according to law and justice. And if such petition or claim shall be deserted, or, upon a hearing, be dismissed, the court may, in its discretion, award costs against the petitioner in favor of the adverse party.

**44.**

In cases where the court shall deem it expedient or necessary for the purposes of justice, the court may refer any matters arising in the progress of the suit to one or more commissioners, to be appointed by the court, to hear the parties and make report therein. And such commissioner or commissioners shall have and possess all the powers in the premises which are usually given to or exercised by masters in chancery in reference to them, including the power to administer oaths to and to examine the parties and witnesses touching the premises.

**45.**

All appeals from the district to the circuit court must be made while the court is sitting, or within such other period as shall be designated by the district court by its general rules, or by an order specially made in the particular suit; or in case no such rule or order be made, then within thirty days from the rendering of the decree.

**46.**

In all cases not provided for by the foregoing rules, the district and circuit courts are to regulate the practice of the said courts respectively, in such manner as they shall deem most expedient for the due administration of justice in suits in admiralty.

**47.**

In all suits *in personam*, where a simple warrant of arrest issues and is executed, bail shall be taken by the marshal and the court in those cases only in which it is required by the laws of the State where an arrest is made upon similar or analogous process issuing from the State court.

And imprisonment for debt, on process issuing out of the admiralty court, is abolished, in all cases where, by the laws of the State in which the court is held, imprisonment for debt has been, or shall be hereafter abolished, upon similar or analogous process issuing from a State court.

**48.**

The twenty-seventh rule shall not apply to cases where the sum or value in dispute does not exceed fifty dollars, exclusive of costs, unless the district court shall be of opinion that the proceedings prescribed by that rule are necessary for the purposes of justice in the case before the court.

All rules and parts of rules heretofore adopted, inconsistent with this order, are hereby repealed and annulled.

**49.**

Further proof, taken in a circuit court upon an admiralty appeal, shall be by deposition, taken before some commissioner ap-

pointed by a circuit court, pursuant to the acts of Congress in that behalf, or before some officer authorized to take depositions by the thirtieth section of the Act of Congress of the 24th of September, 1789, upon an oral examination and cross-examination, unless the court in which such appeal shall be pending, or one of the judges thereof, shall, upon motion, allow a commission to issue to take such depositions upon written interrogatories and cross-interrogatories. When such deposition shall be taken by oral examination, a notification from the magistrate before whom it is to be taken, or from the clerk of the court in which such appeal shall be pending, to the adverse party, to be present at the taking of the same, and to put interrogatories, if he think fit, shall be served on the adverse party or his attorney, allowing time for their attendance after being notified not less than twenty-four hours, and, in addition thereto, one day, Sundays exclusive, for every twenty miles' travel; provided, that the court in which such appeal may be pending, or either of the judges thereof, may, upon motion, increase or diminish the length of notice above required.

**50.**

When oral evidence shall be taken down by the clerk of the district court, pursuant to the above-mentioned section of the act of Congress, and shall be transmitted to the circuit court, the same may be used in evidence on the appeal, saving to each party the right to take the depositions of the same witnesses, or either of them, if he should so elect.

**51.**

When the defendant, in his answer, alleges new facts, these shall be considered as denied by the libellant, and no replication, general or special, shall be filed, unless allowed or directed by the court on proper cause shown. But within such time after the answer is filed as shall be fixed by the district court, either by general rule or by special order, the libellant may amend his libel so as to confess and avoid, or explain or add to, the new matters set forth in the answer; and within such time as may be fixed, in like manner, the defendant shall answer such amendments.



## 52.

The clerks of the district courts shall make up the records to be transmitted to the circuit courts on appeals, so that the same shall contain the following :

1. The style of the court.

2. The names of the parties, setting forth the original parties, and those who have become parties before the appeal, if any change has taken place.

3. If bail was taken, or property was attached or arrested, the process of the arrest or attachment and the service thereof; all bail and stipulations; and, if any sale has been made, the orders, warrants, and reports relating thereto.

4. The libel, with exhibits annexed thereto.

5. The pleadings of the defendant, with the exhibits annexed thereto.

6. The testimony on the part of the libellant, and any exhibits not annexed to the libel.

7. The testimony on the part of the defendant, and any exhibits not annexed to his pleadings.

8. Any order of the court to which exception was made.

9. Any report of an assessor or assessors, if excepted to, with the orders of the court respecting the same, and the exceptions to the report. If the report was not excepted to, only the fact that a reference was made, and so much of the report as shows what results were arrived at by the assessor, are to be stated.

10. The final decree.

11. The prayer for an appeal, and the action of the district court thereon; and no reasons of appeal shall be filed or inserted in the transcript.

The following shall be omitted :

1. The continuances.

2. All motions, rules, and orders not excepted to which are merely preparatory for trial.

3. The commissions to take depositions, notices therefor, their captions, and certificates of their being sworn to, unless some exception to a deposition in the district court was founded on some one or more of these; in which case, so much of either of them as may be involved in the exception shall be set out. In all

other cases it shall be sufficient to give the name of the witness and to copy the interrogatories and answers, and to state the name of the commissioner, and the place where and the date when the deposition was sworn to ; and, in copying all depositions taken on interrogatories, the answer shall be inserted immediately following the question.

2. The clerk of the district court shall page the copy of the record thus made up, and shall make an index thereto, and he shall certify the entire document, at the end thereof, under the seal of the court, to be a transcript of the record of the district court in the cause named at the beginning of the copy made up pursuant to this rule ; and no other certificate of the record shall be needful or inserted.

3. Hereafter, in making up the record to be transmitted to the circuit clerk on appeal, the clerk of the district court shall omit therefrom any of the pleading, testimony, or exhibits which the parties by their proctors shall by written stipulation agree may be omitted ; and such stipulation shall be certified up with the record.

### 53.

Whenever a cross-libel is filed upon any counter-claim, arising out of the same cause of action for which the original libel was filed, the respondents in the cross-libel shall give security in the usual amount and form, to respond in damages, as claimed in said cross-libel, unless the court, on cause shown, shall otherwise direct ; and all proceedings upon the original libel shall be stayed until such security shall be given.

### 54.

When any ship or vessel shall be libeled, or the owner or owners thereof shall be sued, for any embezzlement, loss, or destruction by the master, officers, mariners, passengers, or any other person or persons, of any property, goods, or merchandise shipped or put on board of such ship or vessel, or for any loss, damage, or injury by collision, or for any act, matter, or thing, loss, damage, or forfeiture done, occasioned, or incurred, without the privity or knowledge of such owner or owners, and he or they shall desire to claim the benefit of limitation of liability provided for

in the third and fourth sections of the act of March 3, 1851, entitled "An act to limit the liability of shipowners and for other purposes," now embodied in sections 4283 to 4285 of the Revised Statutes, the said owner or owners shall and may file a libel or petition in the proper district court of the United States, as hereinafter specified, setting forth the facts and circumstances on which such limitation of liability is claimed, and praying proper relief in that behalf; and thereupon said court, having caused due appraisement to be had of the amount or value of the interest of said owner or owners, respectively, in such ship or vessel, and her freight, for the voyage, shall make an order for the payment of the same into court, or for the giving of a stipulation, with sureties, for payment thereof into court whenever the same shall be ordered; or, if the said owner or owners shall so elect, the said court shall, without such appraisement, make an order for the transfer by him or them of his or their interest in such vessel and freight, to a trustee to be appointed by the court under the fourth section of said act; and, upon compliance with such order, the said court shall issue a monition against all persons claiming damages for any such embezzlement, loss, destruction, damage, or injury, citing them to appear before the said court and make due proof of their respective claims at or before a certain time to be named in said writ, not less than three months from the issuing of the same; and public notice of such monition shall be given as in other cases, and such further notice served through the post-office, or otherwise, as the court, in its discretion may direct; and the said court shall also, on the application of the said owner or owners, make an order to restrain the further prosecution of all and any suit or suits against said owner or owners in respect of any such claim or claims.

### 55.

Proof of all claims which shall be presented in pursuance of said monition shall be made before a commissioner, to be designated by the court, subject to the right of any person interested to question or controvert the same; and upon the completion of said proofs, the commissioner shall make report of the claims so proven, and upon confirmation of said report, after hearing any exceptions thereto, the moneys paid or secured to be paid into

court as aforesaid, or the proceeds of said ship or vessel and freight (after payment of costs and expense), shall be divided *pro rata* amongst the several claimants in proportion to the amount of their respective claims, duly proved and confirmed as aforesaid, saving, however, to all parties any priority to which they may be legally entitled.

**56.**

In the proceedings aforesaid, the said owner or owners shall be at liberty to contest his or their liability, or the liability of said ship or vessel for said embezzlement, loss, destruction, damage, or injury (independently of the limitation of liability claimed under said act), provided that, in his or their libel or petition, he or they shall state the facts and circumstances by reason of which exemption from liability is claimed; and any person or persons claiming damages as aforesaid, and who shall have presented his or their claim to the commissioner under oath, shall and may answer such libel or petition, and contest the right of the owner or owners of said ship or vessel, either to an exemption from liability, or to a limitation of liability under the said act of Congress, or both.

**57.**

The said libel or petition shall be filed and the said proceedings had in any district court of the United States in which said ship or vessel may be libeled to answer for any such embezzlement, loss, destruction, damage, or injury; or, if the said ship or vessel be not libeled, then in the district court for any district in which the said owner or owners may be sued in that behalf. When the said ship or vessel has not been libeled to answer the matters aforesaid, and suit has not been commenced against the said owner or owners, or has been commenced in a district other than that in which the said ship or vessel may be, the said proceedings may be had in the district court of the district in which the said ship or vessel may be, and where it may be subject to the control of such court for the purposes of the case as hereinbefore provided. If the ship have already been libeled and sold, the proceeds shall represent the same for the purposes of these rules.

## 58.

All the preceding rules and regulations for proceeding in cases where the owner or owners of a ship or vessel shall desire to claim the benefit of limitation of liability provided for in the act of Congress in that behalf, shall apply to the circuit courts of the United States where such cases are or shall be pending in said courts upon appeal from the district courts.

## 59.

In a suit for damage by collision, if the claimant of any vessel proceeded against, or any respondent proceeded against *in personam*, shall, by petition, on oath, presented before or at the time of answering the libel, or within such further time as the court may allow, and containing suitable allegations showing fault or negligence in any other vessel contributing to the same collision, and the particulars thereof, and that such other vessel or any other party ought to be proceeded against in the same suit for such damage, pray that process be issued against such vessel or party to that end, such process may be issued, and, if duly served, such suit shall proceed as if such vessel or party had been originally proceeded against; the other parties in the suit shall answer the petition; the claimant of such vessel or such new party shall answer the libel; and such further proceedings shall be had and decree rendered by the court in the suit as to law and justice shall appertain. But every such petitioner shall, upon filing his petition, give a stipulation, with sufficient sureties, to pay to the libellant and to any claimant or new party brought in by virtue of such process, all such costs, damages, and expenses as shall be awarded against the petitioner by the court upon the final decree, whether rendered in the original or appellate court; and any such claimant or new party shall give the same bonds or stipulations which are required in like cases from parties brought in under process issued on the prayer of a libellant.



U. S. Supreme Court

GENERAL ORDERS

AND

FORMS

IN BANKRUPTCY.

ADOPTED AND ESTABLISHED

BY THE

SUPREME COURT OF THE UNITED STATES

NOVEMBER 28, 1898.



WASHINGTON:  
GOVERNMENT PRINTING OFFICE,  
1898.





# SUPREME COURT OF THE UNITED STATES.

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OCTOBER TERM, 1898.

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In pursuance of the powers conferred by the Constitution and laws upon the Supreme Court of the United States, and particularly by the act of Congress approved July 1, 1898, entitled "An act to establish a uniform system of bankruptcy throughout the United States," it is ordered, on this 28th day of November, 1898, that the following rules be adopted and established as general orders in bankruptcy, to take effect on the first Monday, being the second day, of January, 1899. And it is further ordered that all proceedings in bankruptcy had before that day, in accordance with the act last aforesaid, and being in substantial conformity either with the provisions of these general orders, or else with the general orders established by this court under the bankrupt act of 1867 and with any general rules or special orders of the courts in bankruptcy, stand good, subject, however, to such further regulation by rule or order of those courts as may be necessary or proper to carry into force and effect the bankrupt act of 1898 and the general orders of this court.

## I.

### DOCKET.

The clerk shall keep a docket, in which the cases shall be entered and numbered in the order in which they are commenced. It shall contain a memorandum of the filing of the petition and of the action of the court thereon, of the reference of the case to the referee, and of the transmission by him to the clerk of his certified record of the proceedings, with the dates thereof, and a memorandum of all proceedings in the case except those duly entered on the referee's certified record

aforesaid. The docket shall be arranged in a manner convenient for reference, and shall at all times be open to public inspection.

## II.

### FILING OF PAPERS.

The clerk or the referee shall indorse on each paper filed with him the day and hour of filing, and a brief statement of its character.

## III.

### PROCESS.

All process, summons and subpœnas shall issue out of the court, under the seal thereof, and be tested by the clerk; and blanks, with the signature of the clerk and seal of the court, may, upon application, be furnished to the referees.

## IV.

### CONDUCT OF PROCEEDINGS.

Proceedings in bankruptcy may be conducted by the bankrupt in person in his own behalf, or by a petitioning or opposing creditor; but a creditor will only be allowed to manage before the court his individual interest. Every party may appear and conduct the proceedings by attorney, who shall be an attorney or counsellor authorized to practice in the circuit or district court. The name of the attorney or counsellor, with his place of business, shall be entered upon the docket, with the date of the entry. All papers or proceedings offered by an attorney to be filed shall be indorsed as above required, and orders granted on motion shall contain the name of the party or attorney making the motion. Notices and orders which are not, by the act or by these general orders, required to be served on the party personally may be served upon his attorney.

## V.

### FRAME OF PETITIONS.

All petitions and the schedules filed therewith shall be printed or written out plainly, without abbreviation or interlineation, except where such abbreviation and interlineation may be for the purpose of reference.

## VI.

## PETITIONS IN DIFFERENT DISTRICTS.

In case two or more petitions shall be filed against the same individual in different districts, the first hearing shall be had in the district in which the debtor has his domicile, and the petition may be amended by inserting an allegation of an act of bankruptcy committed at an earlier date than that first alleged, if such earlier act is charged in either of the other petitions; and in case of two or more petitions against the same partnership in different courts, each having jurisdiction over the case, the petition first filed shall be first heard, and may be amended by the insertion of an allegation of an earlier act of bankruptcy than that first alleged, if such earlier act is charged in either of the other petitions; and, in either case, the proceedings upon the other petitions may be stayed until an adjudication is made upon the petition first heard; and the court which makes the first adjudication of bankruptcy shall retain jurisdiction over all proceedings therein until the same shall be closed. In case two or more petitions shall be filed in different districts by different members of the same partnership for an adjudication of the bankruptcy of said partnership, the court in which the petition is first filed, having jurisdiction, shall take and retain jurisdiction over all proceedings in such bankruptcy until the same shall be closed; and if such petitions shall be filed in the same district, action shall be first had upon the one first filed. But the court so retaining jurisdiction shall, if satisfied that it is for the greatest convenience of parties in interest that another of said courts should proceed with the cases, order them to be transferred to that court.

## VII.

## PRIORITY OF PETITIONS.

Whenever two or more petitions shall be filed by creditors against a common debtor, alleging separate acts of bankruptcy committed by said debtor on different days within four months prior to the filing of said petitions, and the debtor shall appear and show cause against an adjudication of bankruptcy against him on the petitions, that petition shall be first heard and tried which alleges the commission of the earliest act of bankruptcy; and in case the several acts of bankruptcy are alleged in the different petitions to have been committed on the

same day, the court before which the same are pending may order them to be consolidated, and proceed to a hearing as upon one petition; and if an adjudication of bankruptcy be made upon either petition, or for the commission of a single act of bankruptcy, it shall not be necessary to proceed to a hearing upon the remaining petitions, unless proceedings be taken by the debtor for the purpose of causing such adjudication to be annulled or vacated.

### VIII.

#### PROCEEDINGS IN PARTNERSHIP CASES.

Any member of a partnership, who refuses to join in a petition to have the partnership declared bankrupt, shall be entitled to resist the prayer of the petition in the same manner as if the petition had been filed by a creditor of the partnership, and notice of the filing of the petition shall be given to him in the same manner as provided by law and by these rules in the case of a debtor petitioned against; and he shall have the right to appear at the time fixed by the court for the hearing of the petition, and to make proof, if he can, that the partnership is not insolvent or has not committed an act of bankruptcy, and to make all defences which any debtor proceeded against is entitled to take by the provisions of the act; and in case an adjudication of bankruptcy is made upon the petition, such partner shall be required to file a schedule of his debts and an inventory of his property in the same manner as is required by the act in cases of debtors against whom adjudication of bankruptcy shall be made.

### IX.

#### SCHEDULE IN INVOLUNTARY BANKRUPTCY.

In all cases of involuntary bankruptcy in which the bankrupt is absent or can not be found, it shall be the duty of the petitioning creditor to file, within five days after the date of the adjudication, a schedule giving the names and places of residence of all the creditors of the bankrupt, according to the best information of the petitioning creditor. If the debtor is found, and is served with notice to furnish a schedule of his creditors and fails to do so, the petitioning creditor may apply for an attachment against the debtor, or may himself furnish such schedule as aforesaid.

## X.

## INDEMNITY FOR EXPENSES.

Before incurring any expense in publishing or mailing notices, or in travelling, or in procuring the attendance of witnesses, or in perpetuating testimony, the clerk, marshal or referee may require, from the bankrupt or other person in whose behalf the duty is to be performed, indemnity for such expense. Money advanced for this purpose by the bankrupt or other person shall be repaid him out of the estate as part of the cost of administering the same.

## XI.

## AMENDMENTS.

The court may allow amendments to the petition and schedules on application of the petitioner. Amendments shall be printed or written, signed and verified, like original petitions and schedules. If amendments are made to separate schedules, the same must be made separately, with proper references. In the application for leave to amend, the petitioner shall state the cause of the error in the paper originally filed.

## XII.

## DUTIES OF REFEREE.

1. The order referring a case to a referee shall name a day upon which the bankrupt shall attend before the referee; and from that day the bankrupt shall be subject to the orders of the court in all matters relating to his bankruptcy, and may receive from the referee a protection against arrest, to continue until the final adjudication on his application for a discharge, unless suspended or vacated by order of the court. A copy of the order shall forthwith be sent by mail to the referee, or be delivered to him personally by the clerk or other officer of the court. And thereafter all the proceedings, except such as are required by the act or by these general orders to be had before the judge, shall be had before the referee.

2. The time when and the place where the referees shall act upon the matters arising under the several cases referred to them shall be fixed by special order of the judge, or by the

referee; and at such times and places the referees may perform the duties which they are empowered by the act to perform.

3. Applications for a discharge, or for the approval of a composition, or for an injunction to stay proceedings of a court or officer of the United States or of a State, shall be heard and decided by the judge. But he may refer such an application, or any specified issue arising thereon, to the referee to ascertain and report the facts.

### XIII.

#### APPOINTMENT AND REMOVAL OF TRUSTEE.

The appointment of a trustee by the creditors shall be subject to be approved or disapproved by the referee or by the judge; and he shall be removable by the judge only.

### XIV.

#### NO OFFICIAL OR GENERAL TRUSTEE.

No official trustee shall be appointed by the court, nor any general trustee to act in classes of cases.

### XV.

#### TRUSTEE NOT APPOINTED IN CERTAIN CASES.

If the schedule of a voluntary bankrupt discloses no assets, and if no creditor appears at the first meeting, the court may, by order setting out the facts, direct that no trustee be appointed; but at any time thereafter a trustee may be appointed, if the court shall deem it desirable. If no trustee is appointed as aforesaid, the court may order that no meeting of the creditors other than the first meeting shall be called.

### XVI.

#### NOTICE TO TRUSTEE OF HIS APPOINTMENT.

It shall be the duty of the referee, immediately upon the appointment and approval of the trustee, to notify him in person or by mail of his appointment; and the notice shall require the trustee forthwith to notify the referee of his acceptance or rejection of the trust, and shall contain a statement of the penal sum of the trustee's bond.

## XVII.

## DUTIES OF TRUSTEE.

The trustee shall, immediately upon entering upon his duties, prepare a complete inventory of all the property of the bankrupt that comes into his possession. The trustee shall make report to the court, within twenty days after receiving the notice of his appointment, of the articles set off to the bankrupt by him, according to the provisions of the forty-seventh section of the act, with the estimated value of each article, and any creditor may take exceptions to the determination of the trustee within twenty days after the filing of the report. The referee may require the exceptions to be argued before him, and shall certify them to the court for final determination at the request of either party. In case the trustee shall neglect to file any report or statement which it is made his duty to file or make by the act, or by any general order in bankruptcy, within five days after the same shall be due, it shall be the duty of the referee to make an order requiring the trustee to show cause before the judge, at a time specified in the order, why he should not be removed from office. The referee shall cause a copy of the order to be served upon the trustee at least seven days before the time fixed for the hearing, and proof of the service thereof to be delivered to the clerk. All accounts of trustees shall be referred as of course to the referee for audit, unless otherwise specially ordered by the court.

## XVIII.

## SALE OF PROPERTY.

1. All sales shall be by public auction unless otherwise ordered by the court.

2. Upon application to the court, and for good cause shown, the trustee may be authorized to sell any specified portion of the bankrupt's estate at private sale; in which case he shall keep an accurate account of each article sold, and the price received therefor, and to whom sold; which account he shall file at once with the referee.

3. Upon petition by a bankrupt, creditor, receiver or trustee, setting forth that a part or the whole of the bankrupt's estate is perishable, the nature and location of such perishable estate, and that there will be loss if the same is not sold immediately, the court, if satisfied of the facts stated and that the sale is

required in the interest of the estate, may order the same to be sold, with or without notice to the creditors, and the proceeds to be deposited in court.

### XIX.

#### ACCOUNTS OF MARSHAL.

The marshal shall make return, under oath, of his actual and necessary expenses in the service of every warrant addressed to him, and for custody of property, and other services, and other actual and necessary expenses paid by him, with vouchers therefor whenever practicable, and also with a statement that the amounts charged by him are just and reasonable.

### XX.

#### PAPERS FILED AFTER REFERENCE.

Proofs of claims and other papers filed subsequently to the reference, except such as call for action by the judge, may be filed either with the referee or with the clerk.

### XXI.

#### PROOF OF DEBTS.

1. Depositions to prove claims against a bankrupt's estate shall be correctly entitled in the court and in the cause. When made to prove a debt due to a partnership, it must appear on oath that the deponent is a member of the partnership; when made by an agent, the reason the deposition is not made by the claimant in person must be stated; and when made to prove a debt due to a corporation, the deposition shall be made by the treasurer, or, if the corporation has no treasurer, by the officer whose duties most nearly correspond to those of treasurer. Depositions to prove debts existing in open account shall state when the debt became or will become due; and if it consists of items maturing at different dates the average due date shall be stated, in default of which it shall not be necessary to compute interest upon it. All such depositions shall contain an averment that no note has been received for such account, nor any judgment rendered thereon. Proofs of debt received by any trustee shall be delivered to the referee to whom the cause is referred.



2. Any creditor may file with the referee a request that all notices to which he may be entitled shall be addressed to him at any place, to be designated by the post-office box or street number, as he may appoint; and thereafter, and until some other designation shall be made by such creditor, all notices shall be so addressed; and in other cases notices shall be addressed as specified in the proof of debt.

3. Claims which have been assigned before proof shall be supported by a deposition of the owner at the time of the commencement of proceedings, setting forth the true consideration of the debt and that it is entirely unsecured, or if secured, the security, as is required in proving secured claims. Upon the filing of satisfactory proof of the assignment of a claim proved and entered on the referee's docket, the referee shall immediately give notice by mail to the original claimant of the filing of such proof of assignment; and, if no objection be entered within ten days, or within further time allowed by the referee, he shall make an order subrogating the assignee to the original claimant. If objection be made, he shall proceed to hear and determine the matter.

4. The claims of persons contingently liable for the bankrupt may be proved in the name of the creditor when known by the party contingently liable. When the name of the creditor is unknown, such claim may be proved in the name of the party contingently liable; but no dividend shall be paid upon such claim, except upon satisfactory proof that it will diminish *pro tanto* the original debt.

5. The execution of any letter of attorney to represent a creditor, or of an assignment of claim after proof, may be proved or acknowledged before a referee, or a United States commissioner, or a notary public. When executed on behalf of a partnership or of a corporation, the person executing the instrument shall make oath that he is a member of the partnership, or a duly authorized officer of the corporation on whose behalf he acts. When the person executing is not personally known to the officer taking the proof or acknowledgment, his identity shall be established by satisfactory proof.

6. When the trustee or any creditor shall desire the re-examination of any claim filed against the bankrupt's estate, he may apply by petition to the referee to whom the case is referred for an order for such re-examination, and thereupon the referee shall make an order fixing a time for hearing the

petition, of which due notice shall be given by mail addressed to the creditor. At the time appointed the referee shall take the examination of the creditor, and of any witnesses that may be called by either party, and if it shall appear from such examination that the claim ought to be expunged or diminished, the referee may order accordingly.

## XXII.

### TAKING OF TESTIMONY.

The examination of witnesses before the referee may be conducted by the party in person or by his counsel or attorney, and the witnesses shall be subject to examination and cross-examination, which shall be had in conformity with the mode now adopted in courts of law. A deposition taken upon an examination before a referee shall be taken down in writing by him, or under his direction, in the form of narrative, unless he determines that the examination shall be by question and answer. When completed it shall be read over to the witness and signed by him in the presence of the referee. The referee shall note upon the deposition any question objected to, with his decision thereon; and the court shall have power to deal with the costs of incompetent, immaterial, or irrelevant depositions, or parts of them, as may be just.

## XXIII.

### ORDERS OF REFEREE.

In all orders made by a referee, it shall be recited, according as the fact may be, that notice was given and the manner thereof; or that the order was made by consent; or that no adverse interest was represented at the hearing; or that the order was made after hearing adverse interests.

## XXIV.

### TRANSMISSION OF PROVED CLAIMS TO CLERK.

The referee shall forthwith transmit to the clerk a list of the claims proved against an estate, with the names and addresses of the proving creditors.

## XXV.

## SPECIAL MEETING OF CREDITORS.

Whenever, by reason of a vacancy in the office of trustee, or for any other cause, it becomes necessary to call a special meeting of the creditors in order to carry out the purposes of the act, the court may call such a meeting, specifying in the notice the purpose for which it is called.

## XXVI.

## ACCOUNTS OF REFEREE.

Every referee shall keep an accurate account of his traveling and incidental expenses, and of those of any clerk or other officer attending him in the performance of his duties in any case which may be referred to him; and shall make return of the same under oath to the judge, with proper vouchers when vouchers can be procured, on the first Tuesday in each month.

## XXVII.

## REVIEW BY JUDGE.

When a bankrupt, creditor, trustee, or other person shall desire a review by the judge of any order made by the referee, he shall file with the referee his petition therefor, setting out the error complained of; and the referee shall forthwith certify to the judge the question presented, a summary of the evidence relating thereto, and the finding and order of the referee thereon.

## XXVIII.

## REDEMPTION OF PROPERTY AND COMPOUNDING OF CLAIMS.

Whenever it may be deemed for the benefit of the estate of a bankrupt to redeem and discharge any mortgage or other pledge, or deposit or lien, upon any property, real or personal, or to relieve said property from any conditional contract, and to tender performance of the conditions thereof, or to compound and settle any debts or other claims due or belonging to the estate of the bankrupt, the trustee, or the bankrupt, or any creditor who has proved his debt, may file his petition therefor; and thereupon the court shall appoint a suitable time and

place for the hearing thereof, notice of which shall be given as the court shall direct, so that all creditors and other persons interested may appear and show cause, if any they have, why an order should not be passed by the court upon the petition authorizing such act on the part of the trustee.

## XXIX.

## PAYMENT OF MONEYS DEPOSITED.

No moneys deposited as required by the act shall be drawn from the depository unless by check or warrant, signed by the clerk of the court, or by a trustee, and countersigned by the judge of the court, or by a referee designated for that purpose, or by the clerk or his assistant under an order made by the judge, stating the date, the sum, and the account for which it is drawn; and an entry of the substance of such check or warrant, with the date thereof, the sum drawn for, and the account for which it is drawn, shall be forthwith made in a book kept for that purpose by the trustee or his clerk; and all checks and drafts shall be entered in the order of time in which they are drawn, and shall be numbered in the case of each estate. A copy of this general order shall be furnished to the depository, and also the name of any referee or clerk authorized to countersign said checks.

## XXX.

## IMPRISONED DEBTOR.

If, at the time of preferring his petition, the debtor shall be imprisoned, the court, upon application, may order him to be produced upon *habeas corpus*, by the jailor or any officer in whose custody he may be, before the referee, for the purpose of testifying in any matter relating to his bankruptcy; and, if committed after the filing of his petition upon process in any civil action founded upon a claim provable in bankruptcy, the court may, upon like application, discharge him from such imprisonment. If the petitioner, during the pendency of the proceedings in bankruptcy, be arrested or imprisoned upon process in any civil action, the district court, upon his application, may issue a writ of *habeas corpus* to bring him before the court to ascertain whether such process has been issued for the collection of any claim provable in bankruptcy, and if so provable he shall be discharged; if not, he shall be remanded to the custody in which he may lawfully be. Before

granting the order for discharge the court shall cause notice to be served upon the creditor or his attorney, so as to give him an opportunity of appearing and being heard before the granting of the order.

## XXXI.

## PETITION FOR DISCHARGE.

The petition of a bankrupt for a discharge shall state concisely, in accordance with the provisions of the act and the orders of the court, the proceedings in the case and the acts of the bankrupt.

## XXXII.

## OPPOSITION TO DISCHARGE OR COMPOSITION.

A creditor opposing the application of a bankrupt for his discharge, or for the confirmation of a composition, shall enter his appearance in opposition thereto on the day when the creditors are required to show cause, and shall file a specification in writing of the grounds of his opposition within ten days thereafter, unless the time shall be enlarged by special order of the judge.

## XXXIII.

## ARBITRATION.

Whenever a trustee shall make application to the court for authority to submit a controversy arising in the settlement of a demand against a bankrupt's estate, or for a debt due to it, to the determination of arbitrators, or for authority to compound and settle such controversy by agreement with the other party, the application shall clearly and distinctly set forth the subject-matter of the controversy, and the reasons why the trustee thinks it proper and most for the interest of the estate that the controversy should be settled by arbitration or otherwise.

## XXXIV.

## COSTS IN CONTESTED ADJUDICATIONS.

In cases of involuntary bankruptcy, when the debtor resists an adjudication, and the court, after hearing, adjudges the debtor a bankrupt, the petitioning creditor shall recover, and be paid out of the estate, the same costs that are allowed to a party recovering in a suit in equity; and if the petition is dismissed, the debtor shall recover like costs against the petitioner.

## XXXV.

## COMPENSATION OF CLERKS, REFEREES AND TRUSTEES.

1. The fees allowed by the act to clerks shall be in full compensation for all services performed by them in regard to filing petitions or other papers required by the act to be filed with them, or in certifying or delivering papers or copies of records to referees or other officers, or in receiving or paying out money; but shall not include copies furnished to other persons, or expenses necessarily incurred in publishing or mailing notices or other papers.

2. The compensation of referees, prescribed by the act, shall be in full compensation for all services performed by them under the act, or under these general orders; but shall not include expenses necessarily incurred by them in publishing or mailing notices, in travelling, or in perpetuating testimony, or other expenses necessarily incurred in the performance of their duties under the act and allowed by special order of the judge.

3. The compensation allowed to trustees by the act shall be in full compensation for the services performed by them; but shall not include expenses necessarily incurred in the performance of their duties and allowed upon the settlement of their accounts.

4. In any case in which the fees of the clerk, referee and trustee are not required by the act to be paid by a debtor before filing his petition to be adjudged a bankrupt, the judge, at any time during the pendency of the proceedings in bankruptcy, may order those fees to be paid out of the estate; or may, after notice to the bankrupt, and satisfactory proof that he then has or can obtain the money with which to pay those fees, order him to pay them within a time specified, and, if he fails to do so, may order his petition to be dismissed.

## XXXVI.

## APPEALS.

1. Appeals from a court of bankruptcy to a circuit court of appeals, or to the supreme court of a Territory, shall be allowed by a judge of the court appealed from or of the court appealed to, and shall be regulated, except as otherwise provided in the act, by the rules governing appeals in equity in the courts of the United States.

2. Appeals under the act to the Supreme Court of the United States from a circuit court of appeals, or from the supreme court of a Territory, or from the supreme court of the District of Columbia, or from any court of bankruptcy whatever, shall be taken within thirty days after the judgment or decree, and shall be allowed by a judge of the court appealed from, or by a justice of the Supreme Court of the United States.

3. In every case in which either party is entitled by the act to take an appeal to the Supreme Court of the United States, the court from which the appeal lies shall, at or before the time of entering its judgment or decree, make and file a finding of the facts, and its conclusions of law thereon, stated separately; and the record transmitted to the Supreme Court of the United States on such an appeal shall consist only of the pleadings, the judgment or decree, the finding of facts, and the conclusions of law.

### XXXVII.

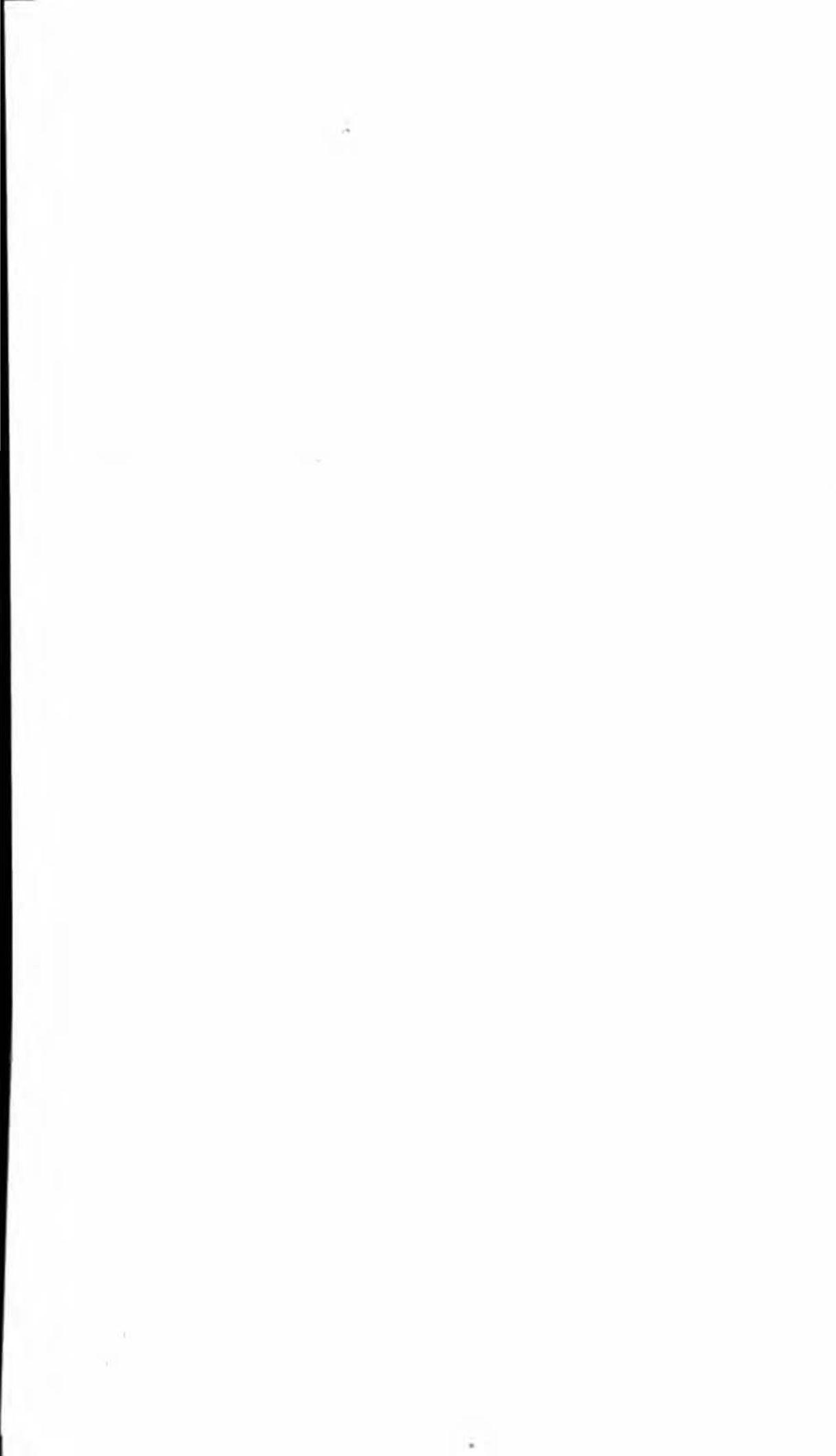
#### GENERAL PROVISIONS.

In proceedings in equity, instituted for the purpose of carrying into effect the provisions of the act, or for enforcing the rights and remedies given by it, the rules of equity practice established by the Supreme Court of the United States shall be followed as nearly as may be. In proceedings at law, instituted for the same purpose, the practice and procedure in cases at law shall be followed as nearly as may be. But the judge may, by special order in any case, vary the time allowed for return of process, for appearance and pleading, and for taking testimony and publication, and may otherwise modify the rules for the preparation of any particular case so as to facilitate a speedy hearing.

### XXXVIII.

#### FORMS.

The several forms annexed to these general orders shall be observed and used, with such alterations as may be necessary to suit the circumstances of any particular case.





## FORMS IN BANKRUPTCY.

[N. B.—Oaths required by the act, except upon hearings in court, may be administered by referees and by officers authorized to administer oaths in proceedings before the courts of the United States, or under the laws of the State where the same are to be taken. Bankrupt Act of 1898, c. 4, § 20.]

### [FORM NO. 1.]

#### DEBTOR'S PETITION.

To the Honorable \_\_\_\_\_,  
Judge of the District Court of the United States

for the \_\_\_\_\_ District of \_\_\_\_\_:

The petition of \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_, and district and State of \_\_\_\_\_, \_\_\_\_\_ [state occupation], respectfully represents:

That he has had his principal place of business [or has resided, or has had his domicile] for the greater portion of six months next immediately preceding the filing of this petition at \_\_\_\_\_, within said judicial district; that he owes debts which he is unable to pay in full; that he is willing to surrender all his property for the benefit of his creditors except such as is exempt by law, and desires to obtain the benefit of the acts of Congress relating to bankruptcy.

That the schedule hereto annexed, marked A, and verified by your petitioner's oath, contains a full and true statement of all his debts, and (so far as it is possible to ascertain) the names and places of residence of his creditors, and such further statements concerning said debts as are required by the provisions of said acts:

That the schedule hereto annexed, marked B, and verified by your petitioner's oath, contains an accurate inventory of all his property, both real and personal, and such further statements concerning said property as are required by the provisions of said acts:

Wherefore your petitioner prays that he may be adjudged by the court to be a bankrupt within the purview of said acts.

\_\_\_\_\_, Attorney.

United States of America, District of ———, ss:

I, ——— ———, the petitioning debtor mentioned and described in the foregoing petition, do hereby make solemn oath that the statements contained therein are true according to the best of my knowledge, information, and belief.

—————, *Petitioner.*

Subscribed and sworn to before me this ——— day of ———,  
A. D. 18—.

—————,  
—————;  
(*Official character.*)

# SCHEDULE A.—STATEMENT OF ALL DEBTS OF BANKRUPT.

## SCHEDULE A. (1)

*Statement of all creditors who are to be paid in full, or to whom priority is secured by law.*

Claims which have priority.	Reference to ledger or voucher.	Names of creditors.	Residence (if unknown, that fact must be stated).	Where and when contracted.	Nature and consideration of the debt, and whether contracted as partner or joint contractor; and if so, with whom.	Amount.	
						\$	c.
(1.) Taxes and debts due and owing to the United States.							
(2.) Taxes due and owing to the State of _____, or to any county, district, or municipality thereof.							
(3.) Wages due workmen, clerks, or servants, to an amount not exceeding \$300 each, earned within three months before filing the petition.							
(4.) Other debts having priority by law.							
					Total.....		

\_\_\_\_\_, Petitioner.



## SCHEDULE A. (3)

### *Creditors whose claims are unsecured.*

[N. B.—When the name and residence (or either) of any drawer, maker, indorser, or holder of any bill or note, etc., are unknown, the fact must be stated, and also the name and residence of the last holder known to the debtor . The debt due to each creditor must be stated in full, and any claim by way of set-off stated in the schedule of property.]

Reference to ledger or voucher.	Names of creditors.	Residence (if unknown, that fact must be stated).	When and where contracted.	Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, etc., and whether contracted as partner or joint contractor with any other person; and, if so, with whom.	Amount.	
					\$	c.
Total .....						

\_\_\_\_\_, *Petitioner.*

## SCHEDULE A. (4)

*Liabilities on notes or bills discounted which ought to be paid by the drawers, makers, acceptors, or indorsers.*

[N. B.—The dates of the notes or bills, and when due, with the names, residences, and the business or occupation of the drawers, makers, or acceptors thereof, are to be set forth under the names of the holders. If the names of the holders are not known, the name of the last holder known to the debtor shall be stated, and his business and place of residence. The same particulars as to notes or bills on which the debtor is liable as indorser.]

Reference to ledger or voucher.	Names of holders as far as known.	Residence (if unknown, that fact must be stated).	Place where contracted.	Nature of liability, whether same was contracted as partner or joint contractor, or with any other person; and, if so, with whom.	Amount.	
					\$	c.
				Total .....		

\_\_\_\_\_, *Petitioner.*

## SCHEDULE A. (5)

### *Accommodation paper.*

[N. B.—The dates of the notes or bills, and when due, with the names and residences of the drawers, makers, and acceptors thereof, are to be set forth under the names of the holders; if the bankrupt be liable as drawer, maker, acceptor, or indorser thereof, it is to be stated accordingly. If the names of the holders are not known, the name of the last holder known to the debtor should be stated, with his residence. Same particulars as to other commercial paper.]

Reference to ledger or voucher.	Names of holders.	Residences (if unknown, that fact must be stated).	Names and residence of persons accommodated.	Place where contracted.	Whether liability was contracted as partner or joint contractor, or with any other person; and, if so, with whom.	Amount.	
						\$	c.
Total .....							

\_\_\_\_\_, *Petitioner* .

### OATH TO SCHEDULE A.

United States of America, District of \_\_\_\_\_ ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—, before me personally came \_\_\_\_\_, the person mentioned in and who subscribed to the foregoing schedule, and who, being by me first duly sworn, did declare the said schedule to be a statement of all his debts, in accordance with the acts of Congress relating to bankruptcy.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—.

\_\_\_\_\_,  
[Official character.]

SCHEDULE B.—STATEMENT OF ALL PROPERTY OF BANKRUPT.

SCHEDULE B. (1)

*Real estate.*

Location and description of all real estate owned by debtor, or held by him.	Incumbrances thereon, if any, and dates thereof.	Statement of particulars relating thereto.	Estimated value.	
			\$	c.
		Total .....		

FORMS IN BANKRUPTCY.

\_\_\_\_\_, *Petitioner.*



## SCHEDULE B. (2)

### *Personal property.*

	\$	c.
a.—Cash on hand .....		
b.—Bills of exchange, promissory notes, or securities of any description (each to be set out separately) .....		
c.—Stock in trade, in — business of — — —, at — — —, of the value of — — — .....		
d.—Household goods and furniture, household stores, wearing apparel and ornaments of the person, viz .....		
e.—Books, prints, and pictures, viz .....		
f.—Horses, cows, sheep, and other animals (with number of each), viz..		
g.—Carriages and other vehicles, viz .....		
h.—Farming stock and implements of husbandry, viz .....		
i.—Shipping, and shares in vessels, viz .....		
k.—Machinery, fixtures, apparatus, and tools used in business, with the place where each is situated, viz .....		
l.—Patents, copyrights, and trade-marks, viz .....		
m.—Goods or personal property of any other description, with the place where each is situated, viz .....		
Total .....		

\_\_\_\_\_, *Petitioner.*

## SCHEDULE B. (3)

*Choses in action.*

	Dollars.	Cents.
<i>a.</i> —Debts due petitioner on open account.....		
<i>b.</i> —Stocks in incorporated companies, interest in joint stock companies, and negotiable bonds .....		
<i>c.</i> —Policies of insurance.....		
<i>d.</i> —Unliquidated claims of every nature, with their esti- mated value .....		
<i>e.</i> —Deposits of money in banking institutions and else- where.....		
<b>Total .....</b>		

\_\_\_\_\_, *Petitioner.*

## SCHEDULE B. (4)

*Property in reversion, remainder, or expectancy, including property held in trust for the debtor or subject to any power or right to dispose of or to charge.*

[N. B.—A particular description of each interest must be entered. If all or any of the debtor's property has been conveyed by deed of assignment, or otherwise, for the benefit of creditors, the date of such deed should be stated, the name and address of the person to whom the property was conveyed, the amount realized from the proceeds thereof, and the disposal of the same, as far as known to the debtor.]

General interest.	Particular description.	Supposed value of my interest.	
Interest in land.....		\$	c.
Personal property.....			
Property in money, stock, shares, bonds, annuities, etc.....			
Rights and powers, legacies and bequests.....			
	Total.....		
		Amount realized from proceeds of property conveyed.	
		\$	c.
<i>Property heretofore conveyed for benefit of creditors.</i>			
What portion of debtor's property has been conveyed by deed of assignment, or otherwise, for benefit of creditors; date of such deed, name and address of party to whom conveyed; amount realized therefrom, and disposal of same, so far as known to debtor.....			
What sum or sums have been paid to counsel, and to whom, for services rendered or to be rendered in this bankruptcy.....			
	Total.....		

\_\_\_\_\_, *Petitioner.*

SCHEDULE B. (5)

*A particular statement of the property claimed as exempted from the operation of the acts of Congress relating to bankruptcy, giving each item of property and its valuation; and, if any portion of it is real estate, its location, description, and present use.*

		Valuation.	
		\$	c
Military uniform, arms, and equipments.....			
Property claimed to be exempted by State laws; its valuation; whether real or personal; its description and present use; and reference given to the statute of the State creating the exemption.....			
	Total .....		

\_\_\_\_\_, *Petitioner* .

## SCHEDULE B. (6)

BOOKS, PAPERS, DEEDS, AND WRITINGS RELATING TO BANKRUPT'S  
BUSINESS AND ESTATE.

The following is a true list of all books, papers, deeds, and writings relating to my trade, business, dealings, estate, and effects, or any part thereof, which, at the date of this petition, are in my possession or under my custody and control, or which are in the possession or custody of any person in trust for me, or for my use, benefit, or advantage; and also of all others which have been heretofore, at any time, in my possession, or under my custody or control, and which are now held by the parties whose names are herein-after set forth, with the reason for their custody of the same.

Books.

Deeds.

Papers.


\_\_\_\_\_, *Petitioner.*

## OATH TO SCHEDULE B.

United States of America, District of \_\_\_\_\_, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—, before me personally came \_\_\_\_\_, the person mentioned in and who subscribed to the foregoing schedule, and who, being by me first duly sworn, did declare the said schedule to be a statement of all his estate, both real and personal, in accordance with the acts of Congress relating to bankruptcy.

\_\_\_\_\_,

[*Official character.*]

## SUMMARY OF DEBTS AND ASSETS.

[From the statements of the bankrupt in Schedules A and B.]

Schedule A.....	1 (1) Taxes and debts due United States .....			
" ".....	1 (2) Taxes due States, counties, districts, and municipalities.....			
" ".....	1 (3) Wages .....			
" ".....	1 (4) Other debts preferred by law .....			
Schedule A.....	2 Secured claims.....			
Schedule A.....	3 Unsecured claims.....			
Schedule A.....	4 Notes and bills which ought to be paid by other parties thereto.....			
Schedule A.....	5 Accommodation paper .....			
	Schedule A, total.....			
Schedule B.....	1 Real estate.....			
Schedule B.....	2-a Cash on hand .....			
" ".....	2-b Bills, promissory notes, and securities.....			
" ".....	2-c Stock in trade.....			
" ".....	2-d Household goods, &c.....			
" ".....	2-e Books, prints, and pictures .....			
" ".....	2-f Horses, cows, and other animals.....			
" ".....	2-g Carriages and other vehicles .....			
" ".....	2-h Farming stock and implements .....			
" ".....	2-i Shipping and shares in vessels.....			
" ".....	2-k Machinery, tools, &c .....			
" ".....	2-l Patents, copyrights, and trade-marks.....			
" ".....	2-m Other personal property .....			
Schedule B.....	3-a Debts due on open accounts.....			
" ".....	3-b Stocks, negotiable bonds, &c .....			
" ".....	3-c Policies of insurance.....			
" ".....	3-d Unliquidated claims .....			
" ".....	3-e Deposits of money in banks and elsewhere .....			
Schedule B.....	4 Property in reversion, remainder, trust, &c .....			
Schedule B.....	5 Property claimed to be excepted .....			
Schedule B.....	6 Books, deeds, and papers.....			
	Schedule B, total.....			

[FORM NO. 2.]

## PARTNERSHIP PETITION.

To the Honorable \_\_\_\_\_,  
 Judge of the District Court of the United States  
 for the \_\_\_\_\_ District of \_\_\_\_\_:

The petition of \_\_\_\_\_ respectfully represents:

That your petitioners and \_\_\_\_\_ have been partners under the firm name of \_\_\_\_\_, having their principal place of business at \_\_\_\_\_, in the county of \_\_\_\_\_, and district and State of \_\_\_\_\_, for the greater portion of the six months next immediately preceding the filing of this petition; that the said partners owe debts which they are unable to pay in full; that your petitioners are willing to surrender all their property for the benefit of their creditors, except such as is exempt by law, and desire to obtain the benefit of the acts of Congress relating to bankruptcy.

That the schedule hereto annexed, marked A, and verified by ——— oath , contains a full and true statement of all the debts of said partners, and, as far as possible, the names and places of residence of their creditors, and such further statements concerning said debts as are required by the provisions of said acts.

That the schedule hereto annexed, marked B, verified by ——— oath , contains an accurate inventory of all the property, real and personal, of said partners, and such further statements concerning said property as are required by the provisions of said acts.

And said ——— further states that the schedule hereto annexed, marked C, verified by his oath, contains a full and true statement of all his individual debts, and, as far as possible, the names and places of residence of his creditors, and such further statements concerning said debts as are required by the provisions of said acts; and that the schedule hereto annexed, marked D, verified by his oath, contains an accurate inventory of all his individual property, real and personal, and such further statements concerning said property as are required by the provisions of said acts.

And said ——— further states that the schedule hereto annexed, marked E, verified by his oath, contains a full and true statement of all his individual debts, and, as far as possible, the names and places of residence of his creditors, and such further statements concerning said debts as are required by the provisions of said acts; and that the schedule hereto annexed, marked F, verified by his oath, contains an accurate inventory of all his individual property, real and personal, and such further statements concerning said property as are required by the provisions of said acts.

And said ——— further states that the schedule hereto annexed, marked G, verified by his oath, contains a full and true statement of all his individual debts, and, as far as possible, the names and places of residence of his creditors, and such further statements concerning said debts as are required by the provisions of said acts; and that the schedule hereto annexed, marked H, verified by his oath, contains an accurate inventory of all his individual property, real and personal, and such further statements concerning said property as are required by the provisions of said acts.

And said ——— further states that the schedule hereto annexed, marked J, verified by his oath, contains a full

and true statement of all his individual debts, and, as far as possible, the names and places of residence of his creditors, and such further statements concerning said debts as are required by the provisions of said acts, and that the schedule hereto annexed, marked K, verified by his oath, contains an accurate inventory of all his individual property, real and personal, and such further statements concerning said property as are required by the provisions of said acts.

Wherefore your petitioners pray that the said firm may be adjudged by a decree of the court to be bankrupts within the purview of said acts.

\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_.

*Petitioners.*

\_\_\_\_\_, *Attorney* .

\_\_\_\_\_, the petitioning debtors mentioned and described in the foregoing petition, do hereby make solemn oath that the statements contained therein are true according to the best of their knowledge, information, and belief.

\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_.

*Petitioners.*

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
A. D. 18—.

\_\_\_\_\_,  
[Official character.]

[Schedules to be annexed corresponding with schedules under Form No. 1.]



## [FORM NO. 3.]

## CREDITORS' PETITION.

To the Honorable \_\_\_\_\_, judge of the District Court of  
the United States for the \_\_\_\_\_ district of \_\_\_\_\_:

The petition of \_\_\_\_\_, of \_\_\_\_\_, and \_\_\_\_\_,  
of \_\_\_\_\_, and \_\_\_\_\_, of \_\_\_\_\_, respectfully shows:

That \_\_\_\_\_, of \_\_\_\_\_, has for the greater portion of  
six months next preceding the date of filing this petition, had  
his principal place of business, [or resided, or had his domicile]  
at \_\_\_\_\_, in the county of \_\_\_\_\_ and State and district afore-  
said, and owes debts to the amount of \$1,000.

That your petitioners are creditors of said \_\_\_\_\_,  
having provable claims amounting in the aggregate, in excess  
of securities held by them, to the sum of \$500. That the  
nature and amount of your petitioners' claims are as follows:

And your petitioners further represent that said \_\_\_\_\_  
is insolvent, and that within four months next preceding the  
date of this petition the said \_\_\_\_\_ committed an act  
of bankruptcy, in that he did heretofore, to wit, on the \_\_\_\_\_  
day of \_\_\_\_\_

Wherefore your petitioners pray that service of this petition,  
with a subpoena, may be made upon \_\_\_\_\_, as provided  
in the acts of Congress relating to bankruptcy, and that he  
may be adjudged by the court to be a bankrupt within the  
purview of said acts.

\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_,  
*Petitioners.*

\_\_\_\_\_, *Attorney.*

United States of America, District of \_\_\_\_\_, ss:

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, being three of  
the petitioners above named, do hereby make solemn oath that  
the statements contained in the foregoing petition, subscribed  
by them, are true.

Before me, \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 189—.

\_\_\_\_\_,  
\_\_\_\_\_.  
*(Official character.)*

[Schedules to be annexed corresponding with schedules  
under Form No. 1.]

## [FORM No. 4.]

## ORDER TO SHOW CAUSE UPON CREDITORS' PETITION.

In the District Court of the United States for the ——— District of ———.

In the matter of

In Bankruptcy.

Upon consideration of the petition of ——— ——— that ——— ——— be declared a bankrupt, it is ordered that the said ——— ——— do appear at this court, as a court of bankruptcy, to be holden at ———, in the district aforesaid, on the ——— day of ———, at — o'clock in the ——— noon, and show cause, if any there be, why the prayer of said petition should not be granted; and

It is further ordered that a copy of said petition, together with a writ of subpoena, be served on said ——— ———, by delivering the same to him personally or by leaving the same at his last usual place of abode in said district, at least five days before the day aforesaid.

Witness the Honorable ——— ———, judge of the said court, and the seal thereof, at ———, in said district, on the ——— day of ———, A. D. 18—.

{ Seal of  
the court. }

—————,  
Clerk.

[FORM NO. 5.]

## SUBPŒNA TO ALLEGED BANKRUPT.

United States of America, — District of —.

To — —, in said district, greeting:

For certain causes offered before the District Court of the United States of America within and for the — district of —, as a court of bankruptcy, we command and strictly enjoin you, laying all other matters aside and notwithstanding any excuse, that you personally appear before our said District Court to be holden at —, in said district, on the — day of —, A. D. 189—, — — to answer to a petition filed by — — in our said court, praying that you may be adjudged a bankrupt; and to do further and receive that which our said District Court shall consider in this behalf. And this you are in no wise to omit, under the pains and penalties of what may befall thereon.

Witness the Honorable — —, judge of said court, and the seal thereof, at —, this — day of —, A. D. 189—.

{ Seal of the }  
{ court. }

— —,  
Clerk.

[FORM NO. 6.]

## DENIAL OF BANKRUPTCY.

In the District Court of the United States for the \_\_\_\_\_ Dis-  
trict of \_\_\_\_\_.

In the matter of	}	In Bankruptcy.

At \_\_\_\_\_, in said district, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D.  
18—.

And now the said \_\_\_\_\_ appears, and denies that he  
has committed the act of bankruptcy set forth in said petition,  
or that he is insolvent, and avers that he should not be declared  
bankrupt for any cause in said petition alleged; and this he  
prays may be inquired of by the court [*or, he demands that*  
the same may be inquired of by a jury].

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
A. D. 18—.

\_\_\_\_\_  
[Official character.]

[FORM NO. 7.]

## ORDER FOR JURY TRIAL.

In the District Court of the United States for the \_\_\_\_\_ Dis-  
trict of \_\_\_\_\_.

In the matter of	}	In Bankruptcy.

At \_\_\_\_\_, in said district, on the \_\_\_\_\_ day of \_\_\_\_\_, 18—.

Upon the demand in writing filed by \_\_\_\_\_, alleged to be a bankrupt, that the fact of the commission by him of an act of bankruptcy, and the fact of his insolvency may be inquired of by a jury, it is ordered, that said issue be submitted to a jury.

{ Seal of }  
{ the court. }

\_\_\_\_\_,  
Clerk.

[FORM No. 8.]

## SPECIAL WARRANT TO MARSHAL.

In the District Court of the United States for the — District of —.

In the matter of

In Bankruptcy.

To the marshal of said district or to either of his deputies, greeting:

Whereas a petition for adjudication of bankruptcy was, on the — day of —, A. D. 18—, filed against —, of the county of — and State of —, in said district, and said petition is still pending; and whereas it satisfactorily appears that said — has committed an act of bankruptcy [*or has neglected or is neglecting, or is about to so neglect his property that it has thereby deteriorated or is thereby deteriorating or is about thereby to deteriorate in value*], you are therefore authorized and required to seize and take possession of all the estate, real and personal, of said —, and of all his deeds, books of account, and papers, and to hold and keep the same safely subject to the further order of the court.

Witness the Honorable —, judge of the said court, and the seal thereof, at —, in said district, on the — of —, A. D. 189—.

{ Seal of }  
{ the court. }

—, Clerk.

## RETURN BY MARSHAL THEREON.

By virtue of the within warrant, I have taken possession of the estate of the within-named —, and of all his

deeds, books of account, and papers which have come to my knowledge.

\_\_\_\_\_,  
*Marshal [or Deputy Marshal].*

*Fees and expenses.*

<p>1. Service of warrant .....</p> <p>2. Necessary travel, at the rate of six cents a mile each way .....</p> <p>3. Actual expenses in custody of property and other services as follows.....</p> <p>[Here state the particulars.]</p>	

\_\_\_\_\_,  
*Marshal [or Deputy Marshal].*

District of \_\_\_\_\_, A. D. 18—.

Personally appeared before me the said \_\_\_\_\_, and made oath that the above expenses returned by him have been actually incurred and paid by him, and are just and reasonable.

\_\_\_\_\_,  
*Referee in Bankruptcy.*

## [FORM No. 9.]

## BOND OF PETITIONING CREDITOR.

Know all men by these presents: That we, ——— ———, as principal, and ——— ———, as sureties, are held and firmly bound unto ——— ———, in the full and just sum of ——— dollars, to be paid to the said ——— ———, executors, administrators, or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Signed and sealed this ——— day of ——— A. D., 189—.

The condition of this obligation is such that whereas a petition in bankruptcy has been filed in the district court of the United States for the ——— district of ——— against the said ———, and the said ——— has applied to that court for a warrant to the marshal of said district directing him to seize and hold the property of said ——— ———, subject to the further orders of said district court.

Now, therefore, if such a warrant shall issue for the seizure of said property, and if the said ——— ——— shall indemnify the said ——— ——— for such damages as he shall sustain in the event such seizure shall prove to have been wrongfully obtained, then the above obligation to be void; otherwise to remain in full force and virtue.

Sealed and delivered in

presence of—

—————  
—————

————— [SEAL.]

————— [SEAL.]

————— [SEAL.]

Approved this ——— day of ———, A. D., 189—.

—————,

*District Judge.*



## [FORM NO. 10.]

## BOND TO MARSHAL.

Know all men by these presents: That we, \_\_\_\_\_, as principal, and \_\_\_\_\_, as sureties, are held and firmly bound unto \_\_\_\_\_, marshal of the United States for the \_\_\_\_\_ district of \_\_\_\_\_, in the full and just sum of \_\_\_\_\_ dollars, to be paid to the said \_\_\_\_\_, his executors, administrators, or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 189—.

The condition of this obligation is such that whereas a petition in bankruptcy has been filed in the district court of the United States for the \_\_\_\_\_ district of \_\_\_\_\_, against the said \_\_\_\_\_, and the said court has issued a warrant to the marshal of the United States for said district, directing him to seize and hold property of the said \_\_\_\_\_, subject to the further order of the court, and the said property has been seized by said marshal as directed, and the said district court upon a petition of said \_\_\_\_\_ has ordered the said property to be released to him.

Now, therefore, if the said property shall be released accordingly to the said \_\_\_\_\_, and the said \_\_\_\_\_, being adjudged a bankrupt, shall turn over said property or pay the value thereof in money to the trustee, then the above obligation to be void; otherwise to remain in full force and virtue.

Sealed and delivered in the

presence of—

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ [SEAL.]

\_\_\_\_\_ [SEAL.]

\_\_\_\_\_ [SEAL.]

Approved this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—.

\_\_\_\_\_

*District Judge.*

## [FORM NO. 11.]

## ADJUDICATION THAT DEBTOR IS NOT BANKRUPT.

In the District Court of the United States for the ——— District of ———.

In the matter of

In Bankruptcy.

At ———, in said district, on ——— day of ———, A. D. 18—, before the Honorable ——— ———, judge of the ——— district of ———.

This cause came on to be heard at ———, in said court, upon the petition of ——— that ——— be adjudged a bankrupt within the true intent and meaning of the acts of Congress relating to bankruptcy, and [*Here state the proceedings, whether there was no opposition, or, if opposed, state what proceedings were had.*]

And thereupon, and upon consideration of the proofs in said cause [*and the arguments of counsel thereon, if any*], it was found that the facts set forth in said petition were not proved; and it is therefore adjudged that said ——— was not a bankrupt, and that said petition be dismissed, with costs.

Witness the Honorable ——— ———, judge of said court, and the seal thereof, at ———, in said district, on the ——— day of ———, A. D. 18—.

{ Seal of  
the court. }

—————,  
Clerk.

[FORM No. 12.]

## ADJUDICATION OF BANKRUPTCY.

In the District Court of the United States for the ——— District of ———.

In the matter of

\_\_\_\_\_

*Bankrupt .*

} In Bankruptcy.

At \_\_\_\_\_, in said district, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—, before the Honorable \_\_\_\_\_, judge of said court in bankruptcy, the petition of \_\_\_\_\_ that \_\_\_\_\_ be adjudged a bankrupt, within the true intent and meaning of the acts of Congress relating to bankruptcy, having been heard and duly considered, the said \_\_\_\_\_ is hereby declared and adjudged bankrupt accordingly.

Witness the Honorable \_\_\_\_\_, judge of said court, and the seal thereof, at \_\_\_\_\_, in said district, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—.

{ Seal of }  
{ the court. }

\_\_\_\_\_,  
*Clerk.*

[FORM NO. 13.]

## APPOINTMENT, OATH, AND REPORT OF APPRAISERS.

In the District Court of the United States for the ——— District of ———.

In the matter of

\_\_\_\_\_  
*Bankrupt* .

} In Bankruptcy.

It is ordered that \_\_\_\_\_, of \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_, and \_\_\_\_\_, of \_\_\_\_\_, three disinterested persons, be, and they are hereby, appointed appraisers to appraise the real and personal property belonging to the estate of the said bankrupt set out in the schedules now on file in this court, and report their appraisal to the court, said appraisal to be made as soon as may be, and the appraisers to be duly sworn.

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—.

\_\_\_\_\_  
*Referee in Bankruptcy.*

\_\_\_\_\_ District of \_\_\_\_\_, ss:

Personally appeared the within-named \_\_\_\_\_ and severally made oath that they will fully and fairly appraise the aforesaid real and personal property according to their best skill and judgment.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—.

\_\_\_\_\_  
 [Official character.]

We, the undersigned, having been notified that we were appointed to estimate and appraise the real and personal property aforesaid, have attended to the duties assigned us, and after a strict examination and careful inquiry, we do estimate and appraise the same as follows:

	Dollars.	Cents.

In witness whereof we hereunto set our hands, at ———, this — day of ———, A. D. 18—.

\_\_\_\_\_.  
 \_\_\_\_\_.  
 \_\_\_\_\_.

[FORM No. 14.]

## ORDER OF REFERENCE.

In the District Court of the United States for the ——— District of ———.

In the matter of

Bankrupt .

In Bankruptcy.

Whereas ——— ———, of ———, in the county of ——— and district aforesaid, on the ——— day of ———, A. D. 18—, was duly adjudged a bankrupt upon a petition filed in this court by [*or, against*] him on the ——— day of ———, A. D. 189—, according to the provisions of the acts of Congress relating to bankruptcy,

It is thereupon ordered, that said matter be referred to ——— ———, one of the referees in bankruptcy of this court, to take such further proceedings therein as are required by said acts; and that the said ——— ——— shall attend before said referee on the ——— day of ——— at ———, and thenceforth shall submit to such orders as may be made by said referee or by this court relating to said ——— bankruptcy.

Witness the Honorable ——— ———, judge of the said court, and the seal thereof, at ———, in said district, on the ——— day of ———, A. D. 18—.

{ Seal of }  
{ the court. }

—————,  
Clerk.

## [FORM No. 15.]

## ORDER OF REFERENCE IN JUDGE'S ABSENCE.

In the District Court of the United States for the ——— District of ———.

In the matter of

In Bankruptcy.

Whereas on the — day of —, A. D. 18—, a petition was filed to have —, of —, in the county of — and district aforesaid, adjudged a bankrupt according to the provisions of the acts of Congress relating to bankruptcy; and whereas the judge of said court was absent from said district at the time of filing said petition [*or, in case of involuntary bankruptcy, on the next day after the last day on which pleadings might have been filed, and none have been filed by the bankrupt or any of his creditors*], it is thereupon ordered that the said matter be referred to —, one of the referees in bankruptcy of this court, to consider said petition and take such proceedings therein as are required by said acts; and that the said — shall attend before said referee on the — day of —, A. D. 189—, at —.

Witness my hand and the seal of the said court, at —, in said district, on the — day of —, A. D. 189—.

{ Seal of the }  
{ Court. }

\_\_\_\_\_  
Clerk.

## [FORM No. 16.]

## REFEREE'S OATH OF OFFICE.

I, \_\_\_\_\_, do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as referee in bankruptcy, according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States. So help me God.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—.

\_\_\_\_\_  
*District Judge.*

## [FORM No. 17.]

## BOND OF REFEREE.

Know all men by these presents: That we \_\_\_\_\_ of \_\_\_\_\_ as principal, and \_\_\_\_\_ of \_\_\_\_\_ and \_\_\_\_\_ of \_\_\_\_\_, as sureties are held and firmly bound to the United States of America in the sum of \_\_\_\_\_ dollars, lawful money of the United States, to be paid to the said United States, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—.

The condition of this obligation is such that whereas the said \_\_\_\_\_, has been on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—, appointed by the Honorable \_\_\_\_\_, judge of the district court of the United States for the \_\_\_\_\_ district of \_\_\_\_\_, a referee in bankruptcy, in and for the county of \_\_\_\_\_, in said district, under the acts of Congress relating to bankruptcy.



Now, therefore, if the said \_\_\_\_\_ shall well and faithfully discharge and perform all the duties pertaining to the said office of referee in bankruptcy, then this obligation to be void; otherwise to remain in full force and virtue.

Signed and sealed  
in the presence of

\_\_\_\_\_, [L. S.]  
\_\_\_\_\_, [L. S.]  
\_\_\_\_\_, [L. S.]

Approved this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 189—.

\_\_\_\_\_,  
*District Judge.*

[FORM NO. 18.]

NOTICE OF FIRST MEETING OF CREDITORS.

In the District Court of the United States for the \_\_\_\_\_ District of \_\_\_\_\_. In Bankruptcy.

In the matter of

\_\_\_\_\_  
*Bankrupt.*

In Bankruptcy.

To the creditors of \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_, and district aforesaid, a bankrupt.

Notice is hereby given that on the \_\_\_\_\_ day of \_\_\_\_\_ A. D. 18—, the said \_\_\_\_\_ was duly adjudicated bankrupt; and that the first meeting of his creditors will be held at \_\_\_\_\_ in \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, at which time the said creditors may attend, prove their claims, appoint a trustee, examine the bankrupt, and transact such other business as may properly come before said meeting.

\_\_\_\_\_,  
*Referee in Bankruptcy.*

\_\_\_\_\_, 18—.

## [FORM NO. 19.]

## LIST OF DEBTS PROVED AT FIRST MEETING.

In the District Court of the United States for the ——— District of ———.

In the matter of	}	In Bankruptcy.
<i>Bankrupt</i> .		

At ———, in said district, on the ——— day of ———, A. D. 18—, before ——— ———, referee in bankruptcy.

The following is a list of creditors who have this day proved their debts:

Names of creditors.	Residence.	Debts proved.	
		Dolls.	Cts.

—————,  
*Referee in Bankruptcy.*

[FORM No. 20.]

GENERAL LETTER OF ATTORNEY IN FACT WHEN CREDITOR  
IS NOT REPRESENTED BY ATTORNEY AT LAW.In the District Court of the United States for the ——— Dis-  
trict of ———.

In the matter of

*Bankrupt .*

In Bankruptcy.

To ——— ———:

I, ——— ———, of ———, in the county of ——— and State of ———, do hereby authorize you, or any one of you, to attend the meeting or meetings of creditors of the bankrupt aforesaid at a court of bankruptcy, wherever advertised or directed to be holden, on the day and at the hour appointed and notified by said court in said matter, or at such other place and time as may be appointed by the court for holding such meeting or meetings, or at which such meeting or meetings, or any adjournment or adjournments thereof may be held, and then and there from time to time, and as often as there may be occasion, for me and in my name to vote for or against any proposal or resolution that may be then submitted under the acts of Congress relating to bankruptcy; and in the choice of trustee or trustees of the estate of the said bankrupt, and for me to assent to such appointment of trustee; and with like powers to attend and vote at any other meeting or meetings of creditors, or sitting or sittings of the court, which may be held therein for any of the purposes aforesaid; also to accept any composition proposed by said bankrupt in satisfaction of his debts, and to receive payment of dividends and of money due me under any composition, and for any other purpose in my interest whatsoever, with full power of substitution.

In witness whereof I have hereunto signed my name and affixed my seal the ——— day of ———, A. D. 189—.

—————. [L. S.]

Signed, sealed, and delivered in presence of—

Acknowledged before me this ——— day of ———, A. D. 189—.

—————,  
[Official character.]

[FORM NO. 21.]

## SPECIAL LETTER OF ATTORNEY IN FACT.

In the matter of	}	In Bankruptcy.
<i>Bankrupt .</i>		

To \_\_\_\_\_,  
\_\_\_\_\_:

I hereby authorize you, or any one of you, to attend the meeting of creditors in this matter, advertised or directed to be holden at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, before \_\_\_\_\_, or any adjournment thereof, and then and there \_\_\_\_\_ for \_\_\_\_\_ and in \_\_\_\_\_ name to vote for or against any proposal or resolution that may be lawfully made or passed at such meeting or adjourned meeting, and in the choice of trustee or trustees of the estate of the said bankrupt.

\_\_\_\_\_. [L. S.]

In witness whereof I have hereunto signed my name and affixed my seal the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—.

Signed, sealed, and delivered in presence of—

Acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—.

\_\_\_\_\_,  
(Official character.)

[FORM NO. 22.]

## APPOINTMENT OF TRUSTEE BY CREDITORS.

In the District Court of the United States for the ——— District of ———.

In the matter of

In Bankruptcy.

*Bankrupt.*

At ———, in said district, on the ——— day of ———, A. D. 18—, before ———, referee in bankruptcy.

This being the day appointed by the court for the first meeting of creditors in the above bankruptcy, and of which due notice has been given in the [*here insert the names of the newspapers in which notice was published*], we, whose names are hereunder written, being the majority in number and in amount of claims of the creditors of the said bankrupt, whose claims have been allowed, and who are present at this meeting, do hereby appoint ———, of ———, in the county of ——— and State of ———, to be the trustee— of the said bankrupt's estate and effects.

Signatures of creditors.	Residences of the same.	Amount of debt.	
		Dolls.	Cts.

Ordered that the above appointment of trustee— be, and the same is hereby approved.

—————,  
*Referee in Bankruptcy.*

[FORM NO. 23.]

## APPOINTMENT OF TRUSTEE BY REFEREE.

In the District Court of the United States for the ——— District of ———.

In the matter of

Bankrupt .

In Bankruptcy.

At ———, in said district, on the ——— day of ———, A. D. 18—, before ——— ———, referee in bankruptcy.

This being the day appointed by the court for the first meeting of creditors under the said bankruptcy, and of which due notice has been given in the [*here insert the names of the newspapers in which notice was published*] I, the undersigned referee of the said court in bankruptcy, sat at the time and place above mentioned, pursuant to such notice, to take the proof of debts and for the choice of trustee under the said bankruptcy; and I do hereby certify that the creditors whose claims had been allowed and were present, or duly represented, failed to make choice of a trustee of said bankrupt's estate, and therefore I do hereby appoint ——— ———, of ———, in the county of ——— and State of ———, as trustee of the same.

—————,  
*Referee in Bankruptcy.*

[FORM No. 24.]

## NOTICE TO TRUSTEE OF HIS APPOINTMENT.

In the District Court of the United States for the ——— District of ———.

In the matter of	}	In Bankruptcy.
<i>Bankrupt</i> .		

To ——— ———, of ———, in the county of ———, and district aforesaid:

I hereby notify you that you were duly appointed trustee [or one of the trustees] of the estate of the above-named bankrupt at the first meeting of the creditors, on the ——— day of ———, A. D. 18—, and I have approved said appointment. The penal sum of your bond as such trustee has been fixed at ——— dollars. You are required to notify me forthwith of your acceptance or rejection of the trust.

Dated at ——— the ——— day of ———, A. D. 18—.

—————,  
*Referee in Bankruptcy.*

## [FORM NO. 25.]

## BOND OF TRUSTEE.

Know all men by these presents: That we, \_\_\_\_\_, of \_\_\_\_\_, as principal, and \_\_\_\_\_, of \_\_\_\_\_, and \_\_\_\_\_, of \_\_\_\_\_, as sureties, are held and firmly bound unto the United States of America in the sum of \_\_\_\_\_ dollars, in lawful money of the United States, to be paid to the said United States, for which payment, well and truly to be made, we bind ourselves and our heirs, executors, and administrators, jointly and severally, by these presents.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—.

The condition of this obligation is such, that whereas the above-named \_\_\_\_\_ was, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—, appointed trustee in the case pending in bankruptcy in said court, wherein \_\_\_\_\_ is the bankrupt, and he, the said \_\_\_\_\_, has accepted said trust with all the duties and obligations pertaining thereunto:

Now, therefore, if the said \_\_\_\_\_, trustee as aforesaid, shall obey such orders as said court may make in relation to said trust, and shall faithfully and truly account for all the moneys, assets, and effects of the estate of said bankrupt which shall come into his hands and possession, and shall in all respects faithfully perform all his official duties as said trustee, then this obligation to be void; otherwise, to remain in full force and virtue.

Signed and sealed in  
presence of—

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, [SEAL.]  
\_\_\_\_\_, [SEAL.]  
\_\_\_\_\_, [SEAL.]



[FORM No. 26.]

## ORDER APPROVING TRUSTEE'S BOND.

At a court of bankruptcy, held in and for the — District  
of —, at —, —, this — day of —, 189—.

Before — —, referee in bankruptcy, in the District  
Court of the United States for the — District of —.

In the matter of

\_\_\_\_\_  
*Bankrupt* .

} In Bankruptcy.

It appearing to the Court — —, of —, and in  
said district, has been duly appointed trustee of the estate  
of the above-named bankrupt, and has given a bond with  
sureties for the faithful performance of his official duties, in  
the amount fixed by the creditors [*or* by order of the court],  
to wit, in the sum of — dollars, it is ordered that the said  
bond be, and the same is hereby, approved.

\_\_\_\_\_,  
*Referee in Bankruptcy.*

## [FORM No. 27.]

## ORDER THAT NO TRUSTEE BE APPOINTED.

In the District Court of the United States for the — District  
of —.

In the matter of

Bankrupt .

In Bankruptcy.

It appearing that the schedule of the bankrupt discloses no assets, and that no creditor has appeared at the first meeting, and that the appointment of a trustee of the bankrupt's estate is not now desirable, it is hereby ordered that, until further order of the court, no trustee be appointed and no other meeting of the creditors be called.

\_\_\_\_\_,  
*Referee in Bankruptcy.*

[FORM No. 28.]

## ORDER FOR EXAMINATION OF BANKRUPT.

In the District Court of the United States for the ——— District of ———.

In the matter of

—————  
*Bankrupt* .

} In Bankruptcy.

At ———, on the ——— day of ———, A. D. 18—.

Upon the application of ——— ———, trustee of said bankrupt [*or creditor of said bankrupt*], it is ordered that said bankrupt attend before ——— ———, one of the referees in bankruptcy of this court, at ——— on the ——— day of ———, at — o'clock in the ——— noon, to submit to examination under the acts of Congress relating to bankruptcy, and that a copy of this order be delivered to him, the said bankrupt, forthwith.

—————, *Referee in Bankruptcy.*

[FORM NO. 29.]

## EXAMINATION OF BANKRUPT OR WITNESS.

In the District Court of the United States for the ——— District of ———.

In the matter of <hr style="width: 80%; margin: 5px auto;"/> <i>Bankrupt .</i>	}	In Bankruptcy.
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At ———, in said district, on the ——— day of ———, A. D. 18—, before ——— ———, one of the referees in bankruptcy of said court.

——— ———, of ———, in the county of ———, and State of ———, being duly sworn and examined at the time and place above mentioned, upon his oath says. [*Here insert substance of examination of party.*]

——— ———, *Referee in Bankruptcy.*

## [FORM NO. 30.]

## SUMMONS TO WITNESS.

To ———— :

Whereas ————, of ————, in the county of ————, and State of ————, has been duly adjudged bankrupt, and the proceeding in bankruptcy is pending in the District Court of the United States for the ———— District of ————,

These are to require you, to whom this summons is directed, personally to be and appear before ————, one of the referees in bankruptcy of the said court, at ————, on the ———— day of ————, at ———— o'clock in the ———— noon, then and there to be examined in relation to said bankruptcy.

Witness the Honorable ———— Judge of said court, and the seal thereof at ————, this ———— day of ————, A. D. 189—.

—————, *Clerk.*

## RETURN OF SUMMONS TO WITNESS.

In the District Court of the United States for the \_\_\_\_\_ Dis-  
trict of \_\_\_\_\_.

In the matter of

\_\_\_\_\_

*Bankrupt .*

} In Bankruptcy.

On this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—, before me came  
\_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_ and State of  
\_\_\_\_\_, and makes oath, and says that he did, on \_\_\_\_\_, the  
\_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—, personally serve \_\_\_\_\_,  
of \_\_\_\_\_, in the county of \_\_\_\_\_ and State of \_\_\_\_\_, with a  
true copy of the summons hereto annexed, by delivering the  
same to him; and he further makes oath, and says that he  
is not interested in the proceeding in bankruptcy named in said  
summons.

\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
A. D. 18—.

\_\_\_\_\_

[FORM No. 31.]

## PROOF OF UNSECURED DEBT.

In the District Court of the United States for the \_\_\_\_\_ District of \_\_\_\_\_.

In the matter of

\_\_\_\_\_  
*Bankrupt* .

} In Bankruptcy.

At \_\_\_\_\_, in said district of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—, came \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_, in said district of \_\_\_\_\_, and made oath, and says that \_\_\_\_\_, the person by [or against] whom a petition for adjudication of bankruptcy has been filed, was at and before the filing of said petition, and still is, justly and truly indebted to said deponent in the sum of \_\_\_\_\_ dollars; that the consideration of said debt is as follows: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

that no part of said debt has been paid [except \_\_\_\_\_];

that there are no set-offs or counterclaims to the same [except \_\_\_\_\_];

and that deponent has not, nor has any person by his order, or to his knowledge or belief, for his use, had or received any manner of security for said debt whatever.

\_\_\_\_\_,  
 Creditor.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—.

\_\_\_\_\_,  
 { Official character.

[FORM NO. 32.]

## PROOF OF SECURED DEBT.

In the District Court of the United States for the \_\_\_\_\_ District of \_\_\_\_\_.

In the matter of

In Bankruptcy.

*Bankrupt .*

At \_\_\_\_\_, in said district of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—, came \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_, in said district of \_\_\_\_\_, and made oath, and says that \_\_\_\_\_, the person by [*or against*] whom a petition for adjudication of bankruptcy has been filed, was at and before the filing of said petition, and still is, justly and truly indebted to said deponent, in the sum of \_\_\_\_\_ dollars; that the consideration of said debt is as follows \_\_\_\_\_; that no part of said debt has been paid [except \_\_\_\_\_]; that there are no set-offs or counterclaims to the same [except \_\_\_\_\_]; and that the only securities held by this deponent for said debt are the following: \_\_\_\_\_

\_\_\_\_\_,  
*Creditor.*

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_  
A. D. —.

\_\_\_\_\_,  
[*Official character.*]



[FORM NO. 33.]

## PROOF OF DEBT DUE CORPORATION.

In the District Court of the United States for the ——— District of ———.

In the matter of

Bankrupt .

In Bankruptcy.

At ———, in said district of ———, on the ——— day of ———, A. D. 189—, came ———, of ———, in the county of ——— and State of ———, and made oath and says that he is ——— of the ———, a corporation incorporated by and under the laws of the State of ———, and carrying on business at ———, in the county of ——— and State of ———, and that he is duly authorized to make this proof, and says that the said ———, the person by [or against] whom a petition for adjudication of bankruptcy has been filed, was at and before the filing of the said petition, and still is justly and truly indebted to said corporation in the sum of ——— dollars; that the consideration of said debt is as follows:

—————;  
 that no part of said debt has been paid [except ———]; that there are no set-offs or counterclaims to the same [except ———]; and that said corporation has not, nor has any person by its order, or to the knowledge or belief of said deponent, for its use, had or received any manner of security for said debt whatever.

—————,  
 of said Corporation.

Subscribed and sworn to before me this ——— day of ———, A. D. 18—.

—————,  
 [Official character.]

[FORM NO. 34.]

## PROOF OF DEBT BY PARTNERSHIP.

In the District Court of the United States for the \_\_\_\_\_ Dis-  
trict of \_\_\_\_\_.

<p style="text-align: center;">In the matter of</p> <hr/> <p style="text-align: center;"><i>Bankrupt .</i></p>	}	In Bankruptcy.
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At \_\_\_\_\_, in said district of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—, came \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_, in said district of \_\_\_\_\_, and made oath and says that he is one of the firm of \_\_\_\_\_, consisting of himself and \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_ and State of \_\_\_\_\_; that the said \_\_\_\_\_, the person by [*or against*] whom a petition for adjudication of bankruptcy has been filed, was at and before the filing of said petition, and still is, justly and truly indebted to this deponent's said firm in the sum of \_\_\_\_\_ dollars; that the consideration of said debt is as follows:

\_\_\_\_\_;  
that no part of said debt has been paid [except \_\_\_\_\_];  
that there are no set-offs or counterclaims to the same [except \_\_\_\_\_]; and this deponent has not, nor has his said firm, nor has any person by their order, or to this deponent's knowledge or belief, for their use, had or received any manner of security for said debt whatever.

\_\_\_\_\_,  
*Creditor.*

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
A. D. 18—,

\_\_\_\_\_,  
[*Official character.*]

## [FORM No. 35.]

## PROOF OF DEBT BY AGENT OR ATTORNEY.

In the District Court of the United States for the ——— District of ———.

In the matter of

\_\_\_\_\_  
*Bankrupt .*

} In Bankruptcy.

At \_\_\_\_\_ in said district of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ A. D. 189—, came \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_, and State of \_\_\_\_\_, attorney [*or authorized agent*] of \_\_\_\_\_, in the county of \_\_\_\_\_, and State of \_\_\_\_\_, and made oath and says that \_\_\_\_\_, the person by [*or against*] whom a petition for adjudication of bankruptcy has been filed, was at and before the filing of said petition, and still is, justly and truly indebted to the said \_\_\_\_\_, in the sum of \_\_\_\_\_ dollars; that the consideration of said debt is as follows: \_\_\_\_\_

\_\_\_\_\_;  
 that no part of said debt has been paid [*except* \_\_\_\_\_];

and that this deponent has not, nor has any person by his order, or to this deponent's knowledge or belief, for his use had or received any manner of security for said debt whatever. And this deponent further says, that this deposition can not be made by the claimant in person because \_\_\_\_\_

\_\_\_\_\_,  
 and that he is duly authorized by his principal to make this affidavit, and that it is within his knowledge that the aforesaid debt was incurred as and for the consideration above stated, and that such debt, to the best of his knowledge and belief, still remains unpaid and unsatisfied.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—.

\_\_\_\_\_  
 [Official character.]

[FORM No. 36.]

## PROOF OF SECURED DEBT BY AGENT.

In the District Court of the United States for the \_\_\_\_\_ Dis-  
trict of \_\_\_\_\_.

In the matter of

In Bankruptcy.

Bankrupt .

At \_\_\_\_\_, in said district of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—, came \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_, and State of \_\_\_\_\_, attorney [or, authorized agent] of \_\_\_\_\_, in the county of \_\_\_\_\_, and State of \_\_\_\_\_, and made oath, and says that \_\_\_\_\_, the person by [or, against] whom a petition for adjudication of bankruptcy has been filed, was, at and before the filing of said petition, and still is, justly and truly indebted to the said \_\_\_\_\_ in the sum of \_\_\_\_\_ dollars; that the consideration of said debt is as follows:

\_\_\_\_\_;

that no part of said debt has been paid [except \_\_\_\_\_];

that there are no set-offs or counter claims to the same [except \_\_\_\_\_];

and that the only securities held by said \_\_\_\_\_ for said debt are the following \_\_\_\_\_;

and this deponent further says that this deposition can not be made by the claimant in person because \_\_\_\_\_;

and that he is duly authorized by his principal to make this deposition, and that it is within his knowledge that the afore-said debt was incurred as and for the consideration above stated.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—.

\_\_\_\_\_  
[Official character.]

[FORM No. 37.]

AFFIDAVIT OF LOST BILL, OR NOTE.

In the District Court of the United States for the ——— District of ———.

In the matter of  
 \_\_\_\_\_  
*Bankrupt* .

In Bankruptcy.

On this — day of —, A. D. 18—, at —, came  
 \_\_\_\_\_, of —, in the county of —, and State  
 of —, and makes oath and says that the bill of exchange  
 [or note], the particulars whereof are underwritten, has been  
 lost under the following circumstances, to wit, \_\_\_\_\_

and that he, this deponent, has not been able to find the same;  
 and this deponent further says that he has not, nor has the  
 said —, or any person or persons to their use, to  
 this deponent's knowledge or belief, negotiated the said bill  
 [or note], nor in any manner parted with or assigned the legal  
 or beneficial interest therein, or any part thereof; and that he,  
 this deponent, is the person now legally and beneficially inter-  
 ested in the same.

*Bill or note above referred to.*

Date.	Drawer or maker.	Acceptor.	Sum.

Subscribed and sworn to before me this — day of —,  
 A. D. 18—.

\_\_\_\_\_  
 (Official character.)

[FORM No. 38.]

## ORDER REDUCING CLAIM.

In the District Court of the United States for the ——— District of ———.

In the matter of

Bankrupt .

In Bankruptcy.

At ———, in said district, on the ——— day of ———, A. D. 18—.

Upon the evidence submitted to this court upon the claim of ——— against said estate [and, *if the fact be so*, upon hearing counsel thereon], it is ordered, that the amount of said claim be reduced from the sum of ———, as set forth in the affidavit in proof of claim filed by said creditor in said case, to the sum of ———, and that the latter-named sum be entered upon the books of the trustee as the true sum upon which a dividend shall be computed [*if with interest*, with interest thereon from the ——— day of ———, A. D. 18—].

—————,  
*Referee in Bankruptcy.*

[FORM No. 39.]

## ORDER EXPUNGING CLAIM.

In the District Court of the United States for the ——— District of ———.

In the matter of <hr style="width: 80%; margin: 5px auto;"/>  <i>Bankrupt .</i>	}	In Bankruptcy.
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At ———, in said district, on the — day of ———, A. D. 18—.

Upon the evidence submitted to the court upon the claim of ——— against said estate [and, *if the fact be so*, upon hearing counsel thereon], it is ordered, that said claim be disallowed and expunged from the list of claims upon the trustee's record in said case.

—————,  
*Referee in Bankruptcy.*

## [FORM No. 40.]

LIST OF CLAIMS AND DIVIDENDS TO BE RECORDED BY  
REFEREE AND BY HIM DELIVERED TO TRUSTEE.

In the District Court of the United States for the ——— Dis-  
trict of ———.

In the matter of

In Bankruptcy.

Bankrupt .

At ———, in said district, on the — day of ———,  
A. D. 18—.

A list of debts proved and claimed under the bankruptcy of ——— ———,  
with ——— dividend at the rate of ——— per cent this day declared thereon by  
———, a referee in bankruptcy.

No.	Creditors. [To be placed alphabetically, and the names of all the parties to the proof to be care- fully set forth.]	Sum proved.		Dividend.	
		Dollars.	Cents.	Dollars.	Cents.

———,  
Referee in Bankruptcy.



[FORM NO. 41.]

## NOTICE OF DIVIDEND.

In the District Court of the United States for the ——— District of ———.

In the matter of

—————  
*Bankrupt* .

} In Bankruptcy.

At ———, on the — day of ———, A. D. 18—.

To ———,

Creditor of ——— ———, bankrupt:

I hereby inform you that you may, on application at my office, ———, on the — day of ———, or on any day thereafter, between the hours of —, receive a warrant for the ——— dividend due to you out of the above estate. If you can not personally attend, the warrant will be delivered to your order on your filling up and signing the subjoined letter.

—————, *Trustee.*

## CREDITOR'S LETTER TO TRUSTEE.

To ———,

Trustee in bankruptcy of the estate of ——— ———, bankrupt:

Please deliver to ——— ——— the warrant for dividend payable out of the said estate to me.

—————, *Creditor.*

[FORM No. 42.]

## PETITION AND ORDER FOR SALE BY AUCTION OF REAL ESTATE.

In the District Court of the United States for the ——— District of ———.

In the matter of

\_\_\_\_\_  
*Bankrupt .*

} In Bankruptcy.

Respectfully represents ———, trustee of the estate of said bankrupt, that it would be for the benefit of said estate that a certain portion of the real estate of said bankrupt, to wit: [here describe it and its estimated value] should be sold by auction, in lots or parcels, and upon terms and conditions, as follows:—

Wherefore he prays that he may be authorized to make sale by auction of said real estate as aforesaid.

Dated this ——— day of ———, A. D. 18—.

—————, *Trustee.*

The foregoing petition having been duly filed, and having come on for a hearing before me, of which hearing ten days' notice was given by mail to creditors of said bankrupt, now, after due hearing, no adverse interest being represented thereat [or after hearing ——— ——— in favor of said petition and ——— ——— in opposition thereto], it is ordered that the said trustee be authorized to sell the portion of the bankrupt's real estate specified in the foregoing petition, by auction, keeping an accurate account of each lot or parcel sold and the price received therefor and to whom sold; which said account he shall file at once with the referee.

Witness my hand this ——— day of ———, A. D. 189—.

—————,  
*Referee in Bankruptcy.*

[FORM NO. 43.]

PETITION AND ORDER FOR REDEMPTION OF PROPERTY  
FROM LIEN.

In the District Court of the United States for the ——— District of ———.

In the matter of

\_\_\_\_\_  
*Bankrupt* .

} In Bankruptcy.

Respectfully represents ——— ———, trustee of the estate of said bankrupt, that a certain portion of said bankrupt's estate, to wit: [*here describe the estate or property and its estimated value*] is subject to a mortgage [*describe the mortgage*], or to a conditional contract [*describing it*], or to a lien [*describe the origin and nature of the lien*], [*or, if the property be personal property, has been pledged or deposited and is subject to a lien*] for [*describe the nature of the lien*], and that it would be for the benefit of the estate that said property should be redeemed and discharged from the lien thereon. Wherefore he prays that he may be empowered to pay out of the assets of said estate in his hands the sum of ———, being the amount of said lien, in order to redeem said property therefrom.

Dated this ——— day of ———, A. D. 18—.

\_\_\_\_\_, *Trustee.*

The foregoing petition having been duly filed and having come on for a hearing before me, of which hearing ten days' notice was given by mail to creditors of said bankrupt, now, after due hearing, no adverse interest being represented thereat [*or after hearing ——— ——— in favor of said petition and ——— ——— in opposition thereto*], it is ordered that the said trustee be authorized to pay out of the assets of the bankrupt's estate specified in the foregoing petition the sum of ———, being the amount of the lien, in order to redeem the property therefrom.

Witness my hand this ——— day of ———, A. D. 189—.

\_\_\_\_\_,  
*Referee in Bankruptcy.*

[FORM No. 44.]

## PETITION AND ORDER FOR SALE SUBJECT TO LIEN.

In the District Court of the United States for the ——— District of ———.

In the matter of

\_\_\_\_\_  
*Bankrupt* .

} In Bankruptcy.

Respectfully represents ——— ———, trustee of the estate of said bankrupt, that a certain portion of said bankrupt's estate, to wit: [*here describe the estate or property and its estimated value*] is subject to a mortgage [*describe mortgage*], or to a conditional contract [*describe it*], or to a lien [*describe the origin and nature of the lien*], or [*if the property be personal property*] has been pledged or deposited and is subject to a lien for [*describe the nature of the lien*], and that it would be for the benefit of the said estate that said property should be sold, subject to said mortgage, lien, or other incumbrance. Wherefore he prays that he may be authorized to make sale of said property, subject to the incumbrance thereon.

Dated this ——— day of ———, A. D. 189—.

—————, *Trustee.*

The foregoing petition having been duly filed and having come on for a hearing before me, of which hearing ten days' notice was given by mail to creditors of said bankrupt, now, after due hearing, no adverse interest being represented thereat [*or after hearing ——— ——— in favor of said petition and ——— ——— in opposition thereto*], it is ordered that the said trustee be authorized to sell the portion of the bankrupt's estate specified in the foregoing petition, by auction [*or, at private sale*], keeping an accurate account of the property sold and the price received therefor and to whom sold; which said account he shall file at once with the referee.

Witness my hand this ——— day of ———, A. D. 189—.

—————,  
*Referee in Bankruptcy.*

[FORM No. 45.]

## PETITION AND ORDER FOR PRIVATE SALE.

In the District Court of the United States for the — District of —.

In the matter of

Bankrupt .

In Bankruptcy.

Respectfully represents —, duly appointed trustee of the estate of the aforesaid bankrupt.

That for the following reasons, to wit, \_\_\_\_\_

it is desirable and for the best interest of the estate to sell at private sale a certain portion of the said estate, to wit: \_\_\_\_\_

Wherefore he prays that he may be authorized to sell the said property at private sale.

Dated this — day of —, A. D. 189—.

\_\_\_\_\_, *Trustee.*

The foregoing petition having been duly filed and having come on for a hearing before me, of which hearing ten days' notice was given by mail to creditors of said bankrupt, now, after due hearing, no adverse interest being represented thereat [or after hearing — in favor of said petition and — in opposition thereto], it is ordered that the said trustee be authorized to sell the portion of the bankrupt's estate specified in the foregoing petition, at private sale, keeping an accurate account of each article sold and the price received therefor and to whom sold; which said account he shall file at once with the referee.

Witness my hand this — day of —, A. D. 189—.

\_\_\_\_\_,  
*Referee in Bankruptcy.*

[FORM NO. 46.]

PETITION AND ORDER FOR SALE OF PERISHABLE  
PROPERTY.

In the District Court of the United States for the — District of —.

In the matter of

Bankrupt .

In Bankruptcy.

Respectfully represents — the said bankrupt, [or, a creditor, or the receiver, or the trustee of the said bankrupt's estate].

That a part of the said estate, to wit, \_\_\_\_\_

now in —, is perishable, and that there will be loss if the same is not sold immediately.

Wherefore, he prays the court to order that the same be sold immediately as aforesaid.

Dated this — day of —, A. D. 189—.

The foregoing petition having been duly filed and having come on for a hearing before me, of which hearing ten days' notice was given by mail to the creditors of the said bankrupt, [or without notice to the creditors], now, after due hearing, no adverse interest being represented thereat, [or after hearing — in favor of said petition and — in opposition thereto] I find that the facts are as above stated, and that the same is required in the interest of the estate, and it is therefore ordered that the same be sold forthwith and the proceeds thereof deposited in court.

Witness my hand this — day of —, A. D. 189—.

\_\_\_\_\_  
Referee in Bankruptcy.

[FORM NO. 47.]

TRUSTEE'S REPORT OF EXEMPTED PROPERTY.

In the District Court of the United States for the ——— District of ———.

In the matter of  
 \_\_\_\_\_  
*Bankrupt* .

In Bankruptcy.

At ———, on the ——— day of ———, 18—.

The following is a schedule of property designated and set apart to be retained by the bankrupt aforesaid, as his own property, under the provisions of the acts of Congress relating to bankruptcy.

General head.	Particular description.	Value.	
		Dolls.	Cts.
Military uniform, arms, and equipments.....			
Property exempted by State laws.			

\_\_\_\_\_,  
*Trustee.*

[FORM No. 48.]

## TRUSTEE'S RETURN OF NO ASSETS.

In the District Court of the United States for the ——— District of ———.

<p style="text-align: center;">In the matter of</p> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: center;"><i>Bankrupt .</i></p>	}	In Bankruptcy.
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At ———, in said district, on the ——— day of ———, A. D. 18—.

On the day aforesaid, before me comes ——— ———, of ———, in the county of ——— and State of ———, and makes oath, and says that he, as trustee of the estate and effects of the above-named bankrupt, neither received nor paid any moneys on account of the estate.

Subscribed and sworn to before me at ———, this ——— day of ———, A. D. 18—.

—————,  
*Referee in Bankruptcy.*





[FORM No. 50.]

## OATH TO FINAL ACCOUNT OF TRUSTEE.

In the District Court of the United States for the \_\_\_\_\_ District of \_\_\_\_\_.

In the matter of

\_\_\_\_\_

*Bankrupt .*

} In Bankruptcy.

On this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—, before me comes \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_ and State of \_\_\_\_\_, and makes oath, and says that he was, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—, appointed trustee of the estate and effects of the above-named bankrupt, and that as such trustee he has conducted the settlement of the said estate. That the account hereto annexed containing \_\_\_\_\_ sheets of paper, the first sheet whereof is marked with the letter \_\_\_\_\_ [*reference may here also be made to any prior account filed by said trustee*] is true, and such account contains entries of every sum of money received by said trustee on account of the estate and effects of the above-named bankrupt, and that the payments purporting in such account to have been made by said trustee have been so made by him. And he asks to be allowed for said payments and for commissions and expenses as charged in said accounts.

\_\_\_\_\_, *Trustee.*

Subscribed and sworn to before me at \_\_\_\_\_, in said \_\_\_\_\_ district of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—.

\_\_\_\_\_,  
[Official character.]

[FORM No. 51.]

## ORDER ALLOWING ACCOUNT AND DISCHARGING TRUSTEE.

In the District Court of the United States for the ——— District of ———.

In the matter of	}	In Bankruptcy.
<i>Bankrupt .</i>		

The foregoing account having been presented for allowance, and having been examined and found correct, it is ordered, that the same be allowed, and that the said trustee be discharged of his trust.

\_\_\_\_\_  
*Referee in Bankruptcy.*

[FORM No. 52.]

## PETITION FOR REMOVAL OF TRUSTEE.

In the District Court of the United States for the \_\_\_\_\_ Dis-  
trict of \_\_\_\_\_.

In the matter of  <hr style="width: 80%; margin: 0 auto;"/>  <i>Bankrupt</i> .	}	In Bankruptcy.
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To the Honorable \_\_\_\_\_,

Judge of the District Court for the \_\_\_\_\_ District of \_\_\_\_\_:

The petition of \_\_\_\_\_, one of the creditors of said bankrupt, respectfully represents that it is for the interest of the estate of said bankrupt that \_\_\_\_\_, heretofore appointed trustee of said bankrupt's estate, should be removed from his trust, for the causes following to wit: [*here set forth the particular cause or causes for which such removal is requested.*]

Wherefore \_\_\_\_\_ pray that notice may be served upon said \_\_\_\_\_, trustee as aforesaid, to show cause, at such time as may be fixed by the court, why an order should not be made removing him from said trust.

\_\_\_\_\_.

## [FORM No. 53.]

## NOTICE OF PETITION FOR REMOVAL OF TRUSTEE.

In the District Court of the United States for the ——— District of ———.

In the matter of

—————  
*Bankrupt* .

} In Bankruptcy.

At ———, on the ——— day of ———, A. D. 18—.

To ———,

Trustee of the estate of ——— ———, bankrupt:

You are hereby notified to appear before this court, at ———, on the ——— day of ———, A. D. 18—, at — o'clock —. m., to show cause (if any you have) why you should not be removed from your trust as trustee as aforesaid, according to the prayer of the petition of ——— ———, one of the creditors of said bankrupt, filed in this court on the ——— day of ———, A. D. 18—, in which it is alleged [*here insert the allegation of the petition*].

—————, Clerk.

[FORM NO. 54.]

## ORDER FOR REMOVAL OF TRUSTEE.

In the District Court of the United States for the ——— District of ———.

In the matter of

Bankrupt .

In Bankruptcy.

Whereas ——— ———, of ———, did, on the ——— day of ———, A. D. 18—, present his petition to this court, praying that for the reasons therein set forth, ——— ———, the trustee of the estate of said ——— ———, bankrupt, might be removed:

Now, therefore, upon reading the said petition of the said ——— ——— and the evidence submitted therewith, and upon hearing counsel on behalf of said petitioner and counsel for the trustee, and upon the evidence submitted on behalf of said trustee,

It is ordered that the said ——— ——— be removed from the trust as trustee of the estate of said bankrupt, and that the costs of the said petitioner incidental to said petition be paid by said ——— ———, trustee [*or*, out of the estate of the said ——— ———, subject to prior charges].

Witness the Honorable ——— ———, judge of the said court, and the seal thereof, at ———, in said district, on the ——— day of ———, A. D. 18—.

{ Seal of  
the court. }

\_\_\_\_\_,  
Clerk.

[FORM No. 55.]

## ORDER FOR CHOICE OF NEW TRUSTEE.

In the District Court of the United States for the ——— District of ———.

In the matter of

*Bankrupt.*

} In Bankruptcy.

At ———, on the ——— day of ———, A. D. 18—.

Whereas by reason of the removal [*or the death or resignation*] of ——— ———, heretofore appointed trustee of the estate of said bankrupt, a vacancy exists in the office of said trustee,

It is ordered, that a meeting of the creditors of said bankrupt be held at ———, in ———, in said district, on the ——— day of ———, A. D. 18—, for the choice of a new trustee of said estate.

And it is further ordered that notice be given to said creditors of the time, place, and purpose of said meeting, by letter to each, to be deposited in the mail at least ten days before that day.

—————, *Referee in Bankruptcy.*

[FORM NO. 56.]

## CERTIFICATE BY REFEREE TO JUDGE.

In the District Court of the United States for the ——— District of ———.

In the matter of <hr style="width: 80%; margin: 10px auto;"/> <i>Bankrupt .</i>	}	In Bankruptcy.
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I, ——— ———, one of the referees of said court in bankruptcy, do hereby certify that in the course of the proceedings in said cause before me the following question arose pertinent to the said proceedings: [*Here state the question, a summary of the evidence relating thereto, and the finding and order of the referee thereon.*]

And the said question is certified to the judge for his opinion thereon.

Dated at ———, the ——— day of ———, A. D. 18—.

—————,  
*Referee in Bankruptcy.*



[FORM NO. 57.]

## BANKRUPT'S PETITION FOR DISCHARGE.

In the matter of

*Bankrupt .*

In Bankruptcy.

To the Honorable \_\_\_\_\_,  
 Judge of the District Court of the United States  
 for the District of \_\_\_\_\_.

\_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_ and State of \_\_\_\_\_, in said district, respectfully represents that on the \_\_\_\_\_ day of \_\_\_\_\_, last past, he was duly adjudged bankrupt under the acts of Congress relating to bankruptcy; that he has duly surrendered all his property and rights of property, and has fully complied with all the requirements of said acts and of the orders of the court touching his bankruptcy.

Wherefore he prays that he may be decreed by the court to have a full discharge from all debts provable against his estate under said bankrupt acts, except such debts as are excepted by law from such discharge.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—.

\_\_\_\_\_, *Bankrupt.*

## ORDER OF NOTICE THEREON.

District of \_\_\_\_\_, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—, on reading the foregoing petition, it is—

Ordered by the court, that a hearing be had upon the same on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—, before said court, at \_\_\_\_\_, in said district, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon; and that notice thereof be published in \_\_\_\_\_, a newspaper printed in said district, and that all known creditors and other persons in interest may appear at the said time and place and show cause, if any they have, why the prayer of the said petitioner should not be granted.

And it is further ordered by the court, that the clerk shall send by mail to all known creditors copies of said petition and this order, addressed to them at their places of residence as stated.

Witness the Honorable \_\_\_\_\_, judge of the said court, and the seal thereof, at \_\_\_\_\_, in said district, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—.

{ Seal of  
the court. }

\_\_\_\_\_,  
*Clerk.*

\_\_\_\_\_ hereby depose, on oath, that the foregoing order was published in the \_\_\_\_\_ on the following \_\_\_\_\_ days, viz:

On the \_\_\_\_\_ day of \_\_\_\_\_ and on the \_\_\_\_\_ day of \_\_\_\_\_, in the year 189—.

District of \_\_\_\_\_.

\_\_\_\_\_, 189—.

Personally appeared \_\_\_\_\_, and made oath that the foregoing statement by him subscribed is true.

Before me,

\_\_\_\_\_,  
[Official character.]

I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—, sent by mail copies of the above order, as therein directed.

\_\_\_\_\_,  
*Clerk.*

[FORM No. 58.]

## SPECIFICATION OF GROUNDS OF OPPOSITION TO BANKRUPT'S DISCHARGE.

In the District Court of the United States for the \_\_\_\_\_ District of \_\_\_\_\_.

In the matter of  <hr style="width: 80%; margin: 0 auto;"/>  <i>Bankrupt .</i>	}	In Bankruptcy.
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\_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_ and State of \_\_\_\_\_, a party interested in the estate of said \_\_\_\_\_, bankrupt, do hereby oppose the granting to him of a discharge from his debts, and for the grounds of such opposition do file the following specification: [*Here specify the grounds of opposition.*]

\_\_\_\_\_, *Creditor.*

[FORM No. 59.]

## DISCHARGE OF BANKRUPT.

District Court of the United States,

\_\_\_\_\_ District of \_\_\_\_\_.

Whereas, \_\_\_\_\_ of \_\_\_\_\_ in said district, has been duly adjudged a bankrupt, under the acts of Congress relating to bankruptcy, and appears to have conformed to all the requirements of law in that behalf, it is therefore ordered by this court that said \_\_\_\_\_ be discharged from all debts and claims which are made provable by said acts against his estate, and which existed on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—, on which day the petition for adjudication was filed \_\_\_\_\_ him; excepting such debts as are by law excepted from the operation of a discharge in bankruptcy.

Witness the Honorable \_\_\_\_\_, judge of said district court, and the seal thereof this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—.

{ Seal of }  
{ the court }

\_\_\_\_\_,  
*Clerk.*

## [FORM No. 60.]

## PETITION FOR MEETING TO CONSIDER COMPOSITION.

District Court of the United States for the ——— District  
of ———.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Bankrupt .*

} In Bankruptcy.

To the Honorable ——— ———, Judge of the District Court  
of the United States for the ——— District of ———:

The above-named bankrupt respectfully represent that a  
composition of ——— per cent upon all unsecured debts, not  
entitled to a priority ——— ——— in satisfaction of ——— debts  
has been proposed by ——— to ——— creditors, as provided by the  
acts of Congress relating to bankruptcy, and ——— verily believe  
that the said composition will be accepted by a majority in  
number and in value of ——— creditors whose claims are  
allowed.

Wherefore, he pray that a meeting of ——— creditors may  
be duly called to act upon said proposal for a composition,  
according to the provisions of said acts and the rules of court.

—————, *Bankrupt.*

## [FORM No. 61.]

## APPLICATION FOR CONFIRMATION OF COMPOSITION.

In the District Court of the United States, for the — District  
of —.

In the matter of

Bankrupt .

In Bankruptcy.

To the Honorable — —, Judge of the District Court  
of the United States for the — District of —.

At —, in said district, on the — day of —, A. D.  
189—, now comes — —, the above-named bankrupt,  
and respectfully represents to the court that, after he had  
been examined in open court [*or* at a meeting of his credi-  
tors] and had filed in court a schedule of his property and a  
list of his creditors, as required by law, he offered terms of  
composition to his creditors, which terms have been accepted  
in writing by a majority in number of all creditors whose claims  
have been allowed, which number represents a majority in  
amount of such claims; that the consideration to be paid by  
the bankrupt to his creditors, the money necessary to pay all  
debts which have priority, and the costs of the proceedings,  
amounting in all to the sum of — dollars, has been de-  
posited, subject to the order of the judge, in the — National  
Bank, of —, a designated depository of money in bank-  
ruptcy cases.

Wherefore the said — — respectfully asks that the  
said composition may be confirmed by the court.

— —, *Bankrupt.*

[FORM No. 62.]

## ORDER CONFIRMING COMPOSITION.

In the District Court of the United States for the ——— District  
of ———.

In the matter of

In Bankruptcy.

An application for the confirmation of the composition offered by the bankrupt having been filed in court, and it appearing that the composition has been accepted by a majority in number of creditors whose claims have been allowed and of such allowed claims; and the consideration and the money required by law to be deposited, having been deposited as ordered, in such place as was designated by the judge of said court, and subject to his order; and it also appearing that it is for the best interests of the creditors; and that the bankrupt has not been guilty of any of the acts or failed to perform any of the duties which would be a bar to his discharge, and that the offer and its acceptance are in good faith and have not been made or procured by any means, promises, or acts contrary to the acts of Congress relating to bankruptcy: It is therefore hereby ordered that the said composition be, and it hereby is, confirmed.

Witness the Honorable ——— ———, judge of said court,  
and the seal thereof, this ——— day of ———, A. D. 189—.

{ Seal of }  
{ the court. }

—————, Clerk.

-[FORM NO. 63.]

## ORDER OF DISTRIBUTION ON COMPOSITION.

UNITED STATES OF AMERICA:

In the District Court of the United States for the \_\_\_\_\_  
District of \_\_\_\_\_.

In the matter of

*Bankrupt .*

In Bankruptcy.

The composition offered by the above-named bankrupt in this case having been duly confirmed by the judge of said court, it is hereby ordered and decreed that the distribution of the deposit shall be made by the clerk of the court as follows, to wit: 1st, to pay the several claims which have priority; 2d, to pay the costs of proceedings; 3d, to pay, according to the terms of the composition, the several claims of general creditors which have been allowed, and appear upon a list of allowed claims, on the files in this case, which list is made a part of this order.

Witness the Honorable \_\_\_\_\_, judge of said court,  
and the seal thereof, this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 189—.

{ Seal of }  
{ the court. }

\_\_\_\_\_, Clerk.



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