

GHQ/SCAP Records (RG 331, National Archives and Records Service)

Description of contents

(1) Box no. 3030

(2) Folder title/number: (23)
015.6: Municipal or City Courts

(3) Date: Feb. _____

(4) Subject:

Classification	Type of record
036	e

(5) Item description and comment:

(6) Reproduction: Yes No

(7) Film no. _____ Sheet no. _____

(Compiled by *National Diet Library*)

CROSS REFERENCE
SHEET

FILE UNDER:

015,6

DATE:

Mar 1950

FROM:

Hqs British Commonwealth

TO:

SUBJECT:

Permission granted to Chief Prosecutor
Hiroshima Pref. to refer cases of simple possession
of firearms & weapons to Japanese Courts

REFERENCES:

DOCUMENT FILED UNDER:

471

SIGNATURE: _____

FILED BY _____

015.6
COPYGENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERSGENERAL ORDERS)
NO.....3)

APO 500

1 February

ESTABLISHMENT OF OCCUPATION CIVIL COURT WITH ADMIRALTY
AND MARITIME JURISDICTION

1. WHEREAS, it is the responsibility of the Supreme Commander for the Allied Powers, pursuant to Part 2, Paragraph 3, of the basic Post-Surrender Policy for Japan, as contained in the Far Eastern Commission Policy Decision of 19 June 1947, to protect the interests, assets, and rights of all members of the United Nations and their nationals; and

2. WHEREAS, there are no courts in Japan which have jurisdiction over admiralty and other maritime causes of action in which members of the United Nations, their agencies or organizations, including corporations, or their nationals attached to, or accompanying the Allied Armed Occupation Forces in Japan, may have an interest; and

3. WHEREAS, in order adequately to protect the interests, assets and rights of said members of the United Nations and their said nationals, as defined in Paragraph 2 above, it is necessary to establish courts in Japan having jurisdiction over admiralty and other maritime causes of action in which said members of the United Nations and their said nationals may have an interest; and

4. WHEREAS, to further implement Part 2, Paragraph 3, of the Policy Decision adopted by the Far Eastern Commission on 19 June 1947, the Supreme Commander for the Allied Powers has been authorized and directed as set forth in Department of the Army Radion W 99072 dated 1 February 1950, in accordance with Paragraph III of the Terms of Reference of the Far Eastern Commission, to establish in Japan courts with jurisdiction over admiralty and other maritime causes of action to which said members of the United Nations and their said nationals may have access:

NOW, THEREFORE:

5. THERE IS HEREBY ESTABLISHED an Occupation Civil Court with jurisdiction, to hear and determine admiralty and other maritime causes of action, in personal or in rem, involving any member of the United Nations, their agencies, organizations, including corporations, or their nationals attached to, or accompanying the Allied Armed Occupation Forces in Japan, or any property rights claimed by or against said United Nations or nationals, which causes are authorized by the Supreme Commander for the Allied Powers to be heard and determined by said court. The jurisdiction of the court hereby established over cases so authorized is exclusive.

(GO 3)

6. The court hereby established shall consist of a judge or judges appointed by the Supreme Commander for the Allied Powers, which judge or judges shall be vested with all the judicial authority and power necessary to hear and determine and to preserve and protect the interests, assets, and rights of the parties concerned, whether of property or person, in accordance with law and justice.

7. All rulings, orders, determinations, executions, decisions, awards, judgments and decrees of the court hereby established shall have the full force and effect of law and shall be duly enforced and obeyed by all to whomsoever directed.

8. Any party to an action brought hereunder may seek review of the final judgment of decree issued by the court established herein by petition to the Supreme Commander for the Allied Powers, who may revise said judgment or decree or take such other action as he may deem proper.

9. By virtue of the international character of the authority establishing the court and the international basis for said authority, the court hereby established is and shall be international in nature and not a court of the nation of the establishing authority.

10. Rules of practice are hereby adopted as Annex I, attached to and made part hereof, which shall govern the procedure and practice of the Occupation Civil Court hereby established.

AG 015 (1 Feb 50)LS

BY COMMAND OF GENERAL MacARTHUR:

EDWARD M. ALMOND,
Major General, General Staff Corps,
Chief of Staff.

OFFICIAL:

/s/ K. B. Bush
/t/ K.B. BUSH
Brigadier General, USA,
Adjutant General.

1 Incl
Annex I

(GO 3)

ANNEX I

RULES OF PRACTICE IN ADMIRALTY FOR THE OCCUPATION CIVIL COURT IN JAPAN

1. INITIAL PROCESS. A proceeding in Admiralty or Maritime jurisdiction shall be commenced by the filing of the libel with the court from which process is to issue. All process shall be served by a person designated by the court, hereinafter referred to as the "Marshal".

2. MONITION TO THIRD PARTIES IN SUITS IN REM. In all suits in rem against a ship, and/or her appurtenances if her appurtenances or any of them are in the possession or custody of any third person, the court shall, on due notice to such third person and after hearing, decree that the same be delivered into the custody of the marshal, if on hearing it appears that the same is required by law and justice.

3. PROCESS IN SUITS IN REM. In all cases of seizure, and in other suits and proceedings in rem, the process, if issued and unless otherwise provided for, 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 as the court shall order, and/or in such other public places as the court shall direct.

4. PERISHABLE GOODS - HOW DISPOSED OF. In all cases where any goods or other things are arrested, if the expense of keeping the same is excessive or disproportionate, or if the same are perishable, or are liable to deterioration, decay, or injury, by being detained in custody pending the suit, the court may, on the application of either party, order the same or any portion thereof to be sold; and the proceeds, or so much thereof as shall be full security to satisfy any decree, to be brought into court to abide the event of the suit; or the court may, on the application of the claimant, order a delivery thereof to him, either on the filing of a written agreement of the parties or their proctors of record to that effect, or on a due appraisement, to be had under its direction, unless the value has been agreed to in writing by the parties or their proctors of record, on the claimant's depositing in court so much money as the court shall order, or on his giving a stipulation, with sufficient sureties, in such sum as the court shall direct or as shall be agreed upon in writing by the parties or their proctors of record, conditioned to abide by and pay the money awarded by the final decree rendered by the court, not to exceed, however, in any event such agreed or appraised value, with interest at six per cent. per annum and costs, as the one or the other course shall be ordered by the court.

5. SHIP - HOW APPRAISED, SOLD OR BONDED. Where any ship shall be arrested, the same may, on the application of the claimant, be delivered to him either on a due appraisement, to be had under the direction of the court, or on his filing an agreement in writing to

(GO 3)

that effect signed by the parties or their proctors of record, and on the claimant's depositing in court so much money as the court shall order, or on his giving a stipulation for like amount, with sufficient sureties, conditioned as provided in the foregoing rule; and if the claimant shall unreasonably neglect to make any such application, then the court may, on the application of either party, on due cause shown, order a sale of such ship, and require the proceeds thereof to be brought into court or otherwise disposed of.

6. PETITORY OR POSSESSORY SUITS. 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, on 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.

7. EXECUTION ON DECREES. In all cases of a final decree for the payment of money, the libellant shall have a writ of execution commanding the marshal to levy and collect the amount thereof out of the goods, chattels, lands and tenements, or other real estate of the respondent, claimant or stipulator, and any other remedies shall be available that may exist under law for the enforcement of judgments and decrees.

8. REQUISITES OF LIBEL IN INSTANCE CAUSES. All libels, civil or maritime, shall be on oath or solemn affirmation and shall state the nature of the cause, as for example, that it is a cause, civil and maritime, of contract, or a tort or damage or of salvage, or of possession, or otherwise, as the same may be; and if the libel be in rem, that the property is within the jurisdiction of the court, and if in personam the names and places of residences of the parties so far as known. The libel shall also propound and allege in distinct articles the various allegations of fact upon which the libellant relies in support of his suit, so that the respondent or claimant may be enabled to answer distinctly the separately the several matters contained in each article; and it shall conclude with a prayer for due process to enforce his rights in rem, or in personam, as the case may be, and for such relief and redress as the court is competent to give in the premises.

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

(GO 3)

10. STIPULATIONS FOR COSTS. In all cases the court may, on the filing of a libel or on the appearance of any respondent, or claimant, or at any other time, require the libellant, respondent or claimant, or either of them to give a stipulation or an additional stipulation with sufficient sureties, in such sum as the court shall direct, to pay all costs and expenses which shall be awarded against him, it, or them, by the final decree of the court, or by any interlocutory order in the progress of the suit.

11. CLAIM-HOW VERIFIED-CLAIMANT'S BOND. In suit 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 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 on putting in such claim, the claimant shall file a bond or stipulation for costs as above provided.

12. ANSWERS-REQUISITES OF. In all libels in causes of civil and maritime jurisdiction, whether in rem or in personam, the answer of or on behalf of the respondent or claimant to the libels and interrogatories shall be on oath or solemn affirmation; and all answers 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 or except to each interrogatory propounded by the libellant.

13. PLEADINGS-INTERROGATORIES-EXCEPTIONS TO. Either party may except to the sufficiency, fullness, distinctness, relevancy or competency of any of the pleadings or interrogatories filed by the other party; and if the court shall so adjudge on a hearing on the exceptions, and shall order further pleadings or answers to be filed by either party, such pleadings or answers shall be filed within such time and on such terms as the court may direct.

14. DEFAULT ON FAILURE TO ANSWER. If the respondent or claimant 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 may pronounce him to be in contumacy and default and thereupon shall proceed to hear the case ex parte, and adjudge therein as to law and justice shall appertain. But the court may set aside the default and upon the application of the respondent or claimant admit him to make answer to the libel on such terms as the court may direct.

15. DEFECT OF FAILURE TO ANSWER FULLY. In all cases where the respondent or claimant 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 or otherwise, compel the respondent or claimant to make further answer thereto; or may make such other order in the cause as it shall deem most fit to promote justice. 3.

(GO 3)

16. WHAT EITHER PARTY MAY OBJECT TO ANSWERING. Either party may object by proper pleadings to answering any allegation contained in any pleading or interrogatory filed by the other party, which will tend to expose him, it, or them, to any prosecution or punishment for crime, or for any penalty or any forfeiture of his, its, or their property for any penal offense.

17. INTERROGATORIES TO PARTIES. Any party may serve upon any adverse party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association, by any officer thereof competent to testify in its behalf. The interrogatories shall be answered separately and full in writing under oath. The answers shall be signed by the person making them; and the party upon whom the interrogatories have been served shall serve a copy of the answers on the party submitting the interrogatories within ten (10) days after the delivery of the interrogatories, unless the court, on motion and notice and for good cause shown, enlarges or shortens the time. Objections to any interrogatories may be presented to the court within five (5) days after service thereof, with notice as in case of a motion; and answers shall be deferred until the objections are determined, which shall be at as early a time as is practicable. No party may, without leave of court, serve more than one set of interrogatories to be answered by the same party.

18. DISCOVERY AND PRODUCTION OF DOCUMENTS AND THINGS FOR INSPECTION, COPYING, OR PHOTOGRAPHING. Upon motion of any party showing good cause therefor and upon notice to all other parties, the court in which an action is pending may (1) order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged, which constitute or contain evidence material to any matter involved in the action and which are in his possession, custody, or control; or (2) order any party to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated relevant object or operation thereon. The order shall specify the time, place, and manner of making the inspection and taking the copies and photographs and may prescribe such terms and conditions as are just.

19. ADMISSION OF FACTS AND OF GENUINENESS OF DOCUMENTS. a. REQUEST FOR ADMISSION. At any time after the pleadings are closed, a party may serve upon any other party a written request for the admission by the latter of the genuineness of any relevant documents described in and exhibited with the request or of the truth of any relevant matters of fact set forth therein. Copies of the documents shall be delivered with the request unless copies have already been furnished. Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, not less than five (5) days after service thereof or within such further time as the court may allow on motion and notice, the party to whom the request is directed serves upon the party requesting the admission a sworn statement either denying specifically the

(GO 3)

matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny those matters.

b. EFFECT OF ADMISSION. Any admission made by a party pursuant to such request is for the purpose of the pending action purpose nor may be used against him in any other proceeding.

20. REFUSAL TO MAKE DISCOVERY - CONSEQUENCES. a. REFUSAL TO ANSWER. If a party or other deponent refuses to answer any questions propounded upon oral examination, the examination shall be completed on other matters or adjourned, as the proponent of the question may prefer. Thereafter, on reasonable notice to all persons affected thereby, he may apply to the court for an order compelling an answer. Upon the refusal of a deponent to answer any interrogatory submitted under any provisions of law, or upon the refusal of a party to answer any interrogatory may on like notice make like application for such an order. If the motion is granted and if the court finds that the refusal was without substantial justification the court shall require the refusing party or deponent and the party or attorney advising the refusal, or either of them, to pay to the examining party the amount of the reasonable expenses incurred in obtaining the order, including reasonable attorney's fees. If the motion is denied and if the court finds that the motion was made without substantial justification, the court shall require the examining party or the attorney advising the motion, or both of them, to pay to the refusing party, or witness, the amount of the reasonable expenses incurred in opposing the motion, including reasonable attorney's fees.

b. FAILURE TO COMPLY WITH ORDER.

(1) Contempt. If a party or other witness refuses to be sworn or refuses to answer any questions after being directed to do so by the court, the refusal may be considered a contempt of court.

(2) Other Consequences. If any party or an officer or managing agent of a party refuses to obey an order made under subdivision of a this rule requiring him to answer designated questions, or an order made under Rule 18 to produce any document or other thing for inspection, copying, or photographing or to permit it to be done, or to permit entry upon land or other property, the court may make such orders in regard to the refusal as are just.

c. EXPENSES ON REFUSAL TO ADMIT. If a party, after being served with a request under Rule 19 to admit the genuineness of any documents or the truth of any matters of fact, serves a sworn denial thereof and if the party requesting the admission thereafter proves the genuineness of any such document or the truth of any such matter of fact, he may apply to the court for an order requiring the other party to pay him the reasonable expenses incurred in making such proof, including reasonable attorney's fees. Unless the

(GO 3)

court finds that there were good reasons for the denial or that the admissions sought were of no substantial importance, the order shall be made.

d. FAILURE OF PARTY TO ATTEND OR SERVE ANSWERS. If a party or an officer or managing agent of a party wilfully fails to appear before the officer who is to take his deposition, after being served with a proper notice, or fails to serve answers to interrogatories submitted under Rule 17, after proper service of such interrogatories, the court on motion and notice may strike out all or any part of any pleading, of that party, or dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party.

21. HOW THIRD PARTY MAY INTERVENE. 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 course of admiralty proceedings, to be heard 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, on filing his allegations, to give a stipulation with sufficient 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 against him by the court on the final decree, not to exceed however in any event the agreed or appraised value of the property so claimed by him, it or them, with interest at six per cent. per annum and costs.

22. EXCEPTIONS TO PLEADINGS FOR SURPLUSAGE OR SCANDAL. Exceptions may be taken to any libel, allegation, answer or other pleading for surplusage, impertinence of scandal; and if on hearing the matter excepted to shall be held to be so objectionable it shall be expunged on such terms as the court may direct.

23. PROCEDURE AGAINST GARNISHEE. 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 respondent or claimant in his hands, and to such interrogatories 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, or paid into the registry of the court and shall be held in either case subject to the further order of the court.

24. DISMISSAL FOR FAILURE TO PROSECUTE. If, in any admiralty suit, the libellant shall not appear and prosecute his suit, and comply with the orders of the court, he shall be deemed in default and contumacy; and the court may, on the application of the respondent or claimant, pronounce the suit to be deserted, and the same may be dismissed with costs.

25. REOPENING DEFAULT DECREES. The court may, in its discretion, on motion of the respondent or claimant and the payment

(GO 3)

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 30 days after the decree has been entered, the respondent or claimant submitting to such further orders and terms in the premises as the court may direct.

26. SALES IN ADMIRALTY. All sales of property under any decree of admiralty shall be made by a person duly appointed by the court, in pursuance of the orders of the court; and the proceeds thereof, when sold, shall be forthwith paid into the court by the person making the sale, to be disposed of by the court according to law.

27. FUNDS IN COURT. All moneys paid into 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, 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 court shall keep a regular book, containing a memorandum and copy of each of the checks so drawn and the date thereof.

28. CLAIMS AGAINST PROCEEDS IN COURT. Any person having an interest in any proceeds in the court shall have a right, by petition and summary proceedings, to intervene pro interesse suo for delivery thereof to him, and on 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 on a hearing, be dismissed, the court may, in its discretion, award costs against the petitioner in favor of the adverse party.

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

30. REPORT OF COMMISSIONERS - PRESUMPTION AS TO CORRECTNESS - REVIEW. In all references to commissioners or assessors, by consent or other wise, whether the reference be of all issues of law and fact, or only particular issues either of law or fact or both, the report of the commissioners or assessors shall be treated as presumptively correct, but shall be subject to review by the court, and the court may adopt the same, or may modify or reject the same in whole or in part when the court in the exercise of its judgment is fully satisfied that error has been committed: Provided, That when a case or any issue is referred by consent and the intention is plainly expressed in the consent order that the submission is to the commissioners or assessors as arbitrators, the court may review the

(GO 3)

same only in accordance with the principles governing a review of an award and decision by an arbitrator.

31. RIGHT OF TRIAL COURTS TO MAKE RULES OF PRACTICE. In suits in admiralty in all cases not provided for by these rules, the court is to regulate their practice in such a manner as it deems most expedient for the due administration of justice, provided the same are not inconsistent with these rules.

32. PRE-TRIAL PROCEDURE-FORMULATING ISSUES. a. In any action, the court may in its discretion direct the attorneys for the parties to appear before it for a conference to consider:

- (1) The simplification of the issues
- (2) The necessity or desirability of amendments to the pleadings
- (3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof
- (4) The limitation of the number of expert witnesses
- (5) The advisability of a preliminary reference of issues to a master for findings to be used as evidence
- (6) Such other matters as may aid in the disposition of the action.

b, The court shall make an order which recites the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and which limits the issues for trial to those not disposed of by admissions or agreements of counsel; and such order when entered controls the subsequent course of the action, unless modified at the trial to prevent manifest injustice.

33. EVIDENCE-HOW TAKEN. In all trials in admiralty the testimony of witnesses shall be taken orally in open court, except as otherwise provided by agreement of the parties. When deemed necessary by the court or the officer taking the testimony or by the parties, a stenographer may be employed, who shall take down the testimony in shorthand or otherwise, and, if requested by the court or either party, transcribe same. The fees may be fixed by the court and taxed as costs.

34. FINDINGS OF FACT AND CONCLUSIONS OF LAW. In deciding cases of admiralty and maritime jurisdiction the court shall find the facts specially and state separately its conclusions of law thereon; and its findings and conclusions shall be entered

(GO 3)

of record.

35. SCOPE OF EXAMINATION AND CROSS-EXAMINATION. A party may interrogate any unwilling or hostile witness by leading questions. A party may call an adverse party or an officer, director, or managing agent of a public or private corporation or of a partnership or association which is an adverse party, and interrogate him by leading questions and contradict and impeach him in all respects as if he had been called by the adverse party, and the witness thus called may be contradicted and impeached by or on behalf of the adverse party also, and may be cross-examined by the adverse party only upon the subject matter of his examination in chief.

36. ISSUE ON NEW FACTS IN ANSWER. When the respondent or claimant in his answer, alleges new facts, these shall be considered as denied by the libellant, and no replication or reply, general or special, shall be filed unless ordered by the court on proper cause shown. But within such time after the answer is filed as shall be fixed by the 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 respondent or claimant shall answer such amendments.

37. SECURITY ON CROSS-LIBEL. Whenever a cross-libel is filed upon any counterclaim arising out of the same contract or cause of action for which the original libel was filed, and the respondent or claimant in the original suit shall have given security to respond in damages, the respondent in the cross-libel shall give security in the usual amount and form to respond in damages to the claims set forth in said cross-libel, unless the court for cause shown, shall otherwise direct; and all proceedings on the original libel shall be stayed until such security be given unless the court otherwise directs.

38. RIGHT TO BRING IN PARTY JOINTLY LIABLE. The claimant or respondent shall be entitled to bring in any other vessel or person (individual or corporation) who may be partly or wholly liable either to the libellant or to such claimant or respondent by way of remedy over, contribution or other wise, growing out of the same matter. This shall be done by petition, on oath, presented before or at the time of answering the libel, or at any later time during the progress of the cause, that the court may allow. Such petition shall contain suitable allegations showing such liability, and the particulars thereof, and that such other vessel or person ought to be proceeded against in the same suit for such damage, and shall pray the process be issued against such vessel or person to that end. Thereupon, such process shall issue, and if duly served, such suit shall proceed as if such vessel or

(GO 3)

person 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 petitioner shall, upon filing his petition, give a stipulation, with sufficient sureties, to pay the libellant and to any claimant or any 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 on the final decree; and any such claimant or new party shall give the same bonds or stipulations which are required in the like cases from parties brought in under process issued on the prayer of a libellant.

39. PROPERTY IN CUSTODY OF MARSHAL. No property in the custody of the marshal shall be delivered up without an order of the court.

40. PROCESS IN SUITS IN PERSONAM. In suits in personam after the filing of the libel, the process shall be by court order to the respondent in the nature of a summons to appear and answer the suit with a clause therein to attach his goods and chattels, or credits and effects in the hands of the garnishees named in the libel to the amount sued for.

41. BOND IN ATTACHMENT SUITS IN PERSONAM. In all suits in personam, where goods and chattels, or credits and effects, are attached under a process authorizing the same, the attachment may be dissolved by order of the court to which the process is returnable, on the giving of a bond or stipulation with sufficient sureties, or upon such other undertaking as the court may deem proper by the respondent whose property is so attached, or by someone on his behalf, conditioned to abide by all orders, interlocutory or final, of the court, and to pay the amount awarded by the final decree of the court to which the process is returnable, not exceeding, however, the value of the goods so attached, with interest at 6 per centum per annum and costs; and upon such bond or stipulation, summary process of execution shall be issued against the principal and sureties or surety by the court to which the process is returnable, to enforce the final decree so rendered.

42. BONDS-STIPULATION-HOW GIVEN. All bonds, stipulations or other undertakings in admiralty suits may be given and taken in open court, or at chambers, in cases pending before the court, or otherwise by written agreement of the parties or their protectors of record.

43. BONDS-PREMIUMS-TAXABLE AS COSTS. If costs shall be awarded by the court to either or any party, then the reasonable premiums or expense paid on all bonds or stipulations or other security given by that party in that suit shall be taxed as part of the costs of that party.

(GO 3)

44. REDUCTION OF BOND OR STIPULATION-NEW SURETIES. In all suits either in rem or in personam, where a bond, stipulation or other undertaking is accepted, the court may, on motion, for due cause shown, reduce the amount of such security given; and in all cases, either in rem or in personam, where a bond, stipulation or undertaking is given, if either of the sureties shall be or become insufficient pending the suit, new or additional security may be required by order of the court on motion.

45. SEAMEN'S WAGES-MATERIALMEN-REMEDIES. In all suits for mariners' wages or by materialmen for supplies or repairs or other necessaries, the libellant may proceed in rem against the ship and freight and/or in personam against any party liable.

46. PILOTAGE-COLLISION-REMEDIES. In all suits for pilotage or damage by collision, the libellant may proceed in rem against the ship and/or in personam against the master and/or the owner.

47. ASSAULT OR BEATING-REMEDIES. 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.

48. MARITIME HYPOTHECATION-REMEDIES. In all suits founded upon a mere maritime hypothecation of ship or freight, either express or implied by the master for moneys taken up in a foreign port, for supplies or repairs or other necessaries for the voyage, without any claim of maritime interest, the libellant may proceed in rem and/or in personam against the master and/or the owners.

49. BOTTOMRY BONDS-REMEDIES. 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 whose 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 its own misconduct or wrong, lost or subtracted the property, in which latter cases the suit may be in personam against the wrongdoer.

50. SALVAGE-REMEDIES. In all suits for salvage, the suit may be in rem against the property saved, or the proceeds thereof, and/or in personam against any property liable for the salvage service.

51. BRINGING FUNDS INTO COURT. 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, on due application, by petition of the party interested, require the party charged with the possession thereof

(GO 3)

to appear and show cause why the same should not be brought into court to answer the exigency of the suit, and if no cause be shown, the court may order the same to be brought into court to answer the exigency of the suit, and, on failure of the party to compel obedience thereto.

52. COSTS. The court may in its discretion assess such costs against any party to a cause of action as is deemed just and proper,

53. REVIEW. Any petition to the Supreme Commander for the Allied Powers seeking review of the final judgment or decree of the court shall be filed with the Supreme Commander within 30 days of the date of said judgment or decree.