

**A SUMMARY OF PRACTICE IN
INSTANCE, REVENUE AND PRIZE
CAUSES: IN THE ADMIRALTY COURTS
OF THE UNITED STATES, FOR THE
SOUTHERN DISTRICT OF NEW-YORK**

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A Summary of Practice in Instance, Revenue and Prize Causes: In the Admiralty Courts of the United States, for the Southern District of New-York by Samuel R. Betts

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ERRATA:

- Page 11, 2d paragraph, strike out "of the other side," and for "the" before
proctor, the preceding word, read "his."
 " 12, 1st " for "conformably" read "conformable."
 " " 3d " for "is" read "their."
 " 15, 3d " for "proctor" read "practor."
 " 18, 4th " second line, strike out "respect to."
 " 21, 3d " for "if" read "of."
 " " 6th " for "cases" read "causes."
 " 23, 3d " before "United States," insert "the."
 " 24, last " but two, for "period" read "period."
 " 25, 4th " "and the United States in all cases," to be included in
 a parenthesis, (), and for Rule "17" read "44."
 " 29, 4th " from bottom, between *rem* and *personam*, for "or"
 read "and."
 " 42, 4th " for "depository" read "depoitory."
 " 55, last " after *oath* insert "except by the United States."
 " 57, " for "expensive" read "expensive."
 " 58, 1st " strike out "them."
 " " in two last paragraphs for Rule "93" read "96."
 " 61, 4th paragraph, for "therefor" read "therefore."
 " 64, 9th line from bottom, for "forfeiture" read "forfeitures."
 " 68, last paragraph of Section 13, before "parties" insert "such."
 " 70, 4th " for "order" read "manner."
 " 86, 6th line from bottom, for "notice" read "motion."
 " 88, 3d " for "in" read "into."
 " 89, 6th line from top, strike out "here."
 " 93, 3d line from bottom for "direct" read "direct."
 " 94, 8th line from top for "all" read "and."
 " 102, 5th paragraph, for "bills" read "libels."
 " 103, 5th " after *intendment* insert "ought to be."
 " 110, 5th line from top, transpose "below" so as to be the first word in the
 line.
 " 113, 8th line from top for "action" read "act," and 10th line, for "they"
 read "it."
 " 116, 3d line from bottom, for "upon" read "up on."
 " 119, 5th paragraph, before "employed" insert "ordinarily."
 " 120, last line but one, for "and" read "which."

A S U M M A R Y
OF
P R A C T I C E
IN
I N S T A N C E , R E V E N U E A N D P R I Z E C A U S E S ,
IN THE
A D M I R A L T Y C O U R T S O F T H E U N I T E D S T A T E S ,
FOR THE
S O U T H E R N D I S T R I C T O F N E W - Y O R K ;
AND ALSO ON
A P P E A L T O T H E S U P R E M E C O U R T :
TO G E T H E R W I T H
T H E R U L E S O F T H E D I S T R I C T C O U R T .

BY
S A M U E L R . B E T T S ,
J U D G E O F T H E D I S T R I C T C O U R T .

N E W - Y O R K :
H A L S T E D A N D V O O R H I E S ,
C o r n e r o f N a s s a u a n d C e d a r S t r e e t s .

1838.

B565

Entered according to the Act of Congress, in the year 1838, by *SAMUEL R. BARRÉ*,
in the Clerk's office of the District Court of the Southern District of New-York.

Wm. Osborn, Printer, 88 William-street.

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INTRODUCTION.

SOME years since the author commenced the preparation of a Treatise on the Admiralty Practice of the United States' Courts in this District, embracing Proceedings in Prize and Revenue Causes.

Circumstances of an official and domestic character delayed the completion of the work, and it having become necessary to republish the Rules of Court, applications were made the author that the Treatise might be finished and published coterminously with the Rules.

His other engagements prevented a compliance with this request, but as the Rules were about going to press, he yielded to the suggestion that a Summary or Abstract should be made of the work so far as prepared and be given the profession with the Rules. He has bestowed all the attention the short period and urgency of the case would admit on the preparation of such Abridgement, and in order that the Rules might be ready for the bar early after the summer vacation, the sections of the text were handed the printer as rapidly as they could be struck off and have gone through the press *pari passu* with the Rules.

This circumstance of haste is not adverted to as any excuse for essential errors in matter or manner, but it may in a degree apologize for an occasional clumsy sentence or turn of expression, or the repetition under different sections of the same matters.

In this connection it may be remarked that the quotation of the District Court Rules is made from the copy in manuscript, which had, in the course of compilation, been subjected to numerous alterations, transpositions and renumberings, and that the printed numbering does not, therefore, throughout correspond with the written copy.

In reading the proof sheets it has been attempted to correct the references so as to designate the printed rules, but undoubtedly many inaccuracies may have escaped notice, and the number given will often be found to have no relation to the point to which it is cited.

The rule intended, in such case, will generally be found within two or three from that indicated.

The purpose of this Summary is to present to the profession in a concise and familiar form, the principles of practice appertaining to the admiralty courts of this district; and the hope is indulged that it will be found a convenient and useful directory to those unskilled in the proceedings of these courts. Experienced practitioners may also derive advantages in having rules and principles brought together and classified, which heretofore, they have been compelled to gather from the usages of the courts or search out in the numerous books regarded as authoritative on the subject.

The admiralty court of each district will probably be found employing a course of procedure in a degree peculiar to itself, and it cannot therefore be expected that the practice of any one will be entirely applicable to the others or be received as authority by them.

Still the assimilation of proceedings is such, that the practice of the courts of this District may have an interest and influence with others of like jurisdiction, particularly from the consideration that few have probably maintained a closer adherence to the course of the civil law, and none have possessed opportunities for more frequent and diversified application of its rules, than the courts of New-York.

The civil law is recognised as the common depository from which the maritime courts of christendom derive their doctrines of rights and remedies. That code supplies alike the rule of judging and of preparing matters of contestation for judgment in admiralty tribunals; for the Roman language did not enter more intimately into the composition of the dialects of European nations, than its law connected itself with every system of polity created and administered, wherever the arts and knowledge of that people had once penetrated.