

**ADMIRALTY FORMS AND PRECEDENTS: WITH
NOTES OF THE PRACTICE RELATING THERETO,
AND AN APPENDIX CONTAINING THE RULES
OF THE SUPREME COURT, 1883, WHICH RELATE
EXCLUSIVELY TO ADMIRALTY ACTIONS; AND
THE ORDER AS TO COURT FEES, 1884**

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Admiralty Forms and Precedents: With Notes of the Practice Relating Thereto, and an Appendix Containing the Rules of the Supreme Court, 1883, Which Relate Exclusively to Admiralty Actions; And the Order as to Court Fees, 1884 by Edward Stanley Roscoe

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EDWARD STANLEY ROSCOE

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BY

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P R E F A C E.

WITH the object of giving practitioners a more complete code of procedure applicable to each Division of the High Court, a number of the Admiralty Rules and Forms of 1859 and 1871 have been included in the Rules and Forms of 1883. But the result of this amalgamation has been to make it difficult for practitioners to lay their hands quickly on the rules and forms specially applicable to particular steps in an Admiralty action. In addition, neither the rules nor the forms are framed with the care which one would have thought desirable. Thus elaborate directions are given in the rules as to the affidavit to lead the warrant in an action for distribution of salvage, when in fact in this action, not being one in rem, such an affidavit cannot be required at all. Again, in the Appendix two forms of affidavits to lead the warrant are given, namely, in actions of possession and restraint, but none for use in the more important actions of salvage, damage, and wages. It is startling also to find that after the rules have carefully stated

that a surety shall justify, thereby making the old practice of an inquiry and report by the Marshal, which for some years has been practically obsolete, altogether a thing of the past the old forms of the Marshal's report, and the præcipe for the bond as a sequel thereto, have yet crept among the new forms.

The very first time, too, that the form of a statement of claim in a salvage action came before the Court, it was pronounced to be useless, and it has had to be discarded, together with the form provided for use in actions for damage by collision. As another instance of the character of the official forms, that of a claim in an action of possession may be mentioned, which does not on its face show any ground of action, since it does not state that the defendant *wrongfully* withheld possession. Other criticisms not favourable to the new rules as regards Admiralty practice might without difficulty be made, but enough has been said to show that they are not a safe guide to the practitioner.

I have, therefore, with as little delay as other engagements would allow, collected a large number of the most necessary forms and precedents, and appended to them notes of the practice, with many decided cases, following the plan adopted in Chitty's Forms, and Bullen and Leake on Pleading. In the Appendix will be found the rules of 1883 which concern Admiralty actions alone, and the new Order

as to Fees and some of the Funds Rules. Practitioners will therefore now possess, in a convenient form, a concise manual of the existing Admiralty practice, which may be used either alone, or together with my larger work on Admiralty Law and Practice.

I have again to express my obligations to Mr. A. T. Rackham, Chief Clerk of the Admiralty Registry, for his kindness in supplying information on points of practice, especially in regard to the fees. I am also indebted to Mr. B. C. Aspinall for his assistance in the preparation of the notes to the salvage pleadings.

E. S. ROSCOE.

1 KING'S BENCH WALK, TEMPLE.
March 1884.

