4. 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 his counsel.

5. Any motion, of which counsel shall have given notice to the clerk in advance, shall be entered on the clerk's list in the order in which he receives notice thereof, and shall have priority in that order before other motions, unless otherwise specially ordered by the court.

6. Half an 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.

Second Circuit:

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.

For the Fourth, Fifth, Sixth and Eighth Circuits the rule is as in the Second Circuit.

For the Seventh and Ninth Circuits, the time limited by clause 2 is one-half hour.

In the Third Circuit the rule reads as follows:

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 personalty 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 sixty days, 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 personally served on said representatives at least thirty days before the expiration of such sixty days.

2. When the death of a party is suggested, and the representatives of the deceased do not appear within ten days after the expiration of such sixty days, 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 or district court of the United States shall desire to prosecute a writ of error or appeal to this court, from any final judgment or decree rendered in the circuit or district 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 cannot be revived in that court, but shall have a proper representative in some State or Territory of the United States, or in the District of Columbia, 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 filing of the record in this court 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 such 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, or in the District of Columbia, and stating therein the name and character of such representative, and the State or Territory or District 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 ninety days, 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 thirty days before the expiration of such ninety days; *provided, also*, that in every such case, if the representative of the deceased party does not appear within ten days after the expiration of such ninety days, and the measures above provided to compel the appearance of such representative have not been taken within the 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.

RULE 22.

CALL AND ORDER OF THE CALENDAR.

1. On the first Tuesday of October and of January, and on the second Tuesday of April, the court, except as may, from time to time, be otherwise ordered, will commence calling cases for argument in the order in which they stand on the calendar, and proceed from day to day during the session in the same order; but no case from the District of Massachusetts shall be called before the second Tuesday of the session.

2. 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.

3. 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.

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

5. If either of the parties is ready when the case is called, the same may be heard; and, if neither party is ready, the case may be dismissed, or be postponed to the next session, as the court may order.

6. If a case is called for hearing at two stated sessions successively, and, on the call at the second session, neither party is prepared to argue it, it will be dismissed at the cost of the plaintiff in error or appellant, unless sufficient cause is shown for further postponement.

7. The court will not hear arguments on Mondays or Saturdays, unless for special cause it shall so order.

8. Five cases are liable to be called on the coming in of the court on each day.

9. Revenue and other cases which concern the United States, and which also involve or affect some matter of general public interest, and criminal cases, and cases once adjudicated by this court on their merits and again brought up by writ of error or appeal, may be advanced by order of the court.

10. Two or more cases involving the same question may, by leave of the court, be heard together, to be argued as one case or more, as the court may order.

11. No agreement of counsel to pass or postpone a case, or to substitute one case for another, shall become effective except on leave.

Second, Fourth and Fifth Circuits:

PARTIES NOT READY.

1. 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.

2. 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.

3. 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.

In the Sixth Circuit this rule is the same as given above, except that a new section has been added as follows:

"4. All causes shall stand for hearing when the time allowed for printing the records and the briefs of both parties shall have expired: *Provided, however*, That causes may be heard when the records and briefs therein are printed, though the time allowed for printing records and briefs may not have expired."

In the Seventh Circuit the rule reads as follows:

1. 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 other party may have the writ of error or appeal dismissed.

2. If the appellee or defendant in error fails to appear when the case is called, the court may proceed to hear argument on the part of the plaintiff in error or appellant and to give judgment according to the right of the case.

3. When a case is reached in the regular call of the docket, and there is no appearance for either party, and no brief on file for the appellant or plaintiff in error, the case shall be dismissed at the cost of the appellant or plaintiff in error.

In the Eighth and Ninth Circuits this rule is the same as in the Second Circuit, except that the words "in error or appellant" are added at the end of third section.

In the Third Circuit the rule reads as follows:

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.

RULE 23.

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 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 the case is reached at the regular call of the docket, the case may 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 the clerk's supervision, for the use of the court and of counsel.

4. The clerk shall take to the printer the original transcript on file; but shall cause copies to be made for the printer of such original papers sent up under Rule 14, or other original papers, as are necessary to be printed.

5. The clerk shall supervise the printing, and see that the printed copies are properly indexed; and he shall distribute printed copies to the judges and the reporter, from time to time, as required, and three copies to the counsel for each party. An additional number of copies may be printed at the request of either party for his own use and at his own expense, or by order of the court.

6. The parties may stipulate in writing that parts only of the record shall be printed, and the case may be heard on the parts so printed; but the court may direct the printing of other parts of the record.

7. The clerk may receive from either party, and use as parts of the printed record, so far as the same may be of proper and convenient size and type, any portions which have been printed in any other court, and also printed copies of patents and other exhibits, allowing the party furnishing the same such sum therefor as the

clerk deems reasonable, to be added to and form a part of the cost of printing.

8. 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 excess shall be paid to the clerk before the delivery of a printed copy to either party or his counsel.

9. In case of reversal, affirmance or dismissal, with costs, the cost of printing the record and 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.

Second Circuit:

On the filing of the transcript in every case, the clerk shall forthwith cause fifteen copies of the same to be printed, and shall furnish three copies thereof to each party, at least thirty days before the argument, and shall file nine copies thereof in his office. The parties may stipulate in writing that parts only of the record shall be printed, and the case may be heard on the parts so printed; but the court may direct the printing of other parts of the record. The clerk shall be entitled to demand of the appellant, or plaintiff in error, the cost of printing the record, before ordering the same to be done. If the record shall not have been printed when the case is reached for argument, for failure of a party to advance the costs of printing, the case may be dismissed. In case of reversal, affirmance, or dismissal, with costs, the amount paid for printing the record shall be taxed against the party against whom costs are given.

Third Circuit:

PRINTING AND DISTRIBUTING RECORDS.

1. It shall be the duty of the clerk, immediately after the record of any case shall have been filed with him and docketed and the deposit fee of twenty-five dollars shall have been paid, to notify counsel for all parties that he shall print only the parts of the record mentioned in the second section of this rule, specifying what those parts shall be, and to notify the counsel for plaintiff in error or appellant of his estimate of the cost of printing such parts of the record and of his fee for preparing the parts for the printer, indexing the same and supervising the printing thereof. He shall print no other parts of the record unless, within ten days after such notice, he receives from some one or more of the counsel a written certificate that in his or their judgment other specified parts thereof should be printed in order to enable this court properly to decide the questions raised, in which event the parts so certified as necessary shall also be printed. The court may, in its discretion, direct the printing of other parts of the record, and, in lieu of printing patents or other exhibits, separate printed copies thereof, not less than ten in number, may be filed with the clerk. If other parts of the record than those specified in his notice shall be required to be printed by any of the counsel, or by this court, the clerk shall immediately notify the counsel for the plaintiff in error or appellant of his estimate of the additional cost of preparing, printing and indexing such other parts. The plaintiff in error or appellant shall pay to the clerk, within ten days after notice of any estimate, the amount thereof, in default of which the writ of error or appeal may be dismissed upon the motion of the opposite party, or by the court of its own motion.

2. Unless additional parts of the record shall be required to be printed under the provisions of the first

section of this rule, the clerk shall print, for the use of the court, only the following parts thereof:

In writs of error—

(*a*) The docket entries.

(*b*) The pleadings upon which the case was tried.

(*c*) The bill of exceptions.

(*d*) The motion and reasons for judgment *non obstante veredicto*, if any.

(*e*) The opinion of the court below, if any.

(*f*) The charge to the jury, if any.

(*g*) The verdict of the jury, if any.

(*h*) The judgment entered.

(*i*) The assignments of error.

In appeals—

(*a*) The docket entries.

(*b*) The pleadings on which the case was heard and determined.

(*c*) The evidence, if any, on which it was heard and determined.

(*d*) The report of the examiner, master, auditor, referee, or other officer who first decided the case, if any.

(*e*) The exceptions to that report, if any.

(*f*) The opinion of the court, if any.

(*g*) The judgment or decree entered.

(*h*) The assignments of error.

In bankruptcy and other cases not being strictly within either of the above classes, the printed record shall conform as nearly as may be practicable to the record in appeals.

3. The clerk shall cause twenty-five copies of the record to be printed, and three copies thereof to be furnished to the counsel of the plaintiff in error or appellant, and also three copies to each of the counsel who shall have entered appearance for any of the other parties, and the remaining copies to be filed in his office, all, if possible, within thirty days after the payment to

him of the amount of his estimate made under the provisions of the first section of this rule.

4. The clerk shall supervise the printing of the record, have it properly indexed and distribute printed copies thereof to the judges of the court from time to time as required.

5. If the actual cost of printing the record and the clerk's fee of twenty-five cents per page for preparing the record for the printer, indexing the same, supervising the printing and distributing the copies, shall be less than the amount estimated and paid, the clerk shall refund the difference to the party paying the same, but if they shall exceed the clerk's estimate the amount of such excess shall be paid to the clerk before he shall file the printed copies of the record or deliver any of them to the parties.

6. In case of reversal, affirmance or dismissal, with costs, the actual cost paid for printing the record by the party in whose favor costs are awarded, and the clerk's fee for supervising the printing, etc., where such fee is paid by the party in whose favor costs are awarded, 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.

7. Each printed record shall show, by a note or memorandum, the time when each pleading or document was filed, and shall contain at the tops of its pages running titles of its contents.

8. In any case where the record, or any part thereof, has been printed in the court below, the same may be embodied in and used as the printed record of this court; *provided,* the manner and style of the printing shall correspond with the requirements of the several sections of this rule for printing done under the supervision of the clerk of this court; but the plaintiff in error or appellant shall pay to the clerk of this court, not only the

deposit fee of twenty-five dollars upon filing the record and having it docketed, but also the fee prescribed by Rule 29 for preparing the record for the printer, indexing the same, supervising the printing and distributing the copies thereof.

9. The clerk shall, on or before the conclusion of each case, collect and file for preservation in this court three copies of the printed record and of each brief, printed motion and argument submitted in such case, and shall, immediately after the mandate in any case shall have been sent down to the lower court, notify the defeated party in this court that unless he removes the remaining copies of the record and briefs within ten days after notice so to do, the same will be destroyed.

Fourth Circuit:

PRINTING RECORDS.

1. Hereafter all records shall be printed under the supervision of the clerk, by such printer and at such rate as the court may designate.

2. Upon the payment of the estimated cost of printing, together with the supervising fees as established by law (which amounts shall be deposited with the clerk within 10 days after notice thereof), the clerk shall cause to be printed thirty copies of the record, twenty copies of which shall be filed for the use of the court, three copies furnished to the adverse party, and the remaining copies delivered to the appellant or plaintiff in error at least ten days before the term or adjourned term.

3. The parties may stipulate in writing that parts only of the record shall be printed, and the case may be heard on the parts so printed, but the court may direct the printing of other parts of the record.

4. If the record shall not have been printed when the case is reached in the regular call of the docket, the case may be dismissed.

5. In case of reversal, affirmance, or dismissal, with costs, the amount paid for the printing of the record and the clerk's fees for supervising the same shall be taxed against the party against whom costs are given.

Fifth Circuit:

1. The clerk shall, upon the docketing of a case, forthwith 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 the party docketing the case of the amount of the estimate. If he shall not pay it within fifteen days in ordinary cases, and within three days in preference cases, after the date of such notice, 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 for hearing the case may be dismissed at the discretion of the court.

(As amended January 12th, 1905.)

2. The clerk shall cause the record in all cases to be printed forthwith after the payment of such estimate, and shall immediately thereafter furnish to the counsel of each party whose appearance shall have been entered, three copies of the printed record, taking a receipt therefor, and the parties may, by written stipulation filed prior to the printing of the record, agree that only parts of the record shall be printed, and the same may be heard only on the parts so printed, but the court may direct the printing of other parts of the record.

3. The clerk shall take to the printer the original transcript on file, but shall cause copies to be made for the printer of such original papers sent up under Rule 14, or other original papers, as are necessary to be printed.

4. The clerk shall cause at least twenty-five copies of the record to be printed, and may print a larger number on the request of either party on payment of

the amount necessary for the printing of such extra copies.

5. The clerk shall supervise the printing and see that the printed record is properly indexed. There shall be omitted from the printed transcripts the following:

(1) Commissions to take testimony, and the formal captions to all depositions, and the certificates of commissioners as to the taking of the depositions, except in cases where objections have been made to the depositions on account of defects in caption or certificate.

(2) All process in the nature of subpoenas, citations, summons and subpoenas in chancery, unless from the assignment of errors it appears that some issue is raised which makes it necessary for the court to inspect such writs, and then only such as are involved.

In every transcript wherein any pleading, exhibit or other paper appears at more than one place, such pleading, exhibit or other paper shall be printed at the place it first appears in said transcript, and not thereafter; but the omission shall be indicated by apt notations and references to the pages of the printed record where it appears.

The clerk shall distribute the printed copies to the judges of the court and to the reporter from time to time, as required. If the cost of printing the record, together with the clerk's fee for supervising the same, shall be less than the amount estimated and paid, the difference shall be refunded by the clerk to the party paying the same. If the actual cost and the clerk's fee shall exceed the clerk's estimate, the amount of such excess shall be paid to the clerk before he shall deliver or file the printed record or any copies thereof.

6. In case of reversal, affirmance or dismissal with costs, the amount of the costs of the printing of the record and of the clerk's fee for supervising the same 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.

7. The clerk shall receive from either party, and use as parts of the printed record so far as the same may be of proper size and type, any portions which may have been printed in any other court, and also printed copies of patents and exhibits, allowing the party furnishing the same such sums therefor as the clerk deems reasonable, to be added to and form a part of the cost of printing.

Sixth Circuit:

PRINTING RECORDS.

1. The clerk shall supervise the printing of all records, and upon the docketing of a case shall forthwith cause an estimate to be made of the cost of printing the record, and his fee for preparing it for the printer and for supervising the printing thereof, and shall at once notify the attorney for the plaintiff in error or appellant of the amount of such estimate, which shall be paid to the clerk within ten days after such notice. If not so paid, the writ of error or appeal may be dismissed upon the motion of the opposite party, or by the court of its own motion.

2. After the payment to him of such estimate the clerk shall cause at least twenty-five (25) copies of the record to be printed forthwith, shall file the same, and shall furnish to each of the respective parties three (3) copies thereof and take a receipt therefor.

3. Parties may agree by written stipulation, filed with or prior to the filing of the record, that parts only of the record shall be printed, and the case may be heard on the parts so printed; but the court may direct the printing of other parts of the record. The plaintiff in error or appellant may, within ten days after the case shall be

docketed in this court, file with the clerk a statement 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 fifteen days after service of such statement, 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 the hearing of the parts designated by the plaintiff in error or appellant. If parts of the record shall be so designated by one or both parties, the clerk shall print those parts only, and the court will consider nothing but those parts of the record. 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 which the court shall think proper. If good cause be shown, the time within which the statement of the parts of the record is to be filed with the clerk by either party, as above limited, may be enlarged by the court in session, or by either circuit judge, if eligible to sit in the cause.

4. If the cost of printing and supervision shall be less than the amount estimated and paid, the clerk shall refund the difference to the party paying the same. If the cost is greater than the estimate, the amount of such excess shall be paid to the clerk before he shall file the printed record or deliver any copies thereof.

5. In case of reversal, affirmance or dismissal with costs, the amount paid for printing and supervision shall be taxed against the party against whom the costs are given, and shall be inserted in the mandate or other proper process.

6. In any case where the record shall have been printed in the court below either circuit judge may, on the written application of the plaintiff in error or appellant, order that such printed record be used in this court. In such case the judge shall require, as a condition of making the order, a certificate of the clerk of this court that the record is in accordance with the printing rules and is properly indexed, in which case the supervision fee provided in table of costs, Rule 31, shall be charged and collected by the clerk.

7. The clerk of this court shall receive proposals for printing, which shall be submitted to the senior circuit judge, who may in his discretion award such printing to the lowest and best bidder, and all such printing shall be done by the person to whom the same is so awarded. And when a case shall be heard upon a record printed in the court below the cost for printing shall be taxed on the basis of such bid for printing, except when the parties otherwise agree.

Seventh Circuit:

PRINTING THE RECORD.

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 be approved by the clerk for the payment of all costs which shall be incurred in the cause, shall deposit with the clerk twenty-five dollars to be applied to the payment of costs and fees, and from time to time when necessary shall, on the demand of the clerk, make further deposits for that use.

2. The clerk, upon the docketing of a case, shall forthwith cause an estimate to be made of the cost of printing the record and of his fees for preparing it for the printer and for supervising the printing thereof, and shall at once notify the attorney for the plaintiff in error, or

appellant, of the amount of such estimate, which shall be paid to the clerk within ten days after such notice. If not so paid, the writ of error or appeal may be dismissed upon the motion of the opposite party, or by the court of its own motion.

3. The clerk shall cause the record in each case to be printed forthwith after the payment of such estimate, and shall immediately thereafter furnish to each of the respective parties at least three copies of the printed record, taking a receipt therefor. The parties may, by written stipulation filed with or prior to the filing of the record, agree that only parts of the record shall be printed, and the case will be heard on the parts so printed only, unless the court shall direct the printing of other parts.

4. The clerk shall cause at least twenty-five copies of the record to be printed and may print a larger number on the request of either party on the payment of the amount necessary for the printing of such extra copies.

5. The clerk shall supervise the printing and see that the printed record is indexed properly, and in a manner to indicate briefly the character of each document and exhibit referred to. He shall distribute the printed copies to the judges of the court from time to time as required. If the cost of printing the record, together with the clerk's fee for supervising the same, shall be less than the amount estimated and paid, the difference shall be refunded by the clerk to the party paying the same. If the actual cost and the clerk's fee shall exceed the estimate, the amount of the excess shall be paid to the clerk before he shall deliver or file the printed record or copies thereof.

6. In case of reversal, affirmance or dismissal with costs, the amount of the cost of the printing of the record and of the clerk's fee for supervising the same, 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.

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

8. The clerk shall adopt a uniform size for the printing of all records, shall have them printed in small pica type, on clear white paper, with a margin of not less than an inch and a half, shall show by note or memorandum on the margin the time when each pleading or document was filed, and at the top of the pages shall insert running titles of their contents.

9. The briefs of attorneys shall be printed, and shall conform as nearly as practicable to the size of the printed record.

10. The clerk shall, on or before the conclusion of each case, collect, and file or otherwise preserve together one copy of the printed record and of each brief, printed motion and argument submitted therein.

11. In any case where the record shall have been printed in the court below, in substantial conformity to these rules, the presiding judge may on the application of the plaintiff in error or appellant order that such printed record be used in place of the printing hereinbefore provided for. But the clerk shall prepare and cause to be printed and attached to such record an index, and shall be paid the same fees for the indexing and supervising thereof as if printed under his supervision.

12. The clerk of this court shall obtain sealed proposals for the printing hereinbefore provided for, which proposals shall be submitted to the senior circuit judge of the court, who may award such printing to the lowest

and best bidder, and all such printing shall be done by the person to whom the same is so awarded, except in emergencies when printing may be done by another at the same or less price. And when a case shall be heard upon the record printed below, the costs for printing shall be be taxed on the basis of actual cost not exceeding the rate of the accepted bid.

13. The fees of the clerk of this court, as prescribed by order of the Supreme Court, made February 28, 1898, are as follows:

Docketing a case and filing the record	$5 00
Entering an appearance	25
Transferring a case to the printed calendar	1 00
Entering a continuance	25
Filing a motion, order, or other paper	25
Entering any rule, or making or copying any record or other paper, for each one hundred words	20
Entering a judgment or decree	1 00
Every search of the records of the court and certifying the same	1 00
Affixing a certificate and a seal to any paper	1 00
Receiving, keeping, and paying money, in pursuance of any statute or order of court, one per cent. on the amount so received, kept and paid.	
Preparing the record for the printer, indexing the same, supervising the printing and distributing the copies, for each printed page of the record and index	25
Making a manuscript copy of the record, when required by the rules, for each one hundred words (but nothing in addition for supervising the printing)	20
Issuing a writ of error and accompanying papers, or a mandate or other process	5 00
Filing briefs, for each party appearing	5 00

Copying of an opinion of the court, certified under seal, for each printed page (but not to exceed five dollars in the whole for any copy) 1 00
Attorney's docket fee 20 00

Eighth Circuit:

PRINTING RECORDS.

1. In cases brought to this court in which the plaintiff in error or appellant elects to waive the printing of the record under the provisions of the act of Congress, entitled "An Act to diminish the expense of proceedings on appeal and writ of error or of certiorari," approved February 13, 1911, and file a typewritten or manuscript transcript of the record in this court, such plaintiff in error or appellant may within twenty days from and after the date of the filing and docketing of the record in this court, serve on the adverse party a copy of a statement of the parts of the record which he thinks necessary for the consideration of the errors assigned, and file the same, with proof of service thereof, with the clerk of this court; the adverse party, within twenty days thereafter, may designate in writing and file 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 in determining the questions raised by the errors assigned. 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 un-

necessary parts of the record to be printed, such order as to costs may be made as the court shall think proper.

2. On the filing of the transcript in every such case the clerk shall cause thirty copies of the same, or the parts thereof designated under this rule, to be printed, and such additional number of copies as counsel for either of the parties may direct, and shall furnish three copies of the record so printed to each party at least sixty days before the argument.

3. In cases brought to this court in which the record has been printed and used upon the hearing in the court below, and which substantially conform to the printed records in this court, the plaintiff in error or appellant upon application to and by leave of this court, may furnish to the clerk twenty-five copies of such record, used on the hearing in the court below, to be used in the preparation of the printed record in this court; and the clerk's fee for preparing the record for the printer, indexing same, supervising the printing and distributing the copies, shall be computed as if said record so furnished had been printed under his supervision.

4. The clerk shall be entitled to demand of the plaintiff in error or appellant the cost of printing the record before ordering the same to be done.

5. If the record shall not have been printed when the case is reached for argument, for failure of the party to advance the costs of printing, the case may be dismissed.

6. In case of reversal, affirmance or dismissal with costs, the amount paid for printing the record shall be taxed against the party against whom costs are given.

7. In any cause brought to this court, in which the record has been printed, in which a writ of *certiorari* shall be granted under the provision of Rule 18 of this court the return to such writ of *certiorari* shall be printed in the same manner as the record was.

8. If in any cause in which the record or a portion thereof has been printed it shall be made to appear to this court that the printed transcript does not substantially conform to the requirements of the rules of this court, it may be rejected and stricken from the files and such order relative thereto may be entered as the court shall deem proper.

Ninth Circuit:

1. All records shall be printed under the supervision of the clerk, and upon the docketing of the cause, he shall cause an estimate to be made of the expense of printing the record, and his fee for preparing it for the printer and supervising the printing, and shall notify the party docketing the case of the amount of the estimate. If the amount so estimated is not promptly paid over to the clerk, and for want of such payment the record shall not have been printed when a case is reached for argument, the case shall be dismissed.

2. Upon payment of the amount estimated by the clerk, thirty copies of the record shall be printed, under his supervision, for the use of the court and of counsel.

3. 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 14, section 4, as are necessary to be printed; and the whole of the record in cases of original jurisdiction.

4. The clerk shall supervise the printing and see that the printed copy is properly indexed. He shall distribute the printed copies to the judges and the reporter, and one or more printed copies to the counsel for the respective parties.

5. If the expense of printing and supervision shall be less than the amount estimated and paid, the clerk shall refund the difference to the party paying same. If the expense is greater than the estimate the amount of such

excess shall be paid to the clerk before he shall file the printed record or deliver copies to the parties or their counsel.

6. In case of reversal, affirmance or dismissal, with costs, the amount paid for printing the record and of the clerk's fee shall be taxed against the party against whom costs are given.

7. The plaintiff in error or appellant may, upon 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 ten 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, or if such parts be distinctly designated by stipulation of counsel for the respective 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.

All statements and stipulations filed hereunder shall distinctly and accurately refer to the pages of the original certified record as well as the documents to be printed or omitted.

8. At the time of filing the record and docketing the cause counsel for the plaintiff in error or appellant in patent cases may furnish the clerk with copies of patent office drawings and specifications to be used as inserts, and the same, if in proper form and of convenient size, shall be used in printing the record.

9. The fee of the clerk for preparing the record for the printer, indexing the same, supervising the printing, and distributing the copies, for each printed page of the record and index, twenty-five cents.

RULE 24.

BRIEFS.

1. The counsel for the plaintiff in error or appellant shall file with the clerk of this court, at least six days before the case is called for argument, twenty 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 order here stated,—

(1) A concise abstract, or statement of the case, presenting succinctly the questions involved, in 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 be in instructions given or in 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 printed copies of his brief at least three days before the case is called for hearing. His brief shall be of a 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. See Rule 11.

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 counsel appears for one of the parties, and no printed brief or argument is filed, only one counsel will be heard for the adverse party; but, if a printed brief or argument is filed, the adverse party will be entitled to be heard by two counsel.

In the Second Circuit this rule is the same, except section 1 thereof reads as follows:

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

And section 3 reads as follows:

3. The counsel for a defendant in error, or an appellee, shall file with the clerk, at least ten days before the case is called for hearing, ten copies of his printed brief, one of which shall, on application, be furnished to each of the counsel on the opposite side. His brief shall be of a 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.

Third Circuit:

BRIEFS.

1. In each case in which the printed record has been delivered by the clerk to the counsel for the plaintiff in error or appellant sixty or more days before the first day of the term, such counsel shall file twenty copies of his brief with the clerk not less than thirty days before the first day of such term; in each case in which the printed record has been delivered by the clerk to such counsel between thirty days and sixty days before the first day of such term, twenty copies of such brief shall be filed with the clerk not less than twenty days before the first day of such term; and in all other cases twenty copies of such brief shall be filed with the clerk not less than fifteen days after the receipt of such printed record. Within the same time such counsel shall give to counsel for the defendant in error or appellee not less than five copies of such brief.

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

(*a*) The names of the parties and the nature of the proceedings.

(*b*) A short abstract of the bill or declaration or petition, and of the plea or answer.

(*c*) A statement of the question or questions involved, which shall be in the briefest and most general terms, without names, dates, amounts or particulars of any kind whatever.

(*d*) A concise abstract or statement of the case.

(*e*) The assignments of error relied on, and, where any assignment of error is based on any bill of exceptions or any part of a bill of exceptions, a reference to the particular page of the record where the exception may be found.

(*f*) Argument on the part of the plaintiff in error or appellant, which shall exhibit 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. At least five days before the case is called for argument, the counsel for the defendant in error or appellee shall file with the clerk twenty printed copies of his brief, and give not less than five copies thereof to the counsel for the plaintiff in error or appellee. His brief shall be of a 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, 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 special leave of the court.

5. When no counsel appears for one of the parties, and no printed brief or argument is filed, only one counsel will be heard for the adverse party; but if a printed brief or argument is filed, the adverse party will be entitled to be heard by two counsel.

In the Fourth Circuit the rule is the same as in the First as above given, except that the copies of plaintiff's brief must be filed at least ten days before any term or terms, and defendant's brief must be filed at least three days before the term or adjourned term.

In the Fifth Circuit the rule is as in the First, except as to the first and third sections, which are as follows:

1. The counsel for the plaintiff in error, appellant or petitioner shall file with the clerk of this court, at least fifteen days in ordinary cases, and five days in preference cases, before the case is called for argument, twenty copies of a printed brief, one to be signed in handwriting by an attorney of this court, who has entered an appearance in the case; one copy of the brief shall, on application, be furnished to each of the counsel engaged upon the opposite side.

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

In the Sixth Circuit, the rule is as follows:

1. The counsel for the plaintiff in error shall file with the clerk of this court, within twenty-five days after

the filing of the printed copies of the record, as required in Rule 23 as amended, twenty 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 order here stated.

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

(2) 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 printed copies of his brief within forty days after the filing of the printed record, as required by Rule 23. His brief shall be of a like character with that required of the plaintiff in error or appellant, except that no statement of the case shall be required, unless that presented by the plaintiff in error or appellant is controverted.

4. 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.

5. When no counsel appears for one of the parties, and no printed brief or argument is filed, only one counsel will be heard for the adverse party; but if a printed brief or argument is filed, the adverse party will be entitled to be heard by two counsel.

In the Seventh Circuit, the rule is as follows:

1. The counsel for the plaintiff in error or appellant shall file with the clerk of this court, within twenty days

after the date of the delivery by the clerk of the printed record, twenty 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, and under the respective titles, "Statement of Case," "Errors Relied Upon," and "Brief of Argument:"

(1.) A concise abstract, or statement of the case, presenting succinctly the questions involved, in 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 specifications shall set out the part referred to *totidem verbis*, whether it be in an instruction given or in one refused. When the error alleged is to a ruling upon the report of a master the specifications shall state the exception to the report and the action of the court upon it. Following each specification there shall be a reference by page to the portion of the printed record on which the question arises.

(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 the defendant in error or the appellee shall file with the clerk twenty printed copies of his brief within twenty days after the filing of the brief of the plaintiff in error or appellant. His brief shall conform to the requirements of this rule 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. Either party, at or before the argument of the cause, may file a supplemental brief strictly confined to matter in reply to the brief of the opposite party.

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, and Rule 11, ante, will be disregarded; but the court at its option may notice a plain error involving the merits of the case, though not assigned or specified, and though the question be not saved according to the strict rules of practice, if it be apparent of record that the point was contested and not waived in the court below.

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

6. When no counsel appears for one of the parties, and no printed brief or argument has been filed, only one counsel will be heard for the adverse party, but if a printed brief or argument has been filed, the adverse party will be entitled to be heard by two counsel.

Eighth Circuit:

BRIEFS.

1. The counsel for the plaintiff in error or appellant shall file with the clerk of this court, at least forty days

before the case is called for argument, twenty 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 be printed on unglazed paper, and it and all quotations contained therein shall be in substantial conformity with the size and type prescribed by Rule 26 for the printing of records and shall contain, in order here stated—

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

Second. 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 in 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.

Third. 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 copies of his brief

printed on unglazed paper and in substantial conformity with the size and type prescribed by Rule 26 for the printing of records, at least ten days before the case is called for hearing. His brief shall be of a 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 counsel appears for one of the parties, and no printed brief or argument is filed, only one counsel will be heard for the adverse party; but if a printed brief or argument is filed, the adverse party will be entitled to be heard by two counsel.

In the Ninth Circuit the rule is the same as that in the First, except that the first section reads as follows:

1. The counsel for the plaintiff in error or appellant shall file with the clerk of this court twenty copies of a printed brief, and serve upon counsel for the defendant in error or the appellee one copy thereof, at least ten days before the case is called for argument.

And the third section reads as follows:

3. The counsel for a defendant in error or an appellee shall file with the clerk twenty printed copies of his brief and serve upon counsel for plaintiff in error or appellant one copy thereof at least three days before

the case is called for hearing. His brief shall be of a like character with that required of the plaintiff in error or appellant, except that no specification of error shall be required, and no statement of the case, unless that presented by the plaintiff in error or appellant is controverted.

RULE 25.

In the First, Third, Fourth, Sixth and Eighth Circuits the rule is as follows:

ORAL ARGUMENTS.

1. The plaintiff in error 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.

In the Second Circuit the third section has been amended to read as follows:

3. Upon writs of error, appeals in admiralty, appeals from orders granting a preliminary injunction and in appeals in customs cases, one hour on each side, and in other cases one hour and a half will be allowed. But in all cases where there are no difficult questions of law and the amount involved does not exceed $500, and in

appeals and petitions for review in bankruptcy, only one-half hour on each side will be allowed. No more time than above specified will be allowed 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.

In the Fifth Circuit the third section is as follows:

3. One hour will be allowed for the plaintiff in error or appellant to open and present his case, and one hour will be allowed to the defendant in error or appellee to answer; thirty minutes will then be allowed to the plaintiff in error or appellant to reply. No more time will be allowed for argument without special leave of the court.

In the Seventh Circuit the rule is as in the First Circuit and a fourth section is added as follows:

4. Reading at length from briefs or reported cases shall not be indulged.

In the Ninth Circuit the rule is as in the First Circuit; except that the third section commences with the words "one hour" instead of "two hours."

RULE 26.

FORM OF PRINTED RECORDS, ARGUMENTS 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.

Second Circuit:

All arguments and briefs printed for the use of the court must be printed upon a page eleven inches long by seven inches wide and must have a margin of at least two inches in width.

Third Circuit:

1. All written opinions delivered by the court shall be filed by the clerk.

Fourth Circuit:

All records, arguments and briefs printed for the use of this court shall be in small pica type, 24 pica "ems" to a line, with an index and a suitable cover containing the title of the court and the cause, the court from which the case is brought into this court, and the number of the case. Size of pages to be 9¼ x 6¼ inches, except that in patent cases the size of the pages shall be 10¾ x 7⅝ inches; that is to say, large enough to bind in copies of Patent Office drawings and specifications without folding. So much of the record as was printed in the court below may be used in this court if it conform to this rule.

Fifth Circuit:

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; and, as well as all quotations contained therein, and the covers thereof, must be printed in clear type (never smaller than small pica) and on unglazed paper.

Promulgated March 21, 1911.

Sixth Circuit:

1. All records shall be of a uniform size, printed in small pica type, 24 pica ems to a line, 48 lines to a page, solid, with an index and a suitable cover, containing the title of the court and cause, the court from which the cause is brought to this court and the number of the case; size of pages to be 9¼ x 6¼ inches, except that in patent cases the size of the pages shall be 10¾ x 7⅝ inches; that is to say, large enough to bind in copies of Patent Office drawings and specifications without folding.

2. All arguments and briefs of attorneys shall be printed and conform as near as practicable to the size of the printed record.

Seventh Circuit:

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.

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 judge 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.

Eighth Circuit:

1. All transcripts of record, arguments and briefs for the use of this court, except in patent causes as hereinafter provided, shall be printed on unglazed paper not less than 6¼ inches in width by 9½ inches in length, including a sufficient margin so that they can be conveniently trimmed and bound in volumes. The paper should equal a weight of 80 pounds per ream on basis of size of sheet 25 by 38 inches.

2. All records and briefs in patent causes may be printed on unglazed paper, of the weight as provided in section one of this rule, of such size that copies of letters patent may be inserted therein without folding, but the size of such records and briefs in patent causes shall not be less than 7½ inches wide and 9½ inches long so that the records and briefs can be conveniently trimmed and bound in volumes.

3. All records, briefs, supplemental transcripts and returns to writs of *certiorari* shall be printed in clear eleven point or small pica type (never smaller than ten point), of 26 pica or 28 small pica ems to a line and 52 lines, including running head solid, per printed page, containing substantially 1400 small pica ems. Where testimony or depositions by question and answer are printed the answer shall follow on same line as the question whenever the same can be done.

4. All indexes to records and tabular exhibits, which from their nature require smaller type, may be printed in eight point or brevier type.

5. All covers for records shall be printed in a neat and workmanlike manner on substantial paper equal to a weight of 96 pounds per ream on the basis of a sheet 25 by 40 inches, and shall contain in conspicuous type the following matter, viz.:

First. TRANSCRIPT OF RECORD.

Second.

UNITED STATES CIRCUIT COURT OF APPEALS,

EIGHTH CIRCUIT.

Third. The abbreviation for number "No." followed by a blank line ¾ of an inch in length.

Fourth. The title of the cause as it will be docketed in this court, viz.:

....., Appellant (or Plaintiff in Error) as the case may be, vs. ....., Appellee (or Defendant in Error).

Fifth. The words "In Error to" (or "Appeal from") as the nature of the case may require, followed by the correct title of the trial court.

6. Unless otherwise expressly directed by counsel, the full titles of the court and cause once correctly shown

in the printed transcript shall not be repeated when unchanged. There shall be placed at the head of each subsequent pleading, etc., a brief designation of its character.

Unless otherwise expressly directed by counsel, the indorsements on pleadings, etc., shall not be printed in full; it shall be sufficient to print: "Filed in the..... Court on ....," giving the correct date and name of the court.

The date of all orders and decrees and the name of the judge or judges making them shall always appear.

In printed transcripts the pleadings, orders, testimony of witnesses, etc., shall be separated by a face rule three inches long. The clerk shall indicate to the printer the appropriate places therefor.

When inserts are folded several times to conform to the size of the printed record, stubs should be inserted at the binding side of the record to equalize the space occupied by the folds. Unmounted photographs should be used when copies of such are required in printed records.

As this rule is intended primarily for the guidance of the printer his attention should be directed thereto before the record or brief is printed.

A sample copy of a printed record will be furnished by the clerk of this court on application therefor.

Records and briefs not printed in substantial conformity with the provisions of this Rule will not be accepted or filed.

Ninth Circuit:

1. All records printed for the use of the court must be printed on unruled white writing paper, nine and one-quarter inches long and six and one-quarter inches wide. The printed page, exclusive of any marginal note, reference or running head, must be seven inches long and four inches wide, excepting in patent cases where

counsel furnish to the clerk at the time of docketing the cause Patent Office drawings and specifications for insertion. In such cases the margin of the record may be sufficiently enlarged to accommodate such drawings and specifications. The record must be properly indexed. Pica double-leaded is the only mode of composition allowed.

2. All arguments, briefs, and petitions for rehearing, printed for the use of the court, must be printed on unruled white writing paper, nine and one-quarter inches long and six and one-quarter inches wide. The printed page, exclusive of any marginal note, reference or running head, must be seven inches long and four inches wide. Pica double-leaded is the only mode of composition allowed.

RULE 27.

COPIES OF RECORDS AND BRIEFS.

The clerk shall carefully preserve in his office one copy of the printed record in every case submitted to the court for its consideration, and of all printed motions, briefs and arguments, filed therein.

The Rule in the Second, Fifth, Sixth, and Ninth Circuits is the same as above.

Third Circuit:

REHEARING.

1. 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 granted, unless a judge who concurred in the judgment desires it, and a majority of the court so determines.

Fourth Circuit:

COPIES OF RECORDS AND BRIEFS.

The clerk shall cause to be bound two copies of the printed record in every case, and of all printed motions, briefs and arguments filed therein; one copy to be carefully preserved in his office, and one copy for the use of the court library.

Seventh Circuit:

REHEARING.

A petition for rehearing must be filed within thirty days after entry of judgment or decree, or after filing of the opinion, shall be in print, and be served forthwith by copy upon the opposing party, who, within twenty days from such service, may file a printed answer, and the petition shall be determined without oral arguments, unless otherwise ordered. If a petition be not filed within the time allowed, and upon the overruling of a petition, the clerk shall, without special order, issue the mandate of the court to the court below. Twenty copies of such petition or answer shall be filed with the clerk of this court.

Eighth Circuit:

COPIES OF RECORDS AND BRIEFS.

The clerk shall cause to be bound in volumes in a substantial manner and shall carefully preserve in his office one copy of the printed record in every case submitted to the court for its consideration, and of all printed motions, briefs, and arguments filed therein

RULE 28.

First, Second, Fifth, and Eighth Circuits:

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.

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 judge 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.

Third Circuit:

INTEREST.

1. In cases where a writ of error is prosecuted in 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 was 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 ten 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.

Fourth Circuit:

OPINIONS OF THE COURT.

1. All opinions delivered by the court shall be printed under the supervision of the judge delivering the same, or of one of the Circuit Judges, the cost of such print-

ing to be paid by the clerk out of the revenues of his office and charged to the litigants in the respective cases, to be taxed and allowed as other costs.

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

3. The clerk of this court shall from time to time cause two sets of the printed opinions of this court to be bound in a substantial manner into volumes, one set to be kept in the clerk's office and one set to be kept in the court library.

Sixth Circuit:

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.

2. The opinions of the court shall be printed under the supervision of the clerk by the printer to whom the court printing has been awarded, in accordance with paragraph 7, Rule 23.

3. Opinions printed under the supervision of the clerk need not be copied 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.

4. The cost of printing the opinions shall be defrayed out of the amount received for the same, and any deficit shall be paid out of such fees collected by the clerk as are not properly taxable as costs in any case pending in the court.

Seventh Circuit:

INTEREST.

1. When a judgment for the payment of money is affirmed by this court, the interest thereon shall be calculated and levied from the date of the judgment

below until the same is paid, and at the same rate that similar judgments bear interest in the courts of the State where such judgment was 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 ten per cent., in addition to interest, shall be awarded on 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.

5. In cases where money is paid into court, any party interested may move for an order that the clerk deposit the same under the direction of the court. On deposits so made, the clerk shall account for such interest as he may have collected on the

Ninth Circuit:

OPINIONS OF THE COURT.

The original opinions of the court shall be filed with the clerk of this court for preservation, and when so filed the same shall be deemed to have been recorded within the meaning of this rule.

RULE 29.

REHEARING.

A petition for a rehearing after judgment may be filed at the term at which the judgment is entered, and within one calendar month after such entry, and not later unless by leave grantedd during the term. It must he in print, in the form and style required by Rule 26, and it must briefly and distinctly state its grounds, and

be supported by a certificate of counsel. It will not be granted, or permitted to be argued, unless a judge who concurred in the judgment desires it and a majority of the court so determines. *Provided*, Whenever a judgment is entered within less than a month before the term adjourns, the petition may be filed within a month after the entry of judgment, and with the same effect after the term as though filed before the adjournment.

Second Circuit:

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 judge who concurred in the judgment desires it, and a majority of the court so determines.

Third Circuit:

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 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. 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.

6. In all cases certified to the Supreme Court or removed thereto by *certiorari* or otherwise, the fees of the clerk of this court shall be paid before a transcript of the record shall be transmitted to the Supreme Court.

7. In pursuance of the Act of Congress of February 19, 1897 (29 Stat. 536, c. 263), and of the order of the Supreme Court of January 10, 1898, as amended February 28, 1898 (90 Fed. Rep. CLXXI), the following table of fees and costs is established for this court:

Docketing a case and filing the record.	$5 00
Entering an appearance.	25
Transferring a case to the printed calendar.	1 00
Entering a continuance.	25
Filing a motion, order, or other paper.	25
Entering any rule, or making or copying any record or other paper, for each one hundred words.	20
Entering a judgment or decree.	1 00
Every search of the records of the court and certifying the same.	1 00
Affixing a certificate and a seal to any paper.	1 00
Receiving, keeping and paying money, in pursuance of any statute or order of court, one per cent. on the amount so received, kept and paid.	
Preparing the record for the printer, indexing the same, supervising the printing and distributing the copies, for each printed page of the record and index.	$0 25
Making a manuscript copy of the record, when required by the rules, for each one hundred words	

(but nothing in addition for supervising the printing). 20
Issuing a writ of error and accompanying papers, or a mandate or other process. 5 00
Filing briefs, for each party appearing. 5 00
Copy of an opinion of the court, certified under seal, for each printed page (but not to exceed five dollars in the whole for any copy). 1 00
Attorney's docket fee. 20 00

In the Fourth Circuit the following sentence is added to the rule of the Second Circuit: "But such petition shall not operate to stay the mandate or other process provided for in Rule 32, except by special order of the court.

Fifth Circuit:

A petition for a rehearing after judgment can be presented only during the term at which judgment is entered, and within twenty days after such entry, unless by special leave granted by the court, or one of the judges, and must be printed and briefly and distinctly state its grounds without argument, and be supported by certificate of counsel; and will not be granted or permitted to be argued unless a judge who concurred in the judgment desires it and a majority of the Court so determines.

(As amended January 12th, 1905.)

Sixth Circuit:

A petition for rehearing after judgment can be presented only within thirty days after the day when the printed opinion of the court is returned by the printer to the clerk, and can be obtained by counsel for the parties (which date the clerk shall note upon the appearance docket), unless by special leave granted during such thirty days, 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 judge who concurred in the judgment desires it and a majority of the court so determines.

Seventh Circuit:

COSTS.

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

2. In every case of a judgment or decree affirmed in this court costs shall be allowed to the defendant in error or appellee unless otherwise ordered by the court.

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

4. No costs shall be allowed in this court for or against the United States.

5. 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, directing to award execution thereupon and to annex to the same the bill of items taxed in detail.

6. In all cases certified to the Supreme Court or removed thereto by *certiorari* or otherwise, the fees of the clerk of this court shall be paid before a transcript of the record shall be transmitted to the Supreme Court.

Eighth Circuit:

1. A petition for rehearing may be presented and filed within sixty days after the date of the judgment or decree, and jurisdiction to hear and decide the questions presented thereby is reserved, notwithstanding the lapse of the term within the sixty days.

2. Such petition for rehearing must be printed and twenty copies thereof filed with the clerk and must briefly and distinctly state its grounds, and be supported by a certificate of counsel, and will not be granted or permitted to be argued, unless a judge who concurred in the judgment desires it, and a majority of the court so determines.

Ninth Circuit:

A petition for rehearing may be presented within thirty days after judgment. It must be printed, and briefly and distinctly state its grounds, and be supported by certificate of counsel that in his judgment it is well founded, and that it is not interposed for delay. Twenty printed copies must be filed with the clerk of this court.[1]

RULE 30.

First, Sixth and Eighth Circuits:

INTEREST.

1. In cases where a writ of error is prosecuted in 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 was 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 ten per cent., in addition to interest, shall be awarded upon the amount of the judgment.

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[1]See, also, sub. 2 of Rule 26 and Rule 32.

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.

In Second, Fourth, Fifth, and Ninth Circuits the words "or territory" follows the word "state" in the last line of clause 1. Otherwise the rule is as in the First Circuit.

Third Circuit:

MANDATE.

1. In each case finally determined in this court, a mandate or other proper process in the nature of a *procedendo* shall be issued 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. Such mandate or other process may issue at any time on the order of the court, and, when not otherwise ordered, it shall issue as of course at the expiration of thirty days from the date of filing the opinion or decision therein.

Seventh Circuit:

MANDATE.

In all cases finally determined in this court, a mandate or other proper process in the nature of a *procedendo* shall be issued, on the order or by the rule of this court, 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.

RULE 31.

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.

4. The cost of the transcript of the record from the court below shall be taxable in that court as costs in the case.

5. 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.

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 all cases certified to the Supreme Court or removed thereto by *certiorari* or otherwise, the fees of the clerk of this court shall be paid before a transcript of the record shall be transmitted to the Supreme Court.

In the Second Circuit the rule is the same, except that Clause 3 reads as follows, and Clauses 5, 6 and 7 become Clauses 4, 5 and 6.

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 taxable in this court as part of such costs, and the clerk of the court below shall send to the clerk of this court with the transcript of record a certificate of the cost of such transcript.

Third Circuit:

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 a 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.

In the Fourth Circuit the rule is the same as in the First Circuit, except that Clauses 3 and 4 are numbered Clause 3, and Clauses 5, 6 and 7 become Clauses 4, 5, and 6; the table of costs is printed as Clause 7.

In the Sixth Circuit the rule is the same as in the First Circuit, except that Clauses 3 and 4 are numbered Clause 3, and Clauses 5, 6 and 7 become Clauses 4, 5 and 6; the same table of costs as promulgated by the Supreme Court, February 28, 1898, is printed at length after Rule 31.

TABLE OF COSTS.

Order Promulgated by the Supreme Court of the United States February 28, 1898.

Ordered, In pursuance of the Act of Congress of February 19, 1897 (29 Stat. 536, c. 263), that the following table of fees and costs in the Circuit Courts of Appeals be, and the same is hereby, established, to take effect

on the first day of March, A. D. 1898, and no other fees and costs than those therein named shall thereafter be charged:

Docketing a case and filing the record.	$5 00
Entering an appearance.	25
Transferring a case to the printed calendar.	1 00
Entering a continuance.	25
Filing a motion, order or other paper.	25
Entering any rule, or making or copying any record or other paper, for each one hundred words	20
Entering a judgment or decree.	1 00
Every search of the records of the court and certifying the same.	1 00
Affixing a certificate and a seal to any paper.	1 00
Receiving, keeping and paying money in pursuance of any statute or order of court, one per cent on the amount so received, kept and paid,	
Preparing the record for the printer, indexing the same, supervising the printing and distributing the copies, for each printed page of the record and index.	25
Making a manuscript copy of the record, when required by the rules, for each one hundred words (but nothing in addition for supervising the printing).	20
Issuing a writ of error and accompanying papers, or a mandate or other process.	5 00
Filing briefs, for each party appearing.	5 00
Copy of an opinion of the court, certified under seal, for each printed page (but not to exceed five dollars in the whole for any copy)	1 00
Attorney's docket fee.	20 00

In the Seventh Circuit the rule reads as follows:

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 the 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.

Eighth Circuit:

1. In all cases where any suit shall be dismissed in this court, 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. Where the record has been printed in this court under the provisions of sections one and two of Rule 23, the cost of printing thirty copies of the transcript of record from the court below shall be taxed as costs in the case, unless otherwise ordered by this court, but no allowance shall be made for the amount paid to the clerk of the court below for the written or typewritten transcript of the record. Where the record has been printed in the court below and a copy of such printed record certified to this court the cost of printing twenty-five copies

of such record or portion thereof shall be taxable as costs in the case in the court below, unless otherwise ordered by this court.

4. Neither 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. 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.

6. In all cases certified to the Supreme Court or removed thereto by *certiorari* or otherwise, the fees of the clerk of this court shall be paid before a transcript of the record shall be transmitted to the Supreme Court, except that no fee shall be charged or collected for any printed record or portion thereof, required by law to be used by the clerk in the preparation of such transcript of the record.

In the Ninth Circuit, Clause 3 is as in the First Circuit with the following, "including cost of the transcript from the court below, unless otherwise ordered by the court." Clauses 5, 6 and 7, are numbered 4, 5 and 6 in the Ninth. Clause 7, in the Ninth Circuit, is as follows:

7. Upon the clerk's producing satisfactory evidence, by affidavit or the acknowledgment of the parties or their sureties, of having served a copy of any 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.

RULE 32.

MANDATE.

In every case finally determined, a mandate, or other proper process in the nature of a *procedendo,* shall be issued to the court below, for the purpose of informing that court of the proceedings in this court, so that further proceedings may be had in the court below as to law and justice may appertain. Such mandate, or other process, may issue at any time on the order of the court; but, unless otherwise ordered, it shall issue as of course after two calendar months from the entry of judgment, unless a petition for a rehearing has been filed and remains undisposed of.

Second Circuit:

In all cases finally determined in this court, a mandate or other proper process in the nature of a *procedendo,* shall be issued, on the order of this court, 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.

Third Circuit:

MODELS, DIAGRAMS AND EXHIBITS OF MATERIAL.

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 clerk of this court at lease ten days before the case is heard or submitted.

2. All models, diagrams and exhibits of material placed in the custody of the clerk 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 clerk 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.

Fourth Circuit:

In all cases finally determined in this court, a mandate or other proper process, in the nature of a *procedendo*, shall be issued 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. Such mandate, or other process, may issue at any time on the order of the court; but, unless otherwise ordered, it shall issue as of course after the expiration of twenty days from the date of the judgment or decree.

Fifth Circuit:

Mandates shall issue at any time after twenty-one days from the date of the decision, unless an application for a rehearing has been granted or is pending. A copy of the opinion of this court shall accompany the mandate when a new trial or further proceedings are to be had in the lower court, and the charge for such copy shall be taxed in the costs of the case.

Provided that in all cases entitled to precedence in this court under Section 7 of the Act approved March 3, 1891, and amendments thereto, the mandate or other proper process shall issue after the expiration of seven days from the date of the decision, unless otherwise ordered by the court or one of the judges.

(As amended January 12th, 1905.)

Sixth Circuit:

In all cases finally determined in this court a mandate or other proper process in the nature of a *procedendo*

shall be issued, on the order of this court, 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.

Such mandate shall not issue until time has elapsed for filing a petition to rehear, as defined by Rule 29; and no mandate or other process of *procedendo* shall issue when a petition to rehear is pending, unless specially ordered.

Every mandate shall be accompanied by a copy of the opinion filed in the cause in which it is issued, and the charge for the same shall be taxed in the costs of the case.

Seventh Circuit:

MODELS, DIAGRAMS AND EXHIBITS.

Models, diagrams and exhibits of material forming part of the evidence taken in the court below, and in any case pending in this court on writ of error or appeal, shall be placed in the custody of the marshal for the use of this court at least ten days before the case is heard or submitted; and shall 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 or make such other disposition of them as to him may seem best.

Eighth Circuit:

In all cases finally determined in this court, a mandate or other proper process in the nature of a *procedendo* 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.

Note.—By an order entered March 30, 1911, the Clerk is directed to issue a mandate or other proper process to the court below, in all cases, sixty days after the final disposition thereof, except where it shall be otherwise expressly ordered.

Ninth Circuit:

RULE 32.*

MANDATE.

In all cases finally determined in this court a mandate or other proper process in the nature of a *procedendo* shall, upon the payment of any costs due in the case, be issued, as of course from this court 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. Such mandate, if not stayed by the order of the court, shall be issued on the expiration of thirty days from the date of such final determination, unless within said time a petition for rehearing be filed, in which case the mandate shall be stayed until five days after the determination of such petition.

RULE 33.

First, Second, Fourth, Fifth, Sixth, Eighth and Ninth Circuits:

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.

*See, also, Rule 29.

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.

In the Third Circuit there is no rule after Rule 32.

In the Seventh Circuit, Rule 33 reads as follows:

LAW LIBRARY.

1. The library of the court shall be under the general supervision and custody of the clerk of the court.

2. No book shall be removed from the library except upon a written order of a judge of this court, except that during the sessions of the court any lawyer who has a case upon the docket, upon written application to the clerk and upon the clerk's written order, may take from the library not exceeding three volumes at a time, being responsible for the return thereof within twenty-four hours, and in default of return shall pay to the clerk for the library fund twice the value thereof, but if returned in good condition one dollar for each day's detention beyond the limited time.

RULE 34.

First, Fourth, Fifth, Sixth, Eighth and Ninth Circuits:

MODELS, DIAGRAMS AND EXHIBITS OF MATERIAL.

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 ten days 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.

Second Circuit:

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, except customs cases, shall be placed in the custody of the clerk of this court at least ten days before the case is heard or submitted.

2. Three copies must be furnished for the use of the court of any maps, charts, plans, diagrams, or other papers or documents which it is intended to refer to on the argument, and which are not contained in the transcript of record as certified from the court below.

3. All exhibits of material in customs cases must be filed with the clerk at the time of filing the transcript of record, and such exhibits will be returned to the clerk of the circuit court at the expiration of 60 days from the decision of the case by this court. All other models, diagrams, and exhibits of material placed in the custody of the clerk 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. It shall be the duty of the clerk 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 the time above specified, he shall destroy them, or make such other disposition of them as to him may seem best.

In the Third Circuit, there is no Rule 34.

In the Seventh Circuit, Rule 34 is as follows:

WRITS OF ERROR IN CRIMINAL CASES.

1. Writs of error from this court to review criminal cases tried in any district or circuit court of the United States within this circuit, may be allowed in term time or in vacation by the circuit justice assigned to this circuit, or by any of the circuit judges within the circuit, or by any district judge within his district, and the proper security be taken, and the citation signed by him, he may also grant a supersedeas and stay of execution or proceedings, pending the determination of such writ of error.

2. Where such writ of error is allowed in the criminal cases aforesaid, the circuit court or the district court before which the accused was tried, or the district judge of the district wherein he was tried, within his district, or the circuit justice assigned to this circuit, or any of the circuit judges within the circuit, shall have the power, after the citation has been duly served, to admit the accused to bail and to fix the amount of such bail.

RULE 35.

ERROR IN CRIMINAL CASES.

On or after the allowance of a writ of error in a criminal case cognizable by this court, the justice or judge who allowed the writ, or the court which entered the judgment, or any judge thereof, shall have power to admit to bail the plaintiff in error, according to the rules of law applicable to his case.

Second Circuit:

1. An appeal or writ of error from a Circuit Court or a District Court of this Court in the cases provided for in Sections 6 and 7 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, and Acts to amend said Act approved February 18, 1895, and January 20, 1897, may be allowed in term time or vacation by the circuit justice or by any circuit judge within the circuit or by any district judge within his district, and the proper security be taken and the citation be 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 to this Court is allowed in the case of a conviction of an infamous crime or in any other criminal case in which it will lie, 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.

In the Third Circuit, there is no Rule 35.

Fourth Circuit:

SATURDAYS CONFERENCE DAY.

The clerk in making his docket shall not set down for argument any cause for any Saturday of the term for which such docket is intended, and this court will meet on said days for consultation only.

Fifth Circuit:

XXXV—ORDER IN RELATION TO ASSIGNMENT OF CASES FOR HEARING.

Unless otherwise ordered by the Senior Circuit Judge, thirty days prior to the opening of a regular session of this court, the clerk is directed to assign cases for hearing as follows:

At Atlanta, Georgia, four cases per day for the first three days of each week;

At Montgomery, Alabama, four cases per day for the first three days of each week;

At Forth Worth, Texas, four cases per day for the first three days of each week;

At New Orleans, Louisiana, two cases per day for the first three days of each week.

The above assignments shall be made in accordance with existing law regulating the return of appeals, writs of error and other appellate proceedings in the Fifth Judicial Circuit provided, that cases entitled by law to preference in hearing and bankruptcy cases shall be first assigned, and cases, whether preference or not, may, upon stipulation of the parties filed with the clerk and approved by the court, be assigned for hearing at any other place or session of this court designated in such stipulation.

Except as hereinabove provided, the assignment of cases at New Orleans, Louisiana, shall be grouped by states, so as to permit the hearing of cases from one state before the cases from the next state in order shall be called. (As amended October 15, 1906.)

The above assignments shall be made in accordance with existing law regulating the return of appeals, writs of error and other appellate proceedings in the Fifth Judicial Circuit, provided that cases entitled by law to preference in hearing and bankruptcy cases shall be first assigned, and cases whether preference or not may, upon stipulation of the parties filed with the clerk, be assigned for hearing at any other place or session of this court designated in such stipulation.

Except as hereinabove provided, the assignment of cases at New Orleans, Louisiana, shall be grouped by states, so as to permit the hearing of cases from one

state before the cases from the next state in order shall be called. (As amended January 12, 1905.)

Sixth Circuit:

TESTIMONY IN ADMIRALTY CASES AFTER APPEAL.

In admiralty appeals no testimony shall be taken except under a commission issued from this court to a clerk of a United States court or a United States commissioner by direction of the court, the circuit justice, or either circuit judge qualified to sit on appeal in said case, after cause shown to such court, justice or judge that such evidence is material and necessary and could not by due diligence have been produced at the original hearing. Such testimony shall be taken only upon interrogatories settled by such court, justice or judge, upon at least ten days' previous notice to the opposing party or his attorney (accompanied with a copy of the proposed interrogatories) and upon cross interrogatories to be settled at the same time after five days' previous notice of the same, with copy thereof to be served upon counsel offering testimony.

In the Seventh Circuit there is no rule after Rule 34.

Eighth Circuit:

1. Writs of error to review criminal cases tried in any District Court of the United States within this circuit, which may be reviewed under the provisions of "The Judicial Code," approved March 3, 1911, may be allowed in term time or in vacation by the Circuit Justice assigned to this circuit, or by either of the Circuit Judges within the 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 proceedings, pending the determination of such writ of error.

2. Where such writ of error is allowed in the criminal cases aforesaid, the District Court before which the ac-

cused was tried, or the District Judge of the district wherein he was tried, within the district, or the Circuit Justice assigned to the circuit, or either of the Circuit Judges within the circuit, shall have the power, after the citation has been duly served, to admit the accused to bail in such amount as may be fixed, such bail bond to be, as near as may be, in the form prescribed in the appendix to these rules.

Ninth Circuit:

ASSIGNMENT OF CAUSES FOR HEARING.

1. Thirty days prior to the opening of any calendar session of the court the clerk is directed to assign causes for hearing at the rate of one case for the first day of each term or session, and two cases per day for each of the ensuing court days of such term or session. Causes shall be grouped by States, and assignments made so as to permit the hearing of causes from one State before the causes from the next State in order shall be called; causes from the Northern District of California shall be assigned for hearing last. Any causes entitled by law to preference in hearing shall be first assigned and take precedence over other causes from the same State.

2. A stipulation to continue a case to the foot of the calendar, or in any way change the day assigned for hearing, will not be recognized as binding upon the court, and no such change will be made except by order of the court for reason shown.

3. Ten days before each calendar session of the court the clerk shall prepare and cause to be printed a calendar of the causes assigned for the approaching session.

RULE 36.

PETITIONS IN BANKRUPTCY CASES.

1. On the filing of a petition for the exercise of the power of superintendence and revision vested in this court by the act to establish a uniform system of bank-

ruptcy throughout the United States, approved July 1, 1898, or any acts in addition thereto or amendatory thereof, the clerk shall issue, as of course, an order to show cause, returnable two weeks from the date thereof, which shall be served by copy on each of the adverse parties named in the petition as a person against whom relief is desired, or his solicitor in the proceeding in the district court, at least one week before the return day of the order, which service shall be made by the marshal or his deputy in the district where the party or solicitor served resides.

2. Within one calendar month after the return day of the order to show cause, either party may demur, plead or answer; but the determination of any demurrer, plea or answer shall be final, and no order to plead over will be allowed; and any party may secure in his answer all the advantages of a demurrer or plea, or both, by inserting therein the proper allegations therefor. No demurrer shall be general, and no cause of demurrer shall be allowed unless specifically set forth therein.

3. There shall be no pleadings in reply by the petitioner; but any new matter properly in reply shall be available without the same being pleaded in the petition, or otherwise.

4. A motion to dismiss may be filed within the time allowed for a demurrer, plea or answer; or the subject-matter thereof, if it relates to the substance of the proceeding or to the jurisdiction of the court, may be availed of on demurrer, plea or answer, by proper allegation; and whenever a motion to dismiss is seasonably filed, the time for filing demurrer, plea or answer, will run from the day on which an order may be entered overruling the motion. Every motion to dismiss shall be filed in print, accompanied with a printed brief; and each of the opposing parties shall forthwith be served by the clerk, through the mail or otherwise, with a copy of the mo-

tion and of the brief, and he may file, in print, a brief in reply within two weeks. At the expiration of the time allowed for filing the brief in reply the motion and briefs will be distributed by the clerk to the circuit judges, and to the district judge, senior in commission, who is not disqualified. Thereupon, the motion will be disposed of by the court on the briefs, unless, at its own suggestion, or for good cause shown, the court shall order oral arguments.

5. So much of Rule 14 as relates to *viva voce* proofs in the district courts, or to further proof in instance causes in admiralty, shall apply to appeals and petitions authorized by the act aforesaid, or by acts additional thereto or amendatory thereof: *Provided,* That any record on any such appeal or petition may be supplemented by any matter agreed to in writing by the parties and filed with the clerk.

6. The Rules with reference to records, printing and briefs, and all other Rules, except as herein modified, shall apply to the proceedings to which this order relates.

7. Nothing herein shall prevent the court, from time to time, from making, for special cause, others diminishing or enlarging the times named herein, or any other orders suitable to expedite the proceeding or to prevent injustice.

Second Circuit:

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

2. At the expiration of ten days after a case has been decided, the order or decree thereon will be entered by the court, and the clerk will thereupon prepare and tax the bill of costs and issue the mandate. Within said ten days the parties may file with the clerk their pro-

posed orders or decrees and bills of costs with proof of service of the same upon the opposing attorneys.

In the Third Circuit, there is no Rule 36.

Fourth Circuit:

BANKRUPTCY.

Upon the filing of the petition for review as provided for in section 24 (b) of the act to establish a uniform system of bankruptcy throughout the United States, approved July 1, recognizance, with surety, for appearance to answer the judgment of the appellate court, except where, for special reasons, sureties ought not to be required.

MODELS, DIAGRAMS, AND EXHIBITS OF MATERIAL.

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 clerk of this court at least ten days before the case is heard or submitted.

2. All models, diagrams, and exhibits of material placed in the custody of the clerk 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 not done, it shall be the duty of the clerk 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.

SATURDAYS CONFERENCE DAY.

The clerk in making his docket shall not set down for argument any cause for any Saturday of the term for which such docket is intended, and this court will meet on said days for consultation only.

BANKRUPTCY.

Upon the filing of the petition for review as provided for in section 24 (b) of the act to establish a uniform system of bankruptcy throughout the United States, approved July 1,

Fifth Circuit:

XXXVI.—ASSIGNMENT OF JUDGES.

It is ordered that whenever a full bench of three judges shall not be made up by the attendance of the associate justice of the Supreme Court assigned to the circuit, and of the circuit judges, so many of the district judges, in the order of the seniority of their respective commissions and qualified to sit, as may be necessary to make up a full court of three judges, are hereby designated and assigned to sit in this court; *provided, however*, that the court may at any time, by particular assignment, designate any district judge to sit as aforesaid.

(Adopted June 23, 1892.)

Sixth Circuit:

DISPOSITION OF FEES NOT COSTS IN CASES.

All fees collected by the clerk which are not properly taxable as costs in any case pending in the court, and which are not by law required to be deposited by him in the treasury of the United States, after the payment of any deficit arising from the printing of opinions, shall constitute a fund to be expended in the purchase of law books for the library of the court by the clerk, under the direction of the court. And it shall be the duty of the clerk to render to the court, for its examination and approval, a quarterly account of such fees received and disbursed by him.

The Seventh Circuit has no Rule 36.

Eighth Circuit:

PETITIONS TO REVISE.

A petition to revise, under the provisions of section 24b, of the Bankruptcy Law, approved July 1, 1898, shall be filed and docketed as an original action in this court, and be entitled "....., Petitioner, v. ....., Respondent," and shall specifically designate the respondent or respondents upon whom the petitioner desires notice to be served, and a sufficient number of copies of such petition shall be furnished the clerk at the time of filing so that a copy may be served upon each of the respondents.

Ninth Circuit:

TERMS AND SESSIONS OF THE COURT.

1. One term of this court shall be held annually on the first Monday of October and adjourned sessions on the first Monday of each month in the year. All sessions shall be held at San Francisco, unless otherwise especially ordered by the court.

2. The October, February and May sessions shall be known as calendar sessions, and shall be sessions for the trial of all causes that shall have been placed upon the calendar in pursuance of Rule 35.

3. A term of this court shall be held annually in the city of Seattle, in the State of Washington, and in the city of Portland, in the State of Oregon. The Seattle term shall be held beginning upon the second Monday in September, and the term at Portland shall be held beginning upon the third Monday in September. All appeals and writs of error from the circuit and district courts for the District of Washington, the transcripts of which shall be filed in this court between the first day of April and the first day of August of each year, shall be heard at said annual term in the city of Seattle, unless it be stipulated by the parties thereto that they be heard

at San Francisco. All other appeals and writs of error from said circuit and district courts for that district shall be heard at San Francisco, unless it be stipulated by the parties thereto that they be heard at said annual term in the city of Seattle. All appeals and writs of error from the circuit and district courts for the District of Oregon, the transcripts of which shall be filed in this court between the first day of April and the first day of August of each year, shall be heard at said annual term in the city of Portland, unless it be stipulated by the parties thereto that they be heard at San Francisco. All other appeals and writs of error from said circuit and district courts for that district shall be heard at San Francisco, unless it be stipulated by the parties thereto that they be heard at said annual term in the city of Portland. Appeals and writs of error from the circuit and district courts for the Districts of Idaho and Montana, and from the district courts of Alaska may, upon the stipulation of the parties thereto, be heard at the annual term to be held either at Seattle or Portland.

The First Circuit has no rule after Rule 36.

RULE 37.

Second Circuit:

In the preparation of briefs any citations made from "Federal Cases" must be accompanied by the citation of the original report of the case, and where a citation is made from the American Bankruptcy Reports, the citation in the Federal Reporter or United States Supreme Court Reports must also be given. If the case is not reported elsewhere than in Federal Cases or American Bankruptcy Reports the fact must be so stated.

In the Third and Fourth Circuits there is no rule 37.

Fifth Circuit:

XXXVII.—WRITS OF ERROR IN CRIMINAL CASES.

1. Writs of error to review criminal cases tried in any district or Circuit Court of the United States within this circuit, which may be reviewed under the provisions of the Act of March 3, 1891, creating this court, and the Act of Congress amendatory thereof, approved January 20, 1897—may be allowed in term time or in vacation by the circuit justice assigned to this circuit by either of the circuit judges, or by any district judge who presided on the trial, and the proper security be taken, and the citation be signed by him, and he may also grant a supersedeas and stay of execution or proceedings pending the determination of such writ of error.

2. Where such writ of error is allowed in any criminal case as aforesaid, the circuit court or district court, before which the accused was tried, or the trial judge, or the circuit justice assigned to the circuit, or either of the circuit judges, shall have the power, after the citation has been duly served, to admit the accused to bail in such amount as may be fixed, such bail bond to be, as near as may be, in the form prescribed in the appendix to these rules.

(Adopted June 11, 1897.)

APPENDIX TO RULE 37 (of Fifth Circuit).

(Form of Appearance Bond on Writ of Error in Criminal Cases.)

Know all men by these presents:

That we,....., as principal, and....., as sureties, are held and firmly bound unto the United States of America in the full and just sum of..... dollars, to be paid to the said United States of America,

to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this..... day of ....., in the year of our Lord one thousand eight hundred and ninety-.....

Whereas, lately at the..... term, A. D. 189...., of the..... court of the United States for the..... district of....., in a suit pending in said court, between the United States of America, plaintiff, and....., defendant, a judgment and sentence was rendered against the said....., and the said.....has obtained a writ of error from the United States Circuit Court of Appeals for the Fifth Circuit, to reverse the judgment and sentence in the aforesaid suit, and a citation directed to the said United States of America, citing and admonishing the United States of America to be and appear in the United States Circuit Court of Appeals for the Fifth Circuit, at the city of New Orleans, Louisiana, thirty days from and after the date of said citation, which citation has been duly served.

Now the condition of the above obligation is such that if the said.....shall appear in the United States Circuit Court of Appeals for the Fifth Circuit, on the first day of the next term thereof, to be held at the City of....., on the first Monday in....., A. D. 189 ...., and from day to day thereafter during said term and from term to term, and from time to time, until finally discharged therefrom, and shall abide by and obey all orders made by the said United States Circuit Court of Appeals for the Fifth Circuit, in said cause, and shall surrender himself in execution of the judgment and sentence appealed from as said court may direct, if the judgment and sentence of the said.....court against him shall be affirmed by the said United States Circuit Court

of Appeals for the Fifth Circuit then the above obligation to be void, else to remain in full force, virtue and effect.

.....[Seal]
.....[Seal]
.....[Seal]

Approved:

.....
Judge of the.....

Sixth Circuit:

CALL AND ORDER OF THE DOCKET.

1. The court, on the first day of each calendar session, will begin calling the cases for argument in the order in which they stand on the docket, and proceed from day to day during the session in the same way. 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 with the argument, the case will be continued to the next calendar session.

2. Each day's calendar shall consist of the six cases next in order after the case last submitted on the previous day, but the calendar will not include any case continued or passed by the court or stipulation of counsel before the adjournment of court on the previous day. The calendar for each day shall be exhibited in the clerk's office at the adjournment of court on the previous day. Counsel choosing to rely on the judgment of the clerk as to the probable time of the hearing of any case, otherwise than as shown in the day's calendar above provided for, must do so at their own risk.

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

In the Seventh Circuit there is no Rule 37.

Eighth Circuit:

ORDER OF COURT.

1. Before the filing of a petition to revise, the same shall be presented to the court, or one of the circuit judges, for leave to file same and for an order fixing the return day to the notice required by law.

2. When such petition is accompanied by a written consent that the petition to revise may be filed and a waiver by the respondent or respondents, or their counsel, of such notice, no notice will be issued. In such cases the case will be docketed by the clerk.

PHOTOGRAPH OF CHINESE TO BE ATTACHED TO BAIL BOND.

Whenever, in cases of deportation of Chinese, the defendant be admitted to bail pending appeal, before the bond be approved and the party released from custody a photograph of the defendant shall be attached to said bond.

The Ninth Circuit has no Rule 37.

RULE 38.

Second Circuit:

Petitions to review orders in bankruptcy filed under the provisions of Section 24 B of the Bankruptcy Act, must be filed and served within ten days after the entry of the order sought to be reviewed, and a transcript of the record of the proceedings in the Bankruptcy Court of the matter to be reviewed must be filed and the cause docketed within thirty days thereafter, but the judge of the Bankruptcy Court may for good cause shown enlarge the time for filing the petition or record, the order of enlargement to be made and filed with the clerk of this court before the expiration of the times hereby limited for filing the petition and record respectively.

The Third and Fourth Circuits have no Rule 38.

The Fifth Circuit has no rule after Rule 37.

Sixth Circuit:

APPEAL OR WRIT OF ERROR MAY BE ALLOWED.

1. An appeal or writ of error from a circuit court or a district court to this court in the cases provided for in Sections 6 and 7 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, and acts to amend said act, approved February 18, 1895, and January 20, 1897, may be allowed in term time or vacation by the circuit justice, or by either circuit judge within the circuit, or by any district judge within his district, and the proper security be taken and the citation be 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 to this court is allowed in the case of a conviction of an infamous crime, or in any other criminal case in which it will lie, 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.

The Seventh Circuit has no Rule 38.

Eighth Circuit:

NOTICE.

The notice to be given, as provided by law, shall be issued by the clerk of this court, under the seal thereof, and shall be addressed to the respondent or respondents and be served by the marshal, unless an acknowledgment or acceptance of service thereof is made by the respondent or respondents, or their counsel.

Ninth Circuit: No Rule 38.

RULE 39.

Eighth Circuit:

RESPONSE.

The response to the petition, when the respondent elects to make a written response, shall be filed within thirty days after the service of the notice or the filing of a waiver thereof.

RULE 40.

Eighth Circuit:

PRINTING OF RECORD.

1. The clerk shall cause the petition and exhibits thereto, if any, and the order, notice and response, if any, to be printed as soon as convenient after the response is filed or the time for filing such response has expired and shall distribute the printed copies of same to counsel for the respective parties, as soon as the same are printed.

RULE 41.

Eighth Circuit:

BRIEFS AND ARGUMENTS.

Twenty copies of the brief and argument in behalf of petitioner shall be printed and filed twenty days before the day set for the hearing and twenty copies of the brief and argument for the respondent or respondents shall be printed and filed eight days before the day of hearing.

RULE 42.

Eighth Circuit:

HEARING.

1. Petitions to revise filed in vacation, shall be assigned by the clerk for hearing in their regular order at

the next session or term of the court in the same manner as appeals and writs of error in other cases.

2. Petitions to revise filed during a session of the court, when a sufficient showing of urgency is presented, may be set for hearing at that term and upon such terms and conditions as the court may direct.

3. Petitions to revise assigned by the clerk in their regular order as provided in section one of this rule, when such assignment is for a day near the close of the session, may be advanced by order of the court and set for an earlier day, upon good cause shown therefor by either of the parties.

RULE 43.

Eighth Circuit:

COSTS.

1. The costs and fees now provided by law in cases upon appeal or writ of error, shall, so far as the same are applicable, be taxed on petitions to revise.

2. Upon the determination of a petition to revise such order as to costs will be made as the court may deem necessary.

RULE 44.

Eighth Circuit:

PROCEDENDO.

1. In all cases on a petition to revise wherein the action or decree of the district court, complained of, is disapproved by this court, the clerk shall, at the expiration of thirty days from and after the date of entering the decree in this court, issue process in the nature of a procedendo to the said district court for the purpose of informing such court of the proceedings in this court,

so that further proceedings may be had in such district court in conformity with the decree of this court.

2. In all cases on petition to revise, wherein the action or decree of the district court, complained of, is approved and confirmed, or said petition dismissed, by this court, the clerk shall, at the expiration of thirty days, certify a copy of such decree to the district court.

RULE 45.

Eighth Circuit:

APPEALS AND WRITS OF ERROR IN BANKRUPTCY CASES.

1. The appeals and writs of error provided for by section twenty-five of the Bankruptcy Law, approved July 1, 1898, shall be governed by the same rules and regulations as to costs and procedure as are provided by this court for appeals and writs of error in other cases.

REVISED RULES

FOR THE

GOVERNMENT AND PRACTICE

OF THE

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA,

PRESCRIBED

Under Act of Congress Approved Feb. 9, 1893.

AND

Act of Congress Approved July 30, 1894.

No. I.

TERMS OF COURT.

1. There shall be three terms a year, the same to commence on the first Monday of October, the first Monday after the first day of January, and the first Monday of April in each year, and all process of said court shall be returnable on the first day of the term succeeding the date of the issue of such process, unless otherwise provided hereafter or specially ordered by the court.

2. All cases appealed to this court shall be entered on the docket in the order of time in which the transcripts or records shall be received and shall be considered for trial during the term. But no case shall be called for hearing, save by consent of the parties, until after the expiration of at least twenty days from the date of receipt of the transcript or record.

No. II.

CLERK OF THE COURT—HIS DUTIES.

1. The clerk of this court shall reside in the District of Columbia, and shall attend in person the daily sessions of the court and not depart therefrom without permission of the court, except in cases of sickness or other causes of actual disability to attend. He shall keep his office open from 9 o'clock a. m. until 4 o'clock p. m., and said clerk shall not practice either as an attorney or counselor in this or any other court during the time that he remains clerk of this court.

2. Said clerk, upon appointment, shall give bond, with surety or sureties to be approved, in the penalty of five thousand dollars, to be renewed at the end of each successive period of four years thereafter, to be approved by the court, with condition well and faithfully to perform all the duties of his office that are now or that may be hereafter prescribed; and he shall also take an oath well and faithfully to perform the duties of his office.

3. It shall be the duty of said clerk to receive all records, transcripts, and papers proper to be filed in his office, and to place the same on the files thereof, and to safely keep the same, and also to keep accurate minutes of the proceedings of the court.

He shall furnish certified copies thereof whenever required, upon payment therefor, according to the schedule of fees that may be prescribed by this court. He shall keep a true and faithful record of the proceedings of the court under the inspection and control of the court, and he shall have power to authenticate the same, according to law. He shall not permit any original record or paper to be taken from the files of his office without an order of court, or according to the rules thereof.

He shall procure for his office a seal of court, the engraved device of which shall be the ordinary figure of

Justice, with the balance scales in the center, surrounded with the words "Court of Appeals, District of Columbia, Seal, 1893." He shall be the keeper of said seal, and shall apply or impress the same upon all process issued from this Court; and in the authentication of all records of the proceedings of the court, and of the transcripts thereof, and the certificates proper to be issued by him, the said seal shall be applied by said clerk as *the means* of proper authentication.

5. He shall also procure and keep in his office a Test Book, in which shall be written or printed the form of the oath required to be taken by the Justices of this court, as prescribed by section 712 and section 1757 of the Revised Statutes of the United States to be taken and subscribed by them; also the form of the oath required to be taken by the officers of the court, to be subscribed by them, and also the form of the oath required to be taken and subscribed by the attorneys who may be admitted to practice in this court.

6. Said clerk shall also, out of the fund designated by the act of Congress for necessary expenditures in conducting his office, provide and supply the necessary stationery and writing material for his office and the Justices of the said court, and also the necessary record books and dockets for the use of said office and the court.

7. It shall be the duty of the clerk to prepare and keep regular dockets or calendars of all cases brought into this court on appeal. He shall keep three dockets, to be known as the General Docket, the Special Docket, and the Patent Appeal Docket, respectively.

On the General Docket shall be placed all appeals from final judgments or decrees of the court below, except as hereafter mentioned.

On the Special Docket shall be placed all appeals or writs of error in criminal cases, in matters of *habeas*

corpus, in cases of mandamus, in cases of Orphan's Court business, in cases of *certiorari*, and all appeals from interlocutory orders or judgments provided for in the *proviso* to section 7 of the act of Congress, approved February 9, 1893, entitled "An act to establish a Court of Appeals for the District of Columbia, and for other purposes."

On the Patent Appeal Docket shall be placed all appeals from the Commissioner of Patents.

The cases on these dockets will be called for argument in the order fixed by rule of court.

No. III.

PROCESS OF THE COURT.

All process of this court shall be in the name of the President of the United States, and all writs and other processes issuing from this court shall be under the seal thereof, and bear test of the Chief Justice of said court, and be signed by the clerk.

No. IV.

CRIER AND MESSENGER OF COURT.

1. The crier of the court shall take an oath to perform the duties of his office; and he shall perform the ordinary duties of crier of said court, and act as bailiff thereof, and it shall be his special duty to preserve order in court.

2. The messenger of this court shall take an oath well and faithfully to perform the duties of his office, according to the direction of the court and of the Justices thereof specially given.

No. V.

WHAT TO CONSTITUTE THE RECORD OR TRANSCRIPT ON APPEAL, AND HOW TO BE MADE UP.

1. In making up the transcript or record on appeal by the clerk of the court below, it shall be the duty of said clerk to omit from such transcript or record, to be transmitted to this court, parts of the proceedings as follows:

a. The formal heading and commencement of the record, stating only the titling of the cause, with the names of all the parties in full, and the time of the commencement of the suit or proceeding.

b. He shall also omit all writs or original process for appearance, where the party or parties have appeared, and there is no question as to the regularity of such writs or process; also all orders of publication for appearance, and the certificate of publication, unless there be a question as to their validity or regularity; the clerk stating the date of such order and the time of publication.

c. There shall be omitted all applications for and entries of continuances; all entries of motions and rules to plead; all applications for commissions and the affidavits in support thereof; all applications for rule security for costs, and rulings thereon; all mere preparatory rules and orders, where no question is raised thereon; all commissions for the taking of testimony, or the assignment of guardians, unless material to some question raised on the appeal; all pleadings that have been waived or withdrawn; all entries of the calling, empanelling, swearing, and names of jurors, the clerk simply stating the fact of the trial by jury, the nature of the verdict, and the amount thereof; and all other mere formal proceedings not material to any question involved in the appeal.

d. He shall also omit from such transcript all motions for new trials, the reasons assigned therefor, and the depositions and affidavits in support thereof, the clerk merely stating how such motion was disposed of, and all mere collateral proceedings not in any way involved in or necessary to the consideration of the question presented on the appeal.

e. There shall be omitted all replevin bonds, *retorno habendo* bonds, appeal bonds, injunction bonds, and trustees' and receivers' bonds, and all affidavits filed in relation thereto, unless some question be raised thereon to be determined on appeal.

f. No deed, will or other document once inserted in the transcript shall be again inserted, but a reference only to such first insertion shall be made; and all proceedings in the cause in the court below had subsequent to the judgment, decree, or order appealed from, and in no manner involved in or material to the question presented by the appeal, shall likewise be omitted from said transcript. But in all cases where a written opinion of the court below with respect to the judgment, decree or order appealed from shall be filed, such opinion shall be incorporated in such transcript. Any party, however, to the appeal shall have the right to direct any particular part of the proceedings of the cause, that would otherwise be omitted, to be incorporated in the transcript, the clerk stating at whose instance the same is inserted, that costs may be awarded, according as the matter so directed to be incorporated may be deemed material or not by the court; the intent and purpose of this rule being to avoid the making of unnecessary costs, by omitting from the transcript any and all matter that may not be material or necessary to a full and fair presentation of the questions involved in the appeal; and all transcripts made up in accordance with this rule shall be deemed and taken as legal and sufficient records on appeal. And

upon failure to comply with this rule, the appellant will be denied all costs unnecessarily made.

g. Further, as far as possible to reduce the cost of appeals, if the appellant shall be of opinion that other parts of the record than those hereinbefore specified are unnecessary for the determination of the questions to be presented on the appeal, he may, by notice or order in writing to the clerk of the Supreme Court of the District of Columbia, whereof a copy shall be served on the appellee or his counsel, and whereof a copy shall also be included in the transcript of record to be transmitted to this court, designate the parts of the record which he desires to be included in the transcript as sufficient for the determination of said questions, and the said clerk shall thereupon transcribe and certify as the record in the cause, necessary for the hearing of the appeal, the parts so designated; unless the appellee or his counsel, within five days after the service of such notice upon him, or such further time as the Supreme Court of the District of Columbia may by special order allow or as may be agreed upon in writing between the parties or their counsel, shall designate, by a similar notice or order in writing to be filed with said clerk, and whereof a copy is to be transcribed in transcript of record, other parts of the record and proceedings in the cause which he deems necessary or material for the appeal; whereupon the said clerk shall include such other parts also in the transcript of record, and certify all the parts so designated by both parties as the record in the cause, the question of unnecessary costs caused by either party being reserved for the determination of this court.

2. It shall be competent to the parties to an appeal, by their respective attorneys, to stipulate as to what parts of the original proceedings shall constitute the transcript on appeal, provided such stipulation be in writing and filed with the clerk below in time to enable

that officer to make up the transcript and transmit the same to the clerk of this court, within the time allowed by the rules of this court for bringing in and having docketed such transcript.

3. In no case will this court decide any point or question that was not fairly presented for decision by the court below; nor shall any question arise in this court as to the insufficiency of evidence to support any instruction actually given, unless it appear that such question of the insufficiency of evidence was distinctly made to and decided by the court below.

4. Bills of exception shall be so prepared as only to present to the appellate court the ruling or rulings of the court below upon some matter of law, and shall contain only such statement of facts as may be necessary to explain the bearing of the rulings upon the issues or questions involved; and if the facts are undisputed, they shall be stated as facts, and not the evidence from which the facts are or may be deduced; and if disputed, it shall be sufficient to state that evidence was adduced tending to prove them, instead of setting out the evidence in detail; but if a defect of proof be the ground of the ruling or exception, then the particulars in which the proof is supposed to be defective shall be briefly stated, and the substance of all the evidence offered in anywise connected with the having relation to the proposition or propositions in respect to which the proof is supposed to be defective shall be set out in the bill of exception in a narrative form, as far as practicable; and where the exception is taken to the charge of the court, the exception shall specify particularly the matter or proposition of law to which the exception is intended to apply. All the exceptions taken during a trial shall be included in a single bill of exceptions, if that be practicable.

5. In no bill of exception shall any patent, deed, will, or other documentary evidence be inserted at length, but

shall only be stated briefly, according to its legal import and effect, unless the nature of the question raised and decided renders it necessary that it should be inserted *in extenso;* nor shall any document be more than once inserted at large in any bill of exception or transcript for the Court of Appeals. Either party, however, shall have the right, at his own expense, to have any and all such documentary proof inserted at length, it being stated in the exception at whose instance the same is so inserted that costs may be awarded as the matter so incorporated may be deemed proper or not by this court.

(6) Whenever in condemnation proceedings in the Supreme Court of the District of Columbia, or before any Justice thereof, two or more parcels of land owned by different persons are condemned and more than one of such owners take an appeal to this court from the final judgment in the case, and a bill of exceptions is necessary to present the questions involved or any of them to this court, the Court or Justice entering such final judgment may allow and sign a single bill of exceptions for two or more parties appealing to this court, but in such case if the bill of exceptions shall contain any exception in which all the parties to the same do not join, it shall be stated in the bill of exceptions which of the parties have taken such exceptions.

7. Whenever it shall be shown to be necessary for the correct understanding of any cause, or question therein, that the original papers in the case, or any of them, remaining in the court below shall be produced for inspection or examination by this court, an order will be made for the production of such original paper or papers and the safe keeping and return thereof to the files of the court below after the same shall have been inspected or examined.

But before such original paper or papers shall be taken from the files in the court below, a proper ground

shall be shown therefor by petition, supported by the affidavit of the party or his agent desiring the production of such original paper or papers to be inspected.

No. VI.

PRINTED RECORDS AND DISTRIBUTION THEREOF.

1. No case shall be heard on appeal until a record or transcript, containing in itself, without reference *aliunde*, all the papers, exhibits, depositions, and other proceedings *necessary* to the fair hearing and determination by this court of the questions involved in said appeal, shall be duly filed with the clerk of this court; and in all cases to be heard by this court the appellant shall cause to be printed such parts of the record, or papers constituting the same, including an abstract of the pleadings, *as may be material to the full presentation of the points or questions for review;* and of such printed parts of the record twenty-five copies shall be filed with the clerk, for the use of the court and counsel before the time at which the case is assigned for argument, and the costs of such printing, shall be taxed as costs in the case against the losing party, or as may be specially directed by the court, in its judgment.

2. It shall be the duty of the clerk to retain in his office, as part of the proceedings of the cause, at least two copies of such printed parts of the record, and to distribute copies to the court and to the counsel appearing of record to argue the case.

3. The printing of the record or transcript, or the essential parts thereof, as required by the preceding section of this rule, shall be under the supervision of the clerk of this court, and he shall properly index the matter contained in such printed copy, and shall distribute the copies as directed by the rule of this court.

And it shall be the duty of the clerk, at the end of the April term of the court, of the cases decided during the year, to have bound up in volumes of convenient form and size, one copy of such printed record in each case, together with the briefs of counsel, to be preserved in his office, properly labeled, etc.

4. The clerk, in executing the duties required of him by the preceding section of this rule, may allow to be used by the printer the original transcript on file in his office, he being responsible for the preservation and safe return thereof; but of all original papers filed in his office, and required to be printed as preparatory to the hearing of the case, he shall cause copies to be made for the printer.

5. In order to avoid the printing of unnecessary matter in preparing the case for argument, the appellant may, within six days after filing the record or transcript in this court, file with the clerk of this court a brief statement of the supposed errors for which he prosecutes the appeal, and of the parts of the record which he thinks necessary for the consideration of the questions involved, and forthwith serve such statement on the adverse party or his attorney; and the adverse party, within six days after such notice served, may designate in writing, filed with the clerk, additional parts of the record which he thinks material; and if he shall fail to do so, he shall be held to have consented to a hearing on the parts of the record designated by the appellant; and if parts of the record or transcript shall be so designated by one or both of the parties, the clerk shall have printed those parts only, and the court will consider those parts of the record only and the errors assigned thereon. But if at the hearing it shall appear that any material part of the record has not been designated and printed, the appeal may be dismissed, or such other order passed in the premises as the circumstances may require. If,

however, either the appellant or appellee shall have caused parts of the record to be printed *plainly unnecessary* to the full and fair hearing of the case, the court will deal with the same in respect to cost as it may deem proper and just. But nothing in this section of the rule shall be taken to operate a right of continuance or postponement of the case, or delay in hearing the argument in the regular call of the docket.

No. VII.

ATTORNEYS—THEIR ADMISSION AND OATH.

All persons desiring to be admitted to the bar of this court must, upon motion made in open court, be shown either to have been admitted to practice law in the Supreme Court of the United States, the Supreme Court of the District of Columbia, or in the highest court of some State or Territory of the United States, and that they are members of the bar of some one of such courts, of good repute and standing, and upon taking and subscribing the oath herein prescribed. The oath to be taken and subscribed by all attorneys of this court shall be as follows:

"I, ..., do solemnly swear (or affirm) that I will demean myself as an attorney and counselor of this court uprightly and according to law, and that I will support the Constitution of the United States, so help me God."

No. VIII.

ARGUMENT OF CAUSES AND THE PREPARATION THEREFOR.

1. Not more than two counsel shall be heard for each party, appellant and appellee, in the argument of the cause, except by special leave of the court, upon sufficient reason shown.

2. Only two hours on each side shall be allowed in the argument, unless by special leave the time is extended by the court before the argument is commenced; but such time may be apportioned between counsel on the same side, at their discretion. In all cases, however, a full and fair opening must be made.

In view of the large number of cases on the calendar awaiting hearing, and in consideration of the time which must necessarily be consumed if the full four hours are taken in the argument as allowed by section 2 of Rule VIII, it is by the court this day ordered that said section 2 of Rule VIII be, and the same is hereby, amended, so as to read that only one hour on each side shall be allowed in the argument, unless by special leave the time is extended by the court before the argument is commenced; but counsel, in order to avail themselves of the opportunity to apply for additional time, must make request therefor to the court, accompanied by a copy of their printed brief, at least five days before the case is liable to be called for argument. The time may be apportioned between counsel on the same side, at their discretion. In all cases, however, a full and fair opening must be made.

3. The counsel for the appellant shall file with the clerk of the court, at least five days before the case is liable to be called for argument, under the rules of this court, fifteen copies of a printed brief, one of which shall, on application, be furnished to each of the counsel engaged on the opposite side. Such brief shall contain, *in the order here stated*:

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

(2.) The assignment of errors relied upon by the appellant, to be separately and specifically stated; and if the supposed error is assigned to the ruling upon the

report of an auditor or master, the specification shall state the exception to the report and the action of the court thereon.

(3.) A clear statement of the points of law or fact to be discussed, with reference to the pages of the record, and the authorities relied on in support of each point.

(4.) Whenever a decision of this court, that has been published in the official reports of the court, shall be cited in a brief, the reference shall include the volume and page of the report wherein the same has been published.

4. For the appellee there shall be filed with the clerk fifteen copies of the brief for argument for his side of the case at least one day before the case is liable to be called for argument. Such brief shall be of a like character to that required of the appellant, except that no assignment of errors is required and no statement of the case, unless that presented by the appellant be controverted or denied to be sufficiently full and complete to present the questions for review.

5. Without such brief and assignment of errors by the appellant, counsel will not be heard for the appellant, except at the request of the court; and errors not assigned, according to the rule of the court, will be disregarded though the court, at its option, may notice and pass upon a plain error not assigned.

6. When, according to the provisions of this rule, the appellant is in default, the case may be dismissed on motion; and when the appellee is in default, he will not be heard, except by consent of the adverse party, and upon [illegible] the court.

7. If no counsel appears for one of the parties, either appellant or appellee, and no printed brief or argument is filed, according to rule, and the preceding clause of this rule is not enforced with regard to the default of

the appellant, only one counsel will be heard for the adverse party for whom a brief has been filed; but if a printed brief or argument has been filed, the adverse party will be entitled to be heard by two counsel.

8. The appellant in this court shall be entitled to open and conclude the case; but where 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 in this court.

9. Where there is no appearance for the appellant when the case is called for argument, the appellee may have the appellant called and the appeal dismissed, or may open the record and pray for an affirmance.

10. Where the appellee fails to appear when the case shall be called for argument, the court may proceed to hear an argument on the part of the appellant, and give judgment according to the right of the cause as presented on the record; and when a case is reached in the regular call of the docket or calendar, and no appearance is entered for either party, the case shall be dismissed, at the cost of the appellant.

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

No. IX.

THE MAKING OF NEW PARTIES UPON DEATH OF ORIGINAL PARTY.

1. Whenever, pending an appeal, dating from the time of the appeal taken in the court below, either party shall die, the proper representatives, in the personalty or realty of the deceased party, according to the nature of

the case, may voluntarily come in and be admitted parties to the suit at once, or at the next succeeding term after death, and thereupon the cause 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 in writing, obtain an order that unless such representatives shall become parties within sixty days thereafter, the party moving for such order, if appellee, shall be entitled to have the appeal dismissed; and if the party so moving shall be appellant, he shall be entitled to open the record, and, on hearing, have the judgment, decree, or order appealed from reversed, if it be erroneous: *Provided, however,* That a copy of every such order shall be printed and published in some newspaper, of general circulation, published in the District of Columbia for two successive week, at least thirty days before the expiration of such period of sixty days.

2. When the death of a party is suggested, and the representatives of the deceased do not appear before the second day of the second ensuing term succeeding the suggestion, and no measures are taken by the opposite party within that time to compel an appearance, the appeal shall abate, provided there are parties in being capable of being made parties to the appeal.

No. X.

TIME AND MANNER OF ALLOWING APPEALS TO THIS COURT.

1. No order, judgment, or decree of the Supreme Court of the District of Columbia, or of any justice thereof, shall be reviewed by the Court of Appeals, unless the appeal shall be taken within twenty days after the order, judgment, or decree complained of shall have been made or pronounced.

2. No such appeal, except in cases where the United States or the District of Columbia is appellant, shall operate as a stay of execution or supersedeas unless within such term of twenty days the appellant shall file in the clerk's office of the Supreme Court of the District of Columbia a bond, with surety or sureties, to be approved by one of the justices of said court, conditioned for the successful prosecution of such appeal.

3. In all causes appealed to this court, except as hereafter provided in paragraph 4 of this rule, the appellant shall give bond, to be approved and filed as aforesaid, sufficient to cover the costs of the case, or he may deposit in said clerk's office, with the approval of one of the justices of said Supreme Court, a sum of money reasonably sufficient to cover such costs.

4. No bond for costs shall be required on an appeal from an interlocutory order or decree of the Supreme Court of the District of Columbia that has been allowed on petition made to this court; but to obtain a supersedeas or stay of proceedings in such cases the appellant shall file in the Supreme Court of the District of Columbia, if required so to do by the said court, within ten days from the allowance of such appeal, a bond as in other cases of stay or supersedeas; and in case of default his appeal will on motion be dismissed.

5. The penalty of the respective bonds required by the preceding sections to be such as the Supreme Court of the District of Columbia, or one of the Justices thereof, shall prescribe; and if neither the bond required by the preceding second section for stay or supersedeas, nor the bond or deposit of money for security of costs required by the preceding third section, be given or made within the twenty days aforesaid, the appeal, if the transcript of the record has not been transmitted to this court, may be dismissed by the court below, or one of the justices thereof, upon application by the appellee; or, if the

transcript has been filed in this court, said appeal will be dismissed here, upon motion of the appellee, provided the motion for dismissal in this court be made within the first twenty days next after the receipt of the transcript in this court.

6. The notice of said appeal to the appellee shall be by citation, issued out of the clerk's office of the Supreme Court of the District of Columbia within five days after the time of appeal entered, to be served by the Marshal of the District, and returned to said court within twenty days next succeeding the date of the issue of said citation.

(7) When two or more parties shall have the right to appeal to this court from any final judgment, decree or order of the Supreme Court of the District of Columbia, or of any Justice thereof, it shall no longer be necessary where all the parties aggrieved do not appeal for those who do appeal to proceed by summons and severance, or otherwise, to obtain the right to prosecute their appeal alone, unless action by this court in the case is required before the expiration of the twenty days allowed by rule of this court for the taking of an appeal.

No. XI.

BAIL IN CRIMINAL CASES PENDING APPEAL.

Whenever an appeal is duly taken and entered to this court in any criminal case, or in any case where the appellant is held in custody, where an appeal is authorized by law, and said appeal is in all respects duly perfected, the justice of the Supreme Court of the District of Columbia before whom the trial was had, or any other justice of the said Supreme Court, either in term time or during vacation, may, at any time during the pendency of the appeal allow and take bail of the appellant, if the offense of which he is convicted be such that bail is al-

lowable by law after conviction and judgment, in such sum, and with such surety or sureties, as shall be prescribed and approved by said justice; and if the transcript of the record of such appeal case has been duly filed in this court, after such appeal has been entered and perfected as aforesaid, this court, or any justice thereof, may allow and take such bail. And if such transcript is not brought into this court and duly filed within the time prescribed by the rules of this court, the attorney for the Government may have the case docketed and dismissed, as provided by Rule XV of this court. And where bail is taken of the appellant, as herein provided, the bail bond or recognizance shall be conditioned, that in case the judgment appealed from shall be affirmed, or the appeal for any cause dismissed, or the judgment be reversed and a new trial ordered, the appellant shall forthwith surrender himself to the custody of the marshal of this District to be dealt with and proceeded against according to law; and if the bail bond or recognizance be taken in this court, or by one of the justices thereof, a copy of such bond or recognizance shall be sent to the court below with the mandate of this court.

No. XII.

DISMISSAL OF APPEALS.

The appellant shall, at any time before argument, have the right to dismiss his appeal, upon payment of the costs of appeal, including the taxable cost incurred by the appellee; and the parties, by agreement in writing, may at any time have the cases entered agreed or satisfied; but in all such cases the agreement shall be filed in the cause.

No. XIII.

THE CALLING OF THE CASES FOR ARGUMENT.

On the first day of each term the court will receive motions and cause all proper entries to be made on the dockets of the court; and will then proceed to call cases for argument, commencing with the cases on the Special Docket, and continue with those cases to the end of that docket, when the cases on the General Docket will be called in regular order. On the first Tuesday of each month thereafter of the term, during the period of the sessions of the court, the cases on the Special Docket will be first in order, and will be proceeded with to the end of said docket, except as this rule may be qualified by and subject to the rule in respect to the time for calling the cases for argument on the Docket of Patent Appeals. All cases will be called for argument or submission in the order in which they stand on the respective dockets, and so continue from day to day, except Saturdays; but not more than ten cases shall be liable to be called for argument in any one day, including the case under argument and not concluded on the preceding day. No cause shall be taken up out of its order, or be set down for hearing on any particular day, except under special and peculiar circumstances, to be shown to the court.

No. XIV.

DIMINUTION OF RECORD.

After the lapse of thirty days from the date of the filing of any appeal in this court, the argument of the case will not be delayed or postponed because of any alleged diminution of the record or transcript, except upon payment of the costs then accrued in this court by the party alleging the diminution and asking the postponement,

in order to supply the defect or omission in the transcript; and in all such cases the suggestion of diminution shall be made in writing, setting forth the particulars in which the diminution exists, and be supported by the oath of the party or his attorney that the omitted matter is material and necessary to the fair trial of the case on its merits, and that the suggestion is not made for delay.

No. XV.

DOCKETING OF CASES.

1. When an appeal is entered in the court below, it shall be the duty of the appellant, within forty days from the time of the appeal entered and perfected in said court (unless such time for special and sufficient cause be extended by the court below, or a judge thereof, such time to be definite and fixed), to produce and file with the clerk of this court a transcript of the record of such cause; and if he shall fail to file the transcript within the time limited therefor, the appellee shall be allowed to file a copy or transcript of the record with the clerk of this court, and the cause shall stand for trial in the like manner as if the transcript had been filed by the appellant in due time; or, the appellee may, after the time limited for filing the transcript in this court by the appellant has expired, and upon his or her default in respect thereto, upon producing a certificate showing the entry of appeal and the date thereof, have said appeal docketed and dismissed; and in no case shall the appellant be entitled to docket the case and file the record after said appeal shall have been docketed and dismissed under this rule, unless by special order of the court, upon satisfactory reason shown.

2. In all cases of appeal from an interlocutory order or decree of the Supreme Court of the District of Co-

lumbia, the transcript of the record shall be filed in this court within twenty days from the entry of the order of the allowance of such appeal, unless such time, for special and sufficient cause, shall be extended for a definite and fixed period by order of a justice of the Supreme Court of the District of Columbia.

No. XVI.

MOTIONS TO DISMISS.—HOW HEARD AND DISPOSED OF.

1. No motion to dismiss an appeal shall be heard, except upon suggestion of the court, unless previous notice thereof has been given to the adverse party, or his attorney of record, at least two days before the case is liable to be called for argument; and all such motions shall be made in writing, stating briefly the grounds thereof; this rule not to apply to motions to docket and dismiss under preceding rule.

2. In order to prevent the abuse of the right of appeal, and to avoid vexatious delays, there may be united with a motion to dismiss the appeal a motion to affirm on the ground that, although the record may show that this court has jurisdiction of the case, it is manifest that the appeal was taken for delay *only*, or that the question on which the jurisdiction and right of review depends is *so manifestly frivolous* as not to require further argument; and in all cases of such motions there shall be filed a brief statement of the points or questions decided by the court below, and the ground upon which the motion is made.

3. In all cases of the dismissal of any appeal in this court it shall be the duty of the clerk of this court to issue a certificate to the court below, informing that court of the proceedings of this court in respect to such appeal, so that further proceedings may be had in such lower court as law and justice may require.

No. XVII.

FEES TO BE COLLECTED AND ACCOUNTED FOR BY THE CLERK OF THIS COURT UNDER SAID ACTS OF CONGRESS.

The clerk shall demand and receive of the party or parties at whose instance or request the service is performed, or who by law may be bound to pay, fees of his office, according to the following schedule:

For receiving, indorsing, and placing on file the transcript of the record, in each case, and docketing the same	$1 00
For entering appearance to case	0 20
For every continuance entered	20
For filing any motion, order, or other paper	20
For entering any rule, or for making or copying any record or other paper, per folio of each one hundred words, and *pro rata*	10
For entering every judgment, decree, or order	50
For every certificate under seal	50
For receiving, keeping, and paying money in pursuance of any statute or order of the court, two per cent. on the amount so received, kept, and paid over.	
For certificate of admission to the bar, under the seal of the court	5 00
For preparing the record or transcript for the printer, or such parts thereof as may be required under the rule of the court, indexing the same, supervising the printing thereof, and distribution of copies under rule, to be paid by the appellant, for each printed page of the record	10
For the issuing of a mandate or other process of the court, under the seal thereof	1 00
For every copy of any opinion of the court or any justice thereof, certified under the seal of the court, fifteen cents per one hundred words, the	

whole not to exceed, at that rate, five dollars for any one copy.

For making a transcript of the record for use in the Supreme Court of the United States, when a printed copy of the record on which the case was tried in this court is used, 5 cents for each printed page, and 10 cents per folio for all additional matter.

For filing and distributing briefs of counsel to justices of the court, for each party appearing to the case $0 50

No. XVIII.

HOW COSTS SHALL BE AWARDED.

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

2. In all cases of affirmance of any judgment, decree, or order appealed from, costs shall be allowed to the appellee, unless otherwise ordered and directed by the court.

3. In cases of reversal of any judgment, order, or decree by this court, costs shall be allowed to the appellant, unless otherwise ordered by this court; and 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, however, shall so apply to cases where the United States are a party as to require the award of costs against the United States, as in this court no costs shall be allowed for or against the United States.

5. In all cases where 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 thereto a bill of the costs taxed in full.

No. XIX.

PRINTING OF RECORDS.

1. In all cases the appellant, upon filing the transcript and having the case docketed, and paying therefor, according to the table of fees prescribed by this court, shall enter into a satisfactory undertaking, or give good security to the satisfaction of the clerk, for the payment of all subsequent fees for which he or she may be liable.

2. The clerk shall, immediately upon filing the transcript or record, cause an estimate to be made of the cost of copying said record, or the parts thereof necessary to be printed under the rule of this court, and his fee for preparing it for the printer and supervising the printing, and shall notify the party so docketing the case of the amount of the estimate; and if he shall not pay the amount so ascertained within a reasonable time, the clerk shall notify the adverse party and he may pay it; and if neither party shall pay the amount, and for want of such payment the record shall not have been printed when the case is reached in the regular call of the docket—in such case, at any time after the lapse of thirty days from the time of filing the record or transcript and docketing the case (unless for good cause the court shall extend the said time), such appeal shall be dismissed. If the actual cost of copying the record, together with the fees 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 the same.

If the actual cost and clerk's fees shall exceed the estimate, the amount of the excess shall be paid to the clerk before the case shall be taken up for argument, or the distribution of the printed record made to either party or his attorney, and in default of such payment the appeal of the appellant may be dismissed.

3. In all cases, upon the clerk's producing satisfactory evidence by affidavit, or the acknowledgment of the party or parties, of his having made demand and served a copy of the bill of fees upon the party or parties by whom such fees are due, and the failure to pay within ten days thereafter, an attachment shall issue against such party or parties to compel the payment of the fees due.

No. XX.

CONTINUANCES AND TRANSFER OF CASES.

At the end of each term of this court, all cases on the regular term dockets and all motions not argued, submitted, dismissed, or otherwise disposed of, shall be continued to the next succeeding term of this court.

XXI.

APPEALS FROM THE COMMISSIONER OF PATENTS.

1. All certified copies of papers and evidence on appeal from the decision of the Commissioner of Patents, authorized by section 9 of the Act of Congress approved February 9, 1893, shall be received by the clerk of this court, and the cases, by titling and number as they appear on the record in the Patent Office, shall be placed on a separate docket from the docket of the cases brought into this court by appeal from the Supreme Court of the District of Columbia, to be designated as the "Patent Appeal Docket;" and upon filing such copies, the

party appellant shall deposit with the clerk, or secure to be paid as demanded, an amount of money sufficient to cover all legal costs and expenses of said appeal; and upon failure to do so his appeal shall be dismissed. The clerk shall, under this titling of the case on the docket, make brief entries of all papers filed and of all proceedings had in the case.

2. The appellant, upon complying with the preceding section of this rule, shall file in the case a petition, addressed to the court, in which he shall briefly set forth and show that he has complied with the requirements of sections 4912 and 4913 of the Revised Statutes of the United States, to entitle him to an appeal, and praying that his appeal may be heard upon and for the reasons assigned therefor to the Commissioner; and said appeal shall be taken within forty days from the date of the ruling or order appealed from, and not afterwards.

If the petition for an appeal and the certified copies of papers and evidence on appeal mentioned in this and the preceding section of this rule shall not be filed and the case duly docketed in this court within forty days (exclusive of Sundays and legal holidays) from the day upon which notice of appeal is given to the Commissioner of Patents, the Commissioner, upon such facts being brought to his attention by motion of the appellee, duly served upon the appellant or his attorney, may take such further proceedings in the case as may be necessary to dispose of the same, as though no notice of appeal had ever been given.

3. The clerk shall provide a minute book of his office, in which he shall record every order, rule, judgment, or decree of the court in each case, in the order of time in which said proceedings shall occur; and of this book the index shall be so kept as to show the name of the party applying for the patent, the invention by subject-matter or name, and, in cases of interference, the name

of the party with whose pending application or unexpired patent the subsequent application is supposed to interfere.

4. The cases on this docket shall be called for argument on the second Monday of January, March, May, and November in each year, and the cases shall be called in regular order as they may stand on the docket. A copy of these rules shall be furnished to the Commissioner of Patents; and it shall be the duty of the clerk of this court to give special notice to the said Commissioner at least fifteen days immediately preceding the times thus respectively fixed for the hearing of said cases; the said notice to name the place of the sitting of the court, the titling of the cases on the docket of this court, the respective numbers thereof, and the number of each case as it appears of record in the Patent Office; and thereupon the Commissioner shall give notice to the parties interested or concerned by notice addressed to them severally by mail.

5. The clerk shall furnish to any applicant a copy of any paper in any of said appeals on payment of the legal fees therefor.

6. The appeals from the Commissioner of Patents shall be subject to all the rules of this court provided for other cases therein, except where such rules, from the nature of the case, or by reason of special provisions inconsistent therewith, are not applicable.

7. Models, diagrams and exhibits of material forming part of the evidence taken in the court below or in the Patent Office, in any case pending in this court, on writ of error or appeal, shall be placed in the custody of the clerk of this court at least three days before the case is heard or submitted.

8. All models, diagrams and exhibits of material placed in the custody of the clerk for the inspection of the court on the hearing of the case, must be taken away

by the parties within twenty days after the case is decided. When this is not done, it shall be the duty of the clerk to notify the counsel in the case, and the Commissioner of Patents, by mail or otherwise, of the requirements of this rule; and if the articles are not removed within ten days after the notice is given, he shall destroy them, or make such other disposition of them as to him may seem best.

No. XXII.

OPINIONS OF LOWER COURT AND COMMISSIONER OF PATENTS TO BE MADE PART OF RECORD.

Wherever the judgment, decree or order appealed from is based upon or has reference to a written opinion filed in the case by the court below, such opinion shall constitute a part of the transcript to be sent to this court; and such opinion, and also the written reasons or grounds assigned by the Commissioner of Patents in appeals from the Patent Office, shall be printed as part of the record to be printed under Rule 6.

No. XXIII.

REHEARING.

All motions for reargument, or for modifications of judgments or decrees, shall be made in writing and filed with the clerk of the court within fifteen days from the time of the opinion or judgment delivered; and it shall be the duty of the clerk of this court to deliver a copy of such motion to each member of the court without delay, and during such period of fifteen days no mandate shall issue unless upon special order of the court for cause shown.

No. XXIV.

REPORTER.

1. The reporter of the decisions of this court shall have access to and the right to copy all the opinions of this court; and the clerk shall furnish such reporter a copy of the printed record, and briefs of counsel filed, in each case decided by the court.

2. It shall be the duty of the reporter to publish a volume of the reports of cases adjudged by this court, within three months from the time when the number of cases that have been decided shall be sufficient to make a volume containing not less than six hundred pages, exclusive of the title page, tables of cases and statutes and index. And unless otherwise directed by the court, he shall report all cases decided, and shall exercise his discretion in respect of the inclusion in the reports of abstracts of the briefs and arguments of counsel.

No. XXV.

WRITS OF ERROR TO POLICE COURT, AND THE JUVENILE COURT.

1. Wherever the pronoun, *he, him or his* occurs in the following rules, the same shall be taken to apply to and include all genders, whether masculine, feminine or neuter, and whether singular or plural. as the case may require.

2. To entitle a party to apply for writ of error he shall cause note of his intention to be made at the time of the ruling by the court; and he shall within three days thereafter present to the court a bill of exception properly prepared to present the ruling excepted to. and which bill of exception, if properly prepared, or after correction by the judge, shall be signed by the judge within two days from the date of the judgment or sentence imposed, and he shall file the same in the cause, immediately after signing the same.

3. All writs of error shall be applied for within ten days, Sundays and legal holidays excluded, from the day upon which the judgment or sentence of the Police Court, or Juvenile Court, shall have been entered or imposed, and not afterwards.

4. That the application for writ of error shall be by petition addressed to one of the Justices of this court, wherein shall be stated concisely, but clearly and distinctly, the nature of the proceeding in said court, the trial and judgment therein, and the particular ruling or instruction *upon matter of law*, to which exception has been taken; and which application for the writ shall be signed by the attorney of the applicant, if he have one, or if not, by the party himself; and such petition shall be verified by an affidavit appended, of the party or his attorney, wherein shall be distinctly stated that the exception has been taken *bona fide*, and that the writ of error is not sought for any purpose of delay.

And to said petition shall be appended a copy of the bill of exception taken and signed by the judge.

5. The writ of error, when allowed, shall be issued by the clerk of this court, and shall be directed to the Judge of the Police Court, or of the Juvenile Court, who shall have tried the case and made the rulings excepted to. Upon receipt of the writ of error by the clerk of that court, he shall at once and without delay issue notice to the defendant in error or his counsel, notifying him of the allowance of the writ of error, and that he is required to appear in this court, to defend and maintain the rights of the defendant in error, at such times as by the rules of this court may be required.

6. The clerk of the Police Court, or of the Juvenile Court, upon the receipt of the writ of error, shall, with the approval and direction of that court, endorsed thereon, without delay and within a time not to exceed ten days, Sundays and holidays excluded, make up and trans-

mit to this court a transcript of the record of the proceedings therein, certified under the seal of said court; and which transcript of record, if not filed in this court within fifteen days from the date of the allowance of the writ of error, the writ of error shall be dismissed.

7. The clerk of this court upon the receipt of the transcript from the Police Court, or Juvenile Court, shall docket the case, in regular order of reception, upon the Special Docket or calendar of this court, and such case shall stand for hearing in the regular call of that Special Calendar.

8. Upon the decision and filing of opinion in the cases brought into this court on writ of error from the Police Court, or the Juvenile Court, the mandate of this court shall at once issue without delay, and upon filing such mandate the cause shall stand for such further proceedings in that court as may be directed, or as may be proper under the circumstances of the case, according to law, or as directed by the statute.

9. The general rules of this court, regulating the practice thereof, and the requirements as to the preparation of cases for argument, shall all apply to cases brought into this court by writs of error from the Police Court, and the Juvenile Court; except in special cases and for special reasons, the court will expedite the hearing of such cases.

No. XXVI.

REGULATING APPEALS FROM BOARD OF MEDICAL SUPERVISORS.

1. The record on appeal to this court under said act shall consist of the transcript of the proceedings had by and before the board of medical supervisors, and the orders passed thereon by said board, together with a complete transcript of the evidence taken and used on

the hearing of the matter before said board of medical supervisors; and the said transcript shall be filed with the clerk of this court within twenty days from the date of the order or decision appealed from, and shall be printed as other transcripts of records on appeal are printed.

2. Upon receipt of said transcript by the clerk of this court, said clerk shall ascertain the cost and serve notice and demand therefor upon the appellant as in other cases, and when the costs are paid or secured to be paid the clerk shall docket the appeal, entitled the appellant against the board of medical supervisors as appellees.

3. The appellant within ten days after filing the transcript on appeal in this court shall by brief petition addressed to the court, stating the nature of the case and the grievance complained of, assign the causes of appeal and the supposed errors of the board of medical supervisors in their determination, and a copy of said petition and assignment of error shall be served on the president of the board of medical supervisors or the secretary of said board at least ten days before the case may be called in this court for argument; and upon failure to comply with this rule the appellees may have the appeal dismissed upon motion.

4. The rules of this court in respect to briefs of counsel, so far as they may apply, shall be observed on appeals under said act of Congress, of June 3, 1896.

5. Upon the decision of this court on appeal taken as provided, the decision shall be entered and a copy of the opinion and judgment of this court shall be certified to the board of medical supervisors as the final determination of the matter involved in said appeal.

No. XXVII.

SUNDAYS AND LEGAL HOLIDAYS.

That wherever days are mentioned in the foregoing rules as limitations of time, they shall be construed to exclude Sundays and legal holidays, but to include Saturday half holidays.

No. XXVIII.

The foregoing rules shall be of force and effect in the Court of Appeals of the District of Columbia from and after the time of their adoption, as heretofore directed, and be binding upon all those subject to the jurisdiction of said court until altered or rescinded; but no right or duty created or imposed by pre-existing rules shall in any manner be impaired or discharged.

It is further ordered that these rules shall be printed and a copy thereof shall be furnished to each of the justices of the Supreme Court of the District of Columbia, and to the clerk of that court, and also to the Commissioner of Patents.

Per Curiam:

Test: HENRY W. HODGES,

Clerk Court of Appeals of the District of Columbia.

RULES

OF

THE COURT OF CLAIMS OF THE UNITED STATES.

CLERK'S OFFICE.

Clerk's office, hours of.

1. The clerk's office will be open every day, except Sundays, Saturdays, and holidays, from 9½ a. m. to 4 p. m. On Saturdays the office will be closed at 3 p. m. and during the Christmas holidays at 1 p. m.

Attendance of clerks.

2. When the court is in session, both the chief clerk and the assistant clerk will be at the office during office hours. In vacation they may arrange their hours to suit each other and the public business.

Duties of chief clerk.

3. The chief clerk will have charge of the journal of the court, of the law docket and the calendar, and of the printing; and he will also prepare the reports to Congress.

Duties of assistant clerk.

4. The assistant clerk will attend to office business, and will have charge of the general docket, the notice book, and the giving of notices under these rules.

Clerk, provision for absence.

5. In the absence of the chief or the assistant clerk, his duties will be performed by the other.

ATTORNEYS AND COUNSEL.

Suits, by whom commenced. Power of attorney.

6. Suits may be commenced by the claimant in person, or through his attorney in fact, or an attorney of this court. If the

claimant is represented by an attorney in fact, the power must filed with the clerk, and its execution must be proved or acknowledged before an officer authorized to take acknowledgments of deeds.

Appearance, When may be entered.

7. In Congressional and Departmental cases attorneys may enter an appearance prior to the filing of a petition, by filing a power of attorney from the claimant, or legal representatives, or heirs of the deceased claimant.

Admission of attorneys to the bar of this court, in open court. 18 C. Cls. R., 25.

8. Any person of good moral character, who has been admitted to practice in the Supreme Court of the United States, or in the highest court of the District of Columbia, or in the highest court of any State or Territory, may be admitted, on motion in open court, to practice as an attorney and counselor of this court.

—at chambers.

He may also be admitted by an order at chambers, on its being shown by affidavit or otherwise that he is qualified as above provided.

Att'y of record, one only allowed. Changes permitted. 7C. Cls. R., 499. 9C. Cls. R., 346. 11C. Cls., 725.

9. There shall be but one attorney of record for the claimant in any case at any one time. A firm of attorneys will be regarded as the attorney of record.

Changes to be made on conditions perscribed by the court.

10. A claimant may change his attorney on such conditions as the court may prescribe. The moving party must produce the consent of the attorney of record or his duly authorized representative or must certify or show by affidavit that the attorney of record has been notified of the filing of the motion. If no objection to the substitution be filed by the attorney of record

within ten days thereafter, the motion will be allowed.

If the attorney of record resides at a distance, the court will not act on the motion until a reasonable time has elapsed for his objection to be filed.

Motion must be accompanied by power of attirney or certificate.

The motion when submitted must be accompanied either by a power of attorney from the claimant containing a power of substitution or by the certificate of the attorney of record that the substitution is made with the knowledge and assent of the claimant.

—to sign pleadings, etc.

11. Petitions, pleadings, and motions on the part of the claimant must be signed by the attorney of record; pleadings and motions on the part of the United States, by the proper assistant attorney-general.

Indians may defend by attorney.

12. Should any Indian or Indians interested desire to appear in any action under act of March 3, 1891, chapter 538 (1 Supp. R. S., 2d ed., 913), and defend by an attorney employed by them, application therefor shall be made to the court, showing such interest, the name of the Indian or Indians interested, of the attorney employed, and the approval of the Commissioner of Indian Affairs in that behalf, whereupon the court will make an order allowing such appearance and defense by the attorney employed.

Counsel.

13. Counsel other than the attorney of record may be heard on either side at the trial or at any stage of the proceedings, but shall not be entitled to file pleadings, give notices, or make motions.

Post-office address of claimant or attorney to be registered.

14. Attorneys of record, or the claimant if he appear in person, on appearing in a suit, will register with the clerk of the court a post-office address, to which all notices required by these rules or ordered by the court may be sent.

Statement of attorneys for allowance of fees.

15. Attorneys for claimants in Indian depredation cases desiring the court to make an allowance of attorney's fees for prosecuting the claim shall, on or before the submission of the cause, file a sworn statement of their employment, giving the date thereof, showing the services performed, and, if any, what unusual services have been rendered or expenses incurred by them.

THE PETITION.

Filing of petition and copies.

16. Suits shall be commenced by petition, verified in the manner provided by law, and filed in the office of the clerk, with one extra copy in print or typewriting. The clerk will note thereon the day of filing, and will cause a copy to be forwarded to the Attorney-General. Within twenty days thereafter the claimant shall have printed twenty-five copies of such petition, retaining ten copies for the trial record and filing the remaining copies in the clerk's office, unless the court, on motion, for good and sufficient cause, waives the printing of the petition.

Five of said copies shall be for the Attorney-General.

Contents of petition.
23 C. Cls., 361.

The petition must comply with Revised Statutes, section 1072, respecting what action has been had thereon before Congress

or any of the Departments, the ownership of the claim, and what transfer, or assignments, if any, have been made, and must also set forth:

(1) The title of the action, with the full Christian and surnames of all the claimants.

(2) A plain, concise statement of the facts, giving venue and date, free from argumentative, irrelevant, and impertinent matter.

(3) In every case transmitted by the head of a Department, by Congress, or a committee thereof, a copy of the order of transmission shall be set out or annexed, as provided by paragraph 5, Rule 27.

(4) The claimant must state distinctly the amount for which he demands judgment, or the relief for which he prays.

Acts and regulations to be specified.

17. If the claim be founded upon an act of Congress, or upon a regulation of an Executive Department, the act and the section thereof upon which the claimant relies must be specified, and the particular regulation of the Department must be stated in terms.

Contracts, how stated.

18. If the claim be founded upon an express contract with the United States, the substance of such contract must be set forth in the petition and, if it be in writing, the original or a copy must be annexed thereto. If it be founded upon an implied contract, the facts upon which the claimant relies to prove a contract must be specified. If it consists of several matters or items, each must be separately stated.

Statutes of limitation.

When petition may be dismissed on bar of six years.
14 C. Cls. R., 122, 374.

19. If it appear on the face of the petition that the claim first accrued more than six years before the petition was filed, the claimant must aver therein the existence and period of duration of some disability, recognized by law, which prevented his filing his petition within that time, in default whereof it will be considered that no such disability existed, and the petition may be dismissed on motion.

In cases under sec. 14, act Mar. 3, 1887, what claimant must aver in avoidance of statute of limitation.

20. In cases under section 14 of the act of March 3, 1887, chapter 359 (1 Supp. R. S., 2d ed., 559), if any statute of limitation has applied to the claim, the claimant shall set out in his petition any facts bearing upon the question whether the bar of such statute should be removed, or which shall be claimed to excuse the claimant for not having resorted to any established legal remedy.

When petition may be dismissed on bar of three years.

21. If the claimant, in avoidance of the bar of limitation, aver in his petition the existence and duration of any such disability, and it thereby appears that after the disability ended more than three years had elapsed before the petition was filed, the petition may be dismissed on motion.

If petition does not show when *claim accrued* it must be made certain.

22. If upon the face of the petition it does not appear when the claim first accrued, the court may require the claimant to make the petition definite and certain in that regard, and in default thereof may dismiss the suit.

Averments as to time claim accrued put in issue by general traverse.

23. Averments in regard to the time when a claim first accrued, or in regard to

an alleged disability of the claimant, will be held to be put in issue by the defendants' general traverse.

Verification of petition.

Power of attorney to be annexed to petition.

24. If the petition be verified by any one other than the claimant, a power of attorney authorizing him to prosecute the suit or make the verification must be annexed to the petition and filed therewith.

On dismissal of petition judgment to be entered when.

In all cases where a petition is dismissed, and the court has jurisdiction so to do, a formal judgment shall be entered against the claimant in favor of the United States.

Petition in Indian Depredation cases.

Contents of petition, 23 C. Cls., 361.

25. The petition must set forth:

(1) The title of the action, with the full Christian and surnames of all the claimants, and the name of the band, tribe, or nation of defendant Indians.

(2) The residence and citizenship of each of the claimants and the damages sought to be recovered.

(3) A plain, concise statement setting forth the facts and circumstances upon which such claims are based, giving place and date, the persons, classes of persons, tribe or tribes or band of Indians by whom the alleged illegal acts were committed, the property lost or destroyed, and the value thereof, and any other facts connected with the transaction and material to the proper adjudication of the case, free from argumentative and impertinent matter.

Preferred claims.

(4) Whether the claim has been examined, approved, and allowed by the Secretary of the Interior, or under his direction; and, if so, for what amount, the date thereof, and refer briefly to the official letter, report, or document showing such action, and state whether claimant elects to reopen the case and try the same before the court or desires judgment for the amount so allowed.

Petition in French Spoliation cases.

Parties having a common interest.

26. Parties having a common interest, growing out of the seizure of the same vessel or its cargo, may unite in one petition for the recovery of their respective claims, which may be heard together.

Petition by agent, etc.

Where insurance was made in his own name by one for himself and others, or as agent for others, or by a keeper of an insurance office, in either case, or in case of an agent for underwriters, in respect of a policy or a loss thereunder from spoliation, his administrator, appointed in the jurisdiction of his last domicile, may file one petition on each policy for all the underwriters thereon, and the personal representatives of the underwriters may come in and be heard thereon in respect of their respective interests.

When one of several underwriters may file petition for all on same policy.

To avoid multiplicity of petitions in behalf of separate underwriters upon a single policy, the personal representative of any one may file a petition for his decedent setting up the interest of all underwriters upon the same policy, and thereafter.

When and how the others may become parties.

On or before January 20, 1887, the representatives of any or all the other underwriters on the policy may by motion be permitted to become parties to that petition, and they will be heard as to their respective interests after filing letters of administration.

How insurers may prosecute their claims when set out in petition of owners of vessel or cargo.

When the petition of the owners of a vessel or its cargo sets out an insurance thereon, the insurers may, under the same restrictions and in the same manner, on motion, prosecute their respective interests in the same case.

How firms and joint owners may come in.

Where claimants are firms or joint owners, the petition of the personal representative of the last survivor may be made in behalf of all, and the personal representatives of the others may come in and be heard in respect to their interests.

Petitions in cases under the Bowman and Tucker acts.

What petition must embrace.

27. In cases for stores and supplies the petition shall embrace the following:

(1) An allegation as to loyalty of the party from whom the stores or supplies were taken or person furnishing same.

(2) If the suit is by legal representative it must be alleged when and by what authority such party was appointed such representative. And it must be alleged that the claimant brings into court his warrant of authority.

(3) It must be alleged whether the claim was before the Commissioners of Claims, Quartermaster-General, or Commissary-

General of Subsistence, and with what result, together with a brief statement of the ground given for the decision.

(4) It must show the items of account before said commission or officers, and which of said items are now presented to this court.

Copy of bill to be annexed to petition.

(5) It must be stated which House of Congress or committee referred the case, with the date thereof, and if by bill a copy thereof shall be annexed to the petition.

It must be stated, where it is known to the claimant, what officers, regiments, brigades, or commands took or were furnished with stores or supplies or occupied the real estate in suit, or it will be ground for continuance.

Copies must be furnished.

Where printed copies of the petition have not been filed pursuant to Rule 16, the attorney for the claimant will file in the clerk's office, for transmission to the Attorney-General, two typewritten copies of the petition, and an entry to that effect will be made on the docket.

Evidence of the use or destruction of buildings must be specific.

(6) In Congressional cases for the use or destruction of buildings of whatever character, the evidence, in addition to that required respecting the loyalty of the claimant, must show as specifically as may be when and how long such buildings were occupied or when destroyed, and by whose authority, the purpose of such use or destruction, when such buildings were constructed, the dimensions thereof, of what material constructed, the cost of such buildings and their furnishings, together with the condi-

tion and value of such buildings when used or destroyed, or both. In short, all the elements essential to enable the court to judicially determine what amount, if any, should be allowed for the rent or destruction of such buildings, or both.

Petitions in Departmental and Congressional cases.

Persons interested may appear as parties by filing petitions.

28. After the filing of a case transmitted to the court by the head of an Executive Department or by Congress, or either House, or by a committee thereof, any person directly interested in the case may appear as a party therein by filing his petition, under oath, in accordance with Rules 16 and 17.

Persons indirectly interested may appear and be heard.

29. Any person claiming to be indirectly interested in any question involved in such case may appear and be heard on the one side or the other, head of an Executive Department the court will proceed to try the case upon the statement made by the head of such department.

(Rule 30 does not appear in the Rules as furnished by the Clerk.)

Amendment to petition.

Imperfect petition, when may be filed.
27 C. Cls., 352.

31. When the claimant can not state his case with the requisite particularity without an examination of papers in one of the

Executive Departments, and has been unable to obtain a sufficient examination of such papers on application, he may file a petition stating his claim as far as is in his power, and specifying as definitely as he can the papers he requires. The court will then, upon motion, call upon the proper department for such information or papers as may be deemed necessary, and when the same are furnished the petition may be amended and take the place of the original petition.

Amending petition.

32. A claimant desiring to amend his petition or to introduce new parties may do so at any time before final submission, without special leave, by filing an amended petition embodying the amendments desired. The right to make such amendments or to introduce new parties is subject to the objection of the defendants either before or at the trial.

New parties.

Bill of particulars may be required.

33. The court or the chief justice or a judge in vacation may, on motion, require a claimant to make his petition more specific, or to make and file a duly verified bill of particulars within a time fixed, and in case of failure so to do the petition may be dismissed.

EXECUTORS, ADMINISTRATORS, WIDOWS, AND NEXT OF KIN.

Appointment of executor, etc.

34. If the claimant be an executor, administrator, guardian, or other representative appointed by a judicial tribunal, a duly authenticated copy of the record of the appointment must be filed with the petition.

Death of claimant.

35. If the claimant die pending the suit, his death may be suggested on the record, and his proper representative, on filing a duly authenticated copy of the record of his appointment as executor or administrator, may be admitted to prosecute the suit without special leave, but subject to the objection of the defendants either before or at the trial.

Widows and next of kin.

36. Where a suit is prosecuted in the name of the widow of the deceased claimant, it must be shown by evidence that the present claimant is the widow of the deceased; and where it is prosecuted in the name of the heirs or next of kin of the deceased it must be shown that they are his only heirs or next of kin.

PLEADINGS.

When pleas must be filed.

37. Demurrers and pleas must be filed within sixty days after the filing of the petition, unless the court extend the time.

Proceedings when demurrer is sustained.

38. If a demurrer be sustained, the claimant may, once of right, amend his petition, within such time as the court may direct; but if he decline to amend, judgment will be rendered dismissing the petition.

When demurrer is overruled.

39. If a demurrer be overruled the defendants may of right plead to the petition within such time as the court may direct; but if they decline so to do, the claimant may proceed with the case, but shall not have judgment for his claim or for any part thereof, unless he shall establish the same by proof satisfactory to the court.

Replication of set-off, etc.

40. Within three months after the filing of the set-off or counter-claim by the defendants, the claimant must answer the same by replication under oath, unless the court extend the time for twenty days.

Plea of fraud.

41. When the Attorney-General pleads, under section 1086 of the Revised Statutes, that the claimant has practiced or attempted to practice fraud, he shall set forth the facts with sufficient particularity to enable the claimant to answer the same in detail, and the claimant shall, within three months after the filing of said plea, reply to the same with like particularity, under oath, unless the court extends the time for ten days.

On failure of Government plead. general traverse entered by clerk.

42. Unless the Attorney-General shall, within sixty days after the service of the petition upon him, appear and defend by filing a demurrer plea or answer, and by filing a notice of any counter-claim, set-off, claim of damages, demand, or defense in the premises, a general traverse of the petition shall be considered as entered on the part of the defendants, and the case shall be proceeded with the same as though an answer of general traverse had been filed.

MOTIONS.

Motions to be first heard at chambers.

43. Motions will be heard in the first instance before the chief justice or a judge at chambers. They must be in writing and come to him through the clerk's office. Those which are *ex parte* will be acted upon; those which are not *ex parte* will be

sent to the law calendar for argument unless accompanied by the consent of the opposite party.

Disposition of motion may be requested.

44. In cases where the action of the court is necessary, or where the above procedure will not be properly applicable, the moving party may call the attention of the court to the fact and request such disposition of the motion as may be deemed suitable or necessary.

Motion to amend petition.—to substitute administrator.
—to consolidate cases.

45. A motion to amend a petition under Rule 32 will be regarded as *ex parte* and entered as allowed by the clerk, and the suggestion of the death of the claimant and the motion to substitute his executor or administrator, under Rule 35, will also be regarded as *ex parte* and entered as allowed by the clerk. A motion to consolidate cases involving substantially the same issues will will also be regarded as *ex parte*. But these orders will be subject to the objections of the defendants, either at or before the trial.

Any brief filed in connection with a motion must be printed or typewritten.

WITNESSES.

When evidence may be taken.

46. When a petition is filed and the proper Department, in response to calls therefor, has without unnecessary delay reported or had refused so to do, and issue of fact has been joined, either party may proceed to take testimony; but if issue is pending on demurrer such issue must be disposed of before testimony is taken.

Testimony to be in depositions.

Officers who may take depositions.

47. Unless the court order a witness to testify orally on the trial the evidence of witnesses must be by deposition, taken either before a commissioner of the court, or a judge of a court of the United States, or a judge of a court of record in a State or Territory of the United States, or a United States commissioner, or a notary public.

When a deposition is taken before a notary public it must be taken in the form and manner prescribed for commissioners of this court and for the same compensation and subject to Rules 52 and 65.

When depositions may be taken before a judge of this court.

48. When a witness can be conveniently examined before a judge of this court, either party, at any time prior to the examination, may move for an order directing that his deposition be so taken.

Witness, etc., may be examined in court.

The court may order a witness or a claimant to be produced before the court or one of the judges thereof for examination.

Proceedings against witness in contempt.

49. If a witness, having been duly summoned and his fees tendered him, shall fail or refuse to appear and testify before any officer authorized to take his testimony, a rule upon him will be issued by the court, on motion, to show cause why a fine should not be imposed upon him, and if he fail to show sufficient cause he shall be fined not exceeding one hundred dollars.

Fees of witnesses.

50. The fees of witnesses shall be such as are now or may hereafter be prescribed by Congress and shall be paid by the party at whose instance the witnesses appear.

DEPOSITIONS.

Depositions on written interrogatories.

Depositions on written interrogatories.

51. Depositions obtained in foreign countries must be taken on written interrogatories sent out under a special commission issued by the clerk.

Depositions may be taken in like manner within the United States, by consent of parties, or when authorized by the court, or by the chief justice or a judge in vacation.

The written interrogatories must be filed in the clerk's office and notice thereof given to the adverse party.

Adverse party may file objections to interrogatories.

Within fifteen days after such notice the adverse party may file objections to any of the interrogatories, specifically stating the grounds of objection, and may either file cross-interrogatories or a notice that he will cross-examine the witnesses orally, which notice shall be attached to the special commission.

If he file cross-interrogatories, the other party may, within fifteen days thereafter, file objections thereto, specifically stating the grounds of objection.

No objections to an interrogatory or a cross-interrogatory will be considered at the trial unless taken before the commission issues.

Parties not to be present at taking.

52. When a deposition is taken upon written interrogatories and written cross-interrogatories, neither the Attorney-General, nor the claimant, his agent or attorney, nor any other person, shall be present at the examination of the witness; which

fact shall be certified by the officer taking the depositions, who shall, in such cases, propound the interrogatories and cross-interrogatories to the witness in their order, and reduce his answers to writing in the witness' own words.

Depositions on oral examination.

Notice for taking depositions on oral examination.

53. The party proposing to take depositions on oral examination shall cause fifteen days' notice to be given thereof to the other party or his attorney. The notice must be in writing and state the names of the witnesses to be examined, the day of the month, the hour, and the place of taking the deposition, and, if practicable, the name of the officer before whom such depositions are to be taken.

When may not be taken.

But no deposition, except by consent of parties or the order of court, shall be taken during a day when the attorney of record for the claimant or the attorney of the Department of Justice charged with preparation of the case or cases in which the deposition is to be used is so engaged in the trial of cases in court that he can not attend. It shall be the duty of the attorney receiving a notice to take depositions, in case he can not attend for the reason stated herein, to notify the attorney on the opposite side that he will be unable to attend at the time and place stated in the notice.

When witness lives more than 500 miles from Washington.

54. When the claimant proposes to take a deposition and the witness resides more than 500 miles from Washington, or when

the defendants propose to take the deposition and the witness resides more than 500 miles from the claimant or his attorney, one day's further notice shall be given for every additional hundred miles.

Notice when deposition is to be taken in the District of Columbia.

55. If a deposition is to be taken on behalf of the claimant in the District of Columbia three days' notice shall be sufficient and if it be taken on behalf of the defendants a like notice shall be sufficient when the claimant's attorney resides or has an office within the District. But if there be no reason for taking the deposition on such short notice the court or a judge thereof will enlarge the time.

Depositions under § 1080, R. S.

56. When the court has made an order under Revised Statutes, section 1080, for the taking of the testimony of the claimant, and he has been notified of the time and place, no further testimony on his part shall be taken until he has been examined unless the court or the chief justice or a judge on motion otherwise orders.

Questions and answers to be recorded.

57. When a deposition is taken by oral examination, each question propounded to the witness must be recorded, and his answers must be taken down in his own words.

Objections to questions.

58. No general objections to any question shall be noticed by the officer; but where an objection is made on specifically stated grounds, the officer shall record the same.

When witnesses not named in the notice may be examined.

59. When depositions are taken on notice, as provided in Rule 53, if both parties are present or represented at the time and place specified in the notice, either party may, after the examination of the witnesses pro-

duced under the notice, be entitled to produce and examine other witnesses; but in such case one day's notice must be given to the adverse party, or his attorney, there present.

Depositions in fee cases.

Witnesses must confine themselves to statement of facts.

60. In depositions hereafter taken in fee cases the witnesses are required to confine themselves to the statement of facts connected with the claim, as witnesses in other cases, and depositions taken in violation of this order will not be considered or may on motion be suppressed by the court. The findings must state the exact nature of the service, stating separately as to each kind of service. It must distinctly appear where more than one service of a different class is contained in the same finding as to how much is claimed for each service.

General provisions as to depositions.

Other witnesses to be excluded.

61. At the request of either party a person whom either expects or intends to call as a witness in the same case, or in any kindred case, shall be excluded from the room where the testimony of a witness is being taken. If such a person remain in the room, or within hearing of the examination, after such request has been made, he shall not thereafter be admitted to testify in the case, or any kindred case, except by the consent of the party who requested his exclusion.

Of the oath. General interrogatories.

62. Witnesses must be sworn or affirmed before any questions are put to them, to tell

the truth, the whole truth, and nothing but the truth, relative to the cause in which they are to testify; and each witness shall then state his name, age, occupation, and place of residence; whether he has any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, he is related to the claimant.

At the conclusion of the deposition the witness shall state whether he knows of any other matter relative to the claim in question; and if he does, he shall state it.

Depositions.

The testimony of the witness when completed shall be read over to him and be signed by him in the presence of the officer.

—what officer's return must show.

In his return the officer must show that the witness was properly sworn or affirmed, and that the answers were taken down in his presence and read over to and signed by the witness.

Sheets of depositions, how put together.

63. The officer must so connect the sheets of the deposition that they can not be tampered with, and must return them sealed together. He must sign, and make the witness sign, each sheet; and he must spare no pains to return to the court the exact evidence he has taken.

Exhibits to be marked.

64. All exhibits must be carefully marked so as to be capable of immediate indentification, and, when practicable, must be attached to the deposition under seal.

Caption of depositions.

65. The officer must state in the caption of the deposition the cause in which it was taken, the place and date of taking, the name of the witness, the party by whom

called, and the names of the parties and counsel present. And in the body of the deposition must also be shown by whom the witness was examined and cross-examined.

Before whom depositions not to be taken; what to certify.

In no case shall a deposition be taken before a commissioner of the court or other officer (authorized to take depositions) who has any office connection or business employment with the parties to the suit or their attorneys, except by consent of parties and when no other officer is accessible, (Order of Court, May 2, 1910), and in his certificate to such depositions such officer shall so certify.

Failure to so certify shall be deemed sufficient ground to suppress such deposition.

Return of.

66. The officer must inclose the depositions and exhibits in a packet, under his seal, and direct the same to the clerk of the Court of Claims at Washington, D. C., and deposit the package in the postoffice, or in an express office, or he may transmit the same by messenger, whose name shall be by him indorsed on the packet. Depositions reaching the clerk's office in any other way may, on motion, be stricken from the files.

When will not be considered.

—officer's fees to be paid before opening.

67. If the officer's fees be not paid at the time of taking the deposition, he should indorse on the outside of the packet the name and number of the case and for which party the testimony was taken, also the gross amount of his fees and disbursements, and inclose inside a detailed statement thereof.

The packet when so indorsed must not be opened until the party for whom the deposi-

tions were taken deposits with the clerk the amount indorsed thereon unless such deposit be waived in writing by the officer. The clerk will then open the packet and tax the officer's charges at the rates hereinafter provided, and will immediately transmit to him the amount taxed, returning the overplus, if any, to the party. *Provided*, That depositions taken for the Government may be opened and used by the parties in the preparation of a case without the Department of Justice furnishing a certificate that the fees of a commissioner or other officer have been paid; but such depositions can not be read in evidence until such certificate has been furnished.

When depositions may be opened without payment of fees.

Transmission of fees.

The money will be transmitted by draft or registered letter, and the clerk will retain his vouchers therefor.

Fees of commissioners and stenographers.

68. The fees shall be 15 cents a folio of 100 words for taking and returning the depositions. But when a deposition is taken in shorthand by the commissioner he shall receive, in addition to the above fee, 5 cents a folio for writing out the notes and preparing the deposition for the witness to sign.

When the deposition is typewritten, the commissioner shall receive 5 cents, in addition to the prescribed fee of 15 cents, a folio.

But if the commissioner is not a stenographer either party may produce a stenographer to take down and write out the testimony of the witness for the use of the commissioner, in which case the commissioner shall receive only 10 cents a folio. The tes-

timony so taken down by the stenographer must, nevertheless, be given in the presence of the commissioner, who will be held responsible for the accuracy of the deposition subscribed by the witness.

If the stenographer's fees be not paid at the time of taking the deposition, he may transmit a statement to the clerk, and the deposition will then be held by the clerk, subject to the provisions of Rule 67.

When but one deposition is taken on one notice, the commissioner shall receive not less than $3.

—excessive charges.

69. Any commissioner charging in excess of the prescribed fees, except under a previous written agreement with the parties, will be deemed guilty of improper and illegal conduct, and his commission will be revoked.

—objections to notice, form, etc., when to be made.

70. Objections to the notice or the form and manner of taking or returning the testimony must be made in writing and filed within one month after notice of the filing of the deposition, or they will be considered as waived.

EVIDENCE.

Evidence from the Executive Departments.

Attorney-General may give in evidence certified papers.

71. The Attorney-General may offer in evidence properly certified information and papers from any Executive Department without calling for the same under the provisions of section 1076 of the Revised Statutes.

Call on Departments.

A call for such information and papers will be made on claimant's motion on the approval of the Chief Justice or any judge in chambers. Such calls must show that the evidence called for is relevant, material, and competent.

When call will not be issued.

A call will not be issued for evidence which presumptively is in the possession of the claimant, such as copies of letters sent by the defendants' officers to the claimant, contracts in duplicate, one of which is retained by the claimant, or any documentary evidence which the claimant can himself produce.

Notice of answer.

On the receipt of an answer to the call the clerk will notify the claimant's attorney and the Attorney-General.

Objections to papers, etc., when to be made.

72. All information and papers furnished by an Executive Department in response to a call, or through the Attorney-General, are subject to objection by either party according to the rules of evidence at common law; but neither party will be required to produce the originals of such papers, or to prove their execution, unless the party objecting to such papers files in the clerk's office a written denial of their genuineness.

When regarded as offered in evidence by claimant.

Such information and papers in reply to a claimant's call, not objected to by him before trial, will be regarded as evidence offered by claimant.

Official papers filed in one cause, when may be used in another.

73. Any information or papers certified from any Executive Department, and filed in any cause, may be used and applied in any other pending cause to which the same may be applicable or pertinent, notice thereof being filed.

Comparison of handwritings.

Comparison of handwriting proof of signature.

74. Where the defendants intend to prove the signature of a paper by comparison of handwriting notice must be given in due time, either by describing in the brief the paper to be proved or by filing a special notice to that effect. The claimant may then request that the papers be brought into court *before the trial* and comparison of handwriting be made. This will be done at the opening of court on any day when the court is sitting.

Production of original papers by the claimant.

Order for production of papers by claimant.

75. The court may, at the instance of the Attorney-General, order any claimant, his agent, or attorney to produce in court, or before any officer authorized to take depositions, any letters, papers, deeds, documents, or other writings in his possession or subject to his control, in any way relating to the claim sued upon; and any claimant, his agent, or attorney, who, after due notice, refuses to produce such letters, papers, deeds, documents, or other writings, when in his power to do so, shall be subject to attachment for contempt; or the court may direct the petition to be dismissed.

Depositions from Claims Commission.

Certain depositions before Commissioners of Claims may be used.

76. If a claim which was at any time before the Commissioners of Claims, appointed under the act of March 3, 1871, be transmitted to this court by either House

of Congress, or by any committee thereof, under said act, and with such claim there be transmitted depositions, which were duly taken in conformity with the rules of said Commission, such depositions may be used by either party as evidence subject to such objections to their competency or relevancy as might be made if the depondents were examined in open court or their depositions were regularly taken under the rules of this court.

Papers before Claims Commission, how obtained.

77. If it be made to appear that, besides the depositions so transmitted, there are among the papers of said Commission other like depositions relating to the claimant's loyalty, or to the merits of his claim, the Chief Justice or any judge of the court may authorize such depositions, or duly certified copies thereof, to be obtained and filed in the clerk's office, to be used as evidence in the same manner and on the same terms as if they had been transmitted with the claim.

PRINTING.

Depositions, how to be printed and when.

78. The testimony will not be printed except by order of the court on written motion therefor.

In printing the testimony the notices and the officers' captions and certificates will be omitted; but to each deposition there must be prefixed a title in the following form:

Deposition of —— ——, *for claimant* [or defendants, as the case may be], *taken at* —— —, *on the* —— *day of* —, 19—; *claimant's counsel,* —— ——; *defendant's counsel,* —— ——.

Matter not to be printed.

79. Before printing a return made to a call, the chief clerk will withhold from the copy for the Public Printer—

First. All papers of which copies have been previously printed in the record of the case, and for this purpose he will compare the two copies, and if variations are found he will take the directions of the Chief Justice or any judge in chambers before sending the return to the printer.

Second. All certificates of authenticity and certificates of acknowledgment.

Third. All papers which both parties agree to omit.

Fourth. All papers which a judge at chambers orders to be omitted.

Papers, etc., returned from Departments on call when not to be printed.

80. If the claimant objects to printing information or papers so returned, and the Attorney-General request to have the same printed, the clerk will note a memorandum of such request in the copy for the printer, with his initials attached, and when such information or papers are printed, the same will be regarded as evidence offered on the part of the defense.

Type and size of page.

81. The printed papers required by these rules must be in long primer type on *unglazed* paper and in royal octavo pages, with the style and number of the case prefixed, and the paging in large distinct type in the upper corner of the page.

Paging to be continuous through whole record.

The printed paging of evidence, either for the claimant or the defendant, shall be a continuation of the record and continuous throughout the whole record and shall be properly indexed.

The attorneys for the claimant and for the defendants will see that the paging of their Request for Findings and Briefs follow the paging of that part of the record already printed when the brief is prepared.

Deposition of claimant not to be printed until Attorney-General files declaration of his intention to use it.

82. The deposition of a claimant, taken under section 1080 of the Revised Statutes, shall not be printed unless the Attorney-General shall first have filed in the case a written declaration of his intention to read the same in evidence on the trial, and the filing of such declaration shall be considered as the exercise of the discretion vested in that officer by said section, and shall entitle the claimant to read the examination as evidence at the trial if the Attorney-General declines to do so, unless for good cause shown the court shall otherwise order.

—thereafter claimant may read it in evidence.

Printing by claimant in Indian depredation cases.

83. In Indian depredation cases, if the claimant's papers be printed, whether briefs or evidence or both, the corresponding papers of the defendants must be; and if the printing of the claimant's papers be paid for by the attorney of record, the cost thereof will be considered in the allowance of attorney's fees.

Reimbursement for printing.

84. In cases where attorneys are entitled to reimbursement for printing they will produce and file ordinary vouchers showing payment or will certify that they have had printed and filed a designated number of pages of printing for which they have paid a designated amount.

Abstract of evidence to be printed.

85. In Indian depredation cases where the claim, as shown by the request for findings, is in excess of the sum of $2,000, the

abstract of evidence and brief of counsel on both sides shall be printed and arranged in the above order at the time the case is submitted for consideration.

FINDINGS OF FACT AND BRIEF.

86. The claimant shall have printed twenty-five copies of his brief, fifteen of which he shall file in the clerk's office and ten of which he shall retain for making up the trial record.

The brief must set forth the points of law on which he relies, with reference to authorities.

He shall also have printed twenty-five copies of the requests for facts required by Rule V of the "Regulations prescribed by the Supreme Court regulating appeals from the Court of Claims," fifteen of which he shall file in the clerk's office and ten of which he shall retain for making up the trial record.

All printed briefs and requests for facts must be in the form and manner prescribed by Rule 81.

Five typewritten copies of the brief and requests for facts in lieu of printed copies may be filed by leave of court.

Form of requests for findings.

87. Such request must be in the following terms: "*The claimant, considering the facts hereinafter set forth to be proven, and deeming them material to the due presentation of this case in the findings of fact, requests the court to find the same as follows:*"

Following this request must be a statement, in the form of distinct numbered propositions, of the facts which the party desires to have found; and each proposition must be so prepared, with respect to its length, subject, and phraseology, that the court may conveniently pass upon it; and they must be so arranged as to present a concise statement, in orderly and logical sequence, of the whole case, as the party desires it to appear in the findings of fact.

Request for findings, references to evidence.

Subjoined to each proposition must be references to the pages of the record or to the unprinted evidence relied on in its support; but no evidence must be set out. Documents which may enter into the findings of fact need not be presented in the statement, but may be referred to therein by the pages of the record.

Brief and request of defendants.

88. The defendants, within thirty days after the filing of the claimant's brief and request for findings of fact, shall file their printed brief and request for findings of fact, and should indicate the requests on the claimant's part to which no objection is made.

Defendants to furnish claimant with ten copies of brief for trial record.

The defendants shall furnish the claimant with ten copies of such printed brief and request for findings of fact, to be used in making up the trial record, and shall file fifteen copies in the clerk's office.

If the claimant, by leave of court, has filed five typewritten copies of his brief and requests, as provided for in Rule 86, the defendants may also file typewritten copies.

Reply brief—when required.

If the defendants' brief contains statements of fact which the claimant controverts, he must file a reply brief; otherwise it will be assumed that he concedes the facts stated.

Defendants to point out objections to claimant's requests.

Where claimant's requested findings are not agreed to, the defendants will point out specifically their objections to each finding, and suggest any changes therein they may desire. After this is done, defendants may request such additional findings as they deem material. Such request must be in form and substance like that required of the claimant by the next preceding rule.

Briefs of both parties to contain references to evidence.

89. The attorney of each party shall append to his brief a table of depositions, letters, documents, or other papers which he may offer in evidence on the trial, with references to the pages of the record, and if they be not of the paged record, then to the places where they may be found.

The abstract of testimony submitted with any case, if not printed, shall be typewritten, with marginal notes of the substance or items of the paragraphs either written, printed, or typewritten.

MANUSCRIPT BRIEFS.

Size and quality of paper.

90. Briefs for claimants or defendants, when not printed, must be in typewriting, upon pure white bond paper, 8 inches in width and 10½ inches in length, weighing not less than 3 and not more than 4 pounds to the ream of 500 sheets.

The typewriter ribbon must be black and the carbon blue.

When a brief and abstract of evidence will together exceed 50 pages, the abstract must be made a separate document.

The brief proper, i. e., the statement, argument, authorities, etc., must be distinct from the abstract of evidence. The abstract must follow the brief proper, or be a separate document.

Marginal references required.

The abstract of evidence may be continuous, but if continuous, there must be marginal references, such as "*cattle*," "*horses*," etc.

Where the filing of additional and supplemental briefs is necessitated, attorneys are requested to file a revised brief, so that there shall not be more than two briefs filed for either claimant or defendants.

The original brief in black must be fastened at the side and indorsed for filing. It will be filed with the papers in the case and will not be taken from the files unless by order of the court. The copies must be fastened at the side and *must not be folded.*

Before trial, record to be made up in book form for court.

Before any case is called for trial, the claimant, if the record be not printed as required by Rule 97, shall have five complete and legible copies of the pleadings, evidence, or abstract of evidence (as the Rules require), requests for findings of fact and briefs, fastened together in consecutive order in book or pamphlet form for the use of the court on the trial.

No case will be considered ready for trial until this rule has been complied with.

THE CALENDAR.

91. When the claimant has closed his evidence he shall enter the case in the Notice Book kept by the clerk.

When the defendants have closed their evidence they shall enter the fact in the Notice Book, and as soon thereafter as the claimant shall file the requests for facts and brief, as required by Rule 86, and note the same upon the Notice Book, the case shall be placed upon the Trial Calendar.

The taking of testimony by either party shall be deemed closed upon the filing of a brief; and thereafter no witness shall be re-examined or other testimony taken by such party without leave of court on motion showing reasons therefor.

The calendar will be made up at the beginning of every term and cases will be placed thereon in the order in which they are ready. At the end of each month cases which have subsequently become entitled to be placed upon the Calendar will be placed at the foot.

When claimant may move to place case on Calendar.

Defendants are expected to prepare their defense and to file briefs, so far as practicable, in the order of the entry of cases in the Notice Book. Should defendants unreasonably delay the preparation of the defense, claimants may move that the case be placed upon the Calendar.

Demurrers and pleas to be disposed of before taking testimony.

92. Demurrers, pleas in bar and to the jurisdiction of the court, will be placed upon the Law Calendar by the clerk immediately upon being filed, and will be heard and dis-

posed of before the taking of testimony on the merits.

NEGLECTED CASES.

Cases may be put on after two years by Attorney-General.

93. If the claimant neglect, for two years after filing his petition, to close his proof and give notice to the Attorney-General, as required by Rule 91, the defendants may place the case on the Trial Calendar; and after thirty days' notice to the attorney of record, or if there be no attorney of record, then to the claimant at his last known place of residence, they may move to dismiss such case for nonprosecution. This rule shall also apply to cross actions by the defendants against claimant.

All demurrers, pleas, and motions that have been on the Law Calendar for two years may, on motion of either party, be submitted.

ADVANCEMENT OF CASES.

Cases may be advanced when early decision is important to Government.

94. Whenever, in any case which the claimant has not put on the Calendar, it shall be shown to the court on motion that an early decision thereof is important to the interests of the Government, the case may, in the discretion of the court, be placed on the Calendar by the defendants.

REMANDED CASES.

Motion to remand, what to contain.

95. When a party desires a case to be remanded to the general docket for further proceedings he shall make a motion therefor, stating the facts expected to be proved,

with the grounds of such expectation and the reasons why such action was not taken before the case was closed.

TRIALS AND OTHER PROCEEDINGS.

Assignment of case for trial.

96. Ten or more cases on the Calendar will be called, assigned, and posted in the clerk's office each day for trial on the following day, and if not then argued or submitted by the parties, or by either in the absence of the other, will be disposed of as the court may order.

When case will be sent to foot of Calendar—when it may be passed.

When a case on the Calendar is called for trial, and the claimant is not ready to proceed, it will be placed at the foot of the Calendar; if the defendants are not ready, the case may be passed.

When a case has been so "passed" the clerk will place it on any subsequent day Calendar at the request of both parties, without application to the court.

Record to be made up in book form.

97. No case in which a printed record is required will be heard unless the claimant makes up in book form and has ready at the time of trial a complete record of the case, consisting of the printed pleadings, evidence, and requests for facts and briefs, paged consecutively. All citations from, or references to, such pleadings, evidence, and briefs must be by the consecutive paging of such book.

Claimant to furnish court with copies of record; also one copy to defendants and one copy to bailiff.

At the time of trial of the case the claimant shall furnish a copy of such printed record to each member of the court, and shall furnish one copy for the defendants and deliver one copy to the bailiff for binding.

Oral arguments—procedure.

98. In oral arguments, as preliminary, the counsel for claimant will make a brief but substantial statement of the cause of action alleged in the petition, in which statement he will also embrace the material facts which, in his opinion, are established by the evidence. After the statement of claimant's counsel, and before he proceeds with his argument, the counsel for the defendants will, in like manner, make a statement of the defense; after which the counsel may proceed to argue the case in detail.

—to be limited to one-half hour a side in Congressional cases.

Arguments in Congressional cases will be limited to one-half hour on a side; in all other classes of cases to one hour.

Additional time may be granted.

Where additional time is deemed necessary by counsel on either side application therefor must be made before the trial begins.

If cases specially set will require more than the prescribed time, it must be so stated when the application to set down is made. When it is not so stated the court will understand that the arguments can be concluded within the prescribed time.

When calling up cases in court, counsel will refer to them by their Calendar numbers and not by their docket numbers.

Submission on written stipulation.

99. Parties may also submit, on written stipulation, on the blank forms printed therefor by the clerk, any case in any jurisdiction on any docket, whether on any Calendar or not, when briefs have been filed on both sides and the rules of the court have otherwise been complied with.

Submission of cases without argument.

100. Where cases are submitted without argument upon stipulation, the parties will note at the foot of the submission paper (by the date of filing) the briefs and stipulations, if any, upon which the case is intended to be submitted. Where this is not done the case will not be regarded as having been submitted.

Requirements before submission of cases.

101. No submission of a case on loyalty or merits will be permitted until the following requirements are complied with by claimant's attorney under the supervision of the bailiff:

—on loyalty.

When a submission is on loyalty, the petition, all reports previously made by any officers on the subject, abstract of evidence, briefs on both sides, and other most important papers relied upon by either party, must be selected, strapped together and placed on top of the bundle of papers to be sent to the conference room.

—on merits.

102. When submission is on merits, two extra copies of petition, the reports of officers previously made on the merits of the claim, abstract of evidence, with the original evidence, requests for findings, briefs on both sides, finding of loyalty, and a statement of the case, made up by filling one of the blank findings printed for the court, including the allegations of the petition, must in like manner be strapped together and put at top of the bundle to be sent to conference room.

BRIEFS AND FACTS IN FRENCH SPOLIATION CASES.

Printed statement.

103. The claimants on account of the vessel, cargo, or insurance, or some one or more

of them concerned in the same seizure, shall have printed twenty-five copies of a printed statement of alleged facts under the heads hereinafter set out. Fifteen of said copies shall be filed in the clerk's office and ten copies shall be retained by claimant for the trial record.

Documents not printed in the record must be numbered, put in envelopes (as far as practicable), and noted on the outside thereof.

Under each head reference must be made to the pages of the printed record and to unprinted and separate documents by number of envelope and number of paper therein, or other convenient designation, relied upon in support of allegations.

Form of statement.

TITLE OF CASE.

Form of statement.

(1) Name of vessel and master:

Docket number of each case with the full names of claimants, and where there are interveners, their names to be set out under the case in which they intervene, with the number of any separate petition by them; to be made up after the manner of the case of the schooner *Phoenix*, reported to Congress, thus:

Schooner Phoenix—Solomon Babson, master.

129. Thomas Cushing, administrator of Marston Watson, claimant.

3162. Charles T. Lovering, administrator of Joseph Taylor, claimant.
James C. Davis, administrator of Cornelius Durant, claimant.

260. Charles F. Adams, administrator of Peter C. Brooks, claimant.
William Sohier, administrator of Nathaniel Fellowes, claimant.

VESSEL.

(2) Names of owners and their respective shares.

(3) When and where built.

(4) Register.

(5) Date of sailing and points of departure and destination.

(6) Seizure and condemnation.

(7) Facts relied upon as showing illegality of condemnation.

(8) Insurance on vessel or freight, naming all the underwriters and amount admitted to have been paid to each owner on account of loss, and from whom received. Refer to policies and other evidence.

CARGO.

(9) Owners of cargo, stating each separately and whether the interest be in whole or divided, with number of case in which they appear.

(10) Value of cargo and of each claimant's interest therein.

(11) Insurance on cargo, naming all the underwriters and amount admitted to have been paid to each owner on account of loss, and from whom received. Refer to policies and other evidence.

VESSEL, CARGO, AND INSURANCE.

(12) Assignments.

(13) When there are adverse claimants,

the facts alleged by each claimant to be specified.

(14) In case of intervention, the date of filing of motion, and case in which filed, to be stated with reference to envelope in which same are to be placed.

(15) Evidence of citizenship of claimants and identity must be referred to under their respective names.

(16) Time of death of partners when administrator sues as representative of survivor.

(17) Administrators, receivers, and assignees, when and where appointed, and evidence of appointments.

(18) When facts relied upon as found in other cases, such cases must be specifically referred to.

RECAPITULATION AND SUMMARY.

Name of each claimant, stating number of petition, and where printed or found, and when an intervener, the date of intervention and where motion is found, and setting forth exactly in items what is claimed by him in all, as owner of vessel or cargo, or as insurer, stated separately and *with references* as aforesaid, so that the court may readily find all the evidence necessary to state each claimant's case distinctly.

The defendants shall file five printed copies of their brief, setting forth in detail all defenses upon which they rely.

The claimant shall file five printed copies of a reply brief, to the new matter relied

on by the defendants, within thirty days after the defendants have made final defenses.

Requests for findings, when to be filed.

Before the submission of any such case the claimants shall make and file their requests for findings of fact if they expect a favorable report to Congress.

No case will be considered as submitted until the provisions of this rule have been complied with.

Every paper filed in spoliation cases shall state at the beginning the name and character of the vessel and the name of the master, and shall be indorsed in like manner.

DISMISSAL ON DEATH OF CLAIMANT.

Dismissal on death of sole party.

104. On the death of a sole claimant, if his executor or administrator does not come in and prosecute the action, as provided in Rule 35, on or before the first ten days of the next term, after the suggestion is made, the case may be dismissed, provided the Attorney-General shall have served notice upon the attorney of record in the case three months at least before the commencement of such term.

NOTICES.

Service made through clerk's office. Computation of time.

105. Parties filing petitions, pleadings, and motions, except motions for calls on Departments, must at the same time leave with the clerk written notice thereof, addressed to the attorney of the adverse party, and the clerk will mail the same and note the

fact on the general docket. All other notices to adverse parties may be served in like manner. The clerk's entry on his docket will be *prima facie* evidence of the service. In the computation of time, the day of the service will be excluded, and the day on which a party is required to appear, or on which an act is required to be done, will be included.

NEW TRIAL.

New trial; when not to be granted. 14 C. Cls. R., 133. 18 C. Cls. R., 262, 289.

106. A new trial will not be granted where, upon the whole case, justice has been done between the parties and the judgment is substantially right, although there may have been some mistakes committed at the trial.

Under Bowman Act, etc., motions for new trial after findings are reported will not be entertained.

In cases transmitted to the court by Congress, or either House, or a committee thereof, or by the head of a Department, under the acts of March 3, 1883, ch. 116 (1 Supp. R. S., 2d ed., 403), and March 3, 1887, ch. 359 (1 Supp. R. S., 2d ed., 559), and in cases under the French spoliation act of January 20 1885, ch. 25 (1 Supp. R. S., 2d ed., 471), motions for new trials will not be entertained after the findings have been reported as required by law.

New trial, grounds of.

107. A motion for a new trial, other than under Revised Statutes, section 1088, must be founded upon one or more of the following grounds: First, error of fact; second, error of law; and third, newly discovered evidence. It must be made at the term in which the judgment is rendered.

—founded on error of fact, what to specify.

108. A motion founded upon an error of fact must specify with minuteness the fact or facts which are regarded as erroneously found or erroneously omitted to be found by the court, with full reference to the evidence which is relied on to support the motion.

—founded on error of law, what to specify.

109. A motion founded upon error of law must specify with like minuteness the points upon which the court is supposed to have erred, with references to the authorities relied upon to support the motion.

Motion for new trial founded on newly discovered evidence, what to set forth.

110. A motion by the claimant upon the ground of newly discovered evidence will not be entertained unless it appear therein that the newly discovered evidence came to the knowledge of the claimant, his attorney of record, or counsel after the trial and before the motion was made; that it was not for want of due diligence that it did not sooner come to his knowledge; that it is so material that it would probably produce a different judgment if the new trial were granted, and that it is not cumulative.

Motion must be accompanied with affidavit, etc.

Such motion must be accompanied by the affidavit of the claimant or his attorney of record, setting forth—

First. The facts in detail which the claimant expects to be able to prove, and whether the same are to be proved by witnesses or by documentary evidence.

Second. The name, occupation, and residence of each and every witness whom it is proposed to call to prove said facts.

Third. That the said facts were unknown to either the claimant or his attorney of rec-

ord, and, if other counsel was employed at the trial, were unknown to such counsel, until after the close of the trial.

Fourth. The reasons why the claimant, his attorney of record, or counsel could not have discovered said evidence before the trial by due diligence.

Motion must be accompanied by brief.

111. A motion for a new trial must also be accompanied by the brief of the moving party. It will be considered by the judges in conference upon such brief and affidavits, if any, and will then either be overruled on the court's own motion or sent to the Law Calendar for argument.

APPEALS.

Appeals, application for, how made.
6 Wall., 101; 7 C. Cls. R., 11.
13 Wall., 664; 7 C. Cls. R., 268.
23 C. Cls., R., 1, 41. See p. 33.

112. Application for appeal to the Supreme Court of the United States from any judgment or decree of this court must be in writing, and signed by the claimant or his attorney of record, if the appeal be on his behalf; or, if taken by the United States, it must be signed by the Attorney-General or the proper Assistant Attorney-General.

Appeals, application for, to be filed in clerks' office, when.

Such application, if made when the court is not in session, must be filed with the clerk and the date of filing the same must be indorsed upon it and noted upon the general docket.

EXAMINATION AND WITHDRAWAL OF PAPERS.

Papers on file, how obtained for examination by parties.

113. Any person having an interest wishing to see any papers on file in the clerk's office will apply therefor to the chief or assistant clerk.

No papers shall be permanently withdrawn or temporarily taken out of the clerk's office, except on motion for good cause shown, and upon such terms as the court or a judge may order.

ENTERING ORDERS AND FILING PAPERS.

When orders to be entered of record.

114. No order will be entered by the clerk unless it be directed from the bench, or be reduced to writing and marked "Allowed" by the Chief Justice or one of the judges.

Papers to be indorsed before filing.

115. The clerk will not file any paper unless it be properly indorsed showing the nature of same, with the title and number of the suit and the name of the attorney filing it.

EXTENSION OF TIME.

Extension of time prescribed by rules.

116. The limitation of time provided in these rules for the doing of any act may be extended on motion for good cause shown.

RELATING TO AUDITORS, CLERKS, AND EMPLOYEES.

Duties of auditors, clerks, and employees.

117. Auditors will investigate in their order of reference only such cases as may be referred to them by the court and in their investigations they will proceed without argument, unless, upon application by counsel in writing therefor, the court, or any judge, shall consent by indorsement thereon to such argument, in which case counsel on both sides shall be heard. And all suggestions from counsel in relation to the law or merits of any case referred to an auditor shall be in writing addressed to the court and filed in the cause.

RULES OF PRACTICE.

IN THE

UNITED STATES PATENT OFFICE.

REVISED JULY 17, 1907.

Rev. Stat., sec. 481, 483, 480.

The following rules of practice, duly adopted and approved by the Secretary of the Interior, designed to be in strict accordance with the Revised Statutes relating to the grant of patents for inventions, are published for gratuitous distribution. Marginal references to corresponding provisions of the Revised Statutes are given for the convenience of the public and of the office.

Marginal references.

Observance of forms recommended.

The observance of the appended forms, in all cases to which they may be applicable, is recommended to inventors and attorneys.

Printed copies of statutes furnished.

Printed copies of the Revised Statutes relating to the grant of patents may be obtained on application to the Commissioner.

(Signed) E. B. MOORE,
Commissioner of Patents.

CORRESPONDENCE.

Business to be transacted in writing.

1. All business with the office should be transacted in writing. Unless by the consent of all parties, the action of the office will be based exclusively on the written record. No attention will be paid to any al-

leged oral promise, stipulation, or understanding in relation to which there is a disagreement or doubt.

Correspondence to be in the name of the commissioner.

2. All office letters must be sent in the name of the "Commissioner of Patents." All letters and other communications intended for the office must be addressed to him; if addressed to any of the other officers, they will ordinarily be returned.

All charges to be prepaid.

3. Express charges, freight, postage, and all other charges on matter sent to the Patent Office must be prepaid in full; otherwise it will not be received.

Personal attendance of applicants unnecessary.

4. The personal attendance of applicants at the Patent Office is unnecessary. Their business can be transacted by correspondence.

Correspondence with assignee.

5. The assignee of the entire interest of an invention is entitled to hold correspondence with the office to the exclusion of the inventor. (See Rule 20.)

Correspondence with inventor and assignee.

6. When there has been an assignment of an undivided part of an invention, amendments and other actions requiring the signature of the inventor must also receive the written assent of the assignee; but official letters will only be sent to the postoffice address of the inventor, unless he shall otherwise direct.

Correspondence with attorney.

7. When an attorney shall have filed his power of attorney duly executed, the correspondence will be held with him.

Double correspondence.

8. A double correspondence with the inventor and an assignee, or with a principal and his attorney, or with two attorneys, can not generally be allowed.

Separate letters.

9. A separate letter should in every case be written in relation to each distinct subject of inquiry or application. Assignments for record, final fees, and orders for copies or abstracts must be sent to the office in separate letters.

Papers sent in violation of this rule will be returned.

Letters relating to applications.

10. When a letter concerns an application it should state the name of the applicant, the title of the invention, the serial number of the application (see Rule 31), and the date of filing the same. (See Rule 32.)

Letters relating to patent.

11. When the letter concerns a patent it should state the name of the patentee, the title of the invention, and the number and date of the patent.

Protests.

12. No attention will be paid to unverified *ex parte* statements or protests of persons concerning pending applications to which they are not parties, unless information of the pendency of such applications shall have been voluntarily communicated by the applicants.

Answer to letters and telegrams.

13. Letters received at the office will be answered, and orders for printed copies filled, without unnecessary delay. Telegrams, if not received before 3 o'clock p. m., can not ordinarily be answered until the following day.

INFORMATION TO CORRESPONDENTS.

Subjects on which information can not be given.

14. The office can not respond to inquiries as to the novelty of an alleged invention in advance of the filing of an applica-

tion for a patent, nor to inquiries propounded with a view to ascertaining whether any alleged improvements have been patented, and, if so, to whom; nor can it act as an expounder of the patent law, nor as counsel or for individuals, except as to questions arising within the office.

Rev. Stat., sec. 475, 481, 484, 4883. Records and models open to inventors.

Of the propriety of making an application for a patent, the inventor must judge for himself. The office is open to him, and its records and models pertaining to all patents granted may be inspected either by himself or by any attorney or expert he may call to his aid, and its reports are widely distributed. (See Rule 209.) Further than this the office can render him no assistance until his case comes regularly before it in the manner prescribed by law. A copy of the rules, with this section marked, sent to the individual making an inquiry of the character referred to, is intended as a respectful answer by the office.

Examiner's digests.

Examiners' digests are not open to public inspection.

Rev. Stat., sec. 4902. Caveats and pending applications kept in secrecy.

15. Caveats and pending applications are preserved in secrecy. No information will be given, without authority, respecting the filing by any particular person of a caveat or of an application for a patent or for the reissue of a patent, the pendency of any particular case before the office, or the subject-matter of any particular application, unless it shall be necessary to the proper conduct of business before the office, as provided by Rules 97, 103, and 108.

Rev. Stat., secs. 475, 481, 484, 4883.
Records and copies in patented cases.

16. After a patent has issued, the model, specification, drawings, and all documents relating to the case are subject to general inspection, and copies, except of the model, will be furnished at the rates specified in Rule 203.

ATTORNEYS.

Attorneys.

17[a] An applicant or an assignee of the entire interest may prosecute his own case, but he is advised, unless familiar with such matters, to employ a competent attorney, as the value of patents depends largely upon the skillful preparation of the specification and claims. The office can not aid in the selection of an attorney.

A register of attorneys will be kept in this office, on which will be entered the names of all persons entitled to represent applicants before the Patent Office in the presentation and prosecution of applications for patent. The names of persons in the following classes will, upon their written request, be entered upon this register.

(*a*) Any attorney at law who is in good standing in any court of record in the United States or any of the States or Territories thereof and shall furnish a certificate of the clerk of such United States, State, or Territorial court, duly authenticated under the seal of the court, that he is an attorney in good standing.

(*b*) Any person not an attorney at law who shall file proof to the satisfaction of the *Commissioner* that such person is of good moral character and of good repute

a. For Rule 17 as amended, see *post*, p. 1472.

and possessed of the necessary qualifications to enable him to render applicants for patents valuable service, and is otherwise competent to advise and assist them in the presentation and prosecution of their applications before the Patent Office.

(*c*) Any firm will be registered which shall show that the individual members composing such firm are each and all registered under the provisions of the preceding sections.

The Commissioner may require proof of qualifications other than those specified in paragraph (*a*) and reserves the right to decline to recognize any attorney, agent, or other person applying for registration under this rule.

Any person or firm not registered and not entitled to be recognized under this rule as an attorney or agent to represent applicants generally may, upon a showing of circumstances which render it necessary or justifiable, be recognized by the Commissioner to prosecute as attorney or agent certain specified application or applications, but this limited recognition shall not extend further than the application or applications named.

No person not registered as above provided will be permitted to prosecute applications before the Patent Office.

Power of attorney.

18. Before any attorney, original or associate, will be allowed to inspect papers or take action of any kind, his power of attorney must be filed. But general powers given by a principal to an associate can not

be considered. In each application the written authorization must be filed. A power of attorney purporting to have been given to a firm or copartnership will not be recognized, either in favor of the firm or of any of its members, unless all its members shall be named in such power of attorney.

Copartners.

* * * * * * *

Substitution and association.

19. Substitution or association can be made by an attorney upon the written authorization of his principal; but such authorization will not empower the second agent to appoint a third.

Revocation.

20. Powers of attorney may be revoked at any stage in the proceedings of a case upon application to and approval by the Commissioner; and when so revoked the office will communicate directly with the applicant, or such other attorney as he may appoint. An attorney will be promptly notified by the docket clerk of the revocation of his power of attorney. An assignment of an undivided interest will not operate as a revocation of the power previously given; but the assignee of the entire interest may be represented by an attorney of his own selection.

Attorneys' room.

21. Parties or their attorneys will be permitted to examine their cases in the attorneys' room, but not in the rooms of the examiners.

Personal interviews with examiners.

Personal interviews with examiners will be permitted only as hereinafter provided. (See Rule 152.)

Decorum and courtesy in business.

Papers returned.

22.[a] (*a*) Applicants and attorneys will be required to conduct their business with the office with decorum and courtesy. Pa-

a. For Rule 22 as amended see *post*, p. 1473.

pers presented in violation of this requirement will be returned. But all such papers will first be submitted to the Commissioner, and only returned by his direct order.

Complaints against examiners.

(*b*) Complaints against examiners and other officers must be made in separate communications, and will be promptly investigated.

Rev. Stat., sec. 487.
Refusal to recognize agents.

(*c*) For gross misconduct the Commissioner may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons for such refusal will be duly recorded and be subject to the approval of the Secretary of the Interior.

Services of Senators or Representatives.

23. Inasmuch as applications can not be examined out of their regular order, except in accordance with the provisions of Rule 63, and members of Congress can neither examine nor act in patent cases without written powers of attorney, applicants are advised not to impose upon Senators or Representatives labor which will consume their time without any advantageous results.

APPLICANTS.

Rev. Stat., sec. 4886.

24. A patent may be obtained by any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof, not known or used by others in this country before his invention or discovery thereof, and not patented or described in any printed publication in this or any foreign country before his invention or discovery thereof, or more than

Applicants.

Rev. Stat., sec. 4887.

two years prior to his application, and not patented in a country foreign to the United States on an application filed more than twelve months before his application, and not in public use or on sale in the United States for more than two years prior to his application, unless the same is proved to have been abandoned, upon payment of the fees required by law and other due proceedings had. (For designs, see Rule 79.)

Rev. Stat., sec. 4896.

Executors and administrators.

25. In case of the death of the inventor, the application will be made by and the patent will issue to his executor or administrator. In such case the oath required by Rule 46 will be made by the executor or administrator. In case of the death of the inventor during the time intervening between the filing of his application and the granting of a patent thereon, the letters patent will issue to the executor or administrator upon proper intervention by him. The executor or administrator duly authorized under the law of any foreign country to administer upon the estate of the deceased inventor shall, in case the said inventor was not domiciled in the United States at the time of his death, have the right to apply for and obtain the patent. The authority of such foreign executor or administrator shall be proved by certificate of a diplomatic or consular officer of the United States.

Act of Feb. 28, 1899.

Insane person.

In case an inventor becomes insane, the application may be made by and the patent issued to his legally appointed guardian, conservator, or representative, who will make the oath required by Rule 46.

Rev. Stat., sec. 4895.

Patents to assignees.

26. In case of an assignment of the whole interest in the invention, or of the whole interest in the patent to be granted, the patent will, upon request of the applicant embodied in the assignment, issue to the assignee; and if the assignee hold an undivided part interest, the patent will, upon like request, issue jointly to the inventor and the assignee; but the assignment in either case must first have been entered of record, and at a day not later than the date of the payment of the final fee (see Rule 200); and if it be dated subsequently to the execution of the application, it must give the date of execution of the application, or the date of filing, or the serial number, so that there can be no mistake as to the particular invention intended. The application and oath must be signed by the actual inventor, if alive, even if the patent is to issue to an assignee (see Rules 30, 40); if the inventor be dead, the application may be made by the executor or administrator.

To inventors and assignees jointly.

Rev. Stat., sec. 4923.

Inventor believing himself to be first inventor.

27. If it appear that the inventor, at the time of making his application, believed himself to be the first inventor or discoverer, a patent will not be refused on account of the invention or discovery, or any part thereof, having been known or used in any foreign country before his invention or discovery thereof, if it had not been before patented or described in any printed publication.

Joint inventors.

28. Joint inventors are entitled to a joint patent; neither of them can obtain a patent for an invention jointly invented by them.

Independent inventors of distinct and independent improvements in the same machine can obtain a joint patent for their separate inventions. The fact that one person furnishes the capital and another makes the invention does not entitle them to make an application as joint inventors; but in such case they may become joint patentees, upon the conditions prescribed in Rule 20.

Rev. Stat., sec. 4887.
Foreign patents.

29. The receipt of letters patent from a foreign government will not prevent the inventor from obtaining a patent in the United States, unless the application on which the foreign patent was granted was filed more than twelve months prior to the filing of the application in this country, in which case no patent shall be granted in this country.

THE APPLICATION.

Rev. Stat., secs. 4888 to 4802.
Requisites of application.

30. Applications for letters patent of the United States must be made to the Commissioner of Patents, and must be signed by the inventor, if alive. (See Rules 26, 33, 40, 46.) A complete application comprises the first fee of $15, a petition, specification, and oath; and drawings, model, or specimen when required. (See Rules 49, 56, 62.) The petition, specification, and oath must be in the English language. All papers which are to become a part of the permanent records of the office must be legibly written or printed in permanent ink.

Rev. Stat., secs. 4888, 4889, 4890, 4891, 4892, 4894.

31. An application for a patent will not be placed upon the files for examination until all its parts, except the model or specimen, are received.

Incomplete application not filed. Signed or sworn to in blank.

Every application signed or sworn to in blank, or without actual inspection by the applicant of the petition and specification, and every application altered or partly filled up after being signed or sworn to, will be stricken from the files.

Annual series.

Completed applications are numbered in regular order, the present series having been commenced on the 1st of January, 1900.

The applicant will be informed of the serial number of his application.

Abandoned unless completed within one year.

The application must be completed and prepared for examination within one year after the filing of the petition; and in default thereof, or upon failure of the applicant to prosecute the same within one year after any action thereon (Rule 77), of which notice shall have been duly mailed to him or his agent, the application will be regarded as abandoned, unless it shall be shown to the satisfaction of the Commissioner that such delay was unavoidable. (See Rules 171 and 172.)

All parts of application to be filed together.

32. It is desirable that all parts of the complete application should be deposited in the office at the same time, and that all the papers embraced in the application should be attached together; otherwise a letter must accompany each part, accurately and clearly connecting it with the other parts of the application. (See Rule 10.)

The Petition.

Rev. Stat., sec. 4888. Petition.

33. The petition must be addressed to the Commissioner of Patents, and must state the name, residence, and postoffice address

of the petitioner requesting the grant of a patent, designate by title the invention sought to be patented, contain a reference to the specifications for a full disclosure of such invention, and must be signed by the applicant.

The Specification.

Rev. Stat., sec. 4888. Specification.

34. The specification is a written description of the invention or discovery and of the manner and process of making, constructing, compounding, and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make, construct, compound, and use the same.

Rev. Stat., sec. 4888. Detailed description.

35. The specification must set forth the precise invention for which a patent is solicited, and explain the principle thereof, and the best mode in which the applicant has contemplated applying that principle, in such manner as to distinguish it from other inventions.

Rev. Stat., sec. 4888. Improvements.

36. In case of a mere improvement, the specification must particularly point out the parts to which the improvement relates, and must by explicit language distinguish between what is old and what is claimed as new; and the description and the drawings, as well as the claims, should be confined to the specific improvement and such parts as necessarily co-operate with it.

Claims.

37. The specification must conclude with a specific and distinct claim or claims of the

part, improvement, or combination which the applicant regards as his invention or discovery.

Reference to drawings.

38. When there are drawings the description will refer to the different views by figures and to the different parts by letters or numerals (preferably the latter).

Arrangement of specification.

39. The following order of arrangement should be observed in framing the specification:

(1) Preamble stating the name and residence of the applicant and the title of the invention.
(2) General statement of the object and nature of the invention.
(3) Brief description of the several views of the drawings (if the invention admits of such illustration).
(4) Detailed description.
(5) Claim or claims.
(6) Signature of inventor.
(7) Signatures of two witnesses.

Rev. Stat., sec. 4888.
Signature to specification.

40. The specification must be signed by the inventor or by his executor or administrator, and the signature must be attested by two witnesses. Full names must be given, and all names, whether of applicants or witnesses, must be legibly written.

Joinder of inventions.

41. Two or more independent inventions can not be claimed in one application; but where several distinct inventions are dependent upon each other and mutually contribute to produce a single result they may be claimed in one application.

Division of application.

42. If several inventions, claimed in a single application, be of such a nature that a single patent may not be issued to cover them, the inventor will be required to limit the description, drawing, and claim of the pending application to whichever invention he may elect. The other inventions may be made the subjects of separate applications, which must conform to the rules applicable to original applications. If the independence of the inventions be clear, such limitation will be made before any action upon the merits; otherwise it may be made at any time before final action thereon, in the discretion of the examiner.

Cross-references in cases relating to same subject.

43. When an applicant files two or more applications relating to the same subject-matter of invention, all showing but only one claiming the same thing, the applications not claiming it must contain references to the application claiming it.

Reservation clauses not permitted.

44. A reservation for a future application of subject-matter disclosed but not claimed in a pending application, but which subject-matter might be claimed therein, will not be permitted in the pending application.

Rev. Stat., sec. 4888.
Legible writing required.

45. The specification and claims must be plainly written or printed on but one side of the paper. All interlineations and erasures must be clearly referred to in marginal or foot notes on the same sheet of paper. Legal-cap paper with the lines numbered is deemed preferable, and a wide margin must always be reserved upon the left-hand side of the page.

The Oath.

Rev. Stat., sec. 4892.
Oath of applicant.

46. The applicant, if the inventor, must make oath or affirmation that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used, and shall state of what country he is a citizen and where he resides, and whether he is a sole or joint inventor of the invention claimed in his application. In every original application the applicant must distinctly state under oath that the invention has not been patented to himself or to others with his knowledge or consent in this or any foreign country for more than two years prior to his application, or on an application for a patent filed in any foreign country by himself or his legal representatives or assigns more than twelve months prior to his application. If any application for patent has been filed in any foreign country by the applicant in this country, or by his legal representatives or assigns, prior to his application in this country, he shall state the country or countries in which such application has been filed, giving the date of such application, and shall also state that no application has been filed in any other country or countries than those mentioned, and if no application for patent has been filed in any foreign country, he shall so state; that to the best of his knowledge and belief the

Rev. Stat., sec. 4887, 4892.
Statement as to foreign patents and public use.

Statement as to foreign applications.

invention has not been in public use or on sale in the United States, nor described in any printed publication or patent in this or in any foreign country, for more than two years prior to his application in this country. This oath must be subscribed to by the affiant.

Additional oath.

The Commissioner may require an additional oath in cases where the applications have not been filed in the Patent Office within a reasonable time after the execution of the original oath.

Rev. Stat., sec. 4896.

Oath by executor or guardian.

47[a]. If the application be made by an executor or administrator of a deceased person or the guardian, conservator, or representative of an insane person, the form of the oath will be correspondingly changed.

Officers authorized to administer oaths.

The oath or affirmation may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, charge d'affaires, consul, or commericial agent holding commission under the Government of the United States, or before any notary public, judge or magistrate having an official seal and authorized to administer oaths in the foreign country in which the applicant may be,

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whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States, the oath being attested in all cases in this and other countries, by the proper official seal of the officer before whom the oath or affirmation is made, *ex-*

June 29, 1906.

cept that no acknowledgment may be taken by any attorney appearing in the case.

a. For Rule 47 as amended, see *post*, p. 1474.

When the person before whom the oath or affirmation is made is not provided with a seal, his official character shall be established by competent evidence, as by a certificate from a clerk of a court of record or other proper officer having a seal.

Certificate of notary.

When the oath is taken before an officer in a country foreign to the United States, all the application papers must be attached together and a ribbon passed one or more times through all the sheets of the application, and the ends of said ribbon brought together under the seal before the latter is affixed and impressed, or each sheet must be impressed with the official seal of the officer before whom the oath was taken, or, if he is not provided with a seal, then each sheet must be initialed by him.

December 6, 1899.

48. When an applicant presents a claim for matter originally shown or described but not substantially embraced in the statement of invention or claim originally presented, he will file a supplemental oath to the effect that the subject-matter of the proposed amendment was part of his invention, was invented before he filed his original application, was not known or used before his invention, was not patented or described in a printed publication in any country more than two years before his application, was not patented to himself or to others with his knowledge or consent in this or any foreign country on an application filed more than twelve months prior to his application, was not in public use or on sale in this country for more than two years before the

Supplemental oath for matter not originally claimed.

date of his application, and has not been abandoned. Such supplemental oath must be attached to and properly identify the proposed amendment.

The Drawings.

Rev. Stat., sec. 4889. Drawings.

49. The applicant for a patent is required by law to furnish a drawing of his invention whenever the nature of the case admits of it.

Requisites of drawings.

50. The drawing may be signed by the inventor, or the name of the inventor may be signed on the drawing by his attorney in fact, and must be attested by two witnesses. The drawing must show every feature of the invention covered by the claims, and the figures should be consecutively numbered, if possible. When the invention consists of an improvement on an old machine the drawing must exhibit, in one or more views, the invention itself, disconnected from the old structure, and also in another view so much only of the old structure as will suffice to show the connection of the invention therewith.

Three editions of drawings.

51. Three several editions of patent drawings are printed and published—one for office use, certified copies, etc., of the size and character of those attached to patents, the work being about 6 by 9½ inches; one reduced to half that scale, or one-fourth the surface, of which four are printed on a page to illustrate the volumes distributed to the courts; and one reduction—to about the same scale—of a selected portion of each drawing for the Official Gazette.

52. This work is done by the photolithographic process, and therefore the character of each original drawing must be brought as nearly as possible to a uniform standard of excellence, suited to the requirements of the process, and calculated to give the best results, in the interests of inventors, of the office, and of the public. The following rules will therefore be rigidly enforced, and any departure from them will be certain to cause delay in the examination of an application for letters patent:

Uniform standard.

(1) Drawings must be made upon pure white paper of a thickness corresponding to three-sheet Bristol-board. The surface of the paper must be calendered and smooth. India ink alone must be used, to secure prefectly black and solid lines.

Paper and ink.

(2) The size of a sheet on which a drawing is made must be exactly 10 by 15 inches. One inch from its edges a single marginal line is to be drawn, leaving the "sight" precisely 8 by 13 inches. Within this margin all work and signatures must be included. One of the shorter sides of the sheet is regarded as its top, and, measuring downwardly from the marginal line, a space of not less than 1¼ inches is to be left blank for the heading of title, name, number, and date.

Size of sheet and marginal lines.

(3) All drawings must be made with the pen only. Every line and let-

Character and color of lines.

ter (signatures included) must be absolutely black. This direction applies to all lines, however fine, to shading, and to lines representing cut surfaces in sectional views. All lines must be clean, sharp, and solid, and they must not be too fine or crowded. Surface shading, when used, should be open. Sectional shading should be made by oblique parallel lines, which may be about one-twentieth of an inch apart. Solid black should not be used for sectional or surface shading.[a]

Few lines and little or no shading.

(4) Drawings should be made with the fewest lines possible consistent with clearness. By the observance of this rule the effectiveness of the work after reduction will be much increased. Shading (except on sectional views) should be used only on convex and concave surfaces, where it should be used sparingly, and may even there be dispensed with if the drawing is otherwise well executed. The plane upon which a sectional view is taken should be indicated on the general view by a broken or dotted line. Heavy lines on the shade sides of objects should be used, except where they tend to thicken the work and obscure letters of reference. The light is always supposed

*For chart for guidance of draftsmen, see drawing page 1449.

to come from the upper left-hand corner at an angle of forty-five degrees. Imitations of wood or surface graining should not be attempted.

Scale or drawing.

(5) The scale to which a drawing is made ought to be large enough to show the mechanism without crowding, and two or more sheets should be used if one does not give sufficient room to accomplish this end; but the number of sheets must never be more than is absolutely necessary.

Letters of reference.

(6) The different views should be consecutively numbered. Letters and figures of reference must be carefully formed. They should, if possible, measure at least one-eighth of an inch in height, so that they may bear reduction to one twenty-fourth of an inch; and they may be much larger when there is sufficient room. They must be so placed in close and complex parts of drawings as not to interfere with a thorough comprehension of the same, and therefore should rarely cross or mingle with the lines. When necessarily grouped around a certain part, they should be placed at a little distance, where there is available space, and connected by short broken lines with the parts to which they refer. They must never appear upon shaded

surfaces, and when it is difficult to avoid this, a blank space must be left in the shading where the letter occurs, so that it shall appear perfectly distinct and separate from the work. If the same part of an invention appear in more thon one view of the drawing it must always be represented by the same character, and the same character must never be used to designate different parts.

Signatures of inventor and witnesses.

(7) The signature of the inventor should be placed at the lower right-hand corner of each sheet, and the signatures of the witnesses at the lower left-hand corner, all within the marginal line, but in no instance should they trespass upon the drawings. (See specimen drawing, *post*, p. 1417.) The title should be written with pencil on the back of the sheet. The permanent names and title will be supplied subsequently by the office in uniform style.

Title.

Large views.

When views are longer than the width of the sheet, the sheet should be turned on its side and the heading will be placed at the right and the signatures at the left, occupying the same space and position as in the upright views, and being horizontal when the sheet is held in an upright position; and all views on the same sheet must stand in

the same direction. One figure must not be placed upon another or within the outline of another.

(8) As a rule, one view only of each invention can be shown in the Gazette illustrations. The selection of that portion of a drawing best calculated to explain the nature of the specific improvement would be facilitated and the final result improved by the judicious execution of a figure with express reference to the Gazette, but which might at the same time serve as one of the figures referred to in the specification. For this purpose the figure may be a plan, elevation, section, or perspective view, according to the judgment of the draftsman. It must not cover a space exceeding 16 square inches. All its parts should be especially open and distinct, with very little or no shading, and it must illustrate the invention claimed only, to the exclusion of all other details. (See specimen drawing, p. 1417.) When well executed, it will be used without curtailment or change, but any excessive fineness, or crowding, or unnecessary elaborateness of detail will necessitate its exclusion from the Gazette. Figure for Gazette.

(9) *Drawings transmitted to the office should be sent flat, protected by a sheet of heavy binder's board; or should be rolled for transmission* Drawings for transmission.

in a suitable mailing tube, but should never be folded.

No stamp, advertisement, or address permitted on face of drawing.

An agent's or attorney's stamp, or advertisement, or written address will not be permitted upon the face of a drawing, within or without the marginal line.

Rev. Stat., sec. 4895.
Drawings for reissue applications.

53. All reissue applications must be accompanied by new drawings, of the character required in original applications, and the inventor's name must appear upon the same in all cases; and such drawings shall be made upon the same scale as the original drawing, or upon a larger scale, unless a reduction of scale shall be authorized by the Commissioner.

Defective drawings.

54. The foregoing rules relating to drawings will be rigidly enforced. Every drawing not artistically executed in conformity thereto may be admitted for purposes of examination if it sufficiently illustrates the invention, but in such cases a new drawing must be furnished before the application can be allowed. The office will make the necessary corrections at the applicant's option and cost.

Drawings furnished by office.

55. Applicants are advised to employ competent artists to make their drawings.

The office will furnish the drawings at cost, as promptly as its draftsmen can make them, for applicants who can not otherwise conveniently procure them.

The Model.

Rev. Stat., sec. 4891.
Models, when required.

56. Preliminary examinations will not be made for the purpose of determining

whether models are required in particular cases. Applications complete in all other respects will be sent to the examining divisions, whether models are or are not furnished. A model will only be required or admitted as a part of the application when on examination of the case in its regular order the primary examiner shall find it to be necessary or useful. In such case, if a model has not been furnished, the examiner shall notify the applicant of such requirement, which will constitute an official action in the case. When a model is received in compliance with the official requirement, the date of its filing shall be entered on the file wrapper. Models not required nor admitted will be returned to the applicants. When a model is required, the examination will be suspended until it shall have been filed. From a decision of the primary examiner overruling a motion to dispense with a model an appeal may be taken to the Commissioner in person, under the provisions of Rule 145.

Requisites of model.

57. The model must clearly exhibit every feature of the machine which forms the subject of a claim of invention, but should not include other matter than that covered by the actual invention or improvement, unless it be necessary to the exhibition of the invention in a working model.

Material and dimensions.

58. The model must be neatly and substantially made of durable material, metal being deemed preferable; but when the material forms an essential feature of the invention, the model should be constructed of

that material. The model must not be more than one foot in length, width, or height, except in cases in which the Commissioner shall admit working models of complicated machines of larger dimensions. If made of wood, it must be painted or varnished. Glue must not be used; but the parts should be so connected as to resist the action of heat and moisture. When practicable, to prevent loss, the model or specimen should have the name of the inventor permanently fixed thereon. In cases where models are not made strong and substantial as here directed, the application will not be examined until a proper model is furnished.

Working models.

59. A working model is often desirable, in order to enable the office fully and readily to understand the precise operation of the machine.

Rev. Stat., sec. 485.

Models in rejected and abandoned cases.

60. In all applications which have remained rejected for more than one year, the model, unless it is deemed necessary that it should be preserved in the office, may be returned to the applicant upon demand and at his expense; and the model in any pending case of less than one year's standing may be returned to the applicant upon the filing of a formal abandonment of the application, signed by the applicant in person and any assignee. (See Rule 171.)

Models in patented cases.

Models belonging to patented cases shall not be taken from the office except in the custody of some sworn employee of the office specially authorized by the Commissioner.

Models filed as exhibits.

61. Models filed as exhibits in contested cases may be returned to the parties at their expense. If not claimed within a reasonable time, they may be disposed of at the discretion of the Commissioner.

Specimens.

Rev. Stat., sec. 4890.
Specimens.

62. When the invention or discovery is a composition of matter, the applicant, if required by the Commissioner shall furnish specimens of the composition, and of its ingredients, sufficient in quantity for the purpose of experiment. In all cases where the article is not perishable, a specimen of the composition claimed, put up in proper form to be preserved by the office, must be furnished. (Rules 56, 60, and 61 apply to specimens also.)

THE EXAMINATION.

Order of examination.

63. Applications filed in the Patent Office are classified according to the various arts, and are taken up for examination in regular order of filing, those in the same class of invention being examined and disposed of, as far as practicable, in the order in which the respective applications are completed.

Privileged cases.

The following new applications have preference over all other new cases at every period of their examination in the order enumerated:

(1) Applications wherein the inventions are deemed of peculiar importance to some branch of the

public service, and when for that reason the head of some Department of the Government requests immediate action and the Commissioner so orders; but in such case it shall be the duty of such head of a Department to be represented before the Commissioner in order to prevent the improper issue of a patent.

(2) Applications for reissues.

(3) Applications which appear to interfere with other applications previously considered and found to be allowable, or which it is demanded shall be placed in interference with an unexpired patent or patents.

The following applications, previously acted upon, will have preference over other business:

(1) Cases remanded by an appellate tribunal for further action, and statements of grounds of decisions provided for in Rules 135 and 145.

(2) Applications which have been put into condition for further action by the examiner shall be entitled to precedence over new applications in the same class of invention.

(3) Applications which have been renewed or revived, but the subject-matter not changed.

(4) When the inventor dies and his executor or administrator files a new

application for the same invention, the new application may be given the same status in the order of examination as the original, by order of the Commissioners.

Merits treated throughout. At last form insisted upon.

64. Where the specification and claims are such that the invention may be readily understood, the examination of a complete application and the action thereon will be directed throughout to the merits; but in each letter the examiner shall state or refer to all his objections.

Only in applications found by the examiner to present patentable subject-matter and in applications on which appeal is taken to the examiners-in-chief will requirements in matter of form be insisted on. (See Rules 95 and 134.)

REJECTIONS AND REFERENCES.

Rev. Stat., sec. 4903.

Notice of rejection, with information and references.

65. Whenever, on examination, any claim of an application is rejected for any reason whatever, the applicant will be notified thereof. The reasons for such rejection will be fully and precisely stated, and such information and references will be given as may be useful in aiding the applicant to judge of the propriety of prosecuting his application or of altering his specification, and if, after receiving such notice, he shall persist in his claim, with or without altering his specification, the application will be re-examined. If upon re-examination the claim shall be again rejected, the reasons therefor will be fully and precisely stated.

Re-examination.

On rejection for want of novelty best references to be cited. Requisites of notices of rejection.

66. Upon the rejection of an application for want of novelty, the examiner must cite the best references at his command. When the reference shows or describes inventions other than that claimed by the applicant, the particular part relied on will be designated as nearly as practicable. The pertinence of the reference, if not obvious, must be clearly explained and the anticipated claim specified.

Citation of patents.

If domestic patents be cited, their dates and numbers, the names of the patentees, and the classes of invention must be stated. If foreign patents be cited, their dates and numbers, the names of the patentees, titles of the inventions, and the classes of inventions must be stated, and such other data must be furnished as will enable the applicant to identify the patents cited. If printed publications be cited, the title, date, page or plate, author, and place of publication, or place where a copy can be found, will be given. When reference is made to facts within the personal knowledge of an employee of the office, the data will be as specific as possible, and the reference must be supported, when called for, by the affidavit

Affidavits.

of such employee (Rule 76); such affidavit shall be subject to contradiction, explanation, or corroboration by the affidavits of the applicant and other persons. If the patent, printed matter, plates, or drawings so referred to are in the possession of the office, copies will be furnished at the rate specified in Rule 203, upon the order of the applicant.

Adverse decisions on preliminary questions in *ex parte* cases.

67. Whenever, in the treatment of an *ex parte* application, an adverse decision is made upon any preliminary or intermediate question, without the rejection of any claim, notice thereof, together with the reasons therefor, will be given to the applicant, in order that he may judge of the propriety of the action. If, after receiving such notice, he traverse the propriety of the action, the matter will be reconsidered.

Reconsideration.

AMENDMENTS AND ACTIONS BY APPLICANTS.

Right to attend.

68. The applicant has a right to amend before or after the first rejection or action; and he may amend as often as the examiner presents new references or reasons for rejection. In so amending, the applicant must clearly point out all the patentable novelty which he thinks the case presents in view of the state of the art disclosed by the references cited or the objections made. He must also show how the amendments avoid such references or objections.

Requisites of amendments.

Amendment after claims ready for appeal.

After such action upon an application as will entitle the applicant to an appeal to the examiners-in-chief (Rule 134), or after such appeal has been taken, amendments canceling claims or presenting those rejected in better form for consideration on appeal may be admitted; but the admission of such an amendment or its refusal, and any proceedings relative thereto, shall not operate to relieve the application from its condition as subject to appeal, or to save it from aban-

donment under Rule 171. If amendments touching the merits of the application are presented after the case is in condition for appeal, or after appeal has been taken, they may be admitted upon a showing, duly verified, of good and sufficient reasons why they were not earlier presented. From the refusal of the primary examiner to admit an amendment a petition will lie to the Commissioner under Rule 145. No amendment can be made in appealed case between the filing of the examiner's statement of the grounds of his decision (Rule 135) and the decision of the appellate tribunal. After decision on appeal amendments can only be made as provided in Rule 142, or to carry into effect a recommendation under Rule 139.

Request for reconsideration.

69. In order to be entitled to the reconsideration provided for in Rules 65 and 67, the applicant must make request therefor in writing, and he must distinctly and specifically point out the supposed errors in the examiner's action. The mere allegation that the examiner has erred will not be received as a proper reason for such reconsideration.

Amendments to correspond to original model, drawing, or specification.

70. In original applications which are capable of illustration by drawing or model all amendments of the model, drawings, or specifications, and all additions thereto, must conform to at least one of them as it was at the time of the filing of the application. Matter not found in either, involving a departure from the original invention, can be shown or claimed only in a separate application.