

RULES
OF THE
COURT OF CLAIMS
(UNITED STATES)
AND OF THE
SUPREME COURT
RELATING TO
APPEALS.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1900.

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JUDGES AND OFFICERS OF THE COURT.

WITH DATES OF APPOINTMENT.

Chief Justice.

CHARLES C. NOTT,

JUDGE FEBRUARY 22, 1865; CHIEF JUSTICE DECEMBER 15, 1896.

Judges.

LAWRENCE WELDON,

NOVEMBER 24, 1883.

STANTON J. PEELLE,

MARCH 28, 1892.

JOHN DAVIS,

JANUARY 20, 1885.

CHARLES B. HOWRY,

JANUARY 28, 1897.

Chief Clerk.

ARCHIBALD HOPKINS,

JANUARY 1, 1873.

Assistant Clerk.

JOHN RANDOLPH,

DECEMBER 2, 1867.

Bailiff.

STARK B. TAYLOR,

MESSANGER MAY 16, 1855; BAILIFF JUNE 6, 1863.

RULES

OF

THE COURT OF CLAIMS.

CLERK'S OFFICE.

1. The clerk's office must be kept open every day, except Sundays and holidays, from 9½ a. m. to 4 p. m., or to such later hours as the court may be in session or in conference. During the Christmas holidays, the office may be closed at 1 p. m., and on Saturday at 3 p. m. Clerk's office; hours of.

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. Attendance of clerks.

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 chief 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. Duties of assistant clerk.

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

ATTORNEYS AND COUNSEL.

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 be filed with the clerk, and its execution must be proved or acknowledged before an officer authorized to take acknowledgments of deeds. Suits, by whom commenced. Power of attorney to be filed.

In Congressional and Departmental cases where attorneys wish to enter an appearance and are

unable at the time to file a power of attorney, their appearance may be entered under the condition that they file their power of attorney when the petition shall be filed.

7. 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.

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.

8. There shall be but one attorney of record for the claimant in any case at any one time; but a claimant may be permitted to change his attorney, on such conditions as the court may prescribe. A firm of attorneys will be regarded as the attorney of record.

9. 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.

10. If the petition be verified by the attorney at law or other agent of the claimant, a power of attorney authorizing him to make the verification must be filed with it.

11. 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.

12. 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.

13. Attorneys of record, or the claimant if he appear in person, will, on commencing or appearing in a suit, 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.

THE PETITION.

General Provisions.

14. 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 the copy to be forwarded to the Attorney-General. Within twenty days thereafter the claimant shall file in the clerk's office twenty-five printed copies of such petition, unless the court, on motion, waives this requirement.

Printed copies of the petition will not be required in an Indian depredation claim which has been examined, approved, and allowed by the Secretary of the Interior, unless either party elects to reopen the case, in which event such copies shall be filed within twenty days after notice of such election.

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

The petition must comply with Revised Statutes, section 1072, 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.

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

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

Filing of petition and copies.

Indian depredation cases, when printed petitions not required.

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

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

— at chambers.

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

— to sign pleadings, etc.

Agent verifying petition must have power of attorney.

Indians may defend by attorney.

Counsel.

Acts and regulations to be specified.

15. 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.

16. 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.

Petition in Indian Depredation Cases.

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

17. 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.

(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.

18. 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.

Parties having a common interest.

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.

Petition by agent, etc.

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

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.

When and how the others may become parties.

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

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.

How firms and joint owners may come in.

Petition in Stores and Supplies Cases.

19. In cases for stores and supplies the petition, or if already filed, an amended petition, shall embrace the following:

Petition must embrace, etc. 23 C. Cls. R., 160.

(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 that 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.

(5) It must be stated which House of Congress or committee referred the case, with the date thereof.

(6) It must be stated what troops or command took or were furnished the stores or supplies, when they were taken, and at what place taken.

Filing petitions in Departmental and Congressional cases.

Persons interested may appear as parties by filing petitions. 20. 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 14 and 19.

Persons indirectly interested may appear and be heard. 21. 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, as his interest may require, upon filing a petition, under oath, setting forth specifically and concisely how he claims to be interested, and submitting the questions raised to the decision of the court.

If no person interested appears the Attorney-General may set case for trial. 22. If no claimant directly or indirectly interested appears and files his petition within six months, the Attorney-General, upon thirty days' notice to the parties who appear by the papers

transmitted to be interested therein, may set the case down for trial upon such evidence as he may submit. Where such case was transmitted by the head of an Executive Department the court will proceed to try the case upon the statement made by the head of such department.

Amendment to petition.

23. 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.

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

24. 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.

Amending petition.
New parties.

The court 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 and administrators.

25. 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 at the commencement of the action.

Appointment of executor, etc.

Death of claimant. See Rules 73, 87. 26. 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.

PLEADINGS.

When pleas must be filed. 27. Demurrers to petitions and general traverses thereof must be filed within sixty days after the filing of the petition; and pleas averring special defense, set-off, or counter-claim, within one month after the claimant places his case on the notice-book.

Proceedings when demurrer is sustained. 28. 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. 29. 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: *Provided*, That in Indian depredation cases which have been examined, approved, and allowed by the Secretary of the Interior, or under his direction, the claimant may have judgment for the amount allowed without further proof, unless the United States shall elect to reopen the case and try the same before the court.

Replication to set-off, etc. 30. Within one month after the filing of a set-off or counter-claim by the defendants, the claimant must answer the same by replication under oath; in default whereof the court may, after ten days' notice by the defendants to the claimant, order that the set-off or counter-claim be considered as admitted.

Plea of fraud. 31. 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 two months after the filing of said plea, reply to the same with like particularity, under oath.

On failure of Government to plead, general traverse entered by clerk. 32. Unless the Attorney-General shall, within sixty days after the service of the petition upon him, appear and defend by filing a plea, answer, or demurrer, 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. See Rule 73. 33. Motions will be heard in the first instance before a judge at chambers; but he may direct the same to be heard in open court. They must be in writing and come to him through the clerk's office, where they will be returned when acted upon.

Any brief filed in connection with a motion must be printed or type-written.

WITNESSES.

When evidence may be taken. 34. When a petition is filed, either party may proceed to take testimony, notwithstanding that issue of fact has not been joined, but if issue is pending on demurrer such issue must be disposed of before testimony is taken unless the court or a judge on motion otherwise orders.

Testimony to be in depositions. Officers who may take depositions. 35. 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.

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

36. 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.

37. 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.

38. 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.

39. 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 a judge in vacation.

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

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.

40. 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 as nearly as practicable in his precise words.

Parties not to be present at taking.

Depositions or oral examination.

41. 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.

Notice for taking depositions on oral examination.

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 deposition 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.

42. When the claimant proposes to take a deposition, and the witness resides more than five hundred miles from Washington, or when the defendants propose to take the deposition, and the wit-

When witness lives more than five hundred miles from Washington.

ness resides more than five hundred miles from the claimant or his attorney, one day's further notice shall be given for every additional hundred miles.

43. 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.

44. 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 a judge on motion otherwise orders.

45. When a deposition is taken by oral examination, each question propounded to the witness must be recorded, and his answers must be taken down, as nearly as may be, in his own words, except so far as this may be expressly waived by consent of both parties.

46. 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.

47. When depositions are taken on notice, as provided in Rule 41, 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 produced 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 on merits in cases pending on loyalty.

48. In any case of a claim for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use

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

Depositions under 1080, R. S.

Questions and answers to be recorded.

Objections to questions.

When witnesses not named in the notice may be examined.

Where loyalty is to be proved, testimony on merits not to be taken until, etc.

during the late war for the suppression of the rebellion, no testimony shall, without authority of a judge of the court or the consent of both parties, be taken in regard to the merits of the claim until after the preliminary inquiry in regard to the claimant's loyalty shall have been decided in his favor.

Depositions before Claims Commission.

49. 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 at the preliminary inquiry aforesaid, or at the final hearing of the cause, or at both, subject to such objections to their competency or relevancy as might be made if the deponents were examined in open court, or their depositions were regularly taken under the rules of this court.

50. 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, a 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.

51. To entitle either party to use as evidence any deposition under either of the next two preceding rules there must be given to the other party at least two months' notice of the intention so to use it.

No such deposition shall be printed unless authorized by a judge of the court.

Certain depositions before Commissioners of Claims may be used.

Papers before Claims Commission, how obtained.

Notice to be given of intention to use such depositions.

Such depositions not to be printed unless, etc.

General provisions as to depositions.

Other witnesses
to be excluded.

52. At the request of either party a person whom either party 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 inter-
rogatories.

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 depo-
sitions, how put
together.

53. 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 generally he must spare no pains to return to the court the exact evidence he has taken.

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

54. 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.

Caption of dep-
ositions.

55. The officer must inclose the depositions and exhibits in a packet, under his seal, and direct the same to the clerk of the court at Washington, and deposit the package in the post-office, or in an express office, or he may transmit the same by a messenger, whose name shall be by him indorsed on the packet.

—return of.

56. If the officer's fees be not paid at the time of taking the deposition, he should indorse on the out- side 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.

—officer's fees
to be paid before
opening.

The packet when so indorsed must not be opened until the party for whom the depositions 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.

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

Transmission
of fees.

57. The fees shall be fifteen cents a folio of one hundred words for taking and returning the depositions.

Fees of com-
missioners and
stenographers.

When a deposition is taken in shorthand by the commissioner he shall receive, in addition to the above fee, five cents a folio for writing out the notes and preparing the deposition for the witness to sign.

When the deposition is typewritten, the commis-

sioner shall receive five 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 ten cents a folio and the stenographer ten cents. The testimony 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 56.

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

—excessive charges.

58. Any permanent 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.

59. 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 CERTIFIED FROM THE DEPARTMENTS.

Attorney-General may give in evidence certified papers.

60. 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 a judge in chambers.

Notice of answer.

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

61. 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 within one month after the return is filed the party objecting to such papers enter of record in the clerk's office a written denial of their genuineness.

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

Such information and papers in reply to a claimant's call not objected to by him within ten days after return of the call, will be regarded as evidence offered by claimant.

When regarded as offered in evidence by claimant.

62. 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.

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

To entitle such information or papers to be used, copies thereof must be filed in such other cause before the same shall have been placed on the calendar.

PRODUCTION OF ORIGINAL PAPERS BY THE CLAIMANT.

63. 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; and if he persist in such refusal, the court will direct the petition to be dismissed.

Order for production of papers by claimant.

PRINTING.

64. The testimony will not be printed except by special direction of the chief clerk or by order of the court or a judge at chambers.

Depositions how to be printed.

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 ———, 18—; claimant's counsel, ———; defendant's counsel, ———.

Matter not to be printed.

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

1st. 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 a judge in chambers before sending the return to the printer.

2d. All certificates of authenticity and certificates of acknowledgment.

3d. All papers which both parties agreed to omit.

4th. All papers which a judge at chambers orders to be omitted.

In each case the chief clerk will make a memorandum of the omission in the copy for the printer, verified by his initials.

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

66. 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.

67. The printed papers required by these rules must be in long primer type 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.

The Clerk is directed to see that the printed paging of evidence, either for the claimant or the

defendants, shall conform to and be a continuation of the record which has already been printed, so that the printed paging may be continuous throughout the whole record.

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.

68. 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.

Deposition of claimant not to be printed until Att'y Gen. files declaration of his intention to use it.

—thereafter claimant may read it in evidence.

REQUESTS FOR FINDINGS OF FACT AND BRIEF.

69. The clerk shall not place a case on the calendar until the claimant files in the clerk's office twenty-five printed copies, or, by leave of court, a typewritten copy of a brief stating the points of law on which he relies, with reference to authorities, and twenty-five printed copies, or, by leave of court, three typewritten copies, of the request for facts required by Rule V of the "Regulations prescribed by the Supreme Court of the United States under which appeals may be taken from the Court of Claims."

Claimant's brief and requests for findings to be filed, etc.
14 C. Cls. R., 477, 509.
20 C. Cls. R., 508.

70. 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:"

Form of requests for findings.

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 state-

ment, 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.

71. The Attorney-General, within a reasonable time after the filing of the claimant's brief and request, must file his brief and request for findings of fact, and should indicate the requests on the claimant's part to which no objection is made.

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.

72. 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.

All typewritten matter shall be in book form and not longer than a sheet of letter paper.

CALENDAR, MOTIONS, DEMURRERS, PLEAS IN BAR.

Notice book.

73. When the claimant has closed his evidence and filed his brief, he shall enter the case in a Notice Book to be kept by the clerk.

When defendants file their brief, they shall enter the date of filing in said Notice Book.

Calendar of cases for trial.

As soon thereafter as the claimant files a reply brief and gives the clerk written notice of the same or of his intention not to file one, which shall be

done within thirty days from the date on which defendant's brief is filed, the case shall be placed upon the Calendar as of the date when claimant filed his first brief.

And if the claimant fail to file a reply brief within said thirty days, the case shall be placed on the 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. When claimant may move to place case on Calendar.

Motions, unless disposed of in Chambers, as provided by Rule 33, without hearing, will be ordered to the Motion Docket. Motions, how disposed of.

The moving party may file a brief when he files his motion or within fourteen days thereafter; or he may file a notice that no brief will be filed. The opposing party may file a brief within fourteen days after such brief or notice is filed.

When both briefs are filed, or the time for filing has expired, the clerk will transmit the motion to the court in Chambers, unless either party has filed a request for oral argument, in which case the motion will be placed by the clerk on the Law Calendar.

If neither party requests oral argument, it will be understood that the motion is to be considered and disposed of by the court in Chambers. Oral argument.

In cases where the immediate 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. Special motions.

The above provisions in regard to the filing of briefs will not extend to motions which can not be heard by reason of the summer vacation. In such cases it will be sufficient if the brief of the moving party be filed on or before the first Monday in October and the brief of the opposing party on or before the third Monday. Summer vacation.

A motion to amend a petition under Rule 24 will be regarded as ex parte and entered as allowed What treated as ex parte.

by the clerk; and the suggestion of the death of a claimant and the motion to substitute his executor or administrator, under Rule 26, 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 also be regarded as ex parte and entered as allowed by the clerk. But these orders will be subject to the objections of the defendants, either at or before the trial.

Demurrers.

Demurrers will be placed upon the Motion Docket by the clerk immediately upon being filed, after which the above procedure in regard to motions will apply; and it will likewise be understood that if neither party requests oral argument the demurrer is to be considered and disposed of by the court in Chambers.

Pleas in bar.

Pleas in bar and to the jurisdiction will ordinarily be heard and disposed of when a case comes to trial in the regular course on the merits. But if it appear on the application of either party that the final disposition of a case will be expedited, or that the parties may be saved needless expense by the court first hearing and disposing of such a plea, the court will so order. Where both parties file a request to that effect, stating also that each is ready for argument, the clerk will place the plea upon the Law Calendar, if an oral argument be requested, or transmit it to the court in Chambers if an oral argument be not requested.

NEGLECTED CASES.

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

74. 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 73, the defendants may place the case on the Calendar.

ADVANCEMENT OF CASES.

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

75. 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.

TRIALS AND OTHER PROCEEDINGS.

76. 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.

Assignment of case for trial.

When a case on the Calendar is called for assignment for trial as above, and the claimant is not ready to proceed, it shall be placed at the foot of the Calendar; if the defendants are not ready, the case may be passed without losing its place on the Calendar.

Parties may also submit, on written stipulation, any case in any jurisdiction on any docket or Calendar when briefs have been filed on both sides.

Submission on written stipulation.

77. No case in which a printed record is required will be heard for trial unless the printed pleadings, evidence, and briefs be made up in book form together and paged consecutively, and a copy thereof furnished to each member of the court at the hearing; and all citations from, or references to, such pleadings, evidence, and briefs must be by the consecutive paging of such book.

Record to be made up in book form.

78. 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:

Requirements before submission of cases.

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 loyalty.

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

— on merits.

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.

Indian depredation cases, election not to reopen.

Prior to the entering of judgment in Indian depredation cases which have been examined, approved, and allowed by the Secretary of the Interior, or under his direction, and which claimants and the Government elect not to reopen, there shall be filed with the clerk an election in writing, signed by both parties.

Statement of attorneys for allowance of fees.

79. 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.

STATEMENT OF FACTS IN FRENCH SPOILIATION CASE.

Printed statement.

80. The claimants on account of the vessel, cargo, or insurance, or some one or more of them concerned in the same seizure, shall file twenty-five copies of a printed statement of alleged facts under the heads hereinafter set out.

At the time of trial one copy shall be furnished to each of the judges. 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.

Form of statement.

TITLE OF CASE.

(1) Name of vessel and master.

Docket number of each case with the full names of claimants, and, where there are intervenors, 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 Sohler, 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.

In the submission of French spoliation cases, whether upon oral argument or upon briefs, the claimants shall file one typewritten or printed copy of a finding of facts, as near as may be in the form adopted by the court in its reports to Congress. See case of *Ship Tom; John Bailey, master* (29 C. Cls., 68); *Ship Concord, John Thompson, master* (35 C. Cls., —).

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.

REMANDED CASES.

81. 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. Motions to remand, what to contain.

LIMITATION.

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

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

83. 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. When petition may be dismissed on bar of three years.

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

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

DISCONTINUANCE.

Discontinu-
ance.

86. Where fraud or set-off is pleaded, the claimant shall not have the right to discontinue his suit. In other cases he may do so, either in open court, or, with the approval of a judge in chambers.

DISMISSAL ON DEATH OF CLAIMANT.

Dismissal on
death of sole
party.

87. On the death of a sole claimant, if his executor or administrator does not come in and prosecute the action, as provided in Rule 26, 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. Computa-
tion of time.

88. 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.,
193.
18 C. Cls. R.,
62, 289.

89. 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 Bow-
man Act, etc., on
claimants' mo-
tion after find-
ings are re-
ported.

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), new trials will not be granted after the findings have been reported as required by law, except in accordance with the provisions of section 1088 of the Revised Statutes.

90. A motion for a new trial, other than under Revised Statutes, § 1088, must be founded upon one or more of the following grounds: 1st, error of fact; 2d, error of law; and 3d, newly discovered evidence. It must be made at the term in which the judgment is rendered.

New trial,
grounds of.

91. 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 fact, what
to specify.

92. 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.

— founded on
error of law, what
to specify.

93. 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 for new
trial founded on
newly discov-
ered evidence,
what to set forth.

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

Motion must
be accompanied
with affidavit,
etc.

1st. 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.

2d. The name, occupation, and residence of each and every witness whom it is proposed to call to prove said facts.

3d. That the said facts were unknown to either the claimant or his attorney of record, and, if other counsel was employed at the trial, were unknown to such counsel, until after the close of the trial.

4th. The reasons why the claimant, his attorney of record, or counsel could not have discovered said evidence before the trial by due diligence.

Time for filing. Where such affidavits can not be procured in time to file with the motion, it may state that affidavits or other evidence will be filed, but such affidavits or evidence must be filed within three calendar months after the filing of the motion, or within such additional time as the court may allow. If not then filed, the court, at the request of the opposing party, will proceed to the consideration of the motion in Chambers as if no such intent had been expressed therein. Should the time for filing affidavits expire after the adjournment of the court for the summer vacation, they may be filed at any time before the first Monday in October.

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.

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

94. 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.

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.

95. 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.

96. No order will be entered by the clerk unless When orders to be entered of record. it be directed from the bench, or be reduced to writing and marked "Allowed" by the Chief Justice or one of the Judges.

97. The clerk will not file any paper unless it be Papers to be indorsed before filing. 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.

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

RULES IN REGARD TO CLAIMS FOR NAVAL BOUNTY UNDER SECTION 4635 OF THE REVISED STATUTES.

[June 12, 1899.]

All claims for naval bounty under section 4635 of the Revised Statutes pending in the Navy Department having been referred by letter of the Secretary of the Navy to this court for adjudication, the following rules are prescribed:

1. The clerk will open a new set of dockets, to be called "Naval Bounty Dockets," beginning with docket 1.

2. Each engagement referred to in the schedule accompanying the various letters of transmittal of the Secretary of the Navy shall be entered as a separate case, under the heading "Engagement at —, —, 1898." For the more extensive engagements there shall be left blank twenty pages in the docket for entries of action relating to the engagement in general. For less extensive engagements there shall be left blank such number of pages as seems convenient.

3. Case No. 1 shall be the general entry of the earliest engagement referred to in the schedule accompanying the letter of the Secretary of the Navy—that is, the engagement at Manila Bay, May 1, 1898. The general papers transmitted by the Secretary of the Navy not relating exclusively to any other engagement shall be filed under this number.

4. Docket number 1 shall be reserved for the general entries of engagements, numbers 1 to 50 being reserved for this purpose. The engagements referred to in the several letters of transmittal of the Secretary of the Navy, or the accompanying schedules or other papers, shall be entered in their chronological order.

5. Docket number 2 and all subsequent dockets shall be devoted to the entry of individual claims in the order of their presentation. The docket shall contain the name and rank of claimant, the place and date of the engagement under which each claim is filed, and the name of the vessel on which the claimant served, and such other particulars as may be necessary.

6. Each petition of an individual shall be filed as a separate case. One-half page of the docket shall be reserved for the entries relating to each individual case, including those prescribed in the foregoing rule, and the entry of orders, if any, therein.

7. Under the general entry of the engagement all papers shall be filed and all action noted relating in general to the claims arising out of that engagement or to classes of such claims. All papers relating particularly to individual claims shall be filed and all such action noted under the individual entries.

8. Each petition shall state the claimant's name, his rank or position, the vessel on which he served, the engagement in which he participated, with its result, the names of the vessels sunk or destroyed, the relative force engaged on each side, and such other facts as may be pertinent to the issue or

required by law. Each petition shall be confined to a single engagement, and, except as hereafter provided, shall include all of the enemy's vessels sunk in such engagement.

9. The petition shall be indorsed with the name of the vessel and the place and date of the engagement, in addition to matters prescribed in other cases, substantially as follows:

No. —.
 Naval bounty.
 Engagement at —.
 On —, 1898.
 Ship: —.
 Richard Roe.
 Rank: —.
v.
 The United States.
 Petition.
 John Doe.
 Claimant's attorney.

All other papers shall be similarly indorsed.

10. A petition may be verified by an attorney without presenting a power of attorney therefor, as required by general rule 10, if it is alleged in the affidavit that a power of attorney is on file in the Navy or Treasury Department. A motion shall accompany each such petition, praying for the transmission of such power of attorney by the Department in which it is filed, or for information whether such power of attorney is on file.

11. In fixing the cases for trial each engagement, including all the vessels engaged therein without reference to the number of petitions filed by those engaged on such vessels, shall be tried and argued as a single case, for the purpose of determining the general questions in respect of the liability of the Government.

12. The rules of the court in regard to evidence certified from the Departments, to the production of the original papers by the claimant, to requests for findings of fact and brief, to neglected cases,

ORDERS.

to the advancement of cases, to trials and other proceedings in court, to printing, discontinuances, dismissals on death of claimants, new trials, appeals, withdrawal of papers, and the extension of time, and the general rules of practice of the court will govern in actions brought for naval bounty unless the same conflict with those especially provided therefor.

[February 2, 1895.]

ORDER.

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 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.

[November 7, 1895.]

ORDER.

It is desired by the court that 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. In the preparation of written or printed briefs the same course will be pursued by the counsel of both parties. In cases where written or printed briefs have been filed the counsel may read the statement from the brief. This order shall not apply to arguments in cases of loyalty, and cases on the merits for stores and supplies.

ORDERS.

ORDER.

In cases under the Bowman and Tucker acts.

[April 4, 1898.]

In order to expedite the trial of this class of cases and to enable the counsel for the defendants to comply with the provisions of section 188 of the Revised Statutes, the following proceedings will be required:

1. 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.

2. Where printed copies of the petition have not been filed, pursuant to Rule 14, the attorney for the claimant will file in the clerk's office, for transmission to the Attorney-General, two printed or typewritten copies of the petition prescribed by Rule 19, and an entry to that effect will be made on the docket. This requirement will apply to all cases where the petition has not yet been filed, and to all cases where loyalty has not yet been found; and to all cases where loyalty has been found since and including the 18th day of October, 1897. *It will not be deemed incumbent upon the defendants to proceed upon the merits in such cases until copies of the petition have been supplied.*

3. Attention is called to the requirements of Rule 19, paragraph 6. Where it is known to the claimant or his attorney what officers, regiments, brigades, or commands took or were furnished with stores and supplies, or occupied the real estate in suit, the petition should set forth the same, or *it will be ground for continuance.*

ORDERS.

IN THE MATTER OF CALLS ON THE EXECUTIVE DEPARTMENTS.

[Announced April 18, 1898.]

PER CURIAM:

A call upon an Executive Department under Revised Statutes, section 1076, is of the nature of a writ of *subpoena duces tecum*, and can not be turned into a bill of discovery. (*Elting's Case*, 27 C. Cls. R., 158.) Generally, everything that can be procured as evidence from an Executive Department is a matter of record, and the call must seek copies of the record, and with sufficient particularity to enable an intelligent clerk in the ordinary discharge of his duty to find the record and copy it. The responsibility of determining what is relevant, or of finding documentary matter not specifically called for, can not be thrown on the officers of a department. The evidence called for must also appear on the face of the call to be relevant, material, and competent. (*Woolverton's Case*, 26 C. Cls. R., 215.)

Neither will the court issue a call on an Executive Department for evidence which presumptively is in the possession of the claimant, *ex. gr.*, for copies of letters sent by the defendant's officers to the claimant, for contracts in duplicate, one of which was retained by the claimant. Such documentary evidence as a plaintiff can himself produce, and which in an ordinary action at law or suit in equity he would produce on his own behalf, as a matter of course the claimant here can not compel the defendants to produce through calls upon the departments.

ORDER.

DECEMBER 5, 1898.

At the ensuing term of the court cases will not be regarded as ready for trial unless the briefs are ready, nor unless the briefs and findings of fact requested comply with rules 69 and 70.

Arguments in Congressional cases will be limited to one hour on a side; in all other classes of cases, to two hours.

ORDERS.

In large and complex cases where additional time will be necessary, 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.

BY THE COURT.

FRENCH SPOILIATION CASES.

Application for certificates as to next of kin, etc., in French spoliation cases will be considered by the court only when filed by the attorney of record in the case. Where the attorney of record has died his death must be suggested on the record and a new attorney of record be substituted before an application for a certificate will be considered.

March 23, 1899.

BY THE COURT.

SATISFACTION AND CERTIFICATE.

Ordered, On the motion of the Attorney-General, that the Secretary of the Treasury be requested to make payment of the amount of any judgment or findings of this court only on presentation, by the claimant or his attorney of record, of the certificate of this court that there has been entered upon its records a satisfaction of such judgment or an acknowledgment of the receipt of the amount of such findings in full and final release and discharge of the claim upon which such findings were made.

March 28, 1899.

BY THE COURT.

CERTIFICATES AS TO NEXT OF KIN.

Ordered, That hereafter the certificates made under the act of March 3, 1899, in French Spolia-

tion cases, be confined to the matter which the court is directed to examine and certify under and by the first proviso of the said act.

May 4, 1900.

BY THE COURT.

IN CONGRESSIONAL AND INDIAN DEPREDAATION CASES.

Briefs for claimants or defendants, when not printed, must be in typewriting, upon pure white bond paper, eight inches in width, and ten and a half inches in length, weighing not less than three and not more than four pounds to the ream of five hundred 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.

The abstract of evidence may be continuous; but if continuous there must be marginal references, such as "*amity*," "*citizenship*," "*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*, and need not be indorsed. They will be kept by the Bailiff as printed briefs are kept; and the briefs of both claimant and defendants will be clamped together by the Bailiff in book form before the trial as printed papers ordinarily are.

In cases which involve no question of law, it will be sufficient for the brief to set forth the specific facts relied upon with references to the abstract of evidence, substantially like the statement in French Spoliation cases; and in such cases one copy of the abstract will be sufficient, the original being filed like the original brief.

The more a brief is reduced to points of fact or law (with appropriate references to statutes, authorities, or evidence) the less liable it is to be misunderstood.

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.

May 21, 1900.

BY THE COURT.

R U L E S

O F T H E

S U P R E M E C O U R T O F T H E U N I T E D S T A T E S

R E L A T I N G T O

A P P E A L S F R O M T H E C O U R T O F C L A I M S .

(As adopted by the Supreme Court in 1866 and subsequently added to and amended.)

R U L E I .

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

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

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

R U L E I I .

[Applied only to decisions rendered before its adoption in 1866, and therefore long since obsolete.]

Record on which appeals are heard in Supreme Court.
9 Wall., 419, and 7 C. Cls. R., 508, and 116 U. S. R., 154, 402.

—transcript of pleadings, etc.
116 U. S. R., 402; 1 Wall., 102.

—finding of fact and conclusions of law.
17 Wall., xvii.
5 Wall., 419, and 7 C. Cls. R., 2.
93 U. S. R., 605, and 12 C. Cls. R., 33.
18 C. Cls. R., 289, 705.
111 U. S. R., 609; 6 Wall., 101, and 7 C. Cls. R., 11; 116 U. S. R., 154; 20 C. Cls. R., 508, 109; 26 C. Cls. R., 109.

Obsolete rule.

RULES OF THE SUPREME COURT.

RULE III.

Allowance of appeals; application stops running of limitation. 17 Wall., 405; 9 C. Cls. R., 22, and 23 C. Cls. R., 1, 41.

In all cases an order of allowance of appeal by the Court of Claims, or the Chief Justice thereof in vacation, is essential, and the limitation of time for granting such appeal shall cease to run from the time an application is made for the allowance of appeal. (3)

RULE IV.

Findings of fact and conclusions of law to be filed by court.

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

RULE V.

Parties before trial to submit request to find facts.

In every such case, each party, at such time before trial, and in such form as the court may prescribe, shall submit to it a request to find all the facts which the party considers proven and deems material to the due presentation of the case in the findings of fact. (3)

RULE VI.

Rules to apply to cases under the District claims act.

Ordered, that Rule I, in reference to appeals from the Court of Claims, be, and the same is hereby, made applicable to appeals in all cases heretofore or hereafter decided by that court under the jurisdiction conferred by the act of June 16, 1880, c. 243, "to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes." (Adopted May 7, 1883.)

(1) Rule 8, section 2, of the Supreme Court requires the clerk to annex to and transmit with the record a copy of the opinion or opinions filed in the case.

(2) The following extract from the opinion of the Supreme Court in the case of *Burr v. The Des Moines Railroad and Navigation Co.*, 1 Wall., p. 102, will explain what is necessary to be set out in the findings:

"The statement of facts on which this court will inquire

RULES OF THE SUPREME COURT.

if there is or is not error in the application of the law to them, is a statement of the ultimate facts or propositions which the evidence is intended to establish, and not the evidence on which those ultimate facts are supposed to rest. The statement must be sufficient in itself, without inferences or comparisons, or balancing of testimony, or weighing evidence, to justify the application of the legal principles which must determine the case. It must leave none of the functions of a jury to be discharged by this court, but must have all the sufficiency, fullness, and perspicuity of a special verdict. If it requires of the court to weigh conflicting testimony, or to balance admitted facts, and deduce from these the proposition of fact on which alone a legal conclusion can rest, then it is not such a statement as this court can act upon."

(3) Rule 8, section 5, and Rule 9, section 1, require that the record on appeal in cases from all courts must be filed with the clerk of the Supreme Court and the case docketed within thirty days from the allowance of the appeal.

Rule 20, section 1, permits submission of appeals from the Court of Claims on printed briefs without oral argument, by consent of both parties, within the first ninety days of the term, and thereafter within thirty days after docketing, but not later than April 1. Twenty-five copies of the arguments, signed by attorneys or counsellors of the Supreme Court, must first be filed.

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