

5. An alien enemy shall, before entering an appearance, file in the Registry an affidavit stating the grounds of his claim.

6. Where no appearance has been entered the party issuing the writ may proceed in the cause subject to the filing of an affidavit of service of the writ. See Appendix A, Form No. 10.

ORDER IV.

AFFIDAVIT AS TO SHIP PAPERS.

1. An affidavit as to ship papers shall, unless previously sworn, or otherwise ordered by the Judge, be sworn within ten days after the ship is brought in for adjudication or is seized in port.

2. The affidavit shall, with the ship papers exhibited thereto, be filed in the Registry within three days after the same is sworn as aforesaid, or, if sworn before the ship is brought in for adjudication, within three days after the ship is brought in for adjudication.

3. If a captured ship is destroyed or lost, the affidavit as to ship papers shall, with the ship papers exhibited thereto, be filed within three days of the institution of the cause.

4. Where ship papers are in the custody or under the control of any person within the jurisdiction of the Court, the Judge may, on the application of the captor or of a claimant, order the person having such custody or control to bring the papers into Court; and thereupon such person shall bring in all ship papers as exhibits to an affidavit in the form marked No. 11 (iv) in Appendix A.

5. The ship papers shall be exhibited to the affidavit and shall be numbered consecutively; and the person before whom the affidavit is sworn shall initial each of the documents.

6. Every affidavit as to ship papers shall be sworn before a Commissioner appointed to administer oaths, or before any other person lawfully authorized to administer oaths in prize matters, or before the Registrar. The person in charge of the ship, or a person desiring to make an affidavit shall produce to the person before whom the affidavit is sworn all the ship papers (if any) delivered up or found on board the ship.

7. Where ship papers are delivered up or found in ordinary course at the time of capture, the affidavit as to ship papers shall be in the form marked No. 11 (i) in Appendix A.

Where any ship papers have, after being delivered up or found, been lost, mislaid, injured, or altered, or where any ship papers are found hidden or concealed, the affidavit shall be in the form marked No. 11 (ii) in Appendix A, with such variations as the facts may require.

Where no ship papers are delivered up or found on board the ship, the affidavit shall be in the form marked No. 11 (iii) in Appendix A.

Always provided that no affidavit shall be invalidated by reason only of a defect in form.

ORDER V.

PROCEEDINGS IN CASE OF FAILURE TO PROCEED BY CAPTORS.

1. Where a ship has been captured as prize, and still remains detained, and no cause is instituted against it within one month from the time it is so taken or seized, a claimant may, after issuing a writ as provided by Order II, apply for an order for the release of the ship and its restoration to him, and the Judge upon such application may make such order as to the restoration of the ship and as to damages or costs or as to proceeding to judgment as he may think fit.

2. Where a ship has been captured as prize, but has been subsequently released by the captors, or has, by loss, destruction, or otherwise, ceased to be detained by them without proceedings for condemnation having been taken, any person interested in the ship wishing to make a claim for costs and damages in respect thereof, shall issue a writ as provided by Order II.

3. Where, after a cause has been instituted, the captors fail to take any of the steps within the respective times provided by these Rules, or, in the opinion of the Judge, fail to prosecute with effect the proceedings for adjudication, the Judge may, upon the application