

CHAPTER III

PRIZE COURT PROCEDURE

I

SOURCES OF RULES OF PROCEDURE

Sec. 70. *English Rules.* Unlike the substantive law of prize, that is, the law which defines the causes for which belligerents may capture, destroy, detain or confiscate ships and cargoes of the enemy or of neutrals, the law of the procedure of the Prize Courts has been, in large measure, codified. It is found in special laws enacted by the legislature or in decrees or ordinances issued by the chief of state in pursuance of his inherent prerogative or as a result of authority conferred upon him by legislative delegation. In Great Britain the matter is dealt with, in part, by the "Naval Prize Act, 1864," the "Prize Courts Act, 1894," the "Prize Courts (procedure) Act, 1914," amending the Act of 1864, the "Imperial Prize Courts Act, 1915" and the "Prize Court Rules, 1914," amended by Orders in Council in September and November, 1914, and in February, March and April, 1915.¹ The Prize Court rules of 1914 embrace 289 rules with appendices containing forms and tables of fees and costs.² They were made by the King in Council in virtue of authority

¹ Lord Parker observed in the case of the *Südmark* (III Br. & Col. Pr. Cas. 77) that the procedure of prize courts "has always been recognized as a matter of municipal as opposed to international law." In the *Zamora* (IV Lloyd at p. 50) Sir Samuel Evans remarked that "matters of practice in proceedings . . . are not of international concern; and are not, and cannot be, regulated by uniform international principles or procedure to be applied in the courts of all countries." In the case of the *Corsican Prince* (I, *ibid.*, p. 186), Sir Samuel observed that "the Prize Court Rules have been framed for this Court and have been made under the Prize Court Act, 1894, and not by the Rule Committee which frames the rules for the High Court.

² Texts of these acts and of the Prize Court Rules of 1914 may be conveniently found in Tiverton, *The Principles and Practice of Prize Law* (London, 1914), Appendices I, II & III, and in the supplement thereto. In 1908 Prize Court Rules codifying the old practice of the High Court of Admiralty in prizes and containing some additions were promulgated in accordance with the provisions of the Naval Prize Act of 1894, but they were never in force in time of war and were superseded by the Prize Court Rules of 1914.