

**MARITIME LAWS**  
OF THE  
**REPUBLIC OF PANAMA**

ENGLISH TRANSLATION BY

**JORGE FABREGA P.**

PANAMA CITY

( 1 9 5 4 )

### TRANSLATOR'S NOTE

While introducing certain changes and modifications, the translations of the Commercial Code (Book II), Law 8 of 1952 and Law 54 of 1926, as published in the official edition in English by the Government Printing Office in 1942, has been followed closely. Due acknowledgment is hereby given.

J. F. P.

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**LAW 8 OF 1925**  
(Of January 12th)

Establishing the procedure to be followed for the nationalization and measurement of vessels and prescribing other measures.

**The National Assembly of Panama**

DECREES:

Article 1. Owners or agents of vessels who desire to have with respect to them the rights and obligations granted to national merchant ships by laws and treaties, must observe the following requirements:

1. They shall have the vessel enrolled in one of the registries kept in the Inspectorates of the ports of entry of the Republic;

2. They shall provide themselves with the requisite navigation license; and

3. They shall navigate under the Panamanian flag.

By merchant vessels shall be meant for the purpose of registry, in addition to craft intended for the transportation of passengers and cargo, any pontoon, dredge, floating dock or other hull constructed of wood, concrete, iron, steel, composite or any other material actually in use or which may be devoted to the service of maritime commerce.

Article 2. To obtain the nationalization (registry) of a vessel its owners or agents must apply in writing to the respective Inspector of the Port, requesting the enrollment of the ship and furnishing the following data for recording in the registry:

(a) The full name of the ship, stating also those under which it might have been known before, in case of a change of name;

(b) Its class, that is, whether steamship, sailing vessel, auxiliary motor, yacht or any other kind;

(c) The name of its owner or of the company operating it, as well as the nationality thereof and address;

(d) The nationality renounced by the vessel and those which it might have had before;

(e) Its net and gross tonnage and capacity;

(f) The material of which it is constructed, stating whether wood, concrete, iron, steel or composite;

(g) Class of rigging;

(h) Description of motive power, it steam, stating the number of cylinders of engine, the horse-power and the name of the manufacturers;

(i) Principal dimensions, length over all, measured on main deck, from the stem to the stern post, along the under side; width of beam, depth, measured from bottom to main deck;

(j) Number of bridges, decks, masts and funnels;

(k) Nature of traffic in which engaged, whether passenger, cargo or both;

(l) Place where constructed, the year and the company which built it;

(m) Distinctive sign in the International Code of Signs; and

(n) All other particulars serving for the full identification of the ship.

Article 3. The applicant shall forward with his application the necessary documents tending to prove that according to law he is the owner of the vessel in question.

Article 4. In the case of vessels built at the expense of the applicants, the title to be submitted in support of the application shall be that issued according to law, conforming to the requirements for proving ownership of buildings constructed on lands belonging to others.

Article 5. In the case of vessels of less than five tons capacity, ownership may be proved by means of declarations made by witnesses before the Inspector of the Port.

Article 6. The documents mentioned in articles 3 and 4 shall be accepted as proof even though they have not

yet been entered in the Public Registry, but they must be recorded as soon as the Patent of Nationalization is entered in the Registry of Ships kept in the Public Registry Office.

Article 7. In the case of a vessel not yet registered in any other country, the Port Inspector shall appoint two experts for the purpose of measuring and surveying the ship. These experts shall issue a sworn certificate describing minutely the structure of the ship, its condition, rigging, length, beam, depth, tonnage capacity and every other particular contributing to the description of the class or identity of the ship and, if a steamship, that it is provided with the proper equipment and every device requisite for its proper steering and navigation.

In the case of vessels registered in other countries the data referred to in this article shall be obtained through a sworn certificate of the applicant verified by the Port Inspector after examination of the ship's papers.

Article 8. On submission of the data prescribed in the foregoing articles, an entry will be made in the Ship Registry kept in each inspectorate. This entry shall consist of a record of the registration of the vessel under its proper number and shall include the data contained in the application and in the report of the surveyors or admeasurers, or in the certificate mentioned in the preceding article, where such is presented, after which the vessel shall be declared duly incorporated in the National Merchant Marine. The entry shall be signed by the Port Inspector and an attested copy thereof shall be transmitted to the Secretariat of Finance and Treasury and another to that of Foreign Relations.

Article 9. On the requirements laid down in the preceding article being fulfilled and the proper voucher presented to the Port Inspector proving that the registration fees have been paid into the National Treasury at the rate of one balboa for each net or register ton or fraction thereof when the vessel exceeds five tons in capacity, and of fifty cents (\$0.50 U. S. Cy) when of less capacity, or in the case of any pontoon, dredge, floating dock or any other such craft, the Port Inspector shall issue the Patent of Navigation (Ship's Register) conforming to the model adopted by the Secretariat of Finance and Treasury.

Of every patent so issued a report shall be made to the Secretary of Finance and Treasury and to the Director General of Posts and Telegraphs.

Article 10. After completing the registration of the vessel and before executing the patent of navigation, the Inspector of the Port and the surveyors appointed for making the examination and admeasurement of the vessel shall see to the following requisites:

1. That the ship has its name and port of registry plainly marked on each bow and on its stern in white or yellow letters on a dark or black ground or in dark letters on a light ground. The letters must have a minimum height of sixteen (16) centimeters and a proportional breadth;

2. That each side of the stem and also the stern shall show a scale marked in Roman numerals, in white, yellow or black, according to the color of the hull, of not less than sixteen centimeters (16) in height, the numeration beginning from the normal draft line of the ship.

3. That the hull, keel, stem, boilers, engines, or motors, propellers, boats, decks, interior structure, bulkheads, safety valves and other sections of the ship are in perfect condition and the equipment in good working order; and

4. That the vessel is provided with modern life-saving equipment sufficient for all the passengers and crew of the vessel and that she carries aboard full sets of rescue signals and rockets such as are required in case of accident.

The Port Inspectors in Panamá and the Panamanian Consuls abroad shall prohibit the departure of any vessel which fails to show that its hull is staunch and seaworthy and its machinery and tackle in perfect working order.

Article 11. No instrument of sale, transfer or assignment of a vessel shall be recorded in the Public Registry unless and until the Patent of Nationalization be presented at the Port Inspectorate for cancellation and substitution by another issued in favor of the new owner of the vessel.



Article 12. In cases where it is intended to alienate or encumber a vessel belonging to any natural or juridical person not established in the country or engaged in commerce therein and which is not enrolled in the Public Registry, the respective instrument shall not be recorded in the Merchantile Section of the Registry unless accompanied by a notarial certificate, issued in the country in which the shipowner resides, that the executor is vested with full legal powers to alienate or encumber the vessel.

Article 13. In time of war the sale or alienation of a national vessel destined for navigation under a foreign flag requires a written permit from the Executive Power issued through the Secretariat of Finance and Treasury.

Article 14. The Executive shall issue a decree on maritime police containing the necessary provisions on rules of navigation and the internal affairs of national vessels not yet dealt with in the commercial and fiscal laws in force. The Executive is likewise empowered hereby to prescribe the penalties to be applied in cases of violation thereof not yet laid down in those laws, which in cases of fines shall not exceed one thousand balboas (\$ 1,000.00 U. S. Cy.).

Article 15. National merchant vessels engaged in international traffic are subject to an annual impost or tax of ten cents of a balboa (\$0.10 U. S. cy) for each registered ton under their patent, which impost shall not be increased during the term of twenty years counted from the date of issue of the patent.

In the event of the enactment of a new law increasing this impost, it shall apply only to vessels registered after it comes into operation and to those which have completed the term of twenty years mentioned in the preceding clause.

Article 16. National vessels engaged in international traffic are required to give employment to Panamanian citizens in the proportion of ten per centum (10%) at least of their crews, provided those applying for employment are up to the physical and moral standards required for the posts.

Article 17. The Executive is hereby empowered to establish, organize and maintain a School of Navigation

which shall issue diplomas of proficiency to graduates, qualifying them for appointment as officers in the National Merchant Marine.

Every national merchant vessel shall be required to enlist in its service a number of pupils from the School of Navigation not exceeding two per centum of the total complement of the ship, but which number shall in no case be less than two.

The designation of these pupils shall be made by the Director and Council of Professors of the school.

On being graduated, the pupils shall be entitled to appointment as officers in the service of the vessel on which they were trained, but the selection to membership on the staff shall be made by the shippowner or master in the manner prescribed in the regulations.

Article 18. Panamanian Consuls abroad are hereby empowered to grant provisional registration under the national flag and to issue upon payment of the registration taxes a provisional patent of navigation to such vessels as are located in foreign waters but which desire to proceed to this country to be enrolled definitely in the Registry of the National Merchant Marine, conditional on payment of the registration impost as provided for above.

The provisional patent to be issued by Panamanian Consuls abroad pursuant to this article shall be valid for  
~~the term of six months during which period the definite~~

The issue of each such license shall be subject to an impost of five balboas (\$ 5.00 U. S. Cy.), to be paid in cash by the person in whose favor it is granted.

Article 20. Article I to 6 of Law 63 of 1917 are hereby repealed.

Given in Panama on the ninth day of January of the year one thousand nine hundred and twenty-five.

The President,

**CARLOS GUEVARA.**

The Secretary,

**Arcadio Aguilera O.**

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Republic of Panama.—National Executive.—Panama, January 12. 1925.

Be it published and executed.

**R. CHIARI.**

The Secretary of Finance and Treasury,

**Eusebio A. Morales.**

## **LAW 54 OF 1926**

(Approved December 11th)

Amplifying Law 8 of 1925.

### **The National Assembly of Panama**

#### **DECREES:**

Article 1. Every merchant vessel which has acquired Panamanian nationality shall lose that status in either of the following cases:

1. When it engages in the service of a nation with which the Republic of Panama is at war;
2. When it acquires any other nationality;
3. When it engages habitually in smuggling, in unlawful trade or in piracy.

The resolutions declaring loss of nationality by any vessel shall be issued by the Executive through the Secretariat of Finance and Treasury, but are subject to reconsideration by the Executive in the presence of sufficient reasons therefor.

Article 2. Any persons, national or foreign, may apply in writing on his own behalf, or as proxy for any other person or concern, for the cancellation of the status of any national vessel on the ground of violation of either of the clauses contained in the foregoing article, supporting his application with the proper proofs.

The Secretariat of Finance and Treasury shall forward a copy of the application and the documentary evidence supporting it to the owner, agent or master of the vessel, in order that they may rebut the evidence, and shall appoint a term within which to file their rebuttal; the period thus assigned shall be the term of the distance

plus an additional fifteen days of grace. If the owner, agent or master as aforesaid does not dispose of the charges satisfactorily, or fails to submit a reply within the term appointed, the Executive shall proceed to issue the corresponding resolution declaring that the vessel has forfeited its status as a Panamanian national ship and ordering the cancellation of its registry and the patent of navigation issued to it according to law.

The Secretariat of Finance and Treasury shall transmit a copy of the resolution to the applicant, and others to the owner, agente or master of the vessel, to the Administrator General of Posts and Telegraphs and to the Inspector of the Port who, on annulling the enrollment, shall notify the Registrar General and the Director General of the Census with a view to the cancellation of the entries in their respective registries.

Article 3. When a national vessel has ben withdrawn definitely from the service, or has been lost through foundering or explosion, or has been abandoned for any reason whatever, the owner, agent or master of the vessel shall be required to notify the Secretariat of Finance and Treasury thereof, applying for the cancellation of its entry in the registry, in order that the obligations thereon as prescribed by law may cease to be effective.

Copies of the resolution cancelling the enrollment of a vessel in accordance with this article shall be communicated to the same persons and authorities mentioned in the preceding article.

Article 4. Owners, agents or masters of Panamanian vessels who desire to nationalize them in some other country must file a statement of their intention with the Inspector of the Port of registry in Panama, or with the Consuls of the Republic abroad, requesting that the inscription in the registry be cancelled. The application must be accompanied by the patent of navigation of the ship, a certificate of the Chief Collector of the Secretariat of Finance and Treasury or from the Judge-Assesor (Juez Ejecutor) of the province, stating that the vessel has paid its dues to the National Treasury, and also the document accrediting the applicant as the owner, agent or master of the vessel.

Acting on this application, the Inspector of the Port of registry or the Panamanian Consul abroad shall proceed to draw up the corresponding resolution declaring the provisional or final inscription of the vessel cancelled. This resolution shall state the name of the vessel, that of the person to whom it belongs, the material of which the hull is constructed, its net and gross tonnage, the place where it was constructed, the year and the name of the company that built it. Copies of this resolution shall be transmitted to the interested parties to the Secretariat of Finance and Treasury, the Director General of Posts and Telegraphs, the Registrar General and the Director General of the Census.

When the resolution has been issued by a Consul, he shall communicate with the Inspector of the Port of registry of the ship, transmitting a copy of the resolution, the application, the patent of navigation cancelled, if permanent, the certificate showing that the vessel has settled with the Treasury and other documents in connection with the matter.

When the patent of navigation is provisional, it shall be transmitted cancelled to the Consul by whom it was issued, together with the other documents mentioned in the preceding article.

Article 5. In addition to the copy of the resolution, the Inspector of the Port or the Panamanian Consul abroad shall issue to the owner, agent or master of the vessel a certificate setting forth the facts and circumstances referred to in the preceding article.

The issue of each certificate shall be subject to an impost of ten balboas (\$ 10.00 U. S. Cy) payable into the Treasury.

Article 6. When a vessel lying in foreign waters desires to acquire nationality in some other country and is without the necessary certificate of solvency with the National Treasury permitting its release, the owner, agent or master of such vessel shall apply to the Panamanian Consul at the port or place where the vessel may be lying to address the Chief of the Collectorate (Sección de Ingresos) of the Secretariat of Finance and Treasury or the Judge Assessor (Juez Ejecutor) of the province, by let-

ter, cable or radiogram, enquiring the exact amount due the Treasury by the vessel. On ascertaining the amount outstanding, the dues may be paid to the Consul, who in this case shall issue the corresponding certificate and release by the Treasury. The expenses of cabling and others occasioned by the enquiry shall be borne by the applicant.

Article 7. Whenever it may become necessary to obtain a new patent of navigation, either because of a change of name of the vessel or of its owner, or on account of some important modification having been made in the ship, or of the complete transformation thereof, or in view of the damage, destruction or loss of the original patent, the Port Inspector in Panama or the Consuls abroad shall collect on behalf of the Nation the sum of ten balboas (\$ 10.00 U. S. cy.) when the vessel is engaged in navigation on the high seas, and two balboas (\$ 2.00) when in the coastwise service of the Republic.

In cases where a new patent may be issued consequent on a change of name of vessel or owner, or of the modification or transformation of the ship, the Port Inspector shall cancel the original patent, which shall then be filed away among the archives. When the new patent is issued because of the loss or destruction of the original, the fact shall be recorded in a brief explanatory note written on the back thereof.

Article 8. Every national vessel shall undergo a periodical examination of its hull, machinery and life-saving appliances at intervals as hereunder:

Vessels of more than ten tons capacity engaged in passenger or cargo service between the various ports of the Republic, every six months. Those of less capacity every three months.

Article 9. National merchant vessels shall further undergo an additional examination after they have been careened, grounded, boarded, or suffered any serious damage.

Article 10. The Port Inspectors shall appoint the time, at the intervals mentioned and following any of the accidents referred to in article 9, at which the examinations shall be made, and shall appoint the surveyors for

the purpose, whose fees shall be paid by the owner, agent or master of the vessel.

Article 11. Every act of nationalization must be approved by the Executive through the Secretariat of Finance and Treasury. The provisional acts carried out by the Consuls abroad in accordance with article 18 of Law 8 of 1925 do not require such approval.

Whenever the Executive may declare a vessel's patent of navigation permanent, it shall order the cancellation of the provisional patent, the issue of the permanent title, and the recording of the vessel definitely in the register of the National Merchant Marine.

Article 12. For each patent of navigation issued in the manner described in the concluding section of the foregoing article, the Port Inspector shall collect on behalf of the Nation the sum of twenty-five balboas (\$ 25.00 U. S. cy.), payable at the time of delivery.

Given in Panama on the 9th day of December of the year one thousand nine hundred and twenty-six.

The President,

**M. DE J. QUIJANO.**

The Secretary,

**Antonio Alberto Valdés.**

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Republic of Panamá.—National Executive.—Panama, 11th  
December, 11 1926.

Be it published and executed.

**R. CHIARI.**

The Under-Secretary of Finance and Treasury in  
charge of the Department,

**J. J. Méndez.**



**COMMERCIAL CODE**  
**SECOND BOOK**  
**On Maritime Commerce**  
**TITLE I**  
**On Vessels**  
**CHAPTER I**  
**General Provisions**

Article 1077. Merchant vessels, although movables (personal property) by nature, constitute a class apart, governed by common (civil) law provisions, save in so far as they may be modified by the provisions of the present book.

Article 1078. Every vessel is considered as a concern of limited liability in so far as its estate is concerned.

The payment of insurance forms part of the estate of a ship.

Article 1079. Vessels shall be liable for the debts of their owners, whether these be ordinary or secured, and their creditors shall have the right of proceeding against them even though they may be in the hands of any third party so long as the liability lasts.

Article 1080. Merchant vessels belonging in whole or in part to Panamanian citizens or to foreigners domiciled in the Republic and with more than five years of residence therein, or to commercial companies having their principal office and place of business in Panama shall be held as Panamanian, provided they be registered and enrolled as such and their owners submit expressly to the legal provisions of the Republic on navigation.

In the case of partnership in the ownership of a vessel, this last circumstance must result from the unanimous and express declaration of the partners made before the official charged with the registration of vessels.

Article 1081. No vessel shall be allowed to navigate the seas unless the proper authority, following due examination by surveyors and in accordance with their findings, shall declare her in good and seaworthy condition.

The same formality shall be required whenever the vessel may have undergone repairs or alterations of importance.

Article 1082. The vessel shall retain her identity even though the material which its has been constructed may be successively changed.

A vessel having been rebuilt, though it may be with the same materials, shall be regarded as a new and distinct craft.

Article 1083. Ownership in vessels or in any part of them shall be transferable only by public instrument, which shall not be liable to claim by any third party until after the same has been recorded in the Mercantile Registry.

The requirement of delivery may be dispensed with by an express declaration of the contracting parties that the property is transferred immediately to the purchaser.

The seller shall be bound to deliver to the purchaser at the time of the contract the certificate of registration of the ship up to the date of the sale.

Article 1084. Unless expressly provided otherwise in the compact, the sale of a ship shall be understood always to include, even though it may not be expressed, the boats, apparel, accessories and other objects comprised in the inventory of the ship.

Article 1085. The possession of a ship without title of acquisition does not imply ownership by the possessor, unless such possession shall be in good faith and shall have been held without interruption for ten years. A master may not acquire ownership of a vessel by prescription.

Article 1086. If the alienation of a ship should be accomplished during a voyage, the amounts collected for freights from the time its last cargo was taken on shall belong to the purchaser and the payment of the crew during the same voyage shall also be for his account.

If the sale should be accomplished after the vessel has arrived at the port of destination, the freights collected shall belong to the seller and the payment of the crew shall be for his account, unless in either case it shall be otherwise agreed.

Article 1087. In cases of voluntary sale ownership in vessels shall be conveyed to the purchaser with all encumbrances and liens, with the exception of such rights and privileges as may be specified in the corresponding instrument of conveyance.

The vendor shall be obliged to deliver to the purchaser a list of the liabilities outstanding against the ship. This list shall be inserted in the deed of sale.

Article 1088. If a vessel should be sold during a voyage, its creditors shall retain their rights in it unimpaired until it returns to the port of its register and for six months afterward, without detriment to their right to proceed against it in any other port.

Article 1089. The instrument of sale of a vessel abroad shall be executed before the Panamanian Consul of the place in question.

The Consul shall record the said deed in the consulate registry (protocol) and shall transmit by the earliest mail a copy thereof to the Mercantile Registry.

Article 1090. The judicial sale of vessels shall be carried out with the formalities prescribed by common (civil) law for the transfer of real property.

In judicial sales all liabilities against the ship shall be extinguished up to the day of the auction.

The lien securing payment of the price shall be made effective according to the provisions laid down in the chapter on creditors and the order of their preference.

## CHAPTER II

### On Ship-owners

Article 1091. If two or more persons are partners in the ownership of a vessel the juridical relations between them shall be governed by the decision of the majority. A plurality of the owners shall constitute a majority. If there should no be more than two, the vote of the partner holding the greater interest shall prevail. If the interests should be equal, the difference shall be decided by the court.

The representation of the least interest or share in the ownership shall be entitled to one vote, and the other joint-owners shall have proportionally as many votes as shares equal to that of the least holder.

Article 1092. If the juridical relations between the joint-owners should be reduced to contract, the unanimous vote of all shall be necessary in any agreement modifying its terms.

A unanimous vote shall likewise be required for the appointment of the ship's husband whenever such appointment is to be made in a person other than one of the owners.

Article 1093. The liability of the owners of the ship for the acts of its master and for the debts and obligations which he may contract for the repair of the vessel, its equipment and provisioning shall be limited to the vessel and the freight, in accordance with the principle laid down in article 1079, save in cases where the master may have acted in virtue of special power of attorney.

Liability shall likewise be limited to the vessel and its freights if the claim should be based on non-performance or improper or incomplete performance of a contract concluded by the owners or the manager of the ship, provided that the fulfillment of the contract pertains directly to the master or other member of the ship's complement as part of his regular duties.

But if the owner or any joint-owner should be the master or other member of the ship's complement charged with the execution of the terms of the contract, he shall also be personally responsible.

Article 1094. The owners or joint-owners, if there be any, shall be personally liable under the provisions of common (civil) law for claims made by the crew arising from contracts of employment or wage agreements.

They shall likewise be answerable for any injury which one member of the crew may inflict on any other in the discharge of his duty or in connection therewith.

Such liability shall be computed on the basis of the interest held by each in the ownership of the vessel.

Article 1095. Each joint-owner shall be bound to contribute in proportion to his interest in the vessel to its expenses of operation, its equipment and provisioning.

Should any joint owner fall in arrears in the payment of his quota toward these expenses and the others advance the amount so required for his account, the defaulting owner shall be liable for the payment of interest at the current commercial rate as from date of such advance; and the other owners shall have a lien for the sums advanced by them on the interest in the ship of the delinquent owner, and the costs in connection with securing their claim shall be for account of the latter.

Article 1096. In the event of a ship needing repairs and a majority of the joint-owners deciding in favor of it, the minority shall be bound to accept such decision or relinquish the interests which they hold in the vessel in favor of the other owners, who shall be bound to accept them following a survey and appraisal by experts, or demand the judicial sale of the ship. The appraisal shall be made before beginning the work or repair.

If the minority should hold that the ship is in need of repairs and the majority be opposed to it, the former shall be entitled to apply to the court for a survey. In the event of a decision that repairs are necessary, all the owners shall contribute to the cost thereof.

Article 1097. The division of profits and losses shall be made in proportion to the respective interests in the ownership of the vessel.

The settlement of profits and losses and the payment of the former, if any, shall take place each time that the vessel returns to its home port, or after it has made a voyage to any other port and discharged its crew, save and except stipulation to the contrary.

Article 1098. Any joint-owner may at any time alienate his interest in the vessel; but if such alienation should affect its nationality it must be consented to by the other owners.

Article 1099. The owners have the right of priority of purchase in the event of any one of them wishing to dispose of his interest. To this end the vendor shall notify them by writing of his intention to alienate his rights in the ship and they may exercise their prerogative at any time within three days following the notification. After this term their priority shall lapse.

Article 1100. If a majority of the joint-owners should decide in favor of the sale of the ship, the minority may demand that this be done at public auction.

Nevertheless, the association may not dissolve until after the end of the voyage.

Article 1101. The joint-owners are entitled to preference in the freight contracts over all others, conditions being equal. If two or more joint-owners should appear to claim this right for the same voyage, the preference shall go to him holding the greater interest in the ship, and in the event of the interests being equal, the preference shall be decided by lot.

Such preference shall not carry the right to demand a change of destination, once this has been decided upon for that voyage by the majority.

Article 1102. Whoever may employ in maritime traffic for his own account a ship belonging to any other party, whether it be managed by himself or by proxy, shall be considered in his dealings with third parties as the owner thereof.

The real owner shall be unable to oppose any action by third parties to make effective their claims as creditors against the ship arising from its employment by any other, unless he shall prove the unlawfulness of such employment and the bad faith of the creditor.

### CHAPTER III

#### **On Ship's-husbands**

(Navieros)

Article 1103. In order that a vessel fully apparelled and equipped may be able to engage in trade it must ply necessarily under the name and direct responsibility of a ship's husband (managing owner or attorney) who shall manage it for the account and at the risk of the owner or partners, if it should belong to several persons.

The management of the ship may be vested in the owner or any of the joint-owners in the capacity of husband, provided he meets the requirements of the position. The appointment may be revoked a majority of the votes, unless otherwise agreed upon.

Article 1104. The appointment of a husband and his removal shall be made by public instrument, which shall be duly recorded in the Mercantile Registry.

Article 1105. To fill the post of ship's husband one must possess the legal capacity required for engagement in commerce.

Article 1106. The husband shall be charged with dealing judicially or extrajudicially with all matters concerning the operation of the vessel; he shall execute all contracts relative to the ship, her management and voyages, subject to such restrictions as may be imposed by law or the terms of his appointment as duly recorded in the Mercantile Registry.

Article 1107. A husband may not start on a new voyage or contract for fresh cargoes, or insure the ship without the consent of the owner or agreement of a majority of the joint-owners, unless vested with special powers for the purpose.

If he should insure the ship without authorization, he shall respond secondarily (subsidiariamente) for the solvency of the insurer.

Article 1108. It shall also pertain to the husband to make the appointment and rating of the master and to remove him, if need be; but if there be several partners in the ownership of the vessel, such acts shall be decided upon by agreement of the majority of them.

Article 1109. Notwithstanding the provision in the preceding article, husbands may themselves fill the post of master or boatswain on their vessels without interference by any partner; but if any of these should claim the post, the procedure to be followed shall be as indicated in the foregoing article.

Article 1110. In all matters pertaining to the ship the husband shall be obliged to exercise the same care as the owner himself. He shall keep books of record, shall carefully preserve the respective vouchers, he shall render an account of the result of each voyage and shall furnish all information requested of him on all matters relating to the ship.

The joint-owners are entitled to examine the books and correspondence relative to the vessel and her voyages.

Article 1111. On the account of the husband being approved, the joint owners shall contribute their proportional share of the expenses, without prejudice to such civil or criminal action as the minority may subsequently deem it desirable to institute.

Article 1112. If there should be any profits, the joint owners may demand of the husband the part corresponding to them by an executory action without other requisite than the attestation of the signatures of the resolutions approving his account.

Article 1113. The husband shall reimburse the master for all expenses incurred on behalf of the ship which he might have met with his own or other funds.

Article 1114. Before a vessel clears for sea the husband may, if he sees fit, dismiss the master or any member of the crew whose engagement is not for any fixed time or voyage, paying them the salaries accruing according to their contracts, and without any indemnification whatever, unless where expressly agreed upon otherwise.

Article 1115. When the master is a partner in the ownership of the vessel, he may not be dismissed unless the husband shall reimburse him to the amount of his interest in the ship which, in the absence of agreement between the parties on this matter, such value shall be appraised by experts.

Article 1116. In case of the voluntary sale of a ship, all contracts concluded between husband and master shall lapse, but the right of the latter to indemnification according to compacts concluded with the husband shall remain unimpaired.

## CHAPTER IV

### On the Crew

#### SECTION I

#### General Provisions

Article 1117. The crew or complement of a ship shall comprise the master, officers, seamen, servants and workmen listed in the roster drawn up in the manner established in the regulations, as also the machinists,



stokers and all other persons employed on the ship under any denomination whatever.

Article 1118. The crew's articles or roster shall show the name, employment and domicile of every person engaged, his wages and other conditions of contract.

Article 1119. The obligations of the officers and crew shall be:

1. To appear on board ship ready to begin the voyage on the day agreed upon or, in other event, that set by the master, to assist in equipping and loading the vessel, under penalty of dismissal and subject to the provisions contained in the following article;

2. Not to leave the ship nor in any case to spend the night off it without leave of the master, under penalty of a fine of one month's wages;

3. Not to remove their belongings from the ship unless they have been inspected by the master or boatswain under penalty of the loss of one month's pay;

4. To obey without demur the orders of the master and other officers of their respective ranks, to abstain from drunkenness, quarreling or disorderly conduct, subject to the penalties prescribed in articles 1120 and 1122;

5. To assist the master in case of attack or disaster befalling the ship or cargo, whatever be its nature, under penalty of forfeiting all wages due;

6. At the end of the voyage to assist in laying up the ship, in carrying her to a safe anchorage and mooring her, as the master may require.

7. To make the declarations necessary for the ratification of the acts and protests drawn up aboard, receiving for the overtime a compensation proportionate to the wages drawn; those failing to perform this duty shall forfeit all right to the recovery at law of any wages due.

Article 1120. Any officer or other member of the crew who, after having been enrolled, should abandon the ship before beginning the voyage or absent himself before concluding it, is liable to be held for nonfulfilment of contract at the end of the voyage, to return all advances made and to serve one month without pay.

The expenses which may be made in such cases shall be deducted from the wages due the delinquents, who shall likewise be held responsible for any damages and losses to which their acts may have given rise.

## SECTION II

### On the Master

Article 1121. The master is the chief of the vessel. The whole crew owes him obedience in all that concerns the service of the ship.

The master is the delegate of the public authority for the preservation of order aboard and for the safety of the passengers, crew and cargo.

Article 1122. The master is vested with the following powers:

1. To give the necessary orders for the control and management of the ship;

2. To inflict the correctional penalties established by law or the regulations on any person who may disturb order aboard the ship, who may commit breaches of discipline or who may refuse or fail to perform the duties pertaining to them;

3. To arrest those guilty of any crime, draw up the necessary information and deliver the guilty person to the proper authority.

Article 1123. It pertains to the master to form the crew of the ship, choosing and engaging the officers, seamen and other members of the ship's complement, and dismissing them where it may be necessary, acting always in accord with the owner, husband or agent of the vessel wherever these may be present.

The master shall be responsible if he should start a voyage without having the necessary complement aboard.

In no case shall a master be obligated to admit amongst his crew any person of whom he does not approve.

Article 1124. The master shall be obliged to discharge carefully the duties of a good mariner, and to in-



charterers, if it has been chartered entirely, shall be obliged to pay double the regular freight.

Article 1130. Unless otherwise stipulated in writing, a master serving on the basis of a share in the freight, or an interest in the profits resulting from the cargo, shall be barred from engaging in all business transaction for his own account.

If he should do so, whatever profit may result shall belong to the other parties interested and the losses shall be borne by him exclusively.

Article 1131. Masters are prohibited from making any compact, either public or secret, with shippers, which may result in their private benefit under any title or pretext whatever.

Should they do so, all losses which may result shall be borne by them and the shippers and all profits arising from it shall belong to the owners of the vessel.

Article 1132. The master shall be considered the trustee of the cargo and all other effects received aboard, and as such he shall be bound to see to their safeguarding, proper stowage and conservation, as well as to their prompt delivery on presentation of the bills of lading.

The responsibility of the master with respect to the cargo begins with the receipt thereof and lasts until its delivery at the place agreed upon or that in common use at the port of unloading, save and except special stipulation to the contrary.

Article 1133. A master who, having been engaged for a voyage, should fail to fill his engagement, either by not starting on the voyage or by abandoning the ship before finishing it, shall, in addition to his responsibility to the ship's husband or the shipper for the damages and losses which may result, be disqualified for the office of commander of any vessel whatsoever during a term of from five to fifteen years according to the gravity of the case, at the discretion of the Judge.

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master shall be bound to put out at the first favorable opportunity.

It shall be unlawful to postpone a voyage because of the illness of any of the officers or seamen.

In such case his duty shall be to procure immediately the replacement of the sick or incapacitated men.

Article 1135. If at the moment of departure the master should be stricken by illness which should incapacitate him from commanding, the ship, he should endeavor to find another captain who would relieve him of his charge, unless the second in command should be qualified to assume the duties without hazard to the ship or its cargo.

If the owner or agent should be present at the place of departure the substitution shall not be made without his consent.

Article 1136. If a vessel is loaded and ready to start on its voyage it may not be detained on account of civil debts, neither may the master nor any member of the ship's complement, unless the debt should arise from supplies furnished for the voyage. But even in such case bond shall be admissible when given on responsible surety that the ship will return to the port at the end of the voyage, the surety to be liable for the payment of the claim in default of such return and in the event of adverse judgment being pronounced.

Article 1137. The master shall take due care that before starting on the voyage the ship be properly equipped and victualled and in good and seaworthy condition: he shall also see to it that the crew is ready and properly organized, that the ship's papers are aboard and that all the cargo has been loaded, according to the respective bills of lading.

Article 1138. The day before sailing from the port of lading the master shall draw up an inventory, in presence of the mate and boatswain, of the provisions, cables, anchors, sails, and other apparel, with a statement as to the condition in which they are found. This inventory shall be signed by the master, mate and boatswain.

Any changes of condition which may occur during the voyage to any of the objects above mentioned shall be noted in the log book, over the signature of the three mentioned persons.

Article 1139. The master shall be obliged to carry aboard ship the following:

1. The deed of ownership of the vessel, or a certified copy duly legalized;
2. The vessel's passport or sea letter;
3. The roster of crew;
4. The bill of health;
5. The customs clearance issued at the port of the Republic from which it sailed, verified according to the laws and regulations and fiscal instructions;
6. The charter party, in cases where such may have been issued and the bills of lading covering the cargo carried aboard;
7. A copy of the Commercial Code.

Article 1140. The roll or matriculation shall be drawn up at the port at which the vessel is fitted out and shall contain:

1. The names of the ship, its master, officers and members of the crew, stating the age, civil status, nationality, domicile and employment of every one aboard;
2. The port of departure and the destination of the ship;
3. The wages agreed upon, specifying whether they are for the voyage, by the month, for a fixed sum, or on share in freight or profits;

The amounts advance to the crew or promised to be paid on account of wages;

5. The signatures of the master and the officers.

Article 1141. Masters are in duty bound to keep a faithful record of everything concerning the management of the ship and of every incident in its navigation, and for this purpose they shall keep three separate books, bound

and paged, the leaves of which shall be marked by the authority charged with the enrolling of the vessel. Failure to fulfill this requisite will render the delinquent liable for such damages and losses as may result therefrom.

In the first book, which shall be entitled "De Cargamentos" (Cargo book), shall be entered the receipt and delivery of all the shipments loaded on the vessel, with specific declaration of the marks and numbers of the packages, the names of the shippers and consignees, the ports of lading and discharge, the freights stipulated and all other attendant circumstances which may serve for future reference. There shall likewise be entered in the same book the names of the passengers, with declaration of the place of their destination, the price and terms of their passage and the baggage they carry.

In the second book, entitled "De Cuenta y Razón" (Account book), shall be entered in current account form, all sums which the master receives and disburses for account of the ship, which may give rise to the rendering of an account, or to the passing or disputing of a claim; opening an account with each member of the crew, in which shall be entered their wages, amounts drawn and balances held in fund for them.

In the third, which shall be styled "Diario de Navegación". (Log book) there shall be entered:

1. The daily state of the weather and the winds;
2. The daily progress or retardation of the ship;
3. The degrees of longitude and latitude in which the ship is found from day to day;
4. The health condition of the passengers and the crew;
5. The births and deaths which may occur aboard;
6. The extraordinary services rendered by members of the crew;
7. The correctional penalties which might be imposed, with a statement of the reasons therefor;
8. The wills and testaments drawn up aboard in accordance with the provisions of the Civil Code;

9. All damages which may occur to the ship or its cargo and the causes thereof;

10. The condition of whatever might be lost by accident or that might be cut out or abandoned, wherever it may be possible to ascertain it;

11. The course followed and the reasons for any deviations from it, whether voluntary or forced;

12. All the decisions arrived at in council of the officers;

13. The dismissals of officers or members of the crew, with a statement of the reasons therefor in each case.

This book shall be written up day by day, the date recorded and each entry shall be signed by the master and the second in command, whenever the weather and other circumstances permit it. The entries in the two former books shall be signed only by the master.

Article 1142. The master shall be bound to remain aboard from the moment that the voyage begins until the vessel reaches a safe port, and he shall not spend the night off the ship unless on some important business connected with his office.

He shall also be obliged to take on the pilots necessary at all places where the regulations or usage and prudence demand it, under penalty of having to respond for the damages and losses which may result from his negligence in this respect.

Article 1143. Masters are prohibited from abandoning their ships, whatever be the danger, save in case of shipwreck.

In the event of it being necessary to abandon the ship, the master shall be bound to use every means possible to save all the effects of the ship and its cargo, particularly the ship's papers and books, specie and merchandise of greatest value.

If in spite of all his efforts the objects taken off the ship or those left aboard should be lost or stolen, through no fault of his, he shall be absolved from all responsibility in the matter.



Article 1144. During a voyage the master shall be in duty bound to take advantage of every opportunity that offers to inform the owners or husband of the state of the ship.

Before leaving a port at which he was forced to call by stress or before starting on the return voyage, he shall transmit to the husband a signed account as to the state of the cargo, the price of the effects carried for account of the ship, the expenses incurred for repairs or under any other head, the amounts obtained by loan on bottomry and the names and addresses of the lenders.

Article 1145. Before starting on the return voyage, a master may insure the effects carried for account of the ship and the sums disbursed for the vessel, but he must acquaint the owner on transmitting his accounts.

Article 1146. If one or more of the joint owners should fail, after having been duly called upon, to contribute their quotas toward the expenses necessary for the equipment and fitting out of the ship, after the loading of cargo has begun, the master may, without judicial authorization, twenty-four hours after notifying those failing to respond, raise the money on their share in the ship, even by loan on bottomry.

Article 1147. In dealing with any matter of importance the master shall be bound to ask the decision of the owners of the vessel, the shippers or their assigns, whenever these are present, and in all cases to consult the other officers of the ship.

No excuse shall absolve from responsibility a master who deviates from the prescribed route or who resorts to any unusual procedure likely to result in the injury of the persons aboard or damage to the vessel or its cargo, without having submitted such course to due deliberation taken in joint council, composed of all the officers of the vessel and in presence of those interested in the ship or its cargo, if any of these should be aboard.

In such deliberations and in all other resolutions which may be arrived at in accord with the officers of the ship, the master may, whenever he shall deem it warranted, act under his personal responsibility and against the decision of the majority.

Article 1148. Masters are prohibited from entering at will any port other than that of destination; if a master should find himself obliged to do so by force majeure, he shall leave on the first occasion that offers, or otherwise be liable for the damages and losses that may result to the ship or its cargo from the delay.

Article 1149. If after leaving a port a master should learn of an outbreak of war and that his cargo is not free, he shall be bound to put in at the first neutral port and to remain there until peace is restored, or until he is able to leave under convoy or in some other safe manner or until he shall receive definite orders either from the owner or husband or from those interested in the cargo.

Unless he has received express orders to the contrary, he shall proceed in like manner should he learn that the port of destination is blockaded.

Article 1150. A master whose vessel is travelling under escort of warships is liable for the damages which may befall the ship or its cargo should he separate from the convoy.

He shall likewise obey the orders and signals of the commander of the convoy, under the same liability.

Article 1151. The master shall be in duty bound to resist by all means which prudence may dictate all attempts at violence against the ship or its cargo; if he should be obliged to make delivery of all or part of the latter, he shall make due entry in the log book of such delivery and shall report the fact at the first port at which he shall call.

In case of seizure, embargo or arrest, the master shall endeavor to obtain the release of the ship and its cargo, and he shall by all means at his disposal advise the husband or owner of the vessel, as well as the shippers or consignees of the shipments, of the condition of the vessel and its cargo. Pending the receipt of definite orders, he shall take such provisional measures as may be absolutely indispensable to ensure the safety of the vessel and its cargo.

In such case action shall be decided by the majority of the owners and their decision shall be binding on the

minority. If the majority should decide not to claim, the minority may do so at their cost, retaining the right to demand that the majority contribute to the expenses in proportion to the benefits which might result from their action.

Article 1152. Whenever it may be necessary to jettison cargo, the master shall, whenever possible, first jettison the things least necessary, the heaviest and those of least value; following these the merchandise stowed on the upper deck, at his discretion, after having heard the views of the officers of the ship.

The master shall as soon as may be possible thereafter make due entry of the resolutions reached in this regard. The entry shall show:

1. The causes which led to the jettison;
2. A list of the objects jettisoned or damaged;
3. The signatures of those consulted or a statement of their reasons for not signing.

Article 1153. All statements made tending to prove jettison, damage or any other losses must be ratified under oath by the master within the next twenty-four business hours before the proper authority of the first port at which the vessel shall call. Such authority, if an employee of the Republic, shall question the master himself, the officers, crew and passengers, in order to arrive at the real facts, keeping in view the entries made in the Log book, if it should be saved. The parties interested are entitled to disprove the statements made.

Article 1154. The master shall be obliged to have the Log book vised by the proper authority before whom he made his statement, whatever be the port at which this was done, and to exhibit the said book at any time when required by the interested parties, who shall be entitled to make copies or extracts therefrom.

Article 1155. Within the first twenty-four business hours following his arrival at any port, the master shall be bound to present his Log and declare:

1. The place of departure and the time;
2. The course followed;

3. The perils encountered, the damages which befell the ship or its cargo, and other noteworthy circumstances of the voyage.

Article 1156. The presentation of the Log and the declaration shall be made:

At a foreign port, before the Consul of the Republic, or in default of such, the proper authority of the place.

At a port of the Republic, before the Captain of the Port or the authority designated in the regulations.

Article 1157. On the return of the ship to its port of departure, or that at which the master relinquishes his command, he shall be bound to present to the proper authority the original articles or roll of the crew, within the first twenty-four business hours following arrival, at the same time making the declarations ordered in the preceding article.

After the passing of eight days from the time referred to, any action which might be instituted against the master for omissions in the Articles during the voyage shall be barred.

A master who fails to present all the individuals enrolled, or does not duly record the reasons for the failure, shall be fined by the authority in charge of the enrollment of ships one hundred balboas for each person missing; the master shall have the right of appeal against the decision before the respective Circuit Judge.

Article 1158. In the absence of the owners of the ship, their attorneys or agents, the master shall be empowered to contract for a charter party under instructions which he may have received, and he shall endeavor to procure, in so far as may be possible, the greatest advantage for the owners.

Article 1159. In ports where the owners, attorney or agents may reside the master may not, without special authorization from them, incur any extraordinary expenditure in connection with the ship.

Article 1160. If during the course of a voyage it should become necessary to make repairs or purchase supplies, and the circumstances or the distance from the resi-

dence of the owners of the ship or its cargo do not permit of his getting instructions from them, the master, on the necessity being proved and recorded by an entry signed by the officers of the ship, may proceed to make the repairs or purchase the supplies necessary.

Article 1161. If during a voyage a master should find himself without funds belonging to the ship, or to its owners, and in the absence of these, their attorneys or consignee, and in their stead some party interested in the cargo, or if even when present, they should fail to furnish the funds necessary, he may contract debts, raise money on bottomry and in the absence of other recourse may even sell part of the cargo, stating in the documents recording the obligation which he may sign the reasons for which they are negotiated.

The merchandise sold in such cases shall be paid for to the shippers at a price fetched by other such goods of equal quality at the port of discharge at the time of arrival of the ship, or that assessed by experts in case the sale should have comprised all the goods of the same quality.

If the current market price should be lower than that at which the goods were sold, the benefit belongs to the owner. If the ship be unable to arrive at the port of destination, the account shall be settled on the basis of the sale price.

Article 1162. In order that any of the measures authorized in the preceding articles may be adopted it is indispensable:

1. That the master prove the absolute lack of funds in his possession belonging to the ship or its owners;

2. That neither the owner of the vessel, his attorneys or consignee, or in their stead, anyone interested in the cargo, were aboard, or that, being present, they were called upon for funds without result;

3. That the decision was reached in accord with the ship's officers and that a corresponding entry was made in the Log book. Proof of compliance with these requisites shall be made before the District Judge of the port where the bottomry loan is raised or the merchandise sold, and when in a foreign country, before the Consuls of the Republic or the local authority, in their default.

Article 1163. The documents issued for money received by the master for expenses necessary for the ship or its cargo, in the cases provided for in the preceding articles, and the respective insurance premiums, when such amounts were really insured, shall have the privilege of maritime bills of exchange if they contain an express declaration that the amount was intended for the expenses referred to, and are valid in action for recovery even though such objects may be lost by any subsequent mishap, on the lender proving that the money was effectively employed in the benefit of the ship or of its cargo.

Article 1164. In the event of scarcity of provisions during a voyage, the master, acting in accord with the other officers, may compel those aboard having foodstuffs on their own account to deliver them for the common consumption of all aboard, paying for them at once or later on at the first port of call.

Article 1165. The master shall be entitled to indemnification by the owners for all disbursements which he may make in the service of the ship with his own or other funds, provided he has acted according to his instructions or in the exercise of the powers vested in him as master.

Article 1166. A master may not raise money on bottomry nor mortgage the ship for his own business purposes.

If he be a co-partner in the ownership of the hull and apparel he may pledge his personal share, provided that he has not previously raised a bottomry loan on the whole value of the ship and that the vessel is not otherwise encumbered.

In the mortgage deed which a master-partner may execute in the manner referred to he shall necessarily state what part of the whole in his property to be pledged for the redemption of the debt.

In the event of contravention of this article the payment of the principal, interest and costs shall be for the exclusive account of the master.

Article 1167. A master who shall raise money on bottomry, pledge or sell merchandise or provisions, save

in such cases and in such manner as are established in this Code, or who shall be guilty of falsification of his accounts, shall in addition to responsibility for damages and losses be liable to the respective criminal action.

Article 1168. Master or skippers are not authorized by virtue of their office to alienate the vessels under their command.

When a vessel on a voyage should become unseaworthy, the master or skipper shall appear before the proper judge at the port of call, if it should be a Panamanian port, and before the Panamanian Consul, if a foreign port, or before the local authority, if there be no Consul there, and make declaration as to the damages sustained and the impossibility of repairing them to continue the voyage.

On the extremity of the case being proved in presence of the ship's agent and the insurer or their representatives, if they be available, the judicial sale of the vessel shall be decreed in accordance with the laws of the country in which it is to take place.

Article 1169. Any master who in any case other than that provided for in the foregoing article shall sell the ship under his command without the express authorization of its owners shall incur civil and criminal liability therefor.

Article 1170. Any master who, having been engaged for a certain voyage, shall fail to keep his engagement without justifiable reasons, shall be liable to the owners and shippers for the damages and losses which may result to the owners and shippers.

Article 1171. The master shall respond personally for all fines which may be imposed on his ship for failure to observe the laws and customs and police regulations at the ports, as well as for the losses which may result from quarrels arising among individuals of the crew, unless he shall prove that he had used all suitable means to avoid them.

He shall also be personally responsible for the losses which may befall shippers for not having been provided with the necessary papers covering the cargo, or

from not having made the necessary declarations at the port of unloading or of call.

Article 1172. A master may not retain aboard any part of the cargo as security for freight; but he is entitled to demand of the owners or consignees, at the time of delivery of the cargo, that they deposit or give bond for the amount of the freight, general average and expenses incurred, and in default of prompt payment, deposit or bond, he may demand an attachment of goods for the freights, averages and expenses, while the merchandise is in possession of the owners or consignees, whether in public warehouses or outside of them; and he may even demand an immediate sale if the goods are of perishable nature or of difficult and expensive storage.

The action for of attachment shall lapse at the expiration of thirty days, counting from the last day of the unloading.

Article 1173. The master is entitled to demand that, before unloading, the goods be checked, measured and weighed, in all cases where he may be held responsible for their number, weight or measurement.

Article 1174. When as a result of the absence of the consignee, his refusal to receive the shipment, or from the absence of a legitimate bearer in cases of bill of lading to order, the master is ignorant as to whom the shipment should properly be delivered, he shall place it at the disposition of the judicial authority of the place in order that he may decide suitably regarding its storage, preservation and safety.

In this case, as in article 1161, if the general average cannot be adjusted at once, it shall be lawful for the master to demand that the amount in dispute be lodged in court.

Article 1175. A master who shall deliver a cargo before receiving the freight, general average and expenses, without having recourse to the means provided in the preceding article, or those afforded him by the laws of the place of unloading, shall have no ground for action to recover payment from the charterer, if the latter should prove that he had not shipped on his own account but in



the capacity of a commission agent or for account of some third party.

Article 1176. When a vessel is chartered entirely, the master may not receive shipments from other persons without the express consent of the charterer. Should he do so, the charterer may force him to unload the shipment or demand freight thereon as well as the damages which he may be occasioned in both cases.

Article 1177. After a vessel has been chartered for a voyage to a certain port, the master may not refuse to receive cargo and to begin the voyage agreed upon, unless in case of pestilence, war, blockade or other lawful impediment, without time limit.

Article 1178. If a passenger or one of the crew should die during a voyage, the master shall place in safe keeping all the papers and belongings of the deceased, drawing up a correct inventory with the assistance of the ship's officers and of two witnesses, the passengers, if there be any aboard, being preferred for this purpose. On return to the port of departure later on he shall make delivery of the inventory and the effects to the proper authorities. If the residence of the deceased should be at the port of destination of the ship or at any port of call, the delivery of the effects shall be made there.

Article 1179. At the end of the voyage the master shall be required to give immediate account of his management to the owner or husband, making delivery, against proper receipt, of the money on hand, the books and other papers.

On receipt of these the owner or husband shall come to a settlement of accounts with the master, paying him the amount which may be due him.

Article 1180. In case of disagreement over the accounts, the owner or husband shall be bound to pay to the master provisionally the salary agreed upon, on his giving bond to return the payment if need be, and the master shall be obliged to deposit in the office of the judge of the respective port his log books and other documents.

Article 1181. When the master is the sole owner of the ship he shall be simultaneously responsible to the

charterers and shippers for fulfilment of the obligations that fall on masters and owners.

Article 1182. Every obligation for which the master, as co-partner in the ownership of the vessel, may be responsible to the association, shall constitute a lien on the master's interest in the ship and on his share of the profits from freight.

Article 1183. In addition to the obligations specified in this Code, masters shall be bound by the duties prescribed for them in the marine and customs regulations.

### SECTION III

#### On the Other Ship's Officers

Article 1184. To be qualified to practice as mate it shall be necessary:

1. To fill the requirements laid down in the marine or navigation laws and regulations;
2. Not to be disqualified thereunder for the discharge of the duties.

Article 1185. The mate, as the second chief of the ship, and unless the husband shall otherwise direct, shall replace the master in case of absence, illness or death, and he shall then assume all his powers, obligations and liabilities.

Article 1186. The mate shall be provided with sea letters for the waters in which he is to navigate, as also with the proper tables and instruments in current use or such as may be necessary for the performance of his duties, being liable for any accident that may result from his negligence in this regard.

Article 1187. The mate shall keep for his especial use a book paged and sealed on all its pages and styled "Cuaderno de Bitácora" (Mate's or Compass Log), which shall contain an opening entry stating the number of pages in the book, signed by the proper authority; therein shall be recorded daily the distances covered, the course followed, the variation of the needle, the leeway, the direction and force of the wind, the condition of the atmo-

here and of the sea, the rigging set, the latitude and longitude observed, the number of furnaces burning, the steam pressure, the number of revolutions, and, under the heading "sucesos" (events) the maneuvers carried out, the ships met and all the particulars and accidents which occur which occur during the voyage.

Article 1188. In order to change the course and take that most suitable for the voyage of the ship, the mate shall act in accord with the master. If the latter should disapprove of the proposed change, the mate shall make such representation as he may deem necessary in the matter, in presence of the other officers of the ship. If the master should insist in his objection, the mate shall enter an opportune protest, signed by himself and any other of the ship's officers in the Log book, and he shall obey the instructions of the master, who shall then be solely responsible for the consequences of his decision.

Article 1189. The mate shall respond for all damages which may be caused the ship or its cargo by his carelessness, unskillfulness or imprudence, without lessening his liability in any criminal action that may develop from cases of crimes or offenses.

The personal responsibility of the mate shall not relieve the master of such share of the blame as may devolve on him in such cases.

Article 1190. The duties of the boatswain (contra-maestre) shall be:

1. To see to the proper care and maintenance of the hull, tackle and apparel of the ship, and to take charge of the furniture and supplies falling under his department, suggesting the master the repairs necessary to the vessel or its equipment, as also the renewal of the effects and equipment that may be useless and discarded.

2. To see that the cargo is stowed in good order, with a view to the proper handling of the ship.

3. To preserve order and discipline among the crew, and to exact good service from them; he shall take his orders and instruction from the master and report immediately to him every occurrence in which the intervention of his authority may be necessary.

4. To assign to each seaman the tasks to be performed by him aboard, according to the instructions received, and to see to the performance thereof promptly and properly.

5. To draw up an inventory and take charge of the apparel and all the stores in the event of the vessel being laid up, unless the husband should otherwise direct.

Article 1191. The boatswain shall be responsible for the damages and losses which may result from his carelessness, inexpertness or imprudence, without prejudice to his responsibility in criminal proceedings in case of crimes or offenses.

Article 1192. The engineers shall be governed in the performance of their duties by the following rules;

1. In order to be engaged as marine engineer, thereby forming part of the technical staff of a merchant ship, it will be necessary to fill the requirements of the laws and regulations and not to be disqualified under them for the duties of the post. The engineers shall be considered officers of the ship, but they shall not have command or interference save in what concerns the machinery;

2. When a ship carries two or more engineers, one of these shall be chief and the others shall be under his orders, as likewise the whole engine room staff; he shall further have under his charge the engines, spare parts, tools and instruments relating thereto, the fuel, lubricating material and everything connected with the machinery;

3. He shall keep the engines and boilers in good and serviceable condition, and take suitable action to ensure their being ready to work properly, being responsible for any accidents or damages which may be sustained by the negligence or unskillfulness, without prejudice to his liability in any criminal proceedings that may arise should it be proved that he acted wilfully;

4. He shall not attempt to make any change in the engine-room equipment, nor proceed to repair the damages which may be discovered therein nor after in any way the normal working of the machinery without having previously obtained the consent of the master; if the latter should object to the change, the engineer shall state his reasons therefor in presence of the other engineer or

officers, and if, notwithstanding this, the master should insist in withholding his consent, the chief engineer shall make formal protest, shall record the matter in the "Cuaderno de Máquinas" (Engine Book) and shall obey the master, who shall then be solely responsible for the consequences of his decision;

5. He shall report to the master any damage which may happen to the engines or machinery; he shall notify him whenever it may become necessary to stop the engines for a while, or of the occurrence of any accident in his department of which the master should be duly apprised; he shall furthermore keep him informed regarding the consumption of fuel and lubricant;

6. He shall keep a book or record entitled "Cuaderno de Máquinas" (Engine Book) in which shall be recorded daily all data referring to the working of the engines, the consumption of fuel and of lubricant; and under the heading, "Notas importantes" (Important Notes), the damages and derangements which may be discovered in the engines and boilers, the causes of the same and the steps taken to remedy them; he shall also record the force and direction of the winds, the rigging set, and the speed of the vessel, taking these data from the Mate's Log.

Article 1193. The boatswain shall take over the command of the ship in case of the incapacity or unfitness of the master and mate, thereupon assuming their powers and responsibilities.

## CHAPTER V

### On Supercargoes

Article 1194. The provisions of this Code as to capacity, mode of contracting and liability of factors or bailees are equally applicable to supercargoes.

Article 1195. The supercargo may be appointed by the ship's husband or by the owners of the cargo and he shall be charged with such part of the economic administration as may be expressly laid down in his instructions.

Article 1196. A supercargo appointed by the husband shall be limited in the scope of his duties to the econ-

omic administration of the ship; but in no case shall he be allowed to interfere with the powers of the master relating to the technical direction and command of the ship, whatever might be the authorization conferred upon him.

When elected by the shippers the supercargo shall attend to the safeguarding of the cargo and to its sale, if he should be authorized accordingly.

In such case the responsibility of the master as regards the safekeeping of the merchandise and other effects shall cease, save in case of delinquency on his part.

Article 1197. The supercargo shall be charged with the keeping of the cargo book and the account book (Cuenta y Razón) according to the provisions of article 1141.

Article 1198. If the person to whom the shipment is consigned should refuse to receive it, the supercargo shall file protest and shall report the matter to the District Judge, if in the national territory, or to the Panamanian Consul, if in foreign, or in the absence of such, to the competent local authority, in order that he may dispose suitably regarding the shipment.

Article 1199. Supercargoes are prohibited to transact business on their own account during the voyage, outside of such concession for the carriage or sale of merchandise as may be allowed them by special compact with their principals, either for the outward or homeward voyage of both.

## CHAPTER VI

### On the Engagement of the Crew

Article 1200. Contracts of employment of seamen shall be drawn up in writing before the proper authority of the port and, when in a foreign port, the Panamanian Consul.

If the contract should be drawn up in a foreign port in which there is no Panamanian Consul, it shall be entered and signed in the Log-book.

In this latter case the Log shall be admissible as evidence in the event of disagreement arising over the terms

of such contracts, provided the book appears to be kept in accordance with the requirements of the law.

Article 1201. In a contract between the ship's husband, or the master acting in his name, and the officers and other members of the ship's complement, these latter engage to render their services on the ship during one or more voyages, each one in his respective capacity, for a compensation agreed upon, this being a fixed amount per month or per voyage, or a percentage of the freight or of the net profit made on the venture; and the master agrees to pay them their due according to the contract and the law. Their reciprocal obligations shall be recorded in the articles; but in default thereof any other kind of proof shall be admissible.

Article 1202. The crew shall be entitled to be properly fed while aboard, without prejudice to their wages or to the conventional or legal indemnifications which may be due them.

Article 1203. In the absence of any specific mention in the roster or in any other written document as to the duration of the contract, even though a monthly agreement might have been made, it shall always be understood that this was meant for the outward voyage and back to the place of enrollment.

Article 1204. The master shall be bound to issue to each seaman requesting it a certificate signed by him of their respective contracts, stating the amounts which might have been paid him on account.

If the contract has been entered in the Log-book the certificate shall refer to the said entry; if the contract was concluded in presence of a Consul of the Republic, it will suffice that the master give the petitioner a copy attested by him.

Article 1205. If a seaman should engage to serve on two vessels, the second contract shall be void and the husband or master with whom he had first contracted may bind him to keep his contract.

Article 1206. If the voyage agreed upon should not take place owing to acts of the owners of the master or of the charterers, the seamen are entitled to retain as indem-

nification the advances made to them on account of wages, or, if they so prefer, may demand one month's pay; and if the engagement was made for the voyage the amount may be reckoned by dividing the total sum agreed upon by the number of days of the probable duration of the voyage, this being estimated by experts.

In whatever way the engagement might be made the men shall be entitled to compensation according to the usage of the place for the time spent in getting the vessel ready for sailing.

Article 1207. If the interruption of the voyage should take place after the vessel has left port, they shall be entitled to the whole amount which they would have drawn had the voyage been completed. If the engagement was made by the month, the estimated duration of the voyage shall be the basis of calculation. They shall also be entitled to transportation to the place where the voyage should end or to the port of departure, at their option.

Article 1208. If the voyage should be cancelled before it is begun as a result of circumstances beyond control or **force majeure**, the seamen shall be entitled only to wages due or advances received, nor may they claim any other indemnification.

Under **force majeure** shall be included:

1. A declaration of war or of prohibition of commerce with the country to which the voyage was to be made;

2. The blockade of the port of destination, or an outbreak of pestilence there;

3. A prohibition against the discharging at that port of the cargo carried by the vessel;

4. The arrest or attachment of the vessel, when bond for its release is refused;

5. Any disaster befalling the ship which renders it absolutely unseaworthy.



Article 1209. If, in the event of the voyage having once started, any of the first three cases mentioned in the preceding article should occur, the seamen shall be paid off at any port at which the master may deem it most convenient to call in the interests of the ship and its cargo, for the time they may have served, and their engagements shall thereupon be cancelled. If the vessel is to continue on the voyage they may demand of the master the fulfilment of their contracts for the time agreed upon.

In the fourth case, the men shall be paid one-half the wages to which they are entitled, if engaged by the month, provided the detention or embargo does not exceed three months. If it should last beyond this period, the engagement shall be rescinded, without liability by the ship for any indemnification whatever.

If engaged for the voyage, they shall fulfill their contracts according to the terms stipulated up to the end of the voyage.

Nevertheless, if the owner of the ship should be indemnified for the embargo or detention, he shall be liable for the payment of wages in full to those engaged by the month and proportionately to those taken on for the voyage.

In case 5 the crew shall have no claim against the husband other than for wages due; but if the disablement of the vessel should be due to wilfulness or negligence of the master or mate, the liability of the culprit shall include indemnification of the crew for the damages occasioned them.

Article 1210. If the voyage should be prolonged voluntarily the wages of the crew contracted for the voyage shall be increased in proportion, but if shortened voluntarily, they shall not suffer any reduction of pay.

Article 1211. When the crew has been engaged on the basis of profit in the cargo or on the freight, they shall not be entitled to indemnification for the revocation, delay or prolongation of the voyage as the result of **force majeure**; but if such revocation, delay or prolongation should result from the acts of the shippers, they shall be entitled to a proportionate part of the indemnity for which the latter may be liable, and when they result from

the acts of the master or owner of the ship, the liability for indemnification shall fall on the latter.

If the crew should be engaged for several voyages they shall be entitled to the payment of wages at the end of each voyage.

Article 1212. In case of the total loss of the vessel and its cargo from shipwreck, capture or other similar cause, the crew shall not be entitled to wages for the voyage during which the disaster occurred; but they may retain any advances which have been made them.

Article 1213. If any part of the vessel or its cargo be salvaged, the master and crew shall be entitled to payment from the proceeds of the salvage of wages due up to the day of the wreck, with priority over any other payment; and if the said proceeds should be insufficient the shortage shall be made up from the freights due on the part of the cargo which might be saved.

Those of the crew who may be engaged on a profit basis shall not be entitled to participation in the proceeds of the salvage of the wreck, but in that which might be obtained as freight on the part of the cargo salvaged, the division being made pro rata amongst the claimants.

Article 1214. Whatever be the basis on which they may have been engaged, members of the crew shall be entitled to wages for the time employed in salvaging the remnants of the vessel or its wrecked cargo.

Article 1215. Any extraordinary service rendered shall be mentioned in the record and shall, according to its importance and opportuneness, be the object of special recompense. In such cases those of the crew whose zeal and activity contributed materially to the success of the salvage operations shall be entitled to especial consideration.

Article 1216. Any seaman wounded or hurt in the service of the vessel or who may fall ill during the voyage shall be entitled to wages and to proper treatment and care at the expense of the ship.

In case of mutilation he shall be indemnified according with an agreement that may be reached, and in default thereof, to the finding of experts. The expenses of main-

tenance and cure shall be for account of the vessel and its cargo if the illness, injury or mutilation should have occurred while in the service of the vessel. If the injuries should be received while fighting in defense of the ship, the expenses and indemnification shall be apportioned pro rata amongst the vessel, freight and cargo in the form of general average.

Article 1217. A seaman who may become ill or receive injury or mutilation shall be entitled not only to wages up to the time of his recovery but up to the day on which he may be back in the port of his enrollment, and shall further be entitled to a reasonable sum for his return expenses.

Article 1218. If the sick or injured seaman is not able to continue the voyage the master shall leave funds sufficient to cover the expenses of his cure and maintenance.

Article 1219. If the sickness, wound or injury should have befallen the seaman while ashore without leave he shall be entitled only to wages due; his cure and maintenance shall be at his own expense, and he may further suffer dismissal for his fault if the master should deem it desirable in the interest of the voyage.

Article 1220. If a seaman engaged by the month should die during the voyage, his wages up to the day of his death shall be included among his effects.

If engaged for the voyage and death occurred while on the outward trip, he shall be due one-half the amount; if on the homeward trip, the whole amount shall be due him.

If his engagement should have been on the basis of a share of the profits on freight or cargo, his full share shall be allowed him.

If he should have suffered death while in the defense of the vessel, his full wages or share also be allowed on arrival of the ship at a safe port.

Article 1221. A seaman captured while defending the vessel or while on a mission afloat or ashore in its service shall be entitled to full payment of his wages or share of profits if the vessel shall arrive at a safe port.

He shall further be entitled to an indemnification according to the finding of experts for his ransom if the vessels shall arrive at a safe port.

If the capture should be made while the seaman was defending the vessel or in the discharge of some mission in the interests of the vessel or cargo, the cargo shall bear part of the indemnity.

Article 1222. Should a master dismiss any of his officers or seamen on lawful grounds, he shall pay them their dues according to agreement up to the day of their dismissal, computed on the basis of the distance travelled.

If the dismissal be made before beginning the voyage, they shall be paid for the days on which they have served.

Article 1223. The following **shall be lawful grounds** for dismissal:

1. Insubordination;
2. Habitual drunkenness;
3. Quarreling and fighting aboard ship;
4. Cancellation of the voyage for lawful reasons;
5. Leaving the ship without permission;
6. Unfitness to perform the tasks and fulfill the duties of his post.

Article 1224. In the cases covered by the foregoing article the man dismissed shall be entitled to wages up to the time of his return to the port at which he was taken on, **unless when the dismissal has been made on lawful grounds**, subject to the provisions of article 1211.

Article 1225. A seaman who shall prove he was dismissed without lawful grounds after having begun the voyage shall be entitled by way of indemnification to full wages and return expenses to the port at which he was taken on. This indemnification shall be reduced to one-third part of his wages if the seaman be dismissed before the voyage was begun.

A master liable for the indemnifications mentioned shall have no claim to reimbursement against the ship.

Article 1226. Contracts with seamen may be rescinded on the following grounds.

1. Change of destination of the ship before starting on the voyage for which they were engaged;

2. A declaration of war endangering the ship, either before or after setting out on the voyage;

3. The occurrence of epidemic disease aboard or at the port of destination;

4. The death or dismissal of the master before the vessel has left port;

5. The lack of convoy when it was stipulated that the voyage should be made under escort of warships;

6. Sickness of the seaman incapacitating him for the performance of the duties for which he was engaged.

Article 1227. The obligations of a seaman shall terminate:

1. On the expiration of the term of his engagement or the conclusion of the voyage for which he was contracted;

2. On his death;

3. On his dismissal from the service;

4. On the sale, seizure or attachment of the vessel;

5. On a change of destination of the ship;

6. On the cancellation of the voyage, whether voluntary or obligatory.

Article 1228. When a ship's husband or agent shall, before the beginning of a voyage, change the destination of the ship to a port other than that declared in the enrollment or contract, a fresh engagement shall be necessary.

Those seamen who are unwilling to sign on for the new destination shall be entitled only to the payment of wages due and to retain such sums as might have been advanced to them.

Article 1229. If a master while at a foreign port shall decide to set out for any other port, the seamen shall be bound to continue serving, even though the voyage may thereby be prolonged.

Those seamen who have been taken on for the voyage shall be entitled in such case to a proportional increase of pay.

Article 1230. Seamen are prohibited from instituting any action whatever against the master or the vessel before the end of the voyage under penalty of forfeiting all their wages.

Nevertheless, when a vessel is in port, a seaman who has been mistreated by the master or underfed may apply for the rescindment of his contract to the Consul of the Republic or the proper local authority.

Article 1231. The vessel and the freight shall be especially liable for the wages of the seamen and the indemnifications to which they may be entitled in accordance with the provisions of the chapter on maritime claims.

Article 1232. All the provisions of this chapter respecting wages, indemnifications, subsistence and ransom shall be applicable to the master, officers and other members of the ship's complement to an extent proportional to their respective salaries.

Master's contracts shall be governed by the provisions of this chapter in so far as they do not conflict with those of Section II of Chapter IV.

## TITLE II

### ON SPECIAL MARITIME TRADE CONTRACTS

#### CHAPTER I

##### **On Contracts of Affreightment**

#### SECTION I

##### **General Provisions**

Article 1233. A contract of affreightment may be concluded:

1. For the whole ship;
2. For any part thereof;

3. For one or more voyages;
4. For general cargo, in which case shipments may be received from any shipper for carriage to any port of destination;
5. For certain specified articles only, or those designated by number, weight or volume.

Article 1234. Contracts of affreightment must be drawn up in writing. In the first three cases of the preceding article it shall be necessary to draw up a charter party which shall be signed by the owner and charterer and by any other persons taking part in the contract, each of whom shall receive one copy. In the other two cases of the same article the contract shall be drawn up in the form of a bill of lading signed by the master or the shipper, of which each party shall retain a copy.

Article 1235. Only the ship-owner or husband may conclude a charter party covering the whole vessel. If the ship's master should do so, it is to be presumed that he acted in representation of the owner and subject to the liabilities attendant on the exercise of attorneyship.

Article 1236. A contract of affreightment carries implicitly the obligation on the part of the freighter to furnish the ship in seaworthy condition and to respond to the charterer for all damages which he may suffer resulting from its unseaworthiness.

No freight shall be due when the shipper shall prove that the vessel was unseaworthy at the time of starting the voyage for which she was chartered.

## SECTION II

### On Charter Parties

Article 1237. A charter party shall expressly show each and all of the following data:

1. The name of the vessel, its tonnage, the nation to which it belongs, the port of its registry and the name and address of its master;
2. The names and addresses of the charterer and owner; and, if the former is acting under commission,

the name and address of the person for whose account he makes the contract;

3. The nature of the voyage, whether for a round trip or by the month, whether for one more voyages, for the outward or homeward trip or for both, and, lastly, whether the ship is chartered wholly or partially;

4. The class and quantity of cargo which the vessel may receive, the number of packages, their weight or measurement and at whose cost they will be loaded and discharged;

5. The days and places agreed upon for the lading and discharge, the lay days and extra lay days allowed, and the manner in which these are to be counted and demurrage reckoned on their expiration;

6. The freight to be paid, whether it be for a certain quantity carried for the voyage, or at a monthly rate, or for the space occupied aboard, or by the weight or measurement of the goods making up the shipment;

7. The time, place and manner in which payment of freight is to be made, the amount due the master by way of fees and the lay days and extra lay days allowed;

8. Whether any spaces are reserved on the ship apart from those necessary for the personnel and material of the service;

9. All other special stipulations that may be agreed upon by the parties.

Article 1238. Charter parties drawn up through a broker shall be admissible as evidence in court on the latter recognizing the authenticity of the signatures when these were attached in his presence by the principals or by the witnesses at his request.

In the event of discordance between the instruments adduced credence will be given to that which appears to agree with the entry in the broker's record.

Article 1239. A charter party drawn up as a private instrument shall be binding on the principals, provided they recognize as genuine the signatures thereto; if they should deny them the existence and conditions of the



contract may be established by the ordinary methods of proof (rules of evidence) in accordance with article 244.

Article 1240. Charter parties signed by a master shall be valid, even though he may have exceeded the powers conferred upon him in his instructions, but he shall be liable to the owners of the ship for all losses and damages which may result from his abuse of authority.

Article 1241. Equally valid shall be the charter parties issued by any officer replacing the master, although the latter may lack power to do so, and although the contract may have been made against the instructions or orders of the owner, in which case the right is reserved to the latter to proceed against the master, and to the master to proceed against his substitute.

Article 1242. A charter party having been once signed, it shall remain valid even though the vessel changes master or the possession of it passes to a third person.

Article 1243. When a vessel is chartered in whole it is understood that the master's stateroom, the quarters for the officers and crew and the storerooms for the vessel's materials and supplies are reserved.

Article 1244. Bill of lading for cargo laden on a chartered vessel shall be issued in the form prescribed in the following section. The bill of lading shall replace the charter party, but the latter does not replace the bill of lading.

Article 1245. If cargo should be received aboard without the charter party having been drawn up, the freight contract shall be considered concluded subject to the terms of the bill of lading.

### SECTION III

#### On the Bill of Lading

Article 1246. The bill of lading shall show:

1. The name of the master, that of the vessel, its port of registry and its tonnage;
2. The name of the shipper or charterer;
3. The name of the consignee, unless the bill of lading is issued for delivery to order or bearer;

4. The nature, quantity, number of packages, weight and marks of the goods;

5. The port of lading and of discharge, and ports of call, if any;

6. The amount of the freight and the surcharge, if such be stipulated, as well as the place and manner of payment;

7. The date and the signatures of the master and shipper.

Article 1247. The holder of a bill of lading shall not be bound by any special term or stipulation contained in a charter party unless the said bill of lading shall carry the clause "according to the terms of the charter party".

Article 1248. Bills of lading shall be signed and delivered within twenty-four hours after loading has been completed, in exchange for the provisional receipts issued for the goods. Any delay in the delivery of the bill of lading will render the responsible party liable for any loss or damage that may result in consequence.

Article 1249. Any master who shall deliver bills of lading without previously taking up the provisional receipts issued during the loading of the cargo shall be liable for the consequences of his omission.

Article 1250. A bill of lading drawn up in legal form shall be admissible as evidence in disputes between the parties to the contract and between the underwriters, but without impairing the right of the latter and the ship owners to adduce countervailing evidence.

Article 1251. A bill of lading may be issued in the name of the consignee, to order or to bearer and may be transferable by assignment, endorsement or delivery, subject to the manner in which it is drawn up. In every case of lawful transfer the assignee legally subrogates the assigner.

The endorsement shall be subject to the provisions relative to bills of exchange as far as may be applicable.

Article 1252. When a bill of lading is issued to order the master shall deliver the goods to bearer on presentation of the document.

When the holder of a bill of lading shall fail to ap-

pear to claim the goods, the expense of the judicial storage which the master may make accordingly shall be for his account.

Article 1253. When a bill of lading shall be issued to order or to bearer, or when it shall be drawn up in favor of a particular person, no change shall be made in the destination or consignment of the goods unless and until the shipper shall have surrendered to the master all the copies of the bill of lading signed by him.

A master who shall sign new bills of lading without having previously taken up all the copies of the old ones shall be responsible to the lawful claimants who may appear with any of such copies, but without prejudice to his right to proceed against whomsoever may be liable.

Article 1254. When it may be alleged that the first bills of lading have been lost, the master shall not be obligated to sign others, in cases covered by the preceding article, unless the shipper shall give security to his satisfaction for the good declared in the bill of lading.

Article 1255. In case of the death of a master or his relinquishment of the post through any other cause before setting out on the voyage, the shippers of goods on the vessel shall have the right to demand of the new master the ratification with his signature of the bills of lading signed by the former master, following a check of the cargo with the bills of lading. Should they fail to do so, the new master shall be responsible only for such goods as the shippers may be able to prove were truly aboard the ship when the new master took command, but without prejudice to the claims of the shippers against the owner and of the latter against the former master or his representative.

A master who shall sign the bills of lading issued by his predecessor without having checked the cargo shall be responsible for any shortages resulting therefrom, unless the shippers shall agree to accept the master's declaration in the bills of lading that he has not checked the cargo.

The expenses attendant on a fresh check of the cargo laden shall be for account of the owner, in case of the death of the master or of his dismissal without just cause,

but if this be due to any fault of the master, then the cost of the check shall be borne by him

Article 1256. If the goods laden were not delivered by number, weight or measurement or in case of doubt regarding the count, the master may declare in the bills of lading that the weight, number or measurement is unknown to him. If the shipper should not agree to accept such declaration, recourse shall be had to a fresh check, weighing or measuring, the cost of which shall be for account of the party occasioning it.

If the shipper shall agree to accept the declaration, the master shall be bound to deliver at the port of discharge only such effects belonging to the shipper as may be found aboard the vessel, unless he shall be able to prove fraud or deception on the part of the master or the crew.

Article 1257. If the master should learn that there are several holders of different copies of a bill of lading covering the same shipment, or in case of an attachment thereof, he shall be bound to apply for a judicial warrant for the storage of the shipment.

Article 1258. The trustee or others interested may request the sale of perishable goods or those of expensive storage. The proceeds of the sale after deduction of expenses shall be lodged subject to order of the court.

Article 1259. No claim at law between master and shippers or underwriters based on the stipulations of a charter party or a bill of lading shall be admitted unless supported by a copy duly acknowledged of the respective document.

The delivery of the cargo may, nevertheless, be established by presentation of the provisional receipts and other evidence admissible in commercial practice.

Article 1260. On delivery of the shipment the bill of lading shall be surrendered to the master, the bearer signing one of the copies in receipt therefor.

A consignee delaying such delivery shall be responsible for the losses and damages resulting therefrom.

Article 1261. The contract of affreightment shall

be governed and judged under the laws and courts of the country wherein is established the maritime agency with which the contract has been made.

If the contract should be intended for the carriage of goods or passengers between ports of the same State, it shall be governed by the laws thereof.

Article 1262. If the maritime agency should not exist at the time when the action is instituted, the shipper or charterer may carry his action before the courts in the place of residence of any of the parties concerned or of their representatives.

If the libellant be the ship-owner he may institute his action in the courts of the country in which the charterer resides.

#### SECTION IV

##### **On the Rights and Obligations of Ship-owner and Charterer**

Article 1263. The ship-owner shall be bound to have the ship ready for receiving the cargo and the charterer for delivering it in the term stipulated in the charter party.

If the charter party does not state the time within which the vessel shall be made ready, it shall be set by the shipper.

Article 1264. When the charter party does not state the time at which the loading shall begin, it shall be understood that this begins to run from the day on which the master advises that he is ready to receive the goods.

When the charter party does not state the term in which the lading and discharge of the ship shall be effected, the amount payable as surcharge, demurrage or for extra lay days, and the time and form of payment, these shall be determined by the usage of the port at which the loading and discharge shall be done.

Article 1265. If the charterer shall fail to deliver any cargo within the term fixed in the contract, or by usage, in default of stipulation, the ship-owner may at his option:

1. Demand of the charterer the indemnification specified in the contract for delay, or such as may be fixed by experts in the absence of special provision;

2. Rescind the contract and demand of the charterer and average contribution for two thirds of the cargo short-shipped.

3. Set out on the voyage in ballast twenty-fours after having called upon the charterer to act, and upon completion of the voyage demand of him payment in full of the freight, surcharge, demurrage and any other form of compensation stipulated in the contract.

Article 1266. When, at the expiration of the term allowed, the charterer may have loaded only party of the cargo, and the lay days and extra lay days also having expired, the owner may at his option and in the absence of any indemnification having been agreed upon in the contract, proceed to discharge the goods at the expense of the charter, demanding in payment one-half the freight agreed upon, or set out on the voyage with such part of the cargo as has already been laden, demanding full payment of the freight at the port of destination with the additional expenses mentioned in the preceding article.

Article 1267. When a vessel sets out without cargo or with only part of a cargo, as in the cases covered by the two preceding articles, and suffers some damages during the voyage which would be considered as giving rise to a general average contribution were she carrying a full cargo, the owner may yet demand of the charterer an average contribution for the cargo short-shipped.

Article 1268. If the charterer repudiates the contract before the lay days begin to run, he shall have to pay only one-half the freight and the surcharge, save when expressly stipulated to the contrary. If the contract be by the month the probable duration of the voyage shall be estimated by experts.

In freight contracts for general cargo any of the shippers or their representatives may discharge the cargo, paying one-half the freight, the expenses of stowing and removal and any other damage which they may occasion to the other shippers. These or any of them may exercise the right to prevent the unloading, taking up on their own

account the effects which it is intended to unload and paying therefor the price as shown in consignee's invoice.

Article 1269. In cases where the owner is entitled to set out without cargo, or with only a part of the cargo, he may for the security of the freight and of the other indemnifications involved take on cargo belonging to other persons without the consent of the charterer, although it may be for less freight, the difference being for account of the charterer.

In such cases the charterer shall have the benefit the new freight, and in case of particular average he shall not be liable for any claim thereunder against the effects not belonging to him, but shall be obligated to pay the indemnifications laid down in the preceding articles.

Article 1270. When a vessel is chartered in whole, the charterer may obligate the master to set out the voyage as soon as he shall have aboard sufficient cargo to pay the freight, surcharge, demurrage and other expenses, or when he shall give bond sufficient to cover the payment thereof.

In such case the master may not receive cargo from anyone else without the written permission of the charterer nor refuse to set out, save in the presence of insuperable obstacle.

Article 1271. If within the term fixed in the contract the vessel is not furnished in fit condition to receive the cargo as agreed, the owner shall respond to the charterer for the resulting losses and damages.

Article 1272. The charterer shall be bound to deliver to the owner or master within forty-eight hours after the lading has been concluded all the papers and documents required by law for the carriage of the goods, save for express stipulation regarding the time in which such delivery shall be made.

If the charterer fails to fulfill this obligation, he shall be liable for all losses and damages in consequence, and the master may be authorized by the court to discharge the goods, as circumstances may require.

Article 1273. When loading general cargo, it shall

be lawful for the owner or master to fix the time during which the lading shall continue.

At the expiration of the time set, the master shall be bound to set out at the first favorable moment, or be liable for the losses and damages which may occur in consequence of the delay, unless a majority of the shippers, in relation to the amount of the freight, should consent to the delay.

Article 1274. When no time has been fixed for departure, the master shall be obligated to start on the voyage on the first favorable occasion after having received more than two-thirds of the cargo corresponding to the tonnage of the ship, if it should be so demanded by a majority of the shippers, in relation to the amount of the freight.

In such case none of the shippers may unload the effects already put aboard.

Article 1275. In the ship, in the case covered by the preceding article, shall be unable to obtain more than two-thirds of the cargo required within one month counted from the day on which it was thrown open to general cargo, any other vessel may be substituted for transporting the cargo which it has aboard, provided the new ship be equally seaworthy, on paying the cost of trans-shipment, the increase of freight and the insurance premium.

Nevertheless, it shall be lawful for the shippers to withdraw their goods without having to pay freight, though the expenses of stowing and unloading shall be for their account, on their surrendering the provisional receipts or the bills of lading and giving bond for such as might already have been forwarded.

If the master shall be unable to find a ship and the shippers are unwilling to discharge, he shall set out on the voyage with the cargo aboard, whatever it may be, sixty days after the receipt of cargo has begun.

Article 1276. The owner shall be liable for the damages and losses sustained by the charterer if the vessel be unable to receive the cargo in the time fixed in the contract, or if there be delay in the departure, in the navigation or in the place of discharge through fault of the master or the owner.



Article 1277. If a vessel be detained in its departure, during the voyage or at the place of discharge through any act or negligence of the charterer or shippers, these shall be responsible to the owner, master and the other shippers for the damages and losses which may result in consequence.

If the fault be the master's he and the owner shall be responsible to the charterer and the shippers for the damages and losses sustained by them.

Article 1278. If there be misrepresentation or error in the capacity assigned to the ship in the charter party the charterer shall have the option of rescinding the contract, or of accepting a reduction in the freightage agreed upon in proportion to the lessened capacity of the vessel; he shall further be compensated by the owner for the damages which he might be caused in either case.

When the difference between the capacity stated by the owner and the real tonnage of the vessel does not exceed the one-fortieth part, it shall not be considered that there has been error or deception; or when the declared tonnage is that recorded in the register of the vessel; although in neither case shall the charterer be obligated to pay a higher freight than corresponds to the true burden of the ship.

Article 1279. If the charterer should load more cargo than is stipulated in the charter party, he shall pay additional freightage on the excess, subject to the terms of the contract, whether the freight rate has risen or fallen in the interval; but if the master should find that such additional cargo can not be properly stowed beneath the hatches without infringing on the other contracts that he may have concluded, he shall unload the additional cargo at the expense of its owner.

Article 1280. When goods have been introduced aboard clandestinely and without the consent of the master, he may also cause them to be landed before leaving port, even though the vessel may not be overloaded, or he may carry them on payment of a higher freight than that collected on the same voyage for goods of the same or similar description.

Article 1281. After a voyage has begun a master

may not land goods loaded clandestinely or without his consent, unless the vessel be overloaded. This circumstance must be established by the master before the proper authorities of the port where he intends to discharge the cargo.

In such case he shall use all possible diligence to ensure the safety of the cargo and shall immediately notify the shipper.

Article 1282. When a vessel is open for general cargo and cargo has already been accepted, the master shall not refuse to carry any additional cargo offered at the same freight, in the absence of other shipments more advantageous; in case of refusal he shall be subject to compulsion by the shippers of the goods already received to set out on the first favorable occasion which such cargo as he may have aboard and to payment of the damages and losses resulting from the delay.

Articles 1283. When the capacity of a ship shall be inadequate for the carriage of all the cargo contracted for with various shippers or charterers, the shipment already aboard shall have the preference and the others shall be allowed the necessary space in rotation according to the dates of their contracts.

If all the contracts should bear the same date, the space shall be allowed pro rata, and the master shall in all such cases be liable for the damages and losses resulting in consequence.

Articles 1284. Anyone who has chartered a vessel wholly may transfer his right thereto to any other person to be loaded in whole or in part, without interference by the master.

If the charter should be made for a fixed sum, the charterer may subcharter on his own account at the most advantageous rates, but no alteration in the terms of the charter shall be effected thereby and the responsibility of the charterer to the owner shall remain unaffected.

Article 1285. Shippers or charterers shall respond for any damage that may result if they introduce aboard ship without the knowledge or consent of the master goods of prohibited export or import, and for any other unlawful act performed at the time of lading or discharge.

Although such effects may be confiscated, they shall nevertheless be obligated to pay full freight, surcharge and general average contribution, if any.

Article 1286. If it should be proved that the master consented to the loading of prohibited articles, or that, having learned in time of the existence of such aboard, he did not cause them to be unloaded, or that, having been informed thereof after the voyage had been begun, he did not declare them at the first visit of the customs officers at the port of destination, he shall be held liable jointly with the others concerned for the damages and losses that may result to the vessel or to its regular cargo, and he shall have no ground for the recovery of indemnification from the shipper, even though it may be expressly so stipulated.

Article 1287. When a vessel is chartered to receive cargo at some other port, the master shall report to the consignee designated in the contract, and if the cargo be not delivered he shall advise the charterer and wait his instructions, the lay day agreed upon, or those allowed by custom in the port, beginning to run in the meantime, unless there is an express agreement to the contrary,

If the master does not receive the expected answer in the time necessary therefor, he shall take the requisite steps to find cargo, and if he should fail to do so after the expiration of the lay days he shall file protest and return to the port where the charter was concluded.

The charterer shall pay the freight in full, discounting what might have been collected for merchandise transported on the outward or homeward trip or carried for account of others.

Article 1288. The provisions of the preceding article shall be applicable to any vessel which, haing been chartered for the outward and homeward trip, shall not be furnished a return cargo.

Article 1289. When a vessel is attached at the port of departure, on the voyage or at the place of discharge, through fault of the charterer or by his act or negligence or that of any of the shippers, or from the nature of the cargo, the charterer or shipper responsible therefor shall be liable to the owner or the master or the other shippers

for the damages and losses sustained in consequence by the ship or the general cargo.

Article 1290. The master shall be responsible to the owner of the ship, the charterer and the shipper for the losses and damages which may result if through his fault or by his act or negligence the vessel should be attached or detained at the port of departure, during the voyage or at the port of destination.

In this, as in the case covered by the preceding article, the damages and losses shall be assessed by experts.

Article 1291. If the master should find himself compelled during a voyage to make urgent repairs to the

causes not due to his fault, the charterer or shipper shall be bound to wait until such repair shall have been effected, or he may withdraw his goods, paying the freight thereon in full, the demurrage charges, general average claims, if any, and cost of breaking and restowing cargo.

Article 1292. If the vessel should be beyond repair.

the holding of a certificate of seaworthiness following an inspection on the ship.

Article 1294. When freight is adjusted by weight, without it being specified whether it shall be gross or net, it shall be understood that gross weight is meant, including therein the packing, baling or any kind of container in which the goods are made up for shipment, unless when expressly agreed otherwise.

Article 1295. When the freight is adjusted by number, weight or measurement and it is stipulated that the cargo shall be put alongside the ship, the master shall be entitled to demand that the goods be counted, weighed or measured aboard before discharging, and having taken this course, he shall not be responsible for any shortages which may result while the goods are ashore.

If the effects be discharged without being counted, weighed or measured, the consignee shall be entitled to verify the identity, number, weight or measurement and the master shall be bound by the result of such check.

Article 1296. Where there may be a presumption that the goods have been damaged, stolen or diminished, the consignee or others concerned may demand a judicial examination and that an estimate of the damages be made aboard, before discharging or within twenty-four hours thereafter. Such proceeding, even though requested by the master, shall in no way impair his means of defense.

If the effects be delivered without the examination above referred to or under receipt in which he declares the damage, theft or diminution, the consignees may demand a judicial examination in the term of forty-eight hours following the discharge.

After the expiration of that term the right of claim shall be barred.

Article 1297. When the damage or shortage is not visible outwardly, the judicial examination may be made within three days, counted from the time at which the effects passed into the hands of the consignee, provided the identity of the goods has been proved.

Article 1298. When there is no special stipulation