# INDEX.

[The references are to pages. The asterisk (\*) indicates that the case has been reversed.] ABATEMENT AND REVIVAL

	Page
The expiration of the charter of a corporation abates all suits	-
then pending in its name	722
Suit is not abated by sole complainant parting with his interest	
pendente lite, but no further proceedings can be had until his	832
assignee is made a party	
Pendency of suit between same parties respecting the same	
subject-matter in a federal court in another state may be	503
pleaded in abatement	
But such plea must show that the court has jurisdiction	790
Where proceedings in bankruptcy are pleaded in abatement,	503
all matters required to give jurisdiction must be averred	505
Action for infringement of patent survives	193
Case is not revived on death of party without order to that ef-	193
fect	1)5
The state statute limiting the time for the allowance of a con-	
tinuance by an administrator (Civil Code Or. § 34) applies to	815
actions in the federal courts	
Where an executor voluntarily appears in the action, judgment	
may be given for or against him with the same effect as if	815
brought in by sci. fa	
ACCOUNT.	
In an action upon an open account, plaintiff may give evidence	945
of any item of which defendant has had reasonable notice.	
An account rendered is proper evidence before an auditor to	701
whom a cause is referred to state the account	
ACCOUNTING.	
Bill to account does not lie on an executory contract where	439
compensation for the breach can be had in damages	
Equity will not sustain suit to compel settlement of partner-	- 6 -
ship accounts under a government contract participated in by	964
government agent	
On a bill against a partner who has fraudulently suppressed	~ ~
books and falsified accounts, complainant will not be held to	31
strict proof-Sufficiency of proof	

	Page
ACCOUNTS STATED.	
An account retained an unreasonable time without objection	439
becomes an account stated, and bars a bill to account	<b>H</b> J 7
An account current, received and not objected to within a rea-	407
sonable time, will bear interest	107
An account current, received and kept without objection, ex-	
cept as to particular items, may still be surcharged and falsi-	945
fied as to other items	
An account stated cannot be opened because an item of inter-	
est not illegal, which went into it, could not have been recov-	407
ered by suit	
ACTION.	
Consolidation of actions on notes, though parties are the same	619
in all, not ordered	019
ACKNOWLEDGMENT.	
The presumption is that the person examined was of full age,	1032
until the contrary is shown	1034
ADMIRALTY.	
Jurisdiction-In general.	
Extends to actions ex contractu, quasi ex contractu, ex delicto,	1161
and quasi ex delicto	1101
Suits upon contracts regulated by the common law are "suits	
at common law," within Const. Amend, art. 7, and not cogniz-	410
able in admiralty	
Admiralty jurisdiction is referred to in the constitution as it	
was restricted in England at time of revolution, and as exer-	410
cised by state courts before adoption of constitution	
A judgment against the master of a vessel, recovered in an ac-	
tion for wages in a common-law court, cannot be enforced in	68
admiralty	
–Persons and property.	
Contracts of seamen for maritime services are governed by the	410
maritime law, and enforceable in admiralty, (Act 1790)	410
Accounts for traffic and dealings between mater and mate not	115
subjects of admiralty jurisdiction	115
—Waters and places.	

	Page	
Has jurisdiction over navigable waters, irrespective of the fact of a tide	255	
The waters of the Welland canal, being used for international commerce, ore within American admiralty jurisdiction —Affreightments; charter parties, etc.	255	
Has jurisdiction of matters leading to a charter party or stipu- lations and representations not embraced therein	506	
<ul> <li>—Pilotage.</li> <li>Has jurisdiction over action to recover half pilotage under state laws for services tendered and refused</li> </ul>	764	
<ul> <li>Repairs and supplies to vessel.</li> <li>An account for provisions furnished the owner or commander of a vessel, or for articles for her use when not on a voyage or in a foreign port, is not within the admiralty jurisdiction either as a substantive claim or set-off</li> <li>Torts.</li> </ul>	410	
Admiralty will not entertain suits for merely nominal damages in cases of personal torts, not involving any other subject-mat- ter	879	
-Wharfage. The liability for wharfage of an agent to whom a vessel is consigned, created by a state law, (Laws N. Y. 1873, p. 430,) is maritime in its character, and forceable in admiralty		35

	Page
Procedure.	
The proceeding in rem to enforce a lien for damages caused	255
by a collision is not process, or a part of the lex fori	
There is no maritime lien created by a general average loss,	1161
and admiralty has not jurisdiction in rem	
AFFIDAVITS.	
May be sworn to before affiant's counsel, though wholly in his	101
handwriting	
In a suit in equity, sworn to before bill filed, must not be enti-	510
tled in the suit	5
AFFREIGHTMENT.	
See, also, "Admiralty;" "Bills of Lading;" "Charter-Parties;" "Shipping."	
"Going rate," as to freight, means the last actual contract, or,	928
where the rate varies, the average of the day	) = =
Damage to goods may be set up in defense to Suit for freight	1191
Burden of proof as to damage to goods	86
The value of goods at place of delivery, with interest from the	
day when they should have arrived, is the measure of dam-	1097
ages for their loss. Anticipated business profits are not al-	10)/
lowed	
ALIENS.	
Ownership of real estate.	
A state has power to give capacity to aliens to hold lands	1172
within it	11/4
An act giving capacity to aliens "which shall have resided in	
the state two years" applies as well to future as to past resi-	1172
dence	
Naturalization.	
The word "armies," as used in acts admitting enlisted aliens to	360
citizenship, does not include "marines"	300
AMENDMENT.	
A clerical error in the record may be amended after the term	868
Bill in equity amended to conform to proofs and admissions	1022
in answer, where subject-matter not changed	1033
The record of a cause, when made out and written in the	866
record book, cannot be altered, except by order of the court	000
ANIMALS.	

	Page
A whale killed and taken into complete possession is the property of the taker, who may maintain an action against one who subsequently finds it adrift, and, without knowledge of the title, appropriates it	966
APPEAL.	
Jurisdiction on appeal. Appeals are allowed to circuit court from decrees in admiralty in all cases where sum in dispute exceeds \$50. (Act March 3. 1803)	266
Taking and perfecting.	
Circuit court obtains jurisdiction on appeal by filing and serv- ing notice of appeal, and not by filing of transcript	526
Time for filing transcript on appeal in the circuit court may be extended by consent of parties beyond statutory time Hearing and determination. page	526
The appellee may continue the cause where the record is filed only a short time before the term	324
The hearing on appeal from the district court in admiralty is de novo, but, on questions of fact, burden is on appellant	266
Mere technical objections taken for first time in appellate court are unavailing	280
A decision on a question of fact, established with reasonable satisfaction, will not be disturbed	475
A decree of the district court, based wholly upon a question of fact, will not be reversed where the evidence raises only a doubt as to the fact	476
Circuit court, on appeal, cannot rehear a cause or admit a claim at a term subsequent to that in which the cause was fi- nally decided	242
Bonds on appeal. Sureties will be protected by the court when they have acted in good faith	1080
Appellant not absolutely bound by condition of bond on appeal to supreme court to pay amount of original judgment	682
In an action on appeal bond to supreme court, plaintiff must aver damages sustained by defendant's not making his plea good	682

	Page
ARBITRATION.	
Where a reference in a pending suit is made without order of	584
court, it can only be enforced by separate action	J0 <b>-</b>
ARMY.	
An enlisted minor, who has not been mustered into the ser-	
vice, nor received any rations or clothing, cannot be held in	577
custody as a volunteer, either under the United States or	577
Massachusetts statutes	
ARREST.	
A person arrested in one district for an offense committed in	
another, if not indicted nor committed by a commissioner, is	363
entitled to an examination in the district in which he is arrest-	303
ed	
The power to remove an accused from the district of his ar-	
rest to the one of trial is in the district judge, and not the cir-	363
cuit judge	
A commitment for further examination is valid, as well as a	1015
commitment for trial	1015
A commitment in South Carolina may be valid without any	1015
examination of prisoner or state witnesses	1015
The constitutional rights of the prisoner to be confronted by	
witnesses, and to be represented by counsel, have reference to	1015
the trial only, and not to proceedings on commitment	
ASSIGNMENT FOR CREDITORS.	
An assignment is void as to the firm property, as well as to	1164
the individual estate of the nonsi?ning members of the firm	1164
Creditors levying after, but not those levying before, expiration	
of time to file inventory and schedule, under the New York	1164
insolvent law, acquire a lien where the inventory, etc., is not	1104
filed within the time	
Sufficiency of inventory and schedule by assignors for benefit	
of creditors, under Laws N. Y. 1877, c. 466, and Laws 1878,	1164
c. 318	
ASSUMPSIT.	
Trustee appropriating proceeds of trust property is liable in as-	476
sumpsit	4/0

	Page
Where deed is without covenants, assumpsit will not lie for failure of consideration on complete failure of grantor's tide	518
An agreement to release a debtor upon his executing a deed is a good defense in assumpsit, the deed being executed ATTACHMENT: GARNISHMENT, ETC.	965
To constitute attachment of personalty as against assignee in bankruptcy, officer must take actual possession	25
Assignment of the debt by defendant, with notice to garnishee before service of attachment, cannot be given in evidence on trial of issue of nulla bona. It must be specially pleaded	471
Government agent for payment of salaries and treasurer of the United States are public agents, and not liable as garnishees for employees salary	239
ATTORNEY AND CLIENT.	
Warrant of attorney to appear is not necessary	728
A proctor in admiralty cannot release or compromise his	
client's debt without special authority, and an insufficient	1025
amount paid in settlement is a discharge pro tanto	
BAIL.	
Not required in debt on bond with collateral condition	769
Cannot surrender their principal before a judge at chambers BANKRUPTCY.	1048
Operation and effect of bankrupt laws: State laws.	
A judgment confessed in contravention of the bankrupt act is void, though valid by the state laws	112
The assignee is not bound by proceedings against bankrupt to which he was not a party	100
A decree of foreclosure against one adjudicated a bankrupt,	
where his assignee was not made a party, will not extinguish	
the right of redemption, and a purchaser under sale by order	937
of the bankruptcy court is entitled to redeem, notwithstanding	
title by possession and payment of taxes under state law	
Assignee cannot have injunction against foreclosure in state	
court of mortgage against bankrupt where he appeared, and permitted the proceedings to final adjudication, and no injury	212
is done thereby	
Jurisdiction of courts.	

	Page
The jurisdiction of federal courts in bankruptcy is exclusive in	941
all matters arising under the bankrupt act	
Nonresident, who has for six months preceding petition car- ried on business as agent and attorney for another within a	392
certain district, may file his petition in such district	394
Where the allegation of residence within the district as the	
ground of jurisdiction is false as to one of the petitioning part-	1119
ners, the court is without any jurisdiction	
Register-Powers and duties.	
The register's power is limited only by express exception in	668
the bankruptcy act	000
He has power to direct a sale of debts and choses in action	668
belonging to the estate if creditors do not object	000
He may, of his own motion, inquire into delays, and indicate	668
steps for a speedy settlement	
He may, at first meeting of creditors before election of as-	201
signee, postpone proof of any claim which he regards as	986
doubtful	
But, where claims objected to are clearly valid, he must apply	986
to court He has no power, against objection of parties, to require is-	
sues framed as to the re-examination of a claim until it ap-	63
pears that the claim ought to be expunged or diminished	03
Order made without objection cannot be revoked	63
On trial of charges against a register, the creditor may offer ev-	
idence to contradict the register as to facts called out by his	668
examination	
Commencement of proceedings-Voluntary bankruptcy.	
The policy holders in a mutual life insurance company are	
"corporators," with-in Rev. St. § 5122, requiring them to be	168
notified of the meeting called to authorize proceedings	
A receiver of a mutual insurance company, appointed by a	
state court, may move the bankruptcy court to set aside bank-	168
ruptcy proceedings as unauthorized by the members, but can-	100
not show that the company was solvent	
To defeat a voluntary petition, (Act 1841,) creditors must	358
show concealment of property. Proof of ownership in past	20

	Page
years, or dissipation or dishonest squandering of property, is not sufficient	
Purchases of bankrupt's property by members of his family at	
judicial sales do not raise a presumption of ownership, requir-	358
ing the bankrupt to account therefor	
-Schedule.	
May be verified before a notary	359
Cannot be corrected on motion to record a resolution of com-	
position, so as to show that the requisite number of creditors	69
joined, but confirmation will be denied, with leave to renew	09
motion	
—Involuntary bankruptcy.	
Owners of a planing mill contracted debts as traders, but dis-	
continued that branch of the business a few months before	527
committing an act of bankruptcy. <i>Held</i> , that they must he con-	)4/
sidered merchants as to such debts	
It is not a valid objection to petition in invitum by creditor	984
that his claim is not yet due	704
Act June 22, 1874, requiring petition to show certain number	848
and amount of creditors joining, how far retroactive	010
A general unsecured creditor has a right to intervene and con-	231
test an adjudication in bankruptcy	4.)1
—Acts of bankruptcy.	
A preference in contemplation of bankruptcy, though coerced	100
by creditor	100
A general mortgage to one creditor to hinder and delay others	527
A general assignment by a trader for the benefit of his creditors equally	
868,984	
A suspension of payment of commercial paper for 14 days, if	558
availed of within six months of its continuance 537,	550
Effect of act of July 14, 1870	558
A fraudulent conveyance subsequent to a judgment lien on	
the property is no cause of bankruptcy. The remedy is in equi-	250
ty to set aside the conveyance	
Concealment of debtor from creditors does not constitute an	
act of bankruptcy unless service of process is thereby prevent-	858
ed	

Page	
A bond with warrant to confess judgment upon the eve and in contemplation	
of bankruptcy does not constitute an act of bankruptcy; unless the judgment	858
and execution thereon were at the instance of the debtor	

Adjudication.	Page
Relates back to the filing of the original petition, and not to	1164
the time of an ancillary petition filed to correct an irregularity	
Objections not taken before adjudication considered waived	755
A decree declaring a corporation bankrupt cannot be im-	
peached, after the lapse of a year, by a stockholder who had	572
full knowledge of all the facts	
Assignee-Appointment and removal.	
An attorney for a creditor may be assignee of the bankrupt's estate	909
One member of a firm, on behalf of the firm, may execute a	
power of attorney authorizing him to vote for the firm in the	909
choice of assignees	
Property of bankrupt-What constitutes.	
Crops planted by bankrupt after filing petition do not pass to	070
the assignee	879
Bankrupt husband, who has insured his life for benefit of his	1166
wife, need not list the policy as assets	1100
Interest in the business of another, which the bankrupt conducts in	his own
name, receiving half of profits as compensation, is not property to be	set out in
the inventory 1170	
Proof of indebtedness arising out of disposal of proceeds of	1170
such business	11/0
A conveyance on condition of the payment of an annual sum	
to the grantor during life gives the grantee a title which will	199
pass to his assignee	
-Exemptions.	
Under the provision permitting the exemption allowed by the	
state law "existing in the year 1871," where there was a	251
change in the law during the year the statute existing at the	351
close of the year will control	
The filing of a petition is an election to take the exemption al-	
lowed by the state law in force at the passage of the bankrupt-	29
cy law	
The homestead secured to the head of a family by the state	1004
law, though not ascertained and set out, does not pass to the	1004

assignee, and is not subject to the jurisdiction of the bankrupt	Page
court Right to homestead exemption is not lost by delay to claim it until assignee applies for order to sell —Custody.	963
In the separate bankruptcy of one member of a solvent firm, an account will be ordered, and the joint property left with the solvent partners; but otherwise where the firm is insolvent —Liens.	263
Property held by purchasers from a bankrupt in fraud of the bankrupt act is subject to the lien of a judgment against the bankrupt	325
Property held by the bankrupt after the rendition of a judg- ment against him, but before commencement of bankruptcy proceedings, is subject to the lien of the judgment	325
An execution levied previous to an act of bankruptcy, if real and bona fide, gives a lien Assignee taking property from trustee, who held under a void	858
assignment for creditors, takes subject to the liens of judgment creditors accruing subsequently to the assignment, and before	1106
the commencement of bankruptcy proceedings The question as to the validity of an execution lien on bank- rupt's property attacked as a preference cannot be settled by petition and answer, but only by bill in equity or suit at law	559
The remedy to have an unrecorded mortgage of the bank- rupt's property declared and enforced as a prior lien is by ac- tion or suit, and not by petition	951
-Sale by assignee. The district court for Louisiana can authorize the sale of real estate surrendered by bankrupts, free and discharged of all mortgage debts	941
A claim against the wife of a bankrupt for payments made by him when insolvent, on a policy for the benefit of his wife, may be sold by the assignee, and will pass to the purchaser a contingent right in the proceeds of the policy Proof of debts.	1166

	Page
Damages for a tort are not provable until they have been as- sessed	362
A note given before the bankruptcy of the maker, but matur-	
ing after, and taken up by the indorser before, final certificate, may be proved	480
Rent for that portion of a term under a lease not expired be- fore the adjudication not provable	376
Holder of a bill of exchange may prove his debt against all the parties, or against one, and proceed at law against the others	289
Attaching creditor who pays liens upon the attached goods, to	
save his attachment, must be repaid the same by the assignee of the debtor	433
Where a member of a firm, which is general agent of a corpo-	
ration, misappropriates funds thereof to the uses of the firm,	
which is known by the firm, both are liable, and proof may be	1044
made against both estates	
Creditor holding security from a third person may prove his	
debt without surrendering it, but otherwise with security from	289
the bankrupt	
Holder of a draft may prove for whole amount against draw-	
er's estates, though he has been paid in part by acceptor	1045
whom he has released, and who in turn released drawer	
Surety paying debt of bankrupt principal can only prove the	
difference between the debt and the amount realized on secu-	508
rities held by him as indemnity	
Pledgee of notes, held to secure a debt in a smaller amount,	
may prove them against the maker's estate to their full	201
amount, and receive dividends to the extent of his debt,	381
though they are invalid in the hands of the pledgor	
Recovery by assignee against a holder of the bankrupt's note,	
who has taken a preference, does not revive his right to prove	270
the note	
Where the holder of a note has forfeited his claim against the	
estate of the bankrupt maker, the guarantors have no right to	270
prove it	

	Page
Seizure of part of shipment of goods under right of stoppage	
in transitu does not prevent proof of claim as to those deliv-	1191
ered	
Power of attorney to prove debt in bankruptcy need not be ac-	854
knowledged	
Creditor cannot prove by an attorney testifying upon informa-	
tion and belief, unless he is prevented from giving the affi-	854
davit, as provided by Act March 2, 1867, § 22	
Deposition by officer of creditor corporation, made after proof	104(
of claim, allowed to be filed	1046
A bankrupt may testify to support a claim by his wife against	1120
the estate. (Act Pa. April 15, 1869)	1120

W7 have a second second state of the later is a second sec	Page
Where, on a reference to take proof of a claim, it appears that the claim has already been proven, and not objected to, the	507
reference should not proceed Payment of debts: Priority: Dividends.	
Creditors holding bank bills of a state bank adjudged a bank-	
rupt are entitled to interest from the date of adjudication.	667
(Reversing 666)	,
A creditor collecting money for his debtor, and failing to pay it	
over, has no priority over other creditors	647
The fact that the drawee had funds of the drawer when he re-	
fused to accept the draft will not give the holder priority over	647
other creditors of bankrupt drawer	
Senior mortgagee on sale of property in bankruptcy is entitled	
to payment of his mortgage in full, together with costs and ex-	956
penses	
Money paid to procure release of dower in mortgaged premis-	956
es should be apportioned between the mortgagees	))0
Landlord has no lien in Alabama for rent accruing after bank-	376
ruptcy of tenant	
The right to distrain for rent is a "lien," within the bankrupt	
act; and in Mississippi the landlord is entitled to a preference	234
for rent out of proceeds of sale of property on demised	
premises, subject to his attachment (Reversing 233)	
Assignee may withhold dividend to creditor who is also	104
debtor to a member of the bankrupt firm until determination of suit to recover the debt	104
Examination of bankrupt.	
The filing of specifications in opposition to a discharge is not	
necessary prerequisite to making of order for examination of	1042
bankrupt or other persons	1074
A bankrupt may be compelled to appear with his books be-	
fore the register for examination as to a composition	6
Costs: Fees: Disbursements.	
Registers' fees-Taxation and allowance	208
Where a petition to establish a right to payment in full has as-	
sumed the form of a regular suit, costs and a docket fee will	657
be taxed	

	Page
Bookkeeper of bankrupt not entitled to compensation for mak-	
ing schedules while in employ of marshal, and in receipt of	855
his usual salary	
Claim of bankrupt for extraordinary services cannot be al-	855
lowed by the court but may be allowed by creditors	
Discharge-Proceedings to obtain.	
Where there are no assets, bankrupt cannot be discharged,	010
unless he applies after the expiration of sixty days and within one year from the adjudication	910
A creditor may consent to a discharge by his attorney in fact	560
or counsel in open court	
-Opposition: Acts barring.	
Creditor who has proved his claim may, except as limited by	1042
rule 24, file specifications of the grounds of his opposition	
Creditors who have not proved their claims until after the day	
fixed for showing cause against a discharge can then object to	560
the discharge only on the ground of fraud	
Creditors executing releases under terms of voluntary assign-	
ment are to be considered as preferred over other creditors,	65
with in meaning of provision denying discharge	
Discharge not refused unless fraud, willful concealment of	
property, etc., or facts from which they are plainly deduced,	755
clearly appear	
Specifications alleging concealment of property should specify	
the property, and that the omissions from the schedules were	1175
willful, fraudulent or negligent	
It is no answer to a charge of concealment that the property	
belonged of right to assignees under an earlier assignment, un-	1107
der the state insolvent laws	
A bankrupt having actual possession of joint estate and joint	1107
books of account must disclose them to his separate assignees.	
Discharge not refused for failure to keep proper books of ac-	1012
count, unless the fact is clearly shown	
Bankrupt need not affirmatively show that he has kept proper	755
books of account etc	
Books from which a competent acountant could ascertain the	956
bankrupt's condition are sufficient	

-Scope and effect.	Page
A discharge does not operate on debts created by fraud, and an objection to a discharge on the ground that the debt was so created is not valid	1004
Prohibited and fraudulent transfers.	
Section 35 of act of 1867 applies both to transactions with a creditor or one under liability for the bankrupt, and with a purchaser not a creditor or under such liability	1127
"Contemplation of bankruptcy" means insolvency	15
"Contemplation of bankruptcy" means contemplation of inabil-	
ity to continue business, not of applying for benefit of bank-	100
rupt law	
A preference is not a payment of creditor in the ordinary	15
course of business, or under threats of suit	-
If the necessary effect of an act is to prefer one creditor, the	1010
intent to prefer is presumed, though other motives co-operat-	1012
ed to induce the act A sale by the bankrupt not in the ordinary and usual course	
of business is only presumptively fraudulent, and the pre-	283
sumption may be rebutted	205
Transfer of whole stock and book accounts to one creditor,	
three weeks before filing petition, <i>held</i> a preference, though	1012
made under threat of legal process	
A sale out of the usual course of business of all one's stock in	
trade to a person with knowledge of the seller's insolvency is	29 <i>5</i>
prima facie void, and a second purchaser with knowledge has	285
no better title	
Purchase by second vendee not fraudulent unless he knew or	
had reasonable cause to know of facts rendering the first sale	283
fraudulent. Knowledge that the sale to the first vendee was of	
the entire stock of the seller not sufficient	
An assignment in trust, by an insolvent, for creditors who will	
accept 60 per cent, of their claims, is void at common law and	1106
under the bankruptcy act	
A general assignment for distribution among all creditors equally is not void, but voidable only at the suit of the as-	868
signee	000

	Page
Confession of judgment is not fraudulent unless intended as a preference, and given in contemplation of bankruptcy	100
Where the debtor, in order to give a preference, allows his	
property to be taken on execution issued on a judgment	559
against him, the transaction is void	
The allowance of a judgment in favor of a brother by an insol-	
vent debtor, to the exclusion of all other creditors, <i>held</i> a pref-	437
erence	
The taking of sawed lumber, in settlement of a claim on a	
conditional sale of logs to an insolvent mill owner, in excess of	373
the claim, creates a fraudulent preference	
Payments made mala fide to a debtor after petition in bank-	200
ruptcy filed against him are void as against assignee	280

	Page
Payments, etc., by one knowing himself to be insolvent, are not in contemplation of bankruptcy if he fully expected to con-	100
tinue business and retrieve his losses	
Payments by husband on policy on his life for benefit of wife	
after he becomes insolvent are fraudulent, and may be recov-	
ered from wife out of proceeds of policy, when paid, with in-	1166
terest	
A secret arrangement by one of the creditors, entering into a	
composition for an advantage over other creditors, is fraudu-	
lent, and a payment made thereunder may be recovered by	1120
the assignee subsequently appointed, though the composition	
never became binding	
Transfer by brother to sister, whose money he had taken and	076
invested without any account, <i>held</i> fraudulent	976
A sale to a creditor 13 months before filing petition, if bona	
fide and without knowledge of contemplated bankruptcy,	15
though it may prevent discharge, is valid as to the creditor	
An attachment by a creditor of the property of his insolvent	433
debtor is not a fraud upon the bankrupt act	433
Chattel mortgage for a present consideration, made more than	
60 days prior to bankruptcy, but not filed for record until	830
within that time, is valid	
Payment of note at maturity by insolvent maker, without	
knowledge or procurement of accommodation indorsers, is not	1139
fraudulent	
An indorsement upon a chattel mortgage, extending its lien to	
other chattels, made in fraud of the bankrupt act, is ineffectual	433
for any purpose	
After payment on account of one item of a claim proved, cred-	
itor cannot divide his claim so as to avoid in part the as-	855
signee's claim of preference by such payment	
Prohibited and fraudulent transfers-Suit by assignee.	
Assignee of one partner can, in the interest of firm creditors,	
recover sums paid out of the firm's funds in fraud of their	1120
rights.	
An assignment by one member of firm of individual property	882
for benefit of individual creditors, with directions to distribute	

	Page
the balance among partnership creditors, may be set aside at the suit of the assignee of the firm	
Assignee may proceed to impeach bankrupt's conveyance as	90 <b>7</b>
fraudulent, irrespective of condition of creditors' claims	807
The rights of the assignee to sue to set aside conveyance by	
bankrupt are not affected by Act June 22, 1874, when the ad-	882
judication of bankruptcy was passed theretofore	
Secret preferences paid as inducements to signing composition deeds	may be
recovered either at law or in equity 1130,1132	
Such preferences can be recovered by the debtor or by inju-	1132
red creditors, or by the assignee It is no defense to the action that the composition deed was invalid, b	0001160
not signed by all the creditors, pursuant to its terms 1120,1132	ecause
The four-months limitation governs a transaction with a creditor, and t	the six-
months limitation that with a general purchaser 283,1127	
An action by the assignee of a firm to set aside an assignment	
by a member for the benefit of his individual creditors is not	882
limited to four months	
A declaration in an action by the assignee must state that the	1127
transaction was had within the prohibited time	114/
All transactions illegal or fraudulent by the common law, the	
statute law, or by rules of law, other than the special limita-	1127
tions in section 35. are governed by the limitation of two years	
Where assignee continues defense of suit, the estate is liable	292
to expense thereof, if the creditors impliedly consented	
The bankruptcy proceedings are admissible to show appoint-	285
ment as assignee To annul a sale, the vendee must be shown to have had good	
reason to believe that the insolvent's intent was to evade the	283
bankruptcy act	405
Arrangement with creditors: Compostion.	
Committee appointed to assist trustee in management of estate	
may act by majority vote	1047
Amount of payment to counsel for services is discretionary	1047
with committee	1047
The trustees have no power to admit claims against the estate;	500
such power is vested in the register	500

The approval of the committee cannot affect or cure positively unl	Page
cations of the fund, nor inequality of distribution 1047	awiui appii-
Damages for a tort not assessed cannot be considered in as-	
certaining proportion of creditors voting for composition	362
Affidavit of husband that he had given his wife authority to	
vote in favor of a composition is a ratification and estoppel,	362
validating the wife's act	
Wards whose money has been loaned to a firm, from which	
their guardian, a member, took notes to himself as guardian,	
on coming of age, are entitled to vote in favor of a composi-	362
tion by the bankrupt firm	
The confirmation of a composition, and the bankrupt's compli-	200
ance therewith, suspend functions of assignee	208
A composition arranged and confirmed does not take the case	1095
out of the jurisdiction of the court	1085
The amount due from the assignee to the bankrupt after com-	208
position should be determined on special order	200
Debtor's default under composition does not entitle creditor	
to dissolution of injunction against his judgment, obtained	1085
pending bankruptcy proceedings	
BANKS.	
Payment of check is prima facie evidence of funds	607, 741,742
A note deposited for collection and credited to depositor, is	
property of bank; and. on its bankruptcy, proceeds go to gener-	657
al creditors	
The relation between a bank and its customer is not of a fidu-	657
ciary character	
The teller is not liable for losses during his absence	701
On the failure of a bank to pay specie, it may be forced into	624
liquidation	
Liability of stockholders of national bank is several, and a suit	
at law is the proper remedy to enforce a specific assessment	382
ordered by the comptroller	
Comptroller of currency, in winding up insolvent national	200
bank, has authority to finally determine when a deficiency of	382
assets exists	
Special charter powers.	

	Page
Congress has power to authorize the Bank of the United	728
States to sue in the federal courts The act incorporating the Bank of the United States confers	
the right to sue in the circuit courts, irrespective of their juris-	692
diction 726; contra,	
Where the Bank of the United States recovers less than \$500	
in a suit in the circuit court, it cannot recover costs, and may	728
be adjudged to pay all costs	

	Page
The relation of a branch of the Bank of the United States to	(0)
another branch or to the parent bank which has forwarded	694
paper for collection is simply that of principal and agent	
Affidavit of president of Bank of Columbia on an order for an execution-Form and contents	629
An order for an execution by the president of the Bank of	
Columbia is not a judgment	628
Execution issued on order of the president of the Bank of	
Columbia-Form and contents	628
The issuing of an execution by the Bank of Columbia is the	
commencement of the action in regard to the statute of limita-	643
tions	
The suit is discontinued by failure to prosecute the execution	628
The court will permit defendant upon return of execution to plead the s	tatute
of limitations 629,645	
Bank of Alexandria may have its causes tried at the first term to which	the
writ was returnable 606,619	
The Bank of Alexandria may, upon discounting notes, deduct	
the whole interest to become due	607
BILLS, NOTES, AND CHECKS.	
What law governs.	
Where bills are accepted, payable in London, on a promise to	
provide funds to meet them, the contract is governed by the	407
law of England	
A bill drawn and indorsed in one state, but payable in anoth-	
er, is governed by the law of the former as to the liability of	649
the indorser, but by the place of payment as to the amount of	049
interest	
Nature and requisites.	
Warrant issued by controller of city, whose payment is re-	1075
stricted to a particular fund, not regarded as bill of exchange	1075
Cashier's certificate of deposit for a sum named, payable at a	
certain time, to the order of the depositary, is a promissory	229
note	
Validity.	
Trading corporations may, independently of statute, issue ne-	1075
gotiable paper in the course of their business	

	Page
"Confederate Treasury Notes" are illegal because issued by	378
organization of subjects in rebellion	370
A promissory note given in consideration of Confederate	378
notes is void	570
The stipulation in a note for the payment of a reasonable at-	
torney's fee on collection by action is valid, and binding on all	622
indorsers	
Acceptance.	
A letter written within a reasonable time before or after the	
date of a bill of exchange, describing it, and promising to ac-	1064
cept it, is a virtual acceptance	
Authority to draw, with an assurance of payment, is an accep-	1064
tance to one who takes bill on the credit of such authority	
An accommodation acceptor of a bill of exchange is a surety	
as to. the drawer, but a principal as to the holder, although he	289
knew the facts	
A letter of credit <i>held</i> to be used within the terms of the	
agreement giving right to commissions, though bill issued	794
thereunder was never presented	
Indorsement and transfer.	
The possessor of a negotiable instrument is prima facie a bona	6
fide holder for value in the usual course of business, without	622
notice of facts impugning its validity	
Want of consideration in the making and indorsing of a note	6
can be shown, against a remote party, only where he took with	622
knowledge of such want between nearer parties	
An accommodation indorser can show a want of consideration only as a	against
the accommodated party 622,631	
An indorsement, though for accommodation, is evidence of	618
money had and received by the indorser	
But otherwise where the indorser writes on the face of the	621
bill, "credit the drawer."	
An accommodation indorsement in blank may be filled up at	745
the trial by plaintiffs counsel	
Plaintiff, who is not an indorsee, has no right at the trial to	726
strike out the words of a special indorsement	
Rights of indorsers, generally.	

	Page
A parol agreement, made at the time a note is indorsed, can-	601
not affect the indorser's rights under the law merchant	
One discounting a note for the joint benefit of the maker and	
indorsers, though in unequal amounts, need not make de-	754
mand and give notice to recover against indorsers	
Holder of bill of exchange, after demand and notice, is not	874
bound to active diligence	
An indorser is bound by the usage of the local banks as to demand, r	iotice,
and protest, known to him at the time of indorsing 639,642	601
But not otherwise except upon his agreement	601
A blank indorsement does not discharge subsequent indorsers as such	622
Bank of Alexandria bound to make demand and give notice	
to charge indorser	621
Demand.	
Where note is payable at a certain bank, need not be personal	679,727
At bank where payable, and which was holder, must be	
made, though maker had no funds to his credit	733
Must be made on the last day of grace	216
On the day after the expiration of the days of grace is in time,	618
in the District of Columbia	010
But on last day of grace, after banking hours, is not too soon	684
Where maker of notes dies before maturity	750
May be made by notary's clerk	618
Notice.	
An accommodation indorser is not entitled to notice unless he	631
has actually sustained damages by its want	
Agent to present a note for payment is not bound to give no-	
tice of dishonor to the indorser, but only to his principal, who	694
in turn gives such notice	
Due notice, as between any indorsers, is sufficient to charge	694
such indorser in favor of all subsequent indorsers	0,1
The delivery of a note to a deputy notary is not per se notice	641
to the notary who was indorser thereon	
On the third day of grace, though after bank hours, <i>held</i> too	216
soon	<b>22</b> 2
The next mail after protest <i>held</i> sufficient	229

	Page
If by mail, must be given on the last day of grace, where the mail does not close until six hours after the close of the bank	615
Mailed after closing of mail on day after last day of grace <i>held</i> too late	737
On day following last day of grace <i>held</i> in time	684
Where indorser dies intestate, notice left with his son at intes-	
tate's place of business, before appointment of administrator,	638
held sufficient	

	Page
By mail <i>held</i> not sufficient as to an indorser residing in the	
country where he had a house in town usually resorted to by	639
him for business	
Left in indorser's separate room, in a business house where he is a clerk, <i>held</i> sufficient	717
Left with a boarder at the same house with the indorser, with	(00
the request to hand it to him, <i>held</i> sufficient	699
Left at shop of indorser's son, though connected with his	600
dwelling house, <i>held</i> not sufficient	690
Wrongly stating amount of note <i>held</i> ineffectual	615
A mistake in the recital of the date of the note will not invali-	741
date	741
A verbal notice, on the day following the last day of grace,	
that payment had been demanded, and that the note would	686
be-protested if not paid, is not sufficient	
The waiver of objection as to want of may be after, as well as	6 4 1
before, the laches	641
The receipt of cannot be inferred from an agreement by the	
indorser not to take advantage of the statute of limitations, and	690
to authorize an attorney to docket a suit	
Protest.	
Where the drawer has no funds in the hands of the drawee,	461
no protest or notice is necessary.	,
Justice of peace in Mississippi is ex officio notary public for	229
purpose of protest and notice A protest which does not state that the notary informed the	
indorser of demand and refusal is insufficient	618
Payment.	
The rate of exchange is not exclusively regulated by the ex-	
	504
pense of transporting specie from one place to the other, but rather by the. current rates for drafts in specie	504
A landlord who also holds a note of his tenant with a deed of	
trust of personalty as security must apply the proceeds of such	736
property distrained for rent to the note, as against an indorser	
Discharge or release of indorser.	
Indorser is discharged by holder's taking new security, and	
giving time to maker, without his consent	702

	Page
Agreement between the holder and drawer, which suspends the right of the holder to enforce payment, will discharge the	699
indorser, for it suspends his rights	
A contract to give time to the maker does not discharge the indorser unless it is valid and enforceable	501
After demand and notice, holder may give time to the maker,	
or take time note of indorser, without releasing subsequent in- dorser 685,	717
After demand and notice, a neglect to enforce security until it	
becomes inadequate by depreciation will not discharge the in- dorser	618
Maker, acting as agent for other parties to note in discounting it, may change date of maturity if agreed to by them	754
A representation by the holder of a note to the indorser that it	
has been paid will not discharge the indorser if he has not	501
been injured thereby	
Action-Bight of.	
Bank of Alexandria could sue indorser without first bringing suit against maker	617
Where the drawer has no funds in the hands of the drawee,	
and the bill is not accepted, action may be brought before it is payable	461
A note may be surrendered and canceled, and a recovery had	
on the original consideration, if the declaration contains a	709
count founded thereon	
—Pleading.	
In an action against the maker, it is not necessary to show a	690
demand at the bank where the note is payable	0,0
Otherwise where action is against indorser	733
An indorsement to the cashier of a bank may be declared on	692
as an indorsement to the bank	0)1
A note payable to a certain person, "cashier, or order," may be	
declared on by the bank of which he was agent without an in-	709
dorsement	
The omission of the payee to show protest, or that it was not	461
required, can only be taken advantage of by special demurrer	
—Evidence.	

Where the plaintiff bank's notary was the indersor declars	Page
Where the plaintiff bank's notary was the indorser, declara- tions of his son and deputy as to the giving of notice are inad- missible	641
The testimony of a notary that he demanded payment of a note on the third day of grace, and gave notice of nonpayment on the following day, is competent, although he cannot recol- lect the day of the month BILLS OF LADING.	685
Act Pa. Sept. 24, 1806, making bills of lading negotiable, does not enable a wrongful taker to pass a good title	597
One who acquires bill of lading from rightful holder, though through his negligence, can pass good title to innocent pur- chaser	597
Purchasers of a bill of lading, who have reason to believe that the seller held it as security merely, acquire no better title	597
Lav days do not begin to run until the vessel has arrived at her place of discharge, and is ready to be unloaded	274
Running in a fog, in calm weather, upon a well-known cape, is proof of unseaworthiness, not rebutted by fact that vessel was new, and well built, rigged and manned, and in charge of a captain of reputed skill and experience	1097
Injury to millstones properly stowed, where cargo shifted on voyage through vessel being thrown on beam ends, is within exception of dangers of navigation	954
Dampness or sweating of hold, the ordinary accompaniment of the voyage, resulting not from tempestuous weather, but from occult atmospheric causes, is not a "peril of the seas."	1048
"Dangers of the seas," "dangers of navigation," and "perils of the seas," are convertible terms	1048
A carrier, shipping goods by a different vessel and at an earli- er date than that specified, is liable for loss by shipwreck, notwithstanding exception of "accidents of the seas," etc	1097
Failure of master to deliver cargo in accordance with terms of bill of lading renders vessel liable for agreed value less freight and charges	170

	Page
A provision that any extra expense of discharging is to be	
paid by the consignee makes him liable for such extra expens-	954
es as are necessarily incurred	
A custom founded upon a constant departure from the terms	
of bills of lading used in the trade is not available to control	1097
such a bill of lading	
Custom of trade will control where it is doubtful whether in-	
jury is caused by excusable perils of seas, or by dangers for	1048
which carriers are responsible	
As between original parties, it is competent to show actual	1048
condition of goods at time of shipment	1040

	Page
A bill of lading is conclusive to establish the articles shipped	323
unless fraud or mistake is shown	545
Burden is on carrier to show that the damage was caused by the dange	r of the
seas 1097,1191	
BONDS.	
A penal bond is not enforceable beyond the indemnity	660
Recovery on bond with penalty for performance of covenants	722
must be limited to the penalty	,
BOTTOMRY: RESPONDENTIA.	
Respondentia.	
A bond to secure a pre-existing debt is valid	159
No fraud not participated in by the lender can affect the bond	159
The delivery to the lender of a bill of lading on the arrival of	159
the vessel is equivalent to a direct consignment to him	-37
The bond is not void because it was given and the loan made	159
after the vessel sailed on the voyage risked	-97
Rights of lender as to homeward cargo, how secured-Prefer-	159
ence in United States.	- 57
The words "lost or not lost," omitted, may be supplied by	159
equivalent expressions	- 57
All the papers connected with the bond and shipment will be	159
construed together.	-97
CARRIERS.	
See. also, "Affreightment;" "Bill of Lading;" "Shipping."	
May grant exclusive privilege for transaction of business on its	
vehicles, and eject a person transacting business without its	892
consent	
Must take adequate measures to protect cargo against a com-	
mon and ordinary occurrence, which might have been fore-	1191
seen	
Liable for loss of coin in a trunk with wearing apparel, though	507
it had no notice, where the passenger pays for excess baggage	707
The liability as carrier continues after arrival of goods,	
notwithstanding restrictions in bill of lading, if the carrier fails	275
to give notice of arrival	

	Page
An express company which has limited its responsibility to or-	
dinary care is not liable for a loss caused by the negligence of	650
a railroad which carried its freight	
CHAMPERTY; MAINTENANCE.	
A cestui que trust may lawfully dispose of his trust estate,	40 <b>5</b>
though his title is contested by the trustee	495
CHARITABLE USES.	
The statutes of mortmain are in force in Maryland, but the	077
statute of charitable uses is not	855
Devise in trust, to lay out \$200 a year in wood, meal, and	
clothing, to be distributed among the poor and necessitous	0 <i></i>
widows and orphans within the corporation of Georgetown, is	855
void for uncertainty	
CHARTER PARTIES.	
A charter party to load at a certain place is, in contemplation	<b>5</b> 20
of law, made at such place	539
All representations as to carrying capacity are merged in a	490
charter party stating the vessel to be of certain tons burden	483
No action will lie for breach of verbal agreements occurring	770
between the date of a charter party and its signing	770
A failure to proceed "with all possible dispatch" from a cer-	
tain port to the port of loading gives claim for damages, but no	<b>7</b> 00
right to avoid contract, where object of voyage not wholly frus-	590
trated	
Vessel owners not bound to sign unqualified bills of lading	
for cargo until lawful claim of demurrage, which is a lien	520
thereon, is satisfied; and for delays caused thereby charterer is	539
liable	
Under a guaranty on an assignment of a charter party that the	251
vessel is first class, it is necessary that she be actually classified	351
A delay to classify such vessel, where no damage is set up	
when she is tendered as ready, for want of a classification, will	351
not excuse performance by the transferee	
"Rainy days," as excepted from lay days for loading a cargo of	
grain, mean such rainy days as will prevent ioading with safety	539
and convenience in the particular port	

	Page
Where master fails to object to port as a "safe port," owners	78
cannot recover for injuries arising from its unsafeness	70
A vessel chartered "to load with a full cargo" of bamboo of	
certain size bundles, at a certain freight per bundle, may recov-	78
er for a full load of the agreed size where those loaded were	
much larger Where charterer absolutely refuses to accept vessel, owner	
	251
need not keep her in readiness for delivery during ail the lay days	351
Demurrage allowed where shipper caused his own vessel to	
be loaded before a chartered vessel which was first ready	170
A suit on a charter party, signed by the master, to whom the	
charter money is to be paid, is properly brought in his name	483
alone	
A suit is properly brought in the name of the managing own-	
ers, who signed the charter party in good faith as owners	590
Computation of damages on breach of contract by transferee	0.51
of charter party to perform its conditions	351
CHATTEL MORTGAGES.	
Unrecorded chattel mortgage valid, as between the parties, al-	820
though possession not taken	830
CHINESE	
State statute prohibiting employment of Chinese by contrac-	
tors upon public works <i>held</i> in conflict with the treaty with	472
China, and void	
CLERK OF COURT.	
Entitled to commissions upon proceeds of interlocutory sales	241
of prize paid into court	241
CLOUD ON TITLE.	
Circuit court will entertain bill by one in prior possession, ac-	1069
companied by title, to remove cloud upon title	1009
Bill alleging sefsin under state grant, and possession thereun-	1069
der for seven years, is sufficient	±00)

	Page
A suit brought under the Iowa statute to quiet title is an equi- ty suit	560
COLLISION.	
Nature of the liability.	
Exertions to avoid a collision will not relieve a vessel whose original wrongful maneuver made it inevitable	1179
"Inevitable accident" means one happening after due care and caution and a proper display of nautical skill Bulas of provincian	561
Rules of navigation.	
Steamer departing from statutory regulations assumes all risks of misunderstandings	177
Pilot rules of supervising inspectors are controlled by Act 1804	177
The law of the river is established by usage to which naviga- tors must conform	930
Navigators on the Ohio river must conform to usage that de- scending boat must keep in the current, and ascending boat to the right shore	930
Descending boat in approaching ascending boat on Ohio river	
must stop her engines, and float, leaving other boat to choose	930
her course General rules of navigation of Mississippi river and the law of	
	1023
Louisiana require descending steamboat to keep the middle of the river, and to allow an ascending boat to choose her course	1023
Sail vessels meeting.	
A vessel sailing free, which mistakes the course of another	
closehauled, and causes a collision by luffing, will be held li- able	227
A sail vessel is in fault for coming in stays across the bows of	980
another sail vessel, which she has just passed	900
Steam vessel meeting sail vessel.	
As between steamer and sail vessel, former is held to greater	
caution and vigilance, and must adopt necessary precautions to avoid collision	454
Sail vessel changing her course will be held in fault if steamer	
used all reasonable precaution to avoid collision	454

	Page
Sail vessel is justified in changing her tack when the circum-	955
stances render it expedient and proper	
Burden of proof is on steamer to show fault in sail vessel	1179
Vessels moored, etc.	
Wrecking vessels anchored over a wreck, and fastened togeth-	222
er, are substantially but one vessel, and should exhibit but	232
one light	
Steamer lying to or at anchor at night or in fog must take pre-	1091
cautions to warn approaching vessels	
Burden is on colliding vessel to show that vessel at anchor	564
was at fault, or the collision inevitable	
As against a vessel colliding with another moored at a pier,	4
and unable to move, it is sufficient to aver that the former ran	4
into the latter	
River and harbor navigation.	
Steamer running into harbor or through common thorough-	1091
fare must take extra precautions	
And in night, or in case of fog, must move with great circum-	1091
spection, or lay to or anchor, according to danger	
Steamer navigating near piers, in violation of harbor regula-	1004
tions, liable for collision with steamer in proper track, taking	1094
due precaution	
Speed: Fogs.	
Speed of 16 or 17 knots during dense fog, upon frequented	1095
track, grossly improper. Where fag is as dense that useful connet quaid another at an	
Where fog is so dense that vessel cannot avoid another at an- chor, it should not proceed	563
Sail vessel becalmed in fog not culpable for omitting to use	
foghorns or other warnings, which would not have been of	1095
any avail. (Reversing 1091)	1095
Lights, signals, etc.	
No maritime usage requires merchant vessels constantly to	
carry lights	454
Lookouts.	
Want of a lookout will not be excused unless it is clear that it	
did not contribute to the collision	183

	Page
Steamer in backing out of slip in maneuvering for landing is negligent in not having a lookout on after deck	562
Particular instances of collision.	
Between vessels at anchor in a storm	1161
Between steamer backing out of slip, swinging with tide, and	5(0)
ferryboat making adjoining slip	562
Between longboat hanging under bark's counter and barge	050
breaking loose from pier by force of ice floe	253
Between vessel lying at end of pier, with stern projecting into	
ferry slip, and ferryboat making landing, carried by tide against	564
it	
Between ferryboat on foggy morning and brig anchored near	<b>F</b> (0)
track, in violation of ordinance	563
Between towboat and wrecking vessels anchored over wreck,	000
and exhibiting wrong light	232
Between tow and tug of another tow, in the Kills	183
Between schooner and steam propeller in Long Island sound	266
Procedure.	
Where a collision is joint act of two vessels, they may be	
joined as defendants; but otherwise where distinct acts of col-	102
lision are charged, without privity	
The appointment of nautical assessors, in collision cases, ap-	97 <i>5</i>
proved	875
Desertion without cause of vessel injured in collision may be	1
considered as tending to show consciousness of fault	177
Where evidence leaves it open to reasonable doubt as to	
which party was in fault, the loss must be sustained by the	1058
one upon whom it has fallen	
Rule of damages.	
Personal liability of owners of vessel is measured by value of	
vessel immediately before collision and freight pending, and	875
they are not exempted by its loss	
Expenses of raising injured boat, of repairs, and for loss of	930
time allowed	950
Jury not bound to give interest	930
Interest, at 6 per cent., on sum paid for repairs, allowed	565

	Page
To recover demurrage, loss of service and damages by such	565
loss must be shown	
Demurrage will be allowed where the vessel, while undergo-	
ing repairs by the owners of the colliding vessel, was offered a	
charter which the master in good faith refused to accept, be-	567
cause having no knowledge of when she would be ready,	
though he did not inform the claimants	
Burden is on claimant to show that the making of repairs to	567
the injured vessel was to be in full satisfaction of damages	507
Libelant entitled to full amount of damages, though he has re-	255
ceived partial indemnity from underwriters	255
Owner of vessel sunk in middle of Long Island sound not	<b>F</b> (0)
bound to attempt to save property from the wreck	762
Division of damages.	
Rule of equal contribution applied where vessels are mutually in fault	1091,1095

	Page
Where "both vessels are in fault, and only one injured, she may recover half damages and full costs	565
Where collision between two tows resulted from negligence of both tugs, and, on libel against one, opportunity given to make the other a party is not embraced, only half damages will be decreed 177,	183
A schooner admitting that she broke adrift from her tug be- cause of her own defective hawser, is alone liable for collision with a vessel moored	4
The report of a commissioner in a case of mutual fault of a certain sum as "due to the libelant" will be amended so as to read "as the damages sustained by libelant." Costs.	565
Libelant entitled to costs, though his vessel was equally in fault, and damages are apportioned 232,	565
Review. A decree for damages for collision in favor of several libelants should be for the gross sum. so as to bring it within the juris- dictional amount for appeal	252
CONFISCATION.	
Under Act N. Y. 1778, estates forfeited for treason are not	
sold free from incumbrances. But otherwise as to Act N. Y. 1783	1104
CONSTITUTIONAL LAW.	
Act March 26, 1814, § 14, providing that a majority in value	
of creditors may discharge an insolvent debtor for seven years, is unconstitutional	744
The admission of an attorney to practice is not a contract, and an act declaring a forfeiture is not invalid as impairing the obligation of a contract	1043
The right of an attorney to practice his profession is his prop- erty, and an act (Jan. 24, 1865) declaring a forfeiture of such property for offenses not so punishable when committed is ex post facto and void	1043
A statute of limitations, relating only to the remedy, and not to the obligation of contracts, though affecting existing rights, is not unconstitutional	811

	Page
A law regulating the issue of executions on judgments previ-	
ously rendered, affects the remedy merely, and is not unconsti-	707
tutional	
Unconstitutional law no justification	71
CONTEMPT.	
Creditor enforcing execution on state court judgment, in defi-	
ance of injunction of bankruptcy court, in which debtor has	96
filed voluntary petition, is guilty of contempt	
CONTRACTS.	
A legislative act adopting certain school text-books, and pro-	
viding that they shall be exclusively used by the schools, does	580
not constitute a contract with the publishers, nor authorize	5
state agents to contract with them	
Note made on Sunday not void	911
Confederate treasury notes are unlawful currency, and cannot	678
form a legal consideration to support a contract	070
The addition of the words "in gold," in a contract to pay a cer-	483
tain sum, will be treated as surplusage	-UJ
Nonperformance of stipulation in mining lease to commence	
operations by a specified time does not work a forfeiture, but	810
gives right of action	
Where covenants are mutually dependent, neither party can	
sue without having offered to perform or showing an excuse	768
for for not doing so	
In such case plaintiff cannot show partial performance under a	760
general averment of performance	768
CONVERSION: TROVER.	
Measure of damages for the conversion of a whale	966
COPYRIGHT.	
An author is one who, by his own intellectual labor, produces	107
an arrangement or compilation new in itself	195
A publication of revised rules of court is not a new edition of	
a previous publication of the rules before revision	759
Sale of book prior to deposit of copy of title-page will defeat	
copyright, as actual publication is presumed from a sale	478

	Page
Deposit of title-page, publication of notice, and delivery of	
copy of book, as provided by law, (Feb. 3, 1831,) are indis-	478
pensable conditions	
Where title-page was deposited in 1846, a notice stating entry as 1847 is fatal	478
A compiler of books must not copy results of another compil-	
er's labor, but must resort to original sources of information	759
In printing court rules, it is an infringement to copy, from an	
annotated edition of such rules, citation of authorities con-	759
tained in such annotations	
Case, and not trespass, is the proper form of remedy to recov-	105
er damages for violation of copyright	195
On motion for injunction, the affidavit of defendant is compe-	170
tent evidence against the oath of plaintiffs in the bill	478
Where an infringement is palpable, a provisional injunction	759
will not be refused if not attended with serious injury	/39
CORPORATIONS.	
Due organization, in compliance with the statute, will be pre-	709
sumed	709
Where the charter reserves unconditional power to alter or re-	
peal, the legislature may act arbitrarily; but otherwise where	570
reservation is made for "misuse or abuse."	
A contract entered into with the incorporators for the compa-	
ny before its incorporation, but not perfected until afterwards,	709
is in effect a contract with the company	
Change in charter, from "life and accident" insurance company	
to "fire, marine, and inland insurance," discharges nonas-sent-	26
ing subscribers to stock	
Forfeiture of stock for nonpayment of call defeats right to re-	26
cover on note for previous unpaid assessment	
A bylaw prohibiting a transfer of stock by one indebted to the	310
corporation is not in violation of the Missouri law	Ū
An unpaid subscription for which the subscriber's notes have	310
been taken is a "debt," within the meaning of the by-law	
The officers of a corporation cannot, as against creditors, re-	310
lieve a subscriber from his unpaid subscription	

	Page
Preferred stock certificates issued by a railroad company, con-	
strued as to the conflicting rights of holders of common and	371
preferred stock to net earnings	
Officer of corporation making transfer of stock, under authori-	
ty of an assignment, acts as agent of assignor, and his laches	310
are not chargeable to corporation	
A decree against stockholders for a pro rata contribution to	
pay the debts of the company is several, and action will lie	624
thereon against one stockholder	

	Page
Bill by stockholders to impeach judgment against corporation dismissed without prejudice	95
Stockholders may come in as parties to suit against company to be relieved from fraud perpetrated by officers of company in transaction in question	1079
Individual bankruptcy of a stockholder and officer of a corpo- ration does not incapacitate him to act as such, though by-laws require officers to be stockholders	187
Acceptance of an official bond of a bank officer can only be proven by the bank's record of the proceedings	691
Corporation may sue under its corporate name and style, and not necessarily by attorney	728
COSTS.	
Where both parties except to commissioners' report in a colli- sion case	565
Not allowed for illegible depositions	253
Not allowed if action is dismissed for want of jurisdiction	648
Not awarded on affirmance where both parties appeal COURTS.	183
In general.	
Government departments or agents, seeking to execute a law in an unconstitutional manner, as by taking private property for public use without making compensation as provided by law, may be restrained	245
Judicial power of United States.	
A state legislature cannot suspend process in the federal courts as to its citizens	306
Jurisdiction of federal courts not derived from common law Comparative authority of federal and state courts: Process.	410
There is no concurrent jurisdiction in rem in admiralty cases between the courts of the United States and of the several states	10
The admiralty and maritime jurisdiction of the federal courts is exclusive of the state courts save as to the common-law remedy, which is. by action, and not by proceeding in rem	10

	Page
An execution issued out of a state court is a lien, from its de- livery to the sheriff, on surplus proceeds in a marshal's hands	1059
under prior process from the federal court.	
Federal courts-Jurisdiction in general.	
Federal court will retain jurisdiction of action, once acquired,	957
to give remedy to all intervening and conflicting rights	
-Grounds of jurisdiction.	
Citizenship of one party in District of Columbia cannot create	886
a case of diverse citizenship	
A corporation is not within the meaning of the constitutional	692
provision giving jurisdiction in cases of diversity of citizenship	
A corporation cannot sue in the circuit court on the ground of	( 10
diversity of citizenship, if any member is a citizen of the state	648
with defendant	
The words "civil suit," as used in section 11 of the judiciary	
act, do not embrace admiralty proceedings, and a libel may be	80
filed against a foreign corporation, and property within the dis-	
trict attached to compel appearance 76; contra,	
Conveyances made merely for the purpose of giving federal	886
courts jurisdiction are ineffectual for that purpose	
The rule that federal courts have no jurisdiction of controver-	
sies between citizens of the same states does not apply to a	112
suit suit by an assignee in bankruptcy	
A creditor's bill, filed to obtain satisfaction of a judgment at	_
law rendered in the same court, is not an original action, irre-	298
spective of parties	
A mere "declaration of intention" by an alien to become a citi-	
zen is not sufficient to prevent his being a "foreign citizen or	423
subject" within the constitutional provision giving jurisdiction	
to the federal courts	
The citizenship of a person not served with process, who is a	784
joint promisor, must appear in the declaration	, -
If a joint promisor, not served with process, be a citizen of the	784
same state with plaintiff, the court has no jurisdiction	
The circuit court has jurisdiction of an action of debt on a	905
judgment obtained in a state court by a citizen of another state	. 2

	Page
The circuit court has jurisdiction of a bill in equity by a judg-	
ment creditor against citizens of different states, to set aside	
conveyances by the judgment debtor as in fraud of creditors,	1143
although the ground of the judgment was a negotiable chose	
in action, on which a suit could not have been maintained in such court	
Union Pacific Railroad Company, under its charter, may sue and be sued in the circuit court of the United States for the	1042
district of Nebraska, without reference to citizenship	1043
An averment of citizenship equivalent in import to a direct al-	1071
legation is sufficient to give jurisdiction —Circuit courts.	
Have no jurisdiction except such as is expressly granted by	
	728
congress Circuit court of district other than that of bankruptcy proceed-	
ings has jurisdiction of cross bill by assignee to redeem mort-	
gage property of which it is not deprived by sale of interest by	832
gage property of which it is not deprived by sale of interest by	
assignee pendente lite	
assignee pendente lite The concurrent jurisdiction conferred on the circuit court by the bankru	nt act
The concurrent jurisdiction conferred on the circuit court by the bankru	-
The concurrent jurisdiction conferred on the circuit court by the bankru (1867, § 2) does not include an action to collect a simple debt-Its scope	-
The concurrent jurisdiction conferred on the circuit court by the bankru $(1867, \S 2)$ does not include an action to collect a simple debt-Its scope —District courts.	-
The concurrent jurisdiction conferred on the circuit court by the bankru (1867, § 2) does not include an action to collect a simple debt-Its scope $-D$ istrict courts. Have original jurisdiction of all cases and controversies be-	-
The concurrent jurisdiction conferred on the circuit court by the bankru (1867, § 2) does not include an action to collect a simple debt-Its scope —District courts. Have original jurisdiction of all cases and controversies be- tween third persons and an assignee in bankruptcy, as such.	314
The concurrent jurisdiction conferred on the circuit court by the bankru (1867, § 2) does not include an action to collect a simple debt-Its scope —District courts. Have original jurisdiction of all cases and controversies be- tween third persons and an assignee in bankruptcy, as such. —Administration of state laws and decisions.	314
The concurrent jurisdiction conferred on the circuit court by the bankru (1867, § 2) does not include an action to collect a simple debt-Its scope —District courts. Have original jurisdiction of all cases and controversies be- tween third persons and an assignee in bankruptcy, as such. —Administration of state laws and decisions. Decision of state court as to character of negotiable paper	314
The concurrent jurisdiction conferred on the circuit court by the bankru (1867, § 2) does not include an action to collect a simple debt-Its scope —District courts. Have original jurisdiction of all cases and controversies be- tween third persons and an assignee in bankruptcy, as such. —Administration of state laws and decisions. Decision of state court as to character of negotiable paper does not constitute a rule of decision for federal courts	314 314
The concurrent jurisdiction conferred on the circuit court by the bankru (1867, § 2) does not include an action to collect a simple debt-Its scope —District courts. Have original jurisdiction of all cases and controversies be- tween third persons and an assignee in bankruptcy, as such. —Administration of state laws and decisions. Decision of state court as to character of negotiable paper does not constitute a rule of decision for federal courts Circuit court, in aid of its general chancery powers, may en-	314 314
The concurrent jurisdiction conferred on the circuit court by the bankru (1867, § 2) does not include an action to collect a simple debt-Its scope —District courts. Have original jurisdiction of all cases and controversies be- tween third persons and an assignee in bankruptcy, as such. —Administration of state laws and decisions. Decision of state court as to character of negotiable paper does not constitute a rule of decision for federal courts Circuit court, in aid of its general chancery powers, may en- force right given by state law	314 314 229 1069
The concurrent jurisdiction conferred on the circuit court by the bankru (1867, § 2) does not include an action to collect a simple debt-Its scope —District courts. Have original jurisdiction of all cases and controversies be- tween third persons and an assignee in bankruptcy, as such. —Administration of state laws and decisions. Decision of state court as to character of negotiable paper does not constitute a rule of decision for federal courts Circuit court, in aid of its general chancery powers, may en- force right given by state law Such court may remove a cloud on title as defined by state	314 314 229
The concurrent jurisdiction conferred on the circuit court by the bankru (1867, § 2) does not include an action to collect a simple debt-Its scope —District courts. Have original jurisdiction of all cases and controversies be- tween third persons and an assignee in bankruptcy, as such. —Administration of state laws and decisions. Decision of state court as to character of negotiable paper does not constitute a rule of decision for federal courts Circuit court, in aid of its general chancery powers, may en- force right given by state law	314 314 229 1069 1069
The concurrent jurisdiction conferred on the circuit court by the bankru (1867, § 2) does not include an action to collect a simple debt-Its scope —District courts. Have original jurisdiction of all cases and controversies be- tween third persons and an assignee in bankruptcy, as such. —Administration of state laws and decisions. Decision of state court as to character of negotiable paper does not constitute a rule of decision for federal courts Circuit court, in aid of its general chancery powers, may en- force right given by state law Such court may remove a cloud on title as defined by state laws A state court's construction of a state statute forms a rule of	314 314 229 1069
The concurrent jurisdiction conferred on the circuit court by the bankru (1867, § 2) does not include an action to collect a simple debt-Its scope —District courts. Have original jurisdiction of all cases and controversies be- tween third persons and an assignee in bankruptcy, as such. —Administration of state laws and decisions. Decision of state court as to character of negotiable paper does not constitute a rule of decision for federal courts Circuit court, in aid of its general chancery powers, may en- force right given by state law Such court may remove a cloud on title as defined by state laws	314 314 229 1069 1069
The concurrent jurisdiction conferred on the circuit court by the bankru (1867, § 2) does not include an action to collect a simple debt-Its scope —District courts. Have original jurisdiction of all cases and controversies be- tween third persons and an assignee in bankruptcy, as such. —Administration of state laws and decisions. Decision of state court as to character of negotiable paper does not constitute a rule of decision for federal courts Circuit court, in aid of its general chancery powers, may en- force right given by state law Such court may remove a cloud on title as defined by state laws A state court's construction of a state statute forms a rule of decision for the federal court 707,	314 314 229 1069 1069
The concurrent jurisdiction conferred on the circuit court by the bankru (1867, § 2) does not include an action to collect a simple debt-Its scope —District courts. Have original jurisdiction of all cases and controversies be- tween third persons and an assignee in bankruptcy, as such. —Administration of state laws and decisions. Decision of state court as to character of negotiable paper does not constitute a rule of decision for federal courts Circuit court, in aid of its general chancery powers, may en- force right given by state law Such court may remove a cloud on title as defined by state laws A state court's construction of a state statute forms a rule of decision for the federal court 707, State laws in force prior to Dec. 1, 1873, are rules of decision	314 314 229 1069 1069 811

	Page
Where there are several defendants residing in different dis- tricts of same state. (Act May 4, 1858.)	280
Rule of state court requiring term notice, not adopted by fed- eral court, is not obligatory on it	1064
The examination of an adverse party as a witness, before trial, as provided by state law, not followed by federal court	1178
Territorial courts.	
Causes of a federal character pending in supreme court of ter-	
ritory of Colorado at time of admission as state may be heard	1025
and decided in federal courts	
Local courts.	
Levy of a foreign attachment (in Ohio) gives jurisdiction	739

	Page
The court of common pleas in Ohio is a court of general ju- risdiction	739
Suit for specific performance of contract for sale of land in	
District of Columbia, instituted in state court prior to Act Feb.	737
27, 1801, may thereafter proceed to final decree	
If verdict reduced below \$20 by account in bar in circuit court	1111
of District of Columbia, there must be judgment of non pros. COVENANTS.	1111
Of title, not implied in a deed without covenants	518
No action lies against grantor on a deed without covenants CREDITOR'S SUIT.	518
Cannot be maintained by general creditor to set aside a con-	
veyance, unless he has a lien on the property, or has reduced	807
his claim to judgment	
Will be dismissed if it is apparent that there was no bona fide	
attempt made by the officer to find property to satisfy the	1010
judgment	
Sustained though defendant had property subject to levy,	1010
where it was mortgaged and his affairs complicated	1010
Marshal's return of execution nulla bona is a sufficient basis	
for a creditor's bill, the burden of showing it to be false being on defendant	1010
Such falsity may be shown by establishing that the debtor had	
property liable to execution, and which could have been	1010
levied on, though insufficient to pay the debt	
The presumption in favor of the truth of the marshal's return	
of nulla bona is not overcome by the fact that he returned the	1010
process on the day he received it	
A court of equity may control the custody of notes assigned as	
security so as to prevent their being negotiated, to the detri-	298
ment of the judgment debtor of the owner	
On bill by judgment creditor to set aside conveyance as fraud-	
ulent, the court will look into the original consideration, and	1143
give the creditor only what appears due him	
CRIMES.	
A person who encourages, countenances, and supports anoth-	465

er in a murder is an accessary

	Page
CURTESY.	
Seisin during coverture must be shown, to entitle husband to	903
claim as tenant by curtesy. Exceptions	903
Entry on wild land not necessary, to enable the husband to	903
claim as tenant by the curtesy	703
CUSTOMS-DUTIES.	
Customs laws.	
Terms of tariff act must be construed according to commercial	325
usage and understanding, which is a question for the jury	545
Specific description in act of 1840 must prevail over commer-	382
cial designation known at time of passage	504
Rates of duty.	
Coral cut into form of a cameo, but not set. (Act 1846,	382
amended 1857)	J04
"A manufacture of hemp" does not include "hemp carpeting"	1054
so called in the trade, which, in fact, contains no hemp.	1054
Invoice: Appraisal.	
Act Aug. 30, 1842, § 17, authorizes penalty of 50 per cent, for	763
undervaluation of any goods other than those purchased	703
Secretary of the treasury has no power to fix a chemical analy-	971
sis of Peruvian bark as the only test of dutiable value.	//1
Ad valorem duties are paid on the quantity actually imported,	
(Act 1846,) and, where such quantity is measured by weight, a	235
loss in weight will proportionally diminish duties, though val-	4,55
ue is not diminished	
Expense of salt sacks is embraced in "all costs," and is to be	837
added to market value of salt	0.57
Market value of sugars transported from Cuba to Halifax, and	840
thence imported, how ascertained	010
In arriving at market value at port of exportation, purchaser	
can only be required to adopt methods usually adopted by	971
merchants in making purchases	
Rule for ascertaining ad valorem dutiable value of merchan-	
dise procured by purchase prescribed by Act 1842, § 16, not	837
repealed by Act 1846	

	Page
Values of imported goods subject to specific duties are ascer-	-
tained in the same manner as those subject to ad valorem du-	369
ties. (Act 1820)	
The determination of appraisers as to the market value in the	
foreign markets of an importation subject to ad valorem duties	369
(Acts 1823, 1851) is conclusive	
Otherwise as to goods subject to specific duties	369
The principal appraisers must act in person. An appraisal on	044
certificate of a deputy is void. (Acts 1842, 1846)	816
Merchant appraisers need not act in presence of importer	595
Act March 3, 1851, § 3, in regard to reappraisals, applies to	- ( -
goods imported by their manufacturer	763
Bonding: Warehousing.	
Right of collector to enforce payment of half fees on entry and	~-
appraisal of goods in bond and storage in private warehouses	87
On the warehousing and re-exporting of imported goods the	
importer is not entitled to recover back amount of the penalty	971
paid because of an undervaluation	
Payment: Protest: Appeal.	
Protest alleging that appraisers were prejudiced and incompe-	
tent, but failing to particularize, is ineffectual	595
Protest claiming article as nonenumerated. when in fact it was	1054
enumerated, though wrongly classed, is insufficient	1054
Specific protest, which does not refer, to or affirm a prior	
prospective protest, must be regarded as evidence of abandon-	1054
ment of all grounds of objection	
Sufficiency of prospective protest	1054
Addition at end of protest, "and hereby protest on all future	
entries of the same goods," is ineffectual as a prospective	1054
protest to aid an insufficient specific protest	
Official appraisers, even after appeal taken, have right to pro-	071
duction of all documents connected with importation	971
Importers, by withdrawing their appeal to the merchant ap-	
praisers, and refusing to produce the documents connected	071
with the importation as called for by the official appraisers, fix	971
the correctness of the appraisement	
Collection officers.	

	Page
Jurisdiction of surveyor for port of East-port includes district of Passamaquoddy	269
Commissions of collector under Act 1820	1020
DAMAGES.	
In estimating damages for personal injuries caused by negli-	
gence, injury done, pain endured, time lost, and expense in-	1180
curred will be considered	

	Page
Suffering or wounded feelings of parent not considered in es-	
timating damages for loss of child, but only actual pecuniary	827
Exemplary damages awarded against railway company for acci-	
dent happening in consequence of gross negligence or drunk-	1110
enness of its servants	
Special damages, not specially pleaded, and not necessarily im-	
plied, cannot be recovered, although evidence thereof has	988
been :given without objection	
If amount of damages warranted by evidence, court will not inquire how jury reached result	1087
DEATH BY WRONGFUL ACT.	
Under Ill. Act, Feb. 12, 1853, action can be maintained for	
benefit of next of kin, though they had no legal claim on de-	
ceased for support. It is not necessary to allege or prove actual	934,935
pecuniary loss	
In such cases there is no fixed measure of damages, but it is a	
question for the iury	934
What circumstances the jury may consider	935
A recovery in a former action for medical attendance, expens-	
es, loss of service and time before the death of a child, does	827
not affect the damages recoverable under the statute	
DEBT (ACTION OF.)	
Will not lie on a decree for an unascertained contribution	
from stockholders to pay the debts of the company	624
DEBTOR AND CREDITOR.	
A debt is discharged by a tender and acceptance of a less sum	(=
in full satisfaction	670
A transfer of specific property to trustees for the use of credi-	
tors, under a mutual agreement that the property shall be re-	~
ceived in full satisfaction and discharge of their several de-	977
mands, constitutes a valid accord and satisfaction	
Parties who sign composition deeds must do so in good faith	1132
Purchaser of lands subject to judgment lien cannot require of-	~ =-
ficer to marshal debtor's lands in order of attaching of the lien	957
DEDICATION.	

	Page
Of street for public uses includes its use as a wharf, if run-	886
ning to or bounded on navigable water Solling building late by man defining shutting streat, not	
Selling building lots by map defining abutting street, not opened, is a dedication of the street for public use, but the fee	886
simple does not pass to the city	000
The public square in Council Bluffs <i>held</i> to be dedicated to	
the public by the platting and acknowledgment thereof, and	1082
acts in pais by the dedicator	
A street dedicated to a city vests in the public, subject to its	
regulation and improvement by the corporation, and cannot be	771
treated or used as private property by that body DEEDS.	
Of bargain and sale by a person not in possession is void	686
Of release, if it cannot take effect as a release, may be con-	
strued in furtherance of the intention of the parties as a bar-	495
gain and sale	
In construing, effect is to be given to every expression, if it can	771
reasonably be done	, , –
Ambiguity requires deed to he construed most strongly	771
against grantor	
Mortgagee in good faith from grantee in deed deposited in es- crow, and recorded by depositary without notice to grantor,	368
will be protected	300
Deed absolute may be shown to be a mortgage	660
DEPOSITIONS.	
Notice at Washington on Dec. 31, of taking of deposition in	908
Baltimore on Jan. 2, is not reasonable	900
Where all parties reside in the place. a notice to take deposi-	101
tions on following day is not too short	202
Notice of taking, directed to the party, may be served on his	907
attorney	
Residence of adverse party sufficiently averred by certificate of magistrate that it appears to him that he resides more than	763
100 miles from place of caption	/03
Where an issue is joined between plaintiff and garnishee, de-	
positions must be entitled in the garnishee's name	471
- 0	

	Page
Depositions sworn to before justice of peace, if taken under rule of court, may be read	583
A deposition, though merely to prove a pedigree, if taken by others than those named in the commission, cannot be read	583
It must be shown that witness whose deposition was taken de bene esse was served with subpoena, and is unable to attend	583
The deposition of a deceased witness as to pedigree may be read, though taken in another cause between other parties, and on a different subject	583
A deposition, after having been read, may be waived and withdrawn by party offering it	753
When filed for three years, motion to suppress for irregulari- ties is too late	649
A suppression of answers to questions in a deposition war- rants finding that they were prejudicial	1183
DESCENT: DISTRIBUTION.	
Heirs of deceased debtor not permitted to have rents and	728
profits of realty until the sale to pay debts	,
DISCONTINUANCE.	
An attachment by way of execution is discontinued if there is	747
no appearance at the return term	
DISCOVERY: INSPECTION.	
Discovery will not be granted in aid of a suit at law not in the	195
proper form of remedy	
On bill for infringement of copyright, waiving forfeiture, dis-	195
covery may be compelled in aid of recovery of damages	
Bill does not lie if plaintiff has knowledge or means of proof,	439
or the same means as defendant	
Defendant cannot be compelled to make discovery to a bill	195
seeking to enforce penalties and forfeitures	
If relief not incidental to discovery; bill does not give power to	
make final decree where answer discloses nothing, or denies	439
all equity	
DISMISSAL: NONSUIT.	
Where plaintiff cannot sustain his bill, it must be dismissed at	902
his costs, regardless of grounds of equity	

	Page
Want of proper averments in declaration cannot be made ground of nonsuit	987
EASEMENT.	
In determining the right to an easement of way acquired by	
user, the fact of user and susceptibility to such use must appear	771
Presumption of grant to public by uninterrupted use of way	
for convenience requires much shorter time than in case of use by individual	771
Such presumption may be repelled by showing owner's asser- tion of right, and denial of use assumed by public	771
The right of city inhabitants to access to a river over town pro- prietors lands is a mere right of way	771
By accepting conveyance without objection, and with knowl- edge that a street through the demised premises had been dedicated, grantee takes subject to the easement thereof EJECTMENT.	771
Title acquired after date of demise cannot sustain the action	1085
A lease for the sole purpose of mining vests a corporeal inter-	810
est sufficient to sustain ejectment	010
Joinder of parties holding separate and distinct possessions	1060
Landlord not permitted to defend alone in ejectment without consent of plaintiff in Pennsylvania	1188
No person, can claim privileges of an occupant (Act Tenn. 1806) unless he has actually settled on land claimed	1005
When defendant allowed to take possession of prior occupant to his own to bar action by length of possession	781
Possession held to pass under conveyance in like manner as if grantee had actually entered	1060
A presumption of title may arise from long possession under circumstances favorable to such presumption, but may be re-	429
butted by positive proof An equitable claim, however strong, cannot be set up to de- feat the legal title	429
One seeking to invalidate or avoid a deed for adverse posses- sion must impeach it	903

	Page
Defendant who has no title cannot question conduct of	-
trustee in conveying to plaintiff	1060
Death of plaintiff's lessor does not abate	1085
A demise in the name of one deceased will be stricken out on motion	1085
It is sufficient to describe the locus in quo sufficiently to ac- quaint defendant with knowledge of what is claimed, and to enable him to prepare his defense	771
Municipal corporation must sustain its title by proof of as high an order as would be necessary by an individual	771
The truth of recitals in deeds, offered only to show the trans- mission of the legal title, need not be proved aliunde	686
Plaintiff may recover mesne profits, on giving notice that he means to proceed for them	1032
Plaintiff must prove the length of defendant's enjoyment of the premises, and their value	771
EMINENT DOMAIN.	
See, also, "Waters."	
Land may be taken for a railroad, under legislative authority,	574
upon just compensation being made	574
Private property cannot be taken for public use until compen-	
sation is actually made. A provision for ascertaining and mak-	245
ing compensation afterwards is not sufficient	
Congress has no power to authorize a telegraph company to	
construct its line over private property without making com-	116
pensation	
Act Md. 1785, c. 49, respecting taking of land for private ways, is valid	831
Such act is in force in the county of Washington, D. C	831
Authority to construct and repair railway, and take materials	
therefor, does not give right to divert waters for use of engines	784
Authority to take materials or divert water for use of railroad	
from lands contiguous to, adjoining, or near the railroad, is not	784
limited to lands bounding the road	
Pour days' notice of meeting of jury to fix damages is suffi-	574
cient	5/4
EOUTIV	

EQUITY.

	Page
Jurisdiction.	
Will not entertain jurisdiction if plaintiff has a plain, adequate,	439
and complete remedy at law	107
One threatened with proceedings under a void act has an ade- quate remedy at law	472
Has no cognizance of executed trusts enforceable at law	439
An executed trust cannot be revived by nonexecution of trust	439
arising from subsequent agreement relating to same subject	437
Has power to enjoin state officers from acting under a law im-	580
pairing the obligation of a contract made with the state	300
Will not interfere to restrain an act done under color of au-	105
thority conferred by law, until the right is determined at law	105
Will not entertain jurisdiction of defenses available in another	486
court in prior case	100
An impediment to navigation by a bridge, causing sail vessels	
to strike their masts, may be adequately compensated in dam-	105
ages, and equity will not interfere	
A suit may be brought to give effect to a decree where the	
conditions of the original decree are not appropriate to the	624
powers of a court at law	
Has jurisdiction of suit to set aside fraudulent conveyances by	1143
a judgment debtor	
There cannot be concurrent jurisdiction at law and in equity	
where the right and remedy are the same, but equity may pro-	439
ceed in aid of the remedy at law	
The judiciary act of 1798, § 16, settles the law as to cases of	439
equity jurisdiction in the nature of an exception to its exercise	,
Jurisprudence.	
The vendee, coming into equity to obtain the legal title of a lot	
upon which the purchase money has been fully paid, must	630
pay the balance due the vendor upon other lots	
Courts of equity act upon the analogy of the limitations at law,	
and will refuse to interfere where there has been gross laches,	331
and in some cases even short of the statutory period	
In the case of concealed fraud, complainant must set forth and	331
prove the particularities of the discovery	

	Page
Staleness of demand may be relied on at hearing, though not presented by pleadings	439
Bill will be dismissed where answer positively denying mat- ters charged is not overcome by testimony of two opposing	
witnesses, or of one witness corroborated by facts and circum-	331
stances	

	Page
Rule that transfers between persons occupying fiduciary rela-	198
tions will be carefully scrutinized applied	-)0
Changes since the Revolution in rules and principles in Eng-	439
lish chancery not followed by federal courts	
EVIDENCE. Presumptions.	
The grantor of land is presumed to bealive until the contrary	
appear	1032
Best and secondary.	
Parol evidence cannot be given of contents of letter without	
previous notice to produce	747
A note paid by a renewal note, and given up to the maker,	= 10
may be proved by the former holder by parol	749
The record copies of deeds are admissible without proving	686
execution or loss of originals	000
Documentary.	
Signature and seal must be sufficiently legible and distinct to	
be read and distinguished to entitle paper to respect as official	121
document	
The record in other suits between defendant and other plain-	614
tiffs cannot be read in evidence by plaintiff	
A demurrer whereby a certain fact is considered in law as ad-	016
mitted is not evidence of the fact in another cause between	216
the same parties 215, A deed recorded under a decree in chancery may be adduced	
in a subsequent action and identified, though it did not re-	686
main on file in the suit	000
A genealogical table, certified under the seal of foreign office,	
is not evidence	583
The exemplification of the record of a mortgage is sufficient	
evidence of the existence of the mortgage and the debt due	1118
thereon	
Exemplification of record of copy of deed not evidence	781
Parol, etc., affecting writings.	
Parol evidence not admissible to explain writing unless its ex-	215
pressions are shown to be equivocal	

	Page
The meaning of "rainy day" in charter party may be shown by	539
surrounding circumstances, including usage of port or trade	539
Evidence is admissible to show that a cashier, in taking a note	
running to himself as "cashier." was acting as an agent of a certain bank	663
Parol evidence is inadmissible to vary the obligation of the	660
parties in a contract under seal	660
The official character of the certifying officer, not appearing on	686
the deed, may be proved by parol	000
A father and son had the same name but different residences.	
A patent for land bought with the father's money named the	300
son as grantee. was inadmissible to show mistake	
Declarations; admissions.	
Declarations made by surveyor when laying off town are in-	771
competent to impeach map of survey adopted by proprietors	//1
Acts and admissions of one of several joint contractors or	709
promisors are admissible against all	709
Hearsay.	
Is admissible for the purpose of proving boundaries, ancient	1175
landmarks, pedigree, and prescription	11/)
Competency: Eelevancy: Materiality.	
The belief of a witness, together with the facts upon which it	642
is founded, is admissible	074
A memorandum by a bank's note clerk, since deceased, that	
he had delivered a certain notice, is admissible in favor of the	692
bank	
Weight and sufficiency.	
In case of conflicting testimony, the witnesses having best	266
means of knowledge are to be credited	200
EXECUTION.	
Court will not order it to be issued in other than the name	
appearing in the judgment, though through mistake of the	718
clerk there is an obvious misnomer	
Is a lien (in Colorado) on the debtor's property from the time	978
it is delivered to the sheriff to be executed	770
Is not levied so as to give a lien against purchasers or credi-	858
tors if the property is permitted to remain with the debtor	

	Page
To make levy effectual, property seized should be specially designated in return or by reference to a schedule accompany-	858
ing it	030
The effect of a seizure is to change the property in the goods, and vest it in the sheriff	858
Marshal is not bound to hold execution for full, sixty days	1010
Issued more than a year and a day after judgment not revived by sci. fa., <i>held</i> void	278
Motion allowed to take money out of court levied to satisfy a	278
judgment, to pay a prior judgment	270
Parties claiming a superior lien on property levied upon by a	
marshal may proceed by intervention, and ask judgment against the debtor	596
The deed of the auditors (in Ohio) may be made to the pur-	739
chaser at the sale, or to his order	/39
The creditor has a remedy by action against the officer for ir-	278
regularities in proceeding under the execution	2,0
EXECUTIVE DEPARTMENTS.	
The executive power cannot be revised and corrected by the	71
judicial	/1
EXECUTORS AND ADMINISTRATORS.	
An executor in a will not named as trustee therein with oth-	
ers to whom land is devised in trust has no power to convey the land	1172
Administrator is not bound to pay over money to creditor of	
deceased partner of his intestate, and cannot set up such pay-	874
ment in defense of action by representatives	071
Administrator de bonis non cannot be charged as such with	
property fraudulently conveyed to him by deceased	316
Administrator de bonis non is liable to banker for money	
credited by mistake to the intestate, and paid to the original	804
administrator	
Executor de son tort is liable for value of goods taken and used	1091
The ascertainment of assets must precede a judgment against	
an executor or administrator for a debt of his decedent	748

	Page	
The auditor's report as to the amount due from an intestate is prima facie correct, and admissible in evidence	742	
Executors appointed in New York under probate of will there		
not authorized to maintain actions for collection of assets of	977	
estate of deceased in California		
The objection that plaintiffs are foreign executors may be taken at the he	earing,	977
where it does not appear on the face of the complaint		9//

	Page
Jurisdiction and procedure of orphans court of Alexandria county in fixing compensation of executors	114
Accusations falsifying probate accounts for fraud must be spe- cific, especially after parties implicated are dead	331
In a suit against an administrator for an, account, the commis- sioner to whom it is referred cannot admit an administration account settled in another jurisdiction without knowledge of plaintiff	316
FALSE IMPRISONMENT.	
The detention of a person arrested in the Indian country be-	
yond the time allowed by law for removal is a false imprison-	770
ment	
Frauds (Statute of.)	
See "Sales."	
FRAUDULENT CONVEYANCES.	
See, also, "Bankruptcy."	
The joint possession by husband and wife of property con-	702
veyed to her separate use is no evidence of fraud	
The right in a chattel under a contract which does not give a	159
right to possession is no badge of fraud	
Power reserved in trust deed to dispose of trust property with	702
consent of trustee, upon substituting an equivalent, is not evi- dence of fraud	702
A voluntary conveyance to wife or children by solvent grantor,	
not impeachable by subsequent creditors, if not actually fraud- ulent	807
Such deed may become fraudulent by concealment from the	986
public, and credit by reason of supposed ownership	,
Postnuptial deed founded on release of dower in husband's	
lands and mortgage to his creditors of lands held in trust for	702
the wife's separate use, is not voluntary	
Failure of a first incumbrancer to give notice after a second in-	702
cumbrancer has advanced his money is no evidence of fraud	
A bona fide purchaser without notice from a grantee, to whom property has been conveyed to defraud creditors, is en-	1143
titled to hold against grantor's creditors	1143

	Page
The donee of slaves is liable to the creditors of the insolvent	
donor only for the slaves and their issue living at the time of	316
the demand therefor, and their hire from such time, and the	520
proceeds of sales by him	
A conveyance made with intent to defraud creditors, not per-	
mitted to stand as security for advances made to the grantor	1143
on account of such conveyance	
GRANTS.	
Law implies a grant of those things without which the princi-	771
pal subject cannot be enjoyed, as incident thereto	//1
The oldest grant is conclusive evidence of title at law, except	1005
in the single case of an elder legal entry	1003
GUARDIAN AND WARD.	
The court, on motion, will appoint a guardian ad litem for in-	770
fant defendant	//0
HABEAS CORPUS.	
A commissioner has no power, by habeas corpus, to bring be-	
fore him a committed person, for the purpose of giving his de-	851
position to he used in a pending cause	
HOMESTEAD.	
See, also, "Bankruptcy."	
Head of family need not be sole owner of fee; it is sufficient	
that he has an interest subject to execution sale. (Neb. Code,	963
§ 525)	
A widow having charge of household and domestic affairs in	
the home of her brother, and making it her home, is a part of	367
his family	
A family engaged to live in a farm house with the owner, and	
work the farm on shares, subject to his management and con-	367
trol, are not a part of his family	
Occupation by wife and family is equivalent to occupation by	0(2
husband.	963
Bight to homestead exemption, <i>held</i> not abandoned by three	<u>∩∕</u> =
years residence in another place	367
HOMICIDE.	

	Page
A person under reasonable apprehension of danger of life or	
great bodily harm, not arising out of his own act, has the right,	465
in self defense, to kill the aggressor	
INJUNCTION.	
Granted to stay execution upon a judgment obtained against a garnishee by surprise	462
Granted to restrain an entry on land without authority of law to divert a stream thereon	784
Granted to restrain action on negotiable instrument by payee	
where note was given under agreement that it should be paid	28
in services which maker has always been ready to perform	40
Will not issue to restrain a completed act	784
Not granted to restrain patentee from bringing suits on his	,-,
patent before the patent is adjudged invalid.	5
Temporary injunction against collection of taxes under state	
authority, granted, with leave to bring question, before full	365
bench	505
On motion for preliminary injunction, court will not decide	
fairly disputable questions of law and fact 391,	784
Complainants who delay until the substance of an injury is	
completed forfeit right to preliminary injunction	784
INNKEEPERS.	
Whether a house is an inn or a boarding house is determined	
by the right of the proprietor to select hiB guests	1111
INSOLVENCY.	
A discharge of a debt under the laws of the state where con-	
tracted is good every where	305
A discharge under a state insolvent law does not bar a debt	
contracted in another state with a citizen there	756
INSURANCE.	
Marine insurance.	
Master who, to prevent loss, buys in cargo at a public sale af-	
ter abandonment, does not become owner so as to have an	817
ins arable interest	01/
Under an order to insure a given sum, agent cannot insure to	
cover premium in same policy with that to cover value	984
cover premium in sume poncy with that to cover value	

	Page
A misrepresentation as to time of sailing, if material to the	1058
risk, avoids the policy	
Traders in. belligerent country cannot recover on policy made	1020
with warranty of neutrality, where belligerent character not disclosed	1039
"Warranty of American property <i>held</i> to extend to all cargo	1065
put on board on which policy is to attach	1005
In an action against insurers, invoice on board afi time of cap-	
ture as enemy's property, and deposition of mate, competent evidence for defendant	279
Plaintiff, to recover under an open policy, must prove his in-	
terest and the value of the property	1109
Bill of lading of outward cargo no proof of interest in home-	1109
ward cargo.	1109
Interest in a return cargo cannot be proved by the certificate	1109
of a supercargo, nince deceased, or by his declarations	110)
Fire insurance.	
Trustee appointed in place of one named in will, who declines	306
to serve, has insurable interest	9
There is no privity of contract between consignor of goods	
shipped to be sold on commission and an insurance company	674
with which the consignees for their own benefit insure their	-,.
interest to the full value of the goods	
Charging insurance brokers with a premium due, though not	
paid, renders company liable, notwithstanding condition that	585
policy shall not be in force until premium is actually paid	
Keeping saltpetre on hand to cure meat is not within prohibi-	1087
tion of storing or vending it	
The storing or selling of an inconsiderable quantity of saltpetre	1005
is not within prohibition of storing or vending. But a keg of saltpetre is a considerable quantity	1087
The conditions annexed to the policy, in order to bind in-	
sured, must be brought to his attention at or before the time	1007
of the contract of insurance	- ,
sured property must be evidenced in the manner provided in	1021
the contract	
	1021

	Page
A consent to an indorsement on a policy, payable in the case	
of loss to" a third person, is not a consent to change of owner-	1021
ship to such person, where such change was not known at the	
time	
Whether goods embraced in a stock insured as "dry goods"	1007
were or were not "dry goods" is for the jury	
An instruction that the arson charged against owner in de-	
fense of action or policy need not be proved beyond a reason-	1087
able doubt is not necessary where court correctly charges as to	
measure of proof required	
Life insurance.	
Legal title to policy obtained by husband on his life for bene-	1166
fit of his wife is in her	
Accident insurance.	
Death from inadvertent taking of overdose of opium pre-	
scribed by physician is not caused by external, violent, and ac-	1077
cidental means, but by medical treatment, within exception of	
accident policy	
Insurance agents.	
Where the insurer contracts by and through the solicitor of in-	
surance, a clause in the policy declaring that persons acting as	1007
solicitors are agents of the insured and not of the insurer, is	
invalid	
Local agent of foreign insurance company has power to bind	1020
company by parol contract to renew policy with one having no	1038
knowledge of restrictions on his authority	
INTEREST.	
An account made up of principal and interest, when settled,	407
bears interest on the aggregate balance	
Is recoverable on bond with penalty only from commence-	722
ment of suit, where no demand or acknowledgment is made	
A state statute allowing interest on unpaid installments of in-	
terest has reference to installments due by contract, and does	956
not apply to interest accruing by operation of law	
Accrues by operation of law after maturity of note providing	956
only for semiannual installments of interest	
INTERNAL REVENUE.	

INTERNAL REVENUE.

	Page
Assessor has power to make a supplementary assessment, in-	825
creasing amount of distiller's tax	
In a suit to recover back taxes paid on a reassessment, for er-	
ror in the first assessment, the record of reassessment is not	825
evidence of the error	
JUDGMENT: DECREE.	
Bendition and entry.	
Bank of Alexandria is entitled to judgment at the first term	600
A defendant arrested to appear at next term cannot come in	37
and confess judgment before such term	57
Where the record is destroyed after verdict, plaintiff after sev-	
en years allowed to file transcript of record in his possession,	517
and enter judgment thereon	
Where defendant dies after verdict and before judgment, his	
personal representative must be made a party by direct pro-	517
ceedings	
Operation and effect.	
The regularity of proceedings under which a vessel was sold	
cannot be inquired into in trover in another district court for	818
her possession	
A judgment of a court of general jurisdiction, having cog-	
nizance of the case, however erroneous, will protect pur-	739
chasers thereunder	
Where a bill is dismissed on motion of complainant before	
testimony taken is published, and without a hearing on the	327
merits, the record is no bar to another suit	
New parties to a second suit, not privy to the parties in the	
first suit, cannot introduce the former judgment in their favor,	791
though seeking to enforce the same rights. Exceptions	
A judgment against a bank in a suit upon its teller's bond, is	
no bar to an action for money had and received by him for its	701
use	
A judgment without process is not a lien on personalty	325
The lien on lands created by a judgment depends upon the	- 10
right to sue out an elegit	743
A judgment lien operates only upon such property as is sub-	
ject to levy and sale under legal process issued for its payment	325

	Page
A judgment lien does not operate upon property at the time	325
in possession of the sheriff under attachments	343
The lien of a judgment on which execution is stayed dates on-	743
ly from the time when execution may be sued out	
A judgment rendered in a federal court is a lien from its date	
on all lands of defendant within the district, and (in Indiana)	957
on those subsequently acquired from such time	
A judgment lien takes effect from the first day of the term,	
and is prior to the lien of a mortgage executed before such	626
day, and recorded on a later day, when the judgment was en-	020
tered	

	Page
A judgment upon a verdict, subject to the opinion of the	
court upon a case stated, does not relate back to the date of	684
the verdict as against an intermediate judgment	
If execution is not issued and levied within a year, the judg-	
ment is no lien as against a subsequent judgment, as to which	707
execution was duly issued and levied	
Belief against: Opening: Vacating.	
A judgment or order finally disposing of a case cannot be re-	
viewed at a subsequent term on motion, but errors therein	596
may be corrected	
On motion of special bail on return of sci. fa., court will set	
aside original judgment against the principal, for irregularity,	217
and all subsequent proceedings	
Money paid on an erroneous judgment, may after reversal be	
recovered back in an action for money had and received. Such	747
recovery may be had though a venire denovo is awarded 745,	
Of different jurisdictions.	
The federal court in a suit by an assignee in bankruptcy will	
not examine into the validity of a judgment confessed by the	112
bankrupt in a state court whose jurisdiction is not denied	
Actions on judgments.	
Praud in the recovery of a judgment in another state cannot	
be pleaded in an action thereon unless such defense could be	906
made in the courts of such state	
JUDICIAL SALE.	
Court will set sale aside, if not fairly made	617
LANDLORD AND TENANT.	
One holding over under a written lease is bound for the rent	476
therein stipulated	470
Landlord evicting tenant from part of premises cannot distrain	465
for rent	403
Where rent is payable quarterly, plaintiff cannot recover for a	637
quarter unexpired at the time of an eviction.	037
The same principle applies where the rent is payable yearly	637
Slave of third person, hired to lodger, cannot be distrained for	1111
rent due by boarding-house keeper	1111

LIBEL: SLANDER.

	Page
Words not in themselves importing anything injurious may be	
shown, by other matter alleged, to have been spoken with in-	1181
tent to affect plaintiff's credit and standing as a merchant	
Access by the clerks generally of a mercantile agency to books	1183
of mercantile reports prevents them from being privileged	-
Communications made by a mercantile agency, through its	
clerks and agents, to its customers as to the pecuniary ability	1187
and standing of merchants are not privileged	
It is no justification, that defendant received his information	105
from his slave, as no action will lie against a slave	<b>_</b> ()
Malice inferred from persistency in keeping libelous matter on	1183
defendant's mercantile books after notice of its falsity	
An innuendo cannot extend the sense of the words spoken	
beyond their usual and natural import except by connecting	1181
them with other matter alleged	
The truth of the publication, when relied on either in bar or	943
mitigation, must be specially pleaded	
Plea in justification must state the substantial facts which con-	943
stitute the elements of the charge, when it is general	7-13
Irrelevant matter in a plea of justification will not vitiate it,	943
even on special demurrer	7-13
Plaintiff, while not required to prove the exact words used,	1183
must show them in substance and effect	1105
Standing publication of a libel contained in book of mercantile	
reports is shown by proof that the books were not in defen-	1183
dant's exclusive possession, but accessible to his clerks	
Degree of proof required where the truth is set up in justifica-	465
tion of a charge of crime	405
Although words injurious to a man in his trade are actionable	1183
per se, plaintiff must prove the special damages claimed	1105
Plaintiffs suing as a partnership, for injuries to their business	
by libelous mercantile reports, cannot have damages for indi-	1183
vidual libel unless it affected the business of the firm	
General current reports as to the truth of libelous matter may	1183
be considered in mitigation of damages	1103
LIMITATION OF ACTIONS.	

# LIMITATION OF ACTIONS.

## Nature and operation of statutes.

	Page
A British subject who, before the treaty of 1794, took a bond in the name of a citizen of the United States, cannot avoid the	
statute of limitations by claiming the benefit of the clause	216
which removed all legal impediments in the recovery of Bri-	410
tish debts	
The statute does not run against an equitable title, nor in favor	
of one	429
The fact that the United States is a stockholder does not ex-	
empt a corporation from the operation of the statute	718
Virginia limitations act of 1819 applies to corporations	718
Time of limitation; how computed.	
The statute begins to run from the date of a note payable on	0 <b>77</b>
demand	977
Cause of action to recover back money paid on an erroneous	
judgment arises upon reversal, although a venire de novo is	748
ordered, and the statute commences to run from such time	
Time of accrual of right of action for money received	70
Exceptions; suspension	
The county of Alexandria is not "beyond seas" as to the coun-	605
ty of Washington in the District of columbia	003
Where a contract is made by a branch bank within the state	
of the plaintiff bank, the exception in favor of one "beyond the	718
seas or out of the country" is not applicable	
Acknowledgment or new promise.	
The statement by the maker of a note that he will "attend" to	600
it is sufficient to remove the bar	000
Casual acknowledgment of debt to a stranger may be suffi-	643
cient to take it out of the statute	040
An offer to compromise a debt will not take the case out of the statute 7,6	47
Written acknowledgment required to remove the bar in	830
Kansas	0,00
Pleading.	
In an action on a time note, non assumpsit infra tres annos is	644
bad on general demurrer; it ought to be actio non accrevit	011
LITERARY PROPERTY.	
An author has a commonlaw right in his manuscript, and is	981
entitled to an injunction to restrain its publication 967,	, <b>U</b> 1

	Page
It is not an abandonment to the public to use one's manu-	981
scripts to instruct others who are permitted to take copies	,
Copies so taken for purposes of instruction cannot be applied to any other purpose	981
The copyright act (1831, § 9) protects the author's right to his	
manuscript, which includes private letters	967
The common law gives protection to the author for his manu-	967
script only	907
Where an author's manuscript work has been published, he	
has not an exclusive right at common law to republish it, for	967
the first publication is a dedication to the public	
MALICIOUS PROSECUTION.	
Declaration must allege termination of proceedings	907
MANDAMUS.	
A judgment in a federal court on municipal bonds may be en-	
forced by mandamus compelling a levy of taxes, provided by	67
law for their payment	
A peremptory, instead of an alternative, mandamus will be	
granted where defendant has had ample opportunity to set up	67
all defenses	
MARITIME LAW.	
The exclusion of the maritime law will not be inferred. The	
mere absence of a tribunal to enforce it is not suflicient evi-	255
dence of an intention to exclude it	
Where obligations growing out of international commerce are	
to be adjudicated with reference to the maritime law, the lex	255
loci contractus, the lex rei sitae, and the lex loci delicti are in-	255
applicable	
MARRIED WOMEN.	
Bills of exchange and promissory notes constitute an exception	
to the rule that the wife's choses in action, other than chattels	1071
real, are assignable only in equity	
Indorsement of note to wife, and assignment of mortgage se-	1071
curing it by husband alone, is suflicient at common law	1071
Act Cal. April 17. 1850, inapplicable to husband and wife	1071
married out of state, and never having been within its limits	1071

	Page
It seems that a married woman cannot hold, to the exclusion	
of her husband or his creditors, a stock of goods purchased	243
on credit, nor the proceeds or profits. (Wis. Act Peb. 1,1850)	
A married woman, living with her husband and carrying on	
trade in her own name, cannot, in Wisconsin, become his	243
debtor, nor be garnished in proceedings against him	
MARSHAL.	
Entitled to full commissions on interlocutory sales of prize	241
Cannot enforce payment of fees by an order and an attach- ment	169
Not responsible for act of deputy not in the line of his duty	357
The deputy is an officer of the court, and may be held respon- sible as such	357
The deputy may be attached for disobedience of an order to	
pay over money received on a judgment after return of execu-	357
tion	
MASTER AND SERVANT.	
A mother cannot bind out her child	558
Binding out of apprentice in Washington county, D. 0., is of	
no effect, unless parents approve and indorse indentures with- in two months	928
MINES.	
A lease of land for the sole purpose of mining, subject to the	
owner's use of the same for tillage, gives an exclusive right of mining	810
MISTAKE.	
A father who takes no steps to have corrected a patent erro-	
neously naming his son as grantee is guilty of laches as against	300
a bona fide mortgagee from the son	
MONEY RECEIVED.	
Money paid on an erroneous judgment to the agent of the	
plaintiff may, on reversal, be recovered from him if yet in his	745
hands, or if he was given notice at the time of payment that	745
he would be required to refund it	

MORTGAGE.

	Page
The fact that no bond was ever executed is not fatal to a	
mortgage purporting to be executed to secure payment of a	521
certain sum, according to the conditions of a certain bond	
A mortgage cannot be sustained as given for an actual debt	501
other than that stated on its face, except on clear proof	521
An assignment of a mortgage, with" all sums due or to be-	
come due thereon, will include the note secured as an inci-	521
dent of the debt	
Persons consenting to change of bonds for stock in new com-	
pany, formed on foreclosure of mortgage on first, cannot have	862
new foreclosure on claim of coercion	
Legal owner of equity of redemption and of mortgage paid by	0
it <i>held</i> entitled to possession pending suit to declare title void	832
MUNICIPAL CORPORATIONS.	
A warrant to. recover the penalty of a bylaw must name the	
corporate plaintiff, and describe the offense with reasonable	901
certainty	
The mayor of Washington cannot exercise jurisdiction in a	
case in which he is a party	901
Right to lay railroad tracks and build depot or pier buildings	0.00
in city (Keokuk) streets without consent of abutting owner	898
Owner of lots in Keokuk, fronting on Water street, owns the	
fee in the Btreet to the river, and the portions reclaimed from	898
the river, subject to the public easement	
Authority to issue town bonds in aid of railroad under Illinois	<b>T</b> 0 1
acts	504
Town bonds issued after, but authorized by vote before, the	<b>T</b> 0 1
adoption of a new constitution, are not affected by it	504
Town bonds and coupons not sealed, issued under a law pro-	
viding that they should be under seal, though their wording	251
showed they were intended to be sealed," are void	
A certiorari to review the decision of a county judge, that rail-	
road aid bonds be issued, suspends the operation of his judg-	
ment, and the railroad company acquires no title to the bonds	374
issued thereunder enforceable against the town on reversal of	
the judgment	

	Page
Such reversal cannot invalidate the title of a bona fide pur- chaser	374
The purchaser from a railroad company of railroad aid bonds	
issued in fraud of the rights of the town must show that he	374
purchased in good faith and for value	

	Page
NAVIGATION.	
The right of the public for purposes of navigation is para-	245
mount to that of the riparian owner	243
Both federal and state governments mayauthorize alterations	
in navigable streams to afford greater facilities for navigation,	245
and in bo doing may take property of riparian owners, upon	243
making compensation therefor	
A law declaring a stream a public highway may be repealed	
or modified whenever the public convenience and common	105
interests of the people require it	
The construction of a railroad bridge across a navigable river,	
though authorized by state legislature, may be enjoined by fed-	427
eral court	
But where congress subsequently gives authority to construct	100
the bridge, the injunction will be dissolved	428
Where it appears that a proposed bridge across navigable in-	
land waters is a common nuisance, the proper remedy is a	105
prosecution by the state	
The nation which constructs an artificial channel may annex	255
such conditions to its use as it pleases	255
NEGLIGENCE.	
An owner who leaves uncovered an excavation made by him	
in the adjoining sidewalk is liable to a pedestrian who, in the	1180
use of ordinary care, falls into it at night	
NEW TRIAL.	
Not granted, where evidence conflicting, because court would	1087
have drawn different conclusion	1087
OFFICERS.	
The bond of a teller of a branch Bank of the United States is	
not void because executed 14 days after he has entered upon	688
his duties.	
The condition in a bond to well and faithfully behave and ex-	
ecute the office, does not render the surety liable for want of	688
skill	
The sureties on the bond of a cashier of a bank are liable for	
his acts pending the communication and carrying into effect of	722
a resolution of suspension	

	Page
PARTIES.	
Having distinct claims against same defendant cannot maintain joint suit in equity	472
A corporation which has obtained the title of one of original	
defendants pendente lite, may become a defendant, and seek	0.0.0
relief by cross bill, although it has also acquired the sole com-	832
plainant's title pendente lite	
PARTITION.	
Bill will not be entertained unless claimant's title be clear to	
the portion to be received	886
PARTNERSHIP	
Any partner may be agent of third person in drawing bills in	
favor of the firm for advances made under express authority	794
A firm may negotiate its own paper to one of its partners, or	
take his paper and and use it for the firm's purposes	794
A bill drawn by a partner in two firms, in the name of one,	
upon the other, payable to himself for his individualdebt and	
accepted, is enforceable in the hands of an indorsee without	302
notice	
In a suit for the settlement of partnership accounts, where one	
partner died insolvent his next of kin or other personal repre-	964
sentatives are necessary parties	/01
Items of partnership account cannot be recovered in a suit at	
law between the partners if the joint concerns have not been	945
settled	
In an action at law between partners, accounts rendered are	
admissible to show that the items are not of partnership ac-	945
counts	773
One who sells to a firm cannot maintain an action for the pur-	
chase price against a partner subsequently taken in	201
Debt may be maintained upon a firm note against a secret	
partner, who has not signed it, but he is not liable if the mon-	614
	014
ey obtained on its discount was not used for the firm <b>PATENTS.</b>	
Invention.	
Combination of known tool with known machine, requiring	386

only ordinary mechanical skill, not patentable

	Page
Features which a skilled mechanic would devise or apply in	947
operating a machine not patentable	, , ,
Novelty.	
A machine is patentable only when substantially new	1142
Application of old machine to new purpose is not patentable	1142
There must be novelty, either of product or of process, to	1027
make combination patentable	104/
Patent for combination cannot be supported by evidence of	1027
novelty of one of its parts	104/
Who may obtain patent.	
He who invents first, although his invenvention is imperfect	
and incomplete, has the prior right if he uses reasonable dili-	960
gence in perfecting and adapting the same	
A joint patent cannot be obtained for a sole invention of one	914
Prior public use or sale.	
Use of an invention by public for 11 months will not bar right	202
to patent	293
A prior use alone, in a foreign country, will not avoid the	060
patent	960
Nor will such prior use in this country necessarily avoid the	060
patent unless with the patentee's consent or allowance	960
Devices employed in experiments will not on their abandon-	017
ment, defeat a patent to a new and independent inventor	217
Prior description.	
Description, in printed publication, will not avoid patent, un-	0(0
less prior in point of time to the invention of the patentee	960
A prior description, to invalidate a patent, must be such as to show that	the
article described in the patent can be certainly arrived at 141,147	
Abandonment: Laches.	
Merely withholding an invention from the public does not	
amount to an abandonment	293
Concealment of invention, because of information that another	
had anticipated it, will not forfeit right to patent	271
• · · · · · · · · · · · · · · · · · · ·	

	Page
Application and issue.	
The embodiment of the principle into a machine as described,	1140
and not the abstract principle, is the patentable thing	1142
A patent of one making an improvement on an existing ma-	
chine, or a new machine, should not be for a method, but for	914
his machine, or improved machine	
Use of phrase "any suitable material," in patent for combina-	
tion, shows claim to combination, limited to known materials,	386
though not named	
It is discretionary with patent office to determine whether	
specimens of the ingredients or of the compound in a patent	339
product are necessary	
Original model may be proved by specifications and drawings	217
where certified model is broken, and parts lost	21/
The essential features of the invention must be shown in the	
specification; their appearance in the patent office model is not	947
sufficient	
A patent cannot claim both the combination of machines and	914
the machines them selves	914
A patent for an improved machine must specify in what the	914
improvement precisely consists	914
A patentee making an improvement in a combination of ma-	914
chines should include in his patent only the improvement	914
There must be several patents for several improvements of	914
distinct machines	914
Patents may be united if two or more, included in one set of	
letters, relate to a like subject, or are in their nature or opera-	914
tion connected together	
The obtaining of a joint patent estops the patentees to claim	914
under prior several patents for the same invention	717
Appeals from commissioner's decision	
A patentee may appeal from a decision against him on an in-	293,1102
terference declared between his patent and an application	495,1104
The jurisdiction of the circuit court of the District of Colum-	
bia over the question of priority only arises where an interfer-	394
ence is declared, and so determined	

	Page
The interference coming up for review is only such as respects	394
patentable matters	
Objection to evidence waived where not distinctly made when taken	819
Sufficiency of evidence to show priority of invention.	1102
Suit to invalidate patent.	
Parties in suit to invalidate patent granted by the commission-	
er after an interference not confined to evidence before com-	97
missioner, nor is such evidence in the case	
Reissue: Disclaimer.	
The act (July 4, 1836, § 13) authorizing reissues is to be con-	
strued liberally, and not literally, as restraining and limiting the	550
right	
A description claiming a combination, and not giving notice of	
a claim of any part, is a dedication of the parts to the public,	1031
which cannot be revoked by surrender and reissue	
Devices shown in the original drawings, but not specified,	766
may be claimed in the reissue	766
The applicant has a right to restrict or enlarge his claim so as	550
to give it operation, and effectuate his invention	550
A new function developed by combination of different ele-	550
ments is beyond the scope of a reissue	550
The right to reissue in two divisions, one for the process and	346
the other for the product, illustrated	510
The model filed in compliance with the law is admissible as	
evidence of the scope of the invention and of the defects in	554
the patent	
The fact of reissue raises a presumption that the invention	
claimed in the original and the reissued patent are the same,	766
and that the term has not been extended	
Tests to be applied in considering whether a reissue is for the	217
same invention as the original	,
Act 1839, § 7, 9, authorizing a disclaimer, do not apply where	1027
the patent is for combination of parts	
Duration.	
Act 1870, § 25, providing, in the case of foreign patents, that	346
the United States patent shall expire at the same time with	

	Page
the foreign patent, is not retroactive, and does not apply to the reissue of a patent previously granted	C
Assignment.	
A conveyance of an interest in a patent must be in writing,	
and a mere memorandum, in the hands of the patentee, is not sufficient	534
An assignment of all the grantor's right, title, and interest in	
and to a certain patent carries only the grantor's existing inter-	24
est	
An assignment made by the judge of probate under the Mass-	
achusetts insolvency law does not pass the insolvent's interest	24
in letters patent	
An unrecorded assignment of a patent is good as against sub-	24
sequent recorded assignment to one with notice	44
Licenses.	
To make and use a patented machine need not be in writing	534
To make and use a machine gives no power to authorize a	534
third person to construct it	551
An agreement between owners of conflicting patents defining	
their rights, and providing for the purchase of outside patents	
for mutual protection, <i>held</i> to give only a license to use such	217
purchased patents, and an action thereon is properly brought	
in the name of the purchaser alone	
Sale of patented machine.	
Deed construed as a conveyance of a single machine, without	534
right to construct others	
Infringement-What constitutes.	
Subsequent discovery of peculiar value of material used by in-	201
ventor does not give discoverer right to use it in the patented	386
manner	
A patent for a new product is infringed by its manufacture by	346
any process whatever	
A substitute for an ingredient in a patented combination does	105 100
not cease to be an equivalent because it does something more and better	135, 138

	Page
The substitution of known mechanical equivalents, or the	
changing of parts in a nonessential way, not producing a new	391
result, is an infringement	
The character of an infringement is not affected by a mere al-	
teration in form and proportion, not affecting results, nor by	914
the substitution of mechanical equivalents	
It is no infringement of a patent for a combination of ma-	014
chines to use either of the machines separately	914
Bubber roller covered with cloth not an equivalent of a roller	206
with an outer covering of rubber	386
—Remedy, generally.	
Circuit court may entertain a bill for an injunction and an ac-	071
count, or the repeal of an interfering patent	271

	Page
Infringement-Preliminary injunction.	
Withheld on defendant's agreeing to accept a license	510
Not granted, where injury to defendant would be irreparable	1028
and profits to patentee are by licensing	1020
Denied where affidavits contradictory, and question in doubt	1160
whether defendant had license	1163
Not refused where defendant has not been misled by plain-	
tiff's conduct in allowing his suit to rest until a recovery in	1 47
other suits by him, and then discontinuing, and bringing a new action	147
Pending suit in another circuit no ground of postponing,	
where patent has been declared valid	135
Where the evidence is the same as upon a prior case, the de-	
cision there will be followed	391
A decision in favor of the applicant on an interference de-	
clared between an application and a patent is sufficient ground	5
for refusing injunction to senior patentee	
-Procedure.	
It is discretionary with the court to order issues for a jury	271
To prevent multiplicity, suit between patentee and user of in-	
fringing machine suspended to await result of pending suit be-	902
tween patentee and principal infringer	
The interpretation of the specification is for the court	1027
On application for a provisional injunction, expert demonstra-	014
tion of the patents may be made	914
Evidence.	
Burden of showing in defense that patentee was joint inventor	22
is on defendant	22
A patent is itself prima facie evidence of novelty and useful-	
ness. Plaintiff cannot give cumulative evidence on these points	1027
till they are controverted	
The prima facie force of a patent as to priority of invention is	
absolutely destroyed by evidence of priority of invention by another	954
Mere applications for patents cannot be considered on the	
question of novelty	819
queeden er neveng	

	Page
A patent will be sustained on testimony of patentee that he was sole inventor, corroborated by the circumstances, as	22
against testimony of another claiming to be joint inventor	
The applicant's oath, at the time of the application, that he be-	960
lieved that he was the first inventor, is sufficient evidence of that fact where uncontradicted	900
-Damages.	
Plaintiff not entitled as damages to money paid counsel for	
services in the suit	578
Decree-Construction.	
A decision that a certain patent does not destroy the novelty	
of another is not necessarily a decision; that the use of an	307
arrangement in the latter is not an infringement of the former	0.07
Various inventions and patents.	
Alizarine. No. 95,465, and reissue No. 4,321, for artificial	
alizarine, produced from anthracene, <i>held</i> valid and infringed	339,
by article produced under patent No. 153,536	343,346,348
Boiler furnaces. No. 20,616, for improvement for burnin.5 wet	
fuel, <i>held</i> valid	766
Bracelets. Reissue No. 4,192, for improvement in plated metal	
bracelets, <i>held</i> valid	779
Cooking stoves. Barston's improvement <i>held</i> not anticipated	949
Corset springs. Reissue to Barnes, for improvement construed,	876
and <i>held</i> valid and infringed	870
Explosive compound. Reissue No. 5,799, for combination of	
nitroglycerine with an absorbent substance, held valid and in- 135	,138,141,147
fringed.	
Harvesters. Reissues Nos. 2,608, 723, 724. 726, for improve-	217
ments, <i>held</i> valid	<b>41</b> /
Hats. No. 33,978, for improvement in bonnets. Construed,	528
and <i>held</i> valid, but not infringed	540
Such patent <i>held</i> infringed	510
Hats. Reissue to Modena Hat Company for an improved fab- ric for hats, bonnets, etc., <i>held</i> not infringed	528
Hats. Patent to Kendall and Trested, for compound for coat- ing textile fabrics, <i>held</i> not infringed	528
······································	

	Page
Nonexplosive lamps. No. 57,245, to Beschke, <i>held</i> not in-	23
fringed by Houchin's patent	23
Ovens. Reissue to Ball, for improvements, <i>held</i> invalid as	556
broader than original	))(
Printing presses. Award of priority for improvement	293
Pumps. Reissue to Barker, for improvements in buckets for	
chain pumps, <i>held</i> infringed by buckets made under Stowe's patent	819
Reaping machines. Ball <i>held</i> entitled to reissue of his reissue	
No. 832.	554
Rocking-chair. No. 1,531, for improve-ment <i>held</i> invalid	1142
Rubber. Ayling's patent for improved treatment in caoutchouc	071
<i>held</i> valid	271
Sewing machines. Reissue and extension of Bachelder, <i>held</i>	
infringed by machines constructed under reissues Nos. 346	307
and 414	
Steam pumps. Patent awarded to Board-man for improve-	07
ments	97
Steam safety valve. Reissue No. 58,962, as properly limited,	20
<i>held</i> not infringed by patent No. 58, 294,	20
Telegraphy. Morse's claim (patent No. 6,420) for a new system	
construed, and <i>held</i> not to interfere with Bain's claim, (patent	394
No. 6,328).	
Tin cans. No. 71,680, for improvement in machine for manu-	947
facture, <i>held</i> void for want of novelty	74/
Wringer rollers. Reissue, of April 18, 1865, for improvement	386
<i>held</i> valid	300
PAYMENT.	
Where, in the absence of fraud, etc. Confederate money has	
been received in exchange for property, the federal courts will	378
not interfere	
A payment by a bank to military authorities of funds belong-	678
ing to the enemy, under coercion, discharges the bank	0,0
Where such funds are in Confederate notes, the payment may	899
be made in Confederate notes.	0/9

	Page
Goods consigned by an agent, with notice that they belong to	
his principal, are not paid for by the acceptance and payment	1044
of drafts drawn by the consignor on general account	
Purchase of notes by trustee for another <i>held</i> not to amount	501
to a payment	501
The acceptance of new security without full knowledge of the	150
facts, or induced by fraud or deceit, is not a discharge	458
At common law, a promissory note given for a simple contract	458
debt is not payment unless so intended	
In Massachusetts the presumption is that it was so intended	458
A bank must apply the proceeds of a note discounted by it as	615
intended by the person offering it	615

Page
------

## PLEADING AT LAW.

FLEADING AT LAW.	
Declaration.	
In debt for "§103 1/3, or 31 pounds Virginia," is not for a	28
sum certain, and is bad on special demurrer	20
In trover for "a chest containing sundry tools," is sufficient to	556; contra, 555
admit evidence of the value of the tools	550; conua, 555
Allegation that plaintiff was owner of vessel laden with a car-	000
go is sufficient allegation as to ownership of cargo	988
An affidavit charging defendant as follows: "1809, Oct. 5. To	04 <i>°</i>
goods per bill, §"—is insufficient	965
Pleas.	
Not guilty within three years is a good plea in trover	847
Nil debet is no plea to debt on a judgment of another state	1012
Plea of nul tiel record not allowed after plea of not guilty and	1010
issue, to debt on a judgment, suggesting a devastavit	1012
Defendant not permitted to plead the statute of limitations af-	
ter the expiration of rule to plead	637
Where distinct defenses are pleaded, one one cannot be taken	
to help or destroy the other	313
Court will not order general issue to be stricken out to give	<i></i>
defendant leave to plead in abatement	645
Replication.	
Sufficiency to raise question of validity of contract set up in	
defense	121
Demurrer.	
Defects in declaration in setting forth case may be availed of	
by demurrer	987
On demurrer to a plea, the court will consider defects in the	
complaint which otherwise would have been considered	649
waived by the plea	
A plea is not bad on special demurrer because misnaming	_
plaintiff in marginal title. (Overruling 638)	644
Striking out pleas.	
Plea not stricken out as frivolous if matter properly pleaded is	
included	313
Plea which expressly or in effect admits the cause of action	
cannot be stricken out as frivolous	313

	Page
Plea false on its face may be stricken out Issues.	313
A subsequent amendment of the record does not affect the is-	866
sue under the plea of nul tiel record	000
Upon an issue on plea of general performance, plaintiff is not	1119
bound to produce the original covenant sued upon	1119
PLEADING IN ADMIRALTY	
Exceptions in an answer to a libel will be deemed waived if	227
not determined before proof taken at the trial	44
PLEADING IN EQUITY.	
Bill.	
A bill is defective which does not give full names of all par-	957
ties to whom it refers	728
Where all matters alleged in a bill are relevant to one defen-	
dant, he cannot object to it, as multifarious, because it is not	195
relevant to the other defendants	
A bill against infringers of a copyright, praying injunction and	
discovery in aid of a suit at law against one, though declared	105
bad as a bill for discovery, is good on general demurrer, the	195
remedy by injunction being independent	
A bill seeking a discovery to enforce a forfeiture or penalty is	105
bad on special demurrer	195
Plaintiff can recover only upon the case made by his bill, and	1022
not upon that made in the evidence	1033
Where defendant is sued as sole owner of a railroad, and the	
proof is that he is jointly concerned with others as a stock-	11-1
holder, no decree can be entered against him unless the bill is	1171
amended	
An objection to jurisdiction for want of parties, of equity in	
the bill, or of there being a remedy at law, may be taken at	439
any time	
An exception (in Louisiana) that plaintiff, suing as administra-	000
tor, is not administrator, must be pleaded in limine litis	900
Such an exception cannot be embodied in the answer, and it	00/
must be verified by affidavit	906
The same rules apply to the exception of lis pendens.	906

	Page
Defects in pleadings not objected to at trial usually, consid- ered waived.	486
Cross bill.	
A decree dismissing the original bill does not dispose of cross bill, setting up additional facts, and praying affirmative relief	832
Demurrer.	
A demurrer admits allegations of bill for purposes of motion on bill and demurrer	1069
A demurrer to a plea presents the question of the sufficiency of the bill, as well as of the plea	1171
A general demurrer to a bill will be overruled if any indepen- dent part of the bill is sufficient	195
Special demurrer to bill must specifically point out parts to which it applies	195
Inconsistencies of allegations as to authorship in bill for in- fringement of copyright no ground of objection on general de- murrer, if other allegations are sufficient	195
The objection that a bill for infringement of copyright sets forth no title in plaintiff, and lays no legal foundation for a dis- covery, may be taken by general demurrer	195
Plea.	
An objection that a plea is defective in not responding to all the allegations of a bill is not sustainable, for a plea may be to a part only	1171
Answer.	
Answer in name of three defendants, but signed and sworn to by two only, wiil be stricken from files, but with leave to amend	390
Where bill sets up facts taking an oral agreement averred out	
of the statute of frauds, defendant will be required to respond	385
by answer to such facts	
Admissions in answer, not put in issue by some charge in the	1033
bill, are unavailing POWERS.	
A deed of an attorney, executed in his own name, is not valid	
as the deed of his principal	781

	Page	
Principal bound by act of his attorney in fact when he acts within scope of his authority	781	
Under power of attorney from several persons to make a joint		
note in renewal of a joint and several note, a jqint and several note made by the attorney, if beyond his power, is invalid only	679	
in part		
A power to sign notes in renewal of existing notes gives au-	740	
thority to sign renewal notes given for renewal notes	749	
PRACTICE AT LAW.		
If books and papers are in court, they may be called for after	762	
jury is sworn	763	
Defendant not required to produce an account rendered to		
him by plaintiff, except as accompanied by his affidavit as to	742	
the circumstances under which it was received.		

	Page
Nonproduction of papers not available as ground of nonsuit	
or judgment by default, except after order to produce, made	702,988
on motion	
Evidence may be received to disprove possession of or power	988
to produce papers	900
A prior ruling stated by the judge out of court to have been	
made by him, when-unreversed, must be considered as the	852
law of the case, when coming before another judge	
After rule to plead expired, plaintiff not compelled to produce	29 <i>5</i>
his cause of action	385
Effect of minutes of court upon which no order is entered	852
PRACTICE IN ADMIRALTY.	
An entry on the record that on the return day a certain person	0.5
"appears, * * * and has a week to perfect an appearance," does	80
not show a waiver of objection to jurisdiction	
Claim, to be available, must be interposed on the return day	1048
of process, when proclamation is made	
A defense to libel for seamen's wages may be heard without	937
an answer	).)1
Practice in examining parties in admiralty	236
Slate statute admitting parties as witnesses does not apply in	236
admiralty	
Act March 3,1861, § 4, authorizing transfer of owner's interest	
in ship and freight to a trustee for claimants, does not apply to	875
a loss to another vessel by collision, nor to injuries to cargo on	015
board the vessel in fault	
Foreign attachment in admiralty lies in cases of tort	875
The regular proceeding against a surety in a stipulation for	
costs is by petition after notice, and the decree may be final	569
and peremptory. Upon proceeding by motion after personal	309
demand, a conditional decree only is awarded	
PRACTICE IN EQUITY.	
Orders and final decree taken under stipulation in pending	
case, in vacation, without sanction of court, not set aside on	1073

summary motion

	Page
The original papers, documents, etc., in an equity suit, may be	
used in court as the record, where the proceedings have not	686
been recorded at length	
Necessary averments in affidavits on motion for rehearing	823
Motion for rehearing in suit for infringement of patent cannot	000
be made after term at which final decree entered	823
Proper practice in case of surprise in testimony not noticed by	
answer	823
Rehearing after interlocutory decree grouted upon filing sup-	
plemental bill, for newly-discovered evidence, if of such na-	
ture as to entitle party to relief upon bill of review after final	486
decree, but not otherwise	
Error of judgment or mistake of counsel as to effect of evi-	
dence no ground for rehearing	486
Rehearing not granted on ground of new Iy-discovered evi-	
dence of which the party, by reasonable diligence, might have	486
obtained knowledge	
Rehearing not granted if newly-discovered evidence is merely	
cumulative	486
PRINCIPAL AND AGENT.	
Authority to indorse notes need not be under seal	749
An agent to sell on credit, taking a mortgage as security, is not	
thereby authorized to foreclose the mortgage	226
All agent authorized to foreclose a mortgage, and bid in the	
porperty, who does so in his own name, holds for the benefit	226
of his principal	
Authority to receive notices ceases with the principal's death	749
Agent is not liable to suit on a contract made in behalf of a	
disclosed principal	663
A collecting agent, receiving Confederate notes in payment,	
without authority, is liable	678
Agent will not be directed to deliver up papers in bis posses-	
sion if he has a lien thereon	804
PRINCIPAL AND SURETY.	
The creditor is not bound to use active diligence to enforce	
his claim against the principal debtor unless requested by the	660

surety

	Page
A surety can require the creditor to proceed first against the	
principal, only when his suretyship appears on the face of the	289
instrument, or when he offers indemnity	
An application of payments once made will not be varied so	
as to affect the liability of a surety	665
A surety holding collateral security for his indemnity is a	
trustee for the creditor, where the debtor is insolvent	508
A surety discharging the debt of his principal is subrogated to	742
all the rights of the creditor	743
The assignee in bankruptcy, having paid a debt for which the	200
bankrupt was surety, is subrogated to the rights of the creditor	289
PRIZE.	
American ship trading, under enemy's pass, without permis-	007
sion from home government, is confiscable	227
Where, upon, ship's papers, enemy ownership is doubtful,	0.40
condemnation will be delayed, though no claim is interposed	242
After a year and a day without claim made, condemnation is	0.40
of course	242
A war vessel within signal distance of another, making a prize,	
is entitled to share, but is not a part of the "capturing force, so	116
as to make it superior, and cause the prize to be divided	116
equally with the government	
When the "capturing force" is superior, within the act provid-	
ing that in such case the prize shall be divided with the gov-	116
ernment	
On interlocutory sales of prize, marshal must bring proceeds	0.41
of sale into court, with a regular account	241
Vessel and cargo condemned for attempt toviolate blockade	763
PUBLIC LANDS.	
The occupant law of Tennessee, so far as it violates the com-	
pact with other states by giving preference to its citizens over	1005
those of the other states, is void	
Actual settlement consists in clearing, fencing, and cultivating	
the land, and erecting a house fit for habitation and actual res-	543
idence	
Mere improvement, without occuricy and bona fide intention	<b>-</b> 40
to reside, does not constitute a settlement	543

	Page
Title to lands by settlement, survey, etc., under Act. Pa. April	543
3, 1792	545
Land once occupied as a town site, but abandoned, may be	
taken up and held under the donation act as unoccupied pub-	1167
lic land	

	Page
A certificate of location does not convey the legal title until the segregation of land is completed	429
Equitable title passes on entry and payment, though patent is not issued, and such land is liable to taxation	71
Grantees pendente lite from the original grantee of public	
lands are entitled to contest a survey, though the majority	432
owners approve it	
A patent for lands paid for by the father, but delivered to his	
son of the same name, who was described, by his residence,	300
as the grantee, is valid until vacated for the mistake of descrip-	
tion	
Equity has no jurisdiction to affect a patent except upon the	
ground of an antecedent equity in the plaintiff, disregarded in	1167
the issuing thereof	
Questions of fact decided in the land department are not sub-	
ject to review by the courts, except for fraud or mistake other	1167
than an error of judgment	
Whether a settler under the donation act upon unsurveyed	
lands could commute his residence under Act Feb. 14, 1853,	
and Act July 17, 1854, is a question of law, and the decision	1167
of the land department thereon may be reviewed at the suit of	
a party having a prior equity	
RAILROADS.	
Statutes relating to the construction of the Baltimore & Ohio Railroad construed	574
A mortgage by a railroad of all property then in its possession	
or thereafter acquired includes railroad subsequently leased,	
and the title to such leased road is good in the hands of the	841
mortgage trustees, as against assignees in bankruptcy of the	041
mortgagor A decree for plaintiff on a bill to set aside a railroad mortgage	
foreclosure, and subject the property to payment of their judg-	
	862
ments, renders the foreclosure invalid only as to the creditors who filed the bill	
Irrespective of city ordinances, speed of train" across streets	827
should be such as to permit stoppage within reasonable time	

	D
<b>TT</b> 71 · · 1 1· · · 1	Page
When an engine is backing a train across city streets, there	827
should be a lookout	
Great care and vigilance is required where there is steam or	827
smoke upon the track	
A railroad company allowing trains of another to run over its	
track is responsible, as to its own passengers, in-the same	935
manner as if all the trains belonged to itself	
REAL PROPERTY.	
Act N. T. March 24, 1797, to settle disputes as to titles to	811
lands in Onondaga county, construed, and <i>held</i> valid	
A perception of the esplees is evidence of seisin, but this is	903
presumed under a deed	903
Under statute of uses, entry not essential to complete title	903
A tenant in common cannot, without consent of his cotenants,	495
grant permits to others to cut timber on the premises	475
A purchaser at a tax sale by a tenant in common in posses-	
sion, who is an agent of the other cotenants, will be <i>held</i> to be	495
in trust for them	
RECEIVERS.	
Counsel's services to receiver are included within decree giv-	1000
ing priority to claims for "labor in operation of the road	1080
Advances to pay wages of employes on condition of reim-	
bursement out of first net earnings will be paid out of income	90
in receiver's hands in preference to mortgage claims	
REFERENCE.	
Evidence not laid before referees cannot be exhibited to the	00.4
court on exceptions to the report	984
Effect of auditor's report on reference of accounts in an action	0.4 <b>7</b>
at law	945
RELIGIOUS SOCIETIES.	
A church conference may consent to division of church into	
two bodies, which will carry with it a division of the common	994
property	
Commissioners appointed by one of such divisions may main-	
tain bill against trustees of common property for a division	994
REMOVAL OF CAUSES.	

# Bight of removal.

	Page
In ejectment against a tenant, a nonresident owner, admitted as a defendant, is not entitled to a removal	1188
A suit commenced against "a foreign corporation in a state	
court by publication of summons as provided by law, followed	
by attachment of its property, may be removed, though the	894
federal court could not originally have compelled submission	
to its jurisdiction	
A suit against a bank to recover for neglecting to protest drafts	
forwarded by a correspondent bank, brought by an assignee of	894
the right of action, is not a suit to recover the contents of a	
chose in action in favor of an assignee. (Act 1789, § 11)	
Act Feb 5. 1867, authorizing removal for local prejudice, over-	778
rides section 11 of judiciary act as to suits by assignee	110
Time for removal.	
Petition filed before trial, and at first term after passage of act	472
of March 3,1875, is in time	7/4
Causes in Iowa being triable by law at the first term after ser-	
vice of process, such term limits the time for removal, though	189
issue is not then formed	
Proceedings to obtain.	
A cause cannot be removed on petition of one of two defen-	1188
dants	1100
Petition for removal may be amended in federal court to con-	778
form to facts	110
Cause will not be remanded because bond filed under Act	
1875, and duly accepted by state court, was in terms as re-	472
quired by Act 1866,	
Effect of removal: Subsequent proceedings.	
Filing of petition and bond, ipso facto, deprives state court of	1
jurisdiction	1
Where removing party fails to file a copy of state court record,	1
opponent may file it	1
An attachment of property made before the removal will con-	
tinue to hold the property to answer the final judgment of the	894
federal court	

**REVIEW.** 

	Page
Bill of review can only be sustained upon ground of error in	809
the record, which does not include the evidence	009
SALES.	
A contract to buy, made by a broker, on condition that the	
seller should get information as to the purchaser's financial	103
standing, and, if unsatisfactory, accept security, is enforceable	
Where the buyer does not accept a modification of terms of	
payment proposed by the seller after delivering the goods, the original terms remain in full force	1040

	Page
The right of stoppage in transitu exists in favor of the seller of	0
imported goods "to arrive," entered in his name, and stored in a bonded warehouse	1191
The indorsement and delivery by the consignee of a cargo of	
coal en route of a bill of lading to purchasers at a certain price	
per ton, and its acceptance by them, is a sufficient delivery to	201,506
pass title	
That goods sold on credit were allowed to remain in the sell-	
er's warehouse, at option of purchaser, does not prevent the	911
delivery being complete, a note being given for the price	
Goods were deposited in a warehouse in the name of one to	
whom they were afterwards sold. <i>Held</i> , that no further deliv-	1013
ery was necessary, and the seller's lien was lost	
<i>Held</i> otherwise where goods deposited in the name of anoth-	1012
er were sold to a third person, and no notice given of that fact	1013
Seller of goods delivered, where sale not complete because	
payment not made as agreed, may maintain replevin under	1040
Connecticut statute	
It is not necessary to the seller's right of reclamation that he	1040
should return the buyer's unaccepted promissory note	1040
Seller may sue before expiration of credit where goods were	
procured by false representations, and sold in fraud of credi-	927
tors	
The presumption is that the goods were sold for cash, or that	927
notes taken were negotiable	941
A purchaser from one who bought corporate stock on a sale	
under an invalid decree of confiscation, after notice of the cor-	254
poration's claim of invalidity, is not a bona fide purchaser	
Party paying money in advance, to save a stipulated forfeiture	
for failure to pay the residue by a certain day, must use his	1079
best efforts to tender the balance	
Measure of damages for breach of contract to deliver goods is	
difference, if any, in price between the goods contracted for	832
and the market price at the place of delivery	
SALVAGE.	

Right to salvage compensation.

Two wards at an share arms in callision in a starm without	Page
Two vessels at anchor come in collision in a storm without fault. To prevent the destruction of both, one slipped the ca-	1161
ble, and went ashore. <i>Held</i> not a salvage service	
Rescuing runaway slaves, destitute of food or water, adrift at sea, is a salvage service	1006
Regularly authorized and licensed pilots are entitled to salvage	
compensation where their services are extraordinary, and be- yond the strict line of their professional duty	1136
Claim of one who floats and repairs abandoned stranded ves-	
sel is in the nature of salvage, and takes precedence of prior	885
maritime liens, though such person held immature mortgage	
Small tugs assisting, for less than an hour, a large tug in	
pulling off a steamship aground in a harbor, entitled to com-	463
pensation as salvage service	
Vessel is not liable for salvage services rendered under con-	4 <b>7</b> 0
tract with a wrecking company in charge of the vessel	479
Forfeiture or reduction of salvage.	
Wreckers who unnecessarily lighten a vessel, to magnify their	227
services, forfeit all salvage	
Salvage cannot be given by way of set-off when the finder of a	966
whale adrift has throughout contested the title of the owner	)00
Negligence of salvors in failing to make sounding resulting in	
a vessel being heaved off one shoal, and onto another, will re-	14
duce salvage	
Amount.	
Moiety is usually the highest compensation allowed	1192
A contract in a salvage case, not made under pressing necessi- ty, will be enforced	1192
Rule of salvage fixed by contract is not imperative as to subse-	
quent services	1192
Increased compensation will not be given on account of the	14
employment of supernumeraries	14
Vessel is not derelict where master and crew voluntarily leave	191,1136
while in peril with bona fide intention of returning Majoty allowed where wessel abandoned and northy stripped	
Moiety allowed where vessel abandoned and partly stripped was worked into port	9
was worked into port	

	Page
Where vessel and cargo were of the gross value of \$73,000,15	14
per cent of net value allowed	14
For saving cargo and material valued at \$41,756, 30 and 50	75
per cent allowed	75
For saving vessel and freight valued at \$3.500, salvors allowed	191
\$1,200	
For piloting into port brig found among dangerous shoals,	209
worth, with cargo, \$12,000, wrecking vessel allowed \$900	
Small tugs, assisting in pulling off steamship worth, with car- go, \$500,000, aground in harbor, allowed \$1,200	463
For bringing into port ship and cargo worth \$38,000, left by	
master and crew in peril, with intention of returning, pilots	1136
awarded \$2,400	11,50
Costs.	
The costs of the proceedings for salvage compensation in res-	
cuing runaway slaves in a stolen canoe are not chargeable to	1006
owner of canoe, but to owner of slaves	
Appeal.	
On appeals in salvage cases, onus to prove mistake of law or	1100
fact is on appellant	1192
SCIRE FACIAS.	
If some of the terre-tenants named in the sci. fa. are returned	460
"nihil," an alias sci. fa. must issue	400
Material variance between record of recognizance and recital	866
of it in sci, fa. is fatal	000
SEAMEN.	
The contract of shipment.	
Seamen are competent to bind themselves by contract as to	121
rate of wages	
Contract introducing unusual terms must be explained to sea-	236
men, or it will be set aside The stipulation that compensation by share in earnings shall	
be proportioned to the time served in the voyage will be en-	121
forced	141
Contract of shipment not in writing is not binding, and sea-	
men may quit at any time, and demand highest wages paid at	236
port (Act 1790)	

	Page
Whaling voyage not within Rev. St. § 4520, requiring ship- ping articles to specify certain particulars	121
A hiring "for the season" of navigation is presumptively for	547
the entire season	547
The "season of navigation" on the Great Lakes comprises the	
eight months commencing April 1st, and ending November	547
30th	
A seaman receiving injury in performance of his duty is enti-	
tled to be treated and cured at expense of the ship, though	121
compensation is by share in earnings	
But such liability is usually limited to time necessary to enable	620
him to return home	020

	Page
Expenses of care and cure of seaman on shore chargeable to	303
ship which has no means to care for him	
Consul cannot order discharge of seamen in foreign port, ex-	
cept upon consent given, which consent must affirmatively ap- pear when such discharge is set up in defense to suit for	121
wages	
Words which might imply a discharge, when spoken in anger,	
where seaman is ordered next day to do his duty, do not	280
amount to a discharge	
Where seaman proves unfit for service for which he was	22 (
shipped, he may be degraded	236
Penalty on master for permitting use of spirits contrary to arti-	202
cles	303
Services required.	
A mate whom the master refuses to allow to act in that capac-	115
ity need not act in any other station	11)
Licensed pilot, employed to remain on vessel, to take her in	
and out of port, is subject to master's discipline, but not liable	1198
to ship's duty except when in charge as pilot	
Conduct of master or mate in respect to seamen.	
Mate may be displaced by master for cause. Grounds	115
Master is not justified in ordering regularly employed pilot	1198
ashore, for failure to obey order to leave quarter deck	1109
Use of force to compel obedience of pilot <i>held</i> a trespass Master has authority to correct by corporal punishment the	1198
negligence or misconduct of any of the crew as such	587
Master has no authority to punish seamen creating ill feeling	
in another ship's crew, by false and malicious representations	587
about their master	507
Mate is liable for striking in anger, and not as discipline, a	
boy. for using an opprobrious epithet in reply to a charge of	322
theft	
Wages-Eight to.	
A mate unlawfully or unjustifiably displaced by master may	115
recover full wages for voyage	115
Commissions of 2% per cent, for selling oil, and charges for	1025
fitting and discharging ship, disallowed in determining lay	104J

	Page
Interest allowed from filing of libel for lay in whaling voyage	1025
Seaman entitled to amount actually due at time of discharge	
where his assent was induced on payment of a nominal sum,	1025
from just apprehension of ill treatment	
The amount he received by shipping in mother vessel cannot	1025
be considered	1023
A seaman wrongfully discharged is entitled to an indemnity,	
in ascertaining which subsequent expenses and earnings nay	1025
be considered	
Seamen, in whaling service, discharged ibroad, are entitled to	1025
benefit of statute jiving three months' extra wages	1023
-Remedies for recovery.	
Seamen have lien on vessel, notwithstanding charter party	3
bound charterers to pay rew	3
Lien will be held to have been waived by aking note from	576
master, and nine months' lelay	570
Lien lost by unexplained delay of four ears, where rights of	2
bona fide purchasers atervened	4
Incidental condition of contract to work in shore does not de-	3
prive seamen of lien	3
Mate may sue for wages the same as sealan	115
No set-off allowed on libel for wages, exept a payment on ac-	410
count	410
Wages-Deductions: Extinguishment, etc.	
British seaman does not forfeit wages by coming on shore to	280
legally demand payment	200
Leaving vessel before expiration of time of service, without	
consent of master, with intention not to return, constitutes de-	547
sertion, and forfeits antecedent wages, unless reasonable ex-	547
cuse is shown	
The fact that meat used on board was for a short time slightly	E 17
tainted is no excuse for desertion	547
Sickness is an excuse for leaving vessel	937
Master of whaler has no right to charge commission on money	303
paid to crew on voyage	JVJ
SEDVICES	

SERVICES.

	Page
In the absence of any contract, between brother and sister liv-	
ing together, to pay her for domestic services, she has no claim	976
on him for such services	
Where value of extra work has not been fixed by arbitration,	
as agreed in building contract, evidence of such value may be	464
given in action upon a quantum meruit	
SET-OFF: COUNTERCLAIM.	
In an action by an insolvent for the use of his trustee, defen-	
dant may set off plaintiff's note to a third person, coming to	759
his hands before the insolvency	
It is a good ground of exception to a claim in reconvention	
that it has been substantially adjudicated between the same	006
parties in another state, where it was pleaded as a counter-	906
claim	
A claim in reconvention should be pleaded with the same	906
precision and detail as an original cause of action	900
SHIPPING.	
Public regulation: Title to vessel.	
Unless a proper manifest be tendered to the collector by the	
commander of the vessel, the collector is not bound to grant a	987
clearance	
Production of certificate of compliance with state inspection	988
laws not necessary to entitle to clearance	900
Exportation of American produce in American vessels to Bri-	
tish ports on the continent not enumerated as open ports not	132
unlawful (Act March 1, 1823)	
It is not a foreign voyage if the delivery of the cargo is made	
within United States waters, though to a British subject resid-	132
ing on the British side of the stream	
The register of a vessel is not Per se, evidence of ownership	988
Employment of vessels.	
Vessel chartered by a person to carry out his agreement to	
transport cargo for a certain company is liable in admiralty for	170
breach of the contract	
Shippers must notify carriers of their wishes as to stowage where the	y consid-
er the notorious custom of stowing such goods hazardous 1048,1053	

	Page
Passengers on steamship entitled to reasonable accommoda-	
tions and conveniences, irrespective of the class in which they	383
travel	
Contract of carriage by second cabin, when considered broken	
by reason of overcrowding, and lack of reasonable accommo-	383
dations, and damages therefor	
The master.	
Has no lien for wages	983
Remedy to enforce payment for services in performance of pi-	983
lot's duties is in per sonam, and not in rem	903

	Page
Remedy for advances for supplies and repairs is in personam	883
Cannot assert a lien for additional pay for standing on watch as pilot	983
Is liable for all injury caused by unlawful displacing of mate	115
Cannot buy cargo at his own sale as agent of owners	817
Cannot claim a lay in oil made by part of his crew, left behind	
after the ship is fully loaded, and brought home by another vessel	303
An agreement for a certain lay on securing a full cargo of oil is	
enforceable where a full cargo is secured, but not the number of barrels named	303
Master giving another ship-master, brought home by him, a	
receipt for passage money in a larger amount than actually re-	202
ceived to enable the latter to charge the sum to his owners, li-	303
able for full amount of receipt	
No account against a vessel is chargeable against a master un-	410
less presented within a reasonable time	410
Liens-Generally.	
No court can by rule create maritime liens or change the or-	513
der of existing liens	515
The general maritime law gives a lien for a maritime tort upon	
the offending vessel which travels with the vessel, into	255
whosesoever hands she may go, and irrespective of the place	255
of transfer	
—For repairs and supplies.	
A vessel registered in New York was bought by a resident of	
"Washington, D. C., for use on the Potomac river, and was	
repaired and supplied in Connecticut on the credit of the ves-	515
sel. <i>Held,</i> that there was a lien as for repairs and supplies in a	
foreign port	
Ships, whether domestic or foreign, liable for repairs, etc., fur-	
nished at express or implied request of owner or master,	209
whether in home port or not (Adm Rule 12, as amended 1872.)	209
Ship carpenters employed by contractor have lien, unless	
there is express or implied notice that they must look only to	209
the contractor	

A libel by employes of a contractor, which fails to allege that	Page
the contractor had authority to make the repairs or to employ	209
libelants, is insufficient	
Mere proof that sails were furnished by written order of mas-	1101
ter, with directions to charge them to the vessel and her own-	1101
ers, is not sufficient to establish lien for supplies	
— <b>Priority and enforcement.</b> Mortgage lien (Rev St § 4192) is inferior to all strictly mar-	
itime liens, but is superior to subsequent liens given by state	513
legislature for supplies in home port	515
Proceeds of sale of vessel may be applied in extinguishment	
of mortgage, though it cannot be foreclosed in equity	983
A remedy given by the general maritime law may be enforced	
against a vessel, although she was seized and sold under a	10
state statute	-0
Waiver, discharge, and extinguishment.	
Notice to purchaser will keep lien alive if sufficient purchase	
money remains unpaid to meet it	73
Purchaser of vessel is bound to exercise reasonable diligence	
to ascertain nature and amount of existing liens	73
As against bona fide purchasers without notice, lien for re-	
pairs and supplies in foreign port, <i>held</i> not lost by eight	515
months delay to enforce it	
Liens–Under state statutes.	
A state legislature cannot create a lien upon a vessel which	
shall have priority over one already existing under an act of	513
congress	
Sale of vessel under decree of state court, in satisfaction of	
lien under state law, extinguishes prior maritime liens, and is	238
binding on courts of other states	
SLAVES.	
When deed of, not invalidated by removal	702
Importation from Virginia to District of Columbia <i>held</i> not	1037
contrary to law	
Finding of 300 Africans on board a vessel <i>held</i> sufficient	
proof of probable cause for issuing warrant of arrest for engag-	1015
ing in slave trade	

	Page
SPECIFIC PERFORMANCE.	-
Sufficiency of execution of deed of infant by guardian under	
decree for specific performance	737
STATES.	
A state may by contract give certain persons exclusive privileg-	<b>~</b> 00
es	580
STATUTES.	
Act not void because its title misrecites the date of the act to	<b>~~~</b>
which it is supplementary	574
Act not void because its title purports it to be an act supple-	
mentary to an act which expired by its own limitation, where	574
such act was subsequently revived	
Implied repeal not inferred by omission of short expression in	37
repetition in supplemental act of section of former statute	57
Relating to construction of state roads and canals construed	
according to their spirit, though seemingly contrary to their let-	784
ter	
An authority to appropriate private lands will be implied as	
necessary to effectuate the object of the statutes providing for	784
the construction of state railroads and canal	
TAXES.	
Individual property held within the state may be taxed by the	
state The property of the Bank of the United States is no ex-	692
ception	
Land purchased from the United States, and paid for, is liable	71
to taxation, though patent not issued	/-
Exemption of Atlantic & Pacific Railroad Company from taxation us	nder Mo
Act Dec 25, 1852 173,365	
Back taxes on realty (in Missouri) cannot be collected from	173
the personal property of a subsequent purchaser	-75
The corporation of Alexandria has a right to collect taxes by	
distress and sale and to raise taxes for purposes and works	1108
out of the town	
Replevin lies for property seized by a tax collector under void	173
assessment	-75
TELEGRAPH COMPANIES.	

	Page
Not authorized by acts establishing post roads, or Act July 24,	
1866, to establish lines over right of way of railroad company	176
without making compensation	

## TENDER.

A declaration by a person that he will not receive money about to betendered excuses its production.818

	Page
A tender to the pledgee of a vessel, who has bought her at an	
attachment sale, by another creditor, must include the expense	818
of repairs made by him	
TREATIES.	
The right to reside in the United States, given by treaty, im-	
plies the right to labor there, which right the states have no	472
power to restrict	
TRESPASS.	
In an action for a tort to personal property, possession, accom-	
panied by an assertion of ownership, is prima facie evidence	988
of property	
TRIAL.	
An action to recover for payments due under a railroad con-	200
struction contract is not local	280
Plaintiff in an action at law cannot be ruled to trial without	
notice where defendant has filed a bill in equity on the	768
ground that the remedy at law was not adequate	
"Where one of joint defendants offers ready for trial, plaintiff	607
cannot continue until the other is taken, but may amend	637
Party holding affirmative of issue has right to open and close	1110
argument	1119
On a plea of tender, etc., defendant has right to open and	215
close	215
The court will not give an instruction unless justified by the	601
evidence Rules of determining such fact	601
Question of usury in written contract is for court	750
Court cannot, upon a special verdict, infer facts not actually	615
found	015
Upon a demurrer to evidence, judgment not rendered for	722
plaintiff if declaration substantially defective	733
TRUSTS.	
Trustees under an assignment of assets for certain purposes	
cannot vary its terms and accept payment of debts in a manner	687
not contemplated therein	
The legal estate passes by a deed of bargain and sale made by	
a trustee, whether the terms of the trust are complied with or	686
not	

	Page
There can be no disseisin of a trust, though the exercise of an	
adverse possession for a great length of time may in equity bar	495
it	
Time begins to run against a trust only when its open dis-	
avowal is clearly and unequivocally made known to the cestui	495
que trust	
Jurisdiction of courts of equity over trusts, and of the appoint-	804
ment of agent	
Trustees are entitled to commissions of 5 per cent on money	31
passing through their hands	0-
USURY.	
III Act 1857, in relation to interest and usury, construed	911
The statute of usury applies to contracts of corporations	607
The discount by a bank of a note made directly payable to it- self is not usurious	679
Compound interest is not illegal, and may be recovered when	
a part of the contract	407
Charging interest on balances of running accounts, regularly	
transmitted according to custom of trade, is not usury	777
Taking 64 days' discount on a 60 days' note is not usury	691
Treating a note as discounted on the day of its date, where	0)1
proceeds were not carried to the credit of the party until later,	750
is not usury where checks were previously drawn against it	150
Usury cannot be set up or bill to set aside mortgage unless it	
is alleged	521
Assignee in bankruptcy is not a "legal representative" within statute allo	wing
recovery of penalty from national bank for usury 880,901	
Nor is an indorser of a bill of exchange such "legal representa-	
tive"	880
WAR.	
License from blockading squadron to neutral vessel carrying	
provisions will not authorize refusal of clearance unless illicit	988
intercourse contemplated	,
Party failing to remove the suspicions by evidence in his pow-	
er, is not entitled to damages for refusal of clearance	988
WATERS.	

	Page
A riparian owner on navigable but nontidal stream is pre- sumed to own the land to the center line of the stream	245
An alteration in the course of a navigable stream which de-	
prives a riparian owner of its use as an incident to his land is a taking of private property for which compensation must be made	245
WILLS.	
An executory devise <i>held</i> good, and to take effect on the hap-	
pening of the contingency	1172
A general testamentary disposition of all one's "estate, real and	
personal," to his "heir at law," by one who has no realty, is not	37
a disposition to the next of kin	
"Heir at law," when used in context as a synonym with "law-	
ful heir," does not create an ambiguity, and must be held to	
mean in Pennsylvania, where testator was technically domi-	
ciled, though resident most of his life in England, the person	37
on whom the law of Pennsylvania casts an intestate&s estate	
at the time of his death, though testator evidently meant other-	
wise	
A bequest of slaves on condition that they be not carried out	
of the state or sold, in either of which events said slaves are to	7
be free, is a conditional bequest of freedom, and valid as such	
Upon a devise that a slave should be sold for eight years, af-	
ter which he should be free, the term begins to run from tes-	1096
tator's death, or within a reasonable time there after	
WITNESSES.	
Maker of note cannot be compelled to testify for plaintiff in an	
action against the indorser, but his letter to plaintiff inclosing	754
note for discount is admissible	
When a certificated bankrupt who has released all future	858
claims upon his estate is a competent witness	-
The assignor of the patent is not competent to prove priority	954
upon an interference declared	
Grantor in deed collaterally introduced, in cause inter alios, is	631
competent to prove that the deed was fraudulently obtained	10-
Maker of note is competent for indorser	631

	Page	
A stockholder in a company which itself owns stock in plain-	614	
tiff company is competent for plaintiff		
Wife of one of defendants not competent for plaintiff, though	614	
husband has been discharged under insolvent act	014	

	Page
A creditor of a firm is competent to prove its existence	614
The cashier of a bank is competent to prove that defendant has overdrawn his account	607
In an action by the indorsee against the maker of a note, the	
indorser is competent to prove an acknowledgment to remove	600
the bar of the statute of limitations	
One interested in result of suit is not competent	429
A witness may be competent to testify to general reputation of	
pedigree, though not one of the family or intimately acquaint-	583
ed with it	
A bookkeeper of a bank is not obliged, in an action between	
the bank and a depositor, to answer a question, where the an-	741
swer might charge him with a loss	
Counsel may testify as to facts not communicated to them in	601
confidence by their clients	631
Counsel for bankrupt cannot be required to disclose informa-	
tion as to affairs of bankrupt obtained from him or persons re-	64
ferred to by him	
"Witnesses can testify on affirmation only when members of a	
religious society professing to be conscientiously opposed to	647
oath	

This volume of American Law was transcribed for use on the Internet