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The district court of Ohio has admiralty jurisdiction over the Ohio, as a navigable river.

Steam ferryboats used between two cities in different states are subject to admiralty jurisdiction, as comprising commerce among the states.

Admiralty has jurisdiction of a suit for services of a tug in hauling off a vessel aground.

The district courts and courts of admiralty may issue attachment against the property of foreign corporations found within their local jurisdiction.

The admiralty has jurisdiction over charter parties for foreign voyages, and will enforce the lien thereof.

—Rights founded on state laws.

It seems that no enactment by a state legislature can be the foundation of any right or remedy in admiralty.

The Wisconsin statute for the collection of claims against domestic vessels confers no lien, and therefore the district court of the United State in admiralty has no jurisdiction in rem against such vessel at the suit of a domestic creditor.

A vessel seized under a state law is from that time under the exclusive control of the state court.

—Persons.

A shipwright cannot sue in admiralty for wages for building ship to navigate high seas.

Services of a stevedore are not maritime, and are therefore not within the jurisdiction of admiralty.

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A suit in admiralty in personam will lie against the owner of a ship in favor of a shipper who paid salvage to wreckers with whom the master had fraudulently concerted to strand his vessel.

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The admiralty has jurisdiction of personal torts to a passenger on the high seas, committed by the master of the ship, and it is immaterial whether such torts be by direct force or consequential injuries

**AFFREIGHTMENT.**

See, also, “Admiralty;” “Charter-Party;” “Shipping.”

Where master ascertains that cargo specified in charter party cannot be obtained, he may sail immediately, and recover “empty for full.”

It is the duty of the master to carry cotton under deck, in the absence of any contract, consent, or custom to the contrary.

Cconsignees who made advances on goods shipped may, on delivery of the goods, sue the shipowners for damages to the goods, though the bill of lading was not signed by the master.

A ship is hypothecated to the shipper for any damages sustained by the insufficiency of the vessel, or the fault of the master or crew.

**ALIENS.**

An alien enemy may sue and be sued in the enemy’s country.

**APPEAL.**

The circuit court on appeal from the district court is cautious in admitting new matters of defense or allegation, where the facts were known at the hearing in the district court.

Appeal and writs of error at common law considered; and Act 1807 and Act April 17, § 50, construed.

In a suit by an assignee in bankruptcy against a person claiming adverse interest no appeal lies but the final decree from the interlocutory decree of the district court.

A finding of fact by the district court will not be reversed unless clearly erroneous.

An appeal does not lie from an interlocutory judgment dissolving an injunction.

Where defendant takes an unauthorized appeal and gives a bond, plaintiff may maintain an action thereon.

Where an assignee proceeded by petition to recover certain property as assets of the bankrupt, and the respondent answered without objection, the circuit court, on review, will not consider whether a more formal suit would have been proper.

**APPEARANCE.**

The voluntary appearance of defendant in a suit commenced by foreign attachment cures the defect of jurisdiction.

The giving of a bond by a nonresident for the release of property seized under foreign attachment from a United States court is not a voluntary appearance.

A voluntary appearance after the revival of a suit is a waiver of process.
APPRENTICE.
Under Act Md. 1793, an indenture made by one justice of the peace under the seventh section of the act will be enforced, though there were many objections to the form of the indenture

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ARREST.
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ASSIGNMENT.
A creditor of an insolvent, believing him to be such, can assign his demand to a debtor of the insolvent whose debt is not yet payable
A decree, though not assignable at law, is transferable for valuable consideration in equity
A check given by a railroad conductor for “one continuous passage” to a certain point on taking up a ticket which, by its terms, was not transferable, is also not transferable
To enable a person, by assignment of a bond, to vest a legal title in the assignee, it must appear that he has the right to make the assignment

ASSIGNMENT FOR BENEFIT OF CREDITORS.
Where an assignment was set aside on petition of the assignee in bankruptcy, it transfers the title of the assignee to the assignee in bankruptcy as of the day of the filing of the petition; and the general assignee is not entitled to any expenses incurred by virtue of such transfer, but is entitled to expenses incurred in making sales of the property under orders of the court
An assignor may, by bill in equity against the assignee and the only unpaid creditor, compel an accounting of the assignee
An assignment valid by the law of the state where it is made, though void if made in another state, conveys property in such other state

ATTACHMENT.
A positive averment, in the words of the statute, that “plaintiff's debt was fraudulently contracted,” is sufficient, under Daws Minn. 1867, c. 66, § 1
A foreign attachment for breach of stipulation in a charter party cannot be sustained where the amount of plaintiff's damages cannot, with propriety, be averred or sworn to
It is no objection to a foreign attachment that plaintiff has sued out an attachment in another state on the same cause of action.

Quaere, whether a foreign attachment could be sustained where plaintiff has sued out an attachment in another state for the same cause, and defendant had given bail therein.

Rights under an attachment depend on the state of the property when the attachment was levied.

An attachment under mesne process is not, in strict sense of law, a lien on the property attached.

**BAIL.**

The bail of an insolvent discharged under the law of Maryland will be exonerated.

Affidavit that account “is just and true as stated, and no part thereof has been paid,” is sufficient to hold defendant to bail.

An amendment conforming the declaration to the cause of action upon which the bail was given will not authorize the discharge of the bail.

**BAILMENT.**

Where defendant had sold complainant a bill of exchange, and kept it as security for its price, and the drawers became bankrupt, and defendant failed to recover the dividends on the draft, he was liable for any loss resulting.

**BANKRUPTCY.**

Operation and effect of bankruptcy laws and proceedings.

Foreclosure of a mortgage on bankrupt's estate is not within summary jurisdiction of district court, under section 1 of the bankrupt act.

One who prepares for market and sells lumber growing on his own ground is a manufacturer, within the meaning of bankrupt law.

A bankruptcy court has jurisdiction to restrain the prosecution of the bill of a depositor to wind up a bank, though he gun prior to the petition in bankruptcy.

An attorney cannot act for a creditor at a meeting unless authorized by letter of attorney properly acknowledged.

A third meeting of creditors should not be called, except for cause shown.

**Register.**

A register, under general order No. 30 of the supreme court, is entitled to no fees except such are as provided by such order.

The register can order an assignee to furnish him with all necessary information as to funds in his hands.

A register properly refused to audit the accounts of the assignee filed at a second meeting, where no notice of such auditing had been given to the creditors.

Countersigning checks by the register is a judicial duty.
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Where an examination of a bankrupt is adjourned at the instance of the creditors, the register is not entitled to his per diem for that day.

A register's discretion in determining when and what meetings of the creditors shall be held will not ordinarily be interfered with by the district court.

A register has power to adjourn a meeting of its creditors when, in his judgment, the interest of the whole body of creditors, or of sound policy, requires it.

Acts of bankruptcy.

Where a merchant fails to pay, for 14 days, commercial paper given before, but falling due after, he became engaged in business, he can be adjudged a bankrupt.

The allegation of suspension of payment of commercial paper on a certain day, and that payment had been demanded at different times thereon, is equivalent to an allegation of demand on that day.

Failure of an accommodation indorser to pay the note in 14 days after his liability has been duly fixed is an act of bankruptcy, if there is no defense, and if he is a manufacturer.

Commercial paper mentioned in section 33 of the bankrupt law includes all negotiable paper.

A negotiable note is not the “commercial paper” of an accommodation indorser thereof, within the meaning of section 39 of the bankrupt act of 1867.

An assignment for benefit of creditors, made with intent to defeat and delay the operation of the bankrupt law, is complete on the day of its execution, and the intent existing at that time determines its character.

An assignment for benefit of creditors will be deemed to have been made with intent to delay the operation of the bankrupt law, where the exercise of the powers granted by it would have that effect.

The meaning of the word “future,” in section 2 of the bankrupt law, is future with reference to the day on which the act was to take effect.

Adjudication.

An adjudication entered on the 27th day of June, 1874, will be set aside on motion, if the act passed on that day was not complied with.

Commencement of proceedings—Voluntary bankruptcy.

One who holds a debt in a fiduciary capacity is not entitled to the benefit of the bankrupt act, though he is also indebted individually.

A provisional warrant in voluntary proceedings, on proof by affidavit of its necessity, will not bevacated, where such facts are not disproved.

A voluntary petition will be received, notwithstanding a petition for a compulsory decree has been filed, and an order of notice of cause entered.

—Involuntary bankruptcy.
One who buys paintings from time to time, and sells them at auction, is not a merchant, within the bankrupt act.

Where a voluntary petition in bankruptcy omits the names of some members of the firm which it is asked shall be declared bankrupt, proceedings against the nonjoining partners cannot be made by a creditor.

Where debtor in involuntary bankruptcy proceedings declines to defend in form, but is personally present, the court will hear suggestions from any creditor that an insufficient number of persons had joined in the petition.

Bankrupt will be required to make statement in writing under oath, where he is relied on to prove insufficient number of petitioning creditors as suggested by a creditor.

Debtor who does not demand jury on return day after continuance cannot afterwards demand jury.

Court, in determining whether sufficient number of creditors have joined in petition, will not consider names of preferred creditors.

Assignee-Appointment and removal.

A person residing out of the district, or having an interest adverse to the creditors generally, is disqualified to act as assignee.

Where, after an assignee has been appointed, a creditor has been added to the schedules, no new choice of assignee is necessary.

A general creditor, or the attorney of one, is not necessarily disqualified to act as assignee.

—Powers and duties.

The repeal of the bankrupt act does not prevent the assignee from suing to reduce the property of the bankrupt to possession.

The accounts of the assignee must be presented at the second meeting of the creditors, and audited by the register.

The assignee may sue in a state court to recover money paid by the bankrupt in violation of section 39 of the bankrupt act.

A judgment in a state court against an assignee in bankruptcy, directing payment out of the assets in the assignee's hands, does not, alone, furnish legal grounds to the district court, as a court of bankruptcy, for directing payment by the assignee.

Creditors need not object to the assignee's account, except at the meeting called in the twenty-eight section of the act.

Property of bankrupt.

Property held in trust by a bankrupt passes into the control of the assignee until another trustee is appointed.

Lands held for a bankrupt upon a trust resulting upon the payment of the price by him before the bankrupt act was passed belonged to the assignee.
Lands conveyed to a third person by the bankrupt in a secret trust to defraud his creditors passed to the assignee, though conveyed before bankrupt act

Where a partner sued for a dissolution of the firm, and bankruptcy proceedings were begun against the firm, the amount claimed by the partner on dissolution would be his individual property, which would pass to the assignee for the payment of his separate debts

The property of the bankrupt passes to the assignee, and is distributable among his creditors, whether he obtains a certificate of discharge or not

—Exemptions.

Exemption in favor of a bankrupt is not effected by the fact that his wife owns the household and kitchen furniture.

Under section 14 of the bankrupt act, the assignee, in addition to necessary household and kitchen furniture, can exempt, in favor of the bankrupt, “such other articles and necessaries” as he may think right, the whole exemption not to exceed $500

The bankrupt, in addition to the exemption allowed by bankrupt act, is entitled to exemption under the law of his domicile.

The assignee must select the property exempted under the bankrupt law, and should refuse to set apart articles of mere luxury

One need not have either wife or child, to constitute a head of a family

—Liens.

A consignor whose property was sold he-fore the bankruptcy of the consignee, and the proceeds mingled with the general assets, has no lien

A bailee who agrees with the bailor that he will hold the goods for a certain time, and afterwards sell, and pay his claim against the bailor, has a right to sell after such time, though the bailor had in the meanwhile become bankrupt

A deposit of goods under a contract which will result in a debt brings the goods within the mutual credit laws of the bankrupt act, so that the bailee can set off his debt against the value of the goods

A creditor's bill to subject defendant's equities to plaintiffs judgment creates a lien, where process was served before a petition was filed to declare defendant a bankrupt

Where a lien has been acquired before petition in bankruptcy was filed, enforcement of such lien in state court will not be enjoined, unless fraud is charged

Bailee of an insolvent's goods, who, before a petition in bankruptcy was filed, employed him to assist in the management of the goods, is entitled to a credit for the amount paid therefor, as against the assignee in bankruptcy

—Sale.
Where a person intends to bid at a cash sale of a bankrupt's estate, he may agree to sell on credit to another, when he has no notice that such person has an intent to bid at the sale.

A sale for a bankrupt's estate to the solicitor of the assignee will be set aside.

Proof of debts.

Where a creditor with security makes proof of claim without mentioning it, through ignorance of the law, he will be allowed to withdraw his proof, and be restored to his rights.

When written objections to a proof are filed with a register, and testimony is taken, he must, if requested, certify the same to the district judge for decision.

Rev. St. § 5084, must be construed in connection with the clause of section 5021 prohibiting certain creditors from proving their debts.

Illegally preferred creditor may prove his debt where the property is surrendered to the assignee without suit.

A speculative option commonly called a “put,” is a wagering transaction, and is not a debt provable in bankruptcy.

Where, in eminent domain proceedings, a tenant has been paid on a basis of his obligation to pay rent, the landlord can prove up a claim for rent on the bankruptcy of the tenant.

Creditor whose debt was created by fraud of bankrupt does not, by proving claim and taking a dividend, waive his right to sue for the balance.

An order expunging a claim against the bankrupt is not such an adjudication thereof as to prevent the creditor from pleading it as a set-off in an action by the assignee.

A deposition filed by a creditor, setting forth a claim for breach of contract, but not asking for assessment of the alleged damages, is not due proof of the debt.

Semble, that proof of a debt before a register, and the rejection thereof by the district court and appeal to circuit court, are conditions precedent to creditor's right to sue assignee, but are not an adjudication for or against a claim.

On the hearing of a motion to expunge a proof, the moving party is entitled to open and close.

Where the testimony of the bankrupt is desired on a motion to expunge proof, he should be summoned as a witness.

The answer to a petition to expunge a proof cannot be used as evidence.

Papers annexed to an answer to a petition to expunge a proof must be proved in the usual manner, to be used as evidence.

Payment of debts.

A judgment in favor of the people of the state of New York against a surety on a bail bond given for the appearance of a person indicted for a crime is a debt to the state, and is entitled to priority under the bankrupt law.
Creditors receiving larger per cent, of their debt than the apparent assets justify must be careful that they do not obtain a preference

Examination of bankrupt.
Failure of a bankrupt to attend on the adjourned day of his examination cannot be punished as contempt

On an examination in bankruptcy, questions are proper which elicit an answer tending to show an interest of the bankrupt in property at the time petition was filed

Where the wife of a member of a bankrupt firm claims certain estate standing in her name, the bankrupt may be examined as to what property the wife owns, and the amount of money that she had at any time

A bankrupt who is in custody may be produced in court on habeas corpus whenever necessary for further proceedings in bankruptcy before the court or a commissioner

Costs-Peers-Disbursements.
On approval of the assignee, the counsel of a bankrupt may be paid from the estate for services in resisting the petition and settling conflicting claims

The necessary expenses and disbursements of the United States marshal and assignee must be taxed by the register

Review
Order of district court in exercise of summary jurisdiction in bankruptcy (Bankr. Act 1867, § 1), cannot be reviewed by appeal to the circuit court under section 8

Order of district court in exercise of summary jurisdiction in bankruptcy is reviewable by petition to the circuit court setting forth proceedings in district court, and asking a review and reversal or modification of the order complained of, and a mere notice of appeal is not “proper process” for invoking a review

Semble, that the review of an order of the district court in exercise of its summary jurisdiction may be applied for at any time before the order is executed

A summary proceeding by order to show cause, asking the assignee to be directed to pay a mortgage debt out of the estate, is not a suit, within section 8 of the bankruptcy act, relating to appeals

The appeal provided for by section 8 of the bankruptcy act can be taken only from a final order

Discharge
An involuntary bankrupt may be discharged, unless guilty of some act specified in Act 1867, § 29
An assignment for the benefit of creditors by debtors after the passage of the bankrupt law, or before it took effect, will not prevent their discharge under the act.

A voluntary bankrupt, whose assets are less than 30 per cent, of the claims proved, and who has not obtained the consent of one-fourth of the creditors in number and one-third in value, is not entitled to discharge under the bankrupt act, as amended June 22, 1874.

A baker who buys flour, which he makes into bread and sells to daily customers, is a tradesman (Bankr. Act 1867, § 29), and is not entitled to discharge unless he has kept proper books of account.

A discharge will be refused where the confession of judgment was voluntarily made by the bankrupt, in order to compel a creditor to reduce his rent, and, if not, to defeat his debt.

A discharge may be granted on an application made more than a year after adjudication.

A discharge will be granted where the creditors take no steps to defeat the same on the grounds set forth under Bev. St. U. S. §5110.

The fact that a debt was created by fraud is not a ground for withholding a discharge, but such debt is excepted from the operation of the discharge.

One who was imprisoned under an execution before a petition to declare him a bankrupt was filed is not entitled to a release as soon as he is declared a bankrupt, but he is entitled to be released when he has obtained a certificate of discharge in bankruptcy.

Quaere whether a discharge in bankruptcy relates back to the commencement of the proceeding, and renders an intermediate imprisonment for debt unlawful.

Prohibited or fraudulent transfers.

The giving of security on a loan is not an illegal preference.

A creditor who enters judgment by confession, and levies execution when he has cause to believe that the debtor is insolvent, obtains an illegal preference.

A creditor releasing the goods of a debtor from an execution, and taking other assets, when the debtor is insolvent, obtains illegal preference.

Bankruptcy act, before the amendment of June 22, 1874, did not require the creditor to know that reasonable cause existed for believing the debtor insolvent.

The existence of a financial crisis constitutes reasonable cause to believe men otherwise in doubtful circumstances to be insolvent.

To set aside a preference made by an insolvent debtor, it must appear that the creditor receiving it had reasonable cause to believe that a fraud on the bankrupt act was intended.
A conveyance by an insolvent debtor to his creditor, of property on which the creditor had a lien exceeding the value of the property, does not violate section 35 of the bankrupt law.

A judgment against an insolvent, obtained without fraud or collusion, is not void under the bankrupt law.

Notice to a creditor of an act of bankruptcy does not affect a transfer to him, except as tending to show that he had reason to believe the transfer was in fraud of the bankrupt law.

A judgment by confession against an insolvent is a lien created with the implied consent of the debtor, and is in fact a transfer by him to the creditor, and is void under section 35 of the bankrupt law.

A transfer of property by an insolvent which necessarily prefers one creditor is presumed to have been made for the purpose of such preference.

Design to give a preference must be established as a fact.

A pledge of part of the assets of a national bank to secure a loan made by one who knows its embarrassed condition is not a preference.

The preference of creditors prohibited by the bankrupt law is a preference to secure or pay a pre-existing debt.

—Proceedings to recover property.

Where the property affected by a lien has passed to the assignee, summary proceedings in the bankruptcy court to restrain the enforcement of the lien are proper.

A district court has power to prohibit any proceeding in a state court by a creditor to enforce a lien on the property of a bankrupt.

Where property in possession of an assignee as part of the estate is taken in replevin issued by a state court in a proceeding to which he is not a party, the district court will see that his possession is not forcibly displaced.

An assignee is entitled to a judgment for the value of property seized on execution within four months before the petition by a creditor knowing of the insolvency.

Arrangement with creditors.

Attachments are not dissolved by the acceptance and recording of a resolution of compromise.

Mere delay, without laches, in obtaining requisite number of signatures to a composition, is not ground for refusing to record it.

Resolution proposing composition of 70 cents, to be paid within 30 days, on condition that all the bankrupt's property be surrendered and all pending suits discontinued, is proper.

BANKS AND BANKING.

A bank located in Columbus, Ohio, having power by its charter to deal in bills of exchange generally could deal in exchange through an agent in another city.

Where moneyed capital was taxed $1.05, but a reduction of indebtedness was allowed before the assessment, a similar tax, without a deduction, on national banks, was invalid.

An ordinance of a city imposing a tax nominally on all banks, but from payment of which the state banks had been held exempt, was invalid.

Where different rates of taxation are imposed on different classes of moneyed capital, the rates of taxation on national bank shares should not exceed the rate imposed upon shares in state banks.

The word “insolvency,” as used in the currency act of 1864, is synonymous with the same word as used in the bankrupt act, and it is only necessary that insolvency should be in contemplation by the bank making transfers of its assets.

Where a bank accepts stock and notes for which it was given as security, as collateral for a loan, it may sell the stock after the notes become due.

An agreement by a national bank to pledge a portion of its assets to secure a loan made to it by a firm is not affected by the fact that the president of the bank was a member of the firm.

A national bank cannot repudiate an unauthorized contract, and at the same time retain the benefit thereof.

The receiver of an insolvent national bank has no greater right to enforce collection of assets than the bank itself would have had.

Where a sufficient fund has been realized from the assets of a national bank, which has been declared in default, to pay all claims against it, and leave a surplus, interest on the claims will be allowed during the period of administration, before appropriating the surplus to the stockholders.

Interest is recoverable on the balance due a depositor in a national bank which has been declared in default by the comptroller of the currency, though he made no formal demand of payment.

Assumpsit by the holder of a claim against a national bank, which had been declared in default, to recover interest during the period of administration, will not lie against the receiver or against the comptroller of the currency, but will lie against the bank.

BILL OF LADING.

A limitation as to the amount of damages is ineffective against a loss arising from negligence.
Vessel held liable for destruction of cargo by fire caused by a collision through the negligence of the vessel

Where the owner of a vessel, notwithstanding the charter party, makes special contracts through the master in respect to freight, the bills of lading govern the rights of the parties

BILLS, NOTES, AND CHECKS.
In an action on a note, where the plea is nonassumpsit, the defendant cannot show damages by a breach of the contract on which the note was given
A note not payable to plaintiff or order, as charged in the declaration, is inadmissible
An assignment of a note must be proved, to entitle the assignee to judgment
A declaration on a bill of exchange is sufficient where it avers that plaintiffs are the holders of a certain bill drawn by defendant's agent, and accepted by him, pursuant to an agreement between the parties; that the bill was drawn on a sufficient consideration; that it was duly accepted by defendant, and was protested for nonpayment
Where a note is payable two years after date, on demand, in an action against the maker it is not necessary to prove special demand
In an action by an indorsee against a maker, where the maker has no defense against the payee, he cannot claim the indorsee should recover only so much as is due him from the payee
In an action on a note, interest need not be demanded in the declaration
A plea to an action on a note, which avers that the goods for which it is given are valueless, is not good
Where a bill was accepted by one of a firm without the knowledge of the partners, nor in the course of business, recovery can be had thereon under a count stating it was drawn on “B. & Co.,” and accepted by B. by writing the name of “B. & Co.”
It is no defense to a bank note taken in the usual course of business that it was stolen from the rightful owner
Where one of the firm accepts a bill of exchange for accommodation, without the knowledge of his partners, the drawer has a right to sell the same, and those taking it, though with knowledge, were bona fide holders
Letter written within reasonable time before or after date of bill of exchange, describing it, and promising to accept it, is a virtual acceptance
Indorsement on a bill of exchange, subsequent to that of the payee, made for the purpose of transmitting, and collecting the bill, may be stricken out at the trial in an action by an indorsee
An action on a bill of exchange may be brought in the name of the owner, without regard to indorsements made for the purpose of transmitting and collecting the bill, though for value
Qualified acceptance of bill of exchange to amount of proceeds of certain property against which it was drawn, and subsequent application of such proceeds, is a satisfaction only pro tanto.

A letter giving authority to draw bill of exchange at any time, but not referring to the particular bills to be drawn, is a promise to accept, for breach of which one who takes bill on credit thereof may sue.

Where the notary does not find the indorser at home, and leaves a written notice with his family, it is sufficient.

The bankruptcy of a mutual insurance company is no defense to an action by the assignee of a note given for the premium on a policy of insurance.

### BOTTOMRY AND RESPONDENTIA.

Where the consignee of a vessel employs her without accounting for her earnings, he cannot enforce bonds on the vessel for wages, insurance, and the like.

A master has no authority to bottomry the ship, where he does not communicate with the owner, though he is able to do so.

A bottomry bond executed by the master of a ship is invalid as to items for advances made without an agreement or reasonable expectation that they were to be secured by bottomry.

A captain cannot bind his owners and their vessel for the payment of mariners' wages for three months after their discharge.

Where a vessel is liable on a bottomry bond, and the question whether it belonged to the government was doubtful, the question will not be disposed of before appearance, and on motion.

A bottomry bond, made for a larger sum than is due, to defraud underwriters, is void.

### BOUNDARIES.

Courses and distances are controlled by fixed monuments.

### CARRIERS.

No person is a common carrier who is not a carrier for hire, though the compensation need not be a fixed sum.

Where the master of a vessel, who had taken passage on a steamer to rejoin his vessel, was carried past the place for which he had bought his ticket, he can recover his own personal loss, and damages for the detention of his vessel.

Failure of a vessel to arrive at the port from which a ticket of passage was purchased is not excused by the fact that the vessel was disabled by stress of weather, and the passenger was entitled to recover the passage money paid by him.

Until a passenger is on board the vessel, he is not subject to casualties or misfortunes occurring through stress of weather or otherwise.
A carrier is not liable for damages to cotton in bales for moisture previous to the time of lading of which the master had no knowledge.

Where goods are lost after receipt by the carrier, and before delivery, presumption is that it was occasioned by the carrier's neglect.

Carriers are not liable for damage to goods resulting from the act of the owner.

The term “merchandise,” in a charter incorporating a steamboat company for the transportation of merchandise, does not apply to mere evidences of value, such as notes, bills, checks, policies of insurance, and bills of lading.

The transportation of passengers or of merchandise by common carriers does not necessarily imply that the owners are not common carriers of bank notes or specie.

The knowledge of the owners of a vessel that the master carried money for hire will not affect them, unless the hire was on their account, or unless the master hired himself out as their agent in that business.

CENTENNIAL EXHIBITION.

Act Cong. Feb. 16, 1876, appropriatins $1,500,000 to the Centennial Exhibition does not require repayment to the United States before stockholders of the exhibition shall be repaid their subscriptions but only requires repayment before a percentage of the profits is paid to the stockholders.

CERTIORARI.

Certiorari cannot issue from a superior court to bring up from the county court a case for adjudication.

CHARTER PARTY.

Charter party to furnish cargo at certain place is broken where cargo could not be obtained, though it stipulated for purchase of cargo with vessel's funds.

Nominal damages only are recoverable for breach of charter party where libellant fails to prove actual damages, though the agreement binds the parties to a penalty for its breach.

Estimated profits of the voyage cannot be computed as an element of damages for breach of charter party.

CHATTEL MORTGAGES.

Foreclosure of a chattel mortgage does not affect rights of third person in the mortgaged property.

A mortgage allowing the mortgagor to retain possession and make sales, and receive the proceeds for his own use, is void in New York.

The assignee in bankruptcy cannot claim that the mortgage is invalid because not renewed under the statutes of New York, if valid when bankruptcy proceedings were commenced.

CHINESE.
Under the treaty of July 28, 1868, art. 6, Chinamen can reside in the United States on the same terms as the subjects of Great Britain and France.

An American citizen may enter the military service of a foreign government without compromising the neutrality of his own, or divesting himself of his rights of citizenship.

Quaere, whether a native-born American citizen can expatriate himself.

Where property was seized and sold, and the proceeds paid into the United States treasury, under the captured and abandoned property act, the question whether the property was in fact captured or abandoned is not open to litigation in the courts, but the only remedy of the person claiming to be the owner is by a proceeding for the proceeds in the court of claims.

Nature of the liability.
An erroneous maneuver under imminent peril is not chargeable as a fault.
Fault cannot be imputed in deciding on one of two doubtful measures for avoiding a collision which carries the vessel so nearly clear as six feet.
A claim for damages by collision cannot be maintained against the bona fide purchaser of the vessel at mortgage sale.
A movement by a schooner in extremis is no ground for holding her chargeable.

Rules of navigation.
A tug with a line of barges in tow, which is unable to change her course in favor of a sailing vessel, is nevertheless in fault in not making such inability known to the vessel, as required by rule 24.
A vessel will not be pronounced in fault for adhering to a rule of navigation, unless a very clear case for departure is shown.
Rule that vessel sailing free must give way to one closehauled applies to pilot boats and other vessels on bays and harbors, as well as on the high seas.
A towboat leaving a landing just outside of a ferry slip and crossing the course of an incoming ferryboat is in fault in not making at once for the center of the stream, as required by the local laws.

Vessel whose jib-boom is standing, contrary to law, is liable for collision happening wholly or in part thereby.
A vessel which goes about at the same time as another vessel on a parallel course, and endeavors to pass such other vessel, is an overtaking vessel.
Article 10 of the regulations for preventing collisions, requiring that a bell shall be sounded at least every five minutes during the fog, means that the bell must be sounded as often as once in five minutes, and as much oftener as the case shall require.
Between steamers
A steamtug, meeting a steamboat end on, held in fault for starboarding instead of porting
A vessel who sees approaching vessel stop her engine is entitled to consider that such approaching vessel intended to allow her to pass her bows, and the sudden starting of the approaching vessel's engine was a fault
Owner of disabled ferryboat may recover the value of her use while disabled, though her place was supplied by a spare boat kept for that purpose
A vessel by whose fault a collision occurs is liable for damages consequent on the stranding of the disabled vessel, resulting from its disabled condition
Where a ferryboat was crossing the East river, and a steam propeller was coming down, and undertook to pass the bows of the ferryboat, the propeller was liable, as she had the ferryboat on her starboard side
Where a propeller coming down a river attempted to cross the bow of a ferryboat crossing the same, instead of going under her stern, she is responsible for the damages
Where a propeller coming down a river met a ferryboat crossing on her starboard hand, and the ferryboat kept her course, the propeller would be liable for a collision caused by crossing the bow of the ferryboat
Where a tug signaled another to cross, and being unable to check her progress, a collision ensued, the signaling tug was in fault
A steamer, having placed herself in a position involving danger of collision, is responsible for the consequences
Sail vessels meeting
Vessel sailing free, which collides with vessel closehauled, must show that all possible care and skill were used by her, and that the collision was the fault of the other vessel, or was inevitable
A vessel sailing free must get out of the way of one closehauled
A vessel which is entitled to keep her course has a right to expect the other to be steered clear of her
A vessel with the wind free, attempting, without necessity, to cross the bows of a vessel closehauled, is liable if a collision ensues
Where the injured vessel was in stays, the burden of proof is on the colliding vessel to show she was not in fault.
Steam vessels meeting sailing vessels
Steamers must give way to sailing vessels with a free wind
It being shown to be the custom, it was not a fault of a pilot boat to put herself in the path of a steamer, and lower her yawl to put the pilot on board of the steamer
In a collision in Hell Gate, between a steamer and a schooner, *held*, that the steamer was in fault in not waiting before turning into a narrow channel, until she knew whether the schooner was intending to turn or not. Where a steamer was seasonably seen, and a schooner was kept on her course, the steamer is liable for the collision, though the schooner had no lookout except her master, who was on the quarter deck. Where a schooner, on meeting a steamer, keeps her course, it is the duty of the steamer to avoid her. A sailing vessel which collides with a steamer is not in fault where she keeps her course until collision is inevitable. Where a schooner approaches a steamer having lights at her bow and stern, and luffs to avoid her, supposing her to be anchored, causing a collision, the schooner is in fault.

**Speed: Fogs**

A steamer moving eight miles an hour in a dense fog is not going at a moderate speed. A steamship is liable to a sailing vessel for injuries caused by too great speed in a fog. Speed of vessel in a fog should be moderate.

**Lights, signals, etc**

A schooner at anchor is in fault where her light is in such position that it is hidden from view by her sails. Where there was no darkness sufficient to prevent an approaching vessel from seeing a vessel in tow of a tug, failure of the tug to carry lights showing that she had a tow was not a fault causing the collision. The burden is on the pilot boat to prove that the absence of the masthead light which she should have carried did not contribute to the collision. A schooner at anchor is in fault for not sounding a bell and blowing a horn on hearing the horn of an approaching ship during a fog.

**Lookouts**

Vessels are in mutual fault where collision is caused by failure of both to maintain a proper lookout. A ship which neglects to have a lookout stationed exclusively for that duty, and leaves the helm unattended, is in fault.

**Tows: Tugs**

In a collision between a steamboat and a schooner in tow, *held*, that the steamer was in fault. It is the duty of a propeller towing a barge past a vessel at anchor to take great care not to go so near the anchored vessel that a sheer of the barge might cause a collision.
A propeller which tows a barge past a vessel at anchor, passing so close as to cause a collision between the vessel and the barge, and without keeping a proper lookout astern, is in fault and solely liable.

Where a vessel in tow collides with another vessel when the tug saw the other vessel, and could have avoided the collision, the tug is liable for part of the damages.

Where an oil barge in tow of a tug sagged against the vessels at the end of a pier by force of the tide, they were not guilty of negligence.

In the absence of instructions from the pilot in charge of a ship to the tug having it in tow, as to its course on approach of a schooner, it was the duty of the tug to navigate so as to avoid a collision.

In a collision between a schooner and a ship in tow, the ship must be regarded as under steam, as she was moving by steam alone, though it was 250 yards away.

Where a tug tows a ferryboat on fire from her slip, the burden of proof was on the tug to show that she was not in fault in towing the ferryboat against a schooner at anchor.

It is the duty of a ship in tow to keep away from a schooner under sail, which is keeping on its course.

Vessels moored, etc.

Where a schooner breaks away from the pier, and runs into a canal boat and beaches her, and she is injured by a storm, the schooner is liable for the damages from a collision and from the subsequent storm.

A steamboat under way, colliding with a schooner at anchor in a customary place, held presumptively in fault.

Where a schooner moored for the winter at a pier broke adrift, and ran into a canal boat and beached her, she is liable for the damages.

A vessel at anchor at a breakwater in a storm is in fault in not having a watch on deck, and cannot recover against a vessel for a collision.

Where a vessel at anchor in a gale is run into by another vessel, having no person on board, the latter is liable, notwithstanding the custom in the harbor to leave vessels at anchor without any one on board.

Particular instances.

A steamer meeting a schooner closehulled held in fault for failing to keep a proper lookout, or to slacken speed.

Where a collision is caused by the misconduct of a pilot employed by the owner not under compulsion by the statute, the vessel is liable.

The loss of a ferryboat, which, while in a sinking condition from a collision, collides with another vessel and sinks, was not increased by the second collision, and it is immaterial whether or not the second colliding vessel was in fault.
Evidence in collision between a steamer and schooner in the night considered, and held that those in charge of the steamer were negligent in not seeing her sooner

No reason being shown for the change of course of a steamer, thereby causing a collision, she was held in fault

Where a steamboat passes a tow without much reduction of speed, whereby the tow was damaged by the swell, the steamboat was liable

A steamboat meeting a tow, if she cannot pass at a safe distance, must reduce her speed to prevent injury to the tow by the swell

Evidence examined, and held that a collision between a steamer and a pilot boat was not due to the want of the masthead light on the pilot boat

Evidence in collision at a slip considered, and held that both parties are in fault

In a collision between a steamer and a pilot boat at sea, held the steamer was at fault, in not stopping still before she reached the pilot boat

The towing of a ferryboat on fire out of the slip, by a hempen hawser, which was likely to burn, was negligence on the part of the tug, and the drifting of the ferryboat against a schooner at anchor was the result of such negligence

Procedure.

Testimony of practical seamen, as experts, is admissible to show whether circumstances required a departure from the rules of navigation

A libel must set out the facts relied on to charge the vessel with fault

Where the answer admits failure to have lights, the burden of proof is on the vessel to show freedom from fault

Opinion evidence as to the value of a vessel is admissible where she has no market price

Where the negligence of one of two vessels jointly liable is proven the decree may be against her alone

Libel caused by the joint negligence of two vessels may be maintained jointly against them

After a decree for libellants, and while a reference as to damages was pending, insurers who have paid the loss of the cargo may be made colibellants

The insurer of a cargo may be admitted as a party to settle its rights to a share of the recovery

A colliding vessel, which violated the law, must prove that the collision was not due to such violation;

First question in a suit in rem for collision is whether the vessel sued was in fault, and until that fact is established the question whether libellant was in fault does not arise
Where both vessels were in fault, and an apportionment of damages was decreed, and no cross libel was filed, costs will be allowed to party who recovers  

Rule of damages  

Where two steam vessels were held liable to the owners of a schooner, and the damages were apportioned between them, and one vessel was of less value than the amount of damages, the difference could not be recovered against the other vessel  

Where both vessels are in fault, the damages will be apportioned  

Where a steamer is liable for collision with a schooner, and two of the schooner's men jumped on board the steamer, the loss of the men, if crippling her, was chargeable to the steamer  

Where ferryboat injured by collision was withdrawn for repairs, and its place supplied by another boat, evidence of the value of her use, based on the receipts, shows that she was valuable, though there is no evidence that she could have been chartered for any sum during the time she was laid up  

The rule that the market value of the vessel is the criterion of her value does not apply where she has no market value  

Owner cannot abandon vessel as being a total loss where she has been, sunk, but could be raised for small sum, compared with her value  

Owners of injured vessel, who make repairs, may recover as part of damages the usual additional charge for use of tools, etc., and also for the services of superintendent  

Where damages were adjudged to be divided, insurance money received by one of the steamers was not to be deducted from the share which the other was adjudged to pay  

Demurrage may be considered in estimating damages  

Where two steamboats were both in fault, the damages would be divided  

After a vessel has been repaired, additional work necessary to make the vessel good will not be allowed for  

**COMMISSIONERS.**  
The commissioners have no power to issue attachments returnable to the circuit courts of the United States  

**COMPOSITION WITH CREDITORS.**  
Where the debtor compromises with certain of his creditors in consideration of his discharge, and gives a better security to one than to others, the composition is void  

**CONFLICT OF LAWS.**  
The law of the state in which is situated a railroad mortgaged to secure bonds governs as to the rate of interest, where it appears that the parties contracted  

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with reference to such law, though the bonds were made payable in a larger city in another state

CONSTITUTIONAL LAW.
Const. Mo. art. 11, § 4, exempting persons from liability for acts during the Civil War by virtue of military authority vested in them by the government, is valid
Act Cong. 1863, providing for the transfer of actions for personal trespass committed by virtue of military authority during the late war to the federal courts, is constitutional
Law declaring lawful a bridge over the Mississippi which obstructs navigation is not unconstitutional because of a treaty with France securing free navigation
Law authorizing bridge over navigable river is a regulation of commerce
A law dividing the railroads in the state into different classes based on their earnings, and prescribing a rate of charges for each class, is not unconstitutional
Power of congress to regulate commerce with foreign nations and among the several states includes the power to regulate navigation

CONTRACTS.
Where one party refuses to do something necessary to enable the other party to perform the contract, the latter may abandon it
A party who abandons a contract on the failure of the other party to perform a material part is not liable
Where a contract provides that the estimate of an engineer as to the amount and value of the work shall be conclusive unless objected to within 20 days, an objection as to the quality alone waives an objection as to the quantity
Where plaintiff agrees to build certain bridges, to be paid partly in cash and partly in stock, he was entitled to pay in cash for extra work necessary to be done
Where a contract covers various undertakings, and plaintiff complains of the breach of one, he waives any right as to the others
An action on a charter party cannot be maintained by one who is not a party thereto, though it recites that one of the parties is the agent for such person, but the covenants are with the agent who executed it in his own name, without reference to the alleged party in interest

COPYRIGHT.
Copyright law is intended to encourage learning, and not mere industry
Literary production may be copyrighted, though printed on single sheet
A newspaper is not a subject of copyright
An inchoate intended publication is not the subject of copyright, as such right extends to the book only, and not to the subject
Where an officer of the British navy files a declaration of intent to become a
citizen, but, trouble with Canada seeming imminent, he offers his services to
that province, he is not a resident, within the meaning of the copyright act of
1831

The work must be published within a reasonable time after filing the title page
No suit can be maintained for infringement without evidence of copyright in
complaint
Where the judges of the court prepared the headnotes to their opinions, the
reporter has no copyright in the volumes he edits
Substantial damages cannot be allowed where the matters charged have not
prejudiced complainant

CORPORATIONS.

Quaere, whether the misnomer of a corporation must be pleaded in abatement
At common law the property of a foreign corporation cannot be attached to
compel its appearance
A foreign corporation may sue in another jurisdiction
St. Mass. 1821, c. 28, relating to the individual liabilities of stockholders,
applied, not only to debts in a strict sense, but liabilities incurred by the
corporation
An assessment is necessary to the liability of a subscriber to stock in an
incorporated company
An indorsement of a note by the president and cashier transfers the note to the
indorsee
Where a corporation, in payment of a debt, takes its own stock, it has
authority to sell the same
A creditor of a corporation cannot sue the directors thereof for gross
negligence in the management of its affairs
The original subscribers to a corporation are bound by the alterations of a
charter made with the consent of the corporation
Installments due by subscribers to the Chesapeake & Ohio canal may, under
the Virginia statute, be recovered on motion, with costs
A bankrupt act does not furnish the sole remedy for winding up insolvent
corporations

COSTS.

It is in the discretion of the court to stay proceedings in a second suit until the
costs of the first are paid, but stay will only be granted on the ground of
vexation
Security for costs will not be required on a libel for a seaman's wages, where
the answer was “forfeiture for desertion,” and an attachment was issued after
hearing on the summons, but such defense was not then interposed

COUNTIES.
Counties in Iowa can issue bonds for borrowed money if authorized by a public vote.

Bonds under the seal, and signed by the proper officers, of the count, reciting that they are issued under a vote of the people, are presumptively valid.

In an action on county bonds, a holder need not allege compliance with the conditions on which the issue was authorized.

COURTS.

In general.

Organization of the federal court by the judiciary act, and the purpose of congress in creating new circuit judgeships, commented on.

Comparative authority of federal and state courts.

A circuit court will not enjoin actions pending in a state court.

The sale of mortgaged property under foreclosure in a state court will not be enjoined at the instance of prior mortgagees not parties in the state court.

Common-law courts of Massachusetts have no power to adjust maritime liens on a fund attached under the state law.

A federal court cannot restrain prosecution of a suit pending in a state court, but may act upon the parties who are suitors in the federal court in relation to the same subject-matter.

Where, pending an action for dissolution of a firm, it was adjudged a bankrupt, and the interest of the partner bringing the action passed to the assignee in bankruptcy, the federal court had no power to take the property from the possession of a receiver appointed by the state court in the action for an accounting, though the interest of both partners had passed to the assignee.

Federal courts-Jurisdiction in general.

While one court of competent jurisdiction has custody of property, no other court of concurrent jurisdiction can acquire jurisdiction of it.

An allegation that a party is a resident of a state is not sufficient to give the federal court jurisdiction, but it must be alleged that he is a citizen.

It is not a fraud on the law to remove from one state to another for the purpose of acquiring a right to sue in the federal court, where there is no intention to return.

One who leaves his domicile and goes to another state to obtain employment will not be considered a citizen of the latter state, so as to give the federal courts jurisdiction, in the absence of proof that he intended a permanent residence there.

Averment of citizenship is necessary to give jurisdiction to the federal court, and must be proved under the general issue.

To constitute a person a citizen of the state, so as to sue in the United States court, he must have a domicile in such state.
An indorsee of a note may sue the indorser who is a citizen of another state, in the federal courts, though the maker and payee were citizens of the same state.

Where a note is indorsed by the payee “to bearer” before the note is put in circulation, a holder who is a citizen of a different state from such indorser may sue him in a federal court, though he was a citizen of the same state as the maker.

United States courts, under Rev. St. § 915, have no authority to institute suits of foreign attachment.

It seems that if the payee of a note after maturity, and before suit brought, becomes a citizen of the same state as the maker, he cannot sue in the federal courts.

The words in section 11 of the judiciary act of 1789, “unless a suit might have been prosecuted * * * if no assignment had been made,” refers to the time when the suit was commenced.

The assignee of a promissory note may sue on it in the federal court if the assignor might have done so at the time the suit was commenced.

The payee of a note who was at the time a resident of the same state as the maker, but afterwards removed therefrom, may sue on the note in the federal court.

Bond given by city to railroad company in same state cannot be sued in federal courts.

Interest coupons, though payable to bearer, cannot be sued on in federal court unless the bonds to which they were attached were suable in such court.

—Superior courts.

The superior court, since the act of October 22, 1828, has only appellate jurisdiction.

—Circuit courts.

The organization of the circuit court for the district of Missouri is peculiar, and is provided for by Act Cong. March 31, 1857.

The circuit court has power to prohibit a nonresident plaintiff from prosecuting an action against a resident defendant.

Where a bankrupt has possession of property claimed by the assignee, and the bankrupt claims to hold it as agent of a third person, the circuit court has jurisdiction.

Trover by an assignee for property belonging to the bankrupt lies in the circuit court against the bankrupt and one claiming title.

A circuit court has jurisdiction to review a judgment of the supreme court reversing a judgment of the circuit court, on proof that both judgments were obtained by fraud.

The power of the circuit court to review proceedings in bankruptcy is not limited by the amount involved.
The circuit court of the District of Columbia can discharge an apprentice on account of the cruelty of the master, and bind him out to another

Circuit court of the United States cannot entertain a bill of revivor where the parties are citizens of the same state, though the original parties were citizens of different states

—District courts.

Act Cong. April 10, 1869, providing for the appointment of circuit judges, and declaring who should hold circuit courts, did not affect the right of the district judges in Missouri to sit in the circuit court

The district courts in bankruptcy have jurisdiction to grant injunctions without notice

The district court has exclusive jurisdiction of all controversies between the assignee and the bankrupt, depending on his relation as such

The district court has power to issue an attachment against a nonresident of the district

A district court of the southern district of Ohio has jurisdiction of a seizure on the Ohio side of the Ohio river at high-water mark

—Administration of state laws and decisions.

Statute of New Hampshire relating to actions by administrator does not govern the federal courts in equity

A construction given by a state court to the act of limitations of the state will be enforced by the United States bankruptcy court

A federal court will give to a discharge under the insolvent law of a state the same effect it has in the state where granted

Decision by state court that railroad was not built as authorized by its charter is binding on federal courts within the state, though no judgment or decree was rendered

A federal court may enforce rights under state statutes as well as under acts of congress in any proceeding at common law

Federal courts-Procedure.

No state law can, proprio vigore, affect the process of federal courts

A provision in a state attachment act that a motion to discharge property attached may be made in vacation is not applicable to the federal courts

Act Cong. May 19, 1828, § 3, assimilating the process of the federal courts to proceedings then used in the courts of the several states, applies only to existing state laws

COVENANTS.

A party may sue without averring performance, where the consideration has been accepted by defendant, and plaintiff has no other remedy than on the covenant, and any breach by plaintiff may be paid for in damages
A covenant which goes only to part of the consideration on both sides, and a breach of which may be paid for damages, is an independent covenant, and an action for breach may be maintained without averring performance in the declaration.

CUSTOM AND USAGE.

A former course of dealing between A. and a broker is not admissible to explain a contract between A. and B., made through the same broker, if unknown to B., and not founded on a general usage of trade.

Quaere, whether usages and customs can be introduced as evidence to control the construction of contracts and the principles of law.

CUSTOMS DUTIES.

Customs laws.

Under Act Aug. 30, 1842, § 16, assessing duties, all costs and charges are to be included in actual market value.

The commercial meaning of “blanket,” in the tariff act of 1857, is to be traced only to the time of the passage of that act.

The tariff act of 1857 operated simply as a reduction as to duties of the act of 1846.

Act Cong. March 2, 1799, as amended by act of 1816, authorizing collectors to pay fees due to officers of the customs out of the revenue of the United States, creates no lien on money in his hands, arising from the revenue.

An ex-collector cannot appropriate monkeys of the United States in his hands in payment of fees due to officers of the customs (Act March 2, 1799), as such authority can be exercised only by the collector actually in office.

Logs purchased for exportation are, while awaiting shipment, though still on land, “exports,” within Const, art. 10, § 1, prohibiting imposts or duties on exports.

Under the treasury regulations of February 17, 1849, an importer, before he can use his own store for the deposit of importations, must indorse on the entry an agreement to pay an amount equal to the salary of the inspector, or one-half storage.

Where importations were deposited by the importer in his own store under Act March 28, 1854, the importer was liable for half storage.

Value of goods purchased in bulk, and afterwards put in a packing house for convenience, does not include cost of packing.

Under Act June 30, 1864. § 5, “ribbons” must be read “silk ribbons.”

Under Tariff Act July 14, 1832, § 2, subd. 2, worsted carpet bindings are not chargeable with the duty of 25 per cent.
Rate of duty on wine imported in bottles, each containing more than a pint and less than a quart, is controlled by actual cost of the wine, and not by its cost estimated on the supposition that each bottle contained a quart. Under Act March 3, 1869, the dutiable value of merchandise is the actual market value or wholesale price at period of exportation in country from which it was exported, exclusive of commissions, etc.

Payment-Protest-Appeal

The protest, under Act Feb. 26, 1845, is insufficient, which does not set forth distinctly the grounds of objection to the appraisement, or wherein the appraisers were disqualified.

Violations of law-Forfeiture

Where goods, the property of a foreign manufacturer, are consigned to the party who entered them, the latter is not liable to a penalty for undervaluation, under Act March 30, 1846, § 8.

Evidence is not sufficient to sustain forfeiture of vessel for smuggling where the only evidence was that of the seamen who were arrested in the act of smuggling, and promised immunity if they would testify against the vessel.

Where there was, through mistake, an error in an invoice and entry, and a correct invoice was obtained, a penalty for undervaluation should not be imposed.

Where property is forfeited, it does not vest in the government until after a seizure.

A vessel receiving smuggled goods is not liable to forfeiture.

Damages for breach of contract cannot extend to probable profits.

DEDICATION.

A dedication to public uses by parties in possession prior to the donation act of September 27, 1850, does not affect such land in the hands of persons succeeding in such possession.

A dedication alleged to have been made within the memory of living witnesses cannot be proved by reputation.

DEED.

Where an instrument was signed, but left with a third person without any authority to deliver it to the grantee, there is no delivery.

DEMURRAGE.

Where a charter party contained no provision as to the discharge of a cargo, and the usual time for unloading such a cargo was 15 days, no claim for demurrage could exist until the expiration of the 15 days.

Where there is no contract that demurrage shall depend on the earnings of freight, demurrage for detention at an intermediate port is due at such port.
Where a bill of lading provided for demurrage after lay days beginning 24 hours after arrival and notice, and the vessel, on account of ice, cannot land at the consignee's wharf, lay days begin to run 24 hours after notice to the consignee that she had been taken to another wharf.

DEPOSITION

Service of notice of taking the deposition by leaving a copy at the place of abode of the adverse party is insufficient.

A disagreement between parties as to interrogatories should be referred to a master in chancery to be settled by him subject to the review of the court on appeal from the report.

Exceptions to interrogatories are waived unless they are propounded as objections before the commission issues.

A magistrate who takes a deposition under an act of congress (1 Stat. 73) need not certify that deponents subscribed it in his presence.

Title of cause in which deposition is taken under act of congress (1 Stat 73) must be truly stated in the certificate of the caption.

DISCOVERY.

Defendant may be required to produce books and papers before trial for plaintiffs inspection.

DISTRICT OF COLUMBIA.

A ratification by congress of a charter granted the canal company by Virginia makes it an act of congress as to such district.

EJECTMENT.

A purchaser at a sheriff's sale of an equitable estate has no title on which to maintain ejectment.

Act Cong. July 1, 1862, granting a right of way to the Central Pacific Railroad Company 200 feet wide on each side of the track, gives an exclusive right of possession, for which the company may maintain ejectment.

A person making a void entry on the Virginia military district of Ohio, having a patent, is entitled to improvements under the occupying claimant law.

EMINENT DOMAIN.

To condemn land for the use of a canal is to take private property for public use.

The company condemning the land is the sole judge of what interest will be necessary for its operations.

An inquisition condemning more land than necessary will be set aside.

A reference in the inquisition to the description of the land in the warrant is sufficient.

It is not necessary that the inquisition contain the names of jurors summoned, but not sworn.
The jury should describe the boundaries of the land, and the quality and duration of the estate in the same.

Where several warrants have been returned with inquisitions, and each inquisition refers to the warrant returned therewith, it can be shown by parol which warrant is applicable to each inquisition.

A day certain must be fixed in the warrant for the meeting of the jury, and the want thereof is fatal.

The assessment of damages by a jury fulfills the requirement that no private property shall be taken for public use without compensation.

Where a charter does not require notice to the party whose lands are to be condemned, the inquisitions need not state that such notice has been given.

It is not necessary that the inquisition state the value of the land separately from the damages.

**EQUITY.**

A bill is multifarious which mingle independent claims of plaintiff with those which he has as administrator.

A bill to cancel an agreement is defective which does not bring the proper parties before the court, and alleges mistake, without fraud, as a ground for relief.

A deed of trust, which, by mistake, states that it secures a certain note, may be reformed so as to secure a bond.

A bond given for the price of property will be canceled where the vendor, in default of the payment, conveys the property to a third person.

Cause in equity, in which no appeal lies to the supreme court, may be reheard, if petition is filed before end of next term after final decree.

Equity can control the manner in which one railroad shall cross another, when not regulated by statute.

It is no ground for setting aside the subscription to corporate stock that defendant did not understand he was liable to installments on the stock.

A bank is a proper party complainant to enjoin a collection of a tax upon its shares assessed against its stockholders.

**ESTOPPEL.**

One who recommends an invention to another, disclaiming all interest therein, is estopped from claiming a prior invention.

**EVIDENCE.**

A letter-press copy made at the same time cannot be received as an original paper.

A bill of lading cannot be contradicted by parol.

Where books produced under notice are not allowed to be used by the other side, parol evidence of their contents is competent.
Parol evidence is admissible to show what is reasonable time for performance of written contract which does not specify any time
Where the policy on the cargo was expressed to be on account of owner, parol evidence is admissible to show who were intended
Expert testimony is to be considered like any other testimony
Expert testimony is not admissible to prove that a rule of navigation does not exist in a particular locality
Witnesses experienced in the special business of ferriage without New York City may testify as to the value of use of ferryboat in such waters
Where the testimony in a case is mere matter of opinion, the jury cannot decide according to the number of witnesses alone, but must consider their intelligence, and the manner in which they testify
The record of a suit in admiralty brought by a trustee is admissible, in favor of the cestuis que trustent, to show the recovery, and the title on which it rested
A sworn copy of a paper is not evidence, unless the witness states that he compared it with the original
A duly-certified copy of the register of a ship, transmitted, on loss of the vessel, to the register of the treasury, to be canceled, is legal evidence
As a surrogate acts in the capacity of clerk and judge, he must certify as to the authentication under the act of congress
Where a policy refers to representations of the assured, and provides that they are to be true, evidence outside the record is admissible to show that they were
An old entry in a memorandum book, stating the ages of the members of the writer's family, is admissible to prove age of a witness
An answer by one who is charged with a forfeiture under a law of the United States is not admissible against him in an action brought against him for a penalty under the same law
Declarations of a bankrupt were properly admitted in evidence on the trial of a suit between his assignee and a third person as to title to certain property
EXECUTION
A sale of property under execution will not be enjoined where it is averred that no legal injury will result to the execution debtor from such sale
EXECUTORS AND ADMINISTRATORS.
An administrator may sue in the circuit court of New Hampshire as a citizen of Maine, if he takes out letters of administration in New Hampshire
An execution de bonis propriis is the proper process against executor on a decree in equity for the balance of the administration account
Declaration by executor need not state by whom the letters testamentary were granted
An orphans' court cannot annex conditions to the payment of the dividend on a judgment recovered against the intestate.

A defendant who pleads general issue in an action by executor appointed in another state on a cause of action arising in testator's lifetime cannot, on the trial, require plaintiff to produce letters testamentary

FACTORS AND BROKERS.

Where a sale is made in disregard of instructions, the consignor may recover damages

FRAUD.

Where fraud is charged, evidence tending to prove it, though it be slight, is admissible

FRAUDS, STATUTE OF.

Goods in United States bonded warehouse, on which duties have not been paid, are in possession of the United States; and an order therefor from the owner, though accepted by the warehouseman, is not a sufficient delivery or receipt and acceptance, under the statute of frauds

A memorandum, “Received $1,000. to be accounted for if the parties shall furnish satisfactory security for certain lands, say 119,000 acres for $113,000, on or before Friday morning next, otherwise to be forfeited.” is a sufficient memorandum of sale.

A parol contract in Virginia in 1787 for land in Kentucky, where the consideration was paid, was not void

FRAUDULENT CONVEYANCES.

See, also, “Bankruptcy.”

Where a conveyance is absolute in form, but is in fact only a mortgage, the land is liable on execution, subject to the mortgage charged

A deed of manumission by a resident to his slaves pending a suit by his wife for alimony is fraudulent and void, if made to prevent her from recovering her claim.

The question whether the sale of a vessel was fraudulent cannot be raised by third parties

A chattel mortgage is void, as against the creditors of the mortgagor, where it is the intention of the parties that the mortgaged property should remain in possession of the mortgagor, and to be used and disposed of by him

Leases of property of insolvent railroad company for indefinite time tends to hinder or delay its creditors

Deed by corporation to its directors is void as against creditors of corporation.

Conveyance by insolvent to his mother for expressed consideration of an account due to her, and conveyance by her immediately afterwards to her daughter in consideration of natural love and affection, are indications of bad faith
A conveyance by an insolvent to his mother, which recites an alleged account, as the consideration thereof, is fraudulent, where it had been running for 23 years without a demand for payment, and it appears that some of the items had been guessed at, and the account was first reduced to writing when the conveyance was made.

A gratuity cannot afterwards be converted into a debt, so as to support a conveyance to the prejudice of the grantor's creditors.

GAMING.

A sale for future delivery is not invalid, as a gaming contract, unless the intention that there should not be actual performance was mutual.

A valid contract of sale for future delivery is not rendered illegal by a subsequent settlement by payment of difference.

GENERAL AVERAGE.

If the cargo or ship, or any part of either, be voluntarily sacrificed or exposed to danger for the common safety, the part saved shall contribute to repair the loss sustained, provided the object for which the sacrifice was made be obtained.

An intention to consign to inevitable loss goods thrown overboard is not necessary to authorize a claim for general average.

It is sufficient to justify a claim to contribution if the danger sought to be avoided is so imminent that the measure adopted may be beneficial to all.

Where a ship is landed to avoid capture, and before she is boarded a large part of her cargo is saved, there can be no contribution, because the object for which the ship was being exposed was not obtained.

GIFTS.

Choses in action may be the subject of gifts causa mortis.

Money on deposit may be delivered as a gift causa mortis by delivery of the certificate of deposit.

GRANT.

Mexican land grant held entitled to confirmation under United States v. Rodriguez, Case No. 16,184.

A grant by a political chief for the time being of Alta California was not invalid, though it did not receive the previous approbation of the territorial deputation.

A Mexican land grant will be confirmed where the conditions as to cultivation and habitation annexed to the grant have been performed.

Section 7, Act Cong. July 1, 1862, granting land to the Central Pacific Railroad Company, which required the company, within two years, to designate the route of the road and file a map, did not affect the grant of the right of way, but only furnished the means by which the land taken by the railroad could be withdrawn from private entry.
Act Cong. July 1, 1862, granting land to the Central Pacific Railroad Company, was a present grant, operating immediately on the passage of the act.

A grant by a political chief of Alta California was not invalid because the lands were not within the limits of a mission, or within 10 leagues of the seacoast, or because he approbation of the supreme executive did not appear, though it had been obtained.

Conditions in a grant that the grantee should build and inhabit a house within a certain time, and obtain judicial possession of the land, are conditions subsequent.

The railroad companies to which land was regranted on the failure of original grantees to build the roads do not hold the lands subject to any trust in favor of the creditors of the state or of the former companies.

GUARANTY.

Where notes issued by the trustee of two railroad companies are indorsed by one of the companies that it guaranties payment, principal and interest, according to its tenor, and orders the contents to be paid to bearer, such company is liable on the notes as guarantor.

HABEAS CORPUS.

Where an internal revenue officer is held under an indictment in a state court for an offense committed under color of the laws of United States, a petition for a writ must be brought under the seventh section of the act of March 2, 1833.

Where a discharge is asked on the ground that the indictment did not aver an offense against the United States in the district in which an indictment was found, the indictment will be sustained unless so defective that it would be the duty of the court before which it was presented to refuse to take action on it.

Whether, in a proceeding before a commissioner for release on habeas corpus, an indictment under which petitioner is held can be examined, quaere.

HUSBAND AND WIFE.

A chose in action accruing to a married woman survives to her unless the husband reduces it to possession during his lifetime.

Where a husband has reduced a legacy to a wife to his possession, a promise to pay to the wife a sum equal to the proceeds is not supported by the right of the wife to interpose in equity to prevent her husband from so taking possession.

A note and check given by a husband to a wife do not support a trust, though the note bears the indorsement to the effect that it was given for money accruing to the wife from her father's estate.

A legacy to a wife of a share of the residue of her father's estate, including proceeds of lands and stocks, does not constitute a separate estate under the Delaware statute of 1865.
INDIANS.
The territory of Alaska, under Act March 3, 1873, became, as to the introduction of liquors, “Indian country,” and the military force of the United States may be employed for the arrest of persons violating the Indian intercourse act of 1834.

No person arrested by military authority in the Indian country for selling liquors contrary to law can be detained more than five days before the delivery to the civil authorities for trial.

INFANCY.
A contract by a minor to serve as a seaman with the assent of his father does not bind the minor or his father after he obtained his majority.
In a suit against an infant, notice should be served on him and the guardian ad litem appointed.

INJUNCTION.
One who has broken a mutual covenant cannot enjoin the other parties from violating the covenant.
Injunction will not lie against equitable owner of patent on application of legal owner.
Where right to temporary injunction depends merely on the interpretation of a written instrument, the court should interpret it, and grant or refuse the injunction accordingly.
An injunction will lie to restrain a trespass causing irreparable mischief.
Where complainant's equity is not clear, a preliminary injunction should not be granted unless the damage is irreparable.
A projected publication will not be protected by injunction.
Publication of a libel injurious to plaintiff's business will be enjoined only when it appears that the statement is malicious as well as false.
A collection of a tax may be enjoined where the law authorizing it is invalid, or its enforcement would lead to a multiplicity of suits.
Federal courts are prohibited by Rev. St. § 720, except in certain cases in bankruptcy, from enjoining proceedings in any court of a state.
An injunction will be dissolved on bill and answer where the charges are denied, though in part on information, where that part was corroborated by the bill.
Where a party acting under competent advice, and with no intention of disobeying the order of the court, violates an injunction, no fine will be imposed, but he will pay the costs of the application.

INSPECTION.
In action for penalty for altering inspector's marks on flour, the marks and alterations need not be set out.
Flour inspected under the Virginia act of December 21, 1792, must be branded “Condemned,” or it is not within section 10 nor 15

INSURANCE.

Mere expression of opinion does not constitute material misrepresentation
A misrepresentation of a material fact is fatal, though made by an agent without the knowledge of the principal
False representation, to avoid policy, must be material, either in relation to rate of premium or as offering false inducement to risk
Where material facts are suppressed in representations made a part of the policy, the insurance is avoided
Where a material change is made in the mode of using property insured, and no notice is given at the time or before the renewal, old and new policies are void
Policy against loss “by fire originating in any cause except design in the insured” covers loss where building is left vacant, and is burned by intruders
Conditions are to be construed strictly against those for whose benefits they are intended, when they impose burdens on the other party
A recital in a policy that the premises insured are “to be occupied hereafter as a tavern, and privileged as such,” is not a warranty that the house should be constantly occupied as a tavern
A clause avoiding liability in case of the death of the insured by his act or intent, whether sane or insane, is valid
Condition in policy of reinsurance that reinsurer shall pay pro rata at and in the same time and manner as the reinsured, means that the reinsurer shall have all the advantages specified in the policy of the reinsured, and does not refer to the insolvency of the reinsured
Condition, in policy of reinsurance, for immediate notice of loss, means that the notice must be given in a reasonable time under the circumstances
Service of copies of proofs of loss and notice is sufficient if not objected to at the time
Provision in policy requiring notice of loss and “a particular account of such loss or damage” requires an account of the articles lost, and does not refer to the manner and cause of the loss
Proofs of loss need not negative exceptions of losses from design, etc., which are matters of defense
Where the insurer refuses payment because the policy has been canceled, a proof of loss is waived
In assumpsit on a policy with accounts for money had and received, plaintiff can recover premiums paid, though the policy did not attach
The burden of proof is on the insurer to show willful burning
An adjudication of bankruptcy terminates the interest of a bankrupt in a policy, and it is void unless assigned to the assignee.

Where a mutual insurance company was authorized to insure for premiums “to be paid in cash, as insurance companies not mutual are accustomed to do.” the company could accept a note for such premium instead of cash.

**INTEREST.**

Interest is not recoverable on a debt owing by an inhabitant of Oregon to an inhabitant of Arkansas while the latter state was in insurrection.

Where the trustees on foreclosure allow time on the price at a reasonable interest, the debt secured by the deed continues to bear its original interest.

**INTERNAL REVENUE.**

Act July 13, 1866, § 23, does not prevent the owner of goods seized unlawfully from suing the seizing officer for trespass.

Under Act July 13, 1866, § 70, a retail or other dealer offering canned goods for sale after August 1, 1866, was to be deemed the manufacturer thereof, and such goods were liable to a duty.

The court has power to authorize an assessor to amend his application for attachment for contempt against a taxpayer for not producing his books, and giving evidence concerning his liability for the income tax.

An assessor has no right, in order to determine liability for income tax, to examine books of third persons who have had dealings with the taxpayer.

On the application by an assessor for an attachment for contempt against a taxpayer for not producing his books and giving evidence as to his liability for the income tax, the court may issue an order to show cause, instead of proceeding ex parte.

Certificates of stock representing the pro rata interest of stockholders in a railroad foreclosed by the corporation issuing the stock are not dividends, within Act July 1, 1862, the mortgage representing advances made.

A tax of 1–24 of 1 per cent, each month on deposits subject to check is collectible under Act June 30, 1864, § 110, even though interest is allowed on such deposits.

Act June 30, 1864, § 110, does not authorize a tax of 1–24 of 1 per cent, on money borrowed by a banking firm.

A person having a license of a hanker, who receives stocks, etc., and sells them, charging as a banker, is not liable to a tax imposed under ninety-ninth section of Act June 30, 1864, imposing a tax on brokers.

A person purchasing stock for others in his own name, advancing his own money, and holding the stock as security, is liable to a tax as a broker.

**INTERNATIONAL LAW.**

The island of St Domingo is a dependence of France, within the non-intercourse act of March 1, 1807.
If the island of St. Domingo was conquered by the British and given up to the blacks, the right of France would have revived, as a conqueror gains nothing but the temporary right of possession, and cannot, in the meantime, impair the rights of the former sovereign. Where a bridge is unlawful as obstructing a river, in violation of a treaty with a foreign country, it is an international question, to be determined by the executive and legislative department.

**INTERPLEADER.**

A bank may have relief by interpleader against adversary parties claiming money therein deposited.

**JUDGMENT.**

Rendition and entry.

In an action on a joint contract against two, where one has suffered default, and the other has obtained verdict, judgment must be entered for both.

An execution on a supersedeas judgment confessed two months after the original judgment will be quashed.

Operation and effect.

A judgment of the United States court is a lien on lands throughout the district in which it is recovered.

The lien of a judgment of the United States court on the lands of defendant cannot be restricted by state statutes.

A judgment is a bar to a new suit for the same purpose when substantially the same as the first, except for averments therein of immaterial matter.

Grant of administration, with will annexed, to a husband of testatrix, is conclusive as to her right to make the will.

In Virginia, a judgment by confession is equal to a release of errors.

An adjudication by a surrogate that an administrator was decedent's next of kin, in a contest between him and another as to the grant of letters of administration, is not conclusive on the question of distribution.

A decision of the supreme court, on appeal in a suit in equity, that plaintiff's remedy was by action at law, and remanding the cause for trial at law, is conclusive as to plaintiff's right thus to sue.

Unless the same subject-matter was involved, and the same questions raised, judgment recovered is not res judicata.

The federal courts will not entertain a bill by a nonresident stockholder of a domestic corporation, where the issues raised by the bill have been already adjudicated by the state court in a suit between the corporation and the proper adversary parties.

**Assignment.**

In Indiana, judgments are assignable by indorsements on the record attested by the clerk.
Judgments may be assigned otherwise than of record, but payment to the assignor before notice of the assignment is valid

Amendment.
A judgment may be amended four years after rendition by adding the name of another person as to benefit

Satisfaction.
Agreement for full satisfaction of judgment in consideration of payment of less than amount of judgment is not a full satisfaction

Matter of defense, though not pleaded in action in which judgment was recovered, is, if the subject of cross action against party recovering such judgment, a sufficient consideration for agreement to satisfy the judgment

Burden is on judgment creditor who executed satisfaction of judgment to show that it was void

An administrator who gives a mortgage to secure a decree requiring him to pay money, and afterwards sells the land, the mortgage not having been recorded, is liable on the mortgage, and not on the decree

Relief against.
The absence of a witness is no ground for an injunction to stay the proceedings on the judgment

Where fraud is charged in a bill to set aside a judgment, and positively denied in the answer, a decree for complainant cannot be rendered on the uncorroborated testimony of a single witness

JUDICIAL SALES.
A sale by a trustee under a decree of court will not pass title to land in the actual adverse possession of a third person at the time of the decree

JURY.
A juror who has a case at issue at the same term will he discharged

JUSTICES OF THE PEACE.
A creditor has no right to give a false credit on a note, so as to reduce it to the jurisdiction of a justice of the peace

LIBEL AND SLANDER.
Where a paper written to prevent the appointment of a party to office states that his reputation was bad, and there was probable cause for writing the paper, plaintiff could not recover for libel

LIENS.
Agreement by mill owners to improve water power, each party's share of the expense to be a lien on his estate, gives each party who pays more than his share a lien for the excess

One who builds cars for a railroad company has no lien on the cars for his work, in the absence of a special agreement

LIMITATION OF ACTIONS.
Where a bankrupt was a nonresident when the cause of action accrued, and had not resided more than three years in the state thereafter, the state statute of limitations was no defense to he set up by the assignee against the claim.

To avoid the statute, complainant must allege ignorance of the fraud, and when it was discovered.

After the act of July 13, 1861, declaring the inhabitants of Arkansas to be in a state of insurrection, the period during which such insurrection existed is not to be counted as a part of the limitations for suit in Oregon.

Where the statute is pleaded to two counts in a declaration, it is sufficient if it is good as to one.

Where a subcontractor was to receive his pay when the contractor received his, his cause of action against the contractor did not accrue until the contractor had made final settlement with the owner.

It is a good replication to a plea of the statute that plaintiff has never been within the state where suit is brought.

A bill filed after the two-years limitation has expired is not an amendment of a suit for the same cause of action, filed before the two years, and subsequently dismissed.

Where statute of limitations is pleaded, plaintiff cannot obtain benefit of exception in favor of merchants accounts without setting them up in his replication.

Where mill owners agreed to improve the water power, each party's share of the expense to be a lien on his estate, such lien is not barred in less time by the local law in action to foreclose a mortgage.

Even if there were no statutes of limitation, equity would not disturb a purchaser under a mortgage who had been in possession 15 years with knowledge of a junior mortgagee.

Ten years' limitation applies to foreclosure of mortgage where mortgagee knew the land had been sold under prior mortgages, and the purchaser was in possession claiming title.

Statutes of foreclosure and redemption are rules of property, and also laws of limitation, and will be applied to proceedings in equity in the absence of a special statute.

**LOTTERIES.**

The purchaser of a lottery ticket from one authorized by the city of Washington to conduct a lottery cannot recover from the city the prize drawn by his ticket.

**MANDAMUS.**

On mandamus to compel levy of taxes to pay judgment against a county, no matter is available as a defense which was properly used in resisting recovery of judgment.
The fact that county commissioners have been enjoined by state court from assessing tax to pay judgment rendered by federal court is no defense to an application to federal court for mandamus to compel MARINE INSURANCE.

Where a premium note is not paid at maturity, and the policy provides that it shall be void while it remains overdue, and, after dishonor of the note, the vessel strands, and the master pays the note, and a gale comes up and the vessel is lost, the insurer is not liable

In case of the total loss, the insurance is what the property insured was worth at the time and place of shipping, the expenses of lading included

The invoice price is not a proper test of value of the property lost

In a valued policy, the assured need not prove at the trial the amount of the loss

Averment that plaintiffs have entire interest in the subject is not supported by evidence of the joint interest with others, nor can averment of a joint interest be supported by proof of the sole interest

Testimony of the captain that the vessel was condemned on his application after report by the surveyors that she could not be repaired except at too great expense, though not evidence of such proceedings, is evidence that he coincided with surveyors in opinion

A part owner of a shipment of specie, who had no interest in the insurance thereon, was appointed supercargo, his duties as such to commence when the voyage ended. The voyage was broken up, and the master delivered the specie to the supercargo, who invested it. Held, that such investment was not an act of ownership, but was as agent for the underwriters, and did not waive the abandonment

Where a stranded vessel, before abandonment, was gotten off, but was in the meantime sold at auction by the master and purchased by him, the owner cannot recover for total loss

A policy on a vessel is not rendered void because the ship took on board a chain cable smuggled by another vessel on loss by perils of the sea

If the voyage, as originally insured, be valid, any subsequent illegality in the course of the voyage will not affect the policy as to property not tainted with such illegality

Liability to forfeiture for smuggling does not avoid the insurance

Knowledge of loss before insurance by one who was not the agent of the insured for any purpose connected with the insurance is not notice to the insured

The burden is on the insurer to prove that the insure! knew that the property was lost when he procured the insurance

In adjusting a loss under a policy on a cargo, the value is to be ascertained at the port from which the vessel last sailed before the loss; and if freight has
there been earned, and not paid, it is not chargeable on the salvage, but is an addition to the original cargo

MARITIME LIENS.

Act March 3, 1855, § 15, providing that the penalties imposed by the provisions regulating the carriage of passengers shall be liens on the vessel, does not apply to a fine on the master, imposed for a misdemeanor.

Persons employed to load and navigate a vessel plying principally for the transportation of stone, and licensed for the coasting trade, have a lien for wages.

Where a contract of service is for the navigation of tide waters, and laying stone on wharves is incidental thereto, the whole service is maritime.

A vessel being sailed by the master on shares does not affect the lien of the seamen.

The lien for wages is not lost by delay where no interests of third persons intervene.

Where the cargo is delivered unconditionally, the lien for the freight is lost.

It is no defense to a suit to hold freight for mariners' wages that the consignee, before libels were filed, was summoned as a garnishee of the shipowner.

When supplies have been furnished in a foreign port or a state other than that to which the vessel belongs, the liens are admiralty liens, unaffected by local law.

A lien for supplies furnished in Virginia on a ship owned in Maine is not lost by taking bills in exchange on an owner, which bills were produced for cancellation.

A lien for freight may be abandoned.

Clause in charter party that freight shall be paid within a certain time after vessel's discharge does not waive a lien for freight, as the word “discharge” merely refers to the unlading, and not to the delivery of the cargo.

Where a charter party provides for a gross sum as freight, payable on the close of the whole voyage, and the bill of lading declares that the return cargo shall be delivered to the shippers, they paying freight as per charter party, a lien attaches to the homeward cargo for freight due for the whole voyage, and the consignee, on receipt of the goods, becomes personally liable.

By the law of England, no lien existed for supplies furnished domestic vessel before 3& 4 Vict.

A lien for supplies is divested by an assignment of the claim.

Lien follows the ship wherever she goes, and may be enforced wherever there is jurisdiction to enforce it.

3 & 4 Vict, relates to liens for supplies furnished foreign vessels, and is declaratory of the maritime law.
There is a lien in Canada for supplies furnished American vessel, and a court of admiralty has the power to enforce it.

There is no lien for services as ship keeper while the vessel is laid up during the winter.

Where a vessel goes from a home port to another state to be repaired, a libel will lie against her at her home port for the balance due.

A vessel is liable for authorized advances to a cook, made by the broker who shipped him, though the cook deserts.

Vessels belonging to one state, but in the ports of another, are deemed foreign, within the rule of the general maritime law giving a lien for supplies.

Liens for supplies, given by the general maritime law, cannot be affected by state legislation.

Lien for supplies furnished to a foreign vessel is governed by the general maritime law, and not by the local law of any particular state.

New York statute giving a lien for repairs and supplies to vessels is valid in regard to domestic vessels, but does not apply to foreign vessels.

The effect, as a payment, of a note given for supplies furnished a foreign vessel, is governed by the lex loci, and the lien is not waived where the note was by the lex loci only a conditional payment.

The lien on a vessel must be enforced within a reasonable time, or it will not avail against a bona fide purchaser.

The general maritime law does not give a lien for supplies furnished to a vessel in the state where she belongs.

The new twelfth rule in admiralty, of 1872, does not revive a claim which is almost barred by limitation, and make it a lien on the vessel, so as to cut off titles perfected or acquired before such rule was adopted.

Where a charterer becomes owner of a vessel for a voyage, his agent can bind the vessel for coal supplied in a foreign port.

Where the charterer hires the use of the vessel, and the navigation remains with the owner, and the master, on the credit of the vessel, procures coal in a foreign port, the vessel is chargeable.

A master of a ship has a lien thereon for necessary disbursements abroad of his own money.

A contract to furnish labor, materials, and stores for building and equipping vessel is not a maritime contract, and no lien is thereby created which can be enforced in rem.

MARSHALS.

Marshal cannot detain defendant on a ca. sa. for poundage, if plaintiff has received the debt and costs.

A marshal is not entitled to compensation for custody of property under process in admiralty, beyond $2.50 per day.
A marshal who holds property under several processes in admiralty is entitled to a per diem custody fee, to be apportioned among the cases in which the several processes were issued.

Under Rev. St. § 829, a marshal is entitled to a commission as for the sale of property in a suit in rem against a vessel, where process issued and a bond was given, though the amount of the final decree was paid before execution.

**MASTER AND SERVANT.**

The owner of a railroad track is not liable for negligence of the servants of another railroad company while operating a train on such track.

**MINES AND MINING.**

Placer claims may be located and occupied jointly.

The locator of a mining claim need not take any steps to purchase the same unless he thinks proper.

**MUNICIPAL CORPORATIONS.**

The city of Washington has no power to prohibit free colored persons from selling perfumery.

Where a city was authorized to borrow a specified sum, and issue its bonds therefor, and the money was borrowed and the bonds issued, its power was exhausted.

A city has no power to issue bonds, the consideration of which cannot be inquired into in the hands of a bona fide holder.

A city is not bound, under all circumstances, to keep the sidewalks free from ice.

The existence of a step in a sidewalk is not such a defect as to render the city liable for accidents to passengers stepping from one elevation to another.

Where a street of proper width has been duly laid out, and the damages assessed include remuneration for the land taken, for the deprivation of any right or privilege attached to it, and for the damages done to the land adjoining that taken, the owner is not entitled to further compensation because the sides of the street were cut down perpendicularly, whereby the adjoining land was caused to cave into the street.

A municipal corporation may change the grade of the street without becoming liable to the adjoining landowners for the consequential damage caused to them in adapting their land to the grade, and protecting it.

A municipal corporation, in opening a street, does not incur any liability for consequential damages necessarily done to the land adjoining that taken, where reasonable care was exercised.

**NEGOTIABLE INSTRUMENTS.**

Interest coupons attached to municipal bond are not negotiable instruments, but are mere evidences of interest due on the bond, and assumpsit cannot be maintained there on.
Quaere, whether a guaranty running “to the bearer” of a negotiable note is negotiable

A protest of interest coupons is sufficient to charge the indorser of the notes from which they were cut, though the notary did not have the notes as well as the coupons to present for payment

A bank which receives a note for collection from another bank, indorsed by the cashier thereof, need not give notice of nonpayment to any other party than such bank

A note may be good against an indorser, though it is void as against the maker

NEUTRALITY LAWS.

Neutral rights are not violated by the grant of a commission of a neutral while within the territory of the belligerent

A colony in rebellion is within the law of nations relating to the rights of neutrals, without regard to its status as a state

Belligerent captures by privateers armed and equipped within the United States in violation of the neutrality of the United States may be restored to the injured belligerent, if brought within the jurisdiction of the federal courts

Quaere, whether a colony in a state of rebellion is embraced by Act Cong. 1794, prohibiting the enlistment of soldiers, etc., within the limits of the United States to enter the service of any foreign prince or state

NEW TRIAL.

A new trial will not be granted to contradict the witness by negative evidence, nor to impeach a witness

A party suppressed at the trial, who does not apply for a continuance, cannot have a new trial for that reason

It is not sufficient ground for a new trial that the evidence is conflicting

Where the verdict has done substantial justice, information given by one juror to the others is not ground for new trial

A verdict will not be set aside, as against the evidence, where it does not appear to be the result of passion or mistake

The statute of the state of Maine giving a party in default right to a trial on proof of a probably good defense within three years is not repugnant to the judiciary act of 1789, authorizing a new trial on motion after verdict

One who suffers default, supposing the case was agreed to be continued, is entitled, under statute of the state of Maine, to a trial within three years, on proof of a probably good defense

A new trial will not be granted on the ground of newly-discovered evidence, where counsel did not think the evidence would be material, and did not know of it, though it might easily have been discovered

PARTIES.

Want of parties may be objected to at any time, even in the appellate court.
Where no final decree can be made without prejudice to parties not before the court, the court will not proceed, even though the parties are beyond reach of its process.
Where a debt is due to two persons, and a settlement with the executor of one made after the death of both, and notes given to him for the balance, he may sue in his own name, as the doctrine of survivorship does not apply.
A misjoinder of parties is waived, unless taken advantage of by plaintiff in abatement.
On a joint and several bond, plaintiff may sue one or all of the obligors, but not an intermediate number.

PARTNERSHIP.
A partner is bound by the act of his copartner, within the scope of his business, though the act be fraudulent as between the partners.
Partnership creditors have no lien of the firm property before obtaining judgment and execution.
A simple contract creditor cannot sue to follow partnership property used to pay individual debts.
In an action against two persons as partners, an account book containing entries made by both defendants is admissible as evidence of partnership.
Where the surviving partner notified creditors that his brother's capital remained in the business, a joint creditor of the firm, who did not receive the notice, could require the joint property to be applied to his debts to the exclusion of separate creditors.
The creditors of a firm may enforce in equity the application of the joint estate to the payment of the joint debts against the survivor.
The exchange of a note of a firm dissolved by the death of one partner, for a similar note signed by the survivor, does not convert the firm debt into the separate debt of the survivor.
When one of two partners sues on a partnership demand, defendant may take advantage of it at the trial.

PATENTS FOR INVENTIONS.
See, also, infra, subtitle “Infringement.”
Patentability—What constitutes.
Defendant cannot embody in his machine the patented discoveries held by the plaintiff, and add new inventions of his own or others thereto.
Where the subject of the patent was already open to common use, the patent is invalid.
A patent is valid which consists of a new combination, though composed of parts well known and in common use.
A result or an effect cannot be patented.
The utility of an invention need not be great in order to render it patentable.
That there is a difference in construction which allows the use of an invention claimed in a different way from an invention patented, though seldom required to be so used, does not deprive the claim of the qualities of a useful invention
First inventor has the prior right to a patent if he uses reasonable diligence, though the second inventor has in fact reduced it to a perfect form
An invention is patentable if it appears to be capable of reduction to actual practical use, though it has not been so reduced
A patent will not be granted for a device differing only in form from one in prior use
A new combination of old mechanical devices producing new results is patentable
A hand mirror with a handle extension of wire covered with cement forming the handle and back is patentable, as distinguished from a brush, though the handles and backs of the two are made in the same way
To authorize a patent, some inventive skill must be exercised, but the degree of that skill is not material
Old instruments placed in a new and different organization do not prevent the new mechanism from being patented
To justify finding of anticipation the jury must find that the alleged anticipation embodied substantially the same organized mechanism operating in the same manner as that described in patents
On an issue as to anticipation it is a pertinent question why the mechanism described in the prior patent, and known to the whole world, was not applied to the same uses as plaintiff's
The application to the moving and holding of a rudder of an endless screw working in the cogs on the periphery of a quadrant does not involve invention
Who may obtain patent.
Where there was no product of the machine invented until after the maker had seen similar machines of another for the same purpose, he is not the prior inventor
Where an interference has been declared between an invention claimed and a patent granted, and the patentee fails to appear, it is error to refuse to grant the patent applied for because of failure to furnish unequivocal proof of the priority of the invention, where the applicant furnishes the best proof under the circumstances, his principal witness having died pending the hearing
Where an alien falsely represents himself as a citizen, the patent issued to him is invalid
The oath of citizenship and other duties required by Act July 4, 1836, § 6, are conditions precedent to the authority to issue a patent
Inadvertence in granting a patent while a caveat is pending does not authorize the granting of a patent to the other party unless he shows priority of invention
One who exhibits his invention of an improved lock to three lock makers, though he does not put it to any practical use, gives such a knowledge of it to the public as a complete invention as will deprive another person of his right as first patentor

Prior public use or sale.

Act 1839, § 7, providing that a patent shall be invalid where sales were made more than two years before application therefor, does not refer to sales made by persons claiming prior inventions

Manufacture for two years before application for patent, by person other than the patentee, avoids the patent

Application and issue.

Failure of a patentee to mention in his specification an indispensable addition renders his title bad

Where a new party comes in on rehearing, he comes in subject to the testimony as to priority of invention previously taken

Whether a patent is old or the specification indefinite, or whether the original and renewed patent are not for the same invention, are for the jury

A suit to limit a patent or to declare that it does not extend to certain cases, and pro tanto to have it adjudged void, can be maintained only by the attorney general on behalf of the United States

The commissioner cannot confirm a patent obtained by fraud

A new, original patent cannot be issued eight years after the invention has been in public use

Failure to prosecute an application for two years and eight months after it had been rejected is not an abandonment of the application

Where evidence as to priority of issuance is conflicting, its weight must govern

The proper rule is to construe the claims of the patent in connection with the descriptive parts of the article, and with reference to what is seen to be the real invention

Appeal from commissioner's decisions.

A decision of the commissioner denying a patent to either party on interference is appealable

On appeal from the decision of the commissioner of patents the court will not refuse his action in intimating that a patent was an apposite reference, without stating grounds to support his possession

The rule requiring a commissioner of patents to set forth the grounds of his decision fully in writing must be strictly followed

The decision of the commissioner as to the existence of ground of reissue is conclusive

Reissue: Disclaimer.
The commissioner may allow the original specification to be amended in the reissue
Where an original patentee is dead, his executor may make a surrender and obtain a reissue
Where one paragraph in a reissue leads to a construction which would make the reissue void, explanation of its meaning may be sought in a succeeding one
New features or devices neither described nor indicated in the original specification should not be embodied in the new description
On an application for reissue, the patentee need not claim all things claimed in his original patent
The patentee in a reissue patent need not claim all that was claimed in the original patent
It is lawful to reissue a patent with claims to combinations of fewer elements than were contained in the combination of the claim of the original patent

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<th>Extension: Renewal.</th>
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<td>Where the claim of the renewed patent was not for distinct improvements, but for additional parts of the same improvement, the same thing was patented in both patents</td>
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<td>A renewal is for the benefit of the inventor, and an interest in it before the renewal must be specially assigned</td>
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<td>A conveyance of an original patent, and “any further patent which he shall or may at any time hereafter procure for any improvements,” conveys an interest in so much of a future extension as may be necessary for the use of the improvements</td>
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<td>A contract to convey a local interest in a patent “to the utmost extent as to duration that he may be entitled to” transfers an equity in the same interest in an extension of the patent</td>
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<td>Semble, a sale of an “invention” does not necessarily carry inchoate right of inventor to exclusive privileges under extension of patent</td>
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<td>Inchoate right of inventor to exclusive privilege under extension of patent is subject of sale</td>
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<td>Extension of patents by the commissioner is conclusive as to all facts which he is required to find in order to grant the extension</td>
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<td>A patentee who establishes his title under the original letters patent is entitled to a temporary injunction under an extension of such letters patent without a further trial of his right</td>
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<td>Assignment.</td>
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<td>Where a patent has, by the death of the patentee, devolved on his executor, and has been assigned by him, the assignee may take out the reissue in his own name</td>
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Record in patent office of assignment is notice to purchasers
Assignment need not be recorded in the patent office as between the parties or as against strangers
An ordinary assignment will not convey to assignee an interest in a renewed patent
An assignment of all inventions “for the manufacture of composition brush backs and handles” does not include an invention for hand mirrors, the handles and backs of which are made in the same manner as the brush, though applications for patents on both articles were pending at time of assignment

Licenses.
An agreement by an inventor, who was employed in defendant's factory, to make for defendant a certain number of machines, for which the inventor afterwards obtained a patent, at a certain price, using defendant's implements and materials therefor, raises a presumption of a license to defendant to make and use the invention
There is no principle of equity which requires the owner of a patent to give notice to a purchaser of a licensee's right, in order to enable him to restrict such purchaser to terms of the license
A license under a patent need not be recorded
One tenant in common of patent may give valid license to manufacture under the patent

Infringement-What constitutes.
Where a patent is for a combination of several known parts, it is not an infringement to use any of them where the combination is not similar
The making or selling of a patented machine is infringement
Where a party avails himself of the former invention without such variation as constitutes discovery, there is an infringement
Where the patentee did not devise the various parts, but the whole combination, it is not infringement to use a part of the combination
The business of a manufacturer does not fall within the preventive scope of the patent laws, but only injuries to the right of the patentee
Where a patentee assigned to plaintiff all his interest in a patented machine except the right to manufacture said machine in a certain city, and plaintiff afterwards granted a license to one C to use one of the machines within a certain portion of such city, and C sold the machine to defendant, who removed it to a portion of the city outside the district described in the license, there is an infringement of the patent
A person cannot used a patented device by constructing it in an imperfect manner
Any improvements made on a patented articie do not entitle the maker to use the part patented
A patent is not infringed by a machine which attains the result by machinery of a radically different character

Use of patented invention as one of the elements of another combination is an infringement

Infringement-Procedure.

In an action for infringement, the objection that another is interested with plaintiff must be taken by plea in abatement

To show violation of patent, declaration need only aver that defendant has constructed, used, and sold to others the things patented

One who holds the original right patented, and also an improvement, must assert his entire right in an action for infringement

A junior patentee cannot, by making the elder patentee a defendant, compel him to assert his right as against him

A patentee may sue any one of several alleged infringers, and omit the others, in his discretion

The assignee of an exclusive right to use, but not to make, the thing patented within a specified territory, may sue an infringer in his own name

Construction of a patent, like any other written or printed instrument, is for the court

—Decree.

Where infringement is admitted, if the patent is valid, interlocutory decree should be entered for complainant, and the cause sent to a master to ascertain damages

—Accounting: Damages.

Under Act July 8, 1870, complainant may recover, in addition to the profits of the respondent, damages sustained

Actual damages sustained, directly resulting from the infringement, can be recovered

Plaintiff can recover the profits realized by the wrongdoer from the infringement

On accounting for infringement, defendant must account for the entire profits realized

—Injunction.

The owner of a useful invention has the right to sell it to all who will purchase, subject only to a restraint from some party having a conflicting patent; and he obtains under patent laws only the power to restrain another from unlawfully using or selling his invention

An injunction will be granted where complainant has been long in the enjoyment of his rights, and there was no doubt as to the infringement
Boiler and pipe coverings Letters patent No 55,598, granted June 19, 1866 to John Aslicroff, for “covering a steam boiler pipe or the heater with felt or other nonconducting material.” is valid

Buckles Patent May 26, 1863, is void for want of novelty

Bustle. The invention of Matthew Chambers for a framework for a skirt or bustle was not anticipated by the patent of Alexander Douglass, No 17,082, nor by the English patent of Ozman No 20,513 of 1856

Elastic packing Patent No 3,579, granted August 3, 1869, for “improvement in the manufacture of elastic packing,” includes only soft vulcanized rubber, and not hard rubber

Flouring machine The third claim in letters patent of February 27, 1840, for an improvement on a machine for separating flour from bran, is bad for uncertainty, and the fourth claim is bad as one to the legal result

Gas burners First claim in patent granted June 14, 1870, for improvement in gas burners, includes combination in patent granted July 26, 1870, to a prior inventor

Hand mirrors Claim of patent granted July 27, 1869, for an “improved hand mirror,” covers a mirror having two wires running from the body into the handle and concealed by cement, of which the handle and back are composed

Levels. The invention of Thomas A Chandler for a level (patent No 17,023) possesses patentable novelty, and is prior to the invention for which the patent No 7,263 was granted to William G. Ladd, and to the indention for which Samuel Reed applied for a patent

Locks and latches Claims of reissued patent granted to Charles A Miller, January 27, 1863, for improvement in locks and latches, so construed as to relieve the objection that they claim results or effects

Looms The second claim of reissue No 5,150, held not void for want of novelty

The first and third claims of reissue No 5,150 held infringed

Reissue No 5,150 held infringed

Nut making machine Patent No 13,118 is entitled to priority over patent No 8,427

Printing presses Patent No 98,087 is valid

Pump filters. Reissue of letters patent No 5,804 are valid as to the first claim

The second claim of reissue No 5,804 is void

Seed planter Patent No 12,231 held not infringement

Slides for extension tables Claim of reissue letters No 40,317 examined and limited, and certain claims therein held not to show patentable invention

Vulcanized rubber Reissued patent No 3,531 did not embrace the invention of Charles Goodyear for the manufacture of vulcanized India rubber
The description under letters patent No 11,608 as a process for working over vulcanized rubber is in substance the same as the description in the reissue No 3,531

PAYMENT.

A payment in bank notes issued without authority of the bank is not valid where the party paying knew that fact at the time

“Lawful money” of any state is equivalent to federal money

PILOTS.

Pilot who takes charge of, and tows into port, an abandoned ship, at request of vessel which had been towing her, is entitled to greater compensation than the usual pilot fee

An abandoned bark, towed into New York, is not liable for the fees of a pilot who does not board her, nor control her navigation

PLEADING AT LAW.

Where the legal effect of an instrument would be the same whether the words constituting the variance be inserted or not, the variance is immaterial

A plea in an action on a bill of exchange alleged to have been, given in payment of freight on property transported by plaintiff is insufficient where it alleges a failure of consideration by reason of the careless and tortious manner of transporting the goods, whereby defendant suffered damages in excess of the amount of the bills, but does not allege any nonperformance or tort in reference to the shipment

A plea is demurrable where its structure is that of a plea in bar, but which avers by way of set-off a claim for damages for improper performance by plaintiff of the contract out of which plaintiff's cause of action arose

Defects reachable only by special demurrer at common law will be disregarded as special demurrers are abolished

A slight variation in describing a written instrument is fatal

Where a default has been opened the pleadings may be amended on the new trial

Plaintiff will not he permitted to amend after jury is sworn, if the justice of the case be against him

Objection that contract sued on was with defendant and another as partners can only be raised by plea in abatement

Venue is necessary to every traversable fact, and, where one is laid in the count, all meters following refer to it

Venue in the margin of pleading is sufficient where none is laid in the body of the declaration

Want of venue is reachable only by special demurrer

If one of two partners be sued on a partnership demand, he must plead the matter in abatement, and set out the names of the partners
PLEADING IN ADMIRALTY.

An objection that another suit for the same cause of action is pending must be taken by special plea, in the nature of a plea in abatement, known in admiralty practice as a “declinatory exception”

In an action on an indemnifying bond, declaration must show that plaintiff has been damnified, and a general averment of loss is not sufficient

On dismissal of a libel with leave to amend, it is improper to file a new libel setting out a valid cause of action, but adding a second cause, which was substantially a repetition of the libel which had been dismissed

There is no technical rule of variance in admiralty causes

A special replication by the libelant under oath is not admissible, unless it be demanded by respondent, or ordered by the court

The answer to a libel should be sworn to, but the libelant is not bound to swear to the libel

PLEADING IN EQUITY.

Applications to amend an answer are in the discretion of the court

A defendant who answers generally as to a matter of which he has no particular knowledge may file a supplemental answer after he has acquired particular knowledge

A bill by a railroad company, against a large number of persons, to determine the estate claimed by them in land over which the railroad was constructed, is not multifarious because it avers that defendants claim separate and distinct parcels, all of them being alike interested in the defeat of plaintiff’s claim of prior right under a grant from the government

Matter in abatement must be set up by plea

An allegation in an answer, however insufficient, if responsive, is not impertinent

Exceptions to an answer for impertinence will be allowed where the matter is immaterial, or stated at undue length

Leave to amend a bill for adding new parties defendant after replication was filed will be denied where plaintiff could have made the amendment before replication

PLEDGE.

Where a bank pledged notes to secure a loan, and, as they fell due, substituted others in their place, the pledge of the substituted notes is valid

It is doubtful, in Louisiana, whether indorsement as well as delivery is essential to the pledge of negotiable instruments

Where the giving of notice of the sale of a pledge has been rendered impossible by the act of the pledgor, neither the pledgee nor its agent in the sale of the collateral was liable for conversion

POST OFFICE.
Constitutional provision for establishment of post roads means such roads as are laid out by the authority of the state.

Act of congress making all railroads post roads means only such as have charters from several states.

**PRACTICE AT LAW.**

A plaintiff who, on a rule to show his cause of action, files a positive affidavit, will not be required to submit to examination under oath at court, where there is no ground for suspicion that the debt was not due.

**PRACTICE IN ADMIRALTY.**

A claim for damages for the breaking up of a voyage is not a claim for seamen's wages, and libelant must file security for costs.

Where a seaman libeled a vessel, and obtained a decree by default, it will be set aside, where claimant shows that libelant had contracted personally with the master, who was navigating the vessel on a lay.

On appeal to the circuit court, either party can take new evidence.

The right of a surety in a stipulation to be paid out of the proceeds of the boat, which has been sold under his execution, is subordinate to the claims of those who have established liens thereon.

A claimant of a boat libeled for salvage, on giving a stipulation for her release, takes her subject to pre-existing liabilities.

Right of libelant to summary judgment against surviving stipulator for value of vessel is not affected by the death of the other stipulator, or by the fact that libelant had not exhausted his remedy against the claimant of the vessel.

A suit in admiralty will not be dismissed for neglect to prosecute, where it was placed on the calendar and noticed immediately after issue joined, but was not called for trial, by reason of the accidental absence of witnesses.

Proceedings in rem and in personam cannot be blended in one libel.

A decree against a stipulator, after his death, is void.

Proceeding in rem in a case of admiralty and maritime jurisdiction is not a suit at common law, and does not require jury trial.

The record in a court of vice admiralty of the condemnation of the vessel is not evidence per se, but the seal of the court or the handwriting of the judge or clerk must be proved: and the certificate of the American consul is not sufficient to authenticate it.

Allegations in libel not admitted or denied are not to be taken as true, but must be proved.

The question as to which marshal first seized a vessel in waters over which both districts had jurisdiction should be raised by a petition by the marshal, and not on a plea to the jurisdiction by a party in whose favor the marshal held process.
Whether custody of a vessel by a sheriff under a writ alleged to be void is such as to prevent a court of admiralty from acquiring jurisdiction should not be determined on motion.

Where the report of the commissioner was not excepted to, it was not necessary that the minutes of his testimony should be brought up.

Where a libelant unites a demand for contract wages unpaid with a claim for a short allowance, and obtains a decree for the wages, he will only obtain costs on that demand, and is liable for costs on the other branch of the litigation.

PRACTICE IN CIVIL CASES.

A notice at the trial to produce a letter will not be enforced unless it is in the possession of the party or his counsel.

PRACTICE IN EQUITY.

A motion to dissolve an injunction granted by state court of removal will not be considered without leave first asked and obtained.

The statute of Nevada providing that an “action” may be brought by any person in possession against any person who claims an interest or estate therein adverse to him, for the purpose of determining such adverse claim, dispenses with the necessity of establishing a right at law before suing to determine such adverse claims, as the term “action” in that state includes proceedings both at law and in equity.

A defendant will not be allowed, as a matter of course, to put in new pleas on the trial.

In equity, evidence is not admissible as to matters not alleged in bill or answer.

The testimony may be taken orally in open court.

Executors against whom decree is rendered are presumed to be equally liable.

There is no rule in the circuit court forbidding a report to be considered at the term to which it is made.

A decree against administrators for money in their hands unadministered is not a final decree, and may therefore be opened to let in the merits which may have been excluded by mistake.

PRINCIPAL AND AGENT.

An agent by virtue of a power of attorney cannot acquire title as against his principal.

The authority of an agent is not affected by war with the principal's country.

PRINCIPAL AND SURETY.

Where R. D. imported goods in his own vessel, consigned to E. D. who gave bonds for the duties, the invoice showing the goods to be the property of R. D. the sureties of R. D. cannot recover the amount paid by them from R. D.

PRIZE.

Vessel and cargo condemned as enemy property, and for an attempt to violate the blockade.
A district court cannot proceed against a captor into whose hands the proceeds of the capture have never arrived

A captor who has failed to enforce a decree of a superior court reversing the decree of a court of admiralty cannot claim as damages losses sustained by depreciation of the funds in which the proceeds of the capture were invested

Jurisdiction of the court is ousted in case of capture on the high seas, by a privateer lawfully commissioned, of the property of an enemy to the sovereign issuing the commission, though the capture was originally made by a proscribed privateer

Though the question of prize or no prize belongs exclusively to the courts of the captor, a neutral will restore a prize wrongfully taken by one of the belligerents in violation of the rights of the neutral

Captures under a commission to cruise are valid, if war existed at the time of the capture, though the commission was granted in time of peace

A vessel fitted out in a loyal state to cruise against the United States, and seized on the instance side of the court, is not a prize entitling the officers and crew of the United States man of war aiding in the seizure to a share of the proceeds

Neither were they entitled to such share under the act of August 5, 1861, as for a vessel fitted out for acts of piracy

Vessel and cargo condemned for a violation of a blockade

Co-operation in a blockade does not constitute the blockading vessels joint captors

The transfer of an enemy vessel by an enemy to a neutral in an enemy port during the war is void

Neutral vessel with knowledge of a blockade has no right to proceed to a blockaded port to inquire as to its continuance

Where the owner of a vessel and her master are aware of a blockade when the vessel sails, the vessel has no right to approach the blockaded port to inquire as to its continuance

After the condemnation of a vessel and cargo, but before entry of the decree, a sale of the same will not be ordered, where it does not appear that they were perishable

If a vessel, after sailing with intent to break a blockade, abandons such purpose, and changes her destination, the original offense is condoned

The act of sailing for a blockaded port with knowledge of the blockade, and an intention to violate it, is an attempt which will authorize the capture and condemnation of the vessel

PUBLIC LANDS.

An actual settlement and survey is necessary to constitute an appropriation of land under a military warrant
Act May 23, 1844, known as the “Town-Site Law,” was not enforced in Oregon before the passage of Act July 14, 1854. Until the complete performance of the conditions subsequent to a settlement in the donation act, the estate granted is liable to revert to the donation by the failure to perform such conditions. The patent to the settler under the donation act is conclusive evidence of a performance of such conditions in a court of law, and primary in equity. An entry within the Virginia military district of Ohio before extinguishment of the Indiana title is void.

QUI TAM AND PENAL ACTIONS.
Qui tam action to recover penalty under Virginia act of December 21, 1792, “regulating the inspection of flour and bread,” will lie without making the United States a plaintiff.

RAILROAD COMPANIES.
Under Act March 3, 1875, providing for the use of any canon by more than one railroad, two railroads granted a right of way through a canon can construct their lines irrespective of the width of way granted. Where a railroad company exhibits a copy of the profile of its line through the Grande Canon, approved by the secretary of the interior, it will be considered as made in accordance with Act March 3, 1875. A certificate of an incorporation designating its place of business, and setting forth that it would be carried on in certain counties named, is a substantial compliance with Act Colo 1876. A surveying and staking of a proposed line of road by the Denver & Rio Grande Railway Company did not amount to an appropriation of the right of way granted to that company by Act June 8, 1872, nor was the building of the road from Pueblo to Canon City. The certificate of incorporation filed by the Denver & Rio Grande Railway Company under Rev Sts Colo. c. 18, was not such an appropriation of the right of way through the Grande Canon as contemplated by Act June S, 1872. Amendment of April 15, 1858, to Minnesota state constitution, authorizing the issuance of bonds by the state in aid of railroads, and the nature of the remedies by foreclosure and forfeiture, considered. Minnesota state railroad aid bonds issued under the amendment of the state constitution of April 15, 1858, are valid. Where a new road can at small expense cross an old one at a different level, equity will require it to be done, apportioning the additional expense between the roads. Where the state of Iowa accepted the grant of certain railroad lands from the United States, and gave them to a particular company, subject to the right to make necessary rules and regulations, it was an express reservation of the power to regulate the tolls.
The state can regulate the tolls of a railroad company organized under the
genral law of the state

A city has no power, without express authority, to subscribe to the stock of a railroad

Where a city, without authority, subscribed for stock and issued its bonds, it was not estopped by the act of its officers, or any matter appearing on the face of its bonds, to deny their validity

A mortgage of the entire property of a railroad, including property subsequently acquired, gives an equitable lien to the bondholders on after-acquired property

RECORDS.

A citizen of the United States has not an unlimited right to inspect all the records belonging to the federal courts, but only the books containing docket or minute entries of judgments or decrees

A petition for leave to inspect “books containing docket and minute entries of judgments and decrees” of district and circuit courts is sufficient on general demurrer

REFERENCE.

Where the amount of a claim which defendant had against certain real estate was referred to a master to determine, he was not bound by the statement in defendant's answer

RELEASE AND DISCHARGE.

A bond under seal is not superseded by a subsequent parol agreement, of like terms and effect, as to which the promisee parts with nothing, and assumes no responsibility

REMOVAL OF CAUSES.

A suit in a state court cannot be removed under the act of 1866 as to some of the parties, where one as to whom it is not removed is a necessary party

A cause cannot be removed unless the controversy is so completely one between residents or citizens of different states that its termination will settle the whole suit

A portion of a case cannot be removed because the party interested in such portion is a citizen of another state from that of plaintiff

Where, after removal, plaintiff pleads anew setting up the removal, he cannot ask to remand the cause on the ground that it was not within the act

Act March 2, 1833, § 3, providing for the removal of prosecution in a state court against an officer of the United States, is not applicable to criminal indictments

To entitle defendants to remove a case brought by a firm under Act March 2, 1807, it must appear that all the plaintiffs were citizens of another state
| A petition as an occupying claimant after judgment for plaintiff in ejectment under the statutes of Iowa is not removable, being a mere dependence on the original suit | 477 |
| A bill to reform a policy of insurance is an original suit, though an action at law was pending on the policy | 516 |
| A pro confesso taken by complainant at return term will not prevent a removal under the act of 1875 | 584 |
| A bill by a citizen of Tennessee to cancel certain policies and a loan against an insurance company of Missouri is removable, though the trustee was a citizen of the same state with complainant | 584 |
| Where the real controversy is between a city and one of its citizens, a citizen of another state interested cannot remove the cause | 588 |
| A controversy is to be determined by the pleadings in the state court before the filing of the petition | 606 |
| To entitle to removal under Act March 3, 1875, § 2, cl. 1, there must be the controversy between citizens of different states, and all the parties on one side must unite in the petition, and be of different citizenship from the parties on the other side | 606 |
| The mere formal part is not to be considered in determining the right of removal | 606 |
| A citizen of the District of Columbia is not a citizen of a state, within the removal laws | 717 |
| A proceeding under an Ohio statute to compel an assignee for the benefit of creditors to allow a claim is a suit at law, within the removal act | 8061232 |
| An attachment has the same effect after the cause is removed to a federal court as if it had remained in the state court | 942 |
| Proper time for entering in circuit court “copies of the proper papers” is on the first day of the next session after petition for removal | 1066 |
| Removal is effected by entering copies of proper papers in the federal court | 1066 |
| No action of the state court can affect the right to remove a cause to a federal court. | 1066 |
| Jurisdiction to determine whether a cause is removable and is properly removed is in the federal court | 1125 |
| Mere filing of petition and bond in the state court by a party entitled to remove the cause to a federal court is sufficient to effect the removal | 1125 |
| Right of removal is not lost where transcript of record is not filed within time prescribed by law | 1125 |
| Cause must be removed to federal court held at place where action was brought in the state court or place convenient | 1125 |
Where a cause has been removed from a state to a federal court, a party is not entitled to any costs except such as are taxable under Rev. St. §§ 823, 824. though such items would have been taxable in his favor in the state court

REPLEVIN.

Act Md. 1785, c. 34, forbidding replevin of troods restricted for tax is not applicable to the corporation of the city of Washington

RIPARIAN RIGHTS.

The owner of lots in Washington lying on Rock creek is entitled to the compensation awarded for the condemnation of the water privileges in front of them

SALE.

Where a tailor has dealt with the customer on credit, he should notify the latter of his change to cash dealings before making up the goods

Where teas were sold to be selected by A., and were afterwards changed, the buyer can rescind, and refuse to accept them

On a contract to deliver teas, to be selected by A., if A. accepts an inferior quality there is an end to the warranty

To rescind a sale, the property must be returned

Contract for future delivery of goods which seller does not own, and has no means of obtaining, is not void for illegality

A contract to manufacture certain articles without specifying any time, means a reasonable time

SALVAGE.

Right to salvage compensation.

The master of a vessel which, in the course of the voyage, falls in with a wreck, is authorized by the general customs and usages of the sea to employ his own vessel and crew in saving it

Service rendered in saving property in danger of being lost on the high seas, or when wrecked and stranded on the shore, is a salvage service

A passenger who advised the master to attempt the service, and was active in performing it, is entitled to an increased share

Passengers who refused to assist when solicited are not entitled to a share

Ferryboats in peril on the Ohio river are subjects of salvage

A salvor is not entitled to compensation for services rendered the vessel wrecked pursuant to an agreement between him and the master

Though a settlement by arbitration may be void, the salvors are entitled to reasonable salvage

Unloading a ship which is on fire, attended with danger to life, is a salvage service, not simply stevedore services

Salvage will not be allowed unless goods are actually saved
Quaere, whether person taking forcable possession of ship exposed to danger, against will of commander, can claim salvage

Burden of proving that salvage agreement between master and salvors is contrary to equity and justice is on those attacking it

That the risk was slight, and the duration of the salvage service brief, affects the value of the same, but cannot bar the claim

Nothing but a contract to pay a given sum for the services to be rendered, or a binding engagement to pay at all events, whether successful or unsuccessful, will operate as a bar to a meritorious salvage claim

Allowance to seamen.

Compensation to seamen for services in a shipwreck must be paid out of the proceeds of the property saved

The amount of wages seamen receive at the time of the shipwreck is a safe criterion in fixing the quantity of salvage they are to receive

In case of shipwreck, where seamen cannot earn wages, but perform meritorious services, they are entitled to salvage

All the crew of a vessel, who were ready and willing to engage in salvage service rendered by the vessel to a wreck in the course of the voyage, are entitled to a share of the salvage awarded, though they may not have gone on board of the wreck

Where crew rescue vessel, their wages from last port of delivery will be included in salvage

Forfeiture or reduction of salvage.

Seamen of a vessel which rescues a wreck during a voyage do not forfeit their claim for a share of the salvage by misconduct during such voyage, if they are guilty of no misconduct while engaged in the salvage

Those in possession are estopped from claiming as salvors if they requested the aid of those who save the property

An agreement by a salvor to pay the master 10 per cent, of the compensation may be lawfully performed, but in awarding a salvage it can be reduced by that amount

Amount.

Where a canal boat cast adrift from a tow was picked up in Long Island Sound, a salvage of 50 per cent, was proper

A salvor will not be allowed the net proceeds as compensation, though his expenditures exceeded them, unless the owner abandons the property

In cases of salvage of derelict, the proceeds remaining after payment of all costs and disbursements will be equally divided between the salvors and the owners

In cases of derelict the rule is to award a moiety
For saving the cargo of a wrecked vessel, consisting of a locomotive and a quantity of railroad iron, court allowed one-half of the net value of the property saved.

Where the crew of a captured vessel rescue her from the prize master, they will be allowed one-fourth of the whole value of vessel and cargo.

Allowance of $6,000 was made for lightening cargo worth $20,000 from steamer cast ashore in December.

Apportionment.

Where, under a contract, a salvage of 50 per cent, was awarded to a schooner which came to the relief of the wrecked vessel, the court will not give the whole compensation to the master and owners, and leave the seamen to look to the other moiety for their reward.

Vessel cast on shore should bear part of salvage by landing cargo, thereby lightening the vessel and enabling her to go to a place of safety.

Remedies for recovery.

One of the crew of a vessel, for whose services salvage was awarded by arbitrators, and paid to the master without distribution, may maintain a libel in personam against the master for a share.

A master of a wrecked vessel cannot submit the question of compensation for salvage to arbitration, where he acts in bad faith.

Failure of libelants to refer their claim for salvage, as agreed, held, under the circumstances of the case, to be no bar to an action therefor.

Costs.

There should be but one libel in ordinary salvage cases, and costs paid but for one.

SCHOOLS AND SCHOOL DISTRICTS.

School district No 1, of the county of Multnomah, is not the successor of the “trustees of the schoolhouse of Portland.”

The city of Portland is not the successor “of the trustees of the school and meeting house of Portland”

SEAMEN.

Where a seaman was injured in the home port so severely that he could not be removed to the ship hospital, the shipowners were liable for his expenses.

A custom of having a watch on vessels in foreign ports at the expense of the sailors will not be sanctioned without strong proof.

Where seamen were imprisoned in a foreign jail by order of the American consul, and there was no evidence of bad faith, the men must pay the charges of the imprisonment and the expense of substitutes, but not the charges of the consul.

Where a ship has full supply of provisions, and the crew is insufficiently furnished, their remedy is an action for damages.
Where a steamship ships a crew under articles executed before a notary public, it is a violation of Act June 7, 1872, and the ship incurs the penalty provided therein.

Officers and seamen must remain by ship and unload the cargo, in default of which they are liable to the owner.

The contract of shipment.

A seaman on a lake vessel, having shipped under a verbal agreement, may leave the vessel at any time.

Act July 20, 1790, requiring a written contract on the shipment of seamen, is not repealed by Act June 7, 1872.

Contract is suspended, as to claims for wages, by capture.

Legal obligations of seamen do not continue after capture of vessel.

An agreement for a share in the proceeds of a whaling voyage does not create a partnership in profits of the voyage, but is in the nature of a seaman's wages.

Conduct of master or mate in respect to seamen.

A master can, in cases of necessity, correct a disobedient seaman by reasonable corporal punishment.

To entitle a seaman to damages for an assault by the master he must show that the punishment was excessive.

Wages—Right to.

Where a seaman dies before the voyage is completed, his representatives are entitled to his wages up to the time of his death.

Where a seaman leaves a vessel under permission of the mate, it is a discharge, and, if in a foreign port, he is entitled to three months' extra wages.

A seaman who, unknown to the master, but with permission of the mate, leaves the vessel, is not guilty of desertion.

Where libelant was to receive 1–42 part of the proceeds of the voyage, he receives his full share if he receives pay in whatever currency makes up the proceeds.

A seaman who is sent ashore to get articles belonging to the ship, and does not return before the ship sails, but afterwards goes to the destination of the ship, and takes the articles to the vessel and demands his wages, is not a deserter, so as to incur a forfeiture of wages under Act Aug 18, 1856, §25:

One who shipped as a seaman, and, after the season of navigation, remained on board the ship during the winter, keeping the ship, can recover as a seaman only for his services during the season of navigation.

A seaman who shipped as an able man is not entitled to be treated at the expense of the ship, nor to wages, while he is disabled by disease brought on by his own vices.
A seaman who was engaged as a cook on a foreign voyage, and who, performed extra services as stevedore, may recover for the extra services in admiralty

Double wages are allowed only where the provisions required by law are not supplied shipped

Where a seaman on a lake vessel ships under a verbal agreement, and draws wages promised, he cannot recover a larger amount under act July 20, 1840

In an action by a father for wages of his son as seaman on a whaling voyage under articles made during the minority of the son with the consent of the father, the measure of damages is the son's proportion of the oil taken during the minority

Seamen who are persistently ill treated by their officers are not deserters after refusal of a demand for a discharge

Consuls have authority to discharge seamen with three months & extra pay, where they have been cruelly treated, though they have not deserted

Where a seaman is discharged with three months & extra pay (5 Stat 396), one-third of such pay goes to the United States

—Remedies for recovery.
The owners of a vessel are liable for wages if the vessel prove insufficient to pay them

Where a foreign vessel is in the custody of the marshal on a claim made by an American citizen, the court may take jurisdiction of an intervening libel by one of the seamen, though his contract was made and performed in a foreign country, and all the parties are subjects thereof

A lien for seamen's wages existing under the general maritime law will be enforced by the courts of the United States, though the lien arose in Canada, where there are no admiralty courts

Where charterer of vessel is also owner of cargo, the freight subject to the seamen's lien for wages, is the fair value of the transportation of the cargo

Seamen of a British vessel, whose articles provided that they shall not he entitled to wages until the completion of the voyage, cannot sue in the united States courts for wages, unless it appears that they had been prevented from performing their contract, or seeking redress in the British courts, by wrongful act of the master

Wages—Deduction; extinguishment, etc.

A slave entered as a seaman, and escaped from the vessel, will not occasion a deduction from the wages of the rest by contribution

There is no forfeiture of a seaman's wages under Act July 20, 1790, § 5, where neither his name nor the fact that he was absent without leave is entered in the log book

Desertion to forfeit wages must be ammo non revertendi
By maritime law, desertion during voyage forfeits all wages antecedently due
Act 1790, c 56, creates forfeiture of wages on 48 hours' of absence without
leave, if proper entry had been made in log book
If a deserting seaman offers to return to duty and make amends in a
reasonable time, the master must receive him back, unless previous conduct
would justify his discharge
Desertion will not forfeit wages, either by maritime law or by the statute,
unless it occurs before the end of the voyage, which is when the ship arrives at
her port of destination, and is moored in the accustomed place
Desertion forfeits wages in all cases except where there are mitigating
circumstances
Act Cong 1790, declaring any unauthorized absence of a seaman from a ship
48 hours to be a desertion, applies to all cases, though the seaman has been
prevented from returning by the sailing of the ship
Desertion by the general maritime law is the unauthorized absence from the
ship with the intention not to return
Where a minor, with the consent of his father, shipped as a seaman, but
deserted during the voyage after he had become of age, such desertion does
not forfeit his father's right to wages earned during minority

SET-OFF AND COUNTERCLAIM.
A plea setting up a claim for damages against plaintiff, which shows that the
alleged damage was for wrongs to property in which defendant was interested
with others, is no response to a declaration setting out a breach of defendant's
individual promise
An agreement between a member of a firm and his individual creditor that the
claim should be set off against such creditors liability to the firm is not
available to the firm where it was not assented to by the other partners until
after such creditor had made an assignment for the benefit of creditors, though
before bankruptcy
One of two joint makers of a promissory note cannot set off against him a note
given by the payee to him individually

SHERIFFS AND CONSTABLES.
Where a conflict arises between the sheriff and a United States marshal as to
the right to the custody of property, the sheriff may apply either to the state
court to be protected, or to the federal court to order its officers to withdraw
A sheriff is responsible for his deputy's act

SHIPPING.
See, also, “Maritime Liens.”
Where a shipper of goods received a rebate from the purchaser for damage in
the suit by the shipper against the vessel for such damage, he must be charged
with the rebate
Semble, that a shipper has a right, by the maritime law, to examine goods after they are unliivered, in order to ascertain whether they are damaged or not, before he makes himself liable for freight
Where a portion of the cargo is lost by a danger of navigation, the carrier is entitled to freight on the cargo delivered
By the general maritime law, material men have a remedy for supplies and materials against the vessel, the owner, and the master
Under the amended twelfth rule of admiralty of May 6, 1872, one who furnishes supplies, etc., to a vessel, domestic or foreign, may proceed in rem against the vessel, or in personam against her master or owner
The amended twelfth rule in admiralty of May 6, 1872, relating to the remedy where supplies are furnished a ship, does not apply to suits brought or supplies furnished before that date
One who purchases a vessel sold under process of state courts with knowledge that a proceeding in admiralty was pending against the vessel is not entitled to an order requiring the marshal to deliver possession of the vessel
A steamship in charge of a pilot is not liable for injury to a seine in such part of the channel that the steamship would have been in danger of grounding if she had attempted to go around it
Public regulations-Title to vessel.
The mere statement of the record owner of a vessel, who had previously sworn that he was the owner, is not sufficient to show that he is not interested in her
The register of a vessel is the only document which need be on board in time of universal peace, in compliance with warranty of national character
The general owner of a ship is deemed the owner for the voyage, notwithstanding a charter party, if he retains the possession and control of the navigation of the ship during the voyage
In a libel for the forfeiture of a vessel, confessions of the consignee are not admissible to charge the offense on the owner or captain
A forfeiture cannot be enforced against a vessel except on pleading and proof that the acts charged were done by the master willfully
The statement of title of a vessel in the customhouse documents is not conclusive on third parties
St Mass 1847, c 234, § 2, requiring vessels in Boston harbor to rig in jib booms in certain cases, is valid
The master.
Where the master is separated from the ship by death or other casualty, the mate succeeds to the command
A majority of shipowners may dismiss the master, though a co-owner, at any time without cause

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Where one of the owners of a vessel gave his note for supplies furnished by libellant, and on a settlement charged the master, who was the other owner, with his portion thereof, the master was not thereby relieved from liability to libellant.

Master who is authorized to draw on a certain house for a certain sum, and instructed to “extend his drawing,” should he not have funds to purchase a cargo, only authorizes him to draw on the house named.

Master may bind vessel and cargo for loan to pay liens of salvors, and prevent delay and expense in their enforcement.

Cargo-Loss or injury.

The owners of a ship must show that missing portions of a cargo were discharged, and placed on that part of the wharf selected for the deposit of the consignee's goods.

Loss by rats is not an act of God or “a danger of the sea.

Where owners of goods claim that they were damaged on the voyage by rats, the burden is on them to show such fact.

The publication of the cargo list of a steamer was not such a notice to the consignee as to discharge the shipowner from liability under a bill of lading, the goods having been unloaded, and sold for storage.

A vessel is liable in rem for damages caused to goods of one shipper by those of another.

A vessel is liable for carrying goods on deck, though the bill of lading exempts him from liability for the perils of the sea.

Limiting liability.

Statutes of the United States limiting the liability of shipowners does not limit the liability of a foreign shipowner for a collision between an American and a foreign vessel on the high seas.

It is not necessary to jurisdiction of a petition to limit the liability under Act March 3, 1851, that the court should have possession of the vessel or of the proceeds, and the pendency of suits against the vessel and of stipulations of value is no reason why the proceeding should not be taken.

Agreement of consortship.

Persons joining or becoming interested in a vessel during an agreement of consortship enter on the relation, and assume the risk of profit or loss.

Change of owners, masters, or crew of one vessel without notice to the other party cannot affect an agreement of consortship.

Though the interest of a vessel in a consortship may be small, this will never be presumed, but the general principle governs, that the interest of the vessel controls.

In the absence of stipulation in an agreement of consortship, it can be terminated only by voluntary dissolution and notice.
An agreement of consortship is for and on account of the vessels, though made by the masters
Burden of proving that an agreement of consortship is limited is on the party alleging it
Agreement of consortship by masters of vessels will be considered general unless limited by special understanding when made

SLAVERY.
A forfeiture of a vessel is not incurred by its building for the purpose of the slave trade, but only for the fitting out or causing her to sail for such purpose
An information against a vessel charging “that she was built, fitted, equipped, loaded, or otherwise prepared or caused to sail” is bad for uncertainty
Emancipation by will does not need the assent of executor

SPECIFIC PERFORMANCE.
A bond for a deed, on consideration that the obligors, “the trustees of the schools of Portland, and their successors in office,” shall perform certain things, is a mere gratuitous promise until performed, and will not be enforced
Agreement by foreign railroad company with domestic company to build road different from that required by domestic company’s charter will not be specifically enforced
An oral promise by purchaser at execution sale to reconvey to the execution debtor on reimbursement is not enforceable in equity
Specific performance may be enforced in favor of a party who has not punctually performed the contract, where his default admits of compensation

STATUTES.
Act Cong March 3, 1817, entitled “An act to incorporate the subscribers to certain banks in the District of Columbia,” is a public law
Law declaring a bridge a lawful structure pending a suit to declare it a nuisance removes the ground of complaint
In order to ascertain whether “coke” is within the designation of “coal” in the tariff act, the intention of congress, as well as the commercial meaning of the word, will be inquired into
A charter must be construed according to the intent of the legislature, if such intent can be ascertained by the language used

SUBROGATION.
A surety on a bond in admiralty, who pays the money, is subrogated to the rights of an original libellant

SUBSCRIPTION.
A promise, made publicly in church, to subscribe a portion of the indebtedness due from the church, is valid, where expenses were incurred on the faith of such promise

SUNDAY.
A notice cannot be lawfully served on Sunday

TAXATION.

Stock of the United States is not taxable
Lands purchased of the United States, and paid for, though not patented, maybe taxed
A corporation is not bound to produce its books to the assessor on an inquiry into the income of its shareholders
A statute authorizing the issue of bonds by a city for the benefit of a private enterprise is void
An income tax is not a “capitation or other direct tax,” within the prohibition of Const U. S. art 1, §
Congress has power to impose a tax on incomes
Quaere, whether uninhabited township owned in severalty is rightly included in a tax act which did not provide for the valuation of the land of the different owners
Statutory provision for enforcing forfeiture for nonpayment of tax must be strictly followed
Forfeiture for nonpayment of tax is waived by levy of another tax after title of state had become perfect
Assessment by county commissioner of larger sum than is granted by legislature vitiates the whole tax
An act of legislature giving further time to pay a tax after forfeiture for nonpayment waives the forfeiture
Advertisement of delinquent tax as including an illegal county tax as part of the amount due is a fatal defect

TENANCY IN COMMON.

The liability of a tenant in common of mineral land, who takes ore therefrom, is the value of his cotenant’s share of the ore in place

TOWAGE.

A tug which ran its tow aground is liable for the amount the tow was compelled to pay another tug as salvage for pulling her off
Owner of barge lost by negligence of tug may sue such tug therefor, though the barge was turned over to defendant tug by another tug, with which the contract for towage was made
A tug is justifiable in abandoning tow where towline breaks at night during severe storm, and attempts to regain it would be very dangerous to tug
Decision of master of tug acted on in good faith, to abandon tow in storm, will not be impeached, unless clearly erroneous
Burden is on tug which abandons tow in storm to show sufficient excuse therefor

TRADE-MARKS AND TRADENAMES.
The use of one's label for the purpose of deceiving purchasers will be enjoined
The owner of a label will be protected against the use by another person of a
label so similar as to deceive the public, though no fraudulent intent be proved
Nominal damages only will be given for infringing a label, where no specific
injury has been proved
Injunction against use of a label will not be granted unless complainant's right
is clear

TRESPASS.
Where defendant pleaded that civil war existed, and that the alleged trespasses
were by virtue of an order of the general commanding the army in that
department, defendant is protected by Const Mo. art 11, § 4
An internal revenue officer, who, under color of his office, commits a
trespass, is liable therefor; such cases being contemplated by the internal
revenue act of July 13, 1866
An action against an internal revenue officer for a trespass committed under
color of his office (July 13, 1866) cannot be brought until the six months
specified in the act had expired

TRIAL.
Objections to testimony must point out a part to which the objection lies
On a difference of opinion between two judges, the court will refuse to give
the instructions asked
Special finding of facts in action at law tried by court is not necessary to
secure right to move for new trial or to appeal
Trial by court without jury is not concluded until formal findings of facts are
made
On trial of an action at law without a jury, it is discretionary with the court to
make either general or special findings on the facts
Procedure on trial in action at law by the court stated
Danger of prejudice to successful party by special finding of facts stated

TROVER AND CONVERSION.
In trover it is not necessary to prove a demand when there has been an actual
conversion
Possession of goods by a bankrupt, and his removal and sale of it, in
connection with a third person, is evidence of conversion
A demand and refusal or an actual conversion is necessary to sustain trover

TRUSTS.
In order to set aside a purchase of trust property from a trustee authorized to
sell, on the ground of collusion, the fraud must be clearly proven
Where an officer of a bank, being a member of a firm, lends to it money of the
bank, it cannot be followed into the hands of the firm
Interest will not be allowed against a trustee where he had received no interest, if there was no neglect or use of the money on his part. Where a husband, a trustee of land in which his wife has a life interest, conveys the same, the wife also signing the deed, and deposits the proceeds in a firm of which he was a member, the wife has no title in the money so deposited. Where a memorandum of sale recited a receipt of money from B and C on a contract of sale, parol evidence is admissible to show that C did not advance any of the price, and that no resulting trust was created. Payment of a debt by a trustee to a receiver under a confiscation decree of a Confederate court is a breach of trust.

USE AND OCCUPATION.
Plaintiff can recover only for the time of the actual occupation though there be a parol lease for a whole year at a fixed rent.

USURY.
Usury must be pleaded and proved.

VENUE IN CIVIL CASES.
An issue from the orphans' court to the circuit court of the District of Columbia cannot be removed to another county.

WHARVES.
Where libellant was the owner of a part of a wharf, he can recover as wharfage only his proportionate share of the statutory rate.

WILLS.
A bequest of “all my estate, and the proceeds thereof, to my daughters,” gives a married woman, a residuary legatee, the proceeds of the sale, and not a share of stocks constituting the residue, disencumbered from the marital rights of the husband. On an issue devisavit vel non, the party contesting the will has the right to open and close. A devise of real estate “after the payment of debts” is a charge on the real estate. A specific legacy will not abate or contribute if there be enough without. Where testatrix charged her land and her personality with her debts and legacies, and emancipated her slaves, and her personal estate was not sufficient without the slaves, but with the real estate was more than sufficient, the slaves were entitled to their freedom. If there be a fund for the payment of debts and legacies, the executor may be compelled to assent to a specific legacy. Where a partner, by his will, makes his copartner executor, and devises the residue of his estate in trust for certain purposes, and authorizes him to use the
property in the business until wanted for distribution, the residue, only, can be used in the business
Where a bequest is to daughter, with provision that her husband should have the income after her death, and on his death the property to go to her children, the limitation in favor of the children terminates on the death of the daughter's husband in her lifetime

WITNESS
A witness will not be compelled to testify against his interest in a cause in which he is interested
A creditor of a bankrupt is not a competent witness for the assignee in a suit to increase the estate
Little reliance can be placed on the testimony of a witness who contradicted himself on cross-examination
An agent is a competent witness to prove what he did as agent
A release, in favor of a witness, of all actions and causes of actions or a particular cause of action which had happened before the time of the release, will discharge the witness from all liability pending on the event of the suit in which he is called to testify

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