

INDEX.

{The references are to pages. The asterisk (*) indicates that the case has been reversed.}

23FED.CAS.

23FED.CAS.—86

23FED.CAS.—87

23FED.CAS.—88

Page

ACKNOWLEDGMENT.

It is sufficient if it appear by the certificate of the execution and acknowledgment of a deed by a feme covert that the statutory directions were substantially complied with. 644

ACTION.

The fact that plaintiff has a remedy ex contractu against others is no bar to a suit ex delicto against a wrongdoer. 230

Where a person having an election to bring his suit either on a contract or for a tort, proceeds to judgment without a declaration, he cannot subsequently file a declaration for a tort, where the whole course of his proceedings shows that he proceeded upon a contract. 915

Whenever the same plea may be pleaded and the same judgment given on two counts, they may be joined in the same declaration. 116

Where it appears that plaintiff is entitled to the whole of a given sum in certain given rights, it is no objection to a recovery by him that it is not shown how much he is entitled to in each right. 142

The respective claims of contending assignees of a cause of action pending in court will not be decided on motion. 937

Adjoining Landowners.

See "Mines"; "Waters and Water Courses."

ADMIRALTY.

See, also, "Affreightment"; "Average"; "Bills of Lading"; "Bottomry and Respondentia"; "Charter Parties"; "Collision"; "Demurrage"; "Marine Insurance"; "Maritime Liens"; "Pilots"; "Pleading in Admiralty"; "Practice in Admiralty"; "Salvage"; "Seamen"; "Shipping"; "Towage"; "Wharves."

Jurisdiction—In general.

The district court in admiralty is governed by the maritime code possessed before the Revolution, where not altered by law or by a change of circumstance. 1028

Laws and principles which govern the maritime courts of the United States in cases where no regulations are prescribed by our own laws. 1028

The statutes of 13 & 15 Rich. II. have received in England a construction which must at all times prohibit their extension to this country. 29

In cases of torts, injuries, and offenses locality brings them within the admiralty jurisdiction, but in cases of contract it is also necessary that the subject-matter be of a maritime nature. 877

—Persons and property.

Admiralty has jurisdiction to entertain suits in personam, where the parties are foreigners of different nationalities. 1003

In the case of a suit between foreigners jurisdiction will not be declined where the request is delayed, and the position of the parties has changed in the meantime. 1003

The court declined jurisdiction in a controversy between foreign seamen and their vessel where the parties might have 1104

	Page
had redress by a tribunal of their own country.	
— Rights and controversies.	
Admiralty jurisdiction over a maritime cause is in its nature complete. It extends to the person as well as to the res, and can not be confined to one of the remedies on a contract when the contract itself is within the cognizance of the court.	29
Every contest between the owners and mariners and the owners and builders or equippers of a ship for the navigation of the sea is cognizable in the admiralty.	29
A contract relative to services on board a vessel on the sea or within tide waters cannot be enforced in admiralty, unless the service is essentially maritime.	877
A contract to transport a passenger on the high seas or on tide water is a maritime contract, and within the admiralty jurisdiction.	158
Steamboats and lighters engaged in trade or commerce on tide water and the seamen employed on board are within the admiralty jurisdiction, but not ferry boats, or those engaged in ordinary traffic along the shores of a river.	877
A contract for services on board a vessel employed in transporting fuel across the Delaware river cannot be enforced in admiralty.	877
Admiralty has no jurisdiction of a claim for services rendered to a vessel on the rocks, and materials furnished in aid thereof, under employment by the owners in charge to assist them.	329, 330

	Page
The admiralty jurisdiction of the federal courts extends to petitory as well as to possessory suits.	797
Admiralty has jurisdiction over petitory as well as possessory suits to reinstate owners of ships who have been wrongfully displaced from their possession.	1277
A purchaser who has been put in possession, though he has no bill of sale, may maintain a possessory suit in admiralty.	1179
Admiralty has jurisdiction in case of a wrecked ship to decree a sale upon application of the master.	1277
Such sale is not conclusive upon the owner or upon third persons.	1277
—Torts.	
The admiralty jurisdiction as to torts depends upon locality, and is limited to torts committed on the high seas, or within the ebb and flow of the tide.	957
Admiralty has jurisdiction of a personal tort committed upon tide waters within a local harbor, where connected with other matters within admiralty cognizance	942
Admiralty has jurisdiction in cases of collision upon tide waters in Chesapeake Bay or its tributary rivers.	773
Procedure.	
A libel in admiralty was dismissed pro forma for want of jurisdiction in order to allow an immediate appeal	481
ADVERSE POSSESSION.	
See, also, "Ejectment."	
A possession without claim of title affords no presumption of right from mere lapse of time.	615

Page

A deed is not to be presumed where the evidence shows that plaintiffs frequently remonstrated, and consulted counsel about redressing their wrong. 83

AFFREIGHTMENT.

See, also, "Admiralty"; "Bills of Lading"; "Carriers"; "Charter Parties"; "Demurrage"; "Shipping."

Where the charter party is not proved, or is silent in regard to the consignee or mode of delivery, the bills of lading are controlling Evidence of the contract of affreightment. 242

In the absence of any statute or established general usage to the contrary, Fast-Day must be considered as an ordinary working day for the purpose of lading or unlading cargo. 682

A discharge of the cargo commenced before may be continued on Fast-Day. 682

Sufficiency of evidence of proof of delivery of goods involving the question of the alteration of receipts after signature. 270

The wharf being the place of delivery, evidence that the number of articles called for by the bill of lading were placed thereon will exonerate the ship, as against evidence that a lesser number were received at the consignee's storehouse, whither his own cart man conveyed them. 269

A known usage of trade and navigation from New Orleans to Northern ports to touch at Havana for cargo, prevents such act being a deviation. 891

An intention to take on cargo at an intermediate port is not a deviation, where made known to the shipper when bills of lading were executed. 891

	Page
The acceptance of cargo by the shipper with knowledge of a deviation restores the shipowner's right to freight.	891
But receiving cargo with the knowledge of a deviation does not deprive the consignee of his right of action for special damages sustained by the deviation, and such damages may be recouped in an action for freight.	891
Freight may be recovered by the master against the consignee in admiralty, either in personam or in rem.	891
The lien for freight is discharged by delivery to the consignee without demanding freight or notifying him of a lien therefor, in the absence of a special agreement or local usage to the contrary, irrespective of the intentions of the master.	680
The fact that goods sold at auction by the master for freight in San Francisco in 1850, brought only half the amount and were sold within two weeks by the purchaser at three times such amount, does not show fraud or unfairness, where the sale was made in the usual way after due advertisement.	468
The vessel is liable where, by the negligence of the master, the cargo is exposed to injury by an excepted peril.	680
Where the vessel is laid, up for the winter with cargo on board, the master must take precautions to prevent injury from dampness or mold, and to protect the deck load from the effects of snow and ice.	680
A shipper who agrees that his goods shall be carried on deck, and assents to the manner of stowing and protecting them, cannot recover for an injury by rain, where	1002

	Page
all reasonable care was taken of them during the voyage.	
The defense that the loss of cargo arose partly from a necessary jettison on account of perils of the sea and partly from a sale for necessities must be established by clear and conclusive proof.	648
Where the owner of a cargo of a sunken vessel raises it, after notice to the owner of the vessel, the expense of such raising may be allowed as damages in a suit for nondelivery	425

Agency.

See "Principal and Agent."

ALIENS.

See, also, "Courts."

On a transfer of territory by one nation to another the political relations between the inhabitants of the ceded territory and the former government are changed.	1346
---	------

Naturalized citizens of such ceded country, who owe allegiance, purely statutory, when released therefrom, are remitted to their original status.	1346
---	------

Alien friends are entitled to claim the same protection of their rights in the federal courts as citizens.	742, 744
--	-------------

APPEAL AND ERROR.

The allowance or nonallowance of costs in an admiralty case being a matter within the discretion of the court, is not a subject of appeal.	814
--	-----

The judges of the federal circuit court on a motion for a new trial cannot certify to a division of opinion at the trial itself, unless both were present.	744
--	-----

	Page
The limitation of the time for bringing writs of error to five years after rendition of the decree complained of (Act 1789, § 22) does not apply to writs of error coram nobis	236
The allowance of an appeal to the supreme court relates back to the time when the original application was made to the judge of the circuit court, and entitles the party to a stay.	1137
A writ of error is not a supersedeas unless served within 10 days after rendition of the judgment, irrespective of agreements of the parties for a stay of execution.	1097
On a joint decree against respondents for a maritime tort there may be separate appeals where respondents have severed in their pleadings, or jointly pleaded a general denial.	957
Form and sufficiency of record on appeal from a consular court of Japan to the circuit court for the district of California.	815
A bill of exceptions which shows that the exceptions were taken for the first time four days after the verdict and judgment will not be considered.	214
A statement by counsel of the evidence, not made a part of the bill of exceptions, though formally certified by the clerk, is no part of the record.	214
The question of the admissibility of certain documentary evidence is not available where the same is not set forth in the bill of exceptions.	116
The circuit court, on an appeal in admiralty, will not disturb the finding of the district court on a question of fact depending upon	425

the weight of the testimony and credibility of witnesses, though differing from such court. New testimony, introduced on an appeal in admiralty, except under peculiar circumstances, 1361 is not entitled to the same consideration as testimony introduced in the first instance. 773

On an appeal in admiralty, where the question is purely one of fact depending upon the testimony of numerous witnesses, the judgment will not be reversed except for clear error. 773

A bond on appeal from a judgment of the justice of the peace, conditioned on payment if the judgment of the justice is affirmed or more recovered on a trial de novo, is discharged where a judgment for a less sum is recovered. 515

APPEARANCE.

See, also, "Courts"; "Removal of Causes."

An appearance by attorney, and the filing of a plea to the jurisdiction by attorney, and not in person, is a submission to the jurisdiction. 903

A special appearance, entered by the clerk upon the order book at the request of defendant's attorney, without leave of court, held an admission of jurisdiction. 903

An appearance by defendant, shown by the record, cannot be denied by plea or otherwise 1035

APPRENTICE.

An indenture, signed and sealed by a minor 15 years old, bound out by his father, is binding on him, though he is not named therein, and there are no covenants on his part. 275

Page

The order of the orphans' court to bind out an apprentice does not of itself create the relation of master and servant. 55

ARBITRATION AND AWARD.

Under a statute authorizing county commissioners to refer the claims of a person to arbitrators, *held*, that the commissioners, had no authority to submit a part only of his claim without his consent. 1313

An umpire provided for in an order of reference may be appointed before the referees have heard the evidence and discovered that they could not agree. 503

An umpire must give notice to the parties and to the arbitrators of the time and place of his proceeding to act. 1147

An umpire must hear the parties 605

After delivering their award, the arbitrators cannot again act upon the case with out new authority. 650

An award is void which is not final and conclusive, and does not embrace all the matters submitted, and settle the dispute. 650

Where one of the arbitrators has prejudged the cause, the award will be set aside. 605

ARMY AND NAVY.

A person illegally conscripted into the federal army may be discharged on habeas corpus 107

Under Act March 3. 1863. § 3. if a married man over 35 years of age be enrolled and drafted in the first class, he may be discharged by a federal court on habeas corpus. 107

On habeas corpus to discharge an alleged minor, who swore on his enlistment that he was over 21, evidence may be given 134

as to whether he understood what he was swearing to.

A clerk in the employ of a paymaster of the United States army is in the military service, and subject to trial by court-martial for forging vouchers in the disbursement of a reconstruction fund. 931

ARREST.

See, also, "Bail"; "Execution"; "Extradition"; "False Imprisonment."

An inhabitant of Alexandria county, D. C, may be arrested in Washington county without a non est in Alexandria county. 1060

A person arrested in a civil snit, and going to another state in virtual custody of his bail, may there be arrested in another civil suit, if his bail voluntarily relinquish all claim to his detention. 413

ASSAULT AND BATTERY.

A man cannot lawfully push another off from his land without first requesting him to leave. 1024

On the plea of not guilty plaintiff need not prove that defendant assaulted him first. Contra on the plea of son assault demesne. 20

In a joint assault and battery a recovery in a suit against one is a bar to a suit against the other. 576

ASSIGNMENT.

The equitable interest of a cestui que trust by way of contingent remainder is capable of assignment. 362

An assignment of rents with a power of attorney to collect them as they become due is enforceable in equity, though the as signor die before they are collected. 783

ASSIGNMENT FOR BENEFIT OF CREDITORS.

See, also, "Bankruptcy"; "Insolvency."

Quære. whether, in Rhode Island, an insolvent assigning only a part of his property for the benefit of all his creditors may stipulate for a release. 72

An assignment for benefit of creditors by a debtor absconding with a large sum of money is fraudulent as to creditors where it stipulates for a release as a condition of obtaining a preference under the assignment. 72

An assignee in insolvency has no right to retain goods which were in the hands of his assignor for sale on commission, on which the latter had a lien as security on accommodation acceptances given to the owner after a tender of such acceptances and a demand of the goods. 853

ASSISTANCE, WRIT OF.

A writ of assistance will not issue against persons who are not parties to the suit, or did not come in under them after suit commenced. 1093

ASSUMPSIT.

A declaration in general indebitatus assumpsit for property sold and delivered is not supported by evidence of a sale and delivery under a special contract for a price named. 643

Attachment.

See "Bankruptcy"; "Execution"; "Garnishment"; "Writs and Notice of Suits." 1362

ATTORNEY AND CLIENT.

An attorney chargeable with negligence is liable only to the extent of the injury his client has received. 477

AVERAGE.

The right to receive contribution in general average is not founded on contract, but on a principle of equity. 320

In the case of a vessel dragging her anchors towards the shore in a gale to avoid the danger of being beaten to pieces on rocks the master voluntarily slipped his cable, and allowed the vessel to be thrown on the beach. *Held* a general average loss. 317

The rule that the shipowner is entitled to a commission upon the amount contributed for in general average, is rounded up on the law merchant, and is not controlled by a particular local usage in contravention thereof. 320

A court of equity has jurisdiction to take an account of a general average loss, and decree contribution among those entitled to receive and bound to pay. 317

BAIL.

See, also, "Arrest"; "Execution"; "Principal and Surety."

Where there is no declaration, special bail will not be required unless plaintiff appears at the return of the writ. 1028

If special bail be taken out of court by two justices of the peace by recognizance, there must be two sureties. 937

No justification of bail is necessary where it is entered for the purpose of making a surrender. 112

BAILMENT.

See, also. "Pledge."

A sale by the bailee will not pass title to the property. 280

BANKRUPTCY.

	Page
See, also, "Assignment for Benefit of Creditors"; "Compositions"; "Insolvency."	
See, also, "Bills, Notes, and Checks."	
Operation and effect of bankruptcy laws and of proceedings thereunder.	
The date of the passage of the bankrupt act <i>held</i> to mean the date of its approval. (Act 1841, § 4.)	826
The fact that an insolvent bank was extinct as a corporation, and its assets were being administered upon under decree of a state court when the petition was filed, will not prevent the bankruptcy court from entertaining jurisdiction.	1135, 1139
A railroad corporation is a private commercial corporation within the meaning of section 37 of the bankrupt act.	530
After the filing of a petition in bankruptcy no creditor can acquire a lien by attachment, judgment, levy, or otherwise on the property of the debtor which belonged to him at the time of filing the petition.	1213
Attachments are dissolved by the proceedings without reference to the property on which they are levied, and an officer in possession under the attachment cannot retain the property until payment of his fees.	2
A sheriff, where not restrained by the bankrupt court, may proceed to sell after the adjudication under a levy and advertisement of sale made before the adjudication.	887
A debtor who has filed a voluntary petition, but objects to an adjudication, has no standing in the bankruptcy court on an application to enjoin a creditor from enforcing his claim by attachment.	1210

	Page
After the bankruptcy of defendant, against whom a decree has been obtained in a state court operating as a lien upon his property, plaintiff cannot proceed under a state statute for a discovery of assets.	727
State bankrupt laws.	
Act La. March 14, 1842, in relation to the liquidation of banks, <i>held</i> in effect a bankrupt law, and superseded by the bankruptcy act of 1867	1135, 1139
The Louisiana laws relating to insolvency, insolvent debtors, etc., were superseded by the bankruptcy act of 1867	1135, 1139
State insolvent laws, which merely protect the person from imprisonment, and do not affect the contract, are not suspended by the bankrupt act. (Act 1841.)	349
Jurisdiction of courts.	
As to the powers of the district court in other districts than that in which the bankruptcy proceedings are pending.	1213
The district court of a district other than that in which bankruptcy proceedings are pending may stay tie enforcement of a judgment within its jurisdiction, obtained in an action in the state court, commenced after the filing of the petition in bankruptcy.	1213
The circuit court of a district other than that in which the bankruptcy proceedings are pending has not similar powers.	1217
Register—Powers and duties.	
No opinion will be given on abstract questions certified to the judge by the register.	307
Commencement of proceedings—Voluntary bankruptcy.	

	Page
The stockholders of a creditor bank are not parties in interest so as to be entitled to object to a decree	677
One partner may petition for an adjudication against all the members after a dissolution of the partnership.	209
The fact that such partner undertook to pay all the debts is immaterial, where the creditors did not accept him as their sole debtor	209
—Involuntary bankruptcy.	
A petition which alleges as the act of bankruptcy the failure to pay commercial paper maturing after December 1, 1873, filed before the expiration of 40 days from such maturity, is prematurely filed, and cannot be amended.	1312
A refusal to pay commercial paper at a date prior to that stated in the petition can not be given in evidence.	582
The admission of a fact from which a fraudulent intent will be inferred will be given full effect, though it be coupled with a denial of such fraudulent intent	454
The construction and sufficiency of pleadings depend upon the rules of the court in which the petition is pending	454
Acts of bankruptcy.	
It is not an act of bankruptcy for one partner to influence or procure the departure of another from the state.	852
The making of conveyances in contemplation of bankruptcy and to prefer creditors, which are declared void by section 2, Act 1841, are acts of bankruptcy.	66
Giving a warrant of attorney to a mere indorser, whereby he secures a priority, is	66

	Page
not to be considered an involuntary act, so as to prevent it from being an act of bankruptcy, for an indorser has no legal power of coercion.	
A refusal on the ground of a legal defense is not a stoppage or suspension within the meaning of the act	1019 1363
A refusal to pay commercial paper made in good faith on the ground of a valid defense or a defect in the title of the holder is not an act of bankruptcy.	582
When the stoppage of payment of commercial paper is fraudulent, it is not necessary that it be continued, and a suspension of payment for 14 days, though without an element of fraud, constitutes an act of bankruptcy	1019
A note, given by a merchant for money loaned payable to his own order on demand, and duly indorsed by him, is "commercial paper"	582
A stipulation in a suit at law upon a note giving time to plead does not operate as an extension of time upon the note, as against the bankrupt act.	582
Adjudication.	
An adjudication against a firm by a partner on his voluntary petition, where the firm had been dissolved by the death of a copartner, is void.	835
An adjudication against a firm, obtained by one partner on his voluntary petition, without giving the notice required by Sup. Ct, Rule 18, is void.	835
A surviving partner may be adjudged bankrupt on an act of bankruptcy committed by him in administering the partnership	4

	Page
assets, although the separate estate of the deceased partner will pay all his debts, joint and separate.	
Where the debtor in involuntary proceedings indorsed on the copy of the petition served on him an admission of the truth of its allegations, except those relating to fraud, but before the day to appear filed an involuntary petition, and was adjudicated a bankrupt thereon by the register, <i>held</i> that the adjudication was void and an adjudication would be made in the involuntary proceeding	51
An adjudication entered upon a confession of the acts of bankruptcy charged can not be set aside after the death of the bankrupt on the application of a creditor who has proved his debt.	932
A creditor not appearing to the petition in bankruptcy is not estopped from denying the acts of bankruptcy charged so far as they affect him with notice.	932
Assignee—Election, appointment, and removal.	
The mortgagee of a homestead may vote on the choice of an assignee on his whole claim.	89, 861
A motion by the bankrupt to set aside the appointment of an assignee can only be entertained by the district judge upon notice, and not by the register	134
—Rights, duties, and liabilities.	
Neither the court nor register is the general adviser of the assignee in his dealings with the assets	307
Assignees are chargeable with interest on all moneys which they have collected, if not paid into the registry within 60 days after it is received. (Act 1841.)	1153

	Page
The assignee is not liable for rent accruing after the adjudication unless he elects to accept a lease, and occupation of leased premises independently of the lease is not evidence of such an election	844
Property of bankrupt—What constitutes.	
A certificate of membership in a board of trade <i>held</i> not an asset which would pass to the assignee	453
The franchise of a bankrupt railroad company is property of such company subject to sale in the bankruptcy proceedings.	530
The property of minor children accumulated by their sole exertions with their father's consent which has always stood in their names does not pass to the assignee.	825
—Custody and control.	
The bankrupt, after filing his petition, has no right to sell any of his property even to raise money to pay lawful fees.	1021
An assignee under a general assignment under a state law which is avoided by proceedings in bankruptcy must turn over all the property and proceeds to the assignee in bankruptcy, and cannot deduct compensation for his services.	274
Where a surviving partner is adjudged bankrupt on an act of bankruptcy committed in administering the partnership assets, the messenger will take possession of the joint assets in his hands, and also of his separate property.	4
—Exemptions.	
The bankrupt was allowed to retain from the proceeds of a mortgage fraudulently transferred the amount paid counsel for	1021

	Page
preparing his petition and schedules, and the amount determined by the assignee for the temporary support of himself and family, but not the probable expenses of procuring his discharge.	
The assignee has a discretionary power, under section 14, Act 1867, in setting apart "other articles and necessaries," and his action will not be reversed unless an abuse of authority plainly appears.	917
The exemption of "other articles and necessaries" cannot include manufactured articles kept for sale.	917
Real estate cannot be set apart as exempt under the head of "articles" or necessaries"	1144
No individual exemption can be allowed out of the partnership estate at the expense of the joint creditors.	51
Property exempt by the laws of the state where the bankrupt resides and where the petition is filed will be secured to him, wherever it may be situated, and whether exempt by the law of its situs or not	2
In Kansas the whole house occupied as a home by the bankrupt is exempt, though a portion of it is used, and was constructed with a view to be used, for a brewery.	861
When the bankrupt and his family do not keep house, but are boarding, money may be allowed by the assignee for their temporary subsistence	1114
Where the bankrupt's application to the assignee for an exemption is refused, the proper way of bringing the matter up is by exception to his decision	917
—Liens.	

	Page
Where other courts have taken full jurisdiction of property on which liens are asserted, the bankruptcy court will not in general interfere	674
The United States are not bound by the general equity rule for marshaling assets, nor by the rule prescribed by the bankrupt act in conformity thereto, any further than as that rule is founded in the particular case on the lien of the several parties inter sese	224
A judgment obtained by the United States against persons composing a bankrupt firm, though for a debt on which one of the partners was liable as principal and the other as surety, is entitled to priority over all partnership creditors	224
The proceeds of goods levied on by execution under judgments whose validity is not disputed, and afterwards seized by the marshal under the warrant in bankruptcy, must first be applied to such judgments.	574
An execution against the bankrupt delivered to the sheriff prior to the filing of the petition, but not levied, gives a valid lien as against the assignee who took possession of the bankrupt's property before the return day of the execution	114
The lien of a prior unlevied execution is divested by a seizure of goods by a marshal 1364 under warrant in bankruptcy proceedings	1276
Liens of judgments obtained after the execution of a general assignment valid by the state laws or at common law which is set aside at the instance of the assignee in bankruptcy are not valid against him where	838

	Page
they would not have attached had the assignment been allowed to stand	
— Sale.	
Lien creditors are not bound by the sale of lands which were subject to their liens, where their priorities were not first definitely ascertained on personal notice to them	674
A person claiming title under a deed from commissioners under the bankrupt law of 1800 must show their authority, and that their proceedings were regular	936
Proof of debts—What is provable.	
A judgment for a fine is not a provable debt	456
A person, who in good faith purchases claims against a bankrupt with the intention of stopping proceedings and giving him time, may prove them	212
The beneficiaries of a trust fund, invested by the executor in his partnership business with the knowledge and consent of his co partner, may prove their claim against the partnership, although they have proved it against the estate of the executor	866
Fiduciary debts are provable equally with other debts, and, if the creditor elect to prove such debts, they will be barred by a discharge. (Act 1841.)	826
Creditors recovering judgment after the adjudication need not vacate their judgments in order to prove the claims on which they were rendered	1
— Secured debts.	
A creditor of a firm holding security on the separate property of a partner may prove the claim against the joint assets without releasing such security	923

	Page
A creditor secured by mortgage may apply to the court to have the property sold and the proceeds applied on his debt. If in sufficient to extinguish it, he may prove for the unpaid part	50
—Procedure.	
Proof of claim cannot be made before a notary	231
A creditor residing in the judicial district where the proceedings are pending must prove his claim before the register of that district.	231
The deposition of a creditor residing in another district must be taken before a register in that district; and, where residing in a foreign country, before a minister, consul, or vice consul of the United States	231
Claims purchased for the purpose of stopping proceedings against the bankrupt should be proven as of the date of adjudication, but may draw interest to date of actual payment	212
The register may postpone, until the choice of an assignee, the proof of a debt, in respect to the validity of which a doubt has arisen on the ground of a preference	1
Examination of bankrupt, etc.	
The register has no power to limit in advance the time for the conclusion of the examination of the bankrupt	1219
On the examination of a witness respecting the bankrupt's estate on the application of a creditor, other creditors have no right to intervene and object to questions put	340
On such examination the witness is not entitled to counsel, and he may be	340

	Page
compelled to answer questions respecting his transactions with the bankrupt	
Page The bankrupt's attorney may attend the examination, and object to improper questions put to the bankrupt, but the latter has no right, without consent of the magistrate, to consult his attorney before answering	687
Costs: Fees: Disbursements.	
Marshal's bill of costs considered	640
The register may require that his lawful fees for conducting an inquiry instituted by a creditor should be paid or secured before entering thereon	1209
An assignee under a general assignment under a state law, which is avoided by proceedings in bankruptcy, will not be allowed compensation or expenses out of the fund	274
The assignee will not be allowed for auctioneer's charges in making a sale, unless he show a necessity for his services	543
Discharge—Proceedings to obtain.	
The court may allow the bankrupt to withdraw his petition, and file a new one at a later day	480
The final oath of the bankrupt need not be made or filed until the hearing	457
The 50 percent, clause is not operative against a bankrupt if the fair cash value of the assets turned over to the assignee is equal to 50 per cent, of the claims proved on which he was liable as principal debtor.	1020
Amounts paid to lien creditors are not to be deducted before ascertaining the requisite percentage of assets to entitle the bankrupt to a discharge	619

	Page
In ascertaining such percentage the property is to be taken at its value at the time the petition is filed	619
A debt due from a bankrupt under an agreement made on the surrender of a lease for a term, that he would pay any deficiency arising on a reletting by the landlord, will be considered as contracted at the time of such agreement (Act July 14, 1870), and not at the time a judgment was obtained therefor	552
Under Act July 27, 1868, the discharge is not contingent upon the amount of dividends actually received by the creditors	1020
The pendency of an examination of the bankrupt is good cause for an adjournment of the proceedings on an order to show cause why the bankrupt should not be discharged	1018
—Proceedings in opposition.	
A person having an equitable claim against the estate may oppose the discharge. (Act 1841.)	826
A creditor cannot oppose the discharge unless he enter his appearance in opposition thereto within the day appointed for showing cause against the petition therefor	457
In the ease of an adjournment on the re turn day of the order to show cause the time to file specifications of objection will run from the adjourned day	678
Where there is no opposing party, the proceedings may be continued from day to day to suit the convenience of the bankrupt	457
A creditor who has duly appeared in opposition cannot move to dismiss the petition for want of prosecution, but should move to set it down for hearing	457

	Page
—Acts barring.	
It is no bar to a discharge that the debt was contracted by fraud 134.	678
It is no objection to the discharge that the bankrupt paid the expenses of making proofs of claims against his estate	480
A decree in a suit in a state court between a creditor and defendants, of whom the bankrupt was one, declaring a conveyance by the bankrupt void as in fraud of creditors, is not conclusive when such conveyance is set up by the creditor in bar of the discharge	382
The existence of fiduciary debts, contracted by the bankrupt before the passage of the act, will not prevent his discharge, as to debts not of a fiduciary character. (Act 1841.)	826
Misapplication of fiduciary funds after the passage of the act deprives the bankrupt of all right to a discharge from any debts whatever. (Act 1841.)	826
The omission of a particular debt from the schedule, unless intentional and fraudulent, will not bar a discharge. (Act 1841.)	826
The fact that a firm carrying on business and borrowing money in connection with a firm is a large stockholder in a manufacturing corporation does not make its members merchants or tradesmen, so that failure to keep books of account will prevent their discharge	77
“Tradesman,” in the bankrupt act, is limited to a small merchant or shopkeeper	77
—Scope and effect.	
The terms of a discharge, however general, cannot affect the rights of a creditor to whom the bankrupt owed a debt in a	826

	Page
fiduciary capacity, who did not prove the same. (Act 1841.)	
A surety on a guardian's bond is not among the class of persons not affected by a discharge. (Rev. St. § 5117.)	727
An injunction issued by the bankruptcy court, staying proceedings against the bankrupt in a state court until the question of final discharge should be determined, is ipso facto dissolved by the granting of the final discharge	932
— Vacating; Setting aside.	
Creditors moving to set aside a discharge cannot prove at the trial acts of the bankrupt not set forth in the specifications	848
Upon a motion to set aside a discharge the bankrupt's wife cannot be required to testify as a witness against him	848
Prohibited or fraudulent transfers.	
A security, given when insolvent, under an agreement made when solvent, and when the debt was contracted, is not void as against creditors	194
Where, under the local law, a deed does not take effect as to creditors and subsequent purchasers until it is recorded, a deed recorded within six months of the commencement of bankruptcy proceedings, irrespective of the time when it was executed, is a transfer within six months	1143
A mortgage upon a stock in trade, made within four months of the petition in bankruptcy, may be good in so far as it was given to secure advances then made, and invalid in so far as it was given to secure a pre-existing debt	199

	Page
A mortgage given to secure existing indebtedness and possible future loans, as to which no definite agreement was made, <i>held</i> fraudulent and void as to creditors	1352
A creditor who, with reasonable cause to believe the debtor insolvent, takes a judgment note more than six months before the petition is filed, cannot obtain a preference by the entry of a judgment and the levy of an execution on the debtor's stock of goods within such time	849
A judgment obtained within four months before the filing of a petition in bankruptcy in proceedings to subject a fund to the payment of a judgment against the bankrupt <i>held</i> void, and the judgment creditor, having received the fund, less the costs of his action, is liable for the whole amount	233
Taking property on attachment or execution is receiving a preference, but merely recovering judgment is not	1
A general assignment of all the debtor's property in trust, first, to pay the debts of certain creditors in full, and to apply the balance pro rata to the debts of the others, where the property is insufficient to pay all in full, is fraudulent on its face	110
Property assigned in fraud of the act, though under a general assignment for the equal benefit of all creditors, made in strict compliance with the insolvent law of the state, may be recovered by the assignee	835
A person is held to be insolvent when he is unable to discharge his debts in the usual course of business of persons engaged in the same trade or occupation	216

	Page
Creditors who have to resort to legal measures for the collection of accounts long over due will be held to have reasonable cause to believe the debtor insolvent	216
Proof that the bankrupt, while insolvent, paid or secured defendant in full, without making adequate compensation to his other creditors, casts upon defendant the burden of showing that he did not know at the time that the bankrupt was insolvent	110
The payee and indorser of a note paid by the maker in the usual course of business to the holder, is not chargeable with taking a preference where he had nothing to do with the payment, although he knew of the maker's insolvency	982
The rule would be otherwise if the indorser procured such payment to be made by the maker with intent to give a preference	982
Payment to depositors by insolvent bankers is not made good by the fact that the debtors acted under advice of counsel to save a criminal prosecution	214
Suits and proceedings in relation to the estate.	
The circuit court has no jurisdiction of a bill by the assignee of a bankrupt firm against the assignee of a member thereof to require him to pay complainant a surplus after individual creditors are satisfied	6
The district court has jurisdiction, under Rev. St. § 4970, of a suit by creditors against the assignee of a bankrupt member of a firm to procure an adjudication of their debts and their right of priority as against individual creditors, and may give complete relief therein	511

	Page
A summary petition by the assignee, and not a plenary suit, is the proper remedy against the bankrupt to recover property illegally withheld by him	527, 1021
A proceeding to compel the bankrupt to deliver to the assignee a policy of insurance on his life, which he claimed to have transferred to his son before the bankruptcy, must be by plenary bill	1
The assignee may proceed by summons or petition upon a forthcoming bond, and need not resort to a plenary suit	165
Goods seized by the marshal were delivered to a purchaser from the bankrupt on his giving a forthcoming bond. A decree setting aside the sale as fraudulent was finally affirmed in the supreme court The purchaser being insolvent, <i>held</i> , that the assignee might proceed either upon the forthcoming bond of one of the appeal bonds, and without first enforcing the same against the estate of the purchaser	165
A bill in equity by the assignee is not demurrable on the ground that he has a complete remedy at law, where the facts show that questions of fraud, trust, and partnership are all involved in the case at issue	789
In the case of property held by defendant under claims in different rights, <i>held</i> , that a suit in the form of a creditors' bill was the proper remedy	176
The fact that there are other creditors of defendant is no objection to the assignee's bringing a suit to recover assets in the form of a creditors' bill	176

	Page
The circuit court will entertain a bill by an assignee against several mortgagors and other 1366 lienholders to ascertain the amounts due, and sell all the property free from incumbrances	459
The cause of action by a trustee in bankruptcy to recover a payment made by the bankrupt of money, the title to which was in an assignee under a general assignment, <i>held</i> , did not accrue, under Rev. St § 5057, until he became vested with the title of such assignee under a decree setting the assignment aside as void under the bankrupt act	695
Review.	
Any lien creditor may appeal from a decree affecting his rights to the supervisory jurisdiction of the circuit court	674
A bill or petition under Act 1867, § 2, for a review of an adjudication of bankruptcy may be heard by the circuit judge in chambers at any place within the circuit, whether within or without the district where the bankruptcy proceedings are pending	1139
On a revisory petition to the circuit court the case will not be taken up de novo, but the error complained of must be particularly set forth	452
On an appeal by a creditor from a decision of the district court rejecting his claim the case is reconstructed in the circuit court, and the issues are made up and tried in the same way as if the case were originally commenced in such court	93
On a trial of a claim upon a judgment, matters which were available to the	93

	Page
bankrupt as a defense in the original suit cannot be setup	
On an appeal by a creditor from the decision of the district court rejecting his claim, where a declaration and plea are filed, the creditor has a right to a jury trial	920
Such right will not be held to have been waived where the appeal is inadvertently submitted, and decided as if the cause had been brought up by writ of error	920
Arrangement with creditors: Composition.	
The president of a bank, which claimed to be entitled to a preference, is not a proper person to be a member of the committee of creditors	339
A receiver appointed in proceedings in a state court, which were one of the grounds upon which the adjudication was made, is not a proper person for trustee	339
An excuse of a bankrupt for failure to attend an adjourned meeting in composition proceedings, that he had already been subjected to an exhaustive examination, and that his business required his constant attendance, <i>held</i> sufficient	1208
Where a resolution of composition has been adopted and confirmed by the requisite number of creditors, the right of a creditor to examine the bankrupt under Rev. St. § 5086, is suspended	1212
As to the power and duty of the register in permitting the examination of the bankrupt or suspending a pending examination	1209
The refusal of permission to take a copy of the inventory, which is at all times accessible to the creditor, is not prejudicial	1212

	Page
The refusal of the register to proceed with the examination of the debtor until his fees are paid or secured is no ground of opposition to the recording of a resolution of composition	1212
It is a substantial objection to the approval of a resolution of creditors, under section 43, Act 1867, appointing a trustee and committee to supervise his action, that the committee is composed of only two, one of whom is the trustee	88
Amending and repealing acts.	
The clauses in the bankrupt law which give the power to an assignee to sue for and recover the amount of unlawful preferences are not subject to the rule of construction applied in cases of repeal of penal statutes	1297
The amendment of June 22, 1874, is inapplicable to a suit in equity by the assignee to recover a fraudulent preference in compulsory proceedings commenced prior to December 1, 1873	982
The amendment of 1874, substituting the word "knew" in place of the words "had reasonable cause to believe," as applied to vendees of insolvents, is inapplicable to proceedings in bankruptcy commenced before December 1, 1873	1297
An adjudication after the amendment of 1874, where the petition was filed before such amendment, must be in accordance therewith	730
BANKS AND BANKING.	
The holder of bank bills is entitled to be paid in specie, by weight, the amount of such bills, upon a demand within the usual banking hours of the bank	346

	Page
The bank is bound to keep its money counted or weighed, or to employ servants sufficient to count or weigh it, so as to pay all demands made within the usual banking hours	346
One bank demanding payment of the bank bills of another is not bound to receive its own bills in payment, but may demand specie	346
Where a bank, having a large amount in Dills of another bank, by agreement with it placed the same in the hands of a third party as collateral, and the other bank drew drafts on New York, also advancing additional collateral to pay possible expenses of protest, <i>held</i> , in an action on the drafts, that the agreement was not pleadable in bar, the drafts having been taken as payment	79
A loan by a national bank in excess of the restriction (Act June 3, 1864, § 29) is not void; but making such a loan subjects the bank and its officers to the forfeitures and penalties prescribed in section 53	568
It is no defense to a suit by the receiver of a national bank against a stockholder to recover the amount of an assessment made by the comptroller of the currency that the assessment was not needed by the receiver	254

BILLS, NOTES, AND CHECKS.

Interpretation.

A note absolute on its face may be made payable on conditions by a separate agreement as between the original parties, and an assignee with notice is affected with existing

equities

Checks.

	Page
A check in the hands of the payee, before presentation, acceptance, or payment, is not an assignment of any part of the fund in the hands of the drawee	214
Indorsement and transfer.	
A collateral agreement between the parties to a negotiable note that it is to be paid only on certain conditions cannot be set up in defense to a suit by a bona fide transferee for value, though a state statute provides that the maker may set up any defense against the assignee which he could make against the payee	964
Query whether an indorsement of the negotiable paper must be proved to have been made before it became due	271
Demand: Notice: Protest.	
A promissory note transferred by indorsement after maturity is payable on demand, and demand and notice are necessary to charge the indorser, though he knew the 1367 maker to be insolvent at the time of indorsing it	57
In the case of a joint and several promissory note, a demand must be made upon both makers to charge the indorser, though one resides in another state	725
Release or discharge of indorser.	
An indorser on the notes of a bankrupt is not discharged by an extension of time given to the bankrupt by the holder	1206
Actions.	
After a note is taken up by the indorser its negotiability ceases, and his assignee can not sue in his own name	515
A person cannot sue as an indorsee unless he be the owner of the note, or have some	894

	Page
legal or equitable interest therein. A mere agent, to whom a note is indorsed by his principal for the benefit of the latter, cannot maintain such suit	
Under the provision of the Indiana statute giving the indorsee a right of action against the indorser, after having used due diligence to obtain the money, the indorsee of a note secured by a mortgage on lands in another state need not first exhaust such security	572
Want of consideration for a subscription to a college endowment fund is no defense to a note given in settlement thereof	308
A declaration on a note made payable at a particular place need not aver that the note when due was presented at such place for payment	1033
An agreement made on the indorsement in blank of a dishonored note, that the indorser should not be liable except on the maker's insolvency, may be shown by parol	804
BILL OF LADING.	
See, also, "Admiralty" "Affreightment" "Carriers" "Demurrage" "Shinning."	
The bill of lading, though not conclusive, is strong evidence of the apparent condition of the cargo	680
A bill of lading may be explained by showing that the goods receipted for as shipped were in fact returned to the shippers	469
A bill of lading, signed by the purser, who was not authorized to sign bills of lading, for goods not entered on the ship's manifest nor stowed with the other freight, acknowledging freight paid, may be contradicted by showing that the goods were	342

	Page
carried as a personal favor to the owner, and no freight was expected to be paid	
A person to whom a bill of lading is as signed as security for the payment of goods purchased of him by the shipper, under said bill of lading, is not liable to the shipowner for the freight	549
A person to whom a draft secured by a bill of lading is made payable as "cashier," for the purposes of collection, may proceed against the vessel in his own name for a wrongful delivery of the cargo to another	886
The indorsee of the shipper's bill of lading, who cashed a draft on the consignee on the faith thereof, may recover the amount of the draft, with interest, against the vessel which delivered the goods to the consignee without production of the shipper's bill of lading	886
884,	
A master having stipulated by bill of lading to deliver cargo to a certain consignee, afterwards signed a second bill of lading by which he stipulated to deliver a certain part of the cargo to plaintiff as security for money subsequently borrowed of plaintiff by the shipper. <i>Held</i> that, if he delivered all the cargo to the original consignee, he was liable to plaintiff for failure to deliver the stipulated part to him	81

BONDS.

See, also, "Principal and Surety" "Railroad Companies."

The marshal may include his commissions in a forthcoming bond, and is also entitled to commissions upon an execution on the bond

	Page
A defective forthcoming bond will, at plaintiff's request, be quashed, as well as the execution upon which it was founded	471
A forthcoming bond, given by mistake for less than the judgment, may, on plain tiffs motion, be quashed on paying costs of the motion	20

BOTTOMRY AND RESPONDENTIA.

Authority to raise money upon the vessel itself in the absence of other means is implied where the owner refuses to pay a bill given for supplies furnished, and sends the creditor to demand payment from the master in a foreign port	937
---	-----

The consignee of a vessel may apply the proceeds of a cargo and the freight to pay sums due on account of its purchase, without affecting his right to take a bottomry bond from the master for supplies subsequently furnished	937
---	-----

The necessity for supplies to support a bottomry bond need not have been so urgent that the vessel must have been lost to the owner without them	937
--	-----

BOUNDARIES.

A boundary "on," "by," or "to" to a stream, includes the land at least to low water mark	946
--	-----

A boundary "on" the bank of a river, referring to fixed monuments of the bank, limits the grant to the bank, and excludes the flats below it	946
--	-----

Where the land, according to a plan referred to in the deed, is bounded "on" a river, with no other specific boundaries, the flats will pass by operation of law	946
--	-----

Bounties.

See "Fisheries."

CARRIERS.

See, also, "Affreightment" "Average" "Bill of Lading" "Charter Parties" "Demurrage" "Shipping." Gamblers and monte-men, whose purpose in traveling upon a train is to ply their vocation, 1192 may be excluded

A regulation by a railroad company that canal boats unloading coal at its dock to be received on its cars there should employ its shovelers and rent its hoisting tubs at certain rates, being the usual market price, *held* unreasonable 1163

CHARTER PARTIES.

See, also, "Admiralty" "Affreightment" "Average" "Bill of Lading" "Demurrage": "Shipping." "A vessel chartered on a time charter for a voyage at a specified rate must sail without unnecessary delay, and proceed with all reasonable dispatch to her destination 343

Damages for a breach of such obligation are the difference between the fair market values of the cargo when it ought to have 1368 been delivered, and at the time when the vessel actually arrived 343

Under a charter party for a voyage to a certain port, or, in case it be blockaded, to a market and return, the vessel is not liable for the time necessarily consumed in the deviation to ascertain whether the port of destination was blockaded 132

Insufficient sail, resulting in lost time on the voyage, *held* would render the vessel liable for subsequent injury and loss of the cargo, where she was obliged to put into port within 200 miles of home in anticipation of heavy weather 995

	Page
The vessel is not liable for a loss or damage on account of the deck storage, where it must have been contemplated from the very nature of the cargo that it should be stored on deck	647
But where the loss arises, not on account of the cargo being stored on deck, but because it was improperly secured, the vessel will be <i>held</i> liable	647
The master will be <i>held</i> negligent in not keeping a vigilant watch while at anchor, and in not being prepared to drop a second anchor when his chain parts in a sudden blow	995

CHATTEL MORTGAGES..

See, also, "Bankruptcy."

Registry notice in New York of a chattel mortgage on a vessel does not affect third persons unless the owner continued to reside in the state	952
---	-----

A renewal notice in New York subsequent to Act July 29, 1850, is ineffectual unless the mortgage be also recorded in the office of the collector of the port	952
--	-----

COLIISIUR.

See, also, "Admiralty" "Pleading in Admiralty" "Practice in Admiralty" "Shipping" "Towage."

Nature of liability: Contributive fault.

A steamboat unavoidably injuring another in the confusion incident to an attempt to extricate her from a threatened conflagration, will not be <i>held</i> responsible for the damage	34
---	----

The master of a vessel will be <i>held</i> justified in bearing down on another vessel to leeward, which has hoisted her colors, as if to speak him, if it is the custom to do so	156
---	-----

	Page
A vessel will be <i>held</i> at fault for racing under full sail with another vessel on a dark night, when other vessels on the same course have taken in their light sails	1001
The relative situation of a vessel, and the probability of a change therein at the time that a course is decided upon by another, will determine the question of negligence of the latter	992
Rules of navigation.	
The ordinary rules of navigation designed to prevent collision are binding on fishing vessels while engaged on their fishing grounds	381
The rule of navigation on the Ohio river, giving the ascending boat the right to choose her course, does not give her the right where the boats are on opposite sides of the river with ample water between, unnecessarily or capriciously to require the descending boat to change her course	1155
The ascending boat on the Ohio river should not cross the channel, when a descending boat is so near as to involve risk of collision	1155
Between sail vessels.	
In the case of sail vessels having the wind free, the one on the port tack must give way	1001
In the case of vessels sailing on meeting courses nearly opposite, where both have the wind free and neither ports her helm, as required by Admiralty Rule 11, both will be <i>held</i> in fault	588
Query, whether such rule is applicable in the case of sailing vessels meeting end on, or nearly so, one being closehauled and the other sailing free	588

	Page
Vessels moored, etc.	
A vessel moving out of a pier, where other vessels are moored alongside, is charged with the duty of seeing that all lines are unfastened	1145
A canal boat lying at a pier is not bound, at the request of the master of a tug taking another boat out of the slip, to get out extra fastenings to prevent the canal boat breaking loose by the pressure of the tug carried against her by the tide	1304
A vessel lying near to, but not moored at, a wharf, without a signal light, and with her boom rigged out board, is responsible for a collision with another vessel moving prudently to her accustomed berth	80
A vessel anchored within 300 yards of the Battery, at night, without a light or a watch on deck, <i>held</i> solely liable where injured in a collision with a steamboat rounding the Battery in the usual manner to make her pier at Cortlandt street	881
Tugs and tows.	
In the case of a collision by a tow, where there is no proof as to the agreement for towage or the local usage, the tug will not be presumed to have been under the control of the tow	487
Tug <i>held</i> liable for collision by stern tow with schooner anchored in the St. Clair river for an attempt to pass the bend in the river with more than one vessel in tow	487
River and harbor navigation.	
A steamer will be <i>held</i> in fault for running at a speed of 17 miles an hour in the night time, through a crowd of vessels, whose lights are seen by her	594

	Page
A vessel which attempts to haul by another grounded in the entrance to a dock, after being warned that there is not room enough, is liable for all injuries caused by her jamming	242
A vessel aground in a narrow channel, in a situation to permit of other vessels passing her in safety, should, on the approach of another, cease her efforts to get off, until such other vessel has passed	992
It is not a fault for a tow to enter the channel of St. Clair Flats while another tow is coming through in an opposite direction	541
Lights, signals, etc.	
The vessel which did not carry the statutory lights is prima facie at fault	773
The absence of lights on a canal boat just after sundown, when they would not have afforded any aid in discovering her, is not a fault	1267
Neglect by a vessel, having the right of way, to show the regulation lights, does not relieve another vessel from observing the rules of navigation, and using all practicable precautions to avoid a collision	554
A tug, lying in the open lake, waiting for a tow, and exhibiting colored lights, is <i>held</i> to the responsibility of a steamer under way	413
Lookouts: Officers, etc.	
A tug with her captain on deck and a man at her wheel, and no other lookout, has not a proper lookout	1267
The failure of the lookout of a sail vessel to reannounce the colored lights of another vessel, which was not under way, <i>held</i> not a fault	413

	Page
The officer in charge of a sail vessel, whose lookout has reported a light in such a position that there is no apparent danger of a collision, is nor at fault in leaving the future watching of such light to the lookout	413
Particular Instances of collision.	
Between steamer and schooner, where the latter's torch was mistaken for that of a pilot boat, and the steamer continued to bear down upon her, instead of changing her helm, or stopping until she found out the schooner's course, and was <i>held</i> solely in fault	1305
Between steamer and schooner, where the latter's lantern was not seen through the negligence of the steamer's lookout, and the steamer was <i>held</i> solely in fault	1351
Between bark and tug lying at rest in Lake Huron, where the latter, exhibiting colored lights, was <i>held</i> solely at fault in not getting out of the way	413
Procedure.	
A proved fabrication of evidence, unexplained, will compel an adverse decree	1266
Damages denied for want of preponderating proof in a great conflict of evidence	381
Rule of damages.	
The value of a cargo of bone and oil lost in the Arctic Ocean is to be estimated at its market value in the home port of the vessel at the time when it would ordinarily have arrived there, if shipped at the time and from the place of the collision	554
In the case of a cargo of coal sold at private sale without notice to the parties charge able for the damages, <i>held</i> , that the loss shown	996

	Page
thereby was recoverable, but the practice was disapproved	
The loss of a vessel, abandoned by an experienced and capable master in good faith, is to be taken as a total loss, although the other vessel, almost as badly injured, succeeded in reaching port	554
Demurrage is allowed from the time the injured vessel is necessarily detained, if she has lost employment	242
A collier, during the busy season, may be presumed to have lost employment	242
Demurrage <i>held</i> not recoverable for the time lost by the vessel being frozen in while undergoing repairs at the place to which she was taken	996
In estimating the damages to a ship on a whaling voyage, demurrage is to be allowed for the time she is in port undergoing repairs	555
The pro rata share of the net earnings of an association of vessels, based upon the valuation on each vessel, <i>held</i> a proper basis for demurrage, where one of the vessels was injured in a collision	422
The services of other vessels of an association, of which the injured vessel was a member, furnished a person under a contract for raising the vessel at a specific sum, are proper items of expense	422
The salary and board of the master of a vessel while superintending her repairs <i>held</i> a proper charge	422
Division of damages.	
Where libelant has been guilty of gross fault, and that of respondent is in any degree doubtful, a decree for division of damages will not be rendered	413

Page

It being the usage in New York harbor to run steamboats in a dense fog, where two steamboats collided when running at the same speed the court will not hold either vessel at fault, and a division of damages will not be decreed 586

COMPOSITIONS.

See, also, "Bankruptcy."

A settlement with a debtor by accepting an offer of compromise, with a proviso that no other creditor should receive better terms, is not vitiated by the debtor's afterwards voluntarily paying some of his other creditors in full 307

CONFLICT OF LAWS.

The forms or modes of remedies in one state to enforce contracts are not regarded in other states 1312

CONSTITUTIONAL LAW.

Transportation of freight and passengers from one state to another, or through more than one state, either by land or water, is interstate commerce 530

A denial of the writ of habeas corpus by a state judge is not a deprivation of liberty without due process of law 728

The examination of the books of a person, under section 14 of the revenue act, is not an infringement of the constitutional provision protecting persons from unreasonable searches, etc 261

The appointment of supervisors of congressional elections by the federal circuit judges under Rev. St. § 2011, is a judicial act, and the statute is not unconstitutional 430

Page

A constitutional provision requiring a uniform rate of taxation does not prohibit municipal aid to railroads 652

A constitutional provision that the state shall not be a party to or interested in any work of internal improvement does not prohibit the legislature from authorizing municipal aid to railroads 652

CONTEMPT.

A person who brings an action in one court against a receiver appointed by another, without the consent of the latter, is guilty of a contempt, although the receiver's possession is not disturbed thereby 1088

The proper remedy for a person, having a demand against a fund in the hands of the receiver, is to bring his demand into the court appointing the receiver 1088

CONTINUANCE.

A continuance will be granted where depositions have been taken by one party without notice to the other 210

Absence of a material witness may be good ground for a continuance, although he resides more than 100 miles from the place of trial, so that the moving party might have taken his deposition 591

The absence of a witness on the hearing of an admiralty appeal is no ground of continuance, where he failed to attend in the court below, and no effort was made to secure his attendance in the circuit court until five days before the case on appeal was called for trial 773

CONTRACTS.

See, also, "Sale"; "Vendor and Purchaser."

Page

Where a contract to cut a channel in a river is partly performed, when a freshet clears out the balance, and the contractor is notified not to complete the contract, he is entitled to recover the fair and reasonable 1370 profit which would have been made by him had he been allowed to complete it 1038

COPYRIGHT.

A copyright cannot be secured without compliance with the statutory requirements as to the deposit of a copy of the title before publication and a copy of the book after publication 268

The doctrine of the right to abridge criticised, and *held*, that a copyright should be protected under the rule applicable to a patented machine 171

A fair abridgment, though it injure the sale of the original book, is lawful; otherwise as to a compilation 171

A compiler or reviewer cannot extract from a copyrighted work so as to convey the same knowledge as the original book 171

One compiler cannot avail himself of the labor of another by copying from his book extracts from common sources 171

A translation of a copyrighted romance into another language is not an infringement of the copyright, though the author has herself a copyrighted translation 201

A book of 1856 pages *held* to be infringed by an abridgment in 348 pages, which copied one-sixtieth part of the former book in the form of scattered paragraphs, constituting one-fifteenth part of the infringing book. 171

	Page
A part of a book may be an infringement and the other parts not. In such case the relief will only extend to the part considered an infringement	171
Before granting an injunction on a charge of infringement, the court will generally refer the matter to a master with instructions to report the extent of the infringement, if any, that the court may act on the case.	171
A purchaser under a sheriff's sale of a copper plate on which a copyrighted map is engraved, may take impressions therefrom, and sell the same	*15
Commissions received from sales of a pirated map are profits to be accounted for by the commission merchant selling them	14
An account of profits may be decreed to the owner of a copyright as incidental to an injunction, but it must be prayed for in the bill, and cannot embrace penalties	8

CORPORATIONS.

See, also, "Banks and Banking"; "Insurance"; "Marine Insurance"; "Municipal Corporations"; "Railroad Companies"; "Receivers"; "Telegraph Companies."

In Iowa a corporation for pecuniary profit becomes a body corporate as soon as the articles of incorporation are duly filed, though it has no paid-up capital, and does not file a sworn statement or procure a certificate authorizing it to commence business, as required by law

In such case the individual members are subject to the penalties and liabilities provided by law, but they cannot be *held* liable as partners

	Page
A by-law, adopted by the directors, and not by the incorporators, where two-thirds were present as required by the charter, is a nullity	899
A corporation chartered for sawing and manufacturing wood cannot legally invest money in a bank for the purpose of carrying on the business of banking	384
Such corporation cannot buy shares in a banking institution to more than its authorized capital, and bind the corporation or members for the payment of promissory notes given therefor	384
An insurance company, though forbidden by its charter from investing in national bank stock, after holding the stock and receiving dividends thereon, is estopped from setting up the unlawful acquisition to escape liability for an assessment on the subsequent insolvency of the bank, where the latter did not know in what manner the stock was acquired	251
A judgment against a corporation in a suit of which it had no notice is not binding on it in another state in which the corporation was domiciled	384
A contract for the issue of stock at less than the charter price is not enforceable	311
A sale of stock by the directors at a less rate than that fixed in the charter is unlawful and void	311
The issuing by the directors of a bond convertible into stock is the same in effect as the sale of so much stock, and the sale of such a bond at a discount is unlawful and void	311

	Page
A power given to the directors to sell the property of the company, or notes and bonds belonging to it, does not apply to the capital stock	311
It is not necessary that the charter contain a prohibition against taking subscriptions at less than the charter price	311
A contract by a corporation with purchasers of certificates of stock to pay them a higher rate of interest than that permitted by law is invalid, and a subsequent contract founded thereon, to apply the excess of interest in a manner contemplated, therein, will not be enforced in equity	351
An agreement by the corporation to receive depreciated stock in other companies at its par value in payment of subscriptions is no defense to a suit against other stock holders on their subscriptions	525
A stockholder is not exonerated individually from debts consequent on a lawful act against which he objected and protested, unless he seasonably sells out or withdraws as a member	384
The members of a corporation are not bound in their individual capacity by a recovery in an uncontested suit against it in another state, where they had no notice and opportunity to defend	384
COSTS.	
Where several distinct causes of action are united in the same libel, the costs may be distributed, and each party recover costs on those branches of the action in which he succeeds	942
A small undisputed claim, which has never been demanded, cannot be tacked to a	489

	Page
contested claim so as to recover costs on the latter	
Full costs decreed claimant in admiralty, although the demands of libellants are less than \$50 each	489
Costs will be denied a seaman who has not given the master and owners a reasonable time for an amicable settlement of his claim	443
Where a minority owner of a vessel objects to a proposed voyage, he is entitled to a bond for the safe return of the vessel, and his failure to demand it will not prevent his recovering costs on a libel therefor	310
A third person, who appears and defends in behalf and in the absence of the party to a suit in admiralty, is personally liable for the clerk's fees	189
Fees paid to the officers of the court by the claimant of property seized are not to be repaid by the United States, under Act Feb. 28, 1799, § 8, where the libel is dismissed.	187
A dismissal "without costs to either party" does not relieve the parties from liability to 1371 the clerk for 189 fees for services rendered at their request	
No costs can be taxed save those allowed by the act of 1853	1131
Since the act of Feb. 26, 1853, the district court in admiralty has no power to award an additional sum to libelants in the court's discretion under the name of a counsel or proctors fee	326
The rate of compensation of proctors in admiralty is controlled by the statutes in force at the time the right to costs accrues, or at the time of taxation	326

	Page
In an equity case, where depositions are not admitted on final hearing, the solicitor's fee of \$2.50 is not allowed (Act Feb. 26, 1853.)	100
The distinction between an affidavit and a deposition considered	100
Security for costs in the case of a nonresident plaintiff may required at the trial term, in default of which a continuance will be granted	986

COURTS.

See, also, "Admiralty"; "Bankruptcy"; "Equity"; "Maritime Liens"; "Removal of Causes"; "Rules of Court"

Comparative authority of federal and state courts: Process.

The pendency of a replevin suit in a state court to settle the right of property in a vessel will be *held* to bar a libel in admiralty to settle the same right between the same persons 797

But a replevin suit in a state court by a part owner of a vessel does not affect the jurisdiction of a court of admiralty in a proceeding by libel in which all the parties in interest are before it 1186

While a court of chancery in another state than that in which land is situated cannot make a decree affecting the title, they may decree a conveyance where they have jurisdiction of the person of the owner, and enforce the same by attachment or otherwise 700

Federal courts—Jurisdiction in general.

The repeal (Act July 13, 1866, § 68) of Act June 30, 1864, § 50, leaves the jurisdiction of the federal courts in cases arising under the revenue laws to stand on Act March 20

	Page
2, 1833, and that act does not confer jurisdiction in cases arising under the internal revenue laws	
— Grounds of jurisdiction.	
The federal court has no jurisdiction on the ground of diverse citizenship, unless all the persons on one side of the controversy are citizens of different states from all the persons on the other side	822
The limitation in section 11 of the act of 1789 is confined to the time when the suit is commenced	897
Where a suit is auxiliary to one previously commenced and still pending between citizens of different states, it is no objection to the jurisdiction that the parties are citizens of the same state	154
Under the act of 1839, a party defendant who does not reside in the district may voluntarily become a party to the suit without ousting the jurisdiction of the court	762
The rule that jurisdiction once acquired by virtue of the citizenship of the parties cannot be ousted by a change of residence applies only where jurisdiction has vested by a suit	897
The marshal's return should show affirmatively that the subpoena was served on defendant within the district in which the suit was brought in order to confer jurisdiction, where the bill alleged that defendant was a resident of another state	903
An allegation in the complaint of residence of the parties is not necessary to give jurisdiction	831
— Circuit courts.	
A foreign corporation, filing with a state auditor, pursuant to the state laws, a	90

	Page
stipulation that service on the auditor will bind the company, is not, by virtue thereof, an "inhabitant" of, or "found" within the state, under Act March 3, 1875	
The court acquires jurisdiction over a defendant corporation by service of its subpoena upon the superintendent and general managing agent within the district	1113
Whether the circuit court can obtain jurisdiction of a snit against a citizen of another state residing in a foreign country by process of foreign attachment, where defendant is not found in the district,—quere?	1353
—Administration of state laws.	
The settled construction of a state law by the highest court of the state is controlling on the federal circuit court	1070
A decision of the highest court of a state, holding an act of its legislature unconstitutional, is binding on the federal court only where it is based upon special provisions of the state constitution	652
The decisions of the supreme court of a state construing its state constitution and laws in relation to securities given by municipalities to aid railway companies, are not necessarily binding on the federal courts	968
The federal court refused to follow a decision of the highest court of the state, holding laws authorizing municipal aid to railroads to be unconstitutional, where opposed to repeated decisions on other laws involving the same principle, and to the unanimous decisions of courts of other states in analogous cases	652

	Page
The federal courts will follow the decisions of the state courts on questions of pleading. (Act June 1, 1872.)	735
The federal courts are not bound in the interpretation of deeds by the decisions of the state courts	946
A decision by the highest court of a state, that a foreclosure of the mortgage under a law of the state was bona fide, and made in conformity thereto, is binding on the federal court	351
—Procedure.	
The circuit courts adopt the local remedies of the respective states	214
The federal courts are not implicitly bound by the practice and decisions of the state courts with regard to amendments	1323
COVENANT, ACTION OF.	
Covenant will not lie on the condition of an injunction bond	381
COVENANTS.	
See, also, "Vendor and Purchaser."	
Construction of covenant in relation to lands taken in execution to satisfy a debt	905
CREDITORS' BILL.	
A creditors' bill is maintainable in the federal court in the form prescribed by the state statutes	472
The Illinois statute of 1877, giving the county court full jurisdiction in the case of assignments for creditors, does not deprive courts of equity of jurisdiction of a creditors' bill to set aside a fraudulent assignment or preference consummated prior to the assignment	247
Reduction of a claim to judgment is an indispensable prerequisite to a creditors' bill	55

Page

Where the debtor disposed of \$200,000 worth of stock before making a general assignment of \$18,000, *held*, that a receiver would be appointed 247

On a creditors' bill to recover assets pledged to a national bank as security on the ground that the loan secured was ultra vires, it appeared that afterwards the debtor had made a general assignment for creditors. *Held*, that complainant could have no relief, for if the bank had no title the title became vested in the assignees under the general assignment 68

CRIMINAL LAW.

See, also. "Arrest"; "Bail"; "Extradition"; "Fines"; "Habeas Corpus"; "Witness."

The federal district court has exclusive jurisdiction of crimes committed in the Gosport navy yard in Virginia. (Rev. St. § 711.) 708

The "navy yard" includes contiguous waters necessary to float vessels of the navy while at the navy yard 708

CURTESY.

In Rhode Island, a husband is not entitled to a life estate, as tenant by the curtesy, of a remainder or reversion owned by the wife, but only of real estate of which he had actual seisin and possession in fee 126

CUSTOM AND USAGE.

A general custom of the Lake ports as to delivery will not control as against a particular custom of one port 242

CUSTOMS DUTIES.

Customs laws.

Foreign goods once lawfully imported lose the character imparted to them by such 840

	Page
admission on their re-exportation, and cannot again be imported without a permit	
Goods of whatever growth or manufacture, brought from a foreign port or place, and landed at a port or place within the United States without a permit, are forfeited	840
Opium shipped from San Francisco to Portland by the way of Victoria, B. C., and taken ashore there, for however short a time, cannot be landed by the same vessel at Portland without a permit	840
The question whether certain articles upon which a specific duty is imposed by name is, like certain other articles, within a treaty stipulation for nondiscriminating duties, is exclusively for congress	784
Rates of duty.	
Goats' hair plush or mohair plush, composed partly of cotton, <i>held</i> dutiable as a manufacture of "goats' hair or mohair," under Act Aug. 30, 1842	1159
Shingles not specifically enumerated in Act March 2, 1861, <i>held</i> dutiable at 30 per cent., as manufactures of wood	116
Invoice: Entry: Appraisal.	
Under Act Aug. 30, 1842. § 16, and Act July 30, 1846, § 8, duties are to be assessed upon the appraised value of goods imported by their manufacturer, notwithstanding there is an invoice sworn to by their owner.	1100
The additional duty of 20 per cent. (Act July 30, 1846, § 8) is not imposed where the invoice price is raised more than 10 per cent., where the importer is the manufacturer, or procured the goods in the country of their production otherwise than by purchase	1100

	Page
The lowest cash price given by a merchant in a regular proposition for wine for export in quantities will fix a market value for the purpose of invoicing wines in substance the same as those offered	1168
The “actual market value” of wines at the “place” where they were procured or manufactured determined in the case of wines dosed and prepared for export	1168
An appraisement regularly made under Act April 20, 1818, c. 74, for the purpose of ascertaining the value of goods subject to an ad valorem duty, is conclusive as to the value on which the duty is to be estimated.	690
Under such act, the actual cost is still the true basis of valuation	690
Payment: Protest.	
Where the protest is written on the entry, the description given of the goods in the entry need not be repeated in the protest	1100
The protest must state distinctly every ground of objection intended to be relied on, and no others are available	1100
Objection to the regularity of the appraisal proceedings is not raised by a protest “against paying additional duty and penalty on” the goods described, “they being appraised too high.”	1100
Violations of law: Forfeiture.	
Debt is the proper form of action for the recovery of penalties for violations of the law	116
Counts for duties and for double values may be joined in the same case	116
A count for illegally receiving, concealing, or buying may be joined with one for illegally importing	116

	Page
A district court judge has power on complaint or affidavit to issue a warrant for the seizure and production of books or papers relating to merchandise, in respect to which a fraud on the revenue is alleged to have been committed	116
Sufficiency of the warrant in such case and waiver of defects therein	110
The objections to books, etc., offered in evidence on the ground that there was no authority to issue or serve the warrant, is insufficient to raise the question of defects therein at the hearing	116
A sentence of condemnation forfeiting a portion of a cargo from an omission to enter the same in the manifest is erroneous, unless the libel charge the particular omission	988
A bail bond given by the claimant is good, though the condition does not exactly conform to Act March 2. 1799, c. 128. § 89	268
Such section does not extend to delivery on bail on seizures under other acts	268
DAMAGES.	
See. also, "Contracts"; "Collision"; "Patents." A stipulation "to forfeit \$1,000 if we fail to carry out this contract," <i>held</i> a provision for a penalty to cover actual damages, and not for liquidated damages	782
The measure of damages for a failure to transfer corporate stock according to contract is the price of the stock on the day when it ought to have been transferred	727
Substantial doubts existing as to any of the elements of damage in a case of tortious taking must operate against the wrongdoer	605
The measure of damages for the tortious taking of a whale is full indemnity to the	605

Page

owner; and in the case of whale ships the labor of securing and transporting the proceeds is not to be considered

DEATH BY WRONGFUL ACT.

The father of a minor child, killed by the wrongful act of defendant, may recover for the loss of his services to the time when he would have become of age, irrespective of the time when death ensued 368

An action for the injury to a minor child by the wrongful act of defendant, in the absence of a statute, does not survive the death of the person injured, and cannot be brought by his representatives or next of kin 368

DECEIT.

The gist of an action for a false affirmation of the credit of another is fraud; and the action is not sustained if the representation was in substance true according to the party's knowledge and belief 688

A warehouseman who draws a fabricated receipt is liable to the person who accepted and paid a draft on the faith of it for the injury received 479

In the case of commission merchants, the amount of commissions which they expected to receive is an item of damage 479

DEED.

See, also, "Vendor and Purchaser."

A conveyance to a parent by a child recently of age is prima facie valid, and its validity does not depend on adequacy of price 362

A deed of lands not in the grantor's possession at the time of its execution does not convey the lands, and a covenant of seisin therein is not broken as to them 964

	Page
A plan of a tract of land referred to in a deed for purposes of description is to be treated as if it were annexed to and made part of the deed	946
Deeds are always construed according to the force of the language used by the grantor, and the apparent intentions of the parties deducible therefrom	946
The description, said to contain "about" so many acres, "more or less," will be considered as a representation of quantity, and in the case of an unreasonable excess or deficit equity will correct the mistake	964
A deed, in Indiana, until properly acknowledged, is not notice, though it is recorded, and is valid between the parties	254
As between a deed executed before an attachment and a deed under the attachment, <i>held</i> than the former, being first properly acknowledged and recorded, conveyed the paramount title	254
A deed executed out of Indiana for land within it, acknowledged before a justice of the peace, should bear the county clerk's certificate, and not that of the secretary of state	254
The recording of a deed in the proper office is only prima facie evidence that it was regularly proved and admitted of record	644
The surrender and cancellation of a deed does not reinvest the title in the grantor	472
DEMURRAGE.	
The refusal to admit a claim for demurrage in loading will not justify a refusal by the master to sign bills of lading, and the owners cannot recover for a delay caused thereby	1167

	Page
An agreement for quick dispatch supersedes any custom of discharging vessels by which they are to take their turn at the wharf	874
Naming a wharf in a charter party containing such a stipulation amounts to an undertaking that the wharf shall be unincumbered	874
A proviso against liability for detention, unless by "default" of the charterer, exempts him only from delay from causes beyond his control acting directly to retard the discharging	874
The master is entitled to the presumption that he knows best where his vessel should anchor, and his changing the place of anchorage to a greater distance from the shore <i>held</i> no defense to a claim to demurrage in loading	1167
A carrier is not justified, from press of business at a port preventing delivery for several days, in taking the goods to another place, and forwarding them from there to the consignees	242
Demurrage allowed without interest	1167

DEPOSITION.

A commission to take depositions in another state will not be granted without an affidavit showing it to be necessary for the purposes of justice	471
A deposition, taken before trial, of an informer, who is entitled under the act of congress to a portion of a fine, forfeiture, or penalty, is not admissible	988
In taking ex parte depositions under the act of congress, the requirements of the act must be strictly complied with	1160
Where the name of the magistrate is written across the place where the envelope is	1160

	Page
sealed, it is sufficient evidence that the deposition was sealed up by him	
Directing the sealed deposition to “the judges” of the court is sufficient	1160
The party offering a deposition taken de bene esse must show that the requirements of the act have been complied with to entitle it to admission in evidence	988
An objection to a deposition taken de bene esse, that it was not taken and returned according to law, <i>held</i> to apply to it as a deposition in chief	988
A waiver of all objection to a deposition taken de bene esse does not impart any new character to it, and does not make it a deposition in chief	988

DESCENT AND DISTRIBUTION.

See, also, “Executors and Administrators” “Wills.”	
The Rhode Island statutes of 1768 and 1822 respecting estates of persons dying without known heirs or representatives in the United States, apply to undivided interests in an estate	27

Discharge.

See “Bankruptcy”; “Insolvency.”

DISCOVERY.

See, also, “Creditors’ Bill.”	
After a verdict at law, plaintiff may maintain a bill in equity for a discovery as to usury in the contract on which the verdict was founded	506
Defendants cannot be compelled to answer whether, upon a note being sent to them to be signed, they did not substitute a note for the same amount, dated on Sunday, as this would subject them to a penalty for violating the Sabbath	54

DISTRICT OF COLUMBIA.

The commissioners of the city of Washington, under Act Md. 1793, c. 58, § 2, may resell public lots as often as a purchaser should fail to pay for them, and charge each preceding purchaser with the loss upon the resale 1149

DOMICILE.

See, also, "Courts"; "Prize"; "Removal of Causes." The presumption that a domicile once acquired continues does not prevail when its effect would be to impose upon the party the character of an enemy to his government 179

EJECTMENT.

See, also, "Adverse Possession"; "Real Property"; "Right, Writ of."

Where a defendant in ejectment, in fraud of his agreement with a purchaser on a mortgage foreclosure pending the ejectment suit, confessed a judgment to the latter, *held*, that the judgment would be set aside, and defendant continued as a nominal party to preserve the jurisdiction of the court 962

The owner of the fee in ejectment against a squatter, who has neither claim nor color of title, and has admitted title in plaintiff's grantor, need not produce other evidence of title than the conveyance from his grantor 584

EMBARGO AND NONINTERCOURSE.

Act March 1, 1809, c. 91, applies to all goods of British manufacture, etc., although imported into a neutral country before the passage of that act. 846

The arrival of a vessel within the Chesapeake Bay for the purpose of procuring a pilot in anticipation of a storm, *held*, sufficient to subject her to forfeiture 1107

	Page
The nonintercourse law was not repealed by the declaration of war with Great Britain, except so far as its provisions were inconsistent with a state of war	1107
EQUITY.	
See, also, "Courts"; "Injunction"; "Pleading in Equity"; "Practice in Equity."	
A court of equity cannot enforce the performance of a judicial function. The proper remedy in such case is by mandamus	1313
A bill in equity is not the proper remedy to enforce a decree in equity for the payment of money, as the remedy at law is adequate and complete	1222
Where a paper deliberately agreed upon to effect an object fails to do so by the death of the party who was to do the necessary act, equity will not give a remedy by setting up a previous agreement	1243
An agreement to submit a question to arbitration will not be enforced in equity. Such an agreement is revocable before the award is given	1313
In cases of concurrent jurisdiction, courts of equity consider themselves bound by the statute of limitations which governs courts of law in such cases. In other cases, they act upon the analogy of the limitation at law	351
In a case of gross laches in prosecuting, or long acquiescence in the assertion of adverse rights, where the statute of limitations does not apply, the court will consider the claim barred	351
Constructive trusts being purely of equitable cognizance, lapse of time is no absolute bar to relief; and, when the trust arises out of	32

	Page
fraud, each case is to be determined on its own circumstances	
Long acquiescence and lapse of time is a good ground against permitting a deed to be impeached as fraudulent	362
Equity will not reform a written contract by a previous parol contract on the same subject	1243
A party seeking to set aside a contract on the ground of misrepresentation and concealment has the burden of showing the same	816
Where a court of equity obtains control of a fund and the parties entitled to it, its distribution will be directed to the parties ultimately entitled thereto	1098
ESCHEAT.	
An inquest of office for lands escheating to the government by reason of alienage is not conclusive against a person neither party nor privy thereto, nor a tenant at the time, and he may show that there are lawful heirs, not aliens, in esse	135
Seisin by the commonwealth under inquest of office of lands will be deemed to continue until the title is lawfully parted with	135
A resolve of the legislature, releasing such title to another, may be construed as a grant if necessary to give it effect	135
ESTOPPEL.	
The grantor is not estopped by recitals in the deed to show in an action for the purchase price that the consideration has not been paid	615
An agreement made by plaintiff with a warehouseman to take certain winter wheat in part payment for a special deposit of	919

spring wheat converted by him will not estop plaintiff from suing for the conversion where defendant had no title to the winter wheat

EVIDENCE.

See, also, "Trial"; "Witness."

Judicial notice.

The court will take judicial notice that Astoria is on Long Island, and that commerce is carried on by its inhabitants by means of ferry boats 424

Presumptions: Burden of proof.

Where defendant, who has received payment of a joint debt, admits the joint interest of plaintiff without stating its amount, of which he had knowledge,¹⁴² plaintiff's interest will be deemed to be an equal interest, nothing appearing to the contrary

Declarations and admissions.

The admissions of a party to a suit may be given in evidence as independent testimony, though he has been sworn as a witness, and no impeaching questions asked him 220

Documentary.

In an action at law by one partner against the other, a partnership book kept by defendant is not evidence against plaintiff, although it has been in his possession 470

Copies of accounts and papers in the office of the quartermaster general, certified by the third auditor of the treasury, whose official character is certified to by the secretary ¹³⁷⁵ of the treasury, are admissible in evidence 1092

A document attested by the clerk of a court with its sea and the certificate of its 744

	Page
presiding judge, and called an “exemplified copy,” is competent evidence of the judgment described in it under Act May 26, 1790, though not sufficient at common law or under the state laws	
A copy of a manifest of a cargo certified by a notary <i>held</i> not admissible	651
A copy of a judicial record, having a flourish with the pen on the margin of each page, instead of a seal, <i>held</i> not admissible	651
A copy of a deed duly recorded is, after 60 years, admissible to establish a grant under which a person claims title to land	135
Record copy of deed <i>held</i> admissible without producing the original or accounting for its nonproduction	962
An execution is inadmissible without the judgment on which it was issued	1291
A recital in a deed under which possession has been held for 60 years, that the grantor is heir, and sells as such, is prima facie evidence of the fact	135
Parol evidence.	
Parol evidence is not admissible to explain or contradict a contract to convey land or an agreement to give a bond or writing to convey, where the party to be charged derived his title from a stranger	1324
Parol evidence is admissible to show that an absolute deed was intended as a mortgage, and the defeasance has been omitted or destroyed by fraud or mistake, or omitted by design upon mutual confidence between the parties	778
Parol evidence cannot be given of a statement of account by a master in chancery in a suit pending in another court	470

Page

In an action against an indorser of a note
parol evidence is admissible to show an
agreement with plaintiff whereby defendant 450
was to be discharged on the happening of a
particular event

Competency: Materiality: Relevancy.

The acts and declarations of a person as to
his intention in remaining in or removing
from a country, though not simultaneous 1346
therewith, are admissible to prove his
intention

A notary who has no personal recollection
of making a demand may testify from entries 1146,
made in his book at the time 1152

Weight and sufficiency.

The unsupported evidence of a witness of
admissions obtained by him from a party 408
for the purpose of charging him thereby, is
entitled to but little weight

EXECUTION.

See, also, "Attachment"; "Bankruptcy"; "Bonds";
"Garnishment" "Judgment."

A justice of the peace cannot issue an
execution as on a supersedeas upon the 973
mere indorsement on the back of the
original judgment that it is superseded

An alias fi. fa. or a new levy is not necessary
where the first levy and inquisition are set 1070
aside by the court

A vague levy on land may be rendered
certain by an appraisement in which it is 389
particularly described

The writ first executed will take personal
property without regard to their dates or 1273
the time of delivery to the officers, and the
lien given by such delivery binds the goods
against a voluntary transfer

	Page
A fieri facias, received by the marshal before an attachment for rent not due, is entitled to priority, and must be first satisfied	80
The return to the execution nulla bona need not state that the officer made search for property	472
The death of defendant after the levy does not affect the power of the sheriff to sell: otherwise in the case of a death before levy.	389
Execution issued on a dormant judgment is irregular, but a title acquired under a sale thereon is good	389
A sale for a grossly inadequate consideration will be set aside where the attorney prepared the writ for the clerk, taxed the costs, prepared the advertisement directed a large quantity of land to be levied on, and himself became the purchaser.	436
An agreement to prevent a sacrifice of property, under which it is bid off for its full value, is no ground of setting aside the sale	887
The acknowledgment of a sheriff's or marshal's deed <i>held</i> a judicial act, which would cure all defects in process or its execution which the court had power to remedy by their order	1070
Where a sheriff's deed is certain, it cannot be avoided collaterally by a defect in the levy	389
The title of the purchaser at a sheriff's sale cannot be affected by irregularities in the proceedings, unless they are such as to render the proceedings absolutely void	389
An execution, after the expiration of the time within which it is made returnable, is	210

of no force, and an arrest under it is a trespass

EXECUTORS AND ADMINISTRATORS.

See, also, "Descent and Distribution"; "Wills."

Where it appears that a large sum of money is likely to come into the administrator's hands, he may be ordered to give additional bonds, failing which he may be removed 805

An administrator who after a decree ascertaining the distributive shares, takes guardianship of a minor distributee, will hold his share as guardian, and not as administrator 763

In such case the sureties in the administration bond are not liable for the ward's share 763

The executor or administrator may submit an account of his testator or intestate to arbitration, and his acceptance of the award is binding on all concerned 237

Where an executor was directed to apply \$500 to the manumitting of certain slaves, which he wrongfully failed to do for several years, *held*, that he was not chargeable with interest thereon for the benefit of the residuary legatees 53

A contract by a person, as administratrix and as guardian of infant heirs, with an agent, to redeem lands from tax sales, and to perfect titles in consideration of a conveyance of a moiety, will be *held* personally binding upon the administratrix as to her share, and upon the infants to the extent of a liberal remuneration for services performed 816

A covenant by an executor on a conveyance of land of his testator in his capacity as executor, and not otherwise, is not binding 905

	Page
upon him in his individual capacity, although it may not be binding on the estate. A sale of a final settlement certificate by the administrator for the highest market price, though below its nominal value, is valid	237
A judgment for the purchase price of lands, sold by commissioners at a public sale, by the acre, as directed by a decree of 1376 the court, will be enjoined to the extent of any deficiency, though the commissioners declared that the purchaser must buy at his own risk, both as to quantity and title	237
A scire facias will issue on a suggestion of a devastavit to subject the executor or administrator de bonis propriis	823
The administrator of decedent's domicile is entitled to receive from the administrator appointed in another state the balance of assets remaining after paying debts therein	525
An administrator appointed in one state may sue in the courts of another before obtaining letters therein, and after he has obtained such letters may aver the fact by amendment	525
Exemptions.	
See "Bankruptcy"; "Homestead."	
EXTRADITION.	
A subject of the king of Prussia, charged with having committed a crime in Belgium, is extraditable under the treaty with Prussia of June 16, 1852, as for a crime "committed within the jurisdiction" of Prussia, where such person is punishable for such crime in Prussia, where a prosecution therefor has been commenced	281
The treaty of extradition with Bavaria of 1853 was not abrogated by the operation	927

	Page
of the constitution of the German empire, adopted in 1871	
Where the treaty of extradition does not require the issuing of an executive mandate, it is not a prerequisite to jurisdiction	927
It is not a necessary preliminary to an investigation that a warrant of arrest should have been issued or proceedings had against the accused in the foreign jurisdiction	927
The statutes in relation to documentary evidence from abroad in extradition cases (Act Aug. 12, 1848. § 2; Act June 22, 1860: Rev. St. § 5271) examined	296
In the case of a person held in custody under commitment by a commissioner for surrender under a treaty of extradition, writs of habeas corpus and certiorari may both be issued	296
On the return to such writs the court has no power to revise the decision of the commissioner on the question of fact as to the criminality of the accused	296
But the court must inquire whether the commissioner acquired jurisdiction, and whether he had legal or competent evidence before him of the facts found, but has no right to inquire into the sufficiency of such evidence as is competent	296
The president may lawfully decline to surrender the accused, after his commitment for surrender and the refusal of a discharge on habeas corpus, on the ground that the case is not within the treaty, or for insufficiency of the evidence	296

FACTORS AND BROKERS.

See, also, "Principal and Agent."

Page

When the principal can trace his property as distinct from that of the factor, he can recover it in whosoever hands it may come 1066

Where the proceeds of notes taken by a factor del credere on the sale of his principal's goods are received by the assignees in insolvency of the factor, they may be recovered by the principal, subject to a deduction for the factor's commissions and charges 1066

FALSE IMPRISONMENT.

A collector of taxes may be sued in trespass for imprisoning a party taxed as an inhabitant of a town, who is not an inhabitant 1189

FINES.

Fines and penalties may be enforced either by an execution against defendant's property or by *capias*; but where the sentence directs collection by execution a subsequent imprisonment under a *capias* is illegal 867

FISHERIES.

See, also, "Seamen"; "Shipping."

The fastening of a harpoon in a whale, with a line attached, gives the boat, the right to the whale, under the usage of whaling, though the whale subsequently escape, and is captured by another 558

A whale, killed and left anchored with marks of appropriation, is the property of the captors, and their title is not divested by a subsequent removal by others 605

A seaman in the whale fisheries has no property in the oil or bone taken, and the vessel owners are the proper persons to sue for a wrongful taking by another 605

Page

A vessel is not subject to forfeiture under the act of July 29, 1813, on the improvident payment of a bounty, where not entitled to it, but only for the act of fraud and deceit in obtaining it, whether rightfully entitled to it or not 494

Forfeiture.

See "Customs Duties"; "Fisheries"; "Informers"; "Internal Revenue"; "Shipping."

FRAUD.

Fraud may be proved by circumstances 700

FRAUDS, STATUTE OF.

A promise by a third party to pay a judgment debt if the creditor will suspend collection for six months is an original promise, and need not be in writing under the Ohio statute 60

A verbal agreement to pay the debt of another, although confessed in the answer, will not be enforced in equity if the statute of frauds is insisted upon in the answer 1051

The admission of a parol agreement in the answer will not prevent defendant from protecting himself against a performance by pleading the statute 1094

Fraudulent Conveyances.

See, also, "Assignment for Benefit of Creditors"; "Bankruptcy"; "Insolvency."

GARNISHMENT.

Funds of the debtor in the hands of a third person are subject to garnishment, though such third person is liable as indorser on the bills of the debtor, which he is subsequently compelled to pay 766

The undivided interest of defendant in a negotiable treasury certificate issued in 225

	Page
payment of an award can be attached in the bands of a garnishee, even before it is due	
A judgment rendered in the federal circuit court cannot be attached by process issued out of a state court against the plaintiff in the judgment	986
Any corporation having property in the state is "a body politic within this state." within section 13 of the Nevada act, directing proceedings against trustees of debtors.	1113
GRANT.	
See, also, "Mines"; "Public Lands."	
Ordinary grants and those for meritorious services are governed by the same principles and regulations	862
The rule at common law, that in the construction of deeds quantity must, yield to specific metes and bounds, cannot be applied to Mexican grants	1338
HABEAS CORPUS.	
See, also, "Army and Navy": "Extradition."	
A person under arrest by state officers for an act done under process of a federal court or in executing a federal law may be discharged on habeas corpus	1015
Where a writ of replevin from a federal court was fraudulently obtained with the purpose of carrying off property, and the party is indicted for larceny therein, the federal court will not discharge him on habeas corpus	1015
The federal court may issue the writ in the case of an arrest and imprisonment by state authorities of a person accused of a crime committed in one of the places mentioned in Rev. St. § 711	708

Page

An agent of a state arrested in a suit for malicious prosecution for obtaining from the governor of another state, on the presentation of an authenticated indictment, a man date for the arrest of a fugitive from justice, under which a person is arrested, is entitled to his discharge on habeas corpus by a federal court

1309

Proceedings on habeas corpus in a federal court will be quashed where it appears that the prisoner is confined upon a regular charge and commitment, after examination duly had by a court of competent jurisdiction, for a criminal offense exclusively cognizable in the state court, and that the prisoner is not restrained of his liberty without due process of law

728

HEALTH.

Where a vessel is detained an unreasonable length of time by the board of health of a city, acting as quarantine officers, before permitting her to land, the city is liable in damages.

392

HOMESTEAD.

See, also, "Bankruptcy."

In Nevada the interest of a tenant in common in the dwelling house and land occupied by him as a homestead, not exceeding \$5,000, is exempt

527

In Texas a homestead may embrace any number of city or town lots, designated and used as a homestead, and not exceeding in the aggregate \$5,000 in value, irrespective of improvements thereon, whether remote from or contiguous to each other

906

A person, in Georgia, who keeps a rented house, with hired servants, and makes his

730

home therein with a widow, whom he has educated, and regards as his adopted daughter, though not legally adopted, is entitled to a homestead exemption, as the head of a family, but is not entitled to additional land for the children of such widow, forming part of his household

An unmarried man, having orphan children bound to him under the apprentice laws of Texas, and conducting a household with hired servants, is not entitled to a homestead as the head of a family 379

HUSBAND AND WIFE.

The wife's portion of a marriage settlement was to be raised out of her real estate, of which her father was tenant by the curtesy, by a sale after she arrived of age. The wife died shortly after arriving of age, without any act done by her, or request by her husband. *Held*, that her father was not liable for nonperformance 1243

In Indiana the wife may require that her interest in her husband's land, which she has mortgaged to secure his debt, shall not be sold if her husband's interest will sell for enough to satisfy the debt 890

INDIANS.

An actual settler on "Cherokee neutral lands" under the treaty of July 19, 1866, may transfer his right to purchase the land, and the grantee may make the required proof 257

INJUNCTION.

See, also. "Equity"; "Patents."

Upon an attachment for contempt in disobeying an injunction, evidence is not admissible to contradict the affidavit on 1147

	Page
which it was granted, nor will the court grant a rule to show cause	
The attachment will not be quashed on account of a misnomer in the injunction, nor will the court receive a plea in abatement.	1147
The irregularity in the service of the subpoena to answer is no ground for withholding an injunction against defendant, who had notice of the motion, and appeared to oppose it	902
A notice to dissolve an injunction must be given 10 days before the term. If given in term, a term's notice is required	132
INSANITY.	
A man may be mentally so deranged as to authorize relief against judgments obtained against him during such a state of mind, though he be not so absolutely insane as to avoid all his contracts	595
As to the validity of a sale of lands by a guardian of a non compos tenant in common, joining in a deed with the cotenants	946
INSOLVENCY.	
See, also, "Assignment for Benefit of Creditors": "Bankruptcy"; "Compositions."	
A trustee in insolvency may maintain a bill for relief against judgments confessed by the insolvent, on notes given upon usurious and gambling considerations	974
In such suit defendant will not be relieved from stating the true consideration of 1378 the notes as prayed in the bill, on the ground that his answer might subject him to a penalty or forfeiture	974
Effect of discharge after arrest on a cap. ad resp. and before the return	190

	Page
Costs accruing partly before and partly after the discharge are barred thereby	849
A certificate of discharge under the insolvent laws of one state is no bar to an action by a citizen of another state	49
Where the discharge does not affect the contract, but only exempts the insolvent from future imprisonment, a suit may be brought on the contract in another state according to the <i>lex fori</i>	1312

INSURANCE.

Stipulations in a policy not required by or conforming to the state statutes, <i>held</i> should be disregarded	1060
A life policy, taken for the benefit of and assigned to a person who has no insurable interest in the risk, is void	550
A contract of life insurance, entered into by a Northern insurance company with a resident of a Southern state before the Rebellion, which provides that it shall be void on the nonpayment of premiums, is not suspended by the war, though the performance of the condition is made impossible, or the contract made illegal by the war; and a court of equity cannot relieve the party from a forfeiture	620
The agency of one representing an insurance company, authorized to receive premiums and renew policies, becomes unlawful when the insured and the insurer become public enemies	620
The concealment of incendiary threats, made so long prior to the insurance as not to increase the hazard, will not avoid the policy	1060
The failure of the company, when not fraudulent, to give notice to the assured	1057

	Page
that a premium or premium note was abom falling due, as customary, will not save the policy from a forfeiture provided therein for failure to pay the premium or premium notes	
No notice by the company is necessary to render the policy void	1057
A custom of the company to allow 30 days' grace cannot affect the rights of the parties under the contract	1057
Where payment of the premium was to be made on the first day of the succeeding month, which fell on Sunday, <i>held</i> , that an offer to pay made on Monday was sufficient, though the building burned on Sunday	772
The local agent of a foreign company, who has power to effect insurance and collect premiums, is presumptively authorized to make a verbal contract to renew a risk, and to give time for payment of the premium	772
The distinction pointed out between untruthful answers to specific questions and the mere failure to make full answers	550
Warranty that the assured had never "been addicted to the excessive or intemperate use of any alcoholic stimulants," and does not "use habitually intoxicating drinks is a beverage," construed	550
Warranty in relation to "good health" and being "free from any symptoms of disease" construed	550
The involuntary omission of an existing mortgage from proofs of loss is immaterial	1060
Specific objections to proofs of loss are considered as a waiver of all other objections of which the company had knowledge	1060

	Page
Where proofs of loss are received without objection, all objections to their sufficiency will be considered as waived	1302
One who holds a life policy to secure a past debt and future advances may recover the full amount due thereon, irrespective of the amount of his debt against the assured	550
The burden to establish a defense of a breach of specific warranties as to existing facts in an action on a life policy is upon the insurer	550
There is no presumption of law, prima facie or otherwise, that self-destruction arises from insanity, and plaintiff has the burden of showing it	856
Insanity defined, which will excuse an act of self-destruction so as to render the insurer liable, notwithstanding a condition avoiding liability where the insured shall "die by his own hand."	856
The mere fact of the disappearance of the insured without apparent motive is not a sufficient ground from which his death can be inferred	1302
The grant of letters of administration on the effects of the insured is prima facie evidence of his death	1302
The actual loss is the measure of damages where recovery is restricted to the cost of replacing the property destroyed, less its depreciation from use, etc., and the difference in values before and after the fire will not give such indemnity	1060

INTEREST.

See, also, "Usury."

	Page
Interest is allowed on liquidated demands in admiralty the same as at law, and on seamen's wages from the time they are due	491
Where a vessel is lost by explosion while in the possession of a lessee, and he is held liable for her value, he may be charged with interest from the date of the explosion	76

INTERNAL REVENUE.

The procuring of a false certificate to be made by a gauger, as to the emptying of spirits to be rectified and the destruction of the stamps, will forfeit the spirits, though the fraud was not successfully carried out	875
A regulation requiring a regauging of distilled spirits on their being emptied to be rectified, and the certificate of the gauger as to the destruction of stamps, <i>held</i> valid and reasonable	875
Where the distiller refuses to fix the time to run off the mash on hand before the notice of suspension takes effect there can be no legal suspension	208

INTERNATIONAL LAW.

The right of search is not allowable in times of peace, except against pirates or other offenders against the law of nations	1220
--	------

JAIL AND JAILER.

The court will not interfere in the exercise of the discretion vested in a jailer, as to the custody of his prisoner, unless it appear that he has abused such discretion for the purposes of oppression	725
--	-----

JUDGMENT.

Rendition and entry.	
Where the record produced upon the plea of nul tiel record shows a verdict only, the	823

	Page
court will presume that a judgment was entered pursuant thereto	
A decree nisi on default of appearance does not become absolute until the end of the term succeeding that to which the decree shall be returned "executed."	72
Validity.	
Where the record shows that there was no personal service on defendant, who entered no appearance, the judgment is a nullity	1035
Lien.	
A judgment in Ohio has relation to the first day of the term, and from that time constitutes a lien on the lands of defendant which lie within the jurisdiction of the court	316
The Pennsylvania law of 1798 limiting the lien of judgments is a law of property and title applicable to judgments in the federal circuit court, of record before its passage	1070
In Pennsylvania, a sale by a sheriff under a judgment in the state court passes a title to the purchaser discharged from a prior judgment in the federal court, either against defendant, as whose property it was sold, or against any persons from whom it was, conveyed to defendant	1070
Operation and effect.	
A former judgment is no evidence in an action, except between the same parties or their privies	609
A judgment in plaintiff's favor on coupons of county bonds is not conclusive in a suit by him on other coupons of the same bonds.	62
A decree in a suit by the vessel owners, against a shipper for freight, where the defense is nondelivery, is not evidence	544

	Page
either for or against the master in a future suit against him by the shippers	
Actions on judgments.	
A judgment is not an agreement, contract, promise in writing, or a specialty, within the Ohio statute of limitations	1350
A judgment on an attachment, being a proceeding in rem, will not support an action out of the state	1035
An averment that the court which rendered the judgment was a court of general jurisdiction, duly created by the state laws, is sufficient on demurrer, without alleging that it had jurisdiction of the person of defendant, either by service of process, appearance, or otherwise	847
Under the act of 1790 the certificate of a judge styling himself "one of the judges" is not a sufficient authentication. It should appear that he was the chief justice or presiding judge	59
JUSTICES OF THE PEACE.	
Separate actions may be brought on notes held against the same person, though their aggregate amount exceeds the jurisdiction of the justice	908
No appeal lies from a judgment of a justice of the peace in the District of Columbia unless the debt or demand exceed the sum of five dollars	1153
On an appeal from the justice of the peace the cause should be tried de novo on the merits	777
It is no ground of reversing the judgment of a justice rendered on a specialty that neither plaintiff nor his agent appear ed at the trial	777

LIENS.

Page

See, also, "Admiralty"; "Bankruptcy"; "Maritime Liens"; "Shipping."

An equitable lien, though not necessarily creating a property in a thing, must amount to a charge upon it so that it may be recognized and enforced in a court of justice

351

LIMITATION OF ACTIONS.

See, also, "Adverse Possession"; "Ejectment"; "Equity"; "Maritime Liens."

Act April 30. 1790, § 32. limiting suits for penalties to two years, is repealed by implication by Act Feb. 28, 1839, § 4, which extends the time to five years

101

The Ohio statute of limitations barring actions founded upon a specialty or any agreement, contract, or promise in writing after 15 years, and all other actions after 4 years, is inapplicable to a judgment

1350

A state statute of limitations is not applicable to a sale of land exempted by federal authority from state taxation

576

State statutes of limitation are inapplicable to suits in equity in the federal courts, but under ordinary circumstances the limitations prescribed by them will be adopted

32

The immunity from suit arising when a cause is barred by limitation is a personal immunity, which follows the person of the debtor into whatever state or territory he may go

650

When a cause of action is once fully barred by the statute of limitation, the legislature has no authority to again revive it by lengthening the period of limitation or excepting certain cases from the operation of the statute

650

	Page
A debt contracted in Indiana and barred by the laws of the state to which the debtor subsequently removed, is barred in Indiana, though it would not have been barred if the debtor had remained in such state	650
In the case of an unliquidated demand, where the parties have come to a settlement, and determined the sum due by mutual agreement, the limitation begins to run from the time of such settlement	162
In Maine, in the case of a mutual and open account current, where the party sleeps on a demand without entering it on his account until the period of limitation is elapsed, the account is barred	162
A person in Alexandria county. D. C, is not "beyond seas" in respect to persons residing in Washington county	345
The plea of the statute cannot be put in after the rule day, unless it be shown by affidavit to be necessary to the justice of the case	1023
LOTTERIES.	
Lottery tickets cannot be sold in the District of Columbia for a lottery authorized by a state law	1062
MARINE INSURANCE.	
See, also. "Average."	
The owner of a vessel, who has contracted to sell her for a certain sum, and to make title, has an insurable interest to the extent of the value of the vessel	270
Construction of time policy in relation to destination and voyage	270
The policy covers belligerent risks where there is no warranty of neutrality	210
A policy insuring freight on a steamboat and barge against total loss "at and from	92

	Page
St. Louis to New Orleans." covers freight on additions to the cargo made during the voyage	
Where in such case the barge was sunk, and her cargo transferred to the steamboat, 1380 and no other barge could be procured to carry cargo previously engaged at intermediate ports, <i>held</i> , that the policy covered all freight which would have been earned but for the loss of the barge	92
Upon a valued policy, a misrepresentation as to the age and size of the vessel will not avoid the policy	210
Where the defenses are misrepresentation, negligent navigation, deviation, and unseaworthiness, the onus probandi as to the three former is on defendant, but the assured must prove seaworthiness	1197
In cases of double insurance the insurers are liable ratably for the amount of the loss, and not according to priority of contract; and one who has paid the whole loss can compel the others to contribute their proportions	1183
MARITIME LIENS.	
See, also, "Admiralty": "Affreightment"; "Bottomry and Respondentia"; "Charter Parties"; "Demurrage"; "Salvage"; "Seamen"; "Shipping."	
The right to a lien.	
By the general maritime law a shipwright has a lien for materials, labor, etc., expended in repairs	29
A person who furnishes repairs upon the order of the master is entitled to a lien, though the master was in fact, without his knowledge, holding the vessel as custodian for the marshal	379

	Page
A lien arises for repairs and supplies furnished a vessel at a port other than that in which her legal owners reside, at the request of one to whom they had agreed in writing to transfer the title, where the purchaser subsequently assigned the contract to a resident of the port, who completed the contract	447
A lien arises for supplies furnished on the credit of a vessel in New York, where she is registered, where the owner resides in New Jersey	952
A lien arises for advances made in good faith to enable the master of a foreign vessel to pay customhouse charges and the wages of his crew	684
Repairs and materials furnished in a foreign port do not create a lien where the owners have ample credit and actual funds in the port, of which the creditor has implied notice	459
Where the owners inform persons who furnish supplies at the request of a charterer that the ship would not be responsible, they cannot acquire a lien therefor	554
A lien for supplies furnished in the home port of a vessel by material men residing in another state can only be enforced under the local law of the owner's domicile	952
Priority and enforcement.	
A lien for repairs furnished in the home port is entitled to be paid in preference to a subsequent mortgage	910
A mortgage duly recorded takes precedence over a lien for supplies to a domestic vessel, subsequently furnished, although the mortgagor retains possession	952

	Page
Maritime liens in favor of seamen and material men are to be enforced in rem only under salutary restrictions arising from the* demands and interests of navigation	82
A lien for repairs may be enforced notwithstanding the bond and mortgage given to secure it are not tendered back to the mortgagor, or surrendered in court at the trial.	910
A sale under an admiralty decree, obtained without fraud, cuts off all claims of the builders of the boat, her owners and creditors	55
Waiver: Discharge: Extinguishment.	
Limitations prescribed by the common law do not apply to claims in admiralty except by statutory provisions, but admiralty liens will not be permitted to lie dormant to the injury of third parties	82
A maritime lien should not be protracted beyond a reasonable opportunity for its enforcement	82
On the Great Lakes tacit maritime liens will not be extended beyond the season of navigation except under special circumstances	82
No cognizance will be taken of tacit liens where the circumstances create a presumption that the same are waived and other security looked to	82
Allowing a claim to slumber three years with repeated opportunities to enforce it, and no excusatory circumstances, is conclusive that it is waived	82
A lienholder is bound to diligence in the enforcement of his right, though a	910

	Page
subsequent mortgagee may not have suffered directly by the delay	
A lien for repairs is waived by acts showing that other securities have been substituted therefor, and, in examining testimony to this point the court will make all presumptions that a jury ought to make on a trial of a question of fact	29
A mortgage received simply as collateral security, though payable at a distant day, does not operate to extend the time of payment of the original debt, and the lien is not waived thereby	910
Where the person doing work on a vessel stipulates for other and different security from that of the vessel, the maritime lien is waived. (Reversing 758.)	756
As to the right of subrogation in admiralty in the case of the payment of the claims of seamen and others	684
A sale by order of a state court under a foreign attachment law does not divest a lien in admiralty for seamen's wages	797
On a sale of a vessel on a final decree in a proceeding in rem. all liens and incumbrances are transferred from the vessel to the proceeds	592
A purchase by a mortgagee at such a sale will not extinguish the mortgage by a merger of title	592
Liens under state laws.	
The lien given by Act Pa. June 13. 1836, is not discharged by taking a note and giving a receipt in full, where such was not the intention	465
A lien acquired under the New York statute by rendering services or furnishing materials	329, 330

to a vessel in distress in a port of the state is lost if she depart therefrom more than 12 days before commencement of the action to enforce the same

MARSHAL.

The marshal of the District of Columbia is not entitled to poundage upon the arrest of a debtor on a ca. sa. in Alexandria county, who has been discharged from such arrest by order of the plaintiff without payment

508

MASTER AND SERVANT.

See, also, "Apprentice."

Defendant, employing children, is not liable for an injury, caused by dangerous machinery where the child left his work, and carelessly exposed himself to danger

1276

1381

MECHANICS' LIEN'S.

In Iowa, mechanics and material men are entitled to a lien on railways for their work and labor

737

Such lien dates from the commencement of the building of the road, and is prior to a mortgage executed pending such building, and before the particular work was done or materials furnished for which the lien is claimed

737

The Virginia mechanic's lien law does not apply to a ship building in a public shipbuilder's yard under a contract by which she becomes the property of the owners from the laying of her keel, where credit is given to the builder

57

MINES.

Under the act of congress a location may include 1,500 feet along the linear course of the lode and 150 feet on either side of it.

44

	Page
If a locator fails to locate his claim parallel with the apex, so that the latter passes out through a side line, he can take nothing except what lies within his boundaries	44
“Top” and “apex,” as used in the act of congress, mean that part of the vein which comes nearest to the surface, and may include a part standing in the solid rock below a body of the superficial mass	44
The apex of a vein is the part which approaches nearest to the surface, if it there discloses a broken edge; but if, at the highest point it merely turns over and pursues its downward course, such point is merely a swell, and not a true apex	40
A vein, lode, or ledge, in the meaning of the acts of congress, is a mineral body of ore within defined boundaries in the general mass of a mountain	40
“Vein” or “lode,” in the acts of congress, embrace any description of deposit inclosed in the general mass of the country rock, regardless of technical geological distinctions as to beds, segregated veins, gash veins, true fissure veins, or mere deposits	44
If, in following the vein, the contact should be found barren of ore for a considerable distance because the two kinds of rock come together, then the deposit ceases to be a vein, and cannot be followed until another body of ore some distance beyond is reached	44
The right to follow the dip beyond the vertical side lines includes all veins which do not lie in a practically horizontal position	44
The owner of a claim may follow the dip beyond his vertical side lines at any point where the apex is within his boundaries,	40

	Page
though his location is not for its entire length along the apex. He may follow the vein in its departure in any degree from the perpendicular until it reaches the horizontal	
A vein is "in place," in the meaning of the acts of congress, when inclosed in the general mass of the "country rock," as distinguished from the superficial mass known as "alluvium," "detritus," or "debris"	44
"In place," in the statutes, means in the general mass of the mountain, as distinguished from merely on the surface, or covered only by "slide" or "debris"	12
Where the mass overlaying the ore is mere drift, or a loose deposit, the ore is not "in place," within the meaning of Rev. St § 2320, so as to give the owners of a claim the right to follow the dip within the lines of an adjoining claim	615
Whether or not "the contact" is to be regarded as a lode or vein is to be determined by its value, whatever may be the rule in regard to true fissures.	12
Where the "contact" of a lode existing in one claim comes to the surface in an adjoining claim, the question whether the apex is in the latter is to be determined by finding whether there is something of value there; not for purposes of treatment, but something more than a mere trace, something positively verifiable as existing in the ore. In the case of silver, the value must be reckoned by ounces, one or more to the ton of ore	12
A court of equity has the power in a mining case to compel an inspection and survey of the claims and works of the parties.	1113

MORTGAGES.

See, also, "Chattel Mortgages"; "Shipping."

A mortgage, under Act Ohio 1831, takes effect only from the time it is left for record, and a mortgage of subsequent date, first recorded, is a prior lien 316

The rule governing the application of payments does not apply to mortgage notes given to secure indorsements 1098

A bill of foreclosure by a junior mortgagee will not be sustained where he has already been impleaded by a prior mortgagee 459

Prior incumbrancers are necessary parties to a bill of foreclosure by a junior mortgagee, where there is substantial doubt as to the amounts due them, or the property covered by their liens 459

A court of equity may sell mortgaged premises free from incumbrances, remitting the lienholders to the proceeds of sale. 459

MUNICIPAL CORPORATIONS.

See, also, "Railroad Companies."

Power to grade streets, etc., necessarily implies power to make contracts respecting the same in regard to the work to be done and the compensation to be paid 338

NEGLIGENCE.

Negligence is the doing of some lawful act in a careless, unusual, and improper way, or omitting the performance of some act required by law to be done, by which injury results to the person or property of another 180

The failure of a railroad company to keep its turntable locked, so as to prevent its being turned by children or others, is not negligence, where prudent and well-managed railroads are not in the habit of 180

Page

guarding or securing their turntables. (But see 183.)

Under what circumstances a railroad will be *held* liable for an injury to a child of tender years, caused by playing on its unguarded and unlocked turntable 183

Negligence of the parents in permitting a child to wander from home and go upon a dangerous piece of machinery will not prevent liability of the owner for an injury to the child, resulting from his carelessness in not properly guarding and securing the same 180

Negotiable Instruments.

See "Bills, Notes, and Checks"; "Bills of Lading."

NEUTRALITY LAWS.

Property may be seized by the commanding officer of a military force ordered out to 1382 prevent the violation of the neutrality act of 1838, with a view to detaining the same until it should be proceeded against in the manner directed by law 177

A vessel laden with arms for insurgents in Canada, though not intended to pass the frontier herself, is subject to seizure, and, where wrecked after such seizure, without any fault on the part of the seizing officer, he is not liable 177

NEW TRIAL.

A new trial will not be granted in a case of tort on the ground of excessive damages, unless they were so excessive as to imply gross partiality or corruption on the part of the jury 504

A new trial will not be granted on account of excessive damages unless the jury have mistaken the principles of law which govern their estimate, or have been guilty of some 1189

Page

gross error which shows an improper feeling
or bias

Where the judge used the expression
“exemplary damages,” but it appears that the
jury did not go beyond the actual injuries
sustained, the verdict will not be disturbed. 744

OFFICE AND OFFICER.

The commission of a justice of the peace
and judge of the court of common pleas in
Pennsylvania is conclusive evidence of his
appointment 644

A public officer, who buys a bill of
exchange for public use, is not personally
responsible 157

An officer is personally liable where he did
not act in good faith, and with intention to
perform duly the duties of his office, and
where he acted with malice 140

PARTIES.

A person who, from incapacity of mind or
other cause, cannot be made to understand
the English language, cannot be a party to a
sworn libel in admiralty 408

An assignee of a nonnegotiable contract
cannot sue upon it in his own name in
the circuit court for the Southern district
of New York, as the state procedure is not
adopted by such court 474

An assignee of a chose in action may sue in
his own name in the admiralty 544

Where a husband, with the assent of his
wife, filed a libel as owner for injury to a
canal boat, wholly owned by her, and she
gave material testimony at the trial, *held*, 1267
that she would be estopped from bringing
another suit, and the libel could be
maintained.

	Page
Where two whalers are under a contract of mate-ship, there is no such joint property in a whale taken by one of them as requires the owners of both to join in an action for its tortious conversion	605
In a suit by a surety to cancel a conveyance of land made by him in trust to secure a note of the principal, the trustee is a necessary, and not a nominal, party	822
The court has no jurisdiction where a person within its jurisdiction, deemed an indispensable party, is not joined	1331
Bondholders of a railroad company which has united with another railroad company cannot join the trustees of the latter company as defendants in a suit for the removal of the trustees of the former for misconduct or negligence	9
A mortgagee in possession of a vessel may intervene, and contest claims affecting his lien	952
An assignee of complainant's interest in the subject-matter, pending the litigation, must file an original bill in the nature of a supplemental bill to be substituted to complainant's right	688

PARTNERSHIP.

See, also, "Bankruptcy."

A contract to work a farm on shares <i>held</i> to constitute a partnership, and to be abandoned by the failure of the party who went into possession to carry out its terms	1193
A purchase of land for speculation by several persons, where a part of the lots were sold, and others built upon, and debts incurred, <i>held</i> a partnership adventure, and on the bankruptcy of one party the other	1161

	Page
would be protected, as to the partnership debts, as against individual creditors of the bankrupt.	
A person loaning money to another carrying on business in his own name with the suffix " & Co." cannot be held liable as a partner, where he neither held himself out as such, nor allowed others to do so	511
On an issue of partnership, an offer to pay the partnership note if the holder would take property is evidence in connection with defendant's confession that the note was signed by his partner	982
Partners are liable for the tort of one of their number committed by him as a partner in the course of the partnership business.	116
A member of a firm cannot engage the firm in another partnership, so as to bind a member, not privy thereto. But his consent or ratification may be presumed by his silence without objection after he has knowledge of the fact	595
An agreement to sell a member certain articles expressly for his individual use, to be paid for out of the partnership goods, is void as to the other partners	789
The firm is liable on a note signed by the members with their individual names, where the consideration is treated as copartnership funds	923
In Massachusetts all the partners are held as general partners, if the transaction, while showing an apparent contribution in cash by a special partner, resulted in fact in putting in goods and debts equivalent to cash	898
In Illinois, if the certificate of dissolution of a limited partnership does not fulfill the	852

	Page
requirements of the statute, the partnership still continues as to creditors	
Persons dealing with a limited partnership are chargeable with notice as to the scope of its business as set forth in its duly-recorded articles	788
A common or long-continued departure by general partners, not consented to or acquiesced in by the special partners, cannot change the scope of the business as specified in the copartnership articles	788
Where all the property of a partnership belongs to one member, and the others have no interest in the gains and profits, such property will be liable in the first instance to the individual debts of the person owning it	511
The interest of a partner in the firm's brand or trade-mark cannot be reached in equity at the suit of a judgment creditor.	733
A partner in a steamboat company, who acted as master and engineer, cannot maintain an action at law against his copartners for compensation as engineer	806

PATENTS.

Patentability.

The invention must be both new and useful to authorize a patent	1040
The abandonment of a perfected invention or the fact that it fell into disuse will not affect the question of priority	336
The mere making of a model by a person does not constitute invention, as against a patent granted another for the same thing.	95
The omission of an element from a device so that the less number of parts will perform all the functions of the greater may be an invention	195

	Page
The inventor of a new means of carrying into effect a patented process is entitled to a patent therefor, but he has no right to use the process	1236
An old combination of machinery, applied in the practical development of a newly-discovered principle, producing a new and useful result, is patentable	718
A change of a machine, not involving invention, so as to adapt it to different uses, is not patentable	563
The desirability of an improvement, the difficulties to be encountered, and the unsuccessful experiments of others, tend to show inventive skill in the successful inventor.	858
The covering of a whip with a tubular knit fabric is patentable, though such fabric and the whip, and the idea of covering the whip, taken separately, were all old	249
Who may obtain patent.	
Where the idea, although not executed, was suggested to the patentee by another, a patent executed to him as the sole inventor is invalid	978
Abandonment: Laches.	
The inventor must sue out his patent where the invention is yet recent, and before it has come into general use	1040
Application and issue: Interference.	
On the death of the inventor, the patent may be issued to his executor as such, though it is not stated to be in trust for the devisees in the will. (Act July 4, 1836, § 10.)	105
Appeal from commissioner's decision.	
Where the reasons of appeal in an interference case take no exception to the	336

	Page
claim of the appellee, upon the ground of forfeiture by laches, the court cannot consider such question	
Where the applicant is put upon inquiry by the ruling of the board of appeal that his claim is not properly limited, the court, upon appeal, will not relieve him from the effect of a failure to amend his specifications	921
Validity.	
The degree of utility is not pertinent to the question of the validity of a patent	1260
A patent taken out by assignees of an alien and nonresident inventor is invalid	720
An American assignee of an alien inventor, who obtained letters patent in his own name under Act March 3, 1837, § 6, is not required to put and continue the invention on sale, under Act July 4, 1836, § 15	721
The common knowledge in the business of life must be kept in view in construing the general terms of a description	1236
The specification must be sufficiently clear to distinguish the thing patented from all others previously known, and to enable a person skilled in the art to construct it.	832
The invention should be so clearly described as to enable the public to put it in use	357
A patent for an improvement should describe the machine in use	357
Where the specification in a patent for "a new and useful improvement in the steam towboat" did not mention the invention as an improvement, but simply described a towboat, <i>held</i> , that the patent was void	357
A failure to deposit in the patent office a sample of one of the ingredients of a	704

	Page
composition of matter does not invalidate a patent for such composition, when the specification describes all the ingredients.	
After a patent is granted for a composition it cannot be impeached on the ground that the deposit of the ingredients in the patent office Ms not been made	704
Extent of claim.	
Unless plainly so intended, a construction will not be put upon the specification which would extend the claim so as to make the invention unpatentable	1269
An inventor may claim in one patent a combination covering the entire machine, and also a combination of a less number of elements, when he is the inventor of both.	24
A claim to "the communication of motion * * * produced as follows" <i>held</i> limited to the specific machinery described in the specifications	161
Alien patentee.	
An alien patentee need not take active measures for putting his invention in the market within 18 months after the grant. It is sufficient if he is ready at all times to sell at a fair price when a reasonable offer is made. (Act 1836, § 15.)	718, 721
Vacation or repeal of patent.	
The entitling of an affidavit intended to be used as the foundation for a rule to show cause why a patent should not be vacated as in a proceeding already pending in court, when in fact no proceeding has yet been instituted, is good ground for vacating the rule to show cause	1039
An affidavit to the effect that a patent has been obtained "surreptitiously and upon	1039

	Page
false suggestions” is sufficient to warrant a judge in his discretion to grant a rule to show cause why the patent should not be vacated. He may also receive other affidavits and evidence in corroboration	
Error committed in granting a rule to show cause why a patent should not be vacated as surreptitiously obtained cannot be corrected upon a motion to make absolute such rule Form, of decree declaring a patent void and ordering the same canceled, under Act July 8, 1870, § 58.	1039 315
Reissue: Disclaimer.	
A reissue may be obtained in order to claim a subcombination omitted from the original by inadvertence or mistake	24
New features cannot be introduced in a reissue, but errors and defects may be cured, and ambiguities made clear	24
A reissue is presumed to be for the same invention as that of the original, until the contrary appears	24
A reissue will be upheld unless, on a comparison with the original, it appears as matter of legal construction that it is for a different invention	24
The claims in the reissue must be construed so as not to embrace any invention broader than that described or substantially indicated in the original patent	485
In the reissue, under Act July 8, 1870, § 53, of a chemical patent, it is necessary to its validity that the subject-matter should be found described in the original patent.	706
The reissue is void where it was fraudulently extended beyond the claims of the original for a deceptive purpose.	563

	Page
The patentee or his assignee may incorporate in the claims for a reissue any portion of his invention which was omitted in his original specification and claim	563
New features cannot be interpolated into a reissue which are not described, suggested, or substantially indicated in the specification, drawings, or patent-office model of the original patent	971
A reissue may be granted to an assignee of letters patent upon his application without 1384 the consent, approbation, or knowledge of the original patentee	563
The decision of the commissioner in granting a reissue is final and conclusive, except where he has apparently exceeded his authority	971
Where a disclaimer has been filed pending the suit, plaintiff is not entitled to costs	731
Sufficiency of disclaimer limiting the claim of a patent.	731
Extension: Renewal.	
The expiration of a prior English patent will not affect the validity of the subsequent extension of the patent for the United States	1231
Assignment.	
The subject-matter of a patent is not separable except territorially	473
Assignees of an invention can take only such rights as the inventors could have taken	720; contra, 721
The conveyance of an undivided interest in the "invention as secured" by letters patent, to be enjoyed "to the full extent of the term for which said letters patent are or may be granted," passes an interest in the extended term	903

	Page
Infringement—What constitutes.	
Where the gist of an invention is the discovery of a principle in science made practically useful by the process described, he who adopts the principle to a practical extent is guilty of infringement	1260
The fact that the patentee did not know that his device would perform a certain function or office will not prevent the patent from protecting it in such use	195
Tests for determining what is a substantial change in a machine	709
A screw and a lever are mechanical equivalents. So, also, a spring, a weight, and a pulley are mechanical equivalents	709
Though the machine is not in its arrangement substantially different from that of the patent, yet there is no infringement if its action upon the material operated upon is essentially different, and the result is new.	718
The sale of a substance containing caustic alkali, with oil or rosin mechanically distributed through, but not in chemical union with it, inclosed in a metallic integument, in fringes a patent for caustic alkali inclosed in a metallic integument	1053
—Who liable.	
Principals are responsible for infringements by their agent, acting within the scope of his authority, and the legal implication of their concurrence therein will dispense with proof of it	10
A principal is not liable for the claim of a patentee under work done by a contractor who held a license, even though he has not paid his license fees or royalty	195
—Remedy generally.	

	Page
Patent infringement suits are of equitable cognizance, though no injunction has issued, and the patent has expired	19
The suit may be brought in any district in which defendant is found, regardless of the place where the infringement was committed	1061
Quære, whether state statutes of limitation are applicable to suits for infringement	19
The mere discontinuance of a suit and forbearance to sue any of the parties there to for over a year thereafter <i>held</i> not an acquiescence in the infringement	1053
Permitting infringement for several years does not waive or impair the patentee's rights, but it deeply affects his claim to an injunction	10
—Preliminary injunction.	
Act Feb. 15. 1819, does not alter the principles on which injunctions are granted, but merely extends the jurisdiction of the court to parties not before falling within it.	357
An inventor himself suing for infringement must make oath that he is the true inventor, and this, together with the patent, is adequate proof on which to claim an injunction	10
Complainant is not required, in addition to his patent, to present, in the first instance, full evidence that he is the first inventor. Very slight evidence thereof is sufficient to put defendant on his justification	10
An injunction will not be granted unless the right has been settled by suit at law, or the patentee's possession has been undisputed for a long time	10
The case should be such as to leave little, if any, doubt in the minds of the court as to	357

	Page
the validity of the patent, especially if it rests upon complainant's own showing	
It must be stated in the bill or by affidavit that complainant is the first inventor, and the bill must be sworn to	357
Where the patent was not attacked for want of novelty, and the infringement was clear, but it appeared that defendant had publicly used his apparatus for three years without objection, the application was denied, with leave to renew the motion on defendant's giving security and keeping an account	585
The patentee must either show an exclusive possession for such a length of time as to warrant the presumption of right, or show a clear and unquestionable right in the first instance	978
It is not a sufficient reason against the awarding of an injunction that it does not furnish plaintiff effectual relief, or that it may be avoided by defendant	1061
Assignment by complainant after preliminary injunction granted is no ground on which to dissolve it	1023
—Procedure.	
An assignee of a patent has an exclusive right of action for an infringement only where his assignment gives him a whole interest in the patent with or without territorial limitations	473
A person having only an exclusive right to manufacture a certain class of articles under a patent cannot sue in his own name for an infringement of such right	473
In a suit for infringement of a patent issued to an executor in trust for the devisees	105

	Page
of the inventor, both the executor and the devisees should be joined as plaintiffs	
Where the original patent was reissued in divisions, the bill need not aver that each division was for a distinct invention	1053
An allegation of the particular claims infringed is not necessary; a general allegation of infringement is sufficient	894
The affidavit annexed to the bill that the patentee was the original and first inventor of the thing patented, can be made by the assignee of the patented, as well as by the patentee himself	1053
Whether an invention is patentable is a mixed question of law and fact, and will not, in ordinary cases, be disposed of on demurrer	831
Letters patent cannot be attacked by defendant on the ground that they were procured by fraud in prosecuting the application before the commissioner	971
A license to practice the invention is a complete defense to a suit for infringement, though defendant has not fulfilled his contract	1223, 1224
A license under a patent to another is no defense	272 1385
Where defendant claims to have manufactured the machines in question under patents issued to him, the only question is one of infringement where complainant produces a patent of prior date	168
The construction of the specification in the application is a question for the court	832
—Evidence.	
The production of the patent is prima facie evidence of novelty	832

	Page
Testimony of eminent chemists and books of reputation in science and art are competent evidence that a coloring matter patented was not previously known	10
Where defendants offered no testimony, <i>held</i> the infringement was sufficiently proved by testimony of their admissions that they had sold certain articles, which were substantially the same as the articles described in plaintiffs patent	897
—Accounting: Damages.	
An account of profits taken before a master should be made up to the time of the hearing before him	722
Where defendants have not all been jointly concerned in the infringement for the whole time covered by the account their several liability must be apportioned in making up the decree	722
Computation of profits in the use of an invention in producing fat acids and glycerin from fatty bodies	1224
Interest will be allowed on the profits to the date of the master's report	722
Necessary expenditures for counsel fees and other charges, though not taxable costs, cannot be allowed as part of plaintiff's damages	103
A verdict making such allowance under the court's direction will not be set aside where the misdirection was not assigned as a reason for new trial, and the same result might have been reached by trebling the damages	103
Interest by way of damages may be given by the jury	709
Various particular inventions and patents.	

	Page
Boiler. Reissue No. 3,618 (original No. 93.244), for feed-water heater and filter, <i>held</i> valid and infringed	95
Boots and Shoes. Nos. 28,181. 39,546, 42,555, for improvements in machines for burnishing the edges of soles and heels of boots and shoes, <i>held</i> not infringed	544
Candles. No. 12,492, for improvement in machine for making candles, <i>held</i> valid and infringed	902
Clocks. No. 84,517. for improved pallet of clock escapement, <i>held</i> invalid for want of novelty	859
Cofhn handles. Patent to Strong of December 14, 1869. for improvement in, <i>held</i> void for want of novelty	225
Corsets. Reissue No. 6,100 (original No. 97.418), for improvement, <i>held</i> valid and infringed	1099
Furnaces. No. 71,244, for improvement in hot-air furnaces, <i>held</i> valid	894
Glycerine. No. 11,766, for a process for producing fat acids and glycerine, <i>held</i> valid and infringed	1224, 1231, 1260
Mop-head. Reissue No. 3.682 (original No. 22,990), for improved mop-head, construed, and <i>held</i> not infringed	767
Paints. Reissue No. 1,598 (original No. 40,515), for paints for ship's bottoms, <i>held</i> invalid for want of novelty	706
Paints. Reissue No. 4,599 (original No. 40,515), for paints for ship's bottoms, <i>held</i> valid and infringed	704
Pavements. Tillman's invention <i>held</i> no infringement of Kirk's invention	1269

	Page
Pipes. No. 1,980, for machine for making lead pipe by pressure, <i>held</i> valid and infringed	709
Pipes. No. 1,980, for machine for making lead pipe by pressure, construed, and found not to be infringed	718
Planing machines. No. 32,904. for improvement, <i>held</i> valid and infringed.	190
Rubbing machine. Nos. 75,217 and 75,218, for an apparatus for exercise, <i>held</i> infringed by Wood's patent for an improved apparatus for treating diseases by mechanical movement	807
Rubbing machine. No. 77,933, for an oscillating rubbing machine for medical uses, <i>held</i> infringed by Wood's patent for an improved apparatus for treating diseases by mechanical movement	807
Sand cutting. No. 108,408, for improvement in cutting and engraving stone, metal, glass, etc., <i>held</i> valid and infringed	1238
Sewing machines. Reissue No. 6,550, for improvements, <i>held</i> valid and infringed	971
Shoes. Priority of invention of an improvement in pegging machines awarded to Greenough	336
Stamper. No. 114,068, for improvement in machines for punching and stamping sheet metal, <i>held</i> null and void, and ordered to be canceled	315
Stoves. No. 80,235, for an improved guard plate, <i>held</i> valid and infringed	272
Towboat. Patent to John L. Sullivan for improvement <i>held</i> invalid for want of invention	357

	Page
Tubing. No. 46,507, for improved flexible tubing for illuminating gas, <i>held</i> valid and infringed	731
Well. Tillotson's patent for an improved filter well, <i>held</i> invalid for want of novelty	1272
Whips. No. 60,606, for improvement, <i>held</i> valid and infringed	249
Unlawful marking of articles as patented.	
The penalty of not less than \$100 (Act Aug. 29, 1842, § 5) for the offense of marking the word "Patent" on unpatented articles, is a penalty of \$100, and no more	101

PAYMENT.

Treasury notes issued under Act 1814, cc. 77, 699, being receivable in payment of duties, taxes, and land debts due the United States, are a good tender in payment of such debts	1124
The interest on such notes continues to run until their payment	1124
The word "dollars," as used in a note made in the United States, means lawful money of the United States	179
A deposit by a debtor of a sum of money with a third person for his creditor, who assented thereto, or gave the depositary a new credit, will discharge the original debtor	562
The ratification by one of the unauthorized act of another cannot have a retroactive effect so as to defeat the rights of intervening third persons	214

PILOTS.

See, also, "Salvage."	
A claim to half pilotage for a tender and refusal of services, supported only by the oath of the pilot, and contradicted by two witnesses from the other vessel, cannot be	1014

	Page
sustained where the pilot might have produced other witnesses, whose absence he did not account for	
PLEADING AT LAW.	
In an action for goods sold by a firm, plaintiffs must prove themselves to be the firm	1197
The assignee of a note assigned by a firm need not aver and prove the names of the persons who composed the firm	1033
A general averment of the citizenship of the plaintiff is sufficient	1033
In case of a plea of limitations and a general demurrer defendant was allowed to withdraw the latter	345
The powers of the court in cases of amendments are liberally exercised to promote justice	1202
A declaration in an action brought in the name of a firm may be amended by inserting the names of the persons who compose the firm	1196
In a suit on several promissory notes, <i>held</i> that an amendment was proper which added a count on another note embraced in the same transaction	1202
An error of the attorney in stating the name of defendant as "James" instead of "William" may be corrected	1266
A party will be allowed to amend before trial his writ and declaration by striking out the name of one of the defendants	1323
An attachment to answer in a plea of trespass on the case founded on a promissory note, having a scrawl for a seal, will be quashed, and plaintiff will not have leave to amend, and to declare in debt	839

	Page
An administrator may be permitted to amend by adding a plea where judgments have been obtained to the amount of the assets in his hands since he first pleaded	824
A note, stating on its face where it is payable, cannot be given in evidence on a count on a note omitting such description, but it is admissible on account for money had and received	157
Under a statute providing that the writing on which the suit is founded is receivable without proof of execution, unless the execution is denied, plaintiff must prove an indorsement, where he relies upon the same, but the suit is not founded thereon	256
The plea of nonassumpsit puts plaintiff to the proof of all material averments in his declaration, and where he relies on an indorsement he must prove it	256
Where an unsworn plea is put in, denying the instrument on which the action is founded or the indorsement of it, the note and the indorsement as averred in the declaration are admitted	936
A plea which admits the execution of an instrument sued on and sets up matter in avoidance is not objectionable, as amounting to the general issue	963
Under the plea of non assumpsit, a former recovery upon attachment in a court of another jurisdiction is admissible in evidence	162
in an action for deceit in selling goods fraudulently marked with plaintiff's trade mark, evidence may be given of any number of sales under a count for selling on a	744

	Page
particular day and divers others between that and the date of the writ	
In an action for an escape, the record is inadmissible where varying from the judgment described in the declaration	472
PLEADING IN ADMIRALTY.	
Separate and distinct trespasses cannot be joined in the same libel against defendants who are not jointly liable	957
A libel for a tort will be dismissed unless it contain on its face sufficient averments as to place to show that it is within the admiralty jurisdiction	957
A supplemental libel, filed before the process is returnable, becomes part of the pleadings, without further notice to respondent, and he is bound to answer it	942
An objection that the demand in suit is stale or barred by the statute of limitation cannot be made without being properly stated in the pleadings	491
Where respondent has been arrested in a suit in personam, the answer is not filed, within the meaning of the eighteenth rule, until bail is perfected	942
An answer to a libel for information must be full and explicit to each article	401
A plea to the jurisdiction can only be interposed by defendant himself in propria persona, and on oath	824
A replication merely denying the truth of the answer is not required in the district of Massachusetts	605
Where libelant relies on new matter in avoidance, he should file a supplemental libel, which respondent should answer	605

	Page
A party who sets up an admiralty lien which fails cannot set up and rely upon a common-law or statutory lien. (Reversing 758.)	756
A charter party under seal, made out in the name of a person who acted merely as agent for another, without stating that fact, is admissible in evidence on a libel for breach of contract brought by the principal	647, 648
PLEADING IN EQUITY.	
Copies of deeds filed with the bill as exhibits become a part of it and can be objected to only before the hearing	436
A plea for want of parties is not matter in abatement, but goes in bar to the whole bill	1331
A general answer overrules the pleas	778
A denial according to defendants "recollection and belief," in an answer to a direct charge of a thing done by defendant, will be treated as a mere evasion	778
Matter of avoidance in an answer responsive to the bill on a motion for an injunction is treated as the affidavit of defendant. On the trial it must be proved	1331
An answer admitting the right of complainant, but setting up new matter in bar, or an affirmative claim, or averring a discharge, is not evidence in defendant's favor.	1243
A general allegation of fraud and duress is not sufficient	362
Every material averment in the bill not denied is admitted	436
Matters germane to and connected with the subject-matter of a suit may be introduced by cross bill, although new, and not mentioned in the original bill	459

	Page
Matters existing at the time of filing the bill and omitted therefrom should be brought in by amendment, but matters arising there after and after answer filed can only be brought in by a supplemental bill	525
Leave will not be given to file a supplemental answer based upon a fact which was known to the party at the time of the original answer, and was not omitted through mistake	476

PLEDGE.

Corporate stock is bound for the payment of interest, where it is pledged for the redemption of certificates of debt, which in turn bind the debtor for the payment of “the sum therein mentioned and the interest thereon.”	518
--	-----

POWERS.

A power of attorney, which authorizes a conveyance to be made in as full and ample 1387 a manner as the principal could execute, authorizes a deed with covenants of general warranty	615
---	-----

PRACTICE AT LAW.

Plaintiff, who has offered competent evidence, cannot be nonsuited against his consent	1027
Where no declaration or plea has been filed, a rule to try or non pros, cannot be enforced	348
After the court has given its decision on a plea of nui tiel record, it is too late to take a nonsuit	59
Where there are no parties litigant before the court, original papers filed may be with drawn without leaving copies	1349

PRACTICE IN ADMIRALTY.

	Page
On a libel to recover possession of a vessel wrongfully taken from the owner, brought against the wrongdoer and a purchaser from him in possession, where no decree for damages is asked against the wrong doer, the libel against him will be dismissed, without costs	1179
A motion by libelants to strike from the record as a party libelant the name of a person who is a mere agent will be granted where it does not appear that respondent will be deprived of any means of defense thereby	1050
Testimony given viva voce in open court should be taken down by way of narrative, and not by way of questions and answers	594
Objection to the right of a person to intervene as claimant cannot be taken for the first time at the hearing	952
Advantage must be taken of the failure to file a replication when evidence is offered at the hearing, or it will be <i>held</i> to be waived	942
Adm. Rule 53, requiring respondents in a cross libel to give security to respond in damages as claimed therein, applies as well to actions in rem as to those in personam	1355
A vessel which has been once arrested and discharged on a stipulation for her value cannot be rearrested for the same cause of action, though the former action was discontinued by consent	883, 884
The circuit court on appeal will give leave to amend by striking out the names of parties improperly introduced, where necessary to enable it to dispose of the appeal upon its real and substantial merits	773

Page

A decree of the district court will not be opened, and an amended answer allowed to be filed, on the ground of the subsequent discovery of a prior decision of the circuit court in conflict therewith 1009

PRACTICE IN EQUITY.

The authority to refer to a master is inherent in the courts of the United States in the exercise of their chancery jurisdiction 1092

A master's report cannot be objected to on the ground that he was not sworn, where the order of reference did not require him to be sworn 1092

Exceptions will not be allowed where made under circumstances calculated to effect a surprise on the party 436

The discontinuance of proceedings for infringement of a patent does not estop complainant from bringing a second suit 1053

A party is not entitled to bring a bill of review unless he obeys and performs the decree 500

On filing a bill of review, complainant must give security, or deposit a sum of money for satisfying the costs, and damages for delay 500

Where complainant fails to give security or make a deposit, the bill will not be instantly dismissed, but he will be required, on motion, to give the security or make the deposit 500

PRINCIPAL AND AGENT.

See, also, "Factors and Brokers"; "Master and Servant."

A power of attorney, sent by mail to a person, which never came to his possession, is not operative 1186

	Page
A letter from a part owner of a steam boat, requesting another to advertise the writer's interest for sale, and in thus advertising to act as his agent, confers no authority to sell	1186
But where such part owner adopts or ratifies a sale made by such agent he can not subsequently disaffirm it	1186
An agent, unless expressly authorized, cannot bind his principal by receiving in satisfaction of a note held by him for collection a greatly depreciated currency, which is not a legal tender	179
An agent for subscriptions or a canvasser for books has no right to cancel subscriptions or to transfer them to another party	130
An agent or canvasser, who has taken orders or subscriptions for a book, is not liable to the publisher except as a guarantor, or where bad faith is shown	130
A collection agent, who transmits bills to his private agent, under an arrangement whereby the latter credits him personally with the proceeds, is personally liable for a loss caused by the failure of any of the parties	609
Money paid on account of suretyship for an agent in a matter where he is acting for the principal, and within the scope of his authority, creates a debt against the principal	1199, 1200
PRINCIPAL AND SURETY.	
To release a surety, the holder of a note must, for a valuable consideration, give time to the principal	477
The surety is not discharged where time is given the principal at his instance, or with his consent	477

	Page
The surety is not discharged by a confession of judgment at the first term, with stay of execution until the second, where it appears that in the ordinary course of the business of the court a judgment could not have been obtained before the second term	477
Sureties on a replevin bond are entitled to have their lands sold under the law in force at the date of the bond	115
The liability of a surety for a debt, to indemnify him against which the principal has contracted to deliver certain property in process of manufacture, will not justify a court of equity in taking such property out of the hands of innocent third persons, whose rights have intervened	642
An indorser of a note is entitled to the benefit of a deed of trust given by the maker to indemnify a subsequent indorser, as against the holders of subsequent deeds of trust who took with, knowledge thereof	497
PRIZE.	
An innocent shipment will share the fate of the vessel and other cargo, where an attempt has been made to violate a blockade of which the shipper had notice	407
Where the testimony of witnesses from the delinquent vessel is dispensed with 1388 adequate proof must be supplied aliunde of the delictum charged	1014
Libelants were allowed 30 days' time to produce such evidence	1014
Claimant has the burden of showing by clear evidence that the vessel was compelled to enter the blockaded port, as alleged, by overwhelming necessity, arising from	402

	Page
injuries received at sea, and the loss of fuel, water, and provisions	
The prize property will be sold on petition stating that it is in a perishing condition	130
Vessel and cargo acquitted, with costs, there having been no probable cause for their seizure	577
Vessel and cargo condemned for an attempt to violate the blockade of Beaufort, N. C	346
Vessel and cargo condemned for violation of blockade	679
An appeal to the circuit court from a decree of condemnation operates as a stay of all proceedings in the district court	406

PUBLIC LANDS.

See, also, "Grant."	
Effect of certificate from commissioners of Virginia as to lands subsequently found to be within the limits of Pennsylvania	499
An occupation entry in Tennessee, made without an occupancy, <i>held</i> good except as against persons who entered their claims as soon as the preference in favor of occupants ceased	1062
An unapproved Mexican grant, not segregated from the public domain before the treaty of Guadalupe Hidalgo, gives no rights except against a trespasser	1338
A coclaimant of a Mexican grant, who presents his separate claim for his half, and denies the execution of an alleged deed by him to the other, is entitled to a confirmation, as against the United States	1182
The neglect to support a petition for land by evidence within two years after it is presented to the board of land commissioners does not bring the claim	521

	Page
within the limitation of Act March 3, 1851, § 13	
Land <i>held</i> not “mineral land,” within the meaning of a treaty in relation to its purchase, because a coal deposit underlies it	257
Where a settler under the donation act fraudulently procures a certificate and patent to his wife’s share, equity has jurisdiction to correct the error by requiring him to convey the premises to her	32
RAILROAD COMPANIES.	
A railroad corporation, though its shares are owned by private individuals, is a public corporation	652
Railroad aid bonds <i>held</i> validated by Act Kan. Feb. 25, 1868, as to irregularities in the order of submission, and the location of the line of the road	900
Where county railway aid bonds were is sued pending certiorari to review the decision of the county judge that the parties petitioning for the issuance of the bonds were a majority of the taxpayers, etc., <i>held</i> , that after a reversal of the judgment the bonds were void	62
Under authority to issue bonds to a certain company, <i>held</i> , that bonds might be is sued to a consolidated company, of which the original company formed a part, where the facts were recited in the bond	968
Where county bonds are properly signed and sealed by the officers of the county, it is no defense to an action on the coupons that they are signed by only one of the county officers	901
A declaration upon county bonds should show by averment, or by recital in the bonds	901

made part thereof, that the bonds were issued for some authorized purpose or object

Under a sale of a road, the franchises, right of way, depots, rolling stock, tools, and all other property, real, personal, and mixed, *held*, that the purchaser was not entitled to surplus earnings in the hands of the receiver, but was entitled to all property used to carry on the business of the road and keep it in repair 218

On a railroad mortgage foreclosure, interest coupons, which have been partly paid, will be paid before coupons coming due afterwards; and detached coupons in the hands of third parties will be paid before the bonds themselves 22

Real Property.

See, also, "Adverse Possession"; "Deed"; "Ejectment"; "Estates"; "Grant"; "Public Lands."

REFERENCE.

Additional exceptions, discovered since the period for filing exceptions to the report has passed, will be allowed to be filed 908

RELEASE AND DISCHARGE.

The presumption in favor of the validity of a receipt will prevail in the absence of evidence that it was obtained by fraud, mistake, or ignorance of the rights of the party 1036

REMOVAL OF CAUSES.

See, also, "Courts."

Right of removal.

A corporation created by the laws of a foreign country is an "alien" (Act 1789, § 12), and when sued by a citizen may remove the cause 855

	Page
The right of one of the class of corporations mentioned in Rev. St. § 640, when sued in a state court to remove the cause, does not depend upon the citizenship of the parties	871
The fact that a state is plaintiff in the action will not affect the right of removal	871
Where it is shown that the controversy is wholly between citizens of different states, and can be fully determined as between them, the cause is removable, though some of the formal or nominal plaintiffs or defendants may be citizens of the same state	792
A criminal prosecution against a negro cannot be removed from the state to the federal court, on the ground of local prejudice against his race and color, preventing a fair trial	869
Time of removal.	
After a case regularly on the calendar for trial goes over the term, though by consent of the parties, it is not thereafter removable	177
Proceedings to obtain.	
The filing of the petition for removal is a sufficient appearance to the suit to give the court jurisdiction of the person	538
A party who fails to file a petition for removal at the time of entering his appearance will be precluded from doing so at a subsequent stage of the proceedings	538
Under the act of 1789, the petition for removal need not be verified by affidavit, but under the acts of 1833, 1863, 1866, and 1867, the petition must be verified by affidavit	538
The federal, and not the state, court has the power to determine whether the case is	792

	Page
a proper one for removal under the act of congress.	
The truth of an averment that defendant has a defense arising under or by virtue of the constitution or laws of the United States cannot be inquired into upon motion to remand.	871
Effect of removal: Subsequent proceedings.	
In the case of a suit on a nonnegotiable contract, brought by assignees thereof, <i>held</i> , after removal the case should be continued in the name of the assignor, where the federal court had not adopted the state statute requiring suits to be brought in the name of the real party in interest.	474
REPLEVIN.	
Goods in the hands of an officer of the law under an attachment levy cannot be replevied.	724
The failure of an attorney to enter an appearance as requested is no ground for reinstating the action discontinued at the return term of the writ on default of defendant.	1098
Where the title to the goods is in issue, a new trial will be granted where defendant obtained a verdict for the value of the goods, as well as damages for taking them.	1028
REVIEW, WRIT OF.	
Erroneous proceedings must be reversed on a writ of error, or they are binding.	1070
RIGHT, WRIT OF.	
The seisin shown by demandants will be presumed to continue until some adverse seisin or disseisin is shown.	946
Though persons entering upon state lands are to be deemed mere intruders, yet, as	946

against all others, the entry will be sufficient seisin to support a writ of right.

RULES OF COURT.

Signing a bill as "solicitor for complainant" in a court in which there is no distinction between an attorney and a counsel or, is a sufficient compliance with equity rule 24. requiring all bills to be signed by "counsel." 107

SALE.

See, also, "Vendor and Purchaser."

Under a contract to pay for goods as delivered, and to have an agent at the destination to receive the goods from the carrier, *held*, that the risk of transportation was on the seller. 1031

In case of loss in transit, the rule of damages is the difference between the contract price and the market value at the time and place of the delivery. 1031

SALVAGE.

Right to salvage compensation.

The contract of seamen is dissolved by the abandonment of their vessel in distress at sea, and where the rescuing vessel subsequently falls in with the derelict, and they perform services in saving part of her cargo, they are entitled to salvage. 752

Capture by a public or private armed vessel of a belligerent power or by a pirate terminates or suspends the contract, which binds the seamen to the ship, and rescue or recapture by the master and crew entitles them to salvage. 262

Capture by a Confederate cruiser in July, 1861, was capture by a belligerent within the rule. 262

	Page
The master, being also a part owner, is entitled to salvage as against the other part owners and the shipper or insurers of the cargo.	262
Where a vessel is in such peril as to be the subject of salvage service, a pilot is not bound to give his aid for mere pilotage.	440
The fact that the services were rendered in response to a signal for a pilot will not prevent the recovery of salvage compensation.	440
A wrecking corporation cannot be considered as a salvor, and where the masters and crews of their vessels are not entitled to a share in the recovery, they cannot be considered.	226
Persons going out to and securing a canal boat, with no one on board, cut adrift from her moorings by ice in New York harbor, and carried by the tide towards the sea, <i>held</i> entitled to salvage compensation.	94
A steamboat towing other boats from a wharf to prevent them from coming in contact with a vessel which is on fire is entitled not to salvage, but merely to towage compensation.	34
There is no usage or custom of binding obligation whereby steam tugs in New York harbor are obliged to render towage services to each other without compensation when found disabled and in need of assistance within their common field of employment.	323
A vessel in distress may refuse the services of salvors, but, where services are accepted without stipulation for absolute compensation, the capacity in which they	440

	Page
wore rendered will not prevent a recovery of salvage compensation.	
Contracts for salvage services.	
Aid in saving a vessel, from a sea peril, rendered under a contract, is a salvage service where there is no stipulation for absolute compensation.	440
Salvage contracts will be set aside, not merely in case of fraud or extortion, but where the compensation is excessive.	322
A contract to pay \$2,000 for towing a rudderless bark from her anchorage off the highlands below Sandy Hook, where she was in no immediate danger, to New York, <i>held</i> excessive, and the allowance was reduced to \$1,000.	322
Services of a wrecking tug in towing a ship from a dangerous shoal, which proceeded upon a negotiation for compensation not involving any idea of salvage, and not accepted as a salvage service, <i>held</i> , should not be compensated as such.	226, 229
Forfeiture or reduction of salvage.	
Gross neglect or wanton injury to the property saved works a forfeiture of all claim for salvage, and renders the salvors liable for damages.	383
An allowance of \$23,000 was reduced \$5,000 for the failure of a wrecking master to make careful soundings, resulting in an ineffectual effort to heave the vessel off of a shoal in the wrong direction.	378
Salvors must land the property saved at the nearest port of safety, and see that it is properly cared for.	383
Salvors who carry the property stripped from a vessel directly past her home port,	383

	Page
where her name and port were painted on her stern, <i>held</i> guilty of embezzlement.	
Amount.	
The risk run, the service rendered, and the amount of property saved will all be considered in determining the compensation.	806
Associations for wrecking purposes will be encouraged by the compensation awarded for salvage.	440
The award for services rendered by wrecking vessels is not to be measured on the principle of salvage, but rather on that of a quantum meruit.	330
The owners of salved property cannot avail themselves of a contract, made by the salvor Wrecking tug with marine insurance companies, to give services on their request to vessels in need of aid, at \$15 per hour, except as evidence of what might be regarded as a reasonable reward for services rendered.	330
The value of a wrecking tug is not to be considered where the salvage service consists in towing merely, which might have been as well done by a vessel of less power.	323
A wrecking tug allowed \$25 per hour for towing into New York harbor in cold and tempestuous weather a bark anchored on the south shore of Long Island.	330
One-third allowed on a gross value of 54,500, in the case of a bark drifting at sea, with the greater part of her crew dead, and the rest rendered helpless by disease, discovered 40 miles from a port.	333
\$1,000 allowed a tug for towing into New York harbor a steamer, whose machinery	323

	Page
was disabled by a collision, drifting out to sea in a storm.	
\$11,931 awarded on a net value of \$35,821, in the case of a wreck upon the Florida Reef	835
\$15,000 allowed to two tugs as towage compensation for towing a ship worth, with cargo, \$250,000, from Romer Shoal into the port of New York 226,	229
\$23,000 allowed upon a net value of \$127,000 to 12 wrecking vessels, carrying 108 men, for services rendered a vessel aground upon Couch Reef	378
20 per cent., 50 per cent, and 60 per cent, allowed, respectively, on net value of \$23,904, \$7,967, and \$1,283, in the case of three expeditions to a wreck	834
Remedies for recovery.	
The crew of a salvor vessel may recover their share of the reward by libel in admiralty from the owners, who have received salvage on a settlement with the owners of the property saved	275
The fact that the owners of the salvor vessel did not consider the services of the crew in making the settlement is immaterial where they signed a receipt "for the owners, master, and crew."	275
The lien for salvage is lost by an assignment of the claim	333
Apportionment.	
The owners and master of a lighter were allowed three-fourths of the award, where the actual work of lightering was done by the crew of the vessel in distress	275

SCIRE FACIAS.

	Page
A sci. fa., in which the name of one person is written for another by mistake, may be amended	727
SEAL.	
There cannot be a joint seal for diverse persons not incorporated	1291
SEAMEN.	
See, also, "Admiralty"; "Maritime Liens."	
The contract of shipment.	
A description of the voyage as "from Boston to one or more ports south, thence to Pass one or more ports in Europe, and back to a port of discharge in the United States," <i>held</i> sufficiently certain	1064
A port where colored seamen are obliged to remain in jail or on board the vessel while she stays there, is not a port of discharge within the United States	225
A parol understanding that the vessel was not to complete the voyage described in the shipping articles is not admissible	1064
Inability to obtain freight is not such a necessity as absolves the owner from his contract to perform the voyage described in the articles	1064
Retaining seamen on board, by direction of the owner, after the determination of the voyage for which they shipped, amounts to a new contract for the return voyage upon the same terms as the outward voyage	1036
New shipping articles at reduced wages, signed by colored seamen, under protest, in a port where they are obliged to remain in jail or on board the vessel while she stays there, are not binding	225
Parol evidence is admissible to show that illiterate seamen signed a contract not read	702

	Page
to them, which differed from their oral agreement	
Seamen, who sign articles without reading them, after their services have commenced under an oral contract, will not be held bound by the written agreement	537
Shipping articles signed by the seamen after they leave port are not binding upon them and they may leave at any time with out incurring the penalty of desertion	914
When a seaman is incorrigibly disobedient, and will not submit, and offer to do duty and make amends, the master may discharge him, or correct and confine him on board, or dock him of his provisions	1132
Where the seaman submits to the master's authority, in ordinary cases, his services must be accepted	1132
The crew are justified in leaving the ship, and may recover full wages, where they are fed on unwholesome or spoiled provisions	560
A seaman falling sick during the voyage is to be cured at the expense of the vessel	560
Conduct of master or mate in respect to seamen.	
The relative duties of the inferior officers and seamen to the master and of him to them defined	1024
A master who commences a dispute with a seaman by illegal and improper behavior risks the consequences	1132
Where a master, being present, does not interfere to prevent an assault on a seaman by his officers, he is jointly liable for the tort	957
A receipt given on payment of wages, stating that it is in full for all demands for assault, battery, etc., will not bar a suit for damages	957
Wages—Right to.	

	Page
Persons not strictly mariners may charge a vessel or owners in admiralty for services on ship board, which were necessary to her navigation or safety	408
The services of a manservant or attendant upon the master, who contracted a sickness in a foreign port, are not a charge upon the vessel or her owners	408
Seamen, who, after stranding of the vessel, are retained at a near-by port, under direction of the master, until hope of getting her off is abandoned, are entitled to wages to the time of their actual discharge	701
Where the vessel is lost on her homeward voyage, full wages are due to her arrival at the last port of delivery of the outward cargo, and half wages from that time until her departure from the last port at which the return cargo is taken on board	1036 1391
A mate improperly dismissed from his office is entitled to wages, and is not bound to perform the duties of a common seaman	1024
In the case of a skillful, sober, and diligent first mate, whom the master frequently abused in the presence of the crew, <i>held</i> , that his dismissal was not justified by frequent disrespectful allusions made to members of the crew in his absence	1024
A discharge ordered by the consul in a foreign port on clear prima facie proofs of criminal conduct, will bar a claim to continuing wages	1294
The propriety of the consul's interference is to be determined upon the facts before him at the time, and not by the case which may be afterwards shown on trial	1294

	Page
The master can claim no benefit from a discharge by a consul in a foreign port, where it was obtained by deceit or collusion practiced by the master	1294
—Remedies for recovery.	
The clerk of a steamboat is a mariner, and entitled to a lien for wages	379
The wages are not payable until the expiration of the period allowed for collecting the freight	560
A suit for wages cannot be maintained until the contract of service is performed or released	489
The right to a personal suit is not suspended by Act 1790, which provides that process shall not issue against the vessel until 10 days after she has arrived at her last port of discharge	443
Time given beyond 15 days for unloading, where it appeared that the vessel could not be unloaded within such time	1069
A receipt for less than the amount due will not be set aside where the legal rights of the party were doubtful, honestly contested, and opportunity given him to satisfy himself in relation thereto	1036
—Deductions: Extinguishment, etc.	
In the case of a special indulgence to a seaman, wages cannot be deducted for failure to render himself on board at the time appointed in the articles	1069
A seaman cannot recover wages during the time that he was imprisoned by local authorities in the home port on a charge of mutiny	942

	Page
Such imprisonment may be deemed an adequate punishment, and prevent a subtraction of prior wages	942
The loss or damage accruing to the vessel by negligence or crime of the seamen may be set off against wages	1132
The wrongful assault by a mate on one of the seamen on the voyage, to the damage of the ship, may be set off against his claim for wages, though the deduction is not entered in the log nor claimed in the statement made to the shipping master	873
A usage or custom in fishing voyages to carry only a partial supply of bait, relying upon catching sufficient fish to supply the deficiency, is reasonable	702
All the crew must contribute to make up the loss of cargo by embezzlement, but proof is admissible to show the innocence of some	350
Seamen forfeit all wages by refusing duty before a fishing voyage is ended, and obliging the master to return with only part of a fare	702
Seamen employed by the voyage or month, who leave before the expiration of their term of service, without good cause or the consent of the master, forfeit wages previously earned	489
A forfeiture of wages may be decreed for the refusal of the seamen to unload and reload cargo on the voyage, but not for such	560
ii refusal at the last port of delivery	
A desertion does not work a forfeiture of all wages by the general maritime law. The court has power to mitigate the forfeiture according to the circumstances	483

	Page
Act June 7. 1872, § 23, which requires the master to furnish to seamen or to the commissioner an account of wages and deductions to be made therefrom 48 hours before paying off, does not apply to the case of a seaman forfeiting his wages by desertion, which is provided for by section 55	47
When the crime of a sailor is beyond the master's power to punish, he should put him in irons, and bring him to justice on the return home	1132
Wages are not forfeited by acts for which seamen are amenable to criminal prosecution	1132
Broils, assaults on or resistance to masters do not ordinarily operate to forfeit wages, nor do they amount to mutiny or re volt, punishable criminally	1132

SHIPPING.

See, also, "Admiralty"; "Affreightment"; "Average"; "Bills of Lading"; "Bottomry and Respondentia"; "Carriers"; "Collision"; "Demurrage"; "Maritime Liens"; "Pilots"; "Salvage"; "Seamen"; "Towage"; "Wharves."

Public regulation.

A voyage to a foreign port within the usual voyage of vessels licensed for the fisheries is not a "foreign voyage." (Act Feb. 18, 1793, c. 8.)

A whaling voyage is not a foreign voyage, within the meaning of Act 1803, c. 62, and a bond executed under, but not required by, nor in accordance with, such act, is a nullity

A single act of trading will forfeit a vessel licensed for the fisheries. (Act Feb. 18, 1793, § 32.)

	Page
The carrying of cattle from an island to the main land in going out or returning, when done gratuitously, is not an act of trading.	494
A vessel engaged in transporting merchandise is not subject to a penalty, for failure to have her hull and boilers inspected under Act Aug. 30, 1852	401
A vessel engaged in carrying freight between ports in different states, which on one occasion carries a load of passengers for purposes of a prize fight between ports in the same state, is not subject to a penalty for failure to comply with Act Aug. 30, 1852, §§ 5, 9	1011
A steamboat running on a ferry line between New York and Port Richmond is a ferryboat, within Act Aug. 30, 1852. § 42, and is not obliged to have on board a licensed pilot and a licensed engineer	586
In the case of a ferryboat running between Astoria and New York on the East river, proof of the carriage of passengers and merchandise is sufficient to throw upon claimants the burden of showing that such passengers and freight were not destined for other states. (Act Feb. 28, 1871, § 11.)	424
Title to and possession of vessel. Rev. St. § 4192, requiring the conveyance or mortgage of a vessel to be recorded, is inapplicable to a vessel which has never been enrolled or licensed	1179
A bona fide purchaser of a vessel from the owner of record will be protected as against a prior unrecorded sale	426
A purchaser at a sheriff's sale, without notice or a bona fide purchaser for value from the legal owner of record, will be	428

	Page
protected as against a sheriff who has allowed the attached vessel to escape, and has paid 1392 a claim for supplies and repairs subsequently furnished	
A statute sale, if fraudulent, will not bind the owner unless in favor of a bona fide purchaser for a valuable consideration, without notice, actual or constructive, or the fraud	1277
A wreck sale made by authority of state laws is valid to pass title to the property, where there is no owner or agent present to protect or claim it	1277
A stipulation given to a minority owner for the safe return of a vessel "from the said voyage to the port at New York" is not satisfied by her return to Boston, from which port she is sent out without objections from the minority owner, and lost	445
The amount due upon an accounting between the majority and minority owners cannot be applied to diminish the liability of the stipulators on their bond	445
The forcible taking possession of a vessel is a maritime tort, and no rights can be acquired thereunder, either by the wrongdoer or purchaser from him	1179
Members of a voluntary association, who purchase a vessel and stores in the name of certain persons as their agents, have a right to a decree for title and possession, except as to property purchased without their authority	696
An attachment of the vessel at common law by a creditor of the agents in a suit against them will not affect the right of the real owners to a decree for title and possession	696

	Page
A material man's lien is not affected by a decree in such suit	696
In a petitory or possessory suit material men cannot intervene to enforce a lien which they may have upon the vessel	696
The master.	
The master of a ship has not, in virtue of his office, any authority to sell a ship, except in cases of extreme necessity, where the vessel is wrecked or unnavigable, etc	1277
As between the owner and purchaser, a sale without necessity, though made in good faith, is invalid	1277
The vessel owner is liable where another is injured from the want of care or skill of the master	156
Part owners are liable for the torts of one of their number while acting as master in the execution of the business in which the boat is engaged	735
The vessel owners are not liable for personal torts committed by the master without their knowledge or approval	408
The owners are estopped to assert that one acting as master had no right as such to order stores for the voyage, where they permitted him to order the articles and retained them	236
Under the custom of the Hudson river, to pay a master for a season's work of 10 months, <i>held</i> , that the master was entitled to a proportionate amount for a part of the season	491
The master is entitled to an extra allowance for services rendered out of the line of his duty, such as painting the ship	235
Employment of vessel.	

	Page
A lessee of a vessel which explodes from some hidden defect is not liable to the lessor	76
A stipulation in a lease of a vessel that she was received in good condition estops the lessee, where she is lost by explosion, from defending against a suit by the owner on the ground of any defects which were known or might have been known by him or his servants	76
Where the nonfulfillment of a contract to transport a passenger is caused by shipwreck or other casualty, the passenger may recover back passage money paid in advance, or damages	158
In such case the passenger is obliged to wait a reasonable time for repairs, only where the interruption was not caused by an original defect and unseaworthiness in the vessel	158
Liabilities of vessels or owners.	
Where the contract for the carriage of a passenger is broken by the interruption of the voyage, he has an action in rem, as well as in personam, to recover back passage money paid or damages	158
The vessel owners, by abandoning ship and freight, are discharged from personal responsibility for obligations of the master arising ex delicto, both under the general maritime law of Europe and the statutes of Maine	108
The liability in the case of a collision on the high seas between vessels of different foreign nations is determined by the law maritime according to the law of nations, and is limited to the value of the ship and freight, which must be abandoned to the injured party	1006

	Page
A tender in the answer and upon the trial, by a written surrender of defendant's interest in the vessel, <i>held</i> sufficient	1006
Where the vessel at fault was subsequently wrecked on her voyage, sold by direction of her owners, and delivered to the purchasers after the libel for collision was filed, <i>held</i> , that the owner waived his exemption from personal liability	1006
Limiting liability.	
A suit brought against a part owner of a vessel, who was charterer and owner for the voyage and acting as master, is within Act March 3, 1851, c. 43, exempting vessel owners from personal liability for damages arising out of a collision	1158
The whaling equipment, provisions, and supplies of a whaling ship are not within the meaning of the words "ship or vessel," as used in Act March 3, 1851, § 3, limiting the liability of owners to the value of their interest in the "ship or vessel and her freight then pending."	555
There is no "freight pending" on a whaling voyage within the meaning of the act	555
The limited liability act cannot be invoked in an action between foreigners arising out of a collision between foreign vessels on the high seas, where none of the owners are residents of the United States	1006
A person cannot take advantage of the limited liability act by answer to a libel for collision, but must institute separate proceedings therefor, for which leave of court is not necessary	1000

SLAVERY.

	Page
Act Feb. 12. 1793, providing a procedure for the reclaiming of a fugitive slave escaping into another state, is valid, and the remedy thereunder supersedes the remedy given by state laws	414
Right to freedom of slave carried into foreign country and returned with his master.	702
Right to freedom of slaves sent out of the state for three years and brought back	591
An importation of slaves by the owner of the life estate, though without the consent of the reversioner, <i>held</i> , would entitle them to freedom	737
Upon a petition for freedom, defendant may appear and disclaim without entering into the usual recognizance	970
A note given for slaves taken to Texas in 1835 in violation of the laws of Mexico, is invalid	1349
Forfeiture of vessel built for the slave trade under Act April 20, ISIS, c. 91	240

1393

SPECIFIC PERFORMANCE.

The specific performance of an agreement is not a matter of right, but rests in the sound discretion of the court	1313
Specific performance of an agreement will not be enforced where the decree would be a vain and imperfect act, or where the specific performance might be productive of in justice to the parties	1313
Unfair conduct of complainant in relation to a parol agreement to convey lands, is good ground of refusing performance	1094
Only those acts are considered as part performance which would operate as a fraud	162

	Page
on parties unless the whole contract is executed	
The payment of part of the price is not such an act of part performance as to form the basis of relief in equity	162
Otherwise as to possession taken of land, or where improvements are made	162
Specific performance will not be decreed where the consideration is grossly inadequate, or the contract is oppressive and against conscience	436
Where the agreement admitted by the answer differs from that stated in the bill, complainant must prove the contract aliunde	1094
Specific performance of an agreement to convey directed where the party in expectation thereof had been put in possession, and had made valuable and expensive improvements	1055
STATES.	
The federal court may take jurisdiction where a state is a party in interest, but not a party to the record of a suit in relation to property of the state in the hands of its agent	518
STATUTES.	
See, also, "Constitutional Law."	
In construing a statute, the whole act must be considered	236
The construction put by a state court upon its statute, which is subsequently adopted verbatim by another state, is not controlling where the constitution of the latter shows that a different construction was intended.	527
SUBSCRIPTION.	
Subscriptions in aid of college endowments become fixed and legal obligations as soon as the college performs its undertaking	308

TAXATION.

See, also, "Internal Revenue."

The legislature, and not the judiciary, is to determine what is a public use for purposes of taxation 652

School lands held by the state of Alabama, under Act June 22, 1854, in the state of Nebraska, are not taxable by the latter state 185

Placing the property of a corporation in the hands of a receiver does not exempt it from the operation of the tax laws of the jurisdiction in which it lies 21

A state statute passed under a compact with the United States exempting lands sold by them therein from taxation for five years from the sale, cannot be repealed, as to prior purchasers, before the termination of such time 1049

An assessment of real property should substantially comply with the requirements of the statute by definitely describing the land. (Code Or. p. 898.) 1289

An assessment of real property, which contains no valuation except certain figures without mark or sign to indicate for what they stand, is void for uncertainty 1289

The court will not, on the petition of rail road receivers appointed by it, enjoin the execution of state tax warrants which are regular on their face, and where the collectors are acting in good faith 21

The collection of an illegal tax upon real property will be restrained where its enforcement will result in a cloud upon the title 1289

	Page
A sale of land for taxes in an Indian reservation not subject to state taxation is void	576
A tax sale will not be set aside for an alleged fraudulent combination among bidders, where there were more lands for sale than all wanted, and it does not appear that they did not bid against each other	517
A tax deed, made to the assignee of a tax sale certificate assigned by the county clerk without authority of law, is void on its face; and is insufficient to set the statute of limitations in operation	577

TELEGRAPH COMPANIES.

A telegraph company, negligently delivering a forged dispatch, is liable for the damage thereby sustained, though plaintiff has a remedy ex contractu against a solvent indorser of a forged draft, which was the subject of the dispatch	230
---	-----

TENANCY IN COMMON.

Where there is no visible adverse seisin of any part of the land, an entry by one of the cotenants gives a seisin of the whole according to their titles	946
A tenant in common can recover no more than his own portion of the estate, where he has not disseised his cotenant	27

TENDER.

A tender after suit brought must include costs, though the process has not been served	424
--	-----

TOWAGE.

See, also, "Collision"; "Salvage."	
A steamboat owner, calling for the assistance of another steamboat to remove his boat from a position of danger from fire,	34

	Page
cannot escape paying for such services on the ground that his boat would have been safe in its original position	
The tug is not liable as a common carrier, but is bound to the exercise of ordinary skill and diligence in taking up, arranging, and managing its tow.	220
The tug is prima facie at fault in a case of damages resulting from the slipping of the tow line	541
The master of the tug has the duty of making up the tow, and he may exercise his judgment in that regard without reference to directions by the master of the tow	541
In passing through the channel of St. Clair Flats, the vessel of the heaviest draft should be placed last	541
A vessel with a heavy tow in passing from the North river into the East, river, where the harbor is crowded with vessels at anchor, should pass around Governor's Island	593
The failure of canal boats towed through Long Island Sound to have anchors ready for use, where the tug takes shelter in the 1394 lea of an island on a storm arising, and to use the same on notice from the master of the tug, where the latter's anchor breaks in the increasing sea, and the boats are cut adrift, will cast upon the tow the burden of the loss	997
A tug using ordinary care is not liable for damages to the tow in striking a sunken rock, caused by the sudden and unexplained shearing of the tow	220
A contract for towage at the risk of the tow does not exempt the tug from liability for	593

	Page
damages caused to the tow by the negligence of those in charge of the tug	
Where the tow is sunk in a collision without any fault on the part of the tug, the latter's obligation is at an end, and she is under no obligation to mark the wreck by a light or otherwise, so as to prevent injury to other vessels thereby	495
The lien for towage is divested by an assignment of the claim	333

TRADE-MARKS AND TRADE-NAMES.

A trade-mark adopted by a partnership may be used by either member after its dissolution, and where one obtains letters of registration in his own name he may be compelled to transfer an equal interest to the other	734
An alien manufacturer abroad is entitled to protection in our courts against a fraudulent infringement of his trade-mark in this country	742, 744
It is no bar to protection in our courts that a remedy is not reciprocally allowed to aliens in the country to which such owner belongs	744
The alien owner in such case is entitled to recover to the extent of his damages in the loss of sales and their profits, though defendant's goods were of inferior quality	744
A long delay of alien manufacturers to prosecute after knowledge of a fraudulent use of their trade-mark may be competent proof to show their acquiescence in it, but is not an absolute bar to recovery unless extending to the period of the statute of limitation	744

TREATIES.

See, also, "Extradition."

	Page
A treaty, whose subject is within the legislative power of congress, may be repealed by congress so far as it is a municipal law	784
A promise in a treaty for nondiscriminating import duties comes within the political, and not the judicial, department of the government, and the courts cannot try the question of its observance	784
The commissions of a supercargo of a cargo sequestered by the king of the Sicilies is a charge on the indemnity fund provided for by treaty	54

TRESPASS.

Possession in fact or in law is necessary to maintain trespass quare clausum fregit	727
---	-----

TRIAL.

See, also, "Appeal": "Continuance"; "Evidence"; "Judgment": "New Trial"; "Practice;" "Reference"; "Witness."

Defendant has the right to open and close in all cases where he holds the affirmative of the issue	471
--	-----

After a special verdict, a motion by plaintiff to enter the verdict on certain counts and nol. pros, the others was granted	141
---	-----

TRUSTS.

The mere deposit of money in a savings bank, entered in the name of the depositor "in trust for" another person, without notice to him, is not sufficient to show that the money passed to him, especially where he had no knowledge thereof until after the death of the depositor	154
---	-----

The beneficiaries may follow a trust fund into the hands of any one receiving it with notice of the trust	866
---	-----

Page

A trustee who uses trust money in trade is chargeable with all profits which he has made, and in case of loss it must be borne by himself 1153

UNITED STATES.

The United States has no preference in the payment of debts, except in the case of an assignment for the benefit of creditors or a legal insolvency 908

Usury.

See "Discovery."

VENDOR AND PURCHASER.

See, also, "Bankruptcy"; "Deed"; "Grant"; "Sale"; "Specific Performance."

A purchaser holding under a deed cannot set up a defect of title to defeat a recovery of the purchase money in an action by the grantor 615

In such action defendant cannot set off the amount paid on the compromise of an outstanding claim made without the consent or knowledge of the grantor 615

A knowledge of facts which, if traced and understood, will lead to a knowledge of title, is sufficient to charge a purchaser 700

The land in an unorganized county in Minnesota is regarded for all purposes, including registry, as being within the territorial limits of the county to which it is attached for judicial purposes 899

A vendee of land who never took the title, but resold it to his vendor, taking a bond with surety for the amount due, has no vendor's lien for the same 234

A person who has a lien on a lot for improvements made tinder expectation of obtaining a title may enforce his claim 1056

Page

against the insolvent owner of the lot as a
general creditor

War.

See, also, "Insurance": "Prize."

WASTE.

A tenant for 99 years, renewable forever,
with leave to purchase at a stipulated sum,
may be restrained from cutting and selling
young and green wood 1176

In the District of Columbia, defendant in
equity is not bound to discover the waste,
unless complainant in his bill expressly 1176
waives the forfeiture and penalty

WATERS AND WATER COURSES.

In Rhode Island one does not lose his right
to water but by 20 years' adverse occupation. 83
1395 No parol license or acquiescence short
of that is enough

Where parties on opposite sides of a stream
between two states each have a water power,
and own the land to the center line, so
that each owns one-half of a dam, they are
tenants in common of the water; and if one 83
construct a canal on his own side, and draw
off the water, the other has a right of action
which he may enforce by injunction in the
state where the canal is built

In such case the laws which govern are
those of the state within whose borders the 83
injurious act is done

WHARVES.

A claim for wharfage for a period during
which a vessel lay sunk in a pier cannot be 778
enforced in admiralty

WILLS.

A will is legally executed where the hand
of a testator, by his consent, is guided by 35

	Page
another, and he afterwards acknowledges the will	
The presumption is in favor of the sanity of the testator, and the burden of proof is on the party questioning it. Contra, if a previous state of insanity has been established	35
Whether a testator had a sound and disposing mind is to be determined by finding whether his mind and memory were sufficiently sound to enable him to understand the business in which he was engaged at the time of executing the will. The only time to be looked to is the time of the execution of the instrument	35
Declarations of a party to a deed or will, either before or after its execution, are inadmissible to control its construction or affect its validity	35
On an issue as to the validity of a will, evidence for defendant that plaintiff purloined a former will of the testator is inadmissible, there being no purpose to prove the contents of the former will	35
The word "estate" will apply to real or personal estate, or to both, according to the manner in which it is used in reference to the respective clauses of the will	278
A clause of a will construed as not charging the real estate with a debt	278
The renunciation of the provisions in a will by the widow will have no effect on a clause manumitting slaves, where there is sufficient other personal estate to satisfy her claim	1032
Interest commences on a pecuniary legacy at the expiration of one year from testator's decease, whatever may be the posture of the	371

	Page
estate, where not otherwise specified in the will	
The cases of infant children and of adopted children under age, not otherwise provided for, are exceptions to the rule	371
Executors may, at their discretion, pay over legacies at any time within the year after testator's decease	371
An investment by executors, in the name of a legatee, of a sum less than the whole amount of the legacy, <i>held</i> a payment <i>protanto</i> , entitling the legatee to the interest accruing thereon	371

WITNESS.

See, also, "Bankruptcy"; "Costs."	
A witness who is interested equally on both sides is competent to testify	280
A surety in an administration bond is a competent witness for the administrator	1023
A surety in a replevin bond is not a competent witness for plaintiff in replevin, although he has an indemnifying bond	1027
A slave cannot be a witness if a free white man be a party	952
Complainant <i>held</i> not a competent witness in a suit to restrain the removal of his slave from the district	961
A witness, who voluntarily became interested after acquiring knowledge of the subject-matter in dispute, may be compelled to testify	723
The vice president, who was also secretary and treasurer, of a foreign railroad corporation, having an office in New York, <i>held</i> could not be required to produce books of the company, which had been in his control, but several years before had been	579

	Page
sent to the home office, in another state, and were there in charge of a co-ordinate officer, over whom he had no control	
Where all the witnesses are equally trustworthy the court is governed more by their means of knowledge than the number	773
Where fees of travel and one day's attendance, demanded by a witness at the time of the service of the subpoena in a civil cause in the federal court, are not paid, the witness is not liable for contempt for failure to attend	932
A witness, subpoenaed at the place of trial on the day on which he is required by the subpoena to attend in court, is not entitled to travel fees	413
WRITS AND NOTICE OF SUITS.	
Service by a deputy marshal of a summons, previously in his hands, on the day after a new marshal files his bond and takes the oath, is valid	60

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

through a contribution from [Google](#). 