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The approbation of the secretary of the treasury is presumed where the collector appoints and commissions an inspector 931

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The offense of disturbing a religious congregation *held*, punishable by fine and imprisonment, to be assessed by the jury 891

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A deputy collector is a "public officer," within the meaning of the act of 1846 relating to the embezzlement by public officers of public moneys intrusted to them 1208

Moneys collected from engineers and pilots under the act of 1852, and the proceeds of forfeited goods under the revenue laws, paid to the deputy collector, are "public moneys," within the statute 1208

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A postmaster who takes money out of a letter will be *held*, guilty of embezzlement, though the addressee was an illiterate person, whose letters he was in the habit of reading to him 1220

For the crime of embezzlement by a federal officer the court sentenced the convicted person to confinement for six years at hard labor, and to pay a fine to the extent of his embezzlements 1182

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FORGERY.

The crime of forgery, under Act March 3, 1823, § 1, is confined to instruments designed to obtain money from the United States, and does not include a false bond given on the exportation of distilled spirits under Act June 30, 1864, § 61

An order. "Please let the bearer have one pair boots," is a draft for the delivery of goods, within Act Md. 1799, c. 75, § 2

An order: "Please let the bearer. A., have such articles as he may choose on my account, to the value of \$30; also \$20 in cash."—is within Act Md. 1799, c. 75

A forgery under the federal laws must be tried in the district where the crime is committed

In the absence of direct evidence, an altered check will be presumed to have been altered the first state where it is known to be altered

To support an indictment for forgery it is not necessary that the drawer should have a right to draw, or that the draft should purport to be by a person having a right to draw (Act Md. 1799. c. 75, § 2.)

The tenor of the instrument must generally be set forth in the indictment, and it must be proved as alleged

The tenor of the instrument need not be set forth where it is stated in the indictment that the instrument has been destroyed or suppressed by the prisoner

In such case the tenor may be proved by parol evidence

The drawee of a forged draft is a competent witness to support the prosecution

FRAUDS, STATUTE OF.

A note expressed to be held as collateral security for the maker's obligation upon a previous note of another is not void as a promise to pay the

debt of another without a consideration therein expressed

Charges and credits made in the books of an administratrix in relation to land which she had agreed by parol to sell *held* sufficient written evidence to take the case out of the statute 288

FRAUDULENT CONVEYANCES.

See, also. "Bankruptcy."

Where both parties to a sale of chattels live together in the same house, the possession will be presumed to remain in the seller until the contrary is shown 143

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See, also, "Attachment"; "Execution."

An acceptance by the garnishee of defendant's draft in favor of a third person before service of the attachment binds the garnishee, and cannot be overreached by the attachment 274

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See, also. "Public Lands."

The secretary of war under Act March 3, 1819, and Act April 28, 1828, *held* to have authority to grant to a railroad company the power to construct their railroad over government property at Harper's Ferry. 973

The Bay of San Francisco is the eastern boundary of the land confirmed to the city of San Francisco, the line being that of ordinary high-water mark as it existed July 7, 1840, crossing the mouth of all creeks running into the bay 204

Before the court will disturb or set aside a survey made by the surveyor general under the law of 1851, it must be satisfied that the decree of confirmation has been plainly departed from, or that some clear and obvious error has been committed 1187

The ayuntamiento of a pueblo had no power to grant lands within the limits of proprios duly and formally assigned to the pueblo, so as to create 1131 a greater estate in them than a leasehold for five years

A favorable report by the ayuntamiento on an application on an expediente formed does not 1131 show that any grant was actually made

There is no obligation upon the United States to allow the claim to land of one who had obtained its loan from the ayuntamiento, and had settled upon and cultivated it, where the Mexican 1131 government for years had failed to act favorably upon an application for a grant

A grant of a certain rancho according to boundaries named, stating the quantity as "one 1118, square league, a little more or less." *held* to 1130 convey the entire rancho, though it contained much more than one square league

Where the lines of a Mexican grant have been run due east and west instead of due north and south by mistake of the draftsman of the diseno 777 the running of such lines may be altered

Oral testimony is not admissible to establish the making and contents of a Spanish grant of the 1131 issue of which the archives contain no trace

Possession of lands in a pueblo under a concession by an officer having authority only to lease for five years, accompanied by efforts on 1131 the part of the occupant to obtain a grant, is not "under claim of ownership."

The approval by the governor of an application for title by me in possession does not affect the character of his possession, so as to render it that 1131 of a Mexican colonist with the permission of the government

A survey made by the surveyor general on the confirmation of a Mexican grant cannot be contested by a purchaser from the claimant of a tract which is within the location as made by the surveyor general, and which would be included within any survey that be made 1146

A person alleging that any of the laud included in a survey of a rancho is public land of the United States must urge his objection in their name, and through the district attorney 1146

An equity based upon a license to occupy can be enforced only where there is clear proof of an occupancy and settlement of the land upon the faith thereof 1261

A claim under an alleged Spanish land grant rejected, in the absence of documentary evidence, where supported in part by the testimony of a perjured witness. 1261

The rules of equity allowing the filing of a bill of review are not applicable to proceedings under Acts 1851, 1852, and 1855 in relation to the trial and determination of the validity of claims based on titles from the Mexican or Spanish government 1196

Claims to a Mexican land grant confirmed upon the evidence 779, 858, 968, 1029, 1123, 1130, 1238 1134, 1186,

Validity of survey of Santa Teresa rancho determined upon the evidence 1121

Claim to a Mexican grant rejected where there was an entire absence of documentary evidence of its existence 1120

GUARANTY.

See also. "Railroad Companies."

A guaranty of payment, indorsed upon a negotiable bond made before the security is 56 1331

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which upholds the original contract

GUARDIAN AND WARD.

A guardian in the District of Columbia is liable
to account for money of his ward received in 1083
Maryland for land sold in Maryland

A guardian who receives a negotiable note for a
debt due his ward is liable for the amount of the 1083
debt, though the note has not been paid

In debt on a guardian's bond defendant will not
be allowed to show any facts to impeach the 1083
authority or jurisdiction of the court to take the
bond

HABEAS CORPUS.

See, also, "Army and Navy."

A nonresident, arrested for an act which would
subject a resident to prosecution under a law 73
which is unconstitutional in some of its
provisions in regard to nonresidents, is not
entitled to discharge on habeas corpus

The court will only inquire whether the warrant
of commitment states a sufficient probable cause 1042
to believe that the prisoner has committed the
offense stated

The court may look into the testimony upon 1042
which the commitment of the prisoner was made

A person in custody for an act done or omitted,
in pursuance of a federal law or process, is 334
entitled to be discharged, irrespective of the
authority by which he is restrained of his liberty

Where, on habeas corpus to procure the
discharge of a federal officer arrested by state
authorities for malicious shooting, the evidence 738
does not show that the shooting was done to
enable him to execute a federal process in his
hands, he will be remanded into custody

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An attachment for not returning a writ of habeas corpus at the appointed time will not be issued until three days have expired after the service of the writ 1189

HOMESTEAD.

See, also, "Bankruptcy."

A homestead exemption established by law cannot affect antecedent liens 107

HOMICIDE.

If upon slight provocation one inflicts with a deadly weapon a punishment outrageous in its nature, and beyond all proportion to the offense, and death results, the law presumes that the act was inspired rather by malignity and a depraved spirit recklessly bent on mischief than by human frailty 1138

A homicide is not justified by the command of a naval officer to a sentry on duty aboard the vessel to run through the body any man who should abuse the sentry by words alone, however opprobrious 1138

The circumstances attending a homicide may be such that the law deems it malicious 864

The fact of death may be proved by presumptive evidence, as, e. g. in the case of a person thrown overboard by the prisoner, whose body was not afterwards seen 1246

Manslaughter, in the District of Columbia, is punishable by fine and imprisonment 815

A slave who enters the sleeping room of his master in the nighttime with an axe in his hand, with intent to kill him, is guilty of an attempt to murder, though he was seized by others before he made an assault 1207

Defendant, proven to have killed the deceased, has the burden of showing that the act was done 1138

under circumstances which excuse or justify it or abate its malignity

Where defendant relies on an assault by deceased as extenuating his crime, he must show such assault by some satisfactory evidence 864

When the extenuating circumstances can be apprehended by the court, it must declare as matter of law whether it is sufficient to mitigate the offense 864

HUSBAND AND WIFE.

Where a sale of land is set aside, and the money directed to be paid to the administrator or the purchaser, to be distributed as assets, the second husband of the widow of the purchaser is entitled as distributee to his deceased wife's third 967

INDIANS.

The act of 1817, which assumes to exercise a general jurisdiction over Indian countries within a state, is unconstitutional, and of no effect 937

Congress cannot punish for an offense within the Indian territory in a state which has no relation to the Indians, and which cannot affect their commerce 937

Under the general power of congress to regulate commerce with the Indian tribes, it cannot exercise a general jurisdiction over an Indian territory within a state 937

INDICTMENT AND INFORMATION.

See, also, "Criminal Law."

An indictment must conclude "against the government of the United States." 1189

An indictment for a statutory offense charging the same to have been committed "in contempt of the laws of the United States of America," without referring to the statute, is bad 817

The common-law refinements in criminal pleadings are not applicable to statutory offenses 866

against the laws of the United States. It is usually sufficient to allege the offense in the terms of the statute

In an indictment or information for a purely statutory offense, the averment of the offense in the words of the statute creating it is sufficient 969

In an indictment for a statutory offense it is sufficient if the offense is substantially set forth, though not in the exact words of the statute 931

The means employed to effect the commission of a statutory offense need not be set out in the information 969

An indictment charging defendant with effecting an entry of goods by fraudulent means (Act March 3, 1863, § 3) must specify what fraudulent means were used; otherwise it is bad 1135

In an indictment for an assault with a dangerous weapon on board a vessel, under Rev. St. § 5346, alleging the place as the harbor of Guantanamo, in the Island of Cuba, does not dispense with the allegation that the place was out of the jurisdiction of a state of the United States 813

An acquittal upon an indictment for forging an order with intent to defraud John L. is no bar to an indictment for forging the same order with intent to defraud William L. 1202

The two acts of transmitting and presenting forged papers, etc., are not separate offenses, under Act March 3, 1823, to punish frauds against the United States 866

Under Act Feb. 26, 1853, an indictment may join several counts for offenses under Act March 3, 1823, for transmitting false papers for the purpose of obtaining bounty land warrants 1144

Different offenses under Rev. St. §§ 5431, 5434, for which different punishments are prescribed, *held* properly charged in different counts, and 1107

joined in the same indictment, under section 1024

Whether such offenses are properly joined can be determined only on a motion to quash or to 1107 compel an election

The embezzlement of several letters from a post office may be charged in separate counts of the same indictment, or separate indictments therefor 1225 may be consolidated

The offense of effecting an entry and of aiding in effecting an entry of imported goods at less than their true weight or measure, by means of 1135 false samples or representations, may be charged conjunctively in the same count of an indictment
A prisoner is entitled to have a copy of the indictment against him furnished to him at the 1144 expense of the government

A motion to set aside or quash an indictment will not lie unless the objection appears upon the face 1273 of the indictment

An affidavit of defendant that he believed the grand jury acted upon incompetent or insufficient 1273 evidence in finding an indictment against him is not admissible on a motion to quash

The proof must correspond with the averments, though the offense is stated with greater 1265 particularity than is required by law

Material matter, although alleged under a videlicet, is traversable, and must be proved as 1309 laid

Unless the date stated in an indictment is of the essence of the crime, it need not be proved as 1162 alleged

The caption of an indictment may be referred to, to show that the United States mentioned in the body of the indictment are the United States of 1213 America

Circulating notes of a national banking association are properly admissible in evidence under an indictment for counterfeiting, setting them out at length, and calling them “national bank currency notes.” 1107

An indictment, in setting out counterfeit notes, did not exhibit any imprint of the seal of the treasury, while the notes put in evidence on the trial exhibited such imprint. *Held*, not a material variance 1107

Infancy.

See “Guardian and Ward.”

INFORMERS.

The right of the informer becomes vested only when the money representing the forfeited property is paid over and is ready for distribution, and until then his right is liable to be divested by the act of the government, and the court may set aside a decree of condemnation without the informer’s consent 416

The amount of the informer’s share is to be determined by the law as it stands at the time of the final decree of forfeiture 416

INJUNCTION.

See, also, “Equity” “Patents.”

A court of equity may enjoin the collection of taxes to prevent a multiplicity of suits or of injury, for the redress of which the remedy at law is not adequate 615

A sale of personal property for an illegal tax will not be enjoined, there being an adequate remedy at law 636

Creditors of a bankrupt cannot purge themselves of contempt in violating an injunction restraining attachment proceedings in state courts by showing that the proceedings were continued by assignees of their firm, unless they show that the 980

assignment was prior to the injunction, or that they endeavored to stop the suit

In such a case, a fine to the amount of the value of the attached property, with interest, and the expense of the contempt proceedings, including a proper counsel fee, will be imposed upon such creditors 980

An injunction to stay an ejectment suit until matters of equity can be examined will not be allowed unless judgment in the ejectment be entered 344

Where a lessee under a lease renewable for terms aggregating 500 years had made valuable improvements, *held*, that an action for use and occupation would be stayed until the lessor had appointed an assessor to make valuation of the property for the purpose of ascertaining the rental, as required by the terms of the lease 253

INSOLVENCY.

See, also, "Bankruptcy."

Where the United States have various debts due by bonds with different sureties, payments by the assignees must be applied pro rata 790

Whether the actual seizure of property of an insolvent under process of a federal court before his assignees under the state insolvent law take possession of it creates a valid lien,—*quære* 93

A discharge under a state insolvent law will be *held* good in other states and in the federal courts, except as to contracts made or to be performed abroad 93

Where the indorsee of a negotiable note not restricted on its face to be paid within the state lives out of the state, the note is not barred by a subsequent discharge in the state in which the note was made 93

INSURANCE.

See, also, "Marine Insurance."

A court of equity will enforce a contract to make a policy of insurance, and, treating that agreed to be done as if actually done, will ascertain the amount due, and enforce payment by a decree 603

A by-law, made a part of the contract of insurance, providing for a reference of all disputes as to losses, and that the claim of the party shall be released or discharged where a suit is commenced without an offer of reference, is void, as in effect ousting the courts of jurisdiction 215

An application for a policy on the life of the husband in favor of the wife, where signed by both, held a joint agreement, though in the singular number 177

Under a condition that the policy shall be void if any of the statements in the application are in any respect untrue, it is immaterial whether any false statement is material to the risk or not 177

A policy limited to accidents "while actually traveling in a public conveyance," and in compliance with all the rules and regulations of the carrier, covers an accident while getting on or off a train, either at an intermediate station or at the destination 53

Under such policy, the assured is only bound to observe such rules as a general traveler might be presumed and ought to know 53

It is for the jury to say whether a statement in the application, "never sick," was false, where the medical examiner stated to the applicant that the alleged sickness was too trivial to mention 177

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A gauger has no power to delegate his authority, or to have his duties performed for him	1150
The commissioner of internal revenue may require a tobacco manufacturer to give explanation of the undue consumption of leaf tobacco in the manufacture of cigars, and, where the manufacturer refuses, may base the amount of tax upon the average amount of tobacco used by other manufacturers	839
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An entry by a brewer, knowingly, on his books, in any one day, of a less quantity of beer than that manufactured by him, will subject his brewery to	1227

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The seizure of the goods as forfeited is no defense to an action upon a tobacco manufacturer's bond to recover the tax 1018

In an action on a distiller's bond it need not be shown affirmatively that the survey required by Act July 20, 1868, § 10, has been made, and a copy of it served upon him, and a demand of payment made 1151

A public officer cannot vary, or in any way change the terms of distillers' bonds required by law 1141

Moneys paid to the collector without specific appropriation during the existence of a bond are properly applied first to the payment of back taxes 1141

Errors in the assessment and reassessment of a distiller's tax cannot be set up by the sureties in defense to a suit on the bond. Their remedy is to pay the tax under restraint, and to appeal to the commissioner of internal revenue. If the appeal is denied, a suit will lie against the collector 1151

An action for a penalty for the violation of the internal revenue act is a civil action and the jury are to find according to thy preponderance of the evidence 1248

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A deputy collector who accepts a bond for the withdrawal of whisky from a warehouse, knowing that the signatures thereto have been forged, is subject to punishment under Act July 13, 1866, § 42 772

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A corporation which maintains a driving track
where public racing is given, and the public
admitted for pay, is liable to a tax on its gross
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A false return of income for taxation, made with
an intent to be acted upon by the government,
will subject the party to an indictment, though he
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The allowance for leakage in the case of oil
shipped under a transportation bond is regulated
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been a greater actual loss by solar heat or the
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March 3, 1865, § 61.) 1018

The federal government has no power to tax
agencies employed by a municipal corporation in
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INTOXICATING LIQUORS.

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Actions on judgments.

Upon the plea of nul tiel record to debt on
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court must be annexed to the record itself. The
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Sufficiency of plea in action on an assigned
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The jury must in all cases follow the law as laid
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court to direct a verdict of guilty whenever the 829
facts constituting the guilt are undisputed

In felony cases in Virginia the prisoner is entitled 1276
to 20 peremptory challenges

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Bank notes are not goods and chattels, nor money, and stealing them is no offense at 1207 common law

Horse stealing in the District of Columbia *held* punishable as an ordinary larceny, under Act 1155 April 30, 1790

The theft by the same persons, at the same time, of goods belonging to different persons, may be the subject of joint or separate indictments, at the 1065 option of the district attorney

An indictment for stealing "one hundred silver coins of the value of seventy-five dollars," 1020 sufficiently describes the money stolen

Proof that goods stolen were the property of a deceased person, in the possession and management of A., will support an indictment for 1007 the larceny of goods of A

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LIENS.

See, also, "Admiralty"; "Bankruptcy"; "Finding Lost Goods"; "Maritime Liens"; "Shipping."

A person who rescues lumber while floating down stream from a broken-up raft has no lien 18 thereon for his services

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The fact that officers have resigned will not prevent the issue of a mandamus to compel the performance of a public duty, where their successors have not been elected or appointed and qualified 934

A mandamus will not be granted where the right of the applicant is not clear, or where he has an adequate legal remedy equivalent to a specific remedy 982

The federal courts have power to issue mandamus to a municipal corporation to compel it to perform a duty created and enjoined by state law alone 1302

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A lien arises for advances made on the credit of the vessel to supply her with necessaries, though the master squanders the money 722

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The fact that one of the jurors was asleep during part of a trial, where known to the defendant at 1213

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Obscenity.

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OFFICE AND OFFICER.

See, also, "Principal and Surety."

Where, from the beginning, congress has practically conceded the authority to the president to make removals, without the consent 902 of the senate, from offices to which appointments were made for fixed terms by consent of the senate, the courts cannot deny such power

Where the appointing power is the president and senate, acting concurrently, the president alone 902 has not the power of removal, in the absence of legislation and precedent to the contrary

Act July 1, 1862, creating the office of assessor of internal revenue, does not prescribe the tenure thereof, and the incumbent is deemed to hold 902 such only during the pleasure of the appointing power

Public officers are not entitled to extra compensation for services in sudden and unforeseen emergencies, but only where the 1242 services are rendered upon a matter of permanent character

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See, also, "Bankruptcy."

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While the result or effect of a process is not patentable, it may become the test of invention, which may be inferred from the existence of the results	148
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