

INDEX.

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

25FED.CAS.

25FED.CAS.—88

25FED.CAS.—89

	Page
ABATEMENT AND REVIVAL.	
Where defendant in a suit in equity has neither been served with process, nor appeared, the suit cannot be revived against his administrator after his death.	1067
ACCORD AND SATISFACTION.	
An unperformed agreement cannot be pleaded in bar as an accord and satisfaction.	454
AFFIDAVIT.	
See, also, "Oath;" "Perjury."	
An affidavit whose certificate does not state the place where it is taken is not admissible as evidence.	27
A certificate stating that a person of the same name with the one who administered the oath is a magistrate, but not stating that the person who administered it is a magistrate, is an insufficient authentication.	27
AMNESTY.	
As to the power of the president to pardon political offenders by the amnesty proclamation of 1868.	707
APPEAL AND ERROR.	
On a libel for condemnation of merchandise and gold coin, a decree directing that the coin should be deposited in the registry to await further orders is not final; and an appeal will lie from a decree, made over two years later, ordering the gold to be paid over to a claimant.	279

	Page
An appeal from the district court is properly entered at the term of the circuit court begun next after the entry of the decree in the district court, though the term of the latter was not ended when the term of the circuit court begun.	365
An appeal, in a case of admiralty and maritime jurisdiction, not taken to the next term of the circuit court after the rendition of the decree in the district court, will be dismissed.	1104
After a final decree has been made by a district court sitting in admiralty, and the court has adjourned without day, the decree cannot be set aside or opened, so as to allow an appeal to the circuit court, a term whereof has intervened since the decree was made.	1333
If an appeal from such a decree be not taken to the term of the circuit court held next after the making of the decree, the right is lost.	1333
A writ of error does not lie at common law for the refusal of a court to grant a new trial.	1287
No bill of exceptions will lie in a capital case in the federal courts.	1287
Irregularities committed by the jury relative to their verdict cannot be examined by writ of error.	1321
Allowing a party to open and close is not the subject of a bill of exceptions.	938
The issue of nul tiel record is an issue of fact, and, as such, no writ of error lies from the judgment of the district court on that fact to the circuit court. (Act Sept. 24, 1789, c. 20, § 22.).	605
A seizure case triable by jury in the district court can be reviewed in the circuit court only on writ of error.	1068
Where a seizure case is, by agreement of the parties, tried by the district court without a jury,	1068

	Page
the record should be made up as in the case of a writ of error, with the proper exceptions to the admission or rejection of testimony, etc.	
Where the rulings of the court on documentary evidence are made the subject of exceptions, the documents must be inserted in the bill of exceptions.	938
A writ of error to the judgment of the circuit court of the District of Columbia awarding a peremptory mandamus is a supersedeas.	585
Where, by the pleadings, a complete bar is shown to the action, a judgment for defendant must be affirmed, though an error in his favor appear on the record.	297
ARMY AND NAVY.	
See, also, "Pensions."	
A purser in the navy, who disburses money for the United States which it is not his duty, as purser, to disburse, is, in equity, entitled to a reasonable compensation therefor.	1092
Pursers are bound by the naval regulations of 1817 as to commissions on disbursements, in the absence of a different, authorized agreement.	1092
An officer of the marine corps, to whom an advance of money is made, is liable therefor as a debtor, and not merely as a bailee.	1211
A captain in the marine corps, acting and receiving pay as brevet lieutenant colonel, cannot receive either the pay or the allowances attached to the duties of captain.	1211
A captain in the marine corps, acting as brevet lieutenant colonel, while in command of a separate post designated by the navy department as entitled to extra rations, is entitled to double rations.	1211

	Page
In such case additional brevet pay is not to be allowed, unless there be at least two organized companies of men, with suitable officers, though the whole number of men present may average enough for two companies.	1211
The secretary of the navy may require navy agents to pay navy pensions, and their sureties are responsible for the faithful performance of such service.	740
An army officer superintending works on fortifications, <i>held</i> entitled to credits for extra services of 2½ per cent, of the amount disbursed by him.	997 1392
The death of an officer, as the result of an assault is an offense under Act Feb. 24, 1864. § 12, where it was committed while the officer was engaged in the proper discharge of his official duties, where growing out of a matter relating thereto, though the offender did not intend to obstruct the execution of the law.	1334, 1335
If a person assault parties charged with this service, when they are not engaged therein, he is not amenable to the federal laws, however malicious the deed may be and even though it result in death.	1335
Persons employed by proper officers to arrest deserters, when, having come into a vicinage on such service, they are returning therefrom to another place to obtain assistance, are employed in arresting deserters, within such act.	1335
The protection of the act continues so long as the person is employed in a service necessary and proper to the discharge of his duty in that behalf.	1335

	Page
The protection which the law affords to persons executing it does not depend upon the legal guilt of the persons charged as deserters.	1335
A conviction for having procured or enticed a person to desert (Act 1812, c. 14 § 17) is sustained by evidence of the making of representations as to the means and facilities for deserting to induce a person to enlist, with the belief that they were likely to cause him to desert, if they had such effect.	452
Arrest.	
See, also, "Bail" "Criminal Law" "Extradition."	
ASSAULT AND BATTERY.	
It is an indictable offense to cruelly beat the slave of another in the public highway and leave her there, exposed to public view.	705
Assault and battery of a slave is an indictable offense.	212
An indictment at common law in the county of Alexandria, District of Columbia, will lie against a free negro or mulatto for assault and battery upon a white man.	314
The circuit court of the District of Columbia has no jurisdiction of assault and battery by a slave on a white man, and will order him to be taken before a justice of the peace to be dealt with according to law.	999
An assault with a dangerous weapon under Act March 3, 1825, § 22, is a misdemeanor; and the indictment need not charge that it was committed feloniously, or with intent to perpetrate a felony.	1241
ASSUMPSIT.	
Where the money of the government is improperly placed in a bank, the illegality of the transaction is no bar to a recovery.	426

	Page
BAIL.	
Where, after conviction, time is granted to prepare a case and move in arrest of judgment, the court has no authority to take bail in the meantime.	843
A bond to secure the appearance of a person charged with two distinct offenses, taken for the aggregate amount, is invalid.	1354
A recognizance to appear to answer to a particular charge need not, on its face, describe the offense with which the party is charged.	1282
A recognizance is sufficiently certain if it sets out an act punishable by the statute without any of the particulars.	821
A condition that defendant should appear "to answer to the charge of stealing from the mail of the U. S., contrary to the statute of the U. S. in such case made and provided," <i>held</i> sufficient.	821
The recognizance taken before a United States commissioner for appearance in court need not show upon its face that the offense is embraced within a federal statute.	798
Where a recognizance to appear for trial is forfeited, but the accused appears at a subsequent term, the court may suspend the recognizance, for good cause shown by the accused why he did not comply with its condition.	1055
The federal courts have power, even after judgment on a recognizance, to relieve the surety, where he is without fault in the escape of the prisoner. (Act Feb. 28, 1838.)	937
The court cannot remit the forfeiture of a recognizance in a criminal case after the term in which it was entered.	618

	Page
In a declaration on a recognizance, where the officer taking it has jurisdiction over cases of the general description named therein, it is not necessary to aver the existence of the particular facts showing the authority of the officer to take it.	1282
A declaration upon a forfeited recognizance given in a criminal proceeding may be amended in the discretion of the court.	1282
BANKRUPTCY.	
Operation and effect of bankruptcy laws, and of proceedings thereunder.	
A petitioner in bankruptcy is privileged from arrest on civil process pending the proceedings on his petition to be declared a bankrupt.	876
Discharge—Operation and effect.	
A discharge will release the bankrupt's liability as surety on a postmaster's bond, though the postmaster was a defaulter.	780
Criminal prosecutions.	
Sufficiency of evidence to hold a bail a bankrupt charged with obtaining goods on credit with intent to defraud.	1272
A retailer who buys large quantities of goods under the pretense of needing them in his regular business, but ships them off and sells them at wholesale at a sacrifice, is guilty of a misdemeanor.	1205
An intent to defraud only the original seller of goods is not within Act 1867, § 44 punishing bankrupts who, within three months before their petition is filed, dispose of goods otherwise than in due course of trade, with an intent to defraud.	446
The crime of fraudulently omitting property or effects from a bankrupt's schedule is complete when the false schedule is filed.	446

	Page
The bankrupt is not guilty of perjury in withholding certain items from his schedule under the advice of counsel to whom he had fairly submitted the facts in regard to his property.	395
An indictment for perjury in a proceeding in bankruptcy is sufficient, in alleging the petition as made "to a judge sitting as a bankrupt court."	816
On a charge of perjury by a petitioner in bankruptcy, the indictment need not set out particularly or substantially the petition.	816
In an indictment for perjury, in not giving a true and full account of the property of the petitioner, the items on the schedule need not be stated in the indictment.	406
The allegation that the property was omitted to defraud a certain creditor and others is sufficient.	406 1393
An indictment for omitting property and effects from the schedule need not allege that the bankrupt took the oath of allegiance prescribed by Act 1867, § 11.	446
An averment, in the indictment against a bankrupt under Act 1867, § 44, that defendant was lawfully adjudged a bankrupt, is sufficient to admit the record in the bankruptcy proceedings, of which the examination of the bankrupt is a part.	689
Sufficiency of indictment against a bankrupt for setting up fictitious losses, and secreting and concealing portions of his property.	689
BANKS AND BANKING.	
While a state bank, under Act Aug. 6, 1846, cannot become a depository of public money, it may lawfully contract with the secretary of the treasury to transmit a draft, or to draw on a	426

	Page
fund at the place of payment and pay over the amount.	
The United States as a creditor, has a prior lien over other creditors in the distribution of the assets of an insolvent national bank in charge of a receiver.	608
The assignee, as collateral security for a note for money borrowed of stock of the United States, has an equitable interest therein, enforceable as against the United States claiming as a creditor, though the same has not been transferred on the books as required by Act 1790, c. 61.	745
BASTARDY.	
In cases of bastardy the circuit court of the District of Columbia has no jurisdiction, except upon complaint of the county overseers of the poor.	849
A recognizance cannot be taken by a justice of the peace in Virginia, except upon the application of the overseers of the poor.	467
The mother of the child is a competent witness for the prosecution on an indictment of the putative father, under Act Md. 1781, c. 13, and may be cross-examined as to her connection with other persons.	544
Evidence of the likeness of the child to the supposed father is not admissible.	544
The confession of defendant having been given in evidence, he was not permitted to give evidence of his declarations at the same time that others also had had connection with the mother.	544
The only judgment which can be given under the statute is that defendant give security to indemnify the county from any charge for the maintenance of the child.	544

	Page
The order for paying £30 a year can only be made by a justice of the peace, under Act Md. 1796, c. 34.	544
BILL OF LADING.	
The indorsement of a bill of lading, unless made for value, or as security, does not pass the right of property in the goods.	811
BONDS.	
See, also, "Customs Duties" "Internal Revenue" "Office and Officer" "Principal and Surety."	
The validity of a bond of security given to the United States, so far as it depends upon the capacity if the parties to make it, is to be governed by the law of the place where it is made.	1258
A bond voluntarily given to the United States as security is valid and binding, if the United States, in their political and corporate capacity, have a legal, pecuniary interest in the performance of its condition, although not expressly required or authorized by any act of congress.	1258
A statutory bond taken in a penalty greater than that prescribed by law is void, whether the statute prescribes a specific sum as a penalty, or a standard by which that penalty is to be measured so as to give a precise sum.	1368
A breach of the condition of a penal bond is not sufficiently traversed by a plea averring that the obligors have not violated the condition to the extent charged in the declaration.	751
A special plea of non est factum, averring that the supposed bond sued on is a mere escrow, is bad, unless it aver that the condition on which it was delivered has not been performed.	751
BOTTOMRY AND RESPONDENTIA.	

	Page
A respondentia bond, unless given for value or as security, does not pass the right of property in the goods.	811
CITIZEN.	
See, also, "Indians."	
A person born abroad on board an American vessel, whose parents are citizens of the United States, temporarily absent only, is to be regarded as a citizen of the United States.	1364
A citizen of the United States cannot throw off his allegiance without a law authorizing the same.	1321
CIVIL RIGHTS.	
See, also, "Constitutional Law" "Elections and Voters."	
Congress is authorized to protect the rights secured by the thirteenth, fourteenth, and fifteenth amendments.	1324
The civil rights act of 1866 was within the power conferred upon congress by the thirteenth amendment, on the subject of slavery, under which it had full power to pass all laws deemed proper for its entire eradication in any form.	707
A railway employé who denies to a female passenger a right to ride in the only car in the train appropriated for the accommodation of ladies alone, solely because she is a person of African descent, is guilty under the civil rights law of March 1, 1875, whether he acts under the instructions of his employer or not.	882
A colored female passenger may be required to ride in a car set apart for colored female passengers, where it is equally fit and appropriate in all respects with that set apart for the use of white female passengers.	882

	Page
A crime inflicted upon a colored person, not by reason of his race, color, or previous condition, is not within the civil rights act of 1866.	707
An indictment under the civil rights bill of 1866 should state that the offense charged was committed against the person injured, by reason of his race, color, or previous condition of servitude.	707
CLERK OF COURT.	
Expenses incurred for board and lodging at hotels while attending at terms of the court held away from the place where the clerk is required to keep his office are not allowable as "necessary expenses of his office." (Act Feb. 26, 1853.)	1372 1394
COMMISSIONERS.	
A commissioner in New York has no authority to take bail for the appearance of a party accused, for examination before himself at a future day.	314
CONGRESS.	
A contract by the clerk of the house of representatives, made with a person to furnish wood, where no appropriation has been made to pay for the same, is not binding on either party.	833
CONSPIRACY.	
Rev. St. § 5440, in relation to conspiracies to defraud the United States, does not extend to a case where the contemplated fraud was to depend entirely upon the passage of a future act of congress to make it effective.	681
A mere agreement or combination to effect an unlawful purpose does not constitute a conspiracy, unless followed by an act done by one or more of the parties to carry the object of the conspiracy into execution.	1342

	Page
The conspiracy need not be shown to have been formed at the precise time or times alleged in the indictment.	1342
Where the existence of the conspiracy, and defendant's connection therewith, is established by independent evidence, he is bound by the acts and declarations of his co-conspirators.	1342
Every member of a conspiracy is responsible personally for the acts of every other member done in furtherance of its illegal purposes, whether he be present himself or not.	213
Allegations of the overt act are not required to be as full and minute in an indictment for conspiracy as in an indictment for fraud without any conspiracy.	944
If an overt act in violation of law is charged as in pursuance of a previous conspiracy, it is sufficient.	944
An indictment for conspiracy to do an unlawful act need not aver the means agreed upon, whereby the conspiracy was to be carried into effect.	818
An indictment charging a conspiracy to defraud the United States of the taxes due upon distilled spirits (Act March 2, 1867, § 30) need not allege the specific mode agreed upon by which the object of the conspiracy was to be carried out.	944
It is sufficient to aver that there was a conspiracy to defraud the United States of taxes legally due, and that, in pursuance of such conspiracy, defendant committed a stated overt act.	944
An indictment for conspiracy, under Rev. St. § 5440, which avers the conspiracy, and the overt acts done to carry it into effect, is sufficient, without stating the means agreed on to accomplish the purpose of the conspiracy.	818

	Page
An indictment under Act March 2, 1867, § 30, is sufficient, if it charges an unlawful combination as actually made, and an act by one of the parties as an act intended to be relied upon to show the agreement in operation, although it does not appear in what manner the act described would tend to effect the object of the conspiracy.	890
In the case of a conspiracy made punishable by law, the entire acts of the conspirators in relation to the subject-matter, both before and after the doing of the thing which was the subject of the conspiracy, are admissible	493
After prima facie evidence has been given of a conspiracy, the statements of those implicated, though not included in the indictment, are evidence.	493
CONSTITUTIONAL LAW.	
Where a constitutional grant or guaranty is that congress or the state legislatures shall not pass laws for abridging a certain right, congress has no power to legislate over the subject generally, but only to provide remedies for a violation of the prohibition.	707
Congress is not limited, in adopting legislation for the purpose of enforcing the fifteenth amendment, to cases in which there has been actual legislation by the general government, or by a state, denying or abridging the right secured.	1328
In adopting legislation for carrying such amendment into effect, congress may provide for the punishment of a state official who refuses to perform the duties necessary to qualify colored citizens to vote.	1328
When state laws have imposed duties, the performance or nonperformance of which affects	1324

	Page
rights under the federal government, congress may make the nonperformance of those duties an offense against the United States, and may punish it accordingly.	
No person can be tried a second time for the same offense, after a trial by a competent and regular jury upon a good indictment, whether there be a verdict of acquittal or conviction.	1287
The circuit court of the United States cannot grant a new trial in a capital case after a verdict regularly rendered upon a sufficient indictment.	1287
A new trial may be granted in a capital case where the jury has been discharged from giving a verdict, for in such case the party has not been put in jeopardy of his life.	1287
The right to be secure in one's house is not a right, privilege, or immunity granted or secured by the constitution of the United States.	701
Act June 22, 1874, § 5, providing for the production of books and papers, does not violate articles 4, 5, and 7 of the amendments to the constitution.	868
Act July 20, 1868, § 44, which declares that real property employed in a violation of a revenue law shall be forfeited therefor, is not unconstitutional.	866
A law which reserves property from sale on execution for one year, if two-thirds of the appraised value shall not be offered, is not unconstitutional as to prior contracts.	598
Act March 3, 1825, § 23, which punishes a conspiracy to destroy a vessel or cargo with intent to defraud the underwriters, is within the power of congress to protect commerce, and applies to internal commerce.	493
CONTEMPT.	

	Page
It is a contempt of court, under Act March 2, 1831, to call another a liar, openly, in the presence of the court, while in session.	1012
An assault and battery committed in the hall of entrance into the court room, separated from it by a door, without panels, covered with cloth, is a contempt, either "in the presence of the court, or so near thereto as to obstruct the administration of justice."	1012
A contempt in the piazza of the courthouse, into which the windows of the court room open, is a contempt in the presence of the court.	313
It is a contempt of court for an acquitted prisoner to threaten vengeance, in the presence of the court, against the witnesses.	313 1395
It is a contempt of court for a juror, after being summoned, to voluntarily form and deliver an opinion as to the guilt or innocence of the accused, with a view of disqualifying himself.	839
Where the return to a writ of habeas corpus is evasive and insufficient, the person to whom it is addressed, if present in court, will be committed until he produce the prisoners, or be otherwise discharged.	775
A witness who refuses to answer proper questions before a grand jury may be fined for contempt of court, and be required to give security for his good behavior.	350
An offer of a sum of money to a witness, to remove his objections to going without the jurisdiction of the court to testify, is not necessarily an attempt to contaminate the source of justice, and a contempt of court.	41
The pendency of a criminal prosecution is no objection to the hearing of a motion for	55

	Page
attachment for a contempt in the irregular examination of witnesses prior to the hearing.	
Contempts of court are crimes, and may be prosecuted as such.	920
If the party purge himself on oath, the court will not hear collateral evidence for the purpose of impeaching his testimony and proceeding against him for the contempt; but, if perjury appear, he will be recognized to answer, etc.	881
CONTINUANCE.	
See, also, "Criminal Law."	
It is not a sufficient ground for a delay of the trial of a capital case that the party wishes to procure papers from a foreign country, since the court cannot issue process which will be effectual in procuring such papers.	1287
Where the execution of a commission to examine witnesses has been prevented by the acts or omission of the prosecutor or his agents, defendant is entitled to a continuance, even if he be guilty of laches in taking out the commission.	917
Prosecutor required to make affidavit that he could not, in his opinion, safely proceed to trial without the attendance of a witness, on the ground of whose absence a postponement was asked.	1220
CONTRACTS.	
Express acceptance of a proposition need not be proved, where both parties are shown to have acted on it.	293
A verbal agreement to repay certain advances is a sufficient consideration for a substituted agreement made by correspondence between the parties.	293
Where the time for delivery is extended, though no consideration is given therefor, the contract	833

	Page
cannot be rescinded for nondelivery until the expiration of the extended time.	
CORONER.	
The coroner is not bound to put in writing the effect of the evidence given upon an inquisition, unless the offense be found to be murder or manslaughter, and for false statements in other cases he is not liable.	1052
CORPORATIONS.	
A corporation which has purchased its own stock cannot vote upon the same in an election of directors by a trustee in whose name it is held.	585
COUNTERFEITING.	
On an indictment for passing counterfeit coin, possession of counterfeit bank notes is not admissible to prove the scienter.	1374
The possession of quantities of counterfeit coin of a different denomination from that laid in the indictment is admissible for such purposes.	1374
Where the prisoner is connected with others, evidence is admissible that different parts of the machine employed in counterfeiting were found in the possession of such other persons.	682
COURTS.	
See, also, "Clerk of Court"; "Interpreter."	
Comparative authority of federal and state courts: Process.	
The federal circuit court will not surrender one charged with a capital crime for trial in another jurisdiction for a minor offense.	658
Federal courts—Jurisdiction in general.	
Jurisdiction of the federal courts is derived alone from the constitution and laws of the United States, and cannot be enlarged, diminished, or affected by state laws or regulations.	908

	Page
Quære, whether a federal court has jurisdiction to try a person who committed murder on board an American merchant ship in the Bay of Cadiz.	1382
An offense commenced to be committed on board an American vessel lying at the time in a river which is an arm of the sea on the coast of Africa, and continued uninterruptedly to a point in the Atlantic Ocean several miles from our shores, is within the jurisdiction of the federal circuit court.	1364
A violation of a law of the United States, committed on board a steamboat upon the Hudson river, within the ebb and flow of the tide, is within the jurisdiction of the federal courts, although the place is, within the body of a county of the state of New York.	554
A reservation on a cession of “concurrent jurisdiction” to serve state process, civil and criminal, in the ceded place, does not exclude the exclusive legislation or exclusive jurisdiction of the United States over the ceded place.	781
The circuit court has jurisdiction over the offense of murder committed within a fort purchased by the United States by the consent of the state legislature (Act 1790, c. 9, §§ 3, 7), although in the cession the state reserved the right to execute its civil and criminal processes in such places.	650
—Grounds of jurisdiction.	
The federal courts have jurisdiction in all cases of marshals’ bonds, irrespective of citizenship.	771
—Circuit courts	
The jurisdiction of the United States court for the district of South Carolina extends throughout the entire state.	213

	Page
The circuit court for the Eastern district of New York has jurisdiction for the indictment for an assault with intent to kill committed in the navy yard at Brooklyn. (Act March 3, 1825.)	887
Act March 3, 1851, transferring the Indian Territory to the Western district of Arkansas, did not deprive the court where an indictment was pending of the right to try and determine it.	788
Quære, whether the circuit court has jurisdiction of common-law offenses against the United States.	619 1396
The circuit courts have jurisdiction in suits in rem for penalties and forfeitures arising under the internal revenue laws.	1097
—District courts.	
The district court for the district of Oregon has jurisdiction to try a person charged with the commission of a crime in Alaska, where such person is found in the district of Oregon, or first brought there.	303
The admiralty jurisdiction of the district court in revenue cases extends only to seizures for forfeitures under duty laws, as conferred by Act 1789, § 9.	1103
—Administration of state laws.	
The state laws of evidence are rules of decisions in trials at common law in the federal courts.	938
The laws of the several states cannot be regarded as rules of decision in trials for offenses against the United States.	187
—Procedure.	
The circuit court, under section 4 of the judiciary act, has power to devise the process for bringing any person before it who has committed an offense of which it has cognizance, without reference to the process given by the state law.	187

	Page
CRIMINAL LAW.	
See, also, "Assault and Battery" "Bail" "Bankruptcy" "Conspiracy" "Contempt" "Counterfeiting" "Disorderly Houses" "Elections and Voters" "Embezzlement" "Extortion" "Extradition" "False Pretenses" "Forgery" "Gaming" "Grand Jury" "Homicide" "Indictment and Information" "Jury": "Larceny" "Libel and Slander" "Neutrality Laws" "Obstructing Justice" "Pension" "Perjury" "Piracy" "Post Office" "Receiving Stolen Goods" "Riot" "Seamen" "Shipping" "Slavery" "Treason" "Witness."	
In general.	
Congress has power to punish for misdemeanors.	692
Act 1790, c. 9, § 8, as well as Act 1820, c. 113, applies to all murders and robberies committed on board of or upon American ships on the high seas.	1287
Where a statute declaring an offense and its punishment is repealed without a provision saving pending prosecutions, an indictment previously found, but not yet tried, should be quashed on motion.	1085
Criminal liability.	
An unlawful intent will be inferred from an unlawful act.	767
An intent to seize a man by force for uttering slanderous or offensive words, and to carry him by force before a justice of the peace, without a legal warrant, is an unlawful intent.	1062
Insanity directly caused by the immediate influence of intoxicating liquors is no defense on a prosecution for murder committed during such intoxication; otherwise where insanity is remotely occasioned by undue indulgence in spirituous liquor.	913

	Page
It is a good defense that the prisoner, at the time of committing the act, was in such a state of mental insanity, not produced by the immediate effects of intoxicating drink, as not to have been conscious of the moral turpitude of the act.	454
Intoxication is an excuse for crime where an habitual or fixed frenzy is produced thereby.	1141
Principal and accessory.	
The person charged as accessory may be tried and convicted, if the principal cannot be found; but, where the principal has been tried and acquitted, a person charged as accessory will be discharged on motion.	691
Limitation of prosecutions.	
Rev. St. § 5440, punishing conspiracies to commit any offense against the government, or to defraud it, is a part of the revenue laws, and prosecutions thereunder are limited to five years (Section 1046). 946,	1057
Jurisdiction.	
In the case of a homicide by shooting, the place where the shot takes effect, and not that from which it is fired, determines the jurisdiction of the offense.	786
A shot from an American vessel in a foreign harbor killed a person on board of a foreign vessel lying in such harbor. <i>Held</i> , that jurisdiction of the offense belonged to the foreign government, and not to the courts of the United States, under Act 1790, c. 36, § 12.	786
Preliminary hearing: Arrest, commitment, custody, and discharge of accused.	
Criminal process will not be awarded on the mere motion and suggestion of the district attorney, unsupported by oath.	1

	Page
On a preliminary examination, probable cause must be shown.	2
The circuit court of the United States, sitting as a court, possesses the power to commit a person charged with an offense against the United States.	25
The fact that the prosecutor has evidence to support an indictment, and the grand jury is in session, ready to receive it is no ground for refusing to hear a motion to commit a person.	25
On preliminary examination, prima facie evidence of guilt is sufficient to hold to bail until the offense may be examined by a grand jury.	481
Proof furnishing good reason to believe that the crime alleged has been committed by the person charged, though not sufficient for a conviction, will suffice for commitment.	2
Where a witness resides at a great distance, and there is no evidence that the materiality of his testimony was known to the prosecutors in time to have directed his attendance, the magistrate will act upon his affidavit.	27
A person accused should be retained in custody, or required to give security for his appearance, while his examination is pending, but only on evidence sufficient to furnish probable cause.	55
The question raised by a defense made in the nature of a plea autrefois acquit will not be determined on a preliminary examination to commit a person for high treason.	201
Where a person, after an acquittal on an indictment for treason, is in the custody of the marshal, bound to answer an indictment for a misdemeanor, the court has no authority to send him to another district for trial for treason in the place where the crime was committed.	187

	Page
A <i>capias</i> may be issued upon an indictment as the first process against the defendant.	673
A <i>capias</i> is the proper process to bring an accused in to answer to an indictment for an offense against the laws of the United States.	187
Where the accused is already in court, an order of the court will supply the place of a <i>capias</i> .	187
Where the indictment has been quashed, defendant will be held in custody to answer a new indictment.	944
Where the presentment of the grand jury is equivalent to the finding of "Not found," or "Not a true bill," the prisoner will be discharged.	1003 1397
Control of prosecution.	
The president has no power to interfere with a public prosecution, except to put an end to it and discharge the accused. He has no power to change the proceedings, nor the place of trial.	658
The secretary of the treasury has no power to compromise criminal proceedings pending in court.	1277
Arraignment and plea.	
In capital cases the prisoner is entitled, to a copy of the indictment, and a list of the jury, with their residences, to be delivered to him two entire days before his arraignment. 901, Contra,	726
The arraignment is to be regarded as the commencement of the trial, and the day of delivery and the day of the arraignment are not computed in the time. (Act April 30. 1790, c. 88, § 28.). 901, Contra,	726
In cases not capital, the district attorney is not bound to furnish defendant with the names of the prosecutor and witnesses.	213
The omission of the words "A true bill" on the copy of the indictment furnished defendant is	650

	Page
waived where the prisoner makes no objection on that ground.	
Defendant will not be compelled to plead until the prosecutor's name is indorsed on the indictment.	302
The court will permit the prisoner to retract his plea of guilty in a capital case, and to plead not guilty.	872
The plea of not guilty will put the prisoners upon the country by a sufficient issue, without any further express words.	1287
A nolle prosequi, without defendants consent after the jury has been sworn, is equivalent to an acquittal, and may be so pleaded.	1052
Defendant will not be allowed to have the record amended after conviction so as to show that the plea of not guilty was never entered by him, where he failed to object when the record was read in open court.	594
An acquittal before a court martial cannot be pleaded in defense of an indictment in a court of law for substantially the same offense.	318
In every case of a motion to the court for a cassetur, the facts on which it is grounded must be proved by affidavit.	622
Time and place of trial.	
The probability that difficult and important questions of law will arise will not ordinarily justify the postponement of the trial, so as to await the holding of the court by two judges, with a view to a certificate of division of opinion.	1224
The court has no authority to try a prisoner at a special session upon an indictment found at a regular session of the court.	650
The prisoner may be tried at a regular session without any express adjudication by the court	650

	Page
that there would be inconvenience in having the trial at a special session, where neither the prisoner nor the United States makes any application to the court upon the subject, or any objection to the time or place of trial.	
The court has no power to adjourn a stated general session from the place at which it is directed by statute to be held to another place, for the purpose of trying there a person indicted for a capital crime, in compliance with section 29, Judiciary Act. 1789	650
A motion for a special session made after an indictment found at a general session is too late.	650
The failure to move for a continuance until the next stated session of the court, which by law is required to be held at a place in the county where the offense was committed, is a waiver of the right to be tried in such county.	650
Conduct of trial.	
On a joint indictment against two for assault and battery, it is not optional with defendants to be tried separately.	773
Whether prisoners shall be tried separately or together rests in the discretion of the Court.	1287
Separate trials will not be granted in the case of persons jointly indicted to enable one to have the benefit of the testimony of the others, as they are not competent witnesses for each other. 554.	1287
Proper location of the prisoners within the bar, where there were 12 in number.	1287
A prisoner on trial for perjury, who persists in interrupting the district attorney during his opening address, may be removed from the court room during such address.	773

	Page
Where there is any doubt whether witnesses for the prosecution will appear, they should be recognized.	944
A witness whose name is on the back of the indictment need not be called by the prosecution, if not material.	905
A question will not be allowed to be put to a witness which ought not to be answered.	682
After the case and arguments were closed, the prosecution was allowed to introduce records and explanations thereof by the town clerk to show a conveyance of the locus of the crime as affecting the jurisdiction of the court. <i>Held</i> , that it was not an abuse of discretion to refuse to allow defendant to introduce evidence in respect to the incidents immediately preceding the crime.	650
In capital cases, counsel should state the points of law on which they wish instructions to the jury, at some time before the charge is given, that the court may have time to examine and consider them.	1287
Counsel will not be allowed to argue to the jury a point of law which has been decided by the court. 673,	1062
Counsel will not be permitted to argue to the jury questions as to the constitutionality of the law under which the indictment is found.	239
Evidence.	
Any person charged with a crime in the federal courts has a right before as well as after indictment to the process of the court to compel the attendance of his witnesses.	30
The court has no right to refuse its aid to motions for papers to which the accused may	30

	Page
be entitled, and which may be material to his defense.	
An accused has the right, before indictment found, to compel, by way of precaution, the production of letters containing statements of his conduct, written by the person who is declared to be the essential witness against him.	30
In Virginia a motion for subpoena duces tecum is to the discretion of the court, and, as a legal means of obtaining testimony, it cannot be regularly opposed by the opposite party, in his character as such.	30
Where it does not affirmatively appear that letters and executive orders in the hands of the president, which may be material to the defense of an accused, contain any matter which it would be imprudent to disclose, a subpoena duces tecum will issue.	30
In the case of a letter written to the president, and in the hands of the prosecuting attorney, the president alone can decide as to the propriety of withholding parts of it, and he cannot delegate his discretion.	187
And in such case he is entitled to the production of the original letter, a copy not being sufficient.	30
It is sufficient in an affidavit for the production of a paper in the possession of the prosecution to aver that it "may be material" to the defense.	187 1398
The accused has the right to show the spirit and temper with which the prosecution has been conducted.	905
Letters written after the crime was committed cannot be given in evidence as the act of a confederate.	1245
Acts or declarations of a witness who was assumed to be a guilty agent, but not made in	1245

	Page
furtherance of the purposes of the crime for which defendant stands accused, cannot affect the defendant directly.	
On a separate trial of one of three persons jointly indicted for murder, it is not competent for him to give in evidence a conversation between the other two, when they were alone, inculcating themselves, and exculpating him from all participation in the crime.	896
The log book of a vessel is not proof perse of the facts therein stated, except in certain cases provided for by statute.	1287
Where a letter is in the hands of defendant, it need net be produced, or notice given to defendant to produce it, before evidence is given of the contents of the answer.	883
Where, on an indictment for forging and delivering bank notes, the forging of a large quantity, and the delivery of one note, are proved, evidence of the contents of the letter to an accomplice from defendant on the subject of counterfeit notes, which the accomplice believed had been lost, is admissible.	883
A confession upon oath before a magistrate cannot be given in evidence against the prisoner.	922
Confessions made to a justice of the peace on a preliminary examination are inadmissible, if obtained by any inducement held out by the justice.	629
A confession made under the influence of hope or fear is inadmissible, and in such case subsequent confessions are equally inadmissible.	409
Where confessions are once induced by improper influences, subsequent voluntary confessions are inadmissible, unless it be shown	629

	Page
that the prior improper influence has been removed.	
A confession made on a preliminary hearing by a prisoner previously cautioned by the magistrate <i>held</i> inadmissible, where, 42 hours before, he had made a confession to one of the magistrate's officers, under the influence of false promises.	404
Grand jurors may testify as to the confessions made by the prisoner before them upon oath, when under examination as a witness against another.	409
The declarations of an alleged counterfeiter, when apprehended, that he had never been at the house where he was apprehended until such time, are admissible to repel any unfavorable conclusion which his silence might have warranted.	682
Declarations of an alleged counterfeiter of the purpose for which he was going to the house where he was apprehended among counterfeiters are admissible in evidence.	682
The character of the dying statements, their consistency with the established facts, and all the circumstances of the dying man, are to be considered by the jury in determining the weight to which his account of the transaction is entitled.	1335
Evidence of the general bad character of defendant is not admissible, unless he first bring evidence to support his character.	310
The acts of the accused in a different district, which constitute in themselves substantive causes for prosecution, cannot be given in evidence, unless they go directly to prove the charges laid in the indictment.	187

	Page
In a case of circumstantial evidence the jury must find the circumstances to be satisfactorily proved as facts, and that those facts clearly and unequivocally imply the guilt of the accused, and cannot be reasonably reconciled with any hypothesis of his innocence.	896
Under doubtful circumstances of guilt, good character will lead to the acquittal of defendant.	1013
A “reasonable doubt” must be a doubt for which a reason can be given.	213
The reasonable doubt which should lead to an acquittal must arise from a deliberate consideration of the evidence.	1174
The reasonable doubt which should lead to an acquittal should be founded on something in the case as disclosed by the testimony which leaves in the mind a rational uncertainty as to guilt, not removed by any other matter in the testimony.	1335
Instructions.	
It is error to instruct the jury that the evidence is sufficient to convict defendant.	1065
Where the court is of the opinion that the evidence is not sufficient to warrant a conviction, it should direct an acquittal.	1225
Jury.	
The court has power to discharge the jury, even in capital cases, whenever it is necessary for the purposes of justice.	622
Verdict.	
One good count in an indictment will sustain a general verdict of guilty.	944
Where there are two or more counts upon distinct offenses, or upon different statements of the same offense, the jury may find a verdict upon any or all of such counts; and where they	770

	Page
disagree upon any count, they may be discharged as to that, and it will stand for retrial.	
A verdict: "We, of the jury, say that A. B. is not proved to be guilty under this indictment by any evidence submitted to us. We therefore find him not guilty,"—is in effect, a verdict of not guilty, and will be so entered on the record.	55
Judgment: Sentence.	
After conviction, a motion in arrest of judgment will not be decided where defendant has forfeited his recognizance, and does not appear in person.	1022
The objection that the district in which seamen indicted for endeavoring to make a mutiny and revolt were tried was not the district in which they were first brought and apprehended, cannot be taken for the first time on motion in arrest of judgment.	692
On a trial and conviction for a capital offense before a circuit court held by two judges, it is competent for such court, when held by only one of the judges, to pass sentence.	1364
If a person be convicted of a second offense while under sentence for the first, the sentence for the second may be made to commence from the expiration or other termination of the period for which he was first sentenced.	1051
New trials.	
The federal circuit courts may grant new trials on good cause shown.	595
Independent of the express prohibition of the constitution, there can be no new trial in a capital case after a regular trial had upon a good indictment.	1287
Quære, if the federal courts may grant new trials in cases of misdemeanor?.	1287

	Page
Quære, if congress may invest the federal courts with power to grant new trials in all criminal cases, capital or otherwise?.	1287
The fact that members of the jury indulged in intoxicating liquors with consent of defendant's counsel is no ground of new trial unless the indulgence was grossly abused, or operated injuriously to the prisoners.	1287 1399
Permitting the jury in a capital case to read the newspapers after all matter relating to the trial had been cut out, <i>held</i> an irregularity, but not sufficient to justify setting aside the verdict.	1287
A new trial will be granted where the jury took to their room the coroner's inquest and depositions without defendants consent.	454
A new trial will not be granted merely because counsel have been indulged in too great latitude in arguing as to the inferences to be drawn from the evidence.	1124
A new trial cannot be granted on the ground of newly discovered evidence proceeding from persons who were charged as joint offenders with the prisoners, and were incompetent at the time of the trial, hut had been acquitted.	1287
On motion for new trial affidavits of jurors cannot be received to impeach their own verdict.	467
Review.	
The opinions of the judges of the circuit courts in criminal cases can be reviewed only assistant on a certificate of division of opinion.	1287
Practice stated in regard to certificates of division of opinion where the court is held two judges.	1224
Costs.	

	Page
The prosecutor will be required to give security for costs where he has removed from the district, and has no property.	923
Liability of the prosecutor for costs where defendant is acquitted.	1105
CUSTOM AND USAGE.	
A usage which is to govern a question of right between parties must be so certain, uniform, and notorious as to be understood and known by them.	953
CUSTOMS DUTIES.	
See, also, "Forfeiture" "Informers."	
Customs laws.	
Construction of statutes in relation to the drawback or bounty on exportation of refined sugars.	991
Dutiable goods wrecked and strewn upon the shore are liable to duties upon their value as they lie there.	607
Rates of duty.	
Hats made of palmetto leaf are not hats made of straw, chin, or grass, within Act May 22, 1824, c. 136.	1362
Bombazines, being goods of which wool is a component part, <i>held</i> dutiable at 30 percent. (Act 1824, c. 136.).	456
Invoice: Entry: Appraisal.	
The term "ad valorem," as used in the customs laws, does not always mean the actual value of the article at the place of exportation.	461
The cost of packages in which molasses was imported <i>held</i> to form a proper item of its value on which to charge ad valorem duties.	461
Wool must pay duty on its weight on arrival, though the same was increased by absorption of	420

	Page
moisture, where not exposed to or injured by sea water.	
Any money which is in common use as a medium of purchase and sale, though not of the coinage of the country, is a currency of the country with in Act March 3, 1801.	915
Where the invoice is made out in a currency other than that of the purchase with intention of taking advantage of a usage of the treasury officers, whereby less duties would be paid than those exacted if the currency actually used was stated, the invoice is falsely made up under Act May 28, 1830, § 4.	915
“Actual cost” means the cost at the place of exportation, with the addition of all dutiable charges. The fact that the goods could he manufactured for the invoice price is immaterial.	996
A manufacturing importer is one who controls, directs, or superintends the artisans whose skill and labor is used in preparing an article for sale or use or who is the general head or proprietor of an establishment in which articles are manufactured.	1095
An intent to defraud will be imputed to manufacturers who invoice goods at the cost price under a misapprehension of the law, supposing themselves to be purchasers, where such invoicing tended to evade or defraud the revenue, though they in fact had no such intent.	1095
The collector may cause a re-examination and valuation of goods after an appraiser has passed the same.	996
The assistant appraisers, under Act May 28, 1830, are in aid of those under Act March 1, 1823, and an appraisement by each set is not necessary.	1182

	Page
After the duties have been liquidated and paid, and the goods delivered, the collector cannot make a reliquidation upon the subsequent report of an appraiser who never saw the goods.	1207
The year within which the collector can reliquidate the duty (Act 1874, c. 391, § 21) runs from the time of the presentation to the collector of the entry by the Importer, and not from the time of the first liquidation of the duty.	120
Lien for duties.	
The United States is not deprived of its lien for duties unpaid by an adverse decision on an information in rem on a seizure for an alleged violation of law.	1103
Actions for duties.	
Duties are a personal debt against the importer which may be collected by civil action.	1277
In an action against importers to recover the difference between estimated and liquidated duties, evidence is not admissible to show that the goods were not of the kind as returned by the appraisers, where there had been no appeal to the secretary of the treasury.	677
The importer or consignee of imported goods is personally liable for the duties charged thereon.	878
The duties accrue at the time of the arrival of the goods at their proper port of entry, and not at the time of the subsequent entry at the custom house.	878
Actions for duties paid.	
Duties wrongly imposed, if paid by the importer voluntarily, and without protest or remonstrance, cannot be recovered from or set off against the United States.	461
The decision of the collector as to the amount of duty to be paid is final in all cases except	677

	Page
where there is an appeal to the secretary of the treasury, and suit brought to recover back the duty as provided in Act June 30, 1864, § 14.	
The collector's decision is final in the absence of payment, protest, and appeal, both in the case of an error of judgment as to the rate and amount of duties, and as to informalities and irregularities respecting the appraisal. (Rev. St. § 2931.).	410
Violations of law: Forfeiture.	
A new penalty, imposed for a violation of laws previously defined, may be enforced, forced, though unknown to the claimant at the time of the violation.	1182 1400
A vessel is liable to forfeiture for landing without permit merchandise over the value of \$400 (Act 1799, c. 128, § 50), whether the owner is innocent or not.	716
Appurtenances or equipments of a ship, purchased bona fide for its use, may be landed without a permit under such act.	391
A discharge of cargo into lighters is not an unloading of them. (Act March 2, 1799, § 50.).	1035
A conviction and punishment by fine and imprisonment for smuggling (Act Aug. 30, 1842, § 19) will bar an action to recover the penalty for landing the goods without a permit.	1263
Goods will not be forfeited because of the absence of the manifest, where it appears that the same was inadvertently lost by the master before the vessel sailed and that no part of the cargo had been Unshipped after it was taken on board.	364
A surplus of cargo, equally with a deficiency, is a disagreement with the manifest under Act March 2, 1799, § 57.	1037

	Page
Defendant in such case, to obtain the benefit of the proviso excusing from the penalty. Must not only satisfy the court that no part of the cargo had been landed or unladen after it was taken on board as specified in the report, and pursuant to permits duly obtained, but also that the disagreement was by mistake or accident.	1037
The concealment which works a forfeiture need not be with the concurrence, knowledge, or consent of the owner or consignee. (Act March 2, 1799, c. 128. § 68.).	1072
Such forfeiture may be enforced before the time has passed for the owner to enter the goods, and is unaffected by a subsequent offer, made as soon as the owner was aware of the arrival of the goods.	1072
What constitutes a concealment of goods within such act.	1048
A resistance of the seizure of goods, whereby the same are removed from the custody of the officer, is not a concealment.	1048
Goods found concealed on board after the master has declared that the whole cargo is discharged are not protected from forfeiture by the proviso in section 57.	351
The mixing of charcoal with sugar, for the purpose of reducing its grade, where the fact is not disclosed, will subject the same to forfeiture, though the importer acted in good faith.	288
Effect of the change of the contents of a cask of imported spirits without first obliterating the marks and surrendering the certificate required by law.	987
A false entry does not subject the goods to forfeiture under Act July, 1866, § 4, "to prevent smuggling and for other purposes".	1081

	Page
A purchaser whose invoice truly states the actual cost is not subject to any forfeiture where the valuation is raised by the customs officers for the purposes of imposing duty.	1095
A fraudulent entry of goods at less than their actual value, where knowingly made on a false invoice, will subject them to forfeiture under Act March 3. 1863, § 1.	1081
A false valuation in an invoice of goods subject to ad valorem duty is a price charged in the invoice less than the fair and just buying and selling prices at the time and place where the invoice was made up.	1182
Goods are forfeitable for an undervaluation in the invoice, though not discovered until after they have passed inspection.	99
An indictment for smuggling (Rev. St. § 3082), describing the goods as six cases containing silk goods of the value of \$30,000, a more particular description of which is to the jurors unknown," being dutiable goods introduced into the port of New York from France, <i>held</i> sufficient.	433
It is not a sufficient description of the illegality of the original importation to say merely that the goods had been imported and brought into the United States contrary to law.	433
Where a seizure is made on land, the claimant has the right to a trial by jury.	1182
On an information for forfeiture of goods subject to ad valorem duty, the appraisement of public appraisers is a necessary and preparatory proceeding, and is prima facie evidence.	1182
If the entry does not contain a part of the goods consigned by the same invoice and bill of lading, it is prima facie evidence that the duties have not been paid.	365

	Page
The court will be liberal in the admission of evidence bearing upon the point whether goods were fraudulently entered, but evidence clearly irrelevant is not admissible.	1177
Where goods proceeded against on the ground that the packages were made up with intent to evade and defraud the revenue were entered on the oath of a claimant taken as in the case of goods actually purchased, evidence that the real owner was the foreign manufacturer, and the claimant only a consignee, <i>held</i> immaterial.	1177
Where the invoice price is shown to be far below the market price, the importer has the burden of showing the price actually paid.	983
A bona fide purchaser of goods imported at a fraudulent valuation before the United States has elected its remedy will be protected.	1081
The consignee of goods imported at a fraudulent valuation, who, having no knowledge of the fraud, made advances and incurred expenses in relation thereto, will be protected.	1081
A transfer of goods entered under a false invoice after the passage of the Revised statutes and before the passage of Act Feb. 18, 1875, amending section 2864, gives no title as against the United State.	1176
The claimant of liquors found stored in large quantities in the upper room of a private house has the burden of showing that they were legally imported, and that the original packages had been inspected, marked, and branded as required by law.	1104
A conspiracy to conceal or destroy papers relating to imported merchandise (Rev. St. § 5443) sent by the consignor to the consignee,	799

	Page
showing its fraudulent entry, is punishable under Rev. St. § 5440.	
Sufficiency of indictment in such case.	799
If the customs officer acts without probable cause in making a seizure, an indictment will not lie for resisting him. (Act March 2, 1799, c. 128, § 71.).	1270
Under Act March 2, 1867, the amount of fines, penalties, and forfeitures recovered less the charges allowed, should be paid to the collector, who should deduct duties and charges, and pay the residue into the treasury, to be distributed, under the direction of the secretary, to the persons and in the proportions prescribed by the decree of the court.	1273
Preparatory to such decree, the court while in possession of the fund, will determine disputes between persons claiming as informers.	1273
Customs officers.	
A customhouse officer has no power to control gate keepers at piers.	839
Where bonds taken for property seized have been turned over to the government and not collected, the collector is not entitled to a credit for any part thereof in an action against him by the government.	527 1401
Though the collector has not proceeded according to law in seizing and selling imported goods as forfeited, he is nevertheless entitled to half of the proceeds, where the same have been credited to him on settlement of his accounts.	527
Where the United States adopted the acts of a collector, they are estopped to claim that he is not entitled to the compensation allowed by the existing statutes.	527

	Page
A collector is not liable to pay interest on moneys received in the case of open and running accounts, under Act March 3, 1797, § 1.	527
A collector is not liable for moneys stolen by his deputy without neglect or default on his part.	527
The treasury department acts in a judicial capacity in determining the charges to which a collector is subject and cannot subsequently vary such adjudication to his prejudice.	527
Compensation of collectors under Acts Sept. 30, 1850, and Aug. 1, 1852.	596
As to the compensation of the collector of the district of Upper California under Act March 3, 1849.	527
A bond given by a collector of customs under Act March 2, 1799, binds the sureties from the time he assumed office, though not executed until several months thereafter.	1004
No change made by law in the rate of duties. The routine of the office, or in the method of conducting it, which does not change materially the character of the office. Will discharge the sureties on the official bond of the collector.	1267
Where duties not required by law were imposed on a collector of customs by the superior officers of the treasury department, he is still required to discharge his duties according to law, and the sureties on his official bond are liable for his failure to do so.	1267
Delay on the part of the government in enforcing its rights cannot be set up as a defense.	1267
The sureties on a bond of a collector of customs appointed during a recess of the senate are not liable for his acts after he accented a new appointment made by the president by and with the advice of the senate.	1004

	Page
The bond of a collector of customs as a depositor of public money and fiscal agent of the United States under Act Aug. 6, 1846, does not apply to past transactions.	1004
Bonding: Warehousing.	
The proper rate of duty on brandy warehoused December 1, 1866, and sold at auction after three years for nonpayment of duties, <i>held</i> to be the rate imposed by law at the expiration of three years from the date of the warehouse bond, and an additional duty equal to 10 per cent, thereof.	969
DEBT, ACTION OF.	
A demand of one sum in the declaration does not prevent the recovery of a smaller sum, diminished by intrinsic circumstances.	581
DISORDERLY HOUSE.	
A person who keeps an open house for the sale of liquors to all persons at all hours of the day and night, which is frequented by drunk and disorderly persons, is guilty of keeping a disorderly house.	589
The sale of liquor to negroes and slaves on Sunday constitutes the offense of keeping a disorderly house.	675
Facts from which the jury may find defendant guilty of keeping a disorderly house.	996
Sufficiency of indictment for keeping disorderly house.	589
DISTRICT ATTORNEYS.	
The federal district attorneys have exclusive direction and authority over the prosecutions committed by law to their charge until the cases come under control of the court.	658

	Page
A direction given by the attorney general to a district attorney in respect to his official action in regard to an indictment cannot control the court.	773
The district attorney is entitled to 2 per cent, on all moneys collected or realized in any proceeding under the revenue laws conducted by him.	1101
Where a proceeding in rem to forfeit property is compromised by the payment of a sum of money by the claimants, the district attorney is entitled to commissions upon such sum. (Act March, 3, 1863, § 11.).	1101
DOWER.	
Under Rev. St. Ill. 1833, p. 624, declaring that any provision in the will bars dower. The amount must be such as to afford a reasonable presumption that it was given in lieu of dower.	926
Where the widow accepts a devise in lieu of dower, not knowing the extent of the estate, she may renounce under the will, and claim, after the lapse of years.	926
Where necessary, she may bring a suit to ascertain the true condition of the estate to enable her to make a proper election.	926
ELECTIONS AND VOTERS.	
Electors in a state, who have the qualifications requisite for electors of the most numerous branch of the state legislature, have the right, under Const, art. 1, § 2, to vote for representatives in congress, and congress has the constitutional power to protect that right.	1350
The power to regulate the time, place, and manner of holding elections for representatives in congress (Const, art. 1, § 4) includes the power to protect the electors in a free interchange of views, in making a free choice,	1350

	Page
and in expressing that choice freely at the ballot box.	
The right of suffrage is not guaranteed to a citizen by the constitution of the United States, but the states have exclusive right to prescribe the qualification of voters, with the exception that the right of suffrage shall not depend upon race, color, or previous condition of servitude.	701
Under the fifteenth amendment, congress cannot legislate in reference to any interference with the right of a colored person to vote which does not proceed from his race, color, or previous condition of servitude.	707
Congress has power to interfere for the protection of voters at federal elections irrespective of the fourteenth and fifteenth amendments to the federal constitution.	701
An indictment for a conspiracy to prevent the giving of support and advocacy to an election (Rev. St. § 5520) need not set out the acts of advocacy and support which the conspiracy was formed to prevent.	1350
The jurisdiction of the federal courts is not ousted by the fact that the indictment charges that in carrying out their design the conspirators were guilty of a crime of higher grade, of which the state courts had exclusive jurisdiction.	1350 1402
To convict for conspiracy under Rev. St. §§ 5508, 5520, it is not necessary to find that the conspiracy charged was formed against the voter named in the indictment alone.	213
Evidence that defendant stated, as certain colored men approached the polls, that no colored men should vote, and that he would die first, which caused them to leave, <i>held</i> sufficient	281

	Page
to sustain a conviction under Act May 31, 1870, § 4.	
Rev. St. § 5515, <i>held</i> constitutional.	453
The governor of a state is not an election officer within Act May 31, 1870, § 22, punishing the fraudulent making of a false certificate of the result of a congressional election.	458
As to the manner of electing a mayor of the city of Washington, D. C, and the returns of such election.	282
Rights of deputy marshals at elections of members of the house of representatives.	1323
Judges of election are not liable to criminal prosecution unless they have acted from corrupt motives.	1322
EMBARGO AND NONINTER-COURSE.	
Construction of the nonimportation act of March 1, 1809 (section 6), and liability to forfeiture thereunder.	1355
Effect of want of seaworthiness as depriving the obligee of an embargo bond of the excuse of prevention of performance of the voyage by perils of the sea.	871
EMBEZZLEMENT.	
See, also, 'Post Office.'	
"Embezzle," as used in Rev. St. § 5209, in relation to officers and agents of national banks, describes a crime which a person has opportunity to commit by reason of some office or employment, and which is some breach of confidence or trust	591
In an indictment under Act March 3, 1825 c. 65, § 16, Punishing any one who shall fraudulently embezzle," etc., the word "feloniously" will not supply the place of "fraudulently."	1144

	Page
An indictment under such act must state that defendant was employed in the bank or an office of discount and deposit, etc., in some state or territory of the United States.	1144
In an indictment for embezzling a letter containing a bank note (Act March 3, 1825) it is not necessary to state the particular office held by the accused, or that the note was of an incorporated bank, or of any value.	440
The proposal by defendant to deposit a certain sum to secure the government for any amount that might be found due is not an admission of any amount being due, but a proposal of compromise.	1152
The items in a treasury transcript, if estimated and made up from hearsay, are not admissible in evidence against a public officer.	1152
EQUITY.	
Courts of equity will refuse to interfere in the case of stale demands.	1107
ESTOPPEL.	
An acquiescence for nearly 20 years in a boundary established by a government official in discharge of his duties, in conformity to which improvements have been made, will estop one of the owners to assert that the line is erroneous.	323
EVIDENCE.	
See, also, "Criminal Law" "Witness."	
Presumptions: Burden of proof.	
All doubts will be resolved adversely to defendant, who failed to produce his books of account, which would have assisted his defense if made in good faith.	386
The same rule applies where proof has been voluntarily destroyed, or placed beyond the reach of the party.	386

	Page
All doubts are resolved against a party who stands by and makes no denial when testimony of a damaging nature is given.	386
Best and secondary.	
Admissibility of parol evidence of contents of papers in defendant's possession without notice to produce them.	309
The testimony of one of several eyewitnesses to the same facts is admissible without producing the others.	1287
Declarations and admissions.	
The declarations of the principal connected with transactions to which the contract of the surety relates are admissible against the surety.	740
The effect of statements made by a person against his interest cannot be avoided by contradictory statements.	1335
Documentary.	
The transcript of the books and proceedings of the treasury department (Rev. St. § 886) in relation to the accounts of persons accountable for public money, is prima facie evidence of the facts stated therein, so far as the same are authorized by law.	979
A transcript from the treasury, which contains sums charged in gross as balances, is not evidence as to such balances. The original items must be stated.	977
The treasury transcripts are admissible in a suit in a case of delinquency of a revenue officer or other person accountable for public moneys.	740
Parol evidence.	
The contents of a warrant cannot be proved by parol unless its nonproduction is satisfactorily accounted for.	419
Competency: Materiality: Relevancy.	

	Page
Proof of previous good character, and that without compulsion defendant sought an investigation, is admissible.	705
Reputation is competent proof of the name of a person, place, or house.	879
Authenticated public documents, giving account of all the mines and all the abandoned mines in a certain place, are not evidence to prove that a certain mine did not exist.	1245
Handwriting.	
The question whether two or more signatures are written by the same person is a proper subject of expert testimony.	754
A witness testifying as to the handwriting must have seen the writing which the one in question resembles, and must come to a conclusion in his own mind.	905
A person who had seen the alleged author of a writing write but once, and had no other means of knowing his handwriting, <i>held</i> not a competent witness to prove his handwriting.	705
The knowledge of an expert in handwriting cannot be tested by placing before him irrelevant papers for the mere purpose of contradicting his testimony as to the handwriting thereon.	394 1403
The jury may compare the handwriting of documents properly in evidence, and proved to have been written by defendant, with the handwriting of the papers in dispute, to prove their authorship.	394
Standard specimens of defendant's handwriting being in evidence, an expert may point out features therein identical with those displayed in the writing in question.	394
On trial of an indictment for depositing scurrilous postal cards in the mail, evidence	394

	Page
is admissible of other writings of defendant containing identical errors in spelling, to prove authorship.	
EXECUTION.	
An execution will be <i>held</i> fraudulent, as respects a subsequent one, where the creditor allows the debtor to retain possession of property levied upon, for an unreasonable length of time.	599
Act Ark. Dec. 23, 1840, known as the "Valuation Law," is constitutional, and its provisions must be followed in executing the final process of the district court in the state.	598
EXECUTIVE DEPARTMENTS.	
See, also, "Office and Officer."	
The head of a department has discretionary power to allow for a bona fide performance of service by a public officer, or a bona fide expenditure of money, though not so expressly authorized by law.	953
The direction of the president will be presumed, where money is advanced by the direction of the head of a proper department.	740
The regulations of a department in settling its accounts are subject to the revision of a court and jury, when they work manifest injustice to individuals.	231
EXECUTORS AND ADMINISTRATORS.	
Stock held by a trustee is not assets in the hands of his administrator.	745
Nothing is assets in the hands of an administrator, applicable to the payment of a demand against the estate, within Civ. Code Or. § 1103, but money.	979
Executors and administrators may be sued in their representative capacity in the federal	908

	Page
courts, and judgments against them may be enforced by execution against the property of the estate unadministered.	
Judgment may be rendered de bonis testatoris under the laws of Arkansas, and executions may be issued against the estate of the intestate, which may be sold to satisfy the same.	908
EXTORTION.	
Laboring to exact fees from one party after having received them from another is not extortion.	419
EXTRADITION.	
Independent of statutory provisions or treaty stipulations, courts of justice are not bound nor authorized to remand prisoners for trial to a foreign government, whose laws they are supposed to have violated.	786
A murder committed on board a British ship of war is committed within the jurisdiction of Great Britain, under the treaty of extradition.	631
It is not a good plea to an indictment for bribery that defendant was brought into the jurisdiction of the court under an extradition treaty on a charge of forgery.	237
FALSE PRETENSES.	
It is not an indictable offense at common law to obtain books of account from a merchant by means of false and fraudulent pretenses.	293
FORCIBLE ENTRY AND DETAINER.	
It is not necessary that it should appear upon certiorari that the inquest was taken on the spot where the force was used, nor that the jurors should appear to be qualified according to the requisites of the common law.	889
FORFEITURE.	

	Page
See, also, "Customs Duties" "Informers" "Internal Revenue" "Shipping."	
The forfeiture takes effect at the time when the offense is committed, if the denunciation is expressed in direct terms, and not in the alternative.	1075
A bona fide purchaser of personal property which has been forfeited to the government by previous acts of the former owner is not protected against the title of the government.	1075
A carrier which transported smuggled goods has no lien on them for the freight, as against the government, though innocent of the fraud.	1081
The bond for value (Act 1(99, § 89), where property under bond for duties is seized in a warehouse, should represent its full market value, duties included.	285
The acceptance of a bond to answer a judgment against the claimants of property forfeited does not reinvest the title in them.	862
Where a bond is given upon the return of goods libeled as upon a seizure, and the libel is afterwards, by amendment, changed to an information, and the goods condemned, a compliance with the stipulations in the bond may be enforced by attachment against the obligors.	1180
Where the claimant is not a party to the bond, all the obligors are to be deemed principals.	1180
Where the evidence does not agree with the specification of the offense, it is fatal on an information of forfeiture.	1192
The marshal's commissions for the sale of property, and collecting and paying over the proceeds, form part of the expenses to be deducted before paying the proceeds into court.	1075

	Page
FORGERY.	
The act of knowingly uttering as true a false and forged letter requesting the person to whom it is addressed to pay to the bearer a sum of money, with intent to defraud any person, is an offense at common law.	313
The delivery of a sealed forged letter to the clerk of a person to whom it is addressed, and whom it is supposed is authorized to open it, is an uttering of it.	313
An indictment for possessing forged treasury notes and postal currency, with intent to pass them, must profess to give, and must actually give, exact copies of them, or allege a reasonable excuse for not doing so.	1091 1404
The charge that the prisoner had in possession "divers" such forged instruments is too indefinite.	1091
No notice is necessary to produce a paper in the hands of defendant, an accomplice, or a third person, who secretes it to protect defendant, or that evidence of its contents will be offered at the trial, though such paper is not the subject of the indictment.	883
After evidence that a note of the description laid in the indictment has been forged, and passed, evidence may be given of delivering or passing other counterfeited notes on the same bank before or after the passing the one in question, irrespective of time.	883
GAMING.	
It is an indictable offense at common law to keep a common gaming house for the purpose of gain.	872
A person who hires out his billiard room for two days is liable to the penalty of Act Md. 1798, c. 113.	969

	Page
The penalty for keeping a faro table in a place occupied as a tavern (Act Md. 1797, c. 110) may be recovered by indictment.	1034
A person who keeps a gaming table is equally guilty, under the statutes of Maryland, whether he acted as principal, or as agent or servant of the owner.	595
An indictment for keeping "a gaming table called a 'faro bank' "is not good under a statute punishing the offense "of keeping a faro bank or other common gaming table."	623
GRAND JURY.	
As to the power and duty of the court to instruct the grand jury as to the admissibility and competency of evidence to be offered.	55
A paper to go before the grand jury must be relevant to the case, but the fact that it is referred to by a witness, and wanted by the grand jury, is sufficient to establish its relevancy.	55
A challenge to the array of the grand jury cannot be made after the jury is organized and has entered upon its duties.	213
GRANT.	
See, also, "Public Lands."	
The jurisdiction conferred upon the special tribunal created for the settlement of claims to lands in California, of Spanish and Mexican origin, and upon the courts empowered to review its decisions (Act March 3. 1851), was in its nature exclusive and the decrees of such tribunals are not open to review in any court.	1107
The subject of surveys of confirmed claims is under the control of the land department, and its action is not subject to the supervision of the courts, however erroneous.	1107

	Page
If the bill showed that the decree had been procured by fraud of the grossest character, the court would still be without jurisdiction, for it has no authority to pass upon the propriety of the decree.	1107
Whether the issue of a previous grant of 11 leagues to a claimant disqualifies him from receiving a second grant is a question of law, and any error in its decision can be corrected only on appeal.	1107
Where the district court had ordered a survey of a confirmed claim to land under a Mexican grant into court for examination (Act June 14, 1860), its jurisdiction over the entire subject-matter continued until the survey of the claim was finally disposed of, notwithstanding Act July 1, 1864.	331
Act May 6, 1864, in relation to claimants of San Ramon rancho lands, does not give the district court power to revise a decree of confirmation rendered by it under an agreement between the claimant and the district attorney, in the absence of mistake.	299
Purchasers of land under final decrees of confirmation cannot be disturbed upon charges of fraud in the prosecution of the claims confirmed, and vague allegation of notice of such fraud.	1107
An inchoate title, followed by juridical possession, presents an equity which the United States are bound to respect.	1014
A dividing line between two ranchos fixed in proceedings for the confirmation of one to which the claimant of the other was a party, <i>held</i> , should not be disturbed on exceptions to the official survey of the latter rancho.	821

	Page
Where it appears that the original petition was for half a league of land, a claim to a larger extent will not be allowed.	809
A consent to occupy land under "a provisional license" given on a petition for a grant of land for pasturage will not give petitioners any right to the absolute fee which will be respected by the government.	805
Construction of decree for the location of a lot under a Mexican grant, based upon the language used by a witness.	802
A survey made on instructions by the government without consultation with the claimant, or allowance to him of an opportunity to make an election as to the land to be surveyed, will be set aside.	679
In the absence of a grant, a long-continued, notorious and exclusive possession under claim of ownership, with definite boundaries and recognition of proprietary rights, is essential to entitle a claim to confirmation.	371
A measurement and segregation from the public domain of the specific land granted within the boundaries designated was essential to a complete investiture of the title.	331
It is a sufficient severance from the public domain when the grant itself designates by unmistakable natural boundaries the limits of the district within which it is to be located, and where the particular land granted is specified by name.	*1214
The danger from savages is no excuse for not complying with the condition of the grant, requiring settlement on the land to be made within one year.	*1214

	Page
A neglect to occupy and settle before the conquest, where the grant was made less than a month before the capture of Monterey, <i>held</i> not unreasonable.	*1237
A fraudulent attempt to alter the date of a grant so as to obviate an apprehended objection to its validity cannot take away from the claimant any lands actually granted to him before the acquisition of the country by the United States.	*1237
The nonproduction of the grant will not affect the validity of the claim, where its loss is proved, and long and notorious occupation of the land has been established.	329
An election of location of a grant as shown by the erection of buildings, and by the cultivation of the land, will prevail as against a location shown by deeds of the tract.	323
Under Act June 14, 1860, settlers can object to the location of a Mexican grant only through the United States district attorney. 310,	1134 1405
The Mexican governors of California had no authority to remove the disabilities of foreigners in respect to holding lands under the Mexican laws of 1836 and 1842.	266
After the passage of the Mexican law of 1842 relating to foreigners, no unnaturalized foreigner could receive a grant of land without the express license of the supreme government.	266
As to the Presumption in favor of the validity of a grant to one supposed to be a French citizen by the governor of California, shortly before the territory passed from his hands.	266
After the lapse of many years, where large interests have been acquired on the faith of the finality of a decree the location will not be	1131

	Page
disturbed, except in the case of manifest error, and on clear proof of incorrectness.	
Advantage will be taken of ambiguity or discrepancies in the language of a decree of confirmation to restrict the claimant to the land actually granted.	803
Under the ordinances of the former government, all grants of public land were required to be measured in a square or rectangular form, or into a trapezium, where natural objects prevented the other measurement.	810
The court has no authority to deflect and modify lines so as to exclude particular parcels, even where they have been settled upon by others in good faith.	810
Where a survey under a decree of confirmation is objected to as erroneous, before a patent issues the court must direct its return in order that the questions raised as to the location and boundary may be heard and determined.	1134
An error in running a survey so as to include a different tract from that described in the grant and delineated on the diseño will be rectified by the court when the survey is submitted for approval.	1128
A clear and definite call for a line as of a given course and direction will not be controlled by an indefinite act of possession.	1015
The words "a little more or less" will be <i>held</i> to pass all the land included within the boundaries named, though in excess of the quantity named, where the description and the circumstances justify the belief and the circumstances justify the belief that such was the intention.	1022

	Page
The words “a little more or less” <i>held</i> operative for such fractional parts of a league as may be in excess of the quantity named in the grant.	*1157
Under a grant of land “of the extent of two square leagues, a little more or less” the judicial officer has no power to confirm a tract of 3½ leagues.	329
Under grant of “three square leagues, a little more or less, as the respective diseño explains,” <i>held</i> that three leagues were granted to be taken anywhere within the tract bounded by the ranches named.	310
A survey referring to a tree as a live oak tree, where the only tree reasonably answering such description is a white oak tree, will not, on that ground, be over-thrown.	1015
Where a cause is remanded for further proceedings involving additional proofs, the United States are entitled to a reasonable time in which to close their testimony.	1159
An alleged grant made by a priest of the mission of Santa Clara under authority given in certain communications from the governor and commanding general, rejected.	1240
Claim confirmed, in the absence of a grant, on evidence of long and continuous occupation under claim of ownership, with official recognition of proprietary rights.	376
The expediente is the most satisfactory evidence of the issuance of the grant.	*1237
Determination of boundaries of grant to Justo Larios. 1161,	1166
Where a survey based on a Median grant appears to be incorrect, it will be rejected, and a new one ordered.	322

	Page
Requisites to a complete title under a Mexican land grant, and necessity of compliance with conditions.	367
Claim to Mexican land grant confirmed upon the evidence. 265, 312, 328, 352, 395,	626
HABEAS CORPUS.	
The federal circuit court cannot issue the writ for the purpose of surrendering, in discharge of bail, a principal confined merely under process of a state court, but in such case the court may respite the recognizance.	1217
An Indian is a "person," within the meaning of the habeas corpus act, and may sue out the writ in the federal courts, when deprived of his liberty under color of authority of the United States, or when in custody for violation of its constitution, laws, or treaties.	695
HIGHWAYS.	
The road from Georgetown, D. C., to Little Falls bridge, <i>held</i> not a public highway, because the location thereof was not recorded among the public records.	1014
The Georgetown Bridge Company <i>held</i> bound to keep in repair the road leading from Georgetown to the Little Falls bridge.	1286
A road officer in Virginia who has not been notified of his appointment is not liable for the penalty under Act Va. Jan. 5, 1786.	739
HOMICIDE.	
A master who, by physical force, compels a seaman to go aloft, when, by reason of great debility or exhaustion, he cannot do so without danger, is guilty of murder, where the seaman falls from the mast and is drowned.	1208
If the master acts without malice, the crime is reduced to manslaughter.	1208

	Page
The crime will be considered to have been committed with malice aforethought, however sudden the occasion, when the act is done with such cruel circumstances as are the ordinary symptoms of a wicked, depraved, and malignant spirit.	650
The order of a superior military officer to an inferior will not, of itself, justify the willful killing of another.	306
Officers charged with the good order of fort will not be required to Weigh with scrupulous decision the exact amount of force necessary to preserve order.	306
The setting of spring guns in open fields or outbuildings, and not within the privilege of the domicile, without notice, will not excuse or justify a homicide which may ensue.	1319
When homicide excused by the acts of deceased.	1222
Intoxication at the time of committing a crime is no excuse or mitigation.	650
It is no defense that one accused of murder was more ignorant, and somewhat more stupid, than common men of bad education, bad passions, and bad habits, if he was not deficient in understanding.	650
No mere words applied by one to another will justify the use of a deadly weapon, nor will they reduce the act of killing from murder to manslaughter.	306 1406
An indictment for manslaughter need not contain the words, "in the fury of his mind."	1222
A person present, actually or constructively, at a murder, aiding and abetting it, may be convicted under an indictment charging him with the murder.	896

	Page
A conviction for murder may take place, though the murdered body is not found.	1287
Evidence of the previous bad character of deceased, killed in the act of committing a felony, is admissible on indictment for a murder committed by means of a spring gun.	1319
A slave found guilty of manslaughter was sentenced to be burned in the hand and whipped with 10 stripes.	441
HUSBAND AND WIFE.	
Under the laws of New York a married woman is authorized to carry on the business of a distiller, on her own account and for her own benefit; and she will be bound by a bond given to the government, conditioned according to the laws relating to bonded warehouses.	1258
INDIANS.	
Indians, born of a tribe which has ceased to maintain its tribal integrity, who are subject to local taxation, are citizens of the United States and of the state of their residence, and possess the right to vote in national elections.	1006
The right of expatriation is a natural, inherent, and inalienable right, and extends to the Indians as well as to white persons.	695
Under the Power to regulate commerce with the Indian tribes, congress has power to prohibit all intercourse with them except under license.	422
The Power of congress to regulate commerce with the Indians does not necessarily cease on their being included within the limits of a state.	422
Where the Indians occupy a territory of very limited extent within a state surrounded by a white population, and it becomes impracticable to enforce a law prohibiting intercourse, federal jurisdiction will cease.	422

	Page
Congress has constitutional power to pass laws punishing Indians for crimes and offenses committed against the United States.	414
Indians at peace with the government cannot be arrested and held for the purpose of removing them to and confining them on a reservation in the Indian Territory.	695
The military power may be employed to effect the removal of a person from an Indian reservation in a proper case, but the person thus removed cannot be held by the military authorities.	695
The commissioner of Indian affairs may remove from an Indian reservation all persons found thereon without authority of law, or whose presence may be detrimental to the peace and welfare of the Indians.	695
An Indian agent has a right to an allowance in addition to a salary as fixed by Act April 20, 1818, for such services or expenditures as are authorized by a general usage of the war department.	953
Expenditures made by an Indian agent for the benefit of the Indians, and on a tract of land reserved and held by them-selves, are not to the United States.	953
Rev. St. § 2139, was only intended to prohibit the selling, giving, or bartering of spirituous liquors or wine to an Indian in the Indian country.	906
The Indian need not be under the actual control or immediate Personal superintendence of an Indian agent, to make the sale of liquor to him an offense under Act May 15, 1864, if the tribe to which he belonged is under the charge of such agent, and he maintains his tribal relation.	1128

	Page
The Indians on the Oneida reservation have the right to cut and use the timber thereon, and to sell sufficient to support themselves and families.	1171
INDICTMENT AND INFORMATION.	
See. also, "Criminal Law."	
The crime of conspiring to injure or intimidate citizens in the exercise of their civil rights is an infamous crime, which must be proceeded against by indictment, and not by information.	226
Offenses arising under the internal revenue laws, being misdemeanors merely, and not infamous, may be prosecuted by information filed by the district attorney.	972
Where the statute prescribes a particular mode of enforcing payment of a penalty, an indictment will not lie.	1004
An indictment will not lie for an offense under a statute which gives an action of debt to the informer.	1236
An indictment will not be quashed because there was no previous information, hearing, and binding over.	1223
When a presentment for a misdemeanor is found by the grand jury without the name of a prosecutor, the court will order an indictment to be sent to the grand jury upon the suggestion of the prosecuting attorney.	922
An indictment will be quashed as irregularly found, where the grand jury received testimony of a person not under oath.	622
In Mississippi it is not necessary that the minutes of the court should show the finding of the indictment, where the party is not necessary, that the minutes of the indictment, where the party is not under arrest, or on recognizance.	778

	Page
The finding of a grand jury need not be read in open court, but it is sufficient if the bill be handed to the clerk in open court, and the entry made by him on the record.	213
A conclusion against the form of the statute (in the singular) is sufficient in all cases where the offense is distinctly within more than one independent statute.	1287
A conclusion against the form of the statute (in the plural) is good even if the offense be punishable by a single statute only.	1287
An indictment which fails to conclude "against the peace and dignity of the U. S." may be quashed.	694
Query, whether an indictment will lie for assault and battery upon "a person unknown without the addition "to the jurors.".	774
Anything that forms part of the description of the crime is not a matter of form. (Rev. St. § 1025.).	591
A statement that defendant was a bookkeeper in a certain place <i>held</i> not equivalent to an averment that he was a clerk or servant employed therein.	1144
A charge that the piracy was committed "on the high seas, within the admiralty and maritime jurisdiction of the U. S., and out of the jurisdiction of any particular state," <i>held</i> , a sufficient statement of the venue	1287 1407
In an indictment for murder committed on board of a vessel on the high seas by an alien, it is sufficient to allege that the vessel was owned by a citizen of the United States, without alleging otherwise the national character of the vessel.	814
Where the offense is within the general jurisdiction of a court of the United States,	814

	Page
it is not necessary that the indictment should exclude, by descriptive terms, every possible exemption of defendant from the jurisdiction.	
Where a statute prescribes a punishment for a common-law crime, the indictment must set forth the various ingredients of the crime which go to make up the offense at common law.	701
The judgment will be arrested where an indictment against a pension agent for withholding a pension alleges that minor children were the pensioners, and that the pension was withheld from another person as their guardian.	377
An indictment against a carrier of the mail for an offense under the law, punishable generally, will sustain a conviction, the word "carrier" being stricken out as surplusage.	207
Pleading to an indictment in which a person is charged with having committed an act cannot be construed to waive a right which he would have possessed had he been charged with having advised the act.	55
An indictment which alleges the time as "on or about" a certain day may be quashed.	694
Use of the words "then and there," in different parts of an indictment, as rendering it bad for repugnancy.	901
Where two allegations are sensible and consistent in the places where they occur, but are inconsistent with each other, neither can be rejected.	901
Separate indictments will lie for the larceny of several cows from the same Place at the same time.	1341
Under Act Feb. 26, 1853, separate indictments against different persons cannot be consolidated,	939

	Page
although the offense was joint and they might have been jointly indicted.	
An indictment in which there is a joinder of offenses or offenders, so far as the jury are concerned, is to be considered a several one as to each of such offenses or offenders.	770
The prosecuting attorney will not be required to elect between different counts which charge offenses of different grades of the same class connected with the same transaction.	850
In an indictment for a misdemeanor, several offenses may be joined in different counts, and the prosecution cannot be compelled to elect between them.	840
One or more good counts in an indictment will sustain a general verdict of guilty, though there are bad counts.	207
The court will not stop the trial on the ground that the proof does not show a case clearly within the indictment, but will leave the prisoners to their remedy by motion in arrest of judgment.	784
An indictment for receiving stolen goods, charging that the accused received the goods from the principal felon, is not sustained by proof that they were received from the person to whom the thief had delivered them.	796
The defendant may be found guilty of any offense the commission of which is necessarily included in that with which he is charged in the indictment.	306
Upon an indictment for burglary the prisoner may be found guilty of larceny only.	872
Upon an indictment at common law for an assault with intent to kill, defendant may be found guilty of a simple assault only.	701

	Page
An information may be amended by filling up the blank of the date of the commission of the offense.	1034
INFORMERS.	
He who, with the intention of having his information acted upon, first gives information of a violation of law which induces the prosecution, and contributes to the recovery of the fine, penalty, or forfeiture, is entitled to the informer's share.	1277
The information must be given to some government official who has the power and duty to act thereon, and, where several causes exist, information of any one is sufficient.	1226
A person claiming to share in the judgment must be the first informer and his information must be substantially true and capable of proof.	1226
The information must be a plain statement in writing of some one substantial cause, matter, or thing, whereby a fine, penalty, or forfeiture shall have been, incurred, and it must be sworn to, if required by the officer.	1226
The claim of an informer can only date from the time when he actually gave the proper formal information, not when he ascertained the facts.	1226
Customs officers and informers are entitled to share only in fines, penalties, and forfeitures which are created by some law of the United States.	1277
The share of the informer must be taken from the net, and not the gross, proceeds.	1226
An assistant assessor of internal revenue <i>held</i> entitled to the informer's share, where he gives information, leading to the indictment and conviction of an offender, which he acquired of	412

	Page
his own motion, while in the discharge of his official duties.	
The penalty of a recognizance for the appearance in court of a defendant charged with a crime under Act March 2, 1799 is not a penalty recovered by virtue of such act, and the informer is not entitled to a share therein.	1039
The informer is not entitled to a share in money paid into court by the sureties on the recognizance.	1039
The additional duties of 20 per cent, ad valorem imposed for undervaluation (Act July 30, 1846, § 8) are not fines and penalties, and the collector is not entitled to a moiety of them.	527
The reward given by Rev. St. Me. c. 121, § 11, must be apportioned by the court between the informer and prosecutor according to their respective merit.	284
Distribution of the proceeds of fines, penalties, and forfeitures incurred under the customs laws. 1273,	1277
INJUNCTION.	
Where the injury threatened is of a character not easily remedied, if the injunction be refused, and there is no denial that the act charged is contemplated, a temporary injunction should be granted, unless the case made by the bill is satisfactorily refuted.	923
Query, whether a federal court is not forbidden by Act March 2, 1793, § 5, from granting an injunction to stay an execution sale in a state court of vessels on which the government has mortgage liens for advances made to build them.	539
To entitle defendant to a dissolution of an injunction on the answer, the denial must be of facts, and not of conclusions.	293 1408

	Page
Insanity.	
See "Criminal Law."	
INSOLVENCY.	
The rights of the United States to priority in the payment of its debts, and the remedies for its enforcement against assignees of debtors	447
The United States has no priority in payment of its debts, under Act March 3, 1797, § 5, unless the assignment by the debtor be a general assignment, or in the case of legal insolvency, where, by operation of law, the debtors property is taken out of his hands to be distributed by others.	447
Act March 3, 1797, § 5, does not give to one part of a debt due to the United States a priority over any other part, nor does it affect the right of the debtor to apply a payment of money in his hands to either of two debts to the United States.	483
The assignee is liable only if he has notice of the debt to the United States, but the notice need be such only as is sufficient to Put a prudent man on inquiry.	447
The priority of the United States does not entitle them to prior satisfaction by attachment and levy over prior attaching creditors.	277
The United States are not entitled to a preference over firm creditors for the payment of the individual debt of a partner out of the assets of the partnership. 927,	1033
The necessary expenses of administration are to be paid before a debt due to the united States.	979
The administrator is bound to discharge taxes and funeral charges before satisfying the claim of the United States as a creditor.	979

	Page
A debt due to the United States is to be preferred to the expenses of the last illness; but, where the same have been duly paid by the administrator without notice of the claim of the government, the priority of the latter is lost.	979
A debt due from the administrator, and returned on the inventory as solvent, is presumed to have been collected, and is therefore assets in his hands applicable to the payment of a debt due from the deceased to the United States.	979
The priority given to the United States (Rev. St. § 3466) is not a lien upon the property of the insolvents in the hands of the assignee or administrator, but only a right to a priority of payment out of the proceeds of such property after notice of the claim.	979
The priority of the United States does not yield to the claims of any creditors however high may be the dignity of their debts.	927
The priority of the United States does not supersede a mortgage on land, nor a judgment made perfect by the issue of an execution and a levy on real estate.	927
A bona fide conveyance, mortgage, or execution before the right of preference in the United States has accrued by an act of insolvency, will pass the right of property freed from liability for debts due to the United States.	811
The United States, not made parties to a bill in a state court for the payment of partnership debts out of its assets in the hands of the administrator of a partner who had died insolvent indebted to the United States, are not bound by the decree rendered therein.	927
In case of the insolvency of surviving judgment debtors in a suit on a bond for customs duties,	734

	Page
the United States may in equity recover the debt out of the assets of a deceased judgment debtor, whose estate was also insolvent, in virtue of their general priority.	
Priority of payment of the United States out of the effects of an insolvent debtor stated in a charge to a jury.	1087
INSPECTION.	
The penalty for not complying with an order to produce books and papers (Act June 22, 1874) is that the allegations in the motion shall be taken as confessed.	868
INTERNAL REVENUE.	
See, also, "Forfeiture"; "Informers."	
Officers of internal revenue.	
A collector, deputy collector, or inspector of internal revenue may, without process, enter any building where distilled spirits subject to tax are produced or kept, so far as may be necessary for examining the same (Rev. St. § 3177), and may without process seize illicit distilled spirits (section 3453).	1053
An officer who is acting without or in excess of authority may be lawfully resisted or obstructed.	1053
A person may be guilty, under Rev. St. § 3177, of obstructing a revenue officer in entering a building, etc., although he does not own the building or the articles subject to tax, and did not make, produce, or keep them.	1053
Sufficiency of indictment under such section.	1053
Officers' fees need not be immediately paid over to the internal revenue department, but may be accounted for in the semiannual returns of the officers.	420
The sureties on a collector's bond are liable for the sum received by a collector under Act June	412

	Page
30, 1864, § 122, though there was no assessment or return made of the tax.	
On a prosecution of collector for accepting a fraudulent bond, evidence of the acceptance of other forged bonds, and a delay to investigate after fraud was suggested, is admissible to show his Participation in fraud.	260
Assessments and collections.	
Evidence that the pecuniary circumstances of a distiller were apparently improved while engaged in distilling, during a period when such business was not profitable, is not admissible to show fraud.	380
The assessor's original list, transmitted to the collector, is prima facie evidence of the amount of the tax due.	227
Special taxes.	
A "spirit medium," who performs various feats for pay, <i>held</i> liable to pay license as a "juggler".	492
The provision in Act March 3, 1865, extending the definition of "brokers" given in Act June 30, 1864, § 79, subd. 9, does not apply to section 99 of the act of 1864.	1089
A sale of intoxicating liquors without a license is a violation of Act June 30, 1864. § 73 although the person intended to give the proceeds to a charitable use.	879
A sale of a single lot of spirits which have been taken for a debt, in Quantities of not less than five gallons at one time, does not make the person a wholesale liquor dealer. (Rev. St. § 3242.).	1058
Where a license is issued to a firm, the continuing partner, on the dissolution of the firm, may carry on the business until the end of the year. 752,	1332

	Page
Distilled spirits.	
To make one in possession of a still a distiller because he keeps mash, wort, or wash, the mash, wort, or wash kept must be such as will produce spirits on distillation. (Rev. St. § 3247.).	1218 1409
Rectifiers and distillers must take the proper steps to ascertain what the rules and regulations are as to keeping of a hook as required by Act July 13, 1866, § 26.	951
Act July 13, 1866, § 26, as to the entries of purchases and sales or receipts and deliveries of spirits, is complied with as to entries made before the act of 1868, if the entries, although made in a continuous manner, without anything to designate to what the figures refer, are a true statement of such transaction.	1068
The duty of making such entries may be delegated to a clerk, but the principal is responsible if the proper entries are not made.	1068
Spirits merely poured from the original packages into an open vat for rectification, need not be again inspected, gauged, and branded. (Act 1866, c. 184, § 43.).	982
A distiller cannot avail himself of any mistake of the officer in overgauging the spirits.	951
Spirits once removed from the distiller's bonded warehouse to a general bonded warehouse cannot be again removed to another bonded warehouse.	1098
A permit of a collector to transport spirits from a distillery warehouse to a general bonded warehouse is not evidence of a compliance with the prerequisites to a removal of the spirits required by sections 38, 40, Act July 13, 1866.	1097
A distiller's bond for the payment of a tax (Act July 13, 1866) is not a penalty, but a contract or	951

	Page
security, and is unaffected by the repealing act of January 11, 1868.	
The tax must be paid at the rate prescribed by the law in force at the time the bond was given.	951
A conviction and sentence for violation of the law is no bar to an action on the distiller's bond, unless the sentence is actually fulfilled.	717
A pardon operates the same as an actual fulfillment of the sentence, and completely releases the sureties from all liability for the acts or breach of duty charged.	717
The destruction of spirits by fire while in a distillery warehouse, due to the absence of the government storekeeper, does not release the bondsman from liability for the amount of taxes due.	1049
Fermented liquors.	
The terms "malt liquor" and "fermented liquor" are used synonymously in Act June 6, 1872, and the brewer is expressly required to enter all malt liquors in his book, whether sold to other brewers or the public.	890
Ignorance or carelessness will not excuse the neglect of a brewer to keep the prescribed books and accounts. (Act July 13, 1866, § 49.).	1173
Tobacco: Cigars.	
A person who keeps leaf tobacco for sale is a dealer, and a single sale is sufficient to fix his character as such, and to render him liable for the penalty of \$500 for failure to keep a book, and make returns of purchases and sales. (Act July 20, 1868, § 76.).	752
A cigar manufacturer must not only return the sales of cigars manufactured by him, but of those purchased by him and resold.	489

	Page
The punishment imposed for selling unstamped cigars (Act July 20, 1868, § 89) is not confined to importers and manufacturers, though they alone are required to pack the cigars and affix the stamp.	976
Banks and bankers.	
A loan and trust company which issues certificates of deposit, and makes loans on stocks, bonds, and other security, is subject to the payment of the license fee imposed by Act 1864, § 79, cl. 1.	1040
Such company is “engaged in the business of banking,” so as to be liable for the payment of a duty of 1/24 of 1 per cent. for each month upon the average amount of its deposits, as provided by Act 1864, § 110.	1040
The undistributed surplus earnings of savings banks, added during, the year to their contingent funds, are subject to taxation, under Act July 13, 1866, § 9.	887
It is immaterial that such fund is held as an authorized security for depositors.	887
A banking firm <i>held</i> not punishable for a contempt in refusing to produce their books on the demand of a supervisor of the internal revenue, and in not appearing in response to a summons, where they asked a short delay to consult counsel, and there was no place of return in the summons.	1143
Stamp taxes on specific objects.	
Goods are sold “in the original and unbroken package” (Act July 13, 1866) although the package is open for inspection, if closed again before delivery without the contents being changed.	1194

	Page
A match box, holding less than 100 matches, containing two sliding drawers. <i>held</i> but one parcel or package. (Rev. St. § 3437.).	1342
Income tax.	
Taxability of promissory notes, book accounts, etc., due during the year.	1221
Interest on bonds of a corporation held by nonresident aliens is not taxable under Act June 30, 1864, § 122, amended by Act July 13, 1866, § 9.	1019
Only one penalty is recoverable for all failures to make returns for taxation under Acts June 30, 1864, and July 13, 1866, prior to the commencement of a suit.	1019
Violations of law, and punishment—In general.	
Permission from the commissioner of Internal revenue will not justify an unlawful act.	1194
A person is not relieved from the consequences of a violation of law by the neglect of a revenue officer to perform a duty required of him by law.	840
Act June 22, 1874, requiring the production of books and papers, applies to cases arising under the internal revenue laws.	868
Under Act July 20, 1868, § 96, where the statute has attached no punishment to the doing or omitting of acts required or forbidden, such act or omission, when knowingly or willfully committed, will be punished by the infliction of the penalty and forfeiture provided therein.	1192
When the punishment prescribed for violation of the internal revenue laws is a pecuniary penalty or fine only, and the act fixes the exact amount, an action of debt will lie to recover it.	973
Where the amount of the fine is not fixed, but left to the discretion of the court, the prosecution must be by indictment.	973

	Page
Where the law provides that imprisonment either may or must be a part of the punishment, the prosecution must be by indictment.	973
—Grounds of forfeiture.	
A vinegar manufacturer is liable under 15 Stat. 125, if, by the process used by him, he obtains alcohol from his mash, so that he is saved the expense of purchasing the alcohol necessary for the making of vinegar.	852 1410
A distillery is subjected to forfeiture by the omission to make such entries in the distiller's books as the law requires, or by the making of false entries, or the refusal to produce them on proper demand. (Rev. St. §§ 3303, 3304.).	853
False brands placed upon tobacco caddies by a revenue officer without any complicity in the fraud by claimant is no ground of forfeiture.	989
A failure to produce the books of claimant after an order duly served, where unexplained, will entitle the United States to a forfeiture.	1179
The connivance of the government storekeeper in the frauds committed by the person who runs the distillery will not operate to destroy the forfeiture resulting from the acts of such person.	854
The forfeiture of spirits, etc., provided for by Act March 2. 1867, § 25, is also imposed as a Penalty for violation of Act July 13, 1866, § 31, in the neglect on the part of a distiller to make entry and return as required by that section.	985
—Property subject to forfeiture.	
Property returned on bond after seizure is subject to forfeiture for causes subsequently arising, but its liability to condemnation in the suit in which it was bonded is not affected by the fact of its condemnation for the subsequent forfeiture.	985

	Page
The adoption by the government of a seizure under the internal revenue laws cures any defect in the competency to seize of the person who made the seizure. 1097,	1098
Where forfeited spirits have been mixed though in good faith with spirits which have paid the tax so that they can no longer be distinguished, the entire amount is forfeited to the government. 1074,	1075
All tools, implements, instruments, and personal property whatsoever on the distillery premises are forfeited under Act July 13, 1866. § 9, irrespective of ownership or the purpose for which they are used.	854
The forfeiture under Act June 6. 1872 § 12, for carrying on the business of a distiller after the time of suspension stated in a notice of suspension, is not limited to the interest of the distiller in the things which are made the subject of the forfeitures.	854
Connivance in the fraud of a distiller or knowingly suffering or permitting the business to be fraudulently carried on is not required to subject to a forfeiture an interest in the land on which the distillery is situated. (Act July 20, 1868 § 44.).	854
Act March 31, 1868, § 5, in declaring that a distiller shall forfeit the distillery and distillery apparatus used by him means “shall subject to forfeiture.”.	854
Act July 20, 1868, § 19, in providing that the distillery, etc., shall be forfeited forfeits the property, irrespective of the question of its ownership.	854
Under none of such sections is a proof required of the actual complicity of the owner of the	854

	Page
property to be forfeited in the fraud or other thing which causes the forfeiture.	
Distilled spirits found on the premises on which the business of distilling is carried on being the product of such business, are not “personal property used in the business,” within the meaning of Act July 20, 1868, “ 19.	1192
A water wheel used for propelling machinery in the manufacture of friction matches is not personal property liable to forfeiture under Act 1864, § 48, amended by Act 1866, c. 184.	1219
Machines used in a mill for such purpose are implements and instruments, within the meaning of the act and are liable to forfeiture.	1219
Pastures, orchards, and vineyards contiguous to a distillery, and under the same ownership, but in no other way connected therewith, are not subject to forfeiture with the distillery as a part of the lot or tract of land on which it is situated.	366
Tobacco may be forfeited for fraud perpetrated by the manufacturer, even in the possession of a purchaser without knowledge of the fraud. (Act July, 1866, § 9.).	989
A purchaser of brandy in casks, which has not been gauged and inspected as required by law, does not get a good title as against the United States, where the same is seized and forfeiture proceedings commenced within the prescribed time. (Act June 30, 1864, § 68.).	1154
Under Rev. St. § 3281, the forfeiture does not operate when the statute is violated but only at the time of seizure.	1058
—Forfeiture proceedings.	
Where a forfeiture of tobacco is claimed in two distinct charges based on separate provisions of	989

	Page
law, the district attorney will not be required to elect between them.	
Where spirits are found out of a bonded warehouse upon which the tax has not been paid, the burden is upon claimant to show that the requirements of the law have been complied with. (Act 1866, § 45.).	984
Proof by claimant that proper brands were upon the barrels is insufficient. He must show that the tax has been paid where such payment is a prerequisite to the removal.	984
Under an information on a seizure of distilled spirits under section 45, Act July 13, 1866 claimant has the burden of showing that the spirits had been lawfully removed, and that the taxes had been paid. 1097,	1098
Distillery books seized by a revenue collector under order of the department may be used as evidence on the trial of a libel for forfeiture filed against the distillery.	853
Proof that tubs were so placed in a distillery that they could be used contrary to the law is not sufficient to warrant a finding that they have been so used.	1192
—Penalties: Actions therefor.	
A retail liquor dealer who receives more than 20 gallons of spirits from any person other than one authorized to sell such spirits, for storage only, and not for sale, does not incur the penalty. (Act July 20, 1868, § 46.).	1220
Claimant has the burden of showing a compliance with Act July 13, 1866, § 31 where slight evidence is given showing a failure to comply therewith.	985

	Page
A person transporting empty barrels is bound to know whether or not there were unaffected stamps thereon. (Rev. St. § 3324.).	1362
The words “shall be liable to,” etc. (Act July 13, 1866, § 53), mark the extreme limit of the penalty, and leave it discretionary whether the whole penalty shall be imposed.	1173
Where both a money penalty and imprisonment are prescribed as punishment for an offense, an action of debt will lie for the money penalty.	1173
—Offenses—In general.	
Act July 13, 1866, § 23, is not repealed by Act March 31, 1868, § 5, which provides a more severe punishment, as the statutes cover different subject-matters.	731
It is an offense under Rev. St. § 3279, to work in a distillery on which no sign is placed and kept as provided therein.	1127
Rev. St. § 5440, prohibits a conspiracy to defraud the United States, not only by committing an offense described in other sections of the original act but in any manner whatever.	8181 1411
The use of an inspector’s brand with intent to defraud, though without the inspector’s knowledge or connivance, is punishable under Act July 13, 1866, § 38.	841
Act March 31, 1868, § 2, which repeals Act June 30, 1864, §§ 94, 95, and acts amendatory thereof, does not operate to preserve prosecutions commenced, but not carried to judgment, before the repeal took effect.	1085
An acquittal on an indictment under Act July 13, 1866, § 23, for knowingly carrying on the business of a distiller, without having paid the special tax, <i>held</i> not a bar to an indictment	1106

	Page
under section 25 for knowingly using a still for the purpose of distilling in a dwelling house, it being the same place.	
On a prosecution for conducting a distillery without giving the necessary bond or paying the tax ignorance on the part of defendant that the bond had not been given or the tax paid is no defense.	876
Whoever aids in the act of illegal distilling is to be held responsible under the law, without regard to ownership of the still or its product.	298
A person is liable to indictment for running a distillery upon which the special tax has not been paid, though he acted merely as the agent of another.	778
An employe having no interest in a distillery or the product as a proprietor or partner, though he is paid in such product is not subject to indictment, though he has knowledge that the special tax has not been paid.	627
—Same— Indictment.	
A failure to take out a license and a neglect to affix stamps, as required by the internal revenue law. <i>held</i> indictable offenses.	395
The penalty for exposing for sale articles without the revenue stamp affixed (Acts June 30, 1864, §§ 167, 169, amended by Acts March 3, 1865, and July 13, 1866) is recoverable by indictment.	1059
In the case of a partnership, both partners are liable where the sale is made by one or by a clerk having authority.	1059
An indictment for carrying on the business of a distiller of spirits without paying the special tax (Act July 13, 1866, § 23) need not set out the particular acts of distilling, or the kinds of spirits.	1196

	Page
“Then and there distilling and manufacturing spirits to a very large amount, to wit to the amount and number of 1.000 gallons of proof spirits.” <i>held</i> a sufficient affirmative allegation that defendant did distill.	1196
A charge that the defendants, and each of them did carry on the business, will not render the indictment multifarious.	1196
An indictment which showed the business to have been begun under the old law and continued under a new law which substituted special taxes for licenses should negative the payment of the license fee, or of the additional fee, as well as of the special tax.	1196
The words “as required by law,” as used in an indictment for selling cigars not properly boxed and stamped, dispenses with the necessity of alleging that the cigars were not within the excepted classes.	976
—Same—Evidence.	
Statements made by claimants in a proceeding against a distillery cannot be used against them in a subsequent criminal prosecution.	868
The presence of defendants while the distillery was in operation is merely a circumstance to show their connection with it, and will not alone justify a conviction.	876
Defendant, indicted for carrying on business without a license, and without having paid the special tax, and for failure to keep books required by law, has the burden of showing that he had a license, paid the special tax, and kept the books. 840,	843
The government, claiming that a distiller must have used more material and manufactured more spirits than he returned is bound to prove	1230

	Page
that such was necessarily the fact, and must exclude any other conclusion.	
To sustain the theory that a given amount of material will produce a certain quantity of spirits, it must be shown that this is a necessary and unavoidable inference from the facts proved.	1230
Where the official records are not required by law to show the giving or not giving of a distiller's bond, the fact may be proved by the testimony of the officer.	298
INTERPRETER.	
A sworn interpreter may take advantage of the suggestions of others who are not sworn with regard to the proper interpretation of testimony, stating the result to the court as his own interpretation.	1287
INTOXICATING LIQUORS.	
In an information for selling without license it is not necessary to specify the kind of liquor, nor the person to whom sold.	1370
All the acts of selling constitute one offense. 1370,	1371
An indictment will not lie against an inhabitant of the city of Washington for retailing spirituous liquor within the city.	872
JAIL AND JAILER.	
Debtors of the United States are not entitled to the benefit of the prison bounds in the District of Columbia.	1372
JUDGE.	
The additional judge of the orphans' court of the District of Columbia appointed under Act May 25, 1838, holds his office for life, and not during the life of the judge.	350
JUDGMENT.	

	Page
Lien.	
The judgments and decree of the circuit court of the district of Illinois constitute a lien throughout the state on the real estate of the party against whom they are rendered.	927
Where a receiver is appointed of the rents and profits in a suit to remove an incumbrance on land, so that it may be sold under plaintiff's judgment, they are in equity subject to the lien of the judgment, the same as the land itself.	210
Where the incumbrance is disposed of by settlement plaintiff paying its amount, the land, and the rents and the profits accrued become subject to the judgment, and the latter are in equity immediately applicable.	210
Operation and effect.	
A joint judgment is no bar at law to a separate suit against one of the obligors on a joint and several bond, or against his personal representative.	734
A judgment recovered between the same parties in another federal court, upon the same cause of action, may be pleaded in bar, irrespective of the time when the suit was commenced.	847 1412
Amendment.	
The court will at a subsequent term correct a judgment entered by mistake for too large a sum.	1055
Relief against: Opening: Vacating.	
Judgments are not impeachable in equity for matter which has been once tried, or so put in issue that it might have been tried.	1107
The frauds for which judgments are impeachable in courts of equity are collateral acts, extrinsic to the merits.	1107

	Page
A decree entered by mistake, though final, may be vacated by the court after the term in which it was rendered.	331
Actions on judgments.	
An action at law on a judgment obtained on a joint and several bond in a joint suit against all the obligors will not lie against the administrator of a deceased obligor.	732
JUDICIAL SALES.	
The purchaser at a judicial sale, who has paid the money to the judgment creditor, cannot, on discovering a defect of title, call on him for repayment, but his remedy if any, is against the judgment debtor.	927
JURY.	
Act Sept. 24, 1789, c. 20, § 29, in referring to the state laws, applies only to the mode of selecting jurors, and not to the number to be summoned.	901
The number of jurors to be selected for the federal courts is left to the discretion of the court, to be determined by rule.	1254
Query, whether Act July 20, 1840, is applicable only to the mode of selecting the jury, or affects the questions involved in the right of challenging peremptorily or for cause.	896
Jurors for the federal courts may be selected by the national officers as nearly as may be in the same manner as they are selected by the state officers. (Act July 20, 1840.).	1254
In the designation of jurors in the federal courts, a minute adherence to the state practice on that subject is not required by Act July 20, 1840.	545
As to what is a substantial compliance with the state practice in the selection of jurors.	545

	Page
It is a good ground of challenge to the array that the jury was summoned without any designation by the court of the part of the district from which they were to be summoned, and not according to the mode of forming juries to serve in the highest courts of law in the state.	489
The fact that a juror was not warned to attend as directed by the statute is no ground of exception where he is regularly drawn, and attends the court.	650
It is no objection to the verdict that the venire was issued and served before the indictment was returned, where the panel was returned for the trial of all causes pending at the term.	650
Before a jury is made up, incompetent jurors, who have been summoned, may be discharged, and others summoned in their places.	849
Act June 1, 1872, declaring that the federal courts shall conform as near as may be to the practice, pleadings, and modes, and forms of proceeding prevailing in the state courts, has no reference to the design nation or selection of jurors.	1254
The array cannot be challenged on the ground of impartiality of the sheriff because a partial juror has been returned.	239
In Virginia, peremptory challenges are allowed only in capital cases.	310
On an indictment for larceny in Alexandria, D. C., the prisoner is entitled to a peremptory challenge.	1273
Peremptory challenges are not allowed in a federal court except in capital cases, though they are allowed in other cases by the state law.	673
Upon a trial for manslaughter, defendant is entitled to peremptory challenges.	682

	Page
No right of peremptory challenge exists in the circuit court for the Eastern district of New York, on the trial of an indictment for misdemeanor.	840
Query, whether in the federal courts, in New York state, the government has the right of peremptory challenge where the panel is not exhausted by the challenges of the prisoner.	896
As to the right of peremptory challenges on trials for various offenses under Act April 30, 1790, c. 36.	901
The right of peremptory challenge need not be exercised until the opportunity of rejecting for cause is afforded; and, in presenting jurors for challenge, the government must first exercise its right.	213
The government cannot ask a juror to stand aside until the panel is exhausted before challenging for cause or peremptorily.	213
The prosecution may challenge a juror for cause.	55
A foreigner in Virginia is entitled to a jury de mediate linguæ. 297,	312
It is no ground of exception that jurors were set aside because they were Quakers, without objection being made by either party, and upon their mere statement that they were such.	650
It is a good cause of challenge to a juror that he voluntarily joined the Confederate army (Rev. St § 820.).	213
A formed and expressed opinion on the book in which alleged libelous passages occur will not disqualify a juror in a prosecution for seditious libel.	239
Persons who have deliberately formed and delivered an opinion on the guilt of an accused are disqualified to serve as jurors.	49

	Page
A man must not only have formed, but declared, an opinion, to disqualify him as a juror.	55
The forming and delivering of an opinion that a person indicted for treason entertained the alleged treasonable designs, and retained them, and was prosecuting them, when the act charged was alleged to have been committed, is good cause of challenge.	49
An opinion formed and delivered, not upon a full case, but upon a point so essential as to go far towards a decision of the whole case, and to have a real influence on the verdict, will disqualify the person as a juror.	49
JUSTICES OF THE PEACE.	
A justice is not liable for discharging a prisoner who has been committed for trial on a charge of felony, or for taking money in lieu of bail, unless he acted contemptuously, willfully, and with evil intent.	1053
An indictment against a justice for taking insufficient bail need not state in what respect the bail was insufficient, nor set out the security taken.	441 1413
LARCENY.	
Bank notes are not goods and chattels, and cannot be the subject of larceny at common law.	297
A person who takes and carries away muskets with intent to appropriate them, or any of them, to his own use, or permanently to deprive the owner of them, is guilty of larceny; otherwise where the taking was with the sole intent to prevent the use of them upon himself or his associates.	941
The taking by a person of an article delivered to him as a servant, to remove from one room to	480

	Page
another, and converting the same to his own use is larceny, and not embezzlement.	
The court has no jurisdiction on an indictment for larceny upon the high seas, under Act 1790, c. 9, § 16, where the taking was on board of a vessel while lying in the port of Savannah.	784
The court does not obtain jurisdiction by the fact that the property was carried on the high seas from the port of Savannah to New York.	784
A larceny committed in a place not under the sole and exclusive jurisdiction of the United States may be punishable under Act 1825. c. 276, § 3.	781
Offenses are punishable under such section according to the state laws, where they are committed under circumstances or in places in which, before that act, no court of the United States had authority to punish them.	781
An indictment for larceny under Act 1790, c. 9, must aver that the act was committed in a place under the sole and exclusive jurisdiction of the United States.	781
“Personal goods,” in such statute, do not include choses in action.	781
Sufficiency of indictment under Act Md. 1729, c. 4, § 3, for breaking into and stealing goods from a warehouse.	1263
An indictment for stealing “a mulatto boy * * * the property, goods, and chattels of T.,” is insufficient, where it does not aver that he was a slave.	1341
Upon the trial of an indictment for stealing a note of the Bank of the United States, no proof of its genuineness need be given other than by producing it.	231

	Page
Evidence that the prisoner uttered, as genuine, what purported on its face to be a bank note, is competent proof that it was a bank note, though it is not otherwise shown that such a bank existed.	1198
Where there is a reasonable presumption that the taking of the property was felonious, and against the will of the true owner, although such owner be unknown, a conviction will be sustained.	784
LIBEL AND SLANDER.	
To sustain a prosecution for a seditious libel against the president (Act July 14, 1798) there must clearly appear an intent to defame him, to bring him into contempt and disrepute, and excite against him the hatred of the good people of the United States.	631
Actual hostilities, captures of vessels, and a prohibition of intercourse, although there has been no declaration of war, renders the statement "in time of peace" false, within the meaning of the act.	631
Upon a prosecution for a seditious libel, subsequent publications or unpublished writings found in defendant's possession are inadmissible to prove the intent in publishing the libel charged.	684
Admissibility and sufficiency of evidence to prove publication of a seditious libel.	684
Sufficiency of evidence to sustain a conviction under the sedition act of July 14, 1798, for the publication of a libel against the president.	631
On a prosecution for seditious libel (Act 1798), it is for the court to assess the fine in case of conviction.	239

	Page
Where the libel is founded upon a book, it is sufficient to set out the passages complained of without giving its title.	239
The proof of justification must extend to the whole charge.	239
An allegation of "tenor and effect" requires proof of the substance only, and not the precise words.	239
LIENS.	
See. also, "Customs Duties" "Insolvency" "Internal Revenue."	
The rule that a party having a double fund to resort to will be required, as against other creditors, to first resort to that one on which he alone has a lien, will not be applied where it would operate to his prejudice.	927
Where there are two liens on the same land of different date, which also cover other lands in the state, the court will order the lands to be sold, reserving the application of the proceeds for the order of the court.	938
Priority of the United States is not affected by the local rule that lands consisting of different parcels, subject to a general incumbrance, are, in equity, to be charged in the inverse order of alienation of the separate fund.	927
LIMITATION OF ACTIONS.	
A statute of limitations does not bind the government unless it be specially named.	780
The statute of limitations of six years (Rev. St. § 786) does not apply to suits brought on marshals' bonds by the United States.	1240
LOTTERIES.	
Construction of statutes relating to lotteries as applicable to the city of Washington, D. C.	1373
MANDAMUS.	

	Page
A demand of payment and a refusal are not a condition precedent to the issuance of a mandamus to compel payment of a judgment obtained against a municipal corporation for overdue interest on its bond.	998
Where a warrant on the treasurer of a county to pay a judgment creditor is refused payment, mandamus will issue to enforce the collection of a tax to pay such judgment, and the creditor is not bound to wait his turn among other warrant holders.	676
MARSHAL.	
Under Act April 10, 1806, it is optional with the injured party to bring suit on the marshal's bond in his own name, or in the name of the United States.	771
Allowance of marshal's fees and disbursements, and for constructive travel and attendance.	487
MUNICIPAL CORPORATIONS.	
The authority of a municipal corporation to incur an obligation carries with it, by necessary implication, the duty of providing by taxation for its payment.	998 1414
The federal circuit court cannot by mandamus or otherwise, direct a municipal corporation to levy a tax larger than is authorized by law.	998
NAVIGABLE WATERS.	
The United States may bring an injunction bill in the proper circuit court to protect improvements made under the authority of congress in navigable waters, from injury which will be caused by works of internal improvement within state limits by state authority.	923
Navy.	
See "Army and Navy."	
NEUTRALITY LAWS.	

	Page
Sufficiency of affidavit giving translation of letter and cipher, taken in connection with declarations of accused to justify commitment for setting on foot a military expedition against a nation with which the United States were at peace.	2
The question whether a military expedition against a nation with which the United States were at peace was really to depend upon war being declared will not be determined upon a preliminary examination.	201
The setting on foot or providing the means of a military expedition against a nation with which the United States are at peace is an offense, notwithstanding it appear that war is inevitable, unless the prosecution of the expedition depended upon its taking place.	201
A citizen cannot make the election, or anticipate his government's making the election, to consider as an act of war the taking possession by another nation of contested territory, arising out of a dispute as to boundaries.	201
On the trial of an indictment for setting on foot a military expedition against a nation with which the United States were at peace, containing no allusion to a conspiracy, the declarations of third persons not forming a part of the transaction, and not made in the presence of the accused, are not admissible in evidence.	187
Any legal testimony which shows the expedition in question to be military, or to have been designed against the dominions or the nation, as charged, is admissible.	187
The acts of accomplices, except so far as they prove the character or object of the expedition in question, are not admissible in evidence.	187
NEW TRIAL.	

	Page
See, also, "Criminal Law."	
A new trial will not be granted because the jury was sworn to try an issue between the United States and the owner on an information for forfeiture, where the claim and answer were filed by an agent for the owner.	1182
The court should grant a new trial where it appears that a different result would follow from a second trial.	382
A new trial will be granted where the verdict is only sustained by the testimony of two witnesses for the government, as against the testimony of nine unimpeached witnesses for defendants.	382
It is only in cases imputing gross inattention, prejudice, or misconduct on the part of a jury that the court will interfere to disturb their verdict.	1093
Where a jury render a verdict against the plain principles of law as laid down by the court, and against clear and unquestioned evidence, the court will grant a new trial, notwithstanding the particular circumstances or general justice of the case.	953
A verdict in favor of defendant in an action to recover a statutory penalty will be set aside if contrary to the evidence and the law applicable thereto.	1194
A new trial will be granted on proof that one juror has acted corruptly.	382
In making up a case on which to move for a new trial, oral testimony taken at the trial, by way of question and answer, must be reduced to the form of a narrative or the court will refuse to hear the motion.	1097

	Page
In a case of great importance, involving large interests, cumulative testimony will be received on an application for a new trial.	382
OATH.	
See, also, "Affidavit"; "Perjury."	
A justice of the peace has authority to administer to defendant an oath to an answer in chancery.	680
Authority to a county clerk to swear petitioners resident in his county does not give him power to administer an oath to one who resides in another county.	816
A commissioner for a state appointed by the federal circuit court therein to take depositions in a case pending in said court has authority to administer an oath under the laws of the United States.	624
OBSTRUCTING JUSTICE.	
It is not an indictable offense to threaten to kill a constable if he should attempt to arrest a person whom he is searching for with intent to arrest without a warrant.	1381
A state court judge who in pursuance of a conspiracy, and in bad faith, releases on habeas corpus, without any ground there for a Prisoner held on examination before a United States commissioner to await the action of the grand jury, together with the other conspirators, is guilty of obstructing process.	891
OFFICE AND OFFICER.	
See, also, "Army and Navy"; "Clerk of Court"; "Customs Duties"; "District Attorneys" "Elections and Voters" "Executive Departments"; "Extortion"; "Internal Revenue"; "Justices of the Peace"; "Marshal"; "Obstructing Justice"; "Post Office"; "President"; "Sheriffs and Constables."	

	Page
The government is not bound by the acts of its officers in excess of their powers.	426
A public officer cannot, by subsequent declarations, invalidate his own official act.	545
The compensation of special officers employed by the head of a department may be fixed by special agreement.	231
Where the accounts of a public officer employed by the head of a department under a special contract are settled, and a certain rate of compensation allowed he continues to be entitled to the same rate of compensation until a new agreement is made.	231
A receiver of public moneys is entitled to his commissions on moneys received though he resigns or is removed from office at the termination of the first six months of the last year covered by his appointment.	977 1415
where a public officer, at the request of the head of a department, performs other public duties than those properly belonging to his office, he is entitled to extra compensation.	953
Construction of Act Aug. 23, 1842, § 2, and Act March 3, 1849, in relation to extra compensation to officers.	596
Construction of Act Aug. 6, 1846. §§ 6, 22, and Act June 30, 1864. § 170, as to the allowance to an assistant treasurer of commissions on the sale of stamps.	227
No claim of a public officer for a credit can be admitted on a trial unless presented to and disallowed by the accounting officers of the treasury. (Act March 3, 1797.) A suspension is not a disallowance.	953
In an action by the government against an officer or individual to recover moneys claimed of him,	527

	Page
defendant is entitled to an allowance of all equitable demands of his against the United States which have been disallowed by the accounting officers.	
The liabilities of sureties on official bonds cannot be extended beyond the reasonable necessary import of the language of the bond.	414
An official bond conditioned in the language of certain statutes cannot be held to include the liability of the officer under other statutes existing at the time the bond was given, and not referred to therein.	414
The condition of a bond of a public officer to discharge the duties according to law refers to existing laws and those passed during his term of office.	1267
Where a balance is left in the hand of a public officer at the expiration of his first term, its illegal appropriation by him will not be presumed in favor of a surety on his second bond.	970
The surety of a navy agent is liable for misappropriation of public moneys by his principal, though they were advanced to him contrary to law	740
The bondsmen of the assistant treasurer of the United States at New York are liable for moneys lost by his clerks while in his hands as an officer.	227
The debt of a paymaster to the United States is created by the advances made to him, and not at the time of striking a balance of accounts against him on the treasury books; and his surety becomes a debtor as soon as the paymaster fails to account according to law.	447

	Page
In an action on a bond of a disbursing officer, the sureties may prove that a disputed item of credit claimed has been presented to and disallowed by the proper accounting officers, though the treasury transcript does not show such fact.	667
In such action defendant is entitled to a credit for moneys reasonable in amount paid by such officer and for services rendered by him in good faith, in the proper discharge of his official duties.	669
Where the breach of an official bond alleged is the failure to pay over or account for a certain sum a dereliction of duty in not collecting such sum cannot be shown.	1339
PARTIES.	
The court can recognize the United States as plaintiff on the record only when the record shows that they appear by the district attorney.	894
The assignee of an insolvent debtor to the United States is a necessary party to a suit by them, for an accounting of property of the debtor, in the hands of third persons.	673
PARTNERSHIP.	
The application by a partner of funds of the firm to the payment of taxes on his individual estate does not give the firm creditors a lien on the land.	927
PATENTS.	
Suit to invalidate patent.	
A bill in equity for the surrender of letters patent brought in the name of the United States, but not appearing to have been brought by a district attorney, is bad on demurrer.	894
Infringement—Injunction and its violation.	

	Page
A sale of a patent while the suit is pending in relation to it, and before an injunction is issued, is not a contempt of court.	793
PAYMENT.	
Payment to a public officer, if unaccompanied by oral or written remonstrance or protest, is voluntary.	461
An action by the United States to recover the amount of a draft paid upon a forged signature will not lie against the banker who innocently collected the same, after the lapse of six years.	618
PENSION.	
Under the constitutional authority to raise and support armies, congress has power to bestow bounties and pensions upon those who may engage in military service.	1035
Under such provision, congress may make it an offense to detain from a military pensioner any portion of the sum collected in his behalf as his pension.	1035
Act July 4, 1864, §§ 12, 13, limiting the fees of pension agents and attorneys, and making it a misdemeanor to take any greater compensation, is constitutional.	1035
An agent is indictable under such act who withholds from a pensioner a pension granted under a later act.	377
PERJURY.	
See, also, "Affidavit"; "Oath."	
An oath to do a certain thing in the future cannot be the subject of a prosecution for perjury.	1339
To sustain an indictment for perjury, the oath must be administered by some one authorized.	816
Whether perjury committed on a hearing on a criminal complaint before a district judge is	441

	Page
punishable under Act April 30, 1790. c. 9. § 18, query.	
An indictment for subornation of perjury must aver that defendant knew that the testimony which he instigated the suborned witness to give was false, and that in giving such testimony, the witness would commit the crime of perjury.	817
The materiality of the facts sworn to must appear in the indictment either by averment or by a statement of facts which show their materiality.	680
It must be shown that defendant was sworn in a matter where an oath or affirmation is required under a law of the United States, and that he knowingly and willingly swore to that which was false, to convict under Act March 3, 1825, § 13.	624
The prosecution must show that the oath was administered to defendant by the person named, that he had authority to administer minister it, and that defendant swore with a wicked and corrupt intent, willfully false in regard to the matters alleged to be untrue.	624 1416
The statements of defendant which are made the basis of a charge of perjury must be disproved by two witnesses, or by one witness and corroborating circumstances.	624
It is only necessary to prove so much of the testimony of the witness as relates to the particular fact on which the perjury is assigned.	1022
The copy of the record in the cause in which the perjury was committed, where the court is the same, need to be produced.	1022
Papers filed by the prisoner to sustain the allegations contained in the original paper, if they tend to establish the charge made in the indictment as to guilty knowledge, will be admitted in evidence.	1245

	Page
There need not be positive evidence that the paper was sworn to by the prisoner; it may be proved by circumstantial evidence.	1245
PERSONAL PROPERTY.	
Actual possession is not necessary to a transfer of personal property, nor is the want of it even an indicium of fraud, where from the circumstances, as in the case of goods at sea, it cannot be obtained.	811
It is no objection to the vesting of the right of property in the consignee for value or whose debt it is to secure, that the goods are, by agreement, to be at the risk and for account of the consignor.	811
PIRACY.	
The crime of piracy, as defined by the law of nations and the acts of congress consists of robbery or forcible depredation upon the sea.	399
In order to affect all the officers of a piratical vessel with guilt, the original voyage must have been undertaken with a piratical design, and the officers and crew have known and acted upon such design; otherwise, those only are guilty who actively co-operated in the piracy.	1287
The simple fact of presence on board the piratical vessel, where there was no original piratical design, is not sufficient per se to affect a party with a crime.	1287
Slave trade is not punishable as piracy.	658
Parol evidence is admissible to establish the time of sailing and the course and termination of a voyage, without proving that the log book was missing or lost.	1287
PLEADING AT LAW.	

	Page
The plea of nil debet is improper where the action is founded on a deed; otherwise where the deed is only inducement to the action.	725
A rejoinder must answer the replication, and tender an issue on a single point, else it is demurrable.	725
POST OFFICE.	
The postmaster general has no power under Act June 27, 1848, to impose a fine on a contractor for carrying the mails for delays, except for the causes specified in the act.	539
A recommendation by the postmaster general to the secretary of the navy to make a deduction from the pay of a contractor, on the ground that a portion of a service was performed by a steamer not of the class stipulated for in the contract, is not the imposition of a fine within the terms of the act.	539
The discretion of the postmaster general in granting or refusing extra allowance to postmasters for extra labor and expense in certain cases (Act June 22, 1854) not subject to judicial review.	776
No postmaster has a legal right to the allowance for the necessary cost of rent fuel, etc. (Act July 1, 1864, § 5), until it is awarded him by the postmaster general.	776
In an action on a postmaster's bond, defendant may counterclaim items which have been duly presented to the proper department for allowance and rejected.	776
The sureties on a postmaster's bond are discharged where suit is not brought in two years after the defalcation.	780
Act March 3, 1825, § 21, prohibiting mail carriers carrying letters or packets does not	392

	Page
prohibit their carrying a package containing executions only.	
The unlawful stopping of passenger tram by persons who are willing to permit the passage of the mail car detached from the passenger car is punishable under Rev. St. § 3995 as a willful obstruction or retarding of the passage of the mail.	443
A postmaster who uses the money received through his office in paying his private debts, so that, upon examination, his accounts do not balance, is guilty of embezzlement (Act June 8, 1872, § 122) though he intended to replace the money, and made the same good shortly after his arrest.	1318
After the deposit of a letter in the post-office, no one except the writer or the addressee, or some one authorized by them has the right, while it is there, to open it, for the mere purpose of ascertaining its contents.	975
Neither the postmaster nor other officers have any authority to open it under the pretext that there might be something improper or even criminal therein.	975
An indictment against a post-office employe for embezzling letters intrusted to him, and stealing bank notes therefrom (Act April 30, 1810, § 18), need not aver that the letters were intended to be conveyed by post.	1349
The embezzlement of the letters had stealing bank notes therefrom may be charged in the same count of the indictment.	1349
A decoy letter, containing money, mailed for the purpose of entrapping an employe in a post office, who opens it, and takes the money, is within Act March 3, 1825, § 21. 673,	1198

	Page
The description of the termini between which the letter was intended to be sent by post cannot be rejected as surplusage, but must be proved as laid.	1198
In an indictment for larceny from a letter under section 21, the property stolen must be laid on some person other than the prisoner. 723,	1198
An indictment against a postmaster for embezzling bank notes from the mail must aver that the note was a thing of value.	723
An errand boy authorized to receive letters from the mail, who embezzles the contents of a letter so received, is not liable under Act March 3, 1825, § 22 as the taking was lawful.	914
The delivery of a letter to an errand boy is a delivery to his employer, within Act March 3, 1825, § 22, and he cannot be convicted of opening the same “before it shall have been delivered to the person to whom it is directed.”	914
Notes of a third person, sent by a depositary with notes of his own, and stolen from the mail, may be laid in the indictment as the property of the depositary.	207 1417
An indictment charging a mail earner with stealing a letter out of the mail is sufficient without alleging that it contained an article of value.	1086
On a trial for larceny from the mail, the best evidence of mailing is that of the person who mailed the letter, and of its loss of the person to whom it was addressed.	705
The postmasters through whose offices the embezzled letters were passed or distributed must be called as witnesses on a prosecution for stealing letters out of the mail.	1013

	Page
Sufficiency of evidence to sustain conviction for robbing the mail.	720
An indictment charging defendant with depositing in the mail an obscene pamphlet, and a notice giving information how an article designed for the prevention of conception can be obtained, need not give a definite or detailed description of the pamphlet.	1140
Sufficient information as to the particular article about which evidence is to be give can be obtained by an order for a bill of particulars, and for the exhibition to defendant of the article itself.	1140
A notice in the form of a letter inclosed in a sealed envelope, if it give the prohibited information, is within the scope of the statute.	1140
A written slip of paper giving the prohibited information is a "notice," within the meaning of the statute, although not volunteered, but sent in reply to a letter asking for the information.	1140
PRACTICE AT LAW.	
Where the minutes of the court show that the judge delivered an opinion overruling exceptions, and confirming a survey of a Mexican grant, but no decree appeared to have been made or written opinion filed, <i>held</i> , that the cause was still pending, and a court succeeding to the jurisdiction might enter a decree, or, on proper showing, re-examine the case.	1242
To support a motion made after a decision to correct an agreed statement of facts on which the case is tried, the moving party must not only show that the statement was actually erroneous, but that he had not been guilty of laches.	230
PRESIDENT.	

	Page
A subpoena may issue to the president to compel his attendance as a witness, and an accused person is entitled to it of course.	30
A subpoena may issue to the president directing him to bring any paper of which the party praying it has a right to avail himself as testimony.	30
PRINCIPAL AND SURETY.	
See, also, "Office and Officer."	
Sureties who bind themselves jointly and severally as principals in a bond are equally liable in equity with the principal debtor.	734
A surety is released by any modification in the contract made without his consent by agreement between the principals, though in a particular not deemed essential by them.	316
Sureties for the performance of a contract with the government to build a ship canal, and keep it open for a certain number of years, are discharged where the government accepts the work done in a different manner than as contracted.	671
An assent by an heir of a deceased surety to the release of the principal debtor, without prejudice to the surety's liability, will not prevent the release from discharging the surety.	732
PRIZE.	
A person residing in the enemy country long enough to acquire a domicile there is subjected to all the disabilities of an enemy, so far as relates to his property.	1008
The domicile of the owner at the time of the capture of the vessel determines whether she is of hostile character or no. The fact that she is enrolled in a port of a rebellious state is not conclusive.	1232

	Page
A neutral flag constitutes no protection to enemy's property, and a belligerent flag communicates no hostile character to neutral property.	1008
A vessel sailing under the flag of the enemy is considered as enemy property, and is liable to confiscation, jure belli.	1008
The sale of a vessel of war by a belligerent to a neutral during hostility is not valid as against the other belligerent.	1025
Under Act July 13, 1861, goods forming the cargo of a vessel proceeding to a point in the insurrectionary states are liable to forfeiture only when in transitu, and the vessel only while the contraband cargo is on board.	1201
Under the regulations made under the authority of Acts July 13. 1861, May 20, 1862, and July 2, 1864, a vessel engaged in a prohibited trade is liable to forfeiture even after the termination of the prohibited voyage and the discharge of the contraband cargo.	1201
A vessel has not proceeded or departed on her voyage within Acts July 13, 1861, and May 20, 1862, and the rules and regulations of the secretary of the treasury supplementary thereto, until she is outside the limits of the harbor or her port of departure.	1284
The claimants of a vessel subject to condemnation cannot contest the competency of libelants alone to control the proceeds of the forfeiture.	1371
An application for further proof will be refused where the claim and test affidavit of the claimant are utterly at variance with his answers to the standing interrogatories.	1008

	Page
An attempted breach of blockade cannot be predicated on the intention to land the cargo of a vessel wrecked on an enemy's coast temporarily on the adjoining shore, until it could be conveyed to a loyal port.	1232
PUBLIC LANDS.	
See, also, "Grant."	
Sioux half-breed scrip cannot be located by other than the party to whom the scrip issued in person, unless the application be accompanied with a power of attorney from him.	407
Sioux half-breed scrip cannot be located on land occupied by another.	407
No patent can issue pending a contest before the register and receiver of the United States land office between a purchaser from the state, on a state selection, and a claimant under Sioux half-breed scrip location.	407
As to the control and disposal of lands in the city of San Francisco, whose title was derived under the Mexican law.	304
What is an occupation for public uses under Act 1864, which excepts from the grant to the city all sites or other parcels of land in such occupancy by the United States.	304 1418
An indictment for cutting oak on public lands cannot be sustained by evidence that defendant cut pine.	767
The rule of proof on an indictment for cutting and removing timber from public lands is fixed by the statute. (Act March 2. 1831.).	767
A permit to enter on land containing lead ore may be shown in an action of trespass by the United States; not as a justification but to show the nature and object of the entry.	1271

	Page
A final receipt by a government officer authorized to act in the premises for rent where subsequent to the trespass alleged is a full discharge, although the officer may never have accounted for the money received.	1271
QUI TAM AND PENAL ACTIONS.	
A declaration to recover a statutory penalty must demand a precise sum, although the statute declares that the penalty shall be "not more than" a sum stated.	1000
RAILROAD COMPANIES.	
The Central Pacific Railroad Company did not become liable to apply 3 per cent of its net earnings annually to the payment of the principal and interest of the government subsidy bonds, until the completion of its road as accepted by the president. October 1, 1874.	354
RAPE.	
It is not a fatal defect in an indictment for rape that it also alleges that the woman was gotten with child.	849
RECEIVING STOLEN GOODS.	
Stolen postage stamps sent by the thief to defendant were delivered up to a postmaster on written order of the thief, but were subsequently allowed to go forward and to be delivered to defendant. <i>Held.</i> that they lost their character as stolen property.	796
Recognizance.	
See "Bail."	
RECORDS.	
The register of the orphans' court in Alexandria is entitled to the custody of the record books to wills of the old court of hustings.	817
REPLEVIN.	

	Page
Property released to the defendant on a forthcoming bond is still in the custody of the court, and not subject to seizure under a writ issued out of another court.	732
RIOT.	
An assemblage for the purpose of seizing a man without lawful authority executed by tumultuously surrounding his house, and entering it is a riot.	1062
All concerned in an unlawful assembly are equally guilty of the subsequent arts done by any of them in furtherance of the common object.	1062
In the indictment, it is sufficient to state that defendants assembled to disturb the peace and, being so assembled, did certain unlawful acts.	1062
It is an indictable offense at common law to incite others to insurrection, tumult, and riot; and the indictment need not aver that insurrection, tumult, and riot were thereby excited.	1062
It is not necessary, in order to convict defendant of a riot, that the intended act of violence, or any act of violence, should have been perpetrated, or that they should all have been present during the act.	1062
The marshal has the right to take the posse, and to call on all citizens to aid him in arresting rioters, and the citizens have a right to arm themselves.	1062
Where defendant's witnesses testified that they were of the party concerned in the not, they will not be allowed to give evidence of their intention.	939
SEAL.	
A mark with ink, acknowledged by the maker of a deed. <i>held</i> sufficient to create a specialty.	485

	Page
SEAMEN.	
Protection and relief.	
The penalty imposed for failure to provide medical stores, etc., may be recovered by the United States by a civil action, when brought in the circuit court for the district of Massachusetts.	1000
The contract of shipment.	
An agreement with a Seaman on a voyage from New York to a port in Mexico is required under the act of July 20 1790 in the form prescribed and under the penalty provided by the act of June 7, 1872.	429.
The contract is not affected by the death, removal or resignation of the original master, but the seaman must perform the voyage under the person lawfully substituted in his stead.	321
Conduct of master or mate in respect to seamen.	
The master is justified in using a deadly weapon to reduce a seaman to obedience only in cases of apparent necessity, such a the Situation of the ship and the manifestation of a hostile disposition on the part of the crew.	490
Offenses.	
The Crew are guilty of an endeavor to make a revolt where they combine together to refuse to do duty, and actually infuse until the master complies with some improper request on their part. (Act 1790. c. 9, 12.	1258
A mere disobedience of orders by one or two seamen, without combining with the others, is not a revolt.	1141
It is a revolt where, by the overt acts of the crew, there is intentionally caused an actual or constructive suspension of the master's command.	1141

	Page
If seamen really believe, upon reasonable ground, that a vessel is unseaworthy and ask for a survey, they are not bound to go to sea in her until such request is granted.	1331
The seamen may lawfully resist an attempt to compel them to go to sea in a vessel whose masts are rotten and unfit for the voyage though the master promises that he will keep in a certain latitude, and carry certain sails for which the masts are sufficient.	1331
Where the person substituted as master is grossly incompetent from want of skill or bad habits or profligate and cruel behavior, seamen are justified in refusing to do duty.	321 1419
On an indictment under Act March 3, 1835 § 3, the government must show that the act was without justifiable cause and a willful departure from a known duty.	740
To sustain an indent for an endeavor to commit a revolt (Act 1835, c. 40, § 2), a confederacy or combination must be shown between two or more seamen to refuse to do further duty aboard ship and to resist the lawful commands of the officers	321
On the trial of an indictment for endeavoring to make a mutiny and revolt, the American character of the vessel must be proved; but the title may be proved by parol.	692
On a charge of revolt a copy of the shipping articles cannot be given in evidence to show that the prisoner was part of the crew, without proof of loss or destruction of the original.	895
The original articles cannot be given in unless the handwriting of the evidence is Proved.	895
“Justifiable cause” for forcing a seaman on shore (Act 1825. c. 276, § 10) means a case of moral	485

	Page
necessity for the safety of the ship and crew, or the due performance of the voyage, and not merely a cause Justifying a discharge.	
Flogging is not a cruel and unusual punishment, Within the meaning of Act March 3, 1835 § 3.	543
The act abolishing the punishment of flogging (Act March 3. 1835) is not a penal law and no indictment can be framed up on it.	740
A Whaling Ship is a vessel of commerce within the act.	740
Any punishment which, in substance and effect, amounts to corporal punishment by stripes inflicted with a cat is within the provision of the statute, irrespective of its degree.	740
SEIZURE.	
See also, "Customs Duties" "Forfeiture"	
"Informers" "Internal Revenue."	
A person is not liable for carrying away goods under seizure (Act 1799, c. 22, § 71) unless a seizure has been lawfully made and possession taken and continued by the officer, and the goods are carried away forcibly/knowing them to be under seizure.	607
SHERIFFS AND CONSTABLES.	
A constable having a warrant to arrest a man for assault and battery may break open the door of his dwelling house to arrest him.	1053
An indictment lies for acting as constable without giving bond.	1034
The sureties of a constable's bond are not liable for money collected by the constable without legal process.	692
SHIPPING.	
Public regulation.	
Where in rebuilding a vessel, each timber of the old vessel is dislocated before being used in the	1387

	Page
new, the vessel is a new one, and must bear a new name though having the model of the old vessel.	
An American vessel belonging to American citizens, and sold abroad to American citizens, does not cease to be an American vessel.	1364
A native citizen of the United States who resides in a foreign country may command a registered vessel without her right to the payment of domestic duties being affected thereby; but he cannot be the owner of such a vessel. (Act Dec. 31, 1792.).	1321
A registered vessel transferred to a citizen of the United States will lose her privilege as an American vessel unless she is registered anew.	1147
A vessel does not become denationalized where she continues running without a renewal of her license after being sold to a citizen of the United States.	1147
The title to a British vessel purchased by an American was taken in the name of a British subject, and subsequently, without consideration, transferred to a Russian subject, inhabitant of Alaska. An American register was obtained on the taking of the oath prescribed by Act 1792. <i>Held</i> , that the resister was fraudulent.	1065
A steam vessel usually employed as a towboat, which transports passengers from Buffalo to Canada, and back, for pay, <i>held</i> liable to the penalty for transporting passengers without a license. (Act July 7, 1838 §§ 2, 42.).	974
The report required to be made by the master of the arrival of his vessel (Act 1790, c. 35, § 16) must be made at the office of the chief officer of the customs.	1236

	Page
In a prosecution for not making the requisite report, the government has the burden of showing that it was not made at the proper office.	1236
The fines imposed upon the master by Act March 3. 1855, §§ 1,6, for acts which are therein declared to be misdemeanors are not made not made a lien upon the misdemeanors are not made a line upon the vessel.	1024
What facts will justify a conviction for packing for shipment or shipping gunpowder not put up and marked as required by law. (Act Aug. 30, 1852.).	410
The penalty for the carrying of burning or explosive fluids by passenger steamers (Act Feb. 28, 1871, § 4) cannot be recovered by a proceeding in rem.	353
An indictment under Act July 7, 1838. § 12 against the officers and employes of a steamboat, is sufficient if it charge them substantially in the language of a statute with misconduct, negligence, or inattention to their respective duties, whereby the lives of passengers are destroyed.	554
In such an indictment, several defendants occupying different stations of employment may be joined without showing that their acts were jointly destructive, of the lives of those on board, or were joint in their commission.	554
Where the captain has employed skillful and faithful subordinate officers and employes he cannot be held guilty where the destruction of the lives of persons on board is directly caused by their misconduct, negligence or inattention.	554
A person who takes the place of the captain while he is sick, and exercises the authority and	354

	Page
control, and discharges the duties of that office, is a person "employed on board," within the meaning of the statute.	
The "captain of a steamboat is responsible for the proper performance of the duties of inferior officers whose authority is not expressly made independent of him.	1042
The burning and loss of life must be shown to have been the direct consequences of the negligence or misconduct shown, but the degree of misconduct is immaterial.	554
A willful or intentional mismanagement or misconduct is not of the essence of the offense, but it consists in an improper act of the kind designated, and having the results named. 554,	1042 1420
Under Act March 3, 1825, § 23, which punishes a conspiracy to destroy a vessel or cargo with intent to defraud the underwriters, the burning of the vessel is not necessary to complete the offense.	493
The destruction of the vessel by the defendants, or by any one of them, identified with defendants as conspirators, is conclusive against them.	493
Duties of the captain as to the proper adjustment and care of the safety valve on the stoppage of the boat.	1042
SLAVERY.	
General reputation of freedom is sufficient to rebut the presumption of slavery arising from color.	1086
The circuit court of the District of Columbia has no jurisdiction of an indictment for riot and assault and battery by slaves in Alexandria county.	265

	Page
Effect of failure to enter on the manifest as part of the cargo slaves engaged in performing duties as members of the crew.	1200
The power to prohibit the foreign slave trade is part of the power of congress to regulate foreign commerce.	1375
Construction of Act May 15, 1820, for suppressing the slave trade, and sufficiency of indictment thereunder.	754
An indictment will not lie for selling a negro or slave who was unlawfully imported.	1375
After negroes imported on violation of the laws prohibiting slave trade are mingled congress has no further power over them.	1375
An American vessel on her outward voyage to the coast of Africa for the purpose of there taking on board slaves is forfeited under Act May 10, 1800, though her ownership is changed under a prior arrangement before the slaves are actually taken on board.	332
Sufficiency of evidence to sustain an indictment for forcibly confining and detaining negroes on board a vessel with intent to make them slaves. (Act May 15, 1820, § 5.).	1364
Any interference by word or act for the purpose of favoring the escape of a fugitive slave arrested under Act Sept. 18, 1850, and tending to that result, is a violation of the act.	481
Power of the circuit court of the District of Columbia to appoint commissioners under the fugitive slave law of 1850.	646
STATES.	
No state has a right to withdraw from the Union at pleasure with or without cause.	344
After a state has been admitted into the Union upon an equal footing with the original states,	1155

	Page
the United States cannot abridge its sovereign power over territory embraced within its limits, by a treaty with an Indian tribe therein.	
Where the purchase of land for the erection of forts, magazines, arsenals, dock yards, or other needful buildings is made by consent of the state legislature, such land, under the constitutional provision, falls within the exclusive legislation of congress.	646
The purchase of lands by the United states for public purposes within the territorial limits of a state does not of itself oust the jurisdiction of sovereignty of the state over such lands.	646
STATUTES.	
Rev. St. § 5481, defining the crime of extortion under color of office, being passed after the cession of Alaska, is in force there from the time of its passage.	303
Where a cause of action falling within the terms of Act 1823, § 2, arose after the passage of Act July 18, 1866, and before the passage of the Revised Statutes, no suit can be maintained thereon after the passage of the Revised Statutes.	437
The fine provided by Act 1866, § 4, which is substantially identical with Rev. St § 3082, cannot be recovered in a civil action.	437
A statute revising another act, and embracing its entire subject-matter, with additional provisions, impliedly repeals the prior act.	414
Act July 18, 1866. § 4, did not effect such a repeal of Act March 3, 1823, § 2, as took away the right of the United States to proceed thereunder upon a cause of action which arose before the act of 1866 took effect.	437

	Page
In construing a statute, the facts and circumstances which led to and surrounded its passage, as derived from the congressional journals and debates, and documents laid before congress, will be considered.	527
Where a statute uses words whose meaning is well ascertained by the existing jurisprudence, they are understood in that meaning, unless another meaning is clearly intended.	441
In the construction of a statute, other statutes in pari materia will be considered	527
statutes creating crimes will not be extended by judicial interpretation to cases not plainly and unmistakably within their terms.	458
In such cases the courts will not by construction, ingraft words in one section upon those of another, unless the legislative intention be plain and clear.	458
A foreign law and the practice under it may be proved by one acquainted therewith.	1245
Printed statute books of the parliament of Great Britain, purchased of the queen's printer, are admissible as prima facie evidence of the laws contained therein.	363
TREASON.	
See, also, "Amnesty."	
A person will not be <i>held</i> to trial for treason in levying war against the United states on an affidavit that he is enlisting men for such purpose, without proof of the actual embodying of men, where ample time is given to get such proof.	2
The engaging or enlisting of men for-levying war against the United States, not followed by a future embodying of such men is not Punishable as treason.	2

	Page
The act of revolutionizing a territory of the United States, though only as a means for an expedition against a foreign power, is treason.	2
An intention to commit treason against the United States by levying war, not carried out by the actual assembling of troops is not punishable as treason.	2
To constitute the assemblage of a body of men, for the purpose of making war against the government, an act of levying war it must be a warlike assemblage, carrying the appearance of force, and in a situation to practice hostility.	55
The fact of levying war may consist of a multiplicity of acts performed in different places by different persons, and any one of such persons, when leagued in the general conspiracy, is liable as a principal traitor.	55 1421
Either acts of hostility and resistance to the government, or a hostile intention in the body assembled, are necessary to convert a meeting of men with ordinary appearances into an act of levying war. A treasonable intent on the part of the leader, uncommunicated to the assemblage, is not sufficient.	201
The fact that treason might incidentally arise in the attempt to embark troops against a foreign nation, with which the United States are at peace, will not affect a previous assemblage of troops, where the treason was neither committed nor intended.	201
Query, whether a person who advises or procures a treasonable warlike; assemblage and does nothing more, is guilty of treason under the constitution.	55
The ordinances of secession of the states in rebellion do not furnish any defense, to their	344

	Page
citizens for treasonable acts against the United States government.	
An indictment for levying war against the United States must specify an overt act, and the charge must be proved as laid.	55
A person who advised or Procured a warlike assemblage, charged as the overt act of treason, cannot be convicted treason until after the conviction of one of those charged with the overt act.	55
Where it is charged that a war was levied without striking the blow, the intention to strike must be plainly proved.	201
Where defendant is charged with being present at the place of the treasonable assemblage, charged as the overt act, the proof must show defendant's presence with such assemblage, or his intention to join it at such place.	55
The overt act of levying war must be proved by two witnesses before testimony is admissible relative to the conduct or declarations of the prisoner elsewhere, and subsequent to the overt act charged.	55
Proof of procurement of a warlike assemblage, if admissible to establish a charge of actual presence, must be made in the same manner, and by the same kind of testimony, which would be required to prove actual presence.	55
Query, Whether, after proving a connection for some general object between persons accused of treason in levying war, the conversations of one with third persons may be given in evidence against the other to prove what that object was.	201
On trial for treason in levying war against the United States, any proof of intention formed	55

	Page
before the overt act charged, if relevant thereto, may be admitted before proof of the act itself.	
Proof of remote intentions may be relevant by proof of the continuance of the intention, and consequently is admissible.	55
Facts out of the district may be proved after the overt act as corroborative evidence of the intention.	55
On the trial of a person indicted for treason in levying war against the United States, the court cannot control the order of proof to the extent of requiring the prosecution to prove the overt act charged, before proving the intention with which such act was committed.	52
TRIAL.	
See, also, "Continuance"; Criminal Laws"; "Evidence"; "Jury"; "New Trial"; "Practice"; "Witness".	
The Court may demand a statement in writing of questions intended to be put to a witness, in order that no illegal evidence may be heard by the jury, and make an undue impression.	239
A question cannot be put to a witness the relevancy of which does not appear.	1287
Facts which, if standing alone, would be irrelevant, are admissible upon the statement of counsel that they constitute a part of a chain of evidence which, as a whole, would be relevant.	1124
The court may direct at what part of such proposed chain of evidence counsel shall begin.	1124
Where a witness, in his direct examination, has testified that a certain person was reputed to be a man of large property, he may be asked on cross-examination in what such property was reputed to consist.	1124
A witness with a chart before him may be asked whether, under the circumstances stated of the	1287

	Page
supposed time of the starting of the two vessels, they would or would not be likely to meet at the point marked on the chart.	
A witness cannot be called to prove handwriting to contradict another who has neither admitted nor denied that the letters were in his handwriting.	1245
Counsel will not be permitted to argue to the jury against an instruction given in the case.	589
It is no invasion of the privilege, of the jury for the court to present its views of the nature, bearing, tendency, and weight of the evidence.	1182
A point of law embraced in the argument need not be noticed in the charge unless the court's opinion upon it is explicitly required.	1182
Where, in a joint action of tort, there is no evidence as to one defendant, a verdict against all of them will be set aside.	382
Where, in such case, defendant's sever in their pleas, and a verdict is returned against all, the case may be non pros'd as to one against whom there was no testimony, and judgment entered against the others.	382
TRUSTS.	
A person who agrees to pay a certain sum from a particular fund as soon as he shall receive it will, in equity, be regarded as a trustee of the fund to that extent.	293
UNITED STATES.	
See, also, "Insolvency."	
The receipt for redemption by the assistant treasurer of certain notes of the United States as genuine will not bind the United States in any manner if the notes were not in fact genuine; and an action will lie to recover the amount	611

	Page
paid thereon, irrespective of the bona fides of defendant.	
In an action by the United States to recover the amount of money paid on notes presented for retirement, on the ground that they were not genuine, the burden of proof is on plaintiff to show that fact.	611
Execution creditors may sell vessels on which the government has a lien under chattel mortgages made for advances to build them, subject to such lien, where a sale under the mortgages can only be had on six months' notice.	539
Where the United States enter the court as litigants, they waive their exemption from legal proceedings, and stand upon the same footing with private individuals.	1107
VENDOR AND PURCHASER.	
In Massachusetts and Maine a prior unrecorded deed is not good as against a subsequent attachment creditor without notice thereof.	277 1422
WAR.	
See, also, "Neutrality Laws" "Prize"; "Treason".	
Act July 13, 1861, providing for the forfeiture of all "goods and chattels, wares, and merchandise" coming from or proceeding to the insurrectionary districts, includes gold coin.	279
Transporting gold to a territory in insurrection, without a license, will subject it to forfeiture, though the insurrectionary district was at the time in possession of the federal forces.	1271
After the Rebellion had ceased, and the authority of the United States was acknowledged in a state, there is no jurisdiction to try offenses by citizens against soldiers upon military commission.	590
WITNESS.	

	Page
A wager on the event of a trial, being void at law, will not render the person incompetent as a witness.	309
In joint indictments, one of defendants is not a competent witness for another, unless he has been acquitted.	467
Where two persons are jointly indicted for robbery, and one is acquitted, and the other convicted, a new trial may be granted the latter, on which the other may be examined as a witness.	277
A defendant convicted of an infamous offense, if not sentenced, is a competent witness.	850
The owner of goods stolen, having released to the government and to the prisoner all interest in a fine, is competent for the prosecution.	297, 440
The person intended to be injured by a forgery, and the person whose name is forged, if they have not paid money upon the forged paper, are competent to prove the forgery.	684
Upon an indictment against the husband for assault and battery of his wife, she may be examined as a witness against him.	1092
A Malayan, baptized and educated in the Christian religion, is not a Christian white person, within the Maryland laws and the testimony of negroes and mulattoes is admissible against him.	901
Competency of free negroes, mulattoes, and slaves. 213, 775, 896, 1051,	1086
An officer is not bound to be a witness against himself on a charge of misconduct, whether amounting to an indictable offense, or only to his discredit, which would furnish ground for his removal or impeachment.	545

	Page
A witness is not bound to answer a question which may render him infamous, or may disgrace him. 682,	850
A witness is not bound to answer a question which might possibly criminate him.	1363
In determining the right of a witness to refuse to answer on the ground that his answer might tend to incriminate him, it is the province of the court to judge whether any direct answer to the question proposed will furnish evidence against him.	38
If any direct answer may disclose a fact which forms a necessary link in the chain of testimony to convict the witness of any crime, he is not bound to answer.	38
In such case the witness himself must judge what his answer will be, and he cannot be compelled to answer if he say on oath that he cannot answer without accusing himself.	38
The Secretary of a person charged with treason cannot refuse to answer whether he has present knowledge of the cipher in which is written a letter purporting to have been written by the accused, as any direct answer could not tend to implicate him.	38
The court should not instruct witnesses as to their privilege of refusing to answer questions, on the ground that the answers might incriminate them, until the questions are asked.	754
A witness cannot be impeached by proving a statement different from the one sworn to, unless he has been examined as to his having made such statement.	850
On cross-examination a question irrelevant to the matter in issue cannot be asked to impeach the witness.	850

	Page
The character of a witness may be impeached by general questions as to his truth.	850
Where a cross-examination calls out collateral facts tending to create distrust of the integrity, fidelity, or truth of a witness, it is competent for the adverse party to call for an explanation from the witness.	985
A witness cannot refresh his memory as to conversations by reference to memoranda copied by himself from notes made by him at the time of the conversations.	55
Members of congress are not exempt from compulsory process to require their attendance as witnesses in behalf of one charged with crime.	626
One who was not a Quaker, being called as a witness and refusing to be sworn on the ground of conscientious scruples arising from a declaration formerly made, may be committed for a contempt.	622
Prior service of a subpoena upon a witness who fails to appear is an indispensable requisite to awarding an attachment against him.	238
County court judges are not excused from obeying a subpoena on the ground that the state supreme court judges are holding a nisi prius court in the county.	238
A failure to tender travel fees to a witness subpoenaed by the government will not excuse his failure to appear, if he has means to travel.	944
Where a witness appears in court at the term mentioned in his recognizance, and the same is not respited, he is not bound to attend at the following term to which the cause is continued.	213

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

through a contribution from [Google](#). 