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A judgment confessed within four months of the filing of the petition by an insolvent debtor to a creditor having a reason to believe him insolvent, though in consideration of a pre-existing debt, is in fraud of the act.	1246
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A mortgage given by a firm is not fraudulent as to creditors because it, in terms, adopts a debt incurred by one of the partners in behalf of the firm, and includes that in the mortgage.	1338
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BANKS AND BANKING.

See, also, "Bills, Notes, and Checks."

The assignee of bonds deposited with the treasurer of the United States as security for the redemption of national bank notes cannot question the validity of the ap- 941
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The making of false entries by a clerk in a national bank by direction of the president constitutes the latter a principal in the offense of making false entries. 954

An intent to defraud a bank will be inferred from the fact of embezzlement. 954

BILLS, NOTES, AND CHECKS.

Indorsement and transfer.

A United States "seven-thirty" note, payable to the order of—and not having the name of any person filled in the blank space, is negotiable by delivery. 368

No indorsements on the note, while such blank is left unfilled, will restrict its negotiability. 368

Such a note is not money, and a person who purchases it after its maturity, and after the time for its conversion into bonds has passed, takes nothing but the actual 368
right and title of his vendor.

A person to whom an accommodation indorser transfers the note in payment of a pre-existing debt due from the makers, though he has knowledge of the circum- 1096
stances, may recover thereon against the indorser.

An indorsement of a note to give it credit is a sufficient consideration to support the action against the indorser. 1306

Demand: Notice: Protest.

A drawer having no funds in the hands of the acceptor, and no expectation of hav- 874
ing the bill paid, is not entitled to strict notice of nonpayment.

Where an indorser has a public office in town, which is kept open every day, a notice deposited in the mail is not sufficient, though he resides five miles out of town, 1307
and the post office is his nearest post office.

Release or discharge of indorser.

An attorney who receives a note for collection cannot, without special instructions, make a binding agreement to release the indorser from his liability. 1096

The surety is discharged where the holder of a note, for a valuable consideration, gives time to the maker. 1099

The indulgence which will release an indorser of negotiable paper must not only be given upon a good consideration, but must be for some limited and definite time within which the creditor's right of action is suspended. 1096

The payment of a part of the debt and accepting claims to be applied when collected in further payment, under a verbal agreement not to sue, constitute no legal consideration for a promise of forbearance. 1096

Actions.

Where the maker is insolvent, the holder may primarily sue the indorser of a promissory note, although the maker at such time has personal property in his hands, more than enough to pay the debt. 1306

A partial failure of consideration is no defense, to an action by the payee against the maker of a promissory note. 1099

The payees suing on a note indorsed to another have the burden of showing that it has been retransferred, or was indorsed for collection, or that they have repaid the money. 1136

In an action on a note made by three persons, parol evidence is not admissible to show that a note set out in the record of confiscation proceedings as made by two of such persons was the same note. 1254

A blank indorsement may be filled up at the bar after the jury is sworn, and the indorsement so filled up is prima facie evidence of a good consideration. 1306

Judgment will not be arrested because plaintiff's name, being indorsed upon the bill in blank, was not struck out at the trial. 1305

BILLS OF LADING.

See, also, "Admiralty"; "Affreightment"; "Carriers"; "Shipping."

A bill of lading, signed only by the brokers who procured the cargo, *held* of no effect as against a prior regular bill of lading signed by the master and owner of the boat. 982

BONDS.

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

The cancellation of a bond does not per se destroy it when it is canceled through fraud or evident mistake, but it may be declared upon as a good and subsisting obligation. 678

In a declaration on a bond several breaches may be assigned in the same count. 224

Where an interlocutory judgment is entered on a bond with a collateral condition, the jury, if either party so require, must ascertain the damages, if they be uncertain. 588

BOTTOMRY AND RESPONDENTIA.

The payment of a hypothecation is not a valid consideration for a new hypothecation unless it appear that the former one was valid. 1353

The obligee in a bottomry bond has the burden of proving the necessity for the advances, and that they were made to enable the master to prosecute his voyage. 1353

Where advances were made, and a bond given, after the master had resigned his command, and another master, appointed by the charterers, had succeeded to it, the bond is not valid. 1353

BOUNDARIES.

The line of a fence erected by agreement of parties in settlement of a boundary dispute, where possession continued according thereto for 20 years, will conclude persons claiming under the original owners. 1346

BRIBERY.

The offense of attempting to bribe an officer is completed at the time when and at the place where the letter containing the corrupt offer is written and delivered at a post office in the district, though addressed to the officer, residing in another state. 774

Quære, whether a person is subject to indictment in the federal courts for attempting to bribe a federal officer, in the absence of an act of congress defining such offense. 774

CARRIERS.

See, also, "Affreightment"; "Average"; "Bills of Lading"; "Charter Parties"; "Shipping."

A common carrier may by special contract limit his common-law liability in case of fire. 1078

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The shipper is bound by a limitation of liability in case of fire contained in a bill of lading delivered to the agent or person bringing the goods or placed in a box from which the shippers were accustomed to obtain bills of lading for shipments from time to time made.	1078
The consignee is liable for full freight where he demands and receives the property before it reaches its ultimate destination.	1218
A carrier from whom negotiable notes have been stolen, who has paid their value to their owner, may recover the same from a person to whom the thief transferred them after maturity.	368

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See, also, "Admiralty"; "Affreightment"; "Average"; "Bills of Lading"; "Shipping."	
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On a libel against charterers for refusing to furnish a cargo on the pretense that the ship was unseaworthy, the owners have the burden of showing seaworthiness.	1193
Where the question of seaworthiness is in issue, evidence of the performance of voyages immediately before and after that contemplated is inadmissible, except so far as they may offer just inferences as to her actual condition at the time.	1193
A clause in the charter that the parties bind the ship and goods, respectively, for the performance of the covenants, payments, and agreements thereof, creates a lien on the goods for such performance, and may be enforced by a detention of the goods for the freight, and by a suit in admiralty.	1260
Admiralty has jurisdiction in cases of charter parties for foreign voyages, and may enforce by proceedings in rem the maritime lien for freight thereunder.	1260

CHATTEL MORTGAGES.

See, also, "Bankruptcy"; "Mortgages"; "Pledge."	
A mortgage of "the whole of my stock of books and stationery now remaining in my possession, and also such additions thereto as I may hereafter make from time to time to the same," is not void for uncertainty, but does not convey future additions.	1336
A mortgage of manufacturing property, given under an agreement by which the mortgagors were to retain possession, and continue the business, paying first the expenses and then the mortgage debt out of the proceeds, is void as to creditors.	1338

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An indictment for transmitting such forged papers is sufficient if it show that the purpose was to obtain the allowance of the claim, though they were not sufficient for that purpose.	597

CLERK OF COURT.

For searching for petitions in bankruptcy the clerk was allowed 15 cents for each name searched against the compensation not being provided for in Rev. St. § 828.	1151
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COLLISION.

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

Nature of liability—Contributive fault.

The fact that the engineer of the injured boat was not licensed will not prevent a recovery where the evidence shows that the want of a licensed engineer did not contribute to the collision. 958

Where a collision ensues in consequence of the delay to take precautionary measures, the vessel which has the burden of keeping out of the way is liable. 1344

Rules of navigation.

Act N. Y. April 12, 1848, requiring steamboats passing up and down the East river to be navigated in the center of the river, applies to a tug whose business is to cruise along the docks, and move vessels from one pier to another, or into or out of the harbor. 977

Between sail vessels.

Between brig and bark, where the former, sailing closehauled, was *held* in fault for changing her course. 1198

Between steam and sail.

A tug and a sail vessel in tow at the end of a hawser are to be treated as a single vessel under steam, and must keep out of the way of a sail vessel. 846

A sail vessel is not excused for changing her course, even with a view of preventing a collision, unless it appear that a collision could not otherwise be prevented, or that the danger of collision was imminent and pending. 1360

The steamer is bound to anticipate the necessity of the sail vessel to come about on another tack; and, when the sail vessel is put on her new course, she is bound to keep it. 1344

Where the weather is good, and there is no want of sea room, and no obstructions to navigation, the sail vessel must hold her course. 1344

The assumption that a sail vessel will beat out her tack must yield to peculiar exigencies, such as arise in a crowded river. 1174

Where a schooner, coming up the Jersey coast, on seeing the light of a steamer, heaves her lead, and comes up into the wind, and, after the steamer changes her course to avoid the schooner, fills away again, directly across the steamer's course, she will be *held* in fault for the ensuing collision. 1232

In the case of a bark at anchor in the Swash Channel, run into by an Atlantic liner, at night, *held*, that both vessels were liable; the former for not having a light, and the latter for failure of her officers to use the night glasses to examine the channel ahead. 1190

Vessels moored, etc.

A vessel which moors alongside of another at a wharf or elsewhere becomes responsible to the other for all injuries resulting from her proximity which human skill or precaution could have guarded against. 1085

A vessel which moors alongside of another at a wharf is bound to know the depth of water, and is responsible for the directions of the consignees who have such knowledge, and is liable for injury to the other vessel against which she careens on grounding during an ebb tide. 1085

Where a collision is caused partly by the gross negligence of a sloop in the management of her helm while weighing anchor and partly by the failure of a tug to observe the regulations requiring steamers to keep to the middle of the stream, damages will be divided. 977

River and harbor navigation.

A steamer will be *held* liable for collision with a sail vessel in a crowded river where she plunges into the crowd of vessels, taking her chance of finding an opening through them. 1174

Lookouts: Officers, etc.

A steam tug, whose master also acts in the capacity of wheelsman, is not sufficiently manned. 1176

The absence of a lookout, where it did not contribute to the collision, is not a fault. 1176

Particular instances of collision.

Between brigantine in tow and a brig under sail near the Narrows, at night, where the tug was *held* in fault for not carrying the two vertical lights. 846

Procedure.

Admiralty has jurisdiction of a collision between a canal boat and a tug engaged exclusively in harbor service, and occurring upon navigable water, wholly within the body of a county. 1258

Rule of damages.

Charges for wharfage while repairing, for the time of the owner and crew in raising and clearing out the vessel, for the loss of profits while sunk and while being repaired, are properly added to the cost of repairs. 1085

Where the cost of repairs is claimed as damages, it is not competent to show what the vessel cost her owner four years before, as evidence tending to prove that at the time of the collision she was not worth as much as such sum. 1174

Review.

The rejection of evidence on the subject of damages by the commissioner, when not raised in the district court, is not available on appeal. 1174

Cross libels for a collision were filed in admiralty; one in personam, the other in rem. Libelant obtained a decree in one suit, and the other was dismissed. The losing party appealed in both, and the damages were apportioned. *Held*, that the aggregate costs in both courts should be divided between the parties. 961

COMMISSIONERS.

The federal circuit court has no power to issue a writ of certiorari to a United States commissioner to review proceedings before him under the fugitive slave act of September 18, 1850. 1060

COMPOSITIONS.

See "Bankruptcy."

CONFLICT OF LAWS.

Where a debt is contracted in a foreign country, and the case depends upon the *lex loci contractus*, it should be especially averred in the bill. 1293

CONGRESS.

Congress cannot create damages to be recovered by the United States by suit, or cause acts to be wrongs to the United States, which are in their nature wrongs to another. 333

A congressman is not privileged from arrest on a warrant charging that he is about to commit a breach of the peace by fighting a duel. 742

CONSPIRACY.

The word "conspiracy," as used in Act March 2, 1867, has a more comprehensive meaning than that given it at common law, and it is immaterial whether the fraud contemplated has been declared a crime by statute or not. 531

To sustain a conviction for a conspiracy to procure persons to go into another county to vote illegally, it need not be shown that illegal votes were actually cast or offered, or that any person went into the other county to vote illegally. 780

The crime of conspiracy to defraud the United States (Rev. St. § 5440) is materially different from the offense of conspiracy as it existed at common law, and every ingredient of the offense must be clearly alleged. 394

An indictment charging the conspiracy to consist in "certifying that certain false and fraudulent accounts and vouchers for material furnished for use in the construction of said customhouse and post office, and for labor performed on said building, were true and correct," *held* bad for uncertainty. 394

CONSTITUTIONAL LAW.

The act of 1820, authorizing a treasury agent to issue a distress warrant against a defaulting officer and his sureties, is unconstitutional as vesting the executive with judicial power. 24

The constitutional power of congress to regulate commercial intercourse, qualified by the limitations and restrictions expressed in the constitution, and by the treaty-making power of the president and senate, is sovereign, and may be used, not only for the advancement of commerce, but for the promotion of other objects of national concern. 614

The business of distillers and rectifiers, being wholly within control of the government, it may require the production of, and, if necessary, seize, any or all the books and papers kept by them in their business. 149

An act of a state legislature discriminating specially against taxes levied to pay judgments upon railroad bonds, *held* unconstitutional, as impairing the obligations of contracts. 213

An act repealing a statute which confirmed to certain claimants their title to land upon complying with certain conditions precedent, is not an *ex post facto* law, or a law impairing the obligation of contracts, where the conditions have not been complied with at the time of the repeal. 1012

If the legislative protection against a witness' evidence being used against himself is as broad as the constitutional provision against compelling a person to criminate himself, he can be compelled to answer. 149

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The territory of Indiana, by coming into the Union, consents to such constitutional provisions as are repugnant to the compact in the ordinance of 1787.	1115
CONSULS.	
The consul of a foreign nation can be sued alone in the federal district court on a contract executed by him jointly with another person.	872
CONTEMPT.	
The taking of a vessel by force from the possession of a party to whom she had been delivered on the giving of a bond for value in admiralty is not a contempt of court.	201
Trustees restrained from doing an act except in strict accordance with the statute prescribing their duties requiring the exercise of a discretion will not be punished for a contempt where they answer under oath that they have acted good faith, and did not suppose that they were violating the statute.	1286
Parties guilty of a technical contempt in violating an injunction, who declare on oath that they were not aware of the violation, and submit to the direction of the court, will be allowed to purge the contempt by undoing or reversing their acts, when it is practical to do so.	1298
The federal circuit court, as a court of equity, may award attachments for contempt in vacation.	1298
CONTINUANCE.	
A continuance will be allowed to obtain the testimony of a material witness, then abroad, but resident here, who has declared that he will return within two weeks.	771
The absence of a witness who could testify that he heard another man confess that he had stolen the property in question, is no ground for a continuance of a prosecution for larceny.	200
CONTRACTS.	
See, also, "Conflict of Laws"; "Vendor and Purchaser."	
A contract for obtaining legislation, or to prevent legislative investigation into the affairs of a railway corporation, is void, and will not support a claim to relief in equity.	853
Where defendants, under contract to sell and deliver bonds to plaintiffs, subsequently state that they must be at plaintiffs' risk as to genuineness, and give opportunity for examination, and plaintiffs pay for the bonds, and telegraph defendants that they are all right, plaintiffs are estopped to insist upon their rights under the original contract.	857
To ascertain the meaning of a contract, the circumstances of the parties at the time they made it may be considered.	986

The law of the place where a contract is made will govern as to its validity, nature, and construction, but the remedy must be pursued according to the law of the place where the suit is brought. 1062

Advances in part payment of the work on a contract with the government for the construction of a fort do not vest title in the government in the materials purchased therewith. 180

Upon an agreement to do certain brickwork at a certain price in a workmanlike manner, plaintiff may recover, although the work was not done in a workmanlike manner. 1305

CORPORATIONS.

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

The validity of a transfer of the charter by directors without consent of the stockholders cannot be questioned by the latter where they participated in the company's business under the new management, or made no objection. 844

A corporation which has attempted to increase its capital, filed papers for that purpose, received subscriptions for and sold stock and issued policies under such increase, is estopped to claim that it is not a corporation de jure. 839

Violations of a charter of incorporation cannot be collaterally drawn in question on a sci. fa. issued on behalf of the state to show cause why defendant's rights to certain land grants from the British crown should not be forfeited. 1153

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A charter provision requiring a corporation to take securities for stock to a certain amount does not prohibit it from afterwards selling stock upon other terms or without security.	839
A contract to purchase shares, induced by fraudulent representations or concealment of the company's agent, is not void, but only voidable, and the contract must be repudiated promptly on discovering the fraud, or it will be held binding as to creditors	835, 844
The claim of a person to be relieved against a contract for the purchase of stock may be based upon fraudulent representations of the company's agent concerning the laws of another state, and the provisions of the charter of the company granted therein.	835
False and fraudulent statements as to the condition of the company and the nonassessability of its stock, inducing its purchase, constitute no defense as against the creditors of the company.	839
Purchasers or holders of stock issued under proceedings regularly taken for an increase of capital cannot, as against the corporation or its creditors, deny the validity of such proceedings, or of the stock so issued.	844
The purchaser of a certificate of stock, who surrenders it, and has one issued to himself, and his own name entered upon the stock books, becomes subrogated to the rights and assumes the liabilities of an original subscriber.	839
Slight evidence of mutual recognition of the relation of stockholder will establish the legal position and liability.	831
Where, to the public, a company has all the external indicia of being a corporation, a stockholder, when sued for a balance due on his stock, cannot deny the authority of the company to issue such stock, or his liability thereunder.	839
In an action by the assignee of an Illinois corporation against a stockholder to recover the amount unpaid on his stock, it is not a sufficient defense that the corporate proceedings have not been strictly in accordance with the statute.	839
The provision of a by-law requiring transfers of stock to be made upon its books may be waived by the company, and, where waived at the request of the purchaser, or with his assent, he becomes liable as a stockholder.	831
The provision that stock is transferable only on the books of the company is waived by entering the name of the transferee upon the books, and the company is thereby estopped from claiming against the original stockholder.	833
If the company accepts as a stockholder a person to whom stock has been transferred in blank, he becomes liable as a stockholder, and the original stockholder is released.	833

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A stockholder is liable for interest on a call from the time it is payable.	833
An order of the court requiring each stockholder of a bankrupt corporation to pay a call on his stock within a specified time is binding upon all the stockholders, whether they receive actual notice or not.	833
The word “nonassessable,” written across the face of a stock certificate, is not binding as against the assignee in bankruptcy of the company.	833
A purchaser of stock, taking an assignment in blank, may nevertheless be liable for future assessments.	831
The mortgagor of stock is entitled to vote upon it at the election of directors, and a court of equity will enforce such rights.	1308
In a suit to enforce an equitable lien against the income of a corporation, complainant may consent to the postponement of the lien in whole or in part on conditions beneficial to all the parties concerned.	926

COSTS.

Costs are not usually allowed to the prevailing party where the district and circuit judges sitting together differ.	*1124
A settlement of seaman’s wages without the concurrence or knowledge of his proctor will not bar the latter’s claim for costs.	1179
Where a proctor, in conducting a suit in rem for wages, to recover his costs, after a settlement without his knowledge with the libellant, makes unnecessary litigation, the cost thereof may be set off against his claim.	1179

COUNTERFEITING.

The delivery of counterfeit money to a person, to be passed off generally for the benefit of the prisoner, is not a passing “in payment,” within Act Va. Dec. 19, 1792.	368
A person who procures or facilitates the making of counterfeit coin in his house by harboring the guilty persons therein is guilty of assisting in making such coin. (Act March 3, 1825, § 20).	16
On the trial of an indictment for assisting in making counterfeit coin by harboring the guilty persons, a witness may testify that the machines found on the premises could not collectively be applied to other uses, though they might separately be otherwise used.	16
While counterfeiting a note of the Bank of the United States is made a felony, the prisoner is not entitled to a list of witnesses and jurors two days before pleading.	646

COURTS.

See, also, “Admiralty”; “Bankruptcy”; “Clerk of Court”; “Commissioners”; “Criminal Law”; “Equity”; “Judges”; “Maritime Liens”; “Removal of Causes”; “Rules of Court.”
In general.

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Where want of jurisdiction appears upon the face of the pleadings, the objection should be taken by demurrer; otherwise by plea.	1095
A plea to the jurisdiction must be pleaded by itself, and cannot be set up in the answer.	1298
A plea to the jurisdiction of the court, alleging facts which show a want of jurisdiction, is not a submission to the jurisdiction.	935
Comparative authority of federal and state courts: Process.	
In cases of concurrent jurisdiction of the state court and the federal circuit court, the latter has no discretionary authority to stay or control the suit, or to refuse jurisdiction to prevent a collision between the two courts.	1319
Federal courts—Jurisdiction in general.	
The federal courts are of limited, though not inferior, jurisdiction, and cannot exercise any jurisdiction which is not expressly or by necessary implication conferred by law.	18
The civil jurisdiction of the federal courts in maritime causes of contract or tort embraces tide waters within the bays, inlets of the sea, and harbors along the seacoast of the country and in navigable rivers.	718

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The federal courts of inferior jurisdiction have jurisdiction only of crimes and offenses created by acts of congress, and then only when conferred by federal laws.	3, 718
The federal courts have no jurisdiction of the crime of larceny under Act 1790, § 16, committed in a place where the jurisdiction of the United States is concurrent with that of a state.	159
The United States have not sole and exclusive jurisdiction over land rented for a military camp, but only such jurisdiction as is necessary for military purposes.	159
Where a state grants land to the general government, reserving concurrent jurisdiction in executing process therein for offenses committed out of it, the federal courts have exclusive jurisdiction of offenses committed within such territory.	204
The rule that in cases of concurrent jurisdiction the court that first gets control of the subject-matter will continue to exercise exclusive jurisdiction until judgment is applicable to criminal cases.	522
—Grounds of jurisdiction.	
A citizen of the District of Columbia cannot maintain an action in the circuit courts of the United States.	1106
Where the plaintiff is a citizen of another state, a corporation created by such state cannot be made a defendant, unless it also becomes incorporated in the state where the suit is brought.	1298
Where it appears from the face of the charter of a corporation that its business is to be transacted within the state, it is sufficient to sustain the jurisdiction of the court.	926
The federal circuit court has jurisdiction of a suit brought against a citizen of the state by a citizen of another state upon a note payable to a certain person or bearer, though plaintiff is an indorsee, and the declaration contains no averment that the payee could have sued.	1095
An assignee of a chose in action not founded on contract may sue without showing that the citizenship of his assignor is such as would give the circuit court jurisdiction had such assignor sued. (Act March 3, 1875.).	949
On a bill brought by plaintiff for himself and all others who may be interested, the citizenship of the latter need not be alleged.	926
Where, in order to give jurisdiction, it is necessary that defendant shall be found within the district, a mere statement in the declaration that defendant “being in custody,” etc., is insufficient.	766
—Circuit courts.	
The federal circuit court has no jurisdiction of a suit in equity by a private person to interfere with or control the administration of the duties of the comptroller of the currency and of the treasurer of the United States in respect to bonds deposited	935, 941

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with the treasurer to secure the redemption of national bank notes under Act June 3, 1864.	
The circuit court has jurisdiction where defendant is a citizen of the state in which the suit is brought, and plaintiff a citizen of another state, without reference to the division of the state into districts, where process has been served in the district in which suit is brought.	1278
Where the jurisdiction depends upon the amount involved, it is to be determined by the amount of damages laid in the declaration.	1179
—District courts.	
A crime committed in the Indian country west of Arkansas is not triable in the district court.	18
A person indicted for murder in the superior court of Arkansas cannot be tried on such charge in the district court on the abolition of the former court.	18
—Administration of state laws.	
The federal courts, in construing the law of the state, will follow the decisions of the state courts.	948
Changes and alterations made in the state fee bills after 1842 are not followed by the federal courts in equity.	1318
—Procedure.	
The state practice is applicable to suits at law in the district court of the Southern district of New York.	203
Local courts.	
The jurisdiction of the circuit court of the District of Columbia is co-extensive with the Union, and its coercive power extends to witnesses in Missouri, or any of the states.	79
The jurisdiction of the circuit court of the District of Columbia is not limited to such causes of federal jurisdiction as may be tried in a circuit court of the United States sitting in a state.	647
Unless some party defendant against whom an effectual decree can be made be found within the District of Columbia, the circuit court, as a court of equity, has no jurisdiction of the cause.	1105
The circuit court of the District of Columbia for the county of Washington has jurisdiction of an offense committed in that county against the common law of Maryland adopted by Act Feb. 27, 1801.	419
The circuit court of the District of Columbia may hold special sessions for the trial of criminal causes, at which it may try offenses committed between the time of ordering and the time of holding such session.	647

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The circuit court of the District of Columbia has all the powers which were vested in the circuit court of the United States on February 27, 1801, and may send attachments into any other district for witnesses in criminal cases. 647

COVENANTS.

A judgment for taxes and a sale and tax deed there under are a breach of a covenant of seisin, and it is not a good plea that the sale was not valid. 1279

It is not a breach of covenant of warranty of seisin to show a conveyance by defendant's grantor subsequent to the conveyance to the defendant. 1279

CREDITORS' BILL.

A mere creditor at large cannot maintain a bill in equity to enable him to reach the equitable estate of his debtor. 1200

CRIMINAL LAW.

See, also, "Arrest" "Bail" "Courts" "Extradition" "Grand Jury" "Habeas Corpus" "Indictment and Information" "Jury" "Witness."

In general.

The rule requiring a criminal or unlawful attempt as an element of an offense does not apply to penal statutes not authorizing indictments. 80

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The putting in fear which is sufficient to excuse the perpetration of a criminal act must proceed from an immediate and actual danger threatening the life of the accused. The apprehension of the loss of property or of slight or remote injury to the person is not sufficient.	376
Penal laws must be construed strictly to bring the case within the definition of the law, but not so as to exclude a case within its words in their ordinary acceptation.	699
Where a statute creates an offense, and directs a particular mode of prosecution, that mode must be pursued.	19
Where an officer of the government procures public money by fraud, and appropriates it to his own use, the offense is punishable at common law.	419
Criminal responsibility.	
Insanity caused by drunkenness, where the person is not intoxicated at the time of committing the offense charged, is a good excuse.	764
Principal and accessory.	
There cannot be an accessory at common law to an offense which does not amount to a felony.	645
In misdemeanors there are no accessories; all are principals.	562
All persons present at the commission of a crime, consenting thereto, aiding, assisting, or abetting therein, or in doing any act which is a constituent of the offense, are principals.	699
Where defendant was not present nor aiding or abetting at the act, although he was concerned in the design to commit the offense, he is only liable as accessory before the fact.	550
Jurisdiction.	
The same offenses may be made punishable under both state and federal laws, and both state and federal courts will have concurrent jurisdiction over them.	522
No crime can be punished in the federal district courts which is not defined to be such by an act of congress, or the constitution of the United States.	720
The term "high seas" is used in the acts of congress in its popular and natural sense.	718
Assault with intent to kill, or an assault and battery, when committed in the Indian country, is not punishable in the federal courts.	41
An indictment will not lie in a federal court for robbery committed on land, as there is no federal law punishing such a crime.	40
Congress can legislate in respect of murder only where the crime is connected with some subject-matter or was committed in some place which brings it within the exclusive jurisdiction of the federal government.	397

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Where a person by fraud procures money to be deposited to his credit, and draws against the same, the offense is complete in a place where the draft is drawn and discounted, and at the time when it is paid.	419
If the official character of an officer of the United States is not a necessary ingredient of the offense charged in the indictment, the naming him as such, and the averment that he was such an officer, will not prevent a court of law from taking cognizance of the offense.	419
Preliminary complaint, warrant, examination, and commitment.	
A <i>capias</i> is the proper process upon an indictment for misdemeanor found after service of a summons to show cause why an indictment or information should not be filed.	367
A complaint charging the crime of forgery in that one "willfully, etc., uttered and put in circulation forged or counterfeit papers or obligations or other titles or instruments of credits," without specifying the same, is not sufficient to authorize an arrest.	1020
On a preliminary examination the court may examine defendant's witnesses to explain the testimony of witnesses for the prosecution.	588
The fact that defendant had instituted habeas corpus proceedings to secure the release of a person imprisoned by the military authorities is admissible to show that the present prosecution arose from the animosity of the authorities engendered by such conduct on his part.	771
Evidence showing probable cause to believe that the accused is guilty is sufficient to warrant his being committed for trial.	954
A commitment by a commissioner on a preliminary warrant for examination should be for a definite time, and should not exceed 24 hours, except for special cause shown, or when requested by the prisoner.	773
Where proceedings under which a person is held for trial by a commissioner are brought before the court for review by habeas corpus and certiorari, the court will examine the evidence before the commissioner, and will do what he ought to have done.	954
Limitation of prosecutions.	
The statute of limitations runs in favor of an offender, although it was not known that he was the person who committed the offense	550, 562
A departure of the offender from the place where the offense was committed to his usual residence in another part of the United States for the purpose of avoiding punishment for any offense, is a fleeing from justice, and the statute will not run until his public return to the place where the offense was committed	550, 562, 568

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Where a statute punishes as a misdemeanor an offense which at common law was a felony, the limitation of the prosecution is that of misdemeanors, though the statute was passed subsequent to the statute of limitations.	562
The limitation of two years is applicable to common-law offenses in the District of Columbia. (Act April 30. 1790.).	419
The time of finding the indictment will appear by the caption, and, where it appears there from that the offense was committed beyond the time limited, judgment will be rendered for defendant.	419
An indictment will not be quashed because it appears upon the record that it was not found within two years after the offense was committed, as the defendant might have been a fugitive from justice.	550, 562
It is not sufficient ground of arrest of judgment that it appears upon the face of the indictment and the record that the indictment was not found within the time of limitation.	562
Where it appears upon the whole record, upon an indictment for misdemeanor that the offense was committed more than two years before the indictment was found, defendant may avail himself of that defense by a general demurrer.	570
The defense of limitation is admissible under the general issue, and the prosecution may show that defendant fled from justice, and therefore was not entitled to the benefit of the limitation.	562, 568
Former jeopardy.	
The discharge of a jury will be considered equivalent to an acquittal where it did not appear by the minutes of the court that the grounds of postponement—the illness of the district attorney and the absence of witnesses—were matters of surprise, nor that defendant consented thereto.	499

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Control of prosecution.	
An information at the suit of the commonwealth of Virginia may be discontinued before appearance of the defendant.	1224
A prosecutor liable for costs upon an indictment for a misdemeanor has no right to withdraw the prosecution without the consent of the attorney of the United States.	1223
Arraignment and pleas.	
Pleas in abatement to an indictment must be pleaded with strict exactness.	666
Quære, whether the fact that an interested person caused himself and others to be nominated and placed upon the grand jury which found the bill may be pleaded in abatement.	666
The mere fact that the prosecutor was a member of the grand jury which found the bill, and participated in its proceedings, is not a good ground for a plea in abatement to the indictment.	666
A plea in abatement to an indictment alleging irregularities in drawing and summoning grand jurors, and want of qualification, where no prejudice is averred, is bad on demurrer.	234
A previously formed and expressed opinion of defendant's guilt by one of the grand jurors who found the indictment is no ground for a plea in abatement.	572
Where an indictment for homicide is held bad, the prisoner will be remanded to custody on proof of the commission of the offense.	201
Time and place of trial.	
Where the government is not diligent in producing its testimony, the prisoner should be discharged.	773
Where the jury has been discharged on failure to agree, the case may be tried again at the same term.	550
Where defendant has pressed for trial, he cannot, when the cause is called for trial, ask for a change of venue on the ground of prejudice.	562
Trial.	
Act April 30, 1790, § 28, which requires a list of the witnesses to be delivered to the prisoner three days before the trial, is confined to treason. In other capital offenses nothing more is required than a delivery of a copy of the indictment and a list of the jurors.	754
Persons jointly indicted for a capital offense are not entitled, as a matter of right, to separate trials.	580
On a joint indictment it is not a matter of right to have defendants tried separately, by it is discretionary with the court.	699

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The court may order certain witness to be removed while others are testifying, but it will not require them to be kept separate.	550
After a witness has been once examined, it is discretionary with the court to permit him to be examined again as to new matter.	699
Counsel will not be permitted to argue a point of law to the jury which has been decided by the court.	1227
Counsel will be permitted to argue before the jury questions of law not involved in the instruction upon a question not asked and submitted to the court.	419
It is improper, after the jury have retired, to give an instruction upon a question not asked by them.	568
If a jury, after having retired to consider their verdict, return into court to re-examine a witness, neither party will be permitted to ask any question of the witness, nor to make any motion to the court in the presence of the jury.	1227
A motion by the district attorney, made before verdict, for leave to enter a nolle prosequi on an indictment, must be granted as a matter of right.	501
Evidence.	
Where an intent is charged in a statute as constituting part of a crime, it must be proved as a fact.	624
On an indictment for obtaining money under false pretenses, evidence of previous false representations to others for the purpose of obtaining money, is admissible, but not evidence that defendant obtained money thereby.	1337
A pardon granted by a governor of a state under its great seal is evidence person without any further proof.	699
Parol evidence is admissible to explain the intention with which a deed was made.	78
The acts of a co-defendant are admissible to show the connection between him and the prisoner in the same offense.	699
The evidence of an accomplice cannot be corroborated by his statements at another time unless it has been impeached.	699
The declarations of a person charged with the same offense as defendant in a separate indictment, made after the supposed accomplishment of the common purpose, are inadmissible.	550
How far the acknowledgment of a prisoner as to a crime meditated to be committed may be given in evidence to connect it with the offense for which he is on trial.	15
When not made under oath, confessions of the accused are admissible in evidence, although the proof that the crime has been committed is not independent of the confession plenary.	636

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The admissions of a prisoner, though not in writing, or given in his words, are admissible; but the whole of a connected conversation on the subject must be given.	699
Whether the accused, in making confessions before the finding of the indictment, believed himself to be speaking under oath or not, is a question of fact for the jury.	636
The jury must consider the evidence in relation to an alibi, and give it whatever weight they think it deserves.	675
The circumstances relied upon to establish guilt ought to be so strong as to leave no doubt of the fact; and they should be consistent with themselves, each circumstance tending to establish the guilt of the accused.	360
—Jury.	
On a trial for murder the jury must be kept together, both day and night.	762
After the jury has been out a long time without any probability of agreeing in a case of misdemeanor, they may be discharged without defendant's consent.	419
Verdict: Judgment: Sentence.	
Where the jury bring in a verdict not answering to the whole matter in issue, the court, without recording it, will inform the jury that they may retire, and reconsider their verdict.	419
Where a verdict is so imperfect that no judgment can be given upon it, though it has been recorded, defendant has not been in jeopardy, and a new trial will be granted.	419
A verdict of "not guilty upon the plea of limitations, more than two years having elapsed from the committing of the offense to the finding of the indictment," is argumentative, and bad.	550
When the facts found by a verdict neither establish nor are inconsistent with the guilt or innocence of defendant, there is no verdict.	419
A verdict of acquittal, against the law as laid down by the court, cannot be set aside.	699
An averment that the prisoner was tried and convicted of larceny, as by the record of the court doth appear, is not sufficient to sustain a sentence as on an indictment for a second offense.	90

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CUSTOMS DUTIES.

See, also, "Forfeiture" "Informers."

Customs laws.

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Vessel and cargo condemned upon the evidence for violation of embargo laws.	624

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Lapse of time is a sufficient bar to a bill in equity to rescind a sale on the ground of fraud where the plaintiff might have acquainted himself at the time of the sale with the facts, and especially if the circumstances be greatly changed, and the evidence be lost or obscured. *1124

After the lapse of five years, where the property has greatly depreciated in value, a bill cannot be maintained to set aside a sale by auction by defendant's agent on the ground of fraudulent bidding which enhanced the price, but which was without defendant's knowledge or connivance. *1124

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The question whether the recitals of a deed tending to show the execution of a former deed by the same grantor to another grantee estopped the grantor and those claiming under him from denying the fact of the execution of such deed, cannot be determined unless the fact of its execution is put in issue by bringing a bill to set it up as a lost deed.	1200

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A bill will lie in equity against an administrator to recover assets which he has fraudulently withheld, notwithstanding a final settlement of his accounts by a probate court. 949

An administrator appointed in one state, who has received assets of the estate in another state, cannot be compelled in the latter state to account therefor. 1113

If assets in a foreign jurisdiction come into the possession of an administrator by a voluntary delivery to him, he may be required to account for them in the home jurisdiction. 949

Interest on money in the hands of the administrator is not chargeable where the same is retained to determine the right of the claimant by suit. 1318

EXEMPTIONS.

See "Bankruptcy."

EXTORTION.

Extortion is the unlawful taking by any officer, by color of his office, of any money or thing of value that is not due him, or more than is due, or before it is due. 386

A register of a land office cannot lawfully act as attorney for an applicant for a patent, and where, acting as such, he receives a gross sum as compensation for services in both capacities in excess of legal fees as register, he is guilty of extortion. 386

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Under the treaty of 1874 with Belgium, the date of the signing, and not the date of the ratification, is the time intended in the declaration that its provisions shall not apply to any crime committed prior to its date. 974

The warrant on a requisition from the government of Belgium under the treaty of May 1, 1874, art. 6, is sufficient if issued from the state department under its official seal. 1020

The judicial department will presume from the mandate of the secretary of state that a warrant for the arrest of the alleged fugitive for the crime imputed to him was issued in Belgium. 1021

Under the extradition treaty of 1874 with Belgium it is no ground of discharge of the alleged fugitive on habeas corpus that the warrant of arrest was issued by the proper judicial officer, instead of by the president. 1021

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Where the commissioner has jurisdiction, and has before him legal and competent evidence, his decision on its weight and effect is not subject to review.	931, 974, 1337
On habeas corpus the court can only consider the question whether the commissioner had jurisdiction, and whether there was legal evidence before him tending to prove the accusation.	931

FACTORS AND BROKERS.

A factor cannot pledge the goods of his principal for his own debt, and, if he does, the principal may, after a demand and refusal, maintain trover for them against the pledgee.	933
A supercargo has the right to retain the proceeds of cargo for a general balance due to him by the owner, though they have assigned the cargo and bill of lading to a trustee for the benefit of certain creditors.	1309

FALSE PRETENSES.

An indictment for obtaining money by false pretenses must state what was pretended, and that it was false, and in what particular it was false.	419
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FORFEITURE.

See, also, "Customs Duties" "Informers" "Internal Revenue" "Shipping."	
Laws imposing forfeitures for fraud are not technically penal, so as to call for a strict construction, but are to be construed so as effectually to accomplish the intention of their makers.	612
When a statute denounces a forfeiture of property as a penalty for the commission of crime, the forfeiture takes place when the offense is committed, if the denunciation is in direct terms, and then operates as a statutory transfer of the property to the government.	280
The court of the district where the property is seized has jurisdiction of the information, though the violation of the law occurred in another state.	115

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The allegations in the information must be sufficiently specific to enable the claimant to traverse them, and the court to see that, if proved, a violation of the statute exists. The technical precision of an indictment is not necessary.	121
The belief of the party should be expressed in the form of verification, not in the body of the pleading.	252
The general issue cannot be pleaded to a libel, information, or libel of information for a forfeiture in the federal courts.	252
The conclusion in an answer should not be to the country, but a simple prayer for restitution.	252
Informations filed by United States attorneys are amendable even after pleas filed and in substance.	121
Informations in rem on the exchequer side of the court are not criminal proceedings.	121
A demurrer, and not a motion to quash an information in rem on the exchequer side of the court, is the proper mode of reaching technical or substantial defects.	121
Under the supreme court rules, general denials or issues are permissible in informations on the exchequer side of the court in cases under the internal revenue act.	121

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The district court has power to discharge upon bail property in custody in cases of seizure under Act June 30, 1864, §§ 48, 50.	139
FORGERY.	
Possession of forged bank notes with intent to utter them as true is not an indictable offense.	790
Falsely altering a promissory note in a material part, with intent to defraud any person, is forgery.	752
The words “other writing,” as used in Act March 3, 1823, making it a crime to forge certain writings with intent to defraud the United States, does not cover a forged indorsement on a genuine check drawn by a pension agent upon a depository of the United States.	720
Forgery of the notes of a private unchartered bank and of chartered banks is punishable under Act Md. 1799, c. 75, § 1.	737
The place where forged papers are inclosed and sealed up with a letter and put in the post office is the place where they are uttered, and not the place of their destination.	790
An indictment for forging a treasury note need not, in terms, give it that name, where a copy is set out.	223
An indictment for forging a treasury note need not aver that it was made in resemblance of the genuine note.	223
An indictment at common law for forgery by erasure must this the technical term “forge or counterfeit”.	419
An indictment charging that defendant, “ostensibly, for the service, but falsely and without authority, caused and procured to be issued from the navy department of the United States” a certain requisition, set forth in the indictment, cannot be supported as an indictment for forgery.	419
An indictment for the felonious possession of a forged national bank note, which sets out the note, need not aver the purport of the instrument.	635
An indictment for obtaining money by false pretenses, one of which is stated to be an erasure in an account rendered to defendant, cannot be supported as an indictment for forgery.	419

FRAUD.

All frauds affecting the public at large, or an indefinite number of persons, who have suffered a common or joint damage by reason of the fraud, are indictable offenses at common law.	419
An indictment charging fraud should aver the means by which the fraud was effected.	419

An indictment for fraud must aver all the facts which constitute the fraud. It is not sufficient to aver that an act was fraudulently done, or was done with intent to commit a fraud. 419

A count describing the deceptive means by which defendant procured the placing of public money in the hands of a navy agent, and also the means by which defendant obtained such money for his own use from such agent, does not charge two separate offenses. 419

FRAUDULENT CONVEYANCES.

See, also, "Bankruptcy."

Conveyances executed by a person who is insolvent, or unable to pay his debts, will be *held* prima facie void in the hands of grantee with knowledge of the facts. 1352

It is a strong circumstance of fraud that the consideration passed from the grantor to the grantee with a view of covering the property by a conveyance to the grantor's wife. 1352

GAMING.

The playing at games for money is not an offense except as prescribed by statute. 698

Bank notes are not money within the meaning of an indictment charging defendant with cheating another of his "money" at cards. 520

The by-law of Georgetown prescribing a penalty for keeping a public gaming table does not supersede nor repeal Act Md. 1797, c. 110, prescribing a penalty for keeping a faro table in a house occupied by a tavern keeper. 521

GRAND JURY.

See, also, "Criminal Law" "Indictment and Information."

The word "qualification," as used in Act July 20, 1840, refers to the general qualifications, such as age, citizenship, etc., which will exclude the juror from the panel. 666

The federal court sitting in Ohio has authority, in its discretion, to adopt the mode of impaneling grand juries practiced in the inferior courts of the state. (Act July 20, 1840). 725

The provisions of 2 Rev. St. N. Y. 724, §§ 27, 28, prescribing the objections that may be taken to the organization of grand juries, are, by Act July 20, 1840, made applicable to the federal courts. 9

Witnesses for defendant will not be sent to the grand jury except by consent of the prosecution. 588

The court, in its discretion, may give or refuse to give an instruction to the grand jury when asked either by the accused or the prosecutor. 419

The court, in its discretion, may give an additional charge to the grand jury, although they do not ask it. 419

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Exceptions to grand jurors for favor are only cause for challenge before indictment found, not for a plea in abatement.	572
GRANT.	
See, also, "Public Lands."	
One whose claim under a grant has never been presented, and has been abandoned, has no right, under Act 1851, § 13, to intervene in a proceeding to confirm a different grant until after the determination of the proceedings by the confirmation of the claim.	573
The mention in the act of possession of the length of a certain line as fixing its point of termination is not to be regarded as conclusive merely because at or near that distance from the starting point a marked tree is found which is not identified by any witness as the tree to which measurement was made.	576
In determining the limits of the tract from the map, regard is to be had to the natural objects there laid down as bounding the tract, rather than to the distance of such objects from other natural objects as shown by the scale.	721
The order of the governor directing the title to issue to the petitioner is not controlling in the determination of boundaries, when it appears that on the following day a decree of concession was made, accurately defining the rights of the petitioner, and the formal title was issued and accepted by him, declaring its boundaries with unmistakable precision.	388

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A petition appearing in an expediente on behalf of four persons for 32 leagues cannot be considered as preliminary to a grant of 16 leagues to two of such persons.	41
An expediente not placed among the records until 1855 is not archive testimony, such as is indispensable to the confirmation of an alleged grant.	41
The court has no jurisdiction in a proceeding to confirm a grant to inquire into any questions of private right between the heirs or devisees of the grantee and the present claimants.	356
The survey of a claim, made by the surveyor general after the final confirmation of the claim by the supreme court on which a patent has issued, is not invalid because the mandate issued by such court directing further proceedings to be had in the district court was not filed in the latter.	354
A decree of confirmation must be made to the claimant, or to the legal representatives of the deceased grantee, whoever they may be, and without prejudice to the rights of any one who may be lawfully entitled under him.	356
After a decree confirming a grant according to described boundaries, and the dismissal of an appeal therefrom, the court has no authority, in determining questions relating to the survey, to assume the invalidity of the original grant.	356
Claim confirmed, notwithstanding a failure to produce the original grant; its loss being accounted for by the fact that the grantee was killed during the war, and it appearing that the archival evidence was complete and regular in all respects, and that the grantee was in possession from a date long prior to the grant.	356
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The writ is not grantable as of course, but will only issue upon a sufficient showing; and a refusal to issue the writ is justifiable if the court is satisfied that the petitioner would not be discharged upon a hearing after its return.	874
Where the officer had jurisdiction of the process, and assumed to take proof upon the issuing of the same, his decision as to its sufficiency is not subject to review.	1147

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The civil courts have no jurisdiction, upon application for writ of habeas corpus, to determine whether a military commission by which the prisoner was tried was legally constituted, and had jurisdiction of the case.	874
The commander of a military department, even in a locality where martial law is not in force, may arrest citizens for mischievous acts of disloyalty impeding or endangering military operations, and the courts have no authority by writ of habeas corpus to inquire into the necessity of such action.	874
A state court has no jurisdiction on habeas corpus to discharge a soldier or sailor held under a United States law.	1147
A person who makes a false and evasive return, though he cannot produce the relator, is in contempt.	682
After a person has been adjudged in contempt for a false return to a writ directing the production of certain abducted slaves, the proceedings will not be quashed upon the statement of one of the slaves that she was not abducted by, and is not under the control of, defendant, where she is not brought before the court to make the statement.	686
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HOMICIDE.	
A death of a fever caused by a beating while the person was in a weak state of health is murder, where the beating was with malice aforethought; otherwise it is manslaughter.	762
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Homicide in resisting an arrest substantially illegal will, at most, amount to manslaughter.	204
If a tenant kill a constable who comes to make an unlawful distress, the jury may, according to the circumstances, find a verdict of manslaughter.	646
A person may oppose force to force in defense of himself, his family, or property against one who manifestly endeavors by surprise or violence to commit a felony.	727
No words or gestures, however irritating, will justify the killing, although they may reduce the offense from murder to manslaughter.	727
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Declarations of deceased, not made in extremis, or with a settled conviction that he is about to die, are not admissible.	762
Dying declarations may be given in evidence as to facts, but not as opinions.	367
Where the body cannot be found, the fact of death may be proved by other means.	636
Proof that the blows were given by a dangerous weapon, were followed by alarming symptoms, and soon afterwards by death, is sufficient prima facie proof that the blows caused the death.	727

HUSBAND AND WIFE.

The fact that a married woman employs her husband in the business of using her capital in trade, and supports him out of the profits, will not make the business or the profits the property of the husband. 1274

A conveyance of property to a married woman in fulfillment of an agreement made in good faith between her and the grantor does not, under the New York laws, entitle her husband to the property, even though labor and services performed by him formed a part of the inducement to the making of the agreement. 1274

INDIANS.

All Indians born and resident in Oregon are prima facie members of some Oregon tribe, and come within the protection of the statute in relation to the sale of spirituous liquors to Indians. 741

An Indian born in Minnesota is prima facie not a member of an Oregon tribe, though he may become such by adoption. 741

The act admitting the state into the Union withdraws all such territory from the federal jurisdiction, except territory of Indians having treaties with the United States, which provide that without their consent such territory shall not be subjected to state jurisdiction. 397

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Indian territory not protected by such a treaty is subject to state jurisdiction.	397
The Indian country is within the jurisdiction of the United States, and congress may extend all laws within the constitutional limits of municipal legislation over the same.	195
The federal courts have jurisdiction, under Act June 30, 1834, of offenses against the laws of the United States committed on Indian reservations in Kansas.	397
Act June 5, 1850, § 5, making the territory of Oregon Indian country so far as the disposition of spirituous liquors to Indians is concerned, <i>held</i> not repealed by Rev. St. § 5596.	737
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Misdemeanors may be prosecuted in the federal courts by information.	391
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Where the record shows that the grand jury found the indictment on their oaths, the intendment and legal effect and presumption is that it was found on proper evidence, with due deliberation, and by the concurrence of 12 of their number.	725
Irregularities in the summoning of grand jurors do not entitle a party indicted, as matter of law, to avoid the indictment.	9
Where the accused shows that he has been prejudiced by irregularity or fraud in designating, summoning, and returning the grand jury, he has a remedy by motion to the court for relief.	9
Form.	
The caption or title is no part of the indictment, and may be amended after verdict as a clerical error.	98
An indictment for murder on the high seas is sufficient although it describe the grand jury as "jurors of the United States".	636
In an indictment under Act April 5, 1866, c. 24, § 2, it is not necessary to aver that the offense is not punishable by any law of congress, and is punishable by the state laws; and a conclusion "against the form of the statute" is correct.	791
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The indorsement of the name of a witness by the grand jury on the presentment is prima facie evidence that it was made upon his testimony.	1224
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An indictment laying the offense in the words of the statute creating it is sufficient, as a general rule.	699
Where the offense is purely statutory, having no relation to the common law, it is, as a general rule, sufficient in the indictment to charge it in the words of the statute.	546
An indictment charging an offense in the precise words of the statute creating it need not prefix to the charging words the word "unlawful," or any other word showing a wrongful intent.	98
Money lawfully in the hands of an officer of the United States, and for which he is accountable, is money of the United States, and may be so charged in an indictment.	419
Description of persons.	
A person is properly described in an indictment by a given name used in the manner he has selected.	739
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Time and place.	
An allegation that defendant did the act charged "on or about" a certain day is void for uncertainty.	737
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Except in cases of treason, the indictment need not state the county in which the offense was committed; it is sufficient if it show that the court had jurisdiction.	699
An indictment in the circuit court for an offense committed on land should show that it was committed in the district where the court sits.	755
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A special agent of the government, appointed to investigate a fraud, is not an informer in respect to facts found in the ordinary and regular discharge of his duty.	301
A deputy collector of internal revenue, who, happening to see improperly branded whisky unloading at a warehouse, gave information which led to its forfeiture, <i>held</i> entitled to the informer's share.	53
A pardon remitting a penalty under the revenue law after judgment therefor operates to remit the moiety adjudged to the informer.	82
The regulation of September 2, 1867, charging informers with a proportionate share of the costs of the proceedings, is valid; the secretary's power to issue regulations on the subject not having been previously exhausted.	235
The share of an informer in the proceeds of forfeited spirits is fixed by the law in force at the time of payment of the proceeds into the registry, and the submission of the proofs as to the informer, and not by that subsequently adopted.	242
The right of the informer becomes fixed on the receipt of the proceeds of the forfeiture by the marshal.	276
Where a decree entered by consent condemning the goods is afterwards vacated, and the claimant allowed to defend, and a final decree is subsequently rendered, the share of the informer is to be determined by the law in force at the time of such final decree.	275

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Proceedings for a forfeiture under the internal revenue laws are governed by the practice of the courts of common law, and the court has no power to open a judgment after the expiration of the term at which it was entered. 280

INSOLVENCY.

See, also, "Bankruptcy."

State insolvent laws are valid as to subsequent contracts between citizens or inhabitants of the state. The fact that the creditor is an alien is not material, if residing or domiciled in the state when the contract was made and the discharge granted. 1269

The discharge of a citizen from his debts under a state insolvent law will not discharge a contract which was made and to be executed in a foreign country. 1062

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See, also, "Deposition" "Discovery."

A proceeding in rem is not within Act Sept. 24, 1789, which authorizes an order to produce books and papers on the trial of actions at law. 244

The ex parte affidavit of a party interested is competent evidence on a motion for an order to produce books and papers. (Act Sept. 24, 1789.). 244

INSURANCE.

A resolution, passed by the directors, releasing the stockholders from unpaid balances upon the stock, in accordance with which the certificates of stock were stamped "Nonassessable," is not binding upon parties who insured in the company without knowledge of its existence 839, 844

In Indiana it is not essential to the validity of the bond of the agent of a foreign insurance company that he should have previously filed in the circuit court the papers required by the state statute. 816

A concealment of facts material to the risk within the knowledge of the insured, and which the insurer is not bound to know, vitiates the policy. 867

A condition in an accident policy requiring immediate notice of the nature and extent of the accident and injury is waived where, on receiving proof of the injury, the insurer refused to pay on other grounds than the omission to give such notice. 824

INTEREST.

See, also, "Usury."

The government is entitled to interest on bonds given in liquidation of an account against an officer. 803

Where an agent sends goods to his principal for sale, interest is due on the proceeds from the time when the principal first claimed a lien or set-off upon them for a balance due from the agent up to the time of a judgment therefor. 1293

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Special taxes.	
An unincorporated social or literary club, which sells checks to its members, which it takes in exchange for glasses of beer, is a dealer, and liable to taxation under Act 1875, c. 36, § 18.	744
Sales of liquors belonging to a social club, by the janitor thereof to the individual members, the money being deposited in the treasury of the club, makes the janitor a retail liquor dealer, and liable to indictment, where the special tax is not paid.	762
The payment of the tax prescribed in Act July 20, 1868, § 59, is not a condition precedent to commencing business, and the penalty is not incurred until after assessment, demand, and refusal.	48
Revenue officers are not required to give notice of the expiration of a manufacturer's license.	224
For failure to take out a license to refine petroleum, both a criminal prosecution and an action qui tarn is authorized, and the institution of one is no bar to the other.	217
Where wool is bought and spun into yarn, and the latter wove into fabrics, <i>Held</i> , that the yarn was a separate manufacture, and subject to an assessment of 5 per cent. (Act June 30, 1864.).	414
Omissions of a wholesale dealer to stamp or mark packages containing more than five gallons are not within the penalty prescribed in section 96. (Act July 20, 1868.).	51
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Section 57, Act July 20, 1868, applies only to distilled spirits on hand when such act was passed.	63
A rectifier of spirits distilled from domestic materials is not a distiller of spirituous liquors, within the meaning of Act July 24, 1813.	33
A manufacturer of vinegar, who, in the process, produces a fluid containing from 5 to 7 per cent, of spirits, with machinery which is riot capable of producing a higher per cent., is not bound to take out a distiller's license.	292
A person is not liable for the tax unless he has a direct interest in the business. An interest as lessor, or as a creditor who expected to collect his claim if the business proved successful, is not sufficient.	363
Knowledge by defendant that illicit spirits were being manufactured on the premises does not render him liable for the tax.	363
The word "proprietor" (Rev. St, § 3251) is used in the sense of an owner who has the exclusive right to and control over the premises, and includes a lessee.	363
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The surety on a transportation bond executed in blank as to the amount is not bound thereby, unless he ratified the same after the blanks were filled.	230
Where a bond is executed in the name of the firm by a manager of the business who was so in the habit of using the firm name authority to sign by a written instrument need not be shown.	230
A ratification for a firm may be made by one member.	230
The knowledge or intent of the owner of a conveyance used in transporting goods subject to a tax, that they are being removed contrary to law, is not necessary to subject the conveyance to forfeiture under Act 1866, § 14.	294
A decree by default against spirits seized while being removed on a truck is not conclusive against the owner of the truck and horses where he interposes a defense to the libel that the spirits were being removed with intent to defraud the revenue.	294
A distiller is justified in relying upon the act of the assessor in passing upon the bond given for excise duty (Act July 20, 1868, § 7), and is not liable for the penalty because the preliminaries have not been complied with.	48
The failure or omission to keep books showing the facts prescribed by the statute (Act July 20, 1868, § 19) to render a distiller liable must be shown to be with intent to defraud.	48
A distiller does not “omit, neglect, or refuse to do, or cause to be done” anything which the law does not require him, but some other person, to do. (Act July 20, 1868, § 96).	63
A removal of brandy from a distillery without having cut or burned on the barrels the name of the distiller, the name of the district, or serial numbers, is not illegal, if all other requirements of the statute have been complied with.	63
Though a distillery warehouse is under the lock of the inspector, as provided by Act July 13, 1866, §§ 27–29, the spirits are still in the possession of the owner, within Act July 13, 1866, § 9.	67
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Spirits are not liable to seizure because the barrels were emptied before the stamps were obliterated, where a clerk was in the act of obliterating them when they were seized.	33
A refusal or neglect to comply with any of the requirements of section 57 works a forfeiture under section 68. (Act June 30, 1864.).	115
Spirits manufactured by the distiller, and still owned by him, are liable to forfeiture wherever they may be found in the United States.	115
Goods removed from a bonded warehouse by consent of the collector, obtained by fraud, are subject to forfeiture.	297
Tools, implements, and other personal property found in an illicit distillery are not subject to forfeiture under Act July 13, 1866, § 9, unless it appear that they were used, or intended to be used, in the illicit manufacture, or in some way connected with it.	72
A sale of a distillery for the sum due to the United States will extinguish the debt, though it is in numbered by valid liens to its full value, and the distiller's bond is discharged thereby.	216
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A forfeiture for illicit distilling extends to the interest of a mortgagee, though he be ignorant of the fraud.	242
A factor's lien is not protected against forfeiture unless it appear that his demand requires for his protection an enforcement of his lien against the specific property seized.	129
Only the spirits owned by the distiller, rectifier, or wholesale liquor dealer, or those in which he has an interest as owner at the time of the discovery of his offense, are forfeited by section 96. (Act July 20, 1868.).	313
The forfeiture declared by Act June 30, 1864, § 68, extends only to specific property belonging to the distiller, and bona fide purchasers from him are protected.	121
A bona fide purchaser or lienor for value prior to seizure is protected.	129, 131
Where spirits fraudulently withdrawn from a warehouse are innocently mixed with others belonging to the claimants, so that they cannot be distinguished, the United States are entitled to a forfeiture of a fair proportion of the mixture, if the spirits would have been subject to forfeiture had they not been so mixed.	297
Where the spirits were mixed after claimants had knowledge that they were fraudulently withdrawn from a bonded warehouse, or were fraudulently mixed, to destroy their identity, the entire quantity is for to defraud.	48

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Under Act July 1866, § 9, it is a necessary element of the fraud specified that there should be an intent to defraud by evading the payment of the tax or duty imposed by law.	295
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A partner is civilly liable for violations of the revenue laws by his co-partners, whether he knew of or consented to such violations or of duties.	115
The failure of the inspector to mark on the barrels the quantity in proof as required by Act June 30, 1864, § 59, is not a cause of forfeiture.	115
A forfeiture under Act June 30, 1864, § 68, and the penalty of \$500 therein prescribed, are independent of any other penalties named and are cumulative not sureties on the bond of a manufacturer of tobacco (Act March 3. 1863 § 34) does not cease upon the expiration or his hence as such manufacturer.	224

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Evidence of false returns of spirits made and materials used by claimants, through each of several preceding months, is admissible to show an intent to defraud as to goods seized on October 30th. (Act July 13, 1866, § 9.).	70
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The fact that nearly all of the same property had been seized a month previously as forfeited for like fraudulent practices, and that a suit to enforce such forfeiture was pending and at issue is immaterial.	70
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The remedy given by the act of 1798, authorizing the secretary of the treasury to discharge imprisoned debtors, does not prevent a remedy under the act of 1867.	43
Every person not committed for treason or felony is entitled to the benefit of the prison bounds upon giving security.	742

JUDGMENT.

Operation and effect.

A judgment in favor of the maker of a note in replevin against a banker who held the same for collection, brought upon the ground that the note was obtained by fraud, will not bar an action by the owner, an indorsee for value thereof before maturity, from obtaining an action thereon against the maker. 1342

The conclusiveness of an adjudication by a state court as to the distribution of a certain fund under an assignment for creditors is not affected by the fact that it involves a decision as to the legal rights of the parties as affected by the United States bankruptcy laws. 1025

Where a former judgment is relied on as a defense in admiralty, it should appear by the record that the precise question or title set up was passed upon in a former suit, not merely that it might have been. 1193

Relief against: Opening: Vacating.

To set aside an office judgment, the court will not permit defendant to plead specially matter which may be given in evidence upon the general issue. 1306

Assignment.

Where a judgment is assigned as security for a less amount than its face, the debts will be paid out of the first proceeds. 1100

A person purchasing property on judicial sale under a judgment assigned as security will be compelled to pay the money to the assignee. 1100

Enforcement and revival.

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Satisfaction and discharge.

A rule adopted requiring the clerk and marshal to select jurors from the state at large, and draw the names from the box to be inserted in the venire. 761

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If a juror is wrongly named on the panel, he cannot be sworn. 699

On separate trials on a joint indictment it is no cause of challenge that a juror was sworn on the first trial, and found a verdict of guilty. 699

It is no objection to a juror that he has been one of the jury in another cause against the same defendant for a different offense. 419

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After a juror is sworn, he cannot be challenged, except for a cause subsequently arising; and the court cannot discharge him without consent of the party, although he should state to the court matters which would be proper evidence on a challenge for favor.	419
It is a good cause of challenge that the juror has conscientious scruples about finding a verdict which may lead to capital punishment.	699
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Practice stated as to the calling of jurors, and challenging, and trying of challenges.	419
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LIENS.	
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See, also, "Criminal Law" "Equity" "Maritime Liens."

The statute of limitations does not run against the government, nor is it chargeable 674,
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Statutes of limitation will be construed to operate prospectively only, unless the contrary intention clearly appears.	1111
The limitation prescribed by Act March 2, 1790, § 89, continues to apply to suits brought for penalties under the embargo act of 1808.	770
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LITERARY PROPERTY.

The writer of a letter has the property therein, and may control its use, and is entitled to an injunction to restrain an improper use therefore by the addressee.	12
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Sufficiency of evidence to prove the loss of a promissory note to permit evidence of its contents to be given.	1311
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MANDAMUS.

Mandamus will lie to compel the city of Washington, D. C., to pay to the county treasure one-half the expense of erecting a bridge over Rock creek. (Act July 1, 1812, § 11.).	414
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Act March 3, 1873, confers original jurisdiction on the proper federal circuit court in cases of mandamus to compel the Union Pacific Railroad Company to operate its road according to law.	341
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The circuit court of the district of Iowa has jurisdiction in such case, if any part of the road is in the district of Iowa; and under Act June 20, 1874, process may be served upon the president or general superintendent of the company found in the district.	343
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Mandamus cannot be issued by the circuit court of the United States under, the Acts of 1789, or June 1, 1872, as an original proceeding.	341
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A mandamus will lie to enforce judgments against municipal corporations, and, when issued by the federal courts, the state courts cannot lawfully interfere with their execution.	213
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In case of the evasion or disobedience of such writ, the federal court may appoint a marshal to execute it.	213
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Amendments in form and in substance may be allowed in mandamus proceedings in any stage thereof, where justice will be thereby promoted.	345
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MARITIME LIENS.

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The lien of seamen’s wages and of bottomry bonds exists in all cases as much against the government, becoming proprietor by way of purchase or forfeiture or otherwise, as against private persons. 601

A lien for supplies in a foreign port *held* lost by two years’ delay, where the vessel had since made several voyages, and had been sold at public auction to a bona fide purchaser without notice. 854

Act Ohio Feb. 26, 1840, confers no lien in favor of the persons therein mentioned, and such persons are not entitled to payment out of the surplus proceeds in the registry of the admiralty court. 1138

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In the case of a tug used about New York harbor the lien of the material man for supplies under the New York statute is not lost by her secret departure from the state out of the line of her business. 1092

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Fees and expenses of marshal as keeper of alcohol seized for violation of internal revenue laws. 137

A marshal who, in taking the census, advances money to pay the expenses, after repeated attempts to obtain it from the proper department, may retain the amount thus paid out of the public money in his hands. 37

An action will not lie upon the official bond of the marshal of the District of Columbia for not returning an execution, unless he has been required by a rule of court to return it, and has failed to do so. 665

The sureties of the marshal of the District of Columbia are liable for advances made by the secretary of the treasury to him. 665

The marshal of the District of Columbia and his sureties are liable to account for all common-law fines and forfeitures received, whether on execution or otherwise. 665

Such marshal is not liable upon his bond for executions not returned, or for the escape of persons not returned, or for the escape of persons taken and in his custody on ca. sa. for fines, etc., whether prayed I commitment in execution or not. 665

MINISTER.

In a suit by the United States against a minister to a foreign government to recover the difference between the amount of a private claim collected by him and the sum paid over, where the defense was that the difference had been paid to persons in Brazil with the consent of the state department, *held*, that defendant would not be required to disclose the names of such persons. 506

MORTGAGES.

See, also, "Chattel Mortgages."

The mortgagor is, in equity, considered as the owner the property until foreclosure or sale. 1308

When a debt secured by a mortgage has been discharged by the mortgagor, the mortgagee and his assigns will be required in equity to make a reconveyance. 828

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An information, on a by-law may be amended by stating that the penalty wealth to the town instead of the commonwealth. 1225

No information or indictment will lie upon a by-law of the corporation of Alexandria. 1224

The judgment will be arrested where an information upon a by-law states that the penalty accrued to the commonwealth, when, by charter, it accrued to the town. 1224

NAVIGABLE WATERS.

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NAVY

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

NEUTRALITY LAWS.

Evidence that defendant admitted that a certain person was associated with him in the plan to invade a foreign territory is sufficient to render admissible statements of such person to show the extent of the plan, and whether it was legal. 771

NEW TRIAL.

See, also, "Criminal Law."

A new trial will not be granted on the ground of surprise because the case was tried by other counsel than the one who was originally employed and prepared the case, where it does not appear that the result would have been different. 984

Where the motion is founded on fact not within the knowledge of the judge, and not appearing on his minutes, it must be verified by affidavit, unless the opposite party waive such requirement. 1289

A motion founded upon alleged newly-discovered evidence or on the charge of misconduct by the opposite party or the jury in respect to the trial, is such a motion. 1289

Affidavits of the witnesses to be examined is not a compliance with rule 22, but the allegation of newly-discovered evidence must be verified by the oath of the party or his attorney. 1289

Such affidavits are not, without consent, admissible at the final hearing of the motion. 1289

Probable cause for the motion must be shown before the court will give notice to the other side or stay the entry of judgment. 1289

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On the final hearing of a motion not founded on facts within the knowledge of the judge, testimony may be taken in open court, or by depositions, or by interrogatories, or by commissioner appointed by the court on consent of the parties. 1289

No affidavit of merits is required where the motion is property addressed to the minutes of the judge. 1289

OATH.

See, also, "Perjury."

A judge having a right to administer oaths may administer them in any county in the state. 1236

OBSTRUCTING JUSTICE.

A deputy marshal is an officer of the United States authorized to serve process. 193

Willful resistance of a warrant of attachment against a vessel, valid on its face, is indictable under Act April 30, 1790, § 22, though the libel for forfeiture of the vessel, on which it is founded, is not sufficient to authorize it issue. 193

Sufficiency of indictment for willfully resisting the execution of process under Act April 30, 1790, § 22. 193

OFFICE AND OFFICER.

The rule in regard to the binding force of acts of a de facto public officer is restricted to those who hold office under some degree of notoriety, or are in the exercise of continuous official acts, or are in possession of a place which has the character of a public office. 862

Under Acts March 3, 1839, and Aug. 26, 1842, an officer with a fixed salary is not entitled to any additional compensation for extra services, unless it is provided for by law or by the regulation of an officer of the government authorized by law to make it. 586

Where an officer refuses to pay over the balance found due upon the adjustment of his account he forfeits the commissions due on such unsettled account only. (Act March 3, 1797.). 525

Federal officers holding the public money as money of the United States are only accountable to the United States. 1105

Where the government employs a person to perform labor neglected by a public officer pertaining to his duties, his sureties are liable only for a reasonable compensation for such labor. 397

The sureties on the old bond are not responsible for moneys received by the officer after he has given the new bond required by Act 1817, c. 197. 399

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A civil officer has the right at any time to resign his office without the consent of the president, and his surety will not be bound beyond the time if the resignation is received at the proper department, and is to take effect.	792
Sureties on a bond for the faithful execution of the agency of an officer in paying invalid pensioners are not answerable for his defaults in not paying navy and private pensions.	588
In a suit against the sureties on an official bond the admission of evidence of the good character and conduct of the officer, since deceased, is erroneous.	751
PARTIES.	
Suit on a joint and several bond may be brought against the executors of a deceased obligor, together with the surviving obligors, without showing the insolvency of the survivors.	203
In a suit by one or more heirs to recover assets, another heir and distributee is a proper party, but is not indispensable whenever the court can proceed and do justice to the parties before it without injury to the absent person.	949
Persons against whom no relief is prayed, and whose interests cannot be injuriously affected by the suit, need not be joined as parties.	949

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The legal owner of land, which he holds in trust for another as security for advances made by him on account of the purchase for the latter, is a necessary party to a bill brought by the latter in respect to a claim arising upon such land.	826
An insolvent or bankrupt, discharged from the particular contract on which relief is sought, need not be made a party to the suit, as there can be no decree against him.	1062
On a bill to recover a debt against the estate of a deceased partner, the other partners are proper and necessary parties, and cannot be dispensed with, when out of the jurisdiction, where the case involves their important rights.	1293

PARTITION.

The right to demand partition is ex debito justice if complaint can show a plain legal title.	1220
On a bill for partition a court of equity may examine questions of alleged fraud.	1220

PARTNERSHIP.

See, also, "Bankruptcy."

Where one partner publicly avows all the partners, so that they become and are known as such, and credit is obtained thereby, it is no longer a secret partnership, whether the firm be carried on in the name of one partner only or otherwise.	811
Where a partnership is carried on in the name of one partner, notes indorsed by him are not binding on the firm unless the indorsements were made for the benefit of the firm.	811
A primossory note given by the active partner, in whose name the business was carried on, to the silent partner, for the amount of capital contributed by him, is the separate note of the active partner.	1339
Secret restrictions upon the rights of partners do not affect those persons who deal with the firm in ignorance of them.	811
A partner can bind the firm only for objects within the scope of its business.	811
A bill signed by one partner alone, where he has authority to sign for all, will, in equity, be enforced against all the partners in favor, of the payee of the bill, who has trusted the money on the faith of the joint credit.	1067
A judgment against one of the partners will authorize the sheriff or marshal to levy on the right of the judgment debtor in the goods of the firm.	672
But the debts of the partnership must be first paid before the partnership property can be applied in payment of the individual debts of either partner.	672
The officer, where necessary, may take possession of the entire property, and sell the individual interest of the partner, and the purchaser will become a substituted partner.	672

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Equity will enforce against executors of a deceased partner or joint contractor payment of a bill of exchange, where the survivors are insolvent.	1067
A bill to charge the executors of a deceased partner with a partnership debt must expressly allege the insolvency of the surviving partner.	1062
On a bill in equity to obtain satisfaction of a joint debt out of the estate of a deceased partner on account of the insolvency of the survivors, no decree need be had against the survivors.	1067

PATENTS.

The commissioner of patents.

A decision of the commissioner on the question of abandonment is not final, but may be reviewed in a suit brought on a patent subsequently granted. (Act July 8, 1870, § 35.). 819

Patentability.

Where a new combination of old devices results in a machine capable of producing an article of a new and useful character, it is patentable. 1327

The degree of utility is not material. If the invention be useful in any degree, and not absolutely worthless, the patent will be sustained. 956

Prior public use or sale.

The use of an invention for mere competitive examination, experiment, and test is not a public use. 819

Abandonment: Laches.

Eight years' delay to file a new application after the original application was withdrawn, and the balance of the fee refunded, *held* an abandonment. 819

Application and issue: Interference.

When all the conditions exist as prescribed by Act 1836, § 6, the commissioner is bound *prima facie* to issue a patent. But it is his duty to decide whether the invention is new, and the proper subject of a patent. 1327

Construction and operation.

In the case of an improvement, the proofs or instrumentality by which the result is attained need not be given in the summary. 869

The claim must be for something so described in the specifications that any person of ordinary mechanical skill in the art covered by the patent can, from the specifications, make a mechanism which will contain the claim. 1252

Where the patent is for an improvement, the specifications need not set forth the detail of the old machinery. 869

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The words “as herein described” and “as herein set forth” refer to the specifications, and may, in their proper construction, embrace elements of a combination not specifically named in the claim.	956
By claiming particular things in a combination as new, the patentee does not relinquish his right to the entire combination.	869
Reissue: Disclaimer.	
A reissue cannot include anything which was not in the original specifications or drawings.	1252
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The extent to which assignees of a patent may enjoy a renewed patent is to be determined solely by the stipulations of the assignment.	1007
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The general rule that a bill in equity will not be maintained where a party has a remedy by an action at law is not applicable to patent cases where the bill prays for a discovery and account of profits.	1111
Where there are no profits, and the limit of the injury is necessarily the value of the license fee, a bill in equity will not lie for an account, as the patentee has an adequate remedy at law.	1107
Where a patent is for an improvement in the mode of operating brakes for railroad cars, an action of law furnishes a full, complete, and adequate remedy, and a suit for an account cannot be maintained.	1107
A general allegation of profits accrued will not sustain a bill for an account, and where, from the nature of the invention alleged, it is apparent that there cannot possibly be any profits of a character to justify charging defendant as trustee, a demurrer will be sustained.	1107
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An averment in the declaration that a patent under the seal of the United States in due form of law was issued is a sufficient declaration to show the validity of the patent.	1003
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A feigned issue will not be awarded unless the court have doubts as to the identity of the two machines.	991
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Various particular inventions and patents.	
Brick machine. Invention of improvement in, <i>held</i> patentable.	1327
Distilling tubs. No. 81,115 (reissued No. 3,612), for improvement in tubs for distilling essential oils, construed and limited, and <i>held</i> not infringed.	1035
Planing machine. Woodworth's patent of December 27, 1828, <i>held</i> valid and infringed.	991, 1001, 1007
Steam boilers. Nos. 108,055, 114,711, and reissue No. 4,134, for improvement in compositions for covering, <i>held</i> infringed.	809
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In case of payments by a debtor to creditor, the debtor has a right to direct the application of them, and, if he does not, the creditor may apply them as he pleases.	399

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In case of payments made by an administrator of an insolvent estate, all such payments must be deemed to be made on general account, and pro rata towards the extinguishments of all debts due to the creditor.	399
The officers of the treasury department have not the right to make application of payments against the will of the debtor or of his administrator.	399
In cases of running accounts, where debits and credits are made at different times, the payments are to be deemed as made towards items antecedently due in the order of time in which they stand in the account.	399
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A person entitled to recover money paid under a mistake of fact must give prompt notice of the discovery of the mistake to the person to whom the money was paid.	333
The person to whom the money is paid is discharged from liability where he sustains damage in the loss of his remedy over against another, through the neglect to give notice of the discovery of the mistake.	333
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An oath required to be administrated by an act of congress, under the usage of the department, may be administered by a state officer having power to administer oaths.	731
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Perjury may be committed in an affidavit to an account for the purpose of getting it passed by the orphans' court.	79
An oath administered by a commissioner to a person tendering himself for justification, as bail for a person committed by such commissioner to await the issuing of a warrant for his removal for trial, will support an indictment for perjury, though it does not appear that the deposition was used on the application for bail.	384
An indictment for subordination of perjury (Act March 3, 1825, § 13), averring that defendant did feloniously, knowingly, and willingly procure B. to swear falsely in the taking of an oath, etc., but not averring that B. knowingly and willingly swore falsely, is bad on demurrer.	600
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An indictment for perjury alleged to have been committed on an examination before C., "a commissioner of the United States, newly appointed," but not stating how, or by whom, or under what statute, or for what purpose such commissioner was appointed, is bad on demurrer.	599
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In a prosecution for practicing medicine without a license, a witness will not be compelled to produce the medicine which he received from defendant.	660
The application, by an oculist, of a liquid to the eye, is not the practice of medicine, but rather of surgery.	660

PIRACY.

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Where a declaration is special, stating facts and circumstances, a plea setting up the same matter is bad.	948

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If a plea which purports to answer all the breaches in the declaration is a good answer to some of them only, the objection cannot be taken advantage of on error, but on special demurrer only.	608
Where two pleas are substantially the same, the court will, on motion, order the last one to be stricken out as incumbering the record.	1098
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The carrying of letters, though without distinct compensation, which are not in the form of receipts, etc., is a violation of the law.	97
It is not unlawful for an express company to carry with a money letter or package an unstamped letter of advice concerning such money. (Act March 3, 1845, § 9.)	352
The possession of the office of a postmaster by a special agent of the department for one day, while adjusting his accounts, will not release his sureties from all subsequent liability under Rev. St. § 3836.	794

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Mere indulgence or forbearance on the part of the government towards a defaulting postmaster for an indefinite time, in the absence of fraud, will not discharge his sureties.	794
The fact that the government continued a postmaster in office after discovery of a defalcation, and delayed to disclose the same, will not relieve his sureties from liability for subsequent defalcations.	794
A sealed letter, written by defendant to a person who had no existence, in answer to a decoy letter of a detective, and which, on its face, gives no information of the prohibited character, is not within Act July 12, 1876.	591
The word "rob," in Act March 3, 1825, § 22, is used in its common-law sense.	699
Carrier of the mail need not have taken the oath prescribed by section 2, nor need the whole mail be taken, to authorize a conviction.	699
The offer or threat to shoot with a pistol is within the law without proof that the pistol was loaded.	699
"Jeopardy," as used in such section, means a well-grounded apprehension of danger to life in case of refusal or resistance.	699
Robbing the mail is a capital crime if effected by the use of dangerous weapons putting in jeopardy the life of a person in custody thereof. Putting him in fear and his life in peril is putting his life in jeopardy.	755

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A sword or pistol in the hand of a robber, by terror of which the robbery is effected, is a dangerous weapon, within the law, though the sword be not drawn, and the pistol be not pointed or loaded.	754
An information under the act of 1845 for carrying a letter out of the mail need not negative the fact that it was stamped.	179
An indictment against a post office employe for stealing money from a letter (Rev. St. § 5467), which did not aver that the letter was one intended to be conveyed by mail, or that it had been deposited in any post office, or in charge of defendant, or that it came into his possession in the regular course of his official duty, <i>held</i> bad.	740
The embezzlement of a letter and the Stealing of its contents are distinct offenses under Rev. St. § 5467.	19
On a charge against a postmaster of abstracting a letter from the mail, all the postmasters and assistants on the route should be called as witnesses.	538
A person is not guilty of taking and embezzling a letter (Rev. St § 3792) where he took from the post office and retained a registered letter addressed in his care to a person who was dead, and retained a draft inclosed therein.	74
A person who takes a letter out of the post office and reads it by authority of the addressee, where it was also intended for him, does not violate the post-office law.	12

POWERS.

The indorsement at the foot of a deed "I consent to the above," signed by the person without whose "approbation and consent" a sale under a power of sale was not to be valid, *held* a sufficient compliance with the requirement. 1364

PRACTICE IN ADMIRALTY.

An action in rem against goods shipped may be joined with an action personam against the consignees for freight. 1114

A writ of foreign attachment in aid of a libel in personam to recover less than \$500, issued without direct sanction of the court, is irregular, and will be discharged, under rule 28. 1080

Rule 28 of the district court is not rescinded by supreme court rule 7, prohibiting employment of the writ of foreign attachment in aid of demands exceeding \$500 without authority of the judge. 1080

Since the promulgation of the supreme court rules of 1850 abolishing arrests on admiralty process, where, by the state laws imprisonment for debt has been abolished, a warrant of arrest sued out without the special order of the judge is nugatory and void. 1080

Where the marshal, without authority of the court, has discharged attached property from custody, and subsequently served defendants personally, the court will require them to give security as a condition of opening their default. 1092

Where the corporate owners of a steamboat voluntarily appear as claimants, though under the wrong name, they are parties to the suit, and no objection can be taken to the decree for want of process against them. 1229

On a libel against a vessel, though the claims exceed her value, the amount of the freight is not to be included in the stipulation. 1234

Where the possession of a vessel is delivered up on the giving of a bond for value, it must be defended as if it had never been in the custody of the court. An attachment for contempt will not lie for its forcible taking. 201

The claimant in an action in rem, who secures the discharge of the property by giving a stipulation for value, must keep his stipulation good in the matter of sureties until the final determination of the case. 1233

Where, after an appeal by libelant from a decree dismissing the libel, the stipulators for value become insolvent, the circuit court will require the claimant to furnish new stipulators. 1233

Where a paper has been intrusted to libelant for the benefit of both parties, the court, on motion, will order its production before answer. But a letter addressed to libelant forming part of a contract, is not such a paper. 1310

PRINCIPAL AND AGENT.

A general agent, acting under special instructions, which are known to the person with whom he is dealing, cannot bind his principal by any act which violates his instructions. 678

The principal is chargeable with notice where his agent has full notice. 1100

The principal is bound by the knowledge of his agent purchasing goods that they were removed from a bonded warehouse by fraud. 297

The principal may follow his property into the hands of the agent or his legal representatives or assignees in insolvency, if either it or its proceeds can be traced. 1135

PRINCIPAL AND SURETY.

See, also, "Bail"; "Office and Officer."

The sureties on the bond of an assignee of a contract to account for "advances under and by virtue of the contract," are entitled to the benefit of all limitations provided in the contract, both as to past and future advances. 180

Sureties are released by any agreement without their consent between the creditor and principal which varies essentially the terms of the contract. 180

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Sureties on the bond of a contractor to construct a fort are discharged by the refusal of the war department to permit the administrator of the contractor to complete the work.	180
An agreement substituting tapia for brick, and altering the mode of estimation and price of labor in the construction of a fort, will discharge the sureties, though the change was for their benefit.	180
A change of contract under which C. was to receive a salary, and the expenses of the business were to be borne by D., so that C. was to pay the expenses and sell on commission, will discharge the sureties of C.	1177
PRIZE.	
Acts July 13, 1861, and Aug. 6, 1861, are purely municipal regulations, with which foreigners have no concern.	624
The carrying of military or naval persons in the service of the enemy to enemy ports subjects the offending vessel to condemnation.	781
A blockade, as understood by the law of nations, is an investment of a town of one belligerent by the forces of another.	624
Where 15 days are allowed for neutral vessels to leave on proclamation of a blockade, a vessel cannot leave within such time with a cargo put on board-after notice that the blockade had become effective.	218
There is no question of neutrality in a civil war, the insurgents not being acknowledged as a nation.	624

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Vessels which pick up enemy's goods thrown overboard during a chase are entitled to them as captors, and not as salvors.	1188
The admiralty courts have jurisdiction in prize over captures made on the Mississippi river during the Civil War.	302
Captures of vessels on navigable rivers are not within the prize jurisdiction unless made by the naval arm, or by its co-operation, contributing immediately in effecting the capture.	302
Vessels used merely as transports for troops and neither armed nor commanded by government officers, do not bring within the prize jurisdiction a capture by military forces.	302
Irregularities in the proceedings in not making the captors parties, and not bringing the prize into court for adjudication, may be corrected.	302
The liability to condemnation is not affected by the right of the captors to prize money, or the fact that the capture was brought about by a revolt of the crew of the vessel.	781
After a decision that a forfeiture had been incurred, the court allowed the case to stand open for further proof that the strictness of the blockade had been relaxed.	218
Cotton captured as prize, and in the custody of the marshal under a warrant from the prize court, is not liable to be proceeded against for the internal revenue tax while in his custody.	1183
Where a vessel is condemned as enemy property, but the cargo is released as belonging to a neutral engaged in lawful trade, seamen are not entitled to wages out of the proceeds, nor will the master be allowed his advances for necessary repairs and supplies.	1136
When a vessel is taken by the secretary of the navy under Act 1863, c. 86, § 2, the marshal is not entitled to his fees as in the case of a sale, or to half commission as when a case is settled without a sale.	1183
Vessel and cargo condemned as enemy property and for an attempt to violate the blockade.	1146

PUBLIC LANDS.

See, also, "Factors and Brokers"; "Grant."	
Construction of Act Pa. March 28, 1787, confirming the title of certain Connecticut settlers to lands claimed by them in Luzerne county.	1012
The nonperformance of a condition of a public grant to pay annually an ear of corn as rent is not a ground of forfeiture, as such rent is merely nominal.	1153
Where, in the case of a grant from the British crown, payment of the rent at the place stipulated is rendered impossible by the separation of the countries, the state	1153

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which succeeded to the rights of the British crown should have appointed another place of payment, and given notice thereof.

Public lands, made a trust estate for the payment of certain bonds, and placed under the control of trustees, are subject to the power of a court of equity to raise there- 1286 from the money due and chargeable thereon.

In an indictment for cutting timber it is not necessary to state the class of lands from which the trees were cut. 98

QUI TAM AND PENAL ACTIONS.

Although, in the absence of an informer, the government may have judgment for the whole, yet this does not authorize the proceeding by indictment. 179

Where a statute creates an offense, and affixes a specific pecuniary penalty appreciating one-half thereof to the informer, it adopts by implication those remedies by which alone the informer can sue. 179

RAILROAD COMPANIES.

The gift of lands and bonds made by the United States to the Union Pacific Railroad Company were not in the nature of a trust, but were made absolutely without condition precedent. 333

Under Act Fla. Jan. 6, 1855, §§ 2, 3, 12, the amount which the railroad company is bound to pay annually towards the sinking fund is to be calculated upon the amount of bonds still uncanceled. 1285

A charter to construct the Union Pacific Railroad from a point on the “western boundary of the state of Iowa” *held* to mean from the Iowa shore to the Missouri river. 345

A mandamus will issue to compel the company to operate its road over the bridge over the Missouri river in the same manner in which the other portions of its road are operated. 345

Construction of Act March 3, 1873, § 4, directing a suit in equity to be instituted in the name of the United States against the Union Pacific Railroad Company and others. 333

A suit to redress fraudulent acts on the part of the managing officers of the Union Pacific Railroad Company cannot be obtained in a suit brought by the United States. 333

REAL PROPERTY.

See, also, “Boundaries”; “Deed”; “Ejectment”; “Estates”; “Grant”; “Public Lands.”

Innocent purchasers from a grantee who fraudulently obtained possession of a deed, who make valuable and lasting improvements, are entitled to compensation therefor. 861

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In such case the annual rents and profits will be deducted from the value of the improvements. 861

RECEIVERS.

The court will not appoint a receiver of trust funds in the hands of high public of trust funds in the hands of high public officers where the trust involves duties of a public character, except in cases of gross fraud and imminent danger. 1298

RELEASE AND DISCHARGE.

A release given to a debtor of the United States by an officer of the government will have the same effect as an ordinary release from a creditor to a debtor. 92

Where two persons are bound jointly or jointly and severally in an obligation, the release of one will discharge the other. 92

Where a joint judgment has been rendered against two defendants, a release of one of them subsequent to the judgment will discharge the other. 92

The release of one after a judgment obtained against the other is not available to the latter. 92

A release of the party primarily liable is a release of all parties secondarily liable. *1124

A release by purchasers at a sale by auction to the agent who made it would release the vendors from all liability for fraudulent by-bidding which enhances the price *1124

REMOVAL OF CAUSES.

See, also "Courts."

Suits against federal revenue officers on account of acts done under color of their offices, may be removed from state courts. 1144

A suit in a state court by an informer against a collector for the proceeds of goods condemned may be removed by certiorari into the federal circuit court. (Act March 2, 1833, § 3.). 1093

A suit against the assistant treasurer of the United States to recover the value of certain United States bonds deposited with him by plaintiff and retained by him under instructions from the treasury department, on the, ground that they were unlawfully put into circulation as against the party to whom they were issued, cannot be removed under Act March 2, 1833, § 3. 1177

Act March 3, 1875, c. 137, § 10, does not repeal Rev. St. § 643, providing for the removal of suits from the state to the national courts in certain cases. 1144

The case is not removable where one of defendants is a citizen of the same state with plaintiff, though the others are citizens of different states. 952

A suit cannot be removed as to one defendant where there are other necessary defendants to the bill. 1324

A suit in equity cannot be removed when pending in an appellate tribunal. 1324

Where a rule to show cause why defendant should not be attached for contempt for violating an injunction was granted by the state court before removal of the cause, the federal court will remand the contempt proceedings while retaining the main cause for adjudication. 1274

RULES OF COURT.

The rule of the circuit court for the Southern district of New York of Nov. 11, 1867, in regard to the designation and selection of jurors, is a proper provision. 9

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SALVAGE.

Salvage is not due for rescuing the vessel of a neutral out of the hands of a belligerent, who took possession of her for a supposed breach of treaty or of the law of nations. 1341

A tug maintained at heavy expense for salvage purposes is entitled to the full remuneration usually awarded to other salvors. 1219

One-half the value of cargo transshipped and 4 per cent. of that of the vessel and remaining cargo allowed where a brig caught and damaged in the ice in Delaware Bay was rescued by the removal of her cargo and towed into port by a steam tug. 1219

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The salvor of a vessel which is not derelict has no right, after the vessel is brought into port, to provide supplies which will create a lien upon the vessel, or charge the owner therewith.	1197
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The contract of shipment.	
A contract to ship as seamen on a trading voyage on the coast, without any definite stipulation as to time or place of termination of the voyage, when justice to the seamen requires it, will be held void.	1367
A contract entered into at sea, changing the terms or duration of the original contract, will be disregarded if prejudicial to the seamen's interest.	1367
Under articles for a voyage from New Orleans to Havre, and thence to one or more ports in Europe, and thence back to a port of discharge in the United States, the seamen cannot be required to proceed to Charleston as a final port of discharge after the vessel has stopped at New York, and landed passengers and freight.	584
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Conduct of master or mate in respect to seamen.	
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In the absence of the master, the next highest officer on board succeeds to his rights and authority pro tempore, so far as they are necessary for the due performance of the ship's duties.	31
A master, who is present when punishment is inflicted by a subordinate officer, is personally responsible therefore.	31
In cases of mutinous conduct the master may use a greater degree of violence than where there is misbehavior only.	595

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Wages.	
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To authorize a conviction under Act 1835, c. 40, § 3, for injury to a seaman, both malice, hatred, or revenge and a want of justifiable cause must be shown.	31
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A seaman may refuse to inflict punishment on one of the crew unless some justifiable cause is pointed out to him.	732
An indictment for an endeavor to commit a revolt and for confining the master need not allege that he was at the time in the peace of the United States, or a citizen thereof. (Act 1790, c. 9, § 12.).	102
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Sufficiency of indictment against a seaman for endeavoring to make a revolt on board an American vessel in foreign waters.	233

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A claim of damages sustained by a public officer against the government cannot be set off against a legal demand.	521
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The sureties of a sheriff in Virginia are not liable for officer's fees unless the account of the same shall have been delivered to the sheriff for collection before the 1st of March, under Act Va. Dec. 19, 1792, § 11.	1228
In debt on a sheriff's bond, his return upon an execution that he had satisfied the plaintiff is not evidence for defendants.	1229
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Public regulation.	
An American registered vessel, sold, while at sea, to resident citizens of the United States, without a bill of sale reciting her registry, and without any new registry, until her arrival in the home port, loses her privileges as an American vessel until such new registry is made.	695
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The sale of a licensed schooner to a British subject, followed by an order to the master to make delivery to him, and the presentation of a request for clearance by the captain, which recites the sale, and is signed and sealed by the British consul, though the delivery is not yet actually made, is a "transfer." (Act Feb. 18, 1793.).	373
A vessel enrolled or licensed under Act March 2. 1831, became under the protection of the laws of the United States, and bound to observe the revenue laws.	1
Act July 7, 1838, does not apply to vessels which were not theretofore required to be enrolled and licensed for the coasting trade.	629
Ferryboats, prior to such act, were not required to be enrolled and licensed.	629
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Under Act July 7, 1838, more than six months must not elapse after one examination of a steamboat's boilers before another is made.	1229
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An inspector, under such act, although he may be the informer, is not entitled to any part of the penalty, and is a competent witness for the prosecution.	86
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On the application of two part owners owning a moiety, who cannot agree with the other owner as to the employment of the vessel, it will be ordered sold.	1193
The master.	

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The vessel owner is liable for the expenses of medical attendance rendered the master on board the vessel in a sickness incurred in her service.	1034
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Where a ship, on account of injuries caused by dangers of the seas, is obliged to lay up in a port of necessity for repairs, the master may sell such portion of the cargo as is of a perishable nature.	1143
Where goods are consigned to the master for sale, the vessel is only bound for his acts in their stowage and transportation, and not for those connected with the sale and disposition of the goods or their proceeds.	1356
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A shipper, whose goods are lost or damaged by the fault or neglect of the master, has a remedy against the owners, and a lien on the ship.	1356
Where goods are lost by the vessel springing a leak while at anchor in a harbor, the shipowner must show some stress of weather or other circumstances sufficient to account for such a leak in a vessel of ordinary strength.	1234

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A piece of statuary, shipped under a bill of lading excepting dangers of the sea, was delivered to the vessel at Leghorn in a wooden case, having been packed at Carrara, and brought to Leghorn in a lighter. It was well stowed, but the vessel met with heavy weather on the passage, and it was found broken when it reached its destination. <i>Held</i> , that the burden was upon libellant to show that it was in good condition when it was delivered to the vessel.	1199
Where perishable cargo is sold at a port distress at which a vessel lays up for repairs on account of injuries due to perils of the seas, no freight is recoverable.	1143
By the general maritime law there is a lien on the goods for freight, whether shipped under a bill of lading or a charter party; but such lien may be waived or displaced by any special agreement inconsistent therewith.	1260
A stipulation for the payment of freight 10 days after the return of the vessel is not necessarily inconsistent with such lien.	1260
Where a vessel puts into a port of distress, and the shippers and underwriters are informed as to the condition, and do not give any direction, and the cargo, after a regular survey, is sold as unfit for reshipment, <i>held</i> , that the vessel is not liable, though the master carries the cargo back to the port of shipment for the purchaser, and subsequently takes it to its original destination.	1165
A case of goods put over the vessel's side upon a truck and wheeled to the place where it was inspected and marked for the public store, and then wheeled further up the wharf, and disappearing within an half hour within the inclosure, <i>held</i> not delivered so as.	1189
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Any officer of a steamboat, through whose negligence or ignorance an explosion takes place, which is destructive of life, is guilty of manslaughter.	25
The essence of the crime under Act July 7, 1838. § 12, consists in the fact of there being "misconduct, negligence, or inattention" in such degree and of such a character as to have produced the result set forth in the indictment, irrespective of the intention of the person charged.	404

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The captain is responsible where he failed at once, after a collision, to ascertain the extent of the injuries, and to run his vessel ashore if he finds she will go down.	404
Loss of life is not the necessary result of a collision where the persons indiscreetly took to floats or rafts instead of remaining upon the upper deck of the sinking steamer, as commanded, where it appears that they would have been safe; otherwise where in such case they acted with ordinary prudence and discretion under the circumstances.	404

SLAVERY.

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A certificate of freedom is not such a "pass" as is contemplated by Act Md. 1796, c. 67, § 19.	379
The offenses prohibited by Act May 15, 1820, § 4, may be committed by any citizen of the United States on board of any vessel, whether foreign or American.	529
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A fugitive slave law (section 7) makes it a criminal offense knowingly and willfully to frustrate or retard the attempted recapture of a fugitive slave by his master, whether it be by force, active or passive, or stratagem.	631
The offense being a misdemeanor, one aiding or abetting another to commit it, whether he be absent or present, is guilty as a principal.	631
Sufficiency of indictment under Act 1796, c. 67, § 19, for aiding and advising the transportation of a slave.	647
"Notice," within the fugitive slave law, making a person liable for a penalty who conceals or harbors a fugitive slave after notice that the person is such, means knowledge; and "harboring" means entertaining or sheltering with the purpose of encouraging the desertion, furthering the escape, or frustrating reclamation.	1036
An action will lie at common law to recover damages for the harboring and concealing of a fugitive slave.	1042

SPECIFIC PERFORMANCE.

Where a contract of sale provides that the same shall be void if the vendor does not pay the purchase money within a prescribed period, specific performance will not be decreed where payment is not made within such time.	1200
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STATUTES.

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The power to declare statutes void exists only in cases of contravention, opposition, or repugnancy to some express restriction or provision in the constitution.	614
In the construction of penal statutes that sense will be adopted which harmonizes best with the context, and promotes in the fullest manner the apparent policy and objects of the legislature.	733
Effect must be given to the words used in the statute when there is no uncertainty or ambiguity in their meaning.	404
The general words of a statute do not include the government, or affect its rights, unless such purpose be clear and indisputable on the face of the act.	518
The preamble of a statute may be referred to to determine which sense was intended by the legislature only where the enacting part is ambiguous.	509
Statutes levying taxes or duties are to be construed most strongly against the government, and their provisions are not to be extended by implication beyond the clear import of the language used.	595
In the construction of the Revised Statutes no change of meaning will be imputed to a change of phraseology in the re-enacted statute unless the language used indicates an intended departure therefrom.	169
Words imposing a forfeiture or penalty will not be construed to embrace a case not within the parts of the law which prohibit the act done, or direct the performance of an act by the omission of which the penalty or forfeiture is incurred.	276

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Only a necessary and irresistible implication will be held to operate a repeal of a statute.	39
A general law admitting interested parties to testify as witnesses in all cases <i>held</i> not repealed by a subsequent special law admitting interested parties to testify in certain contingencies.	39
The sections of the Revised Statutes in relation to crime are not repealed by subsequent statutes prescribing different punishments.	328
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When a statute contains an absolute affirmative repeal of an antecedent statute, or part of it, the expiration of the subsequent statute by its own limitation will not revive the repealed act.	257

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Lands mortgaged to indemnify the mortgagee against an incumbrance on other property which the mortgagee subsequently conveyed with a covenant against incumbrances, may be reached by the latter’s grantee, who has been evicted, or been obliged to pay the incumbrance.	828
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dangers in the place where the latter is to work; and she is liable for the sinking of the latter in the maneuver.	
A tug which gives a different signal from that intended, resulting in a collision, is liable therefor to her tow.	1258
Tug <i>held</i> liable for the loss of a canal boat run upon Flood Rock in a field of soft ice, on the ground that she should have waited until the ice had passed.	852
The admission of the owner of a tug that he was liable for the loss of a tow, coupled with payment of damages to the owners, is sufficient to sustain a decree against him in favor of the owner of the cargo.	852

TREASON.

To go with a large party in arms, marshaled and arrayed, to houses of officers of excise, and there commit acts of violence and devastation, with the avowed object of suppressing such offices, and compelling the resignation of the officers, for the purpose of nullifying an act of congress, is treason.	376
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TREATIES.

See, also, "Extradition."

Congress may abrogate a treaty so far as it is a municipal law, if its subject-matter be within the legislative power of congress.	195
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TRESPASS.

A person who, with knowledge that another has committed a trespass, receives part of the property taken with knowledge thereof, is guilty of the trespass.	1301
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TRIAL.

See, also, "Appeal"; "Continuance"; "Criminal Law"; "Evidence"; "Jury"; "New Trial"; "Practice"; "Witness."

Notice to the opposite party to produce at the trial all letters in his possession relating to moneys received by him under the award of the commissioners under the Florida treaty is sufficiently specific, as they are described by their subject-matter.	1106
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The court will not order witnesses for the prosecution to be sent out of the room after they have been examined, and while the prisoner's witnesses are under examination.	762
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A witness ordered to be taken out of court during the examination of other witnesses, who remains in court in violation of the order, will not be permitted to be examined.	762
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The party demurring to evidence is <i>held</i> to admit only such facts which a jury, in the exercise of a fair and reasonable discretion, could infer from the evidence.	678
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TRUSTS.

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An attorney for trustees charged with a public trust, or one of such trustees acting as attorney for the others, has not the implied power to consent to a decree which has the effect of taking the trust out of the hands of the trustees, or of placing its execution in other hands.	1286
Where a fund is affected by a trust, it may be followed as long as its identity can be traced, in the hands of any person who receives it with notice.	417
UNITED STATES.	
See, also, "Claims,"	
The process and forms of proceedings adopted by congress from the state laws are binding upon the United States as parties to an action.	43
The United States cannot convert to themselves the property of another by their own declaration or their own authority, nor can they maintain an action in their own name against one to recover a debt which he may owe to another.	333
As to the existence of liens arising for work and labor done in connection with property of the government.	601
A judgment in favor of the United States arising out of a fraudulent entry of goods	