INDEX.

ADMIRALTY.

Where this court in a collision case directed a decree dividing the damages as between the two vessels, and allowing to the owners of the cargo of one vessel a full recovery against the other vessel; and the court below, upon the production of the mandate of this court, refused to permit the latter vessel to recoup against the other one half the damages to the cargo, it was held that the remedy was by a new appeal and not by *mandamus* from this court, no disobedience of the mandate being shown. *The Union Steamboat Co.*, 317.

APPEAL.

See ADMIRALTY.

ATTACHMENT.

See NATIONAL BANK, 5.

BANKRUPTCY.

1. The provisions of the second clause of section 23 of the Bankrupt Act of 1898 control and limit the jurisdiction of all courts, including the several District Courts of the United States, over suits brought by trustees in bankruptcy to recover or collect debts due from third parties, or to set aside transfers of property to third parties, alleged to be fraudulent as against creditors, including payments in money or property to preferred creditors. *Bardes* v. *Hawarden Bank*, 524.
2. The District Court of the United States can, by the proposed defendant's consent, but not otherwise, entertain jurisdiction over suits brought by trustees in bankruptcy to set aside fraudulent transfers of money or property, made by the bankrupt to third parties before the institution of the proceedings in bankruptcy. *Ib.*
3. A District Court of the United States has no jurisdiction, without the proposed defendant's consent, to entertain an action of replevin by a trustee in bankruptcy to recover goods conveyed to the defendant by the bankrupt in fraud of the Bankrupt Act and of his creditors. *Bardes* v. *Hawarden Bank*, *ante*, 524, followed. *Mitchell* v. *McClure*, 539.
4. A District Court of the United States has jurisdiction, by the proposed defendant's consent, but not otherwise, to entertain a bill in equity by a trustee in bankruptcy to recover property conveyed to the defendant by the bankrupt in fraud of the Bankrupt Act and of his creditors. *Bardes* v. *Hawarden Bank*, *ante*, 524, followed. *Hicks* v. *Knost*, 541.

5. After an adjudication in bankruptcy, an action of replevin in a state court cannot be commenced and maintained against the bankrupt to recover property in the possession of and claimed by the bankrupt at the time of that adjudication, and in the possession of a referee in bankruptcy at the time when the action of replevin is begun; and the District Court of the United States, sitting in bankruptcy, has jurisdiction by summary proceedings to compel the return of the property seized. *White* v. *Schloerb*, 542.

CALIFORNIA WATER RATES.

1. The appropriation and disposition of water in California is a public use, and the right to collect tolls or compensation for it is a franchise, subject to regulation and control in the manner prescribed by law, and such tolls cannot be fixed by the contract of the parties. *Osborne* v. *San Diego Land and Town Company*, 22.
2. It is not for the court to go into the reasonableness of the established rates, which are sought to be enforced in this case, but if the consumers are dissatisfied with them, resort must first be had to the body designated by law to fix proper rates, the board of supervisors of the county. *Ib.*

CASES AFFIRMED OR FOLLOWED.

1. The judgment in *High* v. *Coyne*, *ante*, 111, is followed in this case. *Fidelity Insurance Co.* v. *McClain*, 113.
2. *Knowlton* v. *Moore*, *ante*, 41, followed in this case as to the points there decided. *Murdock* v. *Ward*, 139.
3. *Plummer* v. *Coler*, *ante*, 115, affirmed and followed in this case. *Ib.*
4. *Knowlton* v. *Moore*, *ante*, 41, and *Murdock* v. *Ward*, *ante*, 139, followed. *Sherman* v. *United States*, 150.
5. It results from the conclusions announced in No. 603, *ante*, 548, that the writ of error in this case must be dismissed. *Taylor and Marshall* v. *Beckham* (*No. 2*), 548.

See BANKRUPTCY, 3, 4;
CONTRACT, 6, 7, 8;
INHERITANCE TAX, 6.

COAL MINE.

1. The act of Congress of March 3, 1891, concerning coal mines, makes three requirements: (1) Ventilation of not less than fifty-five feet of pure air per second, or 3300 cubic feet per minute for every fifty men at work, and in like proportions for a greater number; (2) proper appliances and machinery to force the air through the mine to the face of working places; (3) keeping all workings free from standing gas; and if either of these three requirements was neglected, to the injury of the plaintiff's intestates, the defendant was liable. *Deserant* v. *Cerillos Coal Railroad Co.*, 409.
2. The act does not give to mine owners the privilege of reasoning on the sufficiency of appliances for ventilation, or leave to their judgment the amount of ventilation that is sufficient for the protection of miners. *Ib.*

3. It does not allow standing gas, but requires the mine to be kept clear of it, and if this is not done the consequence of neglecting it cannot be excused because some workman may disregard instructions. *Ib.*
4. It is the master's duty to furnish safe appliances and safe working places, and if the neglect of this duty concurs with that of the negligence of a fellow-servant, the master is liable. *Ib.*
5. On the issues made, and on the evidence, and regarding the provisions of the act of Congress, the instructions given by the trial court to the jury were erroneous. *Ib.*

CONSTITUTIONAL LAW.

1. It is a doctrine firmly established that the law of a State in which land is situated controls and governs its transmission by will or its passage in case of intestacy. *Clarke* v. *Clarke*, 186.
2. The courts of a State where real estate is situated have the exclusive right to appoint a guardian of a non-resident minor, and vest in such guardian the exclusive control and management of land belonging to said minor, situated within the State. *Ib.*
3. When a suit does not really and substantially involve a dispute or controversy as to the effect or construction of the Constitution or laws of the United States, upon the determination of which the result depends, it is not a suit under the Constitution and laws; and it must appear on the record, by a statement in legal and logical form, such as is required in good pleading, that the suit is one which does really and substantially involve a dispute or controversy as to a right which depends on the construction of the Constitution, or some law or treaty of the United States, before jurisdiction can be maintained on this ground. *Western Union Telegraph Co.* v. *Ann Arbor Railroad Co.*, 239.
4. Bills were filed in Tennessee by the American National Bank and others against the Carnegie Land Company, a Virginia corporation, doing business in Tennessee under the provisions of the act which was under review in *Blake* v. *McClung*, 172 U. S. 239; 176 U. S. 59; and also against various creditors of that company. The prayer of the bill was that it might be taken as a general creditors' bill; and it was alleged that the company was insolvent, having a large amount of property in the State, which it had assigned for the benefit of its creditors, without preferences, which was in disregard of the statute of the State, that a receiver should be appointed, the assets marshaled and the creditors paid according to law. The company answered denying that it was insolvent, and claimed that the assignment should be held valid, and the trust administered by the assignees. During the pendency of the suit, Sully and Carhart, New York creditors, filed a bill, setting up that nearly all the assets, if not all of them in the hands of the assignee of the company, and sought to be impounded by the bill filed by the bank, were covered and conveyed to Sully, as trustee, and that Carhart was entitled to priority over all other creditors of the defendant in the appropriation of the assets covered by the deed of trust to Sully. They asked for leave to file that bill as a general bill against the land company, or, if that could not be done, that they might file it in the

case of the bank against the land company, as a petition in the nature of a cross-bill against that company. Other proceedings took place which are set forth in detail in the statement of the case. They ended in the consolidation of the various proceedings into one action and a reference to a master to take proof of all the facts. The master made his report, upon which a final decree was entered. It was decreed that the land company, by its deed of general assignment, of June 3, 1893, in making disposition therein for the payment of its creditors, without any preferences, attempted to defeat the preferences given by law to creditors, residents of Tennessee, over non-resident creditors and mortgagees, whose mortgages were made subsequent to the creation of the debts due resident creditors, and that such deed was fraudulent in law, and void ; that the making of the deed was an act of insolvency by the land company, and that the bill filed by the bank was properly filed, and should be sustained as a general creditors' bill, and that the assets of the company under the jurisdiction of the court were subject to distribution under the law relating to foreign corporations doing business in Tennessee, and as such should be decreed in the action then pending. The decree further adjudged that Carhart was a *bona fide* holder of the bonds mentioned in his bill, and that he was entitled to recover thereon as provided for in the decree, but subject to the payment of debts due residents of Tennessee prior to the registration of such mortgage. It was also decreed that the Travelers' Insurance Company by its mortgage acquired a valid lien upon the property covered by it, subordinate, however, to debts due residents of Tennessee contracted prior to the registration thereof, and also subject to some other liabilities of the land company. The case was taken to the Court of Chancery Appeals, which modified in some particulars the decree of the chancellor, and after such modification it was affirmed. Upon writ of error from the Supreme Court the case was there heard, and that court held that the statute in question, providing for the distribution of assets of foreign corporations doing business in that State, was constitutional, and was not in contravention of any provision of the Constitution of the United States. The decree of the Court of Appeals was, after modifying it in some respects, affirmed. The case was then brought here on writ of error. *Held:* (1) That on an appeal from a state court the plaintiff in error in this court must show that he himself raised the question in the state court which he argues here, and it will not aid him to show that some one else has raised it in the state court, while he failed to do so ; but if he raised it in the Supreme Court of the State, it is sufficient ; (2) that the allegation in Carhart's case that he was a resident of New York is a sufficient allegation of citizenship, no question having been made on that point in the courts below ; (3) that a Tennessee general creditor has the same right of preference as against a resident mortgagee that he has against a non-resident, and the same burden that is placed upon non-resident mortgagees and judgment creditors is by the statute placed upon resident mortgagees and judgment creditors ; (4) that there is no foundation for the claim made, on behalf of Carhart, that

section 5 of the Tennessee act of 1877 violates section 1 of the Fourteenth Amendment to the Constitution of the United States, in that it deprives the non-resident mortgagee of his property without due process of law; but, on the contrary, the question has been decided the other way in *Blake* v. *McClung*; (5) that there has been no denial by the State of Tennessee of the equal protection of the laws to any person within its jurisdiction. *Sully* v. *American National Bank*, 289.

5. Under a statute of Connecticut, a contract was entered into between the city of Bridgeport and a railroad company providing that the city should pay one sixth of the expense of abolishing grade crossings, and also of increasing the tracks of the company from two to four. Defendants, whose lands were sought to be condemned for this purpose, objected upon the ground that the agreement of the city to pay one sixth of the expense of increasing the number of tracks was a practical donation by the city to the railroad company in violation of the state constitution, and was also a taking of their property without due process of law under the Fourteenth Amendment to the Federal Constitution. *Held*, that the Supreme Court of the State having decided that the right to condemn the land did not depend upon the obligation of the city to pay a part of the expenses, and that the defendants could not prevent a condemnation by showing that the company might not afterwards obtain a reimbursement from the city, and also that the defendants, not alleging that they were taxpayers or specially interested, were not in any position to question the validity of the proceedings, it followed that their property was not taken without due process of law. *Wheeler* v. *New York, New Haven & Hartford Railroad Co.*, 321.

6. Within the meaning of the constitutional provisions relating to actions instituted by private persons against a State, this suit, though in form against an officer of the State of California, is in fact against the State itself. *Smith* v. *Reeves*, 436.

7. By § 3669 of the Political Code of California, which provides that any person dissatisfied with the assessment made upon him by the State Board of Equalization, may, after payment and on the conditions named in the act, bring an action against the state Treasurer for the recovery of the amount of taxes and percentage so paid to the Treasurer, or any part thereof, the State has not consented to be sued except in its own courts. *Ib.*

8. It was competent for the State to couple with its consent to be sued on account of taxes alleged to have been exacted under illegal assessments made by the state board, the condition that the suit be brought in one of its own courts. *Ib.*

9. A suit brought against a State by one of its citizens is excluded from the judicial power of the United States, even when it is one arising under the Constitution and laws of the United States, and the same rule applies to suits of a like character brought by Federal corporations against a State without its consent. *Ib.*

10. By the Revised Statutes of the United States it is provided: "§ 5508. If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege

secured to him by the Constitution and laws of the United States, or because of his having so exercised the same; or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than five thousand dollars and imprisoned not more than ten years; and shall, moreover, be thereafter ineligible to any office or place of honor, profit or trust created by the Constitution or laws of the United States. § 5509. If in the act of violating any provision in either of the two preceding sections, any other felony or misdemeanor be committed, the offender shall be punished for the same with such punishment as is attached to such felony or misdemeanor by the laws of the State in which the offence is committed." Several persons were indicted under the above provisions in the Circuit Court of the United States for the Northern District of Alabama for the crime of murder committed in execution of a conspiracy to injure, oppress, threaten and intimidate one Thompson because of his having informed the United States authorities of violations by the conspirators of the laws of the United States relating to distilling. In Alabama murder in the first degree is punishable by death or imprisonment for life at the discretion of the jury. At the preliminary trial before a United States commissioner, Taylor, one of the accused, testified and his evidence was put in writing and signed by him. It was sufficient, if accepted, to establish the guilt of all the defendants. The accused had opportunity to cross-examine him. At the final trial in the Circuit Court, Taylor, who had pleaded guilty, was called as a witness for the Government, but did not respond. He had disappeared, although seen in the corridor of the court-building about an hour before being called. His absence was not by the procurement or advice of the accused, but was due to the negligence of the officers of the Government. The court, over the objections of the accused, allowed Taylor's written statements made under oath at the examining trial to be read in evidence to the trial jury. The accused were found guilty as charged in the indictment and sentenced to the penitentiary for life. At the trial one of the accused testified and stated that he and Taylor committed the murder, and that the other defendants knew nothing of it and had nothing to do with it. *Held:* (1) That no constitutional objection could be urged against sections 5508 and 5509; (2) that under the act of January 15, 1897, c. 29, 29 Stat. 487, the Circuit Court could not have imposed the penalty of death for the offence charged, but only imprisonment for life; (3) that under the Circuit Court of Appeals Act, 1891, any criminal case involving the construction or application of the Constitution of the United States, can be brought after final judgment directly to this court from the Circuit Court; (4) that the admission as evidence of the written statements made by Taylor at the examining trial was in violation of the rights of the accused under the clause of the Sixth Amendment of the Constitution of the United States declaring that in all criminal prosecutions the accused shall enjoy the right to be confronted with the witness against him; (5) that the defendant who testified under oath

as to his guilt, and whose testimony was sufficient to convict him, independently of Taylor's written statement at the examining trial was not entitled to a reversal for the error committed in allowing that statement to be read, because it could not have prejudiced him. *Motes* v. *United States*, 458.

11. By the constitution and laws of Kentucky, the determination of contests of the election of Governor and Lieutenant Governor is, and for a hundred years has been, committed to the General Assembly of that Commonwealth. The Court of Appeals of Kentucky decided that the courts had no power to go behind the determination of the General Assembly in such a contest, duly recorded in the journals thereof; that the office of Governor or of Lieutenant Governor was not property in itself; and, moreover, that, under the constitution and laws of Kentucky, such determination being an authorized mode of ascertaining the result of an election for Governor and Lieutenant Governor, the persons declared elected to those offices on the face of the returns by the Board of Canvassers, only provisionally occupied them because subject to the final determination of the General Assembly on contests duly initiated. *Held:* (1) That the judgment of the Court of Appeals to the effect that it was not empowered to revise the determination by the General Assembly adverse to plaintiffs in error in the matter of election to these offices was not a decision against title, right, privilege or immunity secured by the Constitution of the United States; and plaintiffs in error could not invoke jurisdiction because of deprivation, under the circumstances, of property or vested rights, without due process of law; (2) that the guarantee by the Federal Constitution to each of the States of a republican form of government was intrusted for its enforcement to the political department, and could not be availed of, in connection with the Fourteenth Amendment, to give this court jurisdiction to revise the judgment of the highest court of the State that it could not review the determination of a contested election of Governor and Lieutenant Governor by the tribunal to which that determination was exclusively committed by the state constitution and laws, on the ground of deprivation of rights secured by the Constitution of the United States. *Taylor and Marshall* v. *Beckham* (*No. 1*), 548.

See INHERITANCE TAX, 4.

CONTRACT.

1. After a careful review of all the cases, American and English, relating to anticipatory breaches of an executory contract, by a refusal on the part of one party to it to perform it, the court holds that the rule laid down in *Hochster* v. *De la Tour*, 2 El. & Bl. 678, is a reasonable and proper rule to be applied in this case. *Roehm* v. *Horst*, 1.

2. That rule is that after the renunciation of a continuing agreement by one party, the other party is at liberty to consider himself absolved from any future performance of it, retaining his right to sue for any damages he has suffered from the breach of it; but that an option should be allowed to the injured party, either to sue immediately, or

to wait till the time when the act was to be done, still holding it as prospectively binding for the exercise of this option. *Ib.*

3. The parties to a contract which is wholly executory have a right to the maintenance of the contractual relations up to the time for performance, as well as to a performance of the contract when due. *Ib.*

4. As to the question of damages, when the action is not premature, the plaintiff is entitled to compensation based, as far as possible, on the ascertainment of what he would have suffered by the continued breach of the other party down to the time of complete performance, less any abatement by reason of circumstances of which he ought reasonably to have availed himself. *Ib.*

5. The plaintiff in error is a corporation, organized under the laws of the State of New York, and doing business as life insurers in the city of New York. It had an agent in the State of Washington, to whom Phinney, a resident in that State applied for a policy on his life. The application stated that it was made subject to the charter of the company and the laws of New York. A policy was issued which provided that on its maturing payment was to be made at the home office of the company in New York, and on its receipt Phinney paid the first premium. The policy provided that he should pay a like premium for twenty years, if he should live so long, and that the policy should become void by non-payment of the premium, with a forfeiture of previous payments. Phinney failed to make the next annual payment. Then he surrendered the policy to the local agent. He died without having made that payment, or the next one which matured before his death. His widow was appointed his executrix. She presented to the company a claim for the amount of the insurance under the policy. It was rejected. This suit was thereupon brought. In its answer the company set up that the contract was not to be taken as a contract under the laws of the State of New York, but under the laws of the State of Washington, and the company asked this instruction, which the court declined to give; "If you find from the evidence in this case that the said Guy C. Phinney stated to the representative of the defendant in the State of Washington that he could not pay the premium falling due September 24, 1891, and that he did not pay nor tender the same, and that he thereafter surrendered said policy to the defendant's representative, they mutually believing and understanding that the same was of no force or validity then or thereafter, by reason of the non-payment of the said premium, this would constitute an abandonment and rescission of this contract by both parties thereto, and would put an end to the same; and if you find the facts so to be, you must find a verdict for the defendant." The jury trial resulted in a verdict and judgment for the plaintiff. This was taken in error to the Court of Appeals for the Ninth Circuit which dismissed the writ of error on the ground that it had no jurisdiction by reason of a failure on the part of the plaintiff in error to file the writ in the office of the trial court. *Held:* (1) That the Court of Appeals had jurisdiction; (2) that, without deciding it, the court would hold for the purposes of this case that the contract was made under the laws of the State of New York, and was governed by

the laws of that State; (3) that it is to be presumed that each party knew what the laws of New York were, and neither could be misled by any statement in respect thereto on the part of the other; (4) that there is nothing in the New York statute (if controlling at all) to prevent the parties from dealing with that as with any other contract, and if they chose to abandon it their action is conclusive. *Mutual Life Insurance Co.* v. *Phinney*, 327.

6. In view of what has been already decided in *Mutual Life Insurance Company* v. *Phinney*, *ante*, 327, the court holds that it is needless to do more than note the fact that, as shown by the answer, after the insured had once defaulted in May, 1892, and a second default had occurred in May, 1893, application was made to him by the company, through its agents, to restore the policy, and that he declined to make any further payments or to continue the policy, and elected to have it terminated, which election was accepted by the company, and the parties to the contract treated it thereafter as abandoned, and that there is nothing in the New York statute (if controlling at all) to prevent the parties from dealing with that as with any other contract; and if they choose to abandon it, their action is conclusive. *Mutual Life Ins. Co.* v. *Sears*, 345.
7. This case falls within the same rule as *Mutual Life Insurance Co.* v. *Phinney*, *ante*, 327, and *Mutual Life Insurance Co.* v. *Sears*, *ante*, 345, and is disposed of in the same way. *Mutual Life Insurance Co.* v. *Hill*, 347.
8. *Mutual Life Insurance Co.* v. *Sears*, *ante*, 345, followed. *Mutual Life Ins. Co.* v. *Allen*, 351.
9. Clark contracted with the railway company for the construction of part of its road. He also contracted for the completion of his work on a day named. It was not conpleted till some time after that day. Clark contended that the failure was caused by the neglect of the company to procure a right of way. When the time for settlement came there were also other disputes between him and the company, which are set forth in detail in the statement of facts. The result was that Clark signed a paper in which, after stating the disputed claims in detail, it was said: "Now therefore be it known that I, the said Heman Clark, have received of and from the said Chicago, Milwaukee and St. Paul Railway Company, the sum of one hundred and seventy-three thousand, five hundred and thirty-two and $\frac{49}{100}$ dollars, in full satisfaction of the amount due me on said estimates, and in full satisfaction of all claims and demands of every kind, name and nature, arising from or growing out of said contract of March 6, 1886, and of the construction of said railroad, excepting the obligation of said railway company to account for said forty thousand dollars, as herein provided." This paper after signature was given by him to the railway company, and in return they gave him a check for the balance named. Five years and more after this transaction this action was brought to recover the disputed claims. *Held*, that Clark was barred by his release from recovering the disputed sums. *Chicago, Milwaukee and St. Paul Railway Co.* v. *Clark*, 353.
10. The rule laid down in *Cumber* v. *Wane*, 1 Strange, 426, that where a liquidated sum is due, the payment of a less sum in satisfaction thereof,

though accepted as satisfaction, is not binding as such for want of consideration, has been much questioned and qualified, and is considered so far with disfavor, as to be confined strictly to cases within it. *Ib.*

11. The city of Rochester invited proposals from contractors for two separate contracts for work to be done for the improvement of its water works. Among others who bid were the petitioners, the Moffett, etc., Company, who put in bids for each. Owing to causes which are set forth in full in the opinion of the court, some serious mistakes were made in the figures in their proposals, whereby the compensation that they would receive if their bids were accepted and the work performed by them would be diminished many thousand dollars. When the bids were opened by the city government their bids were the first opened, and as they were read aloud their engineer noticed the errors and called attention to them and stated what the figures were intended to be and should be. The statutes of New York provided that "neither the principal nor sureties on any bid or bond shall have the right to withdraw or cancel the same until the board shall have let the contract for which such bid is made and the same shall have been duly executed." The city government rejected one of their bids and accepted the other, and called for its performance at the prices stated in the bid. The company declined to enter into a contract for the performance of the work at that price; and, claiming that the city threatened to enforce the bond given with the proposals, brought suit praying for a reformation of the proposals to conform to the asserted intention in making them and their execution as reformed, or their rescission; and for an injunction against the officers of the city, restraining them from declaring the complainant in default, and from forfeiting or enforcing its bond. Judgment was rendered in the Circuit Court in the company's favor, which was reversed in the Circuit Court of Appeals. The case was then brought here on certiorari. *Held:* (1) That there was no doubt of the mistake on the part of the company; (2) that there was a prompt declaration of it as soon as it was discovered; (3) that when this was done the transaction had not reached the degree of a contract. *Moffett, Hodgkins & Clarke Company* v. *Rochester*, 373.

12. The party alleging a mistake must show exactly in what it consists and the correction that should be made. The evidence must be such as to leave no reasonable doubt on the mind of the court as to either of these points. The mistake must be mutual and common to both parties to the instrument. It must appear that both have done what neither intended. A mistake on one side may be a ground for rescinding, but not for reforming a contract. Where the minds of the parties have not met there is no contract, and hence none to be rectified. *Hearne* v. *Marine Ins. Co.*, 20 Wall. 488, cited on these points and approved. *Ib.*

13. The contract for life insurance in this case, made by a New York insurance company in the State of Missouri, with a citizen of that State, is subject to the laws of that State regulating life insurance policies, although the policy declares "that the entire contract contained in the said policy and in this application, taken together, shall be construed and interpreted as a whole and in each of its parts and obligations,

a revolver was held to be competent where the defence put in a calendar, apparently for the purpose of showing the time the moon rose that night. *Ib.*

See CONSTITUTIONAL LAW, 10.

CUSTOMS DUTIES.

May & Co., merchants at New Orleans, were engaged in the business of importing goods from abroad, and selling them. In each box, or case in which they were brought into this country, there would be many packages, each of which was separately marked and wrapped. The importer sold each package separately. The city of New Orleans taxed the goods after they reached the hands of the importer (the duties having been paid) and were ready for sale. *Held:* (1) That the box, case or bale in which the separate parcels or bundles were placed by the foreign seller, manufacturer or packer was to be regarded as the original package, and when it reached its destination for trade or sale and was opened for the purpose of using or exposing to sale the separate parcels or bundles, the goods lost their distinctive character as imports and each parcel or bundle became a part of the general mass of property in the State and subject to local taxation; (2) that *Brown* v. *Maryland*, 12 Wheat. 419, established these propositions: 1. That the payment of duties to the United States gives the right to sell the things imported, and that such right *to sell* cannot be forbidden or impaired by a State. 2. That while the things imported retain their character as imports, and remain the property of the importer, "in his warehouse, in the original form or package in which it was imported," a tax upon it is a duty on imports within the meaning of the Constitution. 3. A State cannot, in the form of a license or otherwise, tax the right of the importer *to sell*, but when the importer has *so acted upon* the goods imported that they have been incorporated or mixed with the general mass of property in the State, such goods have then lost their distinctive character as imports, and have become from that time subject to state taxation, not because they are the products of other countries, but because they are property within the State in like condition with other property that should contribute, in the way of taxation, to the support of the government which protects the owner in his person and estate. *May* v. *New Orleans*, 496.

EVIDENCE.

See CRIMINAL LAW, 3, 4, 5, 6, 7.

INHERITANCE TAX.

1. The plaintiffs in error were the executors of the will of Edwin F. Knowlton, of Brooklyn, New York. The defendant in error was the United States Collector of Internal Revenue for the First Collection District for the State of New York. Mr. Knowlton died at Brooklyn in October, 1898, and his will was duly proved. Under the portion of the Act of Congress of June 13, 1898, which is printed at length in a note to the opinion of the court in this case, the United States Collector of Internal Revenue demanded of the executors a return, showing the amount

of the personal estate of the deceased, and the legatees and distributees thereof. This return the executors made under protest, asserting that the act of June 13 was unconstitutional. This return showed that the personal estate amounted to over two and a half millions of dollars, and that there were several legacies, ranging from under $10,000 each to over $1,500,000. The collector levied the tax on the legacies and distributive shares, but for the purpose of fixing the rate of the tax considered the whole of the personal estate of the deceased as fixing the rate for each, and not the amount coming to each individual legatee under the will. As the rates under the statute were progressive from a low rate on legacies amounting to $10,000, to a high rate on those exceeding $1,000,000, this decision greatly increased the aggregate amount of the taxation. The executors protested on the grounds, (1) that the provisions of the act were unconstitutional; (2) that legacies amounting to less than $10,000, were not subject to any tax or duty; (3) that a legacy of $100,000, taxed at the rate of $2.25 per $100, was only subject to the rate of $1.12½. Demand having been made by the collector for payment, payment was made under protest; and, after the Commissioner of Internal Revenue had refused to refund any of it, the executors commenced suit to recover the amount so paid. The Circuit Court sustained a demurrer upon the ground that no cause of action was alleged, and dismissed the suit, which was then brought here by writ of error. *Held:* (1) That the statute clearly imposes the duty on the particular legacies or distributive shares, and not on the whole personal estate; (2) that it makes the rate of the tax depend upon the character of the links connecting those taking with the deceased, being primarily determined by the classifications, and progressively increased according to the amount of the legacies or shares; (3) that the court below erred in denying all relief, and that it should have held the plaintiffs entitled to recover so much of the tax as resulted from taxing legacies not exceeding ten thousand dollars, and from increasing the tax rate with reference to the whole amount of the personal estate of the deceased from which the legacies or distributive shares were derived. *Knowlton* v. *Moore*, 41.

2. Death duties were established by the Roman and ancient law, and by the modern laws of France, Germany and other continental countries, England and her colonies, and an examination of all shows that tax laws of this nature rest in their essence upon the principle that death is the generating source from which the particular taxing power takes its being, and that it is the power to transmit or the transmission from the dead to the living on which such taxes are more immediately vested. *Ib.*

3. When a particular construction of a statute will occasion great inconvenience, or produce inequality and injustice, that view is not to be favored if another and more reasonable interpretation is present in the statute. *Ib.*

4. The provision in section 8 of article I of the Constitution that "all duties, imports and excises shall be uniform throughout the United

according to the laws of the State of New York, the place of the contract being expressly agreed to be the principal office of the said company in the city of New York." *New York Life Insurance Co.* v. *Cravens*, 389.

14. The power of a State over foreign corporations is not less than the power of a State over domestic corporations. *Ib.*

5. The business of insurance is not commerce, and the making of a contract of insurance is a mere incident of commercial intercourse in which there is no difference whatever between insurance against fire, insurance against the perils of the sea, or insurance of life. *Ib.*

CORPORATION.

See CONTRACT, 14.

CRIMINAL LAW.

1. Under the Court of Appeals Act of March 3, 1891, a conviction for murder is a "conviction of a capital crime," though the jury qualify their verdict of guilty by adding the words "without capital punishment." The test of a capital crime is not the punishment which is imposed, but that which may be imposed under the statute. *Fitzpatrick* v. *United States*, 304.

2. Under the statute of Oregon requiring the offence to be stated "in ordinary and concise language and in such manner as to enable a person of common understanding to know what was intended," an indictment for murder charging that the defendant feloniously, purposely, and of deliberate and premeditated malice inflicted upon the deceased a mortal wound of which he instantly died is a sufficient allegation of premeditated and deliberate malice in killing him. *Ib.*

3. Evidence that one jointly indicted with the defendant was found to have been wounded in the shoulder, and his accompanying statement that he had been shot, were held to be competent upon the trial of the defendant. *Ib.*

4. Any fact which had a bearing upon the question of defendant's guilt immediate or remote and occurring at any time before the incident was closed, was held proper for the consideration of the jury, although statements made by other defendants in his absence implicating him with the murder would not be competent. *Ib.*

5. The prisoner taking the stand in his own behalf and swearing to an alibi was held to have been properly cross-examined as to the clothing worn by him on the night of the murder, his acquaintance with the others jointly indicted with him, and other facts showing his connection with them. *Ib.*

6. Where an accused party waives his constitutional privilege of silence and takes the stand in his own behalf and makes his own statement, the prosecution has a right to cross-examine him upon such statement with the same latitude as would be exercised in the case of an ordinary witness as to the circumstances connecting him with the alleged crime. *Ib.*

7. Evidence in rebuttal with respect to the effect of light from the flash of

States," refers purely to a geographical uniformity, and is synonymous with the expression "to operate generally throughout the United States." *Ib.*

5. The statute considered in this case embraces the District of Columbia. *Ib.*
6. The assignments of error in this case raised only the constitutionality of the taxes sought to be recovered, which has just been decided adversely to the plaintiffs in error in *Knowlton* v. *Moore*, *ante*, 41, and there is nothing in the record to enable the court to see that the statute was mistakingly construed by the collector; but as the interpretation of the statute which was adopted and enforced by the officers administering the law was the one held to be unsound in *Knowlton* v. *Moore*, the ends of justice require that the right to resist so much of the tax as may have arisen from the wrong interpretation of the statute should not be foreclosed by the decree of this court. *High* v. *Coyne*, 111.
7. The right to take property by will or descent is derived from and regulated by municipal law; and, in assessing a tax upon such right or privilege, the State may lawfully measure or fix the amount of the tax by referring to the value of the property passing; and the incidental fact that such property is composed, in whole or in part, of Federal securities, does not invalidate the state tax, or the law under which it is imposed. *Plummer* v. *Coler*, 115.
8. The relation of the individual citizen and resident to the State in which he resides is such that his right, as the owner of property, to direct its descent by will or permit its descent to be regulated by statute, and his right as legatee, devisee or heir to receive the property of his testator or ancestor, are rights derived from and regulated by the State; and no sound distinction can be drawn between the power of the State, in imposing taxes upon franchises of corporations, composed of individual persons, and in imposing taxes upon the right or privilege of individuals to avail themselves of the right to grant and to receive property under the statutes regulating the descent of the property of decedents. *Ib.*

INSOLVENT DEBTOR.

General creditors attaching the goods of an insolvent debtor upon the ground that they had been purchased under fraudulent representations, when sued by chattel mortgagees of said debtor, may attack the mortgage by showing that the mortgagees knew that the goods had been fraudulently purchased. *Browning* v. *De Ford*, 196.

INSURANCE.

See CONTRACT, 1.

JURISDICTION.

A. GENERALLY.

1. A neglected right, if neglected too long, must be treated as an abandoned right, which no court will enforce. *Moran* v. *Horsky*, 205.

B. JURISDICTION OF THE SUPREME COURT.

1. The defence of laches, put in in this case, is the assertion of an independent defence, proceeding upon the concession that there was, under the laws of the United States a prior right, and conceding that, says that the delay in respect to its assertion prevents its present recognition; and the court is of opinion that the decision of the Supreme Court of Montana in this case was based upon an independent non-Federal question, broad enough to sustain its judgment. *Moran* v. *Horsky*, 205.
2. For the reasons set forth in the opinion of the court, the case was dismissed for want of jurisdiction. *Pittsburgh & Lake Angeline Iron Co.* v. *Cleveland Iron Mining Co.*, 270.
3. The appellant herein filed its original petition in the Court of Claims against the United States and the Apache Indians on September 6, 1892. Subsequently and by leave of court an amended petition was filed March 2, 1894, from which it appears that the petitioner is a corporation chartered under the laws of the State of New York and doing business in the state of Chihuahua, county of Guleana, Republic of Mexico, and that property to the value of nearly seventy-five thousand dollars, belonging to the petitioner, and situated at the time in the Republic of Mexico, was taken therefrom in 1881 and 1882, and stolen and carried off by the Apache Indians, then in amity with the United States, and brought from the Republic of Mexico into the United States. By virtue of the act of Congress entitled "An act to provide for the adjudication and payment of claims arising from Indian depredations," approved March 3, 1891, judgment for the value of the property thus taken by the Indians was demanded. The United States filed a plea in bar, alleging that the claimant ought not to have and maintain its suit, "because the depredation complained of is alleged to have occurred in the Republic of Mexico, beyond the jurisdiction of the United States and the courts thereof, and that the court, therefore, had no jurisdiction to entertain this suit." The plaintiff demurred to the plea in bar as bad in substance. The Court of Claims overruled the demurrer, sustained the plea in bar, and dismissed the petition. *Held*, that the judgment of the Court of Claims was right, and it must be affirmed. *Corralitos Company* v. *United States*, 280.
4. This case is dismissed for want of jurisdiction, as the Supreme Court of Minnesota did not deny the validity of the New York statute with regard to insurance, but only construed it, and even granting that its construction was erroneous, faith and credit were not denied to the statute. *Banholzer* v. *New York Life Insurance Company*, 402.

See ADMIRALTY;
CONSTITUTIONAL LAW, 3, 4.

C. JURISDICTION OF CIRCUIT COURTS OF APPEAL.

1. Upon the showing made by the Court of Appeals it is clear that that court had jurisdiction, and should have proceeded to dispose of this case on its merits, instead of dismissing it for want of jurisdiction. *Mutual Life Insurance Co.* v. *Phinney*, 327.

2. The record shows that the cause came on for trial without a jury, a trial by jury having been expressly waived by written consent of the parties, that a referee was duly appointed by similar consent, in accordance with the rules and customs of the District in which the trial was had, and that his findings, rulings and decisions were made those of the court. *Held*, that the question whether the judgment rendered was warranted by the facts found was open for consideration in the Circuit Court of Appeals, and is so here. *Chicago, Milwaukee and St. Paul Railway Co.* v. *Clark*, 353.

See CONTRACT, 5.

D. JURISDICTION OF CIRCUIT COURTS.

1. Where a plaintiff asserts, as his cause of action, a claim which he cannot be legally permitted to sustain by evidence, a mere *ad damnum* clause will not confer jurisdiction on the Circuit Court, but the court on motion or demurrer, or of its own motion, may dismiss the suit. *North American Transportation & Trading Co.* v. *Morrison*, 262.
2. In the circumstances disclosed by the plaintiff's declaration, and in the certificates of the trial judge, the defendant company, though liable in a court of competent jurisdiction for the other claims asserted, cannot be held for the amount of wages or profits which the plaintiff suggests he might have earned had he reached Dawson City. *Ib.*

See CONSTITUTIONAL LAW, 3;
NATIONAL BANK.

E. JURISDICTION OF DISTRICT COURTS.

See BANKRUPTCY.

MANDAMUS.

See ADMIRALTY;
NATIONAL BANK, 1.

NATIONAL BANK.

1. A national bank was closed by order of the Comptroller of the Currency and a receiver appointed. An assessment was made upon the holders of stock. Overton and Hoffer were among those who were assessed, and payment not having been made, suit was brought against them. Service was made upon H., but not upon O., who was very ill, and who died without service having been made upon him. He left a will, under which J. P. O. was duly appointed his executor. The executor was summoned into the suit by a writ of *scire facias*. A motion was made to set aside the *scire facias* and the attempted service thereof, which motion was granted. The executor being substituted in the place of the deceased as defendant, the court decided that it had acquired no jurisdiction over the deceased, and could acquire none over his executor. Thereupon the receiver applied to this court for a writ of mandamus to the Judges of the Circuit Court of the United States for the Ninth Circuit commanding them to take jurisdiction and proceed against

J. P. O. as executor of the last will and testament of O., deceased, in the action brought by the receiver to recover the assessments. *Held:* (1) That mandamus was the proper remedy, and the rule was made absolute; (2) that the action of the Circuit Court in setting aside the *scire facias* was here for review; (3) that *scire facias* was the proper mode for bringing in the executor, and under Rev. Stat. § 955, it gave the court jurisdiction to render judgment against the estate of the deceased party in the same manner as if the executor had voluntarily made himself a party. *In re Connaway, Receiver*, 421.

2. An attachment sued out against a bank as garnishee is not an attachment against the bank or its property, nor a suit against it within the meaning of section 5242 of the Revised Statutes. *Earle* v. *Pennsylvania*, 449.
3. When the Chestnut Street National Bank suspended and went into the hands of a receiver, the entire control and administration of its assets were committed to the receiver and the comptroller, subject, however, to any rights or priority previously acquired by the plaintiff through the proceedings in the suit against Long. *Ib.*
4. The state court had no authority to order execution in favor of the plaintiff of any dividends upon the money on deposit in the bank to Long's credit at the time the bank was served with the attachment, and direct the sale of the shares of stock originally held by the bank as collateral security. *Ib.*
5. A receiver of a National Bank may be notified, by service upon him of an attachment issued from a state court, of the nature and extent of the interest sought to be acquired by the plaintiff in the attachment in the assets in his custody; but, for reasons stated in *Earle* v. *Pennsylvania*, *ante*, 449, such an attachment cannot create any lien upon specific assets of the bank in the hands of the receiver, nor disturb his custody of those assets, nor prevent him from paying to the Treasurer of the United States, subject to the order of the Comptroller of the Currency, all moneys coming to his hands, or realized by him as receiver from the sale of the property and assets of the bank. *Earle* v. *Conway*, 456.

NAVAL BOUNTIES.

In this case it was rightly decided in the court below, that in determining under the provisions of Rev. Stat. sec. 902, whether the Spanish vessels sunk or destroyed at Manila were of inferior or superior force to the American vessels engaged in that battle, the land batteries, mines and torpedoes, not controlled by those in charge of the Spanish vessels, but which supported those vessels, were to be excluded altogether from consideration, and that the size and armaments of the vessels sunk or destroyed, together with the number of men upon them, were alone to be regarded in determining the amount of the bounty to be awarded. *Dewey* v. *United States*, 510.

NAVIGABLE WATERS.

The fourth and fifth sections of the River and Harbor Act, approved September 19, 1890, provide: "§ 4. That section nine of the River and

Harbor Act of August 11, 1888, be amended and reënacted so as to read as follows: That whenever the Secretary of War shall have good reason to believe that any railroad or other bridge now constructed or which may hereafter be constructed over any of the navigable waterways of the United States is an unreasonable obstruction to the free navigation of such waters on account of insufficient height, width or span, or otherwise, or where there is difficulty in passing the draw-opening of the draw-span of such bridge by rafts, steamboats or other water crafts, it shall be the duty of said Secretary, first giving the parties reasonable opportunities to be heard, to give notice to the persons or corporations owning or controlling such bridge so to alter the same as to render navigation through or under it reasonably free, easy and unobstructed; and in giving such notice he shall specify the changes to be made and shall prescribe in each case a reasonable time in which to make them. If at the end of such time the alteration has not been made, the Secretary of War shall forthwith notify the United States District Attorney for the district in which such bridge is situated to the end that the criminal proceedings mentioned in the succeeding section may be taken. § 5. That section ten of the River and Harbor Act of August 11, 1888, be amended and reënacted so as to read as follows: That if the persons, corporations or associations owning or controlling any railroad or other bridge shall, after receiving notice to that effect, as hereinbefore required, from the Secretary of War, and within the time prescribed by him, wilfully fail or refuse to remove the same, or to comply with the lawful order of the Secretary of War in the premises, such person, corporation or association shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding $5000, and every month such person, corporation or association shall remain in default as to the removal or alteration of such bridge, shall be deemed a new offence and subject the person, corporation or association so offending to the penalties above described." 26 Stat. 426, 453, c. 907. Proceeding under that act the Secretary of War gave notice to the County Commissioners of Muskingum County, Ohio, to make on or before a named day certain alterations in a bridge over the Muskingum River, Ohio, at Taylorsville in that State. The Commissioners, although having control of the bridge did not make the alterations required and were indicted under the act of Congress. *Held*, that however broadly the act of Congress may be construed it ought not to be construed as embracing officers of a municipal corporation owning or controlling a bridge who had not in their hands, and under the laws of their State could not obtain, public moneys that could be applied in execution of the order of the Secretary of War within the time fixed by that officer to complete the alteration of such bridge. *Rider* v. *United States*, 251.

PRACTICE.

1. As the parties below proceeded upon a mutual mistake of law in construing and applying the statute the court thinks that the practical injustice that might result from an affirmance of the judgment may be

avoided by reversing it at the cost of the plaintiff in error, and sending the cause back to the Circuit Court, with directions to proceed therein according to law. *Murdock* v. *Ward*, 139.

2. After the company had once excepted to the refusal of an instruction which it had asked, and excepted to those which were given, it did not lose the benefit of such exceptions by a request that the court repeat the instructions excepted to, in connection with certain answers made to questions propounded by the jury. *Mutual Life Insurance Co.* v. *Phinney*, 327.

PUBLIC LAND.

1. Whenever the invalidity of a land patent does not appear upon the face of the instrument, or by matters of which the courts will take judicial notice, and the land is apparently within the jurisdiction of the land department as ordinary public land of the United States, then it would seem to be technically more accurate to say that the patent was voidable, not void. *Moran* v. *Horsky*, 205.
2. The right of one who has actually occupied public land, with an intent to make a homestead or preëmption entry, cannot be defeated by the mere lack of a place in which to make a record of his intent. *Tarpey* v. *Madsen*, 215.
3. The law deals tenderly with one who, in good faith, goes upon public lands, with a view of making a home thereon. *Ib.*
4. When the original entryman abandons the tract entered by him, and it comes within the limits of a grant to a railroad company, a third party, coming in after the lapse of many years, and setting up the title of that entryman, does not come in the attitude of an equitable appellant. *Ib.*
5. A proper interpretation of the acts of Congress making railroad grants like the one in this case requires that the relative rights of the company and an individual entryman must be determined, not by the act of the company, in itself fixing definitely the line of its road, or by the mere occupancy of the individual, but by record evidence, on the one part the filing of the map in the office of the Secretary of the Interior, and, on the other, the declaration or entry in the local land office; and while, as repeatedly held, the railroad company may not question the validity or propriety of the entryman's claim of record, its rights ought not to be defeated long years after its title had apparently fixed, by fugitive and uncertain testimony of occupation. *Ib.*
6. An applicant for public land under the act of Congress of June 3, 1878, 29 Stat. 89, c. 151, known as the Timber and Stone Act, must support his application by an affidavit stating that "he does not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which he might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except himself; which statement must be verified by the oath of the applicant before the reg-

ister or receiver of the land office within the district where the land is situated." The same act provides: "If any person taking such oath shall swear falsely in the premises, he shall be subject to all the pains and penalties of perjury, and shall forfeit the money which he may have paid for said lands, and all right and title to the same; and any grant or conveyance which he may have made, *except in the hands of bona fide purchasers*, shall be null and void." *Hawley* v. *Diller*, 476.

7. An entryman under this act acquires only an equity, and a purchaser from him cannot be regarded as a *bona fide* purchaser within the meaning of the act of Congress unless he become such after the Government, by issuing a patent, has parted with the legal title. *Ib.*
8. A construction of the above act long recognized and acted upon by the Interior Department should not be overthrown unless a different one is plainly required by the words of the act. *Ib.*
9. The result of the decisions of this court in relation to the jurisdiction of the Land Department when dealing with the public lands is as follows: (1) That the Land Department of the Government has the power and authority to cancel and annul an entry of public land when its officers are convinced, upon a proper showing, that the same was fraudulently made; (2) that an entryman upon the public lands only secures a vested interest in the land when he has lawfully entered upon and applied for the same, and in all respects complied with the requirements of the law; (3) that the Land Department has control over the disposition of the public lands until a patent has been issued therefor and accepted by the patentee; and (4) that redress can always be had in the courts where the officers of the Land Department have withheld from a preëmptioner his rights, where they have misconstrued the law, or where any fraud or deception has been practiced which affected their judgment and decision. *Ib.*
10. The principle reaffirmed that where the matters determined by the Land Office "are not properly before the Department, or its conclusions have been reached from a misconstruction by its officers of the law applicable to the cases before it, and it has thus denied to parties rights which, upon a correct construction, would have been conceded to them, or where misrepresentations and fraud have been practiced, necessarily affecting its judgment, then the courts can, in a proper proceeding, interfere and control its determination so as to secure the just rights of parties injuriously affected." *Ib.*
11. Sections 2450 to 2457 inclusive of the Revised Statutes, relating to suspended entries of public lands and to suspended land claims, and which sections require certain matters to be passed upon by a Board consisting of the Secretary of the Interior and the Attorney General, construed and held to apply only to decisions of the Land Office sustaining irregular entries, and not to decisions rejecting and cancelling such entries under the general authority conferred upon the Land Department in respect to the public lands. *Ib.*

RAILROAD.

1. The wife of the defendant in error, while travelling from Louisville to

Washington on a through ticket, in a car of the plaintiff in error, and on a train conducted by his agents, was run off the track and down a bank in consequence of the weakness of a wheel which might have been known, and suffered a serious and lasting injury, for which an action was brought to recover compensation. The defence set up that at the time the accident happened the train was managed by a Connecticut company to whom the road had been leased. *Held*, that that fact would not bar a recovery; that if notwithstanding the execution of the lease the plaintiff in error, through its agents and servants, managed and conducted and controlled the train to which the accident happened, it would be responsible for that accident. *Chesapeake & Ohio Railway Co.* v. *Howard*, 153.

See CONSTITUTIONAL LAW, 5.

REMOVAL OF CAUSES.

1. The decision in *Fisk* v. *Henarie*, 142 U. S. 459, followed to the point that the words in the act of March 3, 1887, 24 Stat. 552, with regard to the removal of causes from a state court, (as corrected by the act of August 13, 1888, c. 866,) "at any time before the trial thereof," used in regard to removals "from prejudice or local influence," were used by Congress with reference to the construction put by this court on similar language in the act of March 3, 1875, c. 137, 18 Stat. 470, and are to receive the same construction, which required the petition to be filed before or at the term at which the cause could first be tried, and before the trial thereof. *McDonnell* v. *Jordan*, 229.
2. This was an ordinary action, under a state statute, for wrongfully causing the death of plaintiff's intestate, in which no Federal question was presented by the pleadings, or litigated at the trial, and in which the liability depended upon principles of general law, and not in any way upon the terms of the order appointing the receivers; and whatever the rights of the receivers might have been to remove the cause if they had been sued alone, the controversy was not a separable controversy within the intent and meaning of the act of March 3, 1887, as corrected by the act of August 13, 1888, and this being so, the case came solely within the first clause of the section, and it was not intended by Congress that, under such circumstances, there should be any difference between the rule applied under the first and second clauses of the act. *Chicago, Rock Island and Pacific Railway Co.* v. *Martin*, 245.

SCIRE FACIAS.

See NATIONAL BANK, 1.

STATUTE.

A. STATUTES OF THE UNITED STATES.

See BANKRUPTCY, 1;
COAL MINE, 1;
CONSTITUTIONAL LAW, 10;
INHERITANCE TAX, 1;
NATIONAL BANK, 1, 2;
NAVAL BOUNTIES;
NAVIGABLE WATERS;
PUBLIC LAND, 6, 11;
REMOVAL OF CAUSES.

B. STATUTES OF STATES AND TERRITORIES.

California. *See* CONSTITUTIONAL LAW, 7.
Connecticut. *See* CONSTITUTIONAL LAW, 5.
Oregon. *See* CRIMINAL LAW, 2.
Tennessee. *See* CONSTITUTIONAL LAW, 4.

TRADE-MARK.

On the facts as detailed in the opinion of the court, it is *held* that there was no error in the decree of the court below. *Castner* v. *Coffman*, 168.