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Transportation of an article in interstate commerce is not completed until the article is delivered to the consignee; and the Wilson Act of August 8, 1890, c. 728, 26 Stat. 313, does not cause state laws to attach to an interstate shipment until the completion of the transit by delivery to the consignee. (*Rhodes v. Iowa*, 170 U. S. 412.) *Adams Express Co. v. Kentucky*, 218.

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## COMMERCIAL PAPER.

1. *Rule that one having knowledge of genuine signature cannot recover for money obtained on forged signature not applicable to United States in respect of pension checks.*

The United States is not chargeable with the knowledge of the signatures of the vast numbers of persons entitled to receive pensions,



and the exceptional rule as to certain classes of commercial paper that the person having knowledge of the genuine signature of the payee whose signature is forged is negligent in paying on such an indorsement and therefore cannot recover, does not apply to the United States in regard to pension checks. *Leather Manufacturers' Bank v. Merchants' National Bank*, 128 U. S. 26, approving *White v. Continental National Bank*, 64 N. Y. 316, followed. *United States v. Nat. Exchange Bank*, 302.

2. *Character of government pension checks.*

*Quære* and not decided whether government pension checks are official warrants or are checks and, as such, subject to the general rules of commercial paper as between private parties. *Ib.*

### COMMON CARRIERS.

*Compensation to which entitled—Extra services.*

A carrier which is at service and expense in stopping goods in transit for inspection and reloading for the benefit of the shipper is entitled to compensation in addition to the actual expense incurred. *Southern Ry. Co. v. St. Louis Hay Co.*, 297.

### COMPENSATION OF PUBLIC OFFICERS.

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### CONGRESS, POWERS OF.

1. *Alien immigration.*

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2. *Imposition of penalties and delegation of enforcement thereof to executive officers.*

It is within the competency of Congress, when legislating as to matters exclusively within its control, to impose appropriate obligations and sanction their enforcement by reasonable money penal-

ties, giving to executive officers the power to enforce such penalties without the necessity of invoking the judicial power. *Ib.*

3. *Power to enact discriminatory legislation as to the District of Columbia.* If the power of Congress to enact discriminatory legislation as to the District of Columbia is limited either expressly or by implication, the prohibition cannot be stricter or more extensive than the due process and equal protection clauses of the Fourteenth Amendment are upon the States. *District of Columbia v. Brooke*, 138.

4. *Police power in District of Columbia; quære as to.*

*Quære*, and not decided, whether there is any prohibition on Congress from enacting discriminatory legislation, and whether, in the absence of any express prohibition to that effect any prohibition can be implied, especially in regard to the exercise of police power in the District of Columbia. See *United States v. Delaware & Hudson Co.*, 213 U. S. 366, as to power of Congress to enact discriminatory legislation under the commerce clause of the Constitution. *Ib.*

See CONSTITUTIONAL LAW, 6;	PENALTIES AND FORFEITURES;
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#### CONSTITUTIONAL LAW.

1. *Commerce clause; conflict of state law denying interstate transportation of liquor.*

However obnoxious and hurtful, in the judgment of many, liquor may be, it is a recognized article of commerce, *Leisy v. Hardin*, 135 U. S. 100; and a state law denying the right to send it from one State to another is in conflict with the commerce clause of the Constitution of the United States. (*Vance v. Vandercook Co.*, No. 1, 170 U. S. 438.) *Adams Express Co. v. Kentucky*, 218.

2. *Commerce clause; repugnancy of exercise of state authority directly regulating interstate commerce.*

Congress has by § 5258, Rev. Stat., authorized every railroad com-

pany in the United States to carry all passengers and freight over its road from one State to another State and receive compensation therefor; and any exercise of state authority directly regulating interstate commerce is repugnant to the commerce clause of the Constitution. (*Atlantic Coast Line v. Wharton*, 207 U. S. 328.) *Ib.*

3. *Commerce clause; repugnancy of § 1307 of Statutes of Kentucky of 1903 relative to sale, etc., of liquors.*

Section 1307 of the Statutes of Kentucky of 1903 making it an offense to furnish, sell or give liquor to any person who is an inebriate, as applied to a common carrier bringing the liquor to such a person from another State, is an attempted regulation of interstate commerce, and, as such, is in conflict with the commerce clause of the Constitution of the United States and void. *Ib.*

*See CONGRESS, POWERS OF, 4.*

4. *Contract impairment—Effect of resolution of municipal council relative to removal and replacement of street railway tracks.*

A resolution of a municipal council, directing a street railway company to remove and replace tracks and wires, and, in case of failure to comply, instructing the City Solicitor to take such action as he deems advisable to enforce the resolution, amounts only to direction to bring a suit; and, even if contract rights should be violated if the resolution were enforced, the resolution does not of itself amount to an ordinance or law impairing the obligation of contracts and the Circuit Court has no jurisdiction of a suit to enjoin its enforcement. *Des Moines v. City Railway Co.*, 179.

*See Infra, 17.*

5. *Due process of law—Right to hearing of persons on whom penalty imposed by executive officer under authority of Congress.*

The greater includes the less and where Congress has power to sanction a prohibition by penalties enforceable by executive officers without judicial trial on the ascertainment in a prescribed manner of certain facts, the person upon whom the penalty is imposed is not entitled to any hearing in the sense of raising an issue and tendering evidence as to the facts so ascertained, and is not, therefore, denied due process because the time which the executive officer allows him after notice of the ascertainment and imposition to produce evidence as to certain facts on which the fine might be remitted is too short. *Oceanic Navigation Co. v. Stranahan*, 320.



6. *Due process of law—Imposition of penalty by executive officer.*

The imposition of a penalty by an executive officer when authorized by Congress in a matter wholly within its competency, such as alien immigration, is not unconstitutional under the Fifth Amendment as taking property without due process of law. *Ib.*

7. *Due process of law; compensation for interference with property under statute limiting height of buildings.*

Where there is justification for the enactment of a police statute limiting the height of buildings in a particular district, an owner of property in that district is not entitled to compensation for the reasonable interference with his property by the statute. *Welch v. Swasey*, 91.

8. *Due process of law; deprivation of property without; limitation of height of buildings.*

A statute limiting the height of buildings cannot be justified under the police power unless it has some fair tendency to accomplish, or aid in the accomplishment of, some purpose for which that power can be used; if the means employed, pursuant to the statute, have no real substantial relation to such purpose, or if the statute is arbitrary, unreasonable and beyond the necessities of the case, it is invalid as taking property without due process of law. *Ib.*

9. *Due process of law. Sufficiency of notice of probate proceeding. Validity of §§ 1633, 1634, Civil Code of California.*

Whether or not a State can arbitrarily determine by statute the length of notice to be given of steps in the administration of estates in the custody of its courts, ten days' notice for the settlement of the final accounts of an executor and action on final distribution is not so unreasonable as to be wanting in due process of law under the Fourteenth Amendment; and so held that the contention that §§ 1633 and 1634 of the Civil Code of California prescribing such length of notice are unconstitutional as depriving a distributee of his property without due process of law is without merit. *Roller v. Holly*, 176 U. S. 398, distinguished. *Goodrich v. Ferris*, 71.

*See Infra*, 12, 13;

CONGRESS, POWERS OF, 3;

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10. *Equal protection of the laws. Classification of resident and non-resident owners of property within police power.*

While the enforcement of a statute enacted under the police power by

criminal proceedings against resident owners, and by civil proceedings against non-resident owners, is a discrimination, if, as in this case, it is justified by the circumstances it does not render the statute unconstitutional, nor is it so rendered by the fact that the remedy as to one class may be more efficient than the remedy as to the other. *District of Columbia v. Brooke*, 138.

11. *Equal protection of the laws. Power of States to make classifications in enforcement of police power.*

The Fourteenth Amendment does not deprive the States of the power of classification or require the classification to be logically or scientifically accurate; and sufficient practical reasons exist for a classification of resident and non-resident property owners in the enforcement of police regulations, provided that the act is impartial as between the classes. (*Field v. Barber Asphalt Co.*, 194 U. S. 618.) *Ib.*

12. *Equal protection and due process of law—Validity of act of May 19, 1896, providing for drainage in District of Columbia.*

The act of May 19, 1896, c. 206, 29 Stat. 125, providing for the drainage of the District of Columbia, is not unconstitutional as depriving non-resident owners of their property without due process of law, or denying them the equal protection of the law on account of the different methods provided for enforcing the law against resident and non-resident owners. *Ib.*

13. *Equal protection and due process of law. Validity of Massachusetts laws limiting height of buildings.*

Chapters 333 of the acts of 1904 and 383 of the acts of 1905 of Massachusetts, limiting the heights of buildings in Boston and prescribing different heights in different sections of the city are, in view of the decision of the highest court of Massachusetts holding that the discrimination is based upon reasonable grounds, a proper exercise of the police power of the State, and are not unconstitutional under the equal protection and due process clauses of the Fourteenth Amendment. *Welch v. Swasey*, 91.

See CONGRESS, POWERS OF, 3;  
STATUTES, A 8.

14. *Full faith and credit. Effect of erroneous construction of constitution of another State, to deny.*

The mere construction, even if erroneous, by a state court of the statute or, as in this case, of a provision of the constitution of another State does not deny to it the full faith and credit demanded by the Federal Constitution. *Smithsonian Institution v. St. John*, 19.

15. *Same.*

The decision of the Court of Appeals of New York that a statute of Ohio authorizing the formation of corporations general in terms, but applicable to a special situation, did not contravene the prohibition of the constitution of Ohio against the general assembly passing any special act conferring corporate powers, and that a corporation organized under such a statute could take as legatee, *held*, not to question the validity of the constitutional provision and, even if erroneous, such decision did not repudiate the obligations of the full faith and credit clause of the Federal Constitution and is not reviewable by this court under § 709, Rev. Stat. *Ib.*

16. *Full faith and credit. Force and effect to be given constitution of another State.*

It is as obligatory upon the courts of a State to give the same full force and effect to the constitution of another State as it must give to its judicial proceedings. (*Chicago & Alton Railroad v. Wiggins Ferry Co.*, 119 U. S. 615.) *Ib.*

*Jurisdiction of Federal Government. See UNITED STATES, 1.*

17. *Property rights; uncompensated obedience to municipal ordinance passed in exercise of police power not violative of.*

The exercise of the police power in the interest of public health and safety is to be maintained unhampered by contracts in private interests, and uncompensated obedience to an ordinance passed in its exercise is not violative of property rights protected by the Federal Constitution; *held*, that an ordinance of a municipality of that State, valid under the law of that State as construed by its highest court, compelling a railroad to repair a viaduct constructed, after the opening of the railroad, by the city in pursuance of a contract relieving the railroad, for a substantial consideration, from making any repairs thereon for a term of years was not void under the contract, or the due process, clause of the Constitution. (*Northern Pacific Railway v. Duluth*, 208 U. S. 583.) *St. Paul, Minn. & Man. Ry. Co. v. Minnesota*, 497.

## CONSTRUCTION.

*See* CONTRACTS;

STATUTES, A;

WILLS.

## CONTAGIOUS DISEASES.

*See* IMMIGRATION;

PENALTIES AND FORFEITURES.



## CONTEMPT OF COURT.

1. *Evidence held to establish contempt of this court.*

The court, having already held, 203 U. S. 563, that the information sufficiently set forth a contempt of the court, to punish which the court has jurisdiction, now finds on the testimony taken under its direction that certain of the defendants named were guilty of the contempt as charged and directs that attachments issue against them, and that the defendants not found guilty be discharged. *United States v. Shipp*, 386.

2. *Participation in defiance of mandate of this court constituting contempt.*

Where a riot and the lawless acts of those engaged therein are the direct result of opposition to the administration of the law by this court, those who defy its mandate and participate in, or who knowingly fail to take the proper means within their official power and duty to prevent, acts of violence having for their object to, and which do, defeat the action of this court are guilty of, and must be punished for, contempt. *Ib.*

3. *Negligence of one charged with custody and safe-keeping of Federal prisoner pending appeal to this court as contempt thereof.*

One, who after conviction by the state court has applied to the Federal court for his release on *habeas corpus* on the ground that he was denied due process of law is remanded by the Federal court to the custody of the sheriff to be detained for a specified time in which to enable him to prosecute an appeal to this court, is held under § 766, Rev. Stat., as a Federal prisoner and the sheriff is accountable to the Federal courts; and to the extent of his power and the means under his control, he must exercise due diligence and reasonable efforts to protect the prisoner from mob violence, and if, after this court has granted an appeal, he negligently fails in his duty in this behalf, he is guilty of contempt. *Ib.*

4. *Knowledge of order of court sufficient to render one defying same guilty of contempt.*

Knowledge of an allowance by this court of an appeal and a stay of proceedings renders those who defy the mandate of the court and so conduct themselves as willfully to defeat the administration of the law liable for contempt. *Ib.*

5. *Those charged with custody of Federal prisoner pending appeal to this court held guilty of contempt in failing to protect prisoner from mob violence.*

This court having allowed an appeal from an order of a Circuit Court discharging a writ of *habeas corpus* and remanding the prisoner

to the custody of the sheriff to be held for a specified period for prosecution of the appeal, the sheriff and his deputies and the jailer, who had knowledge of such allowance of appeal and also of an intense feeling in the neighborhood against the prisoner which on previous occasions had threatened his safety, were bound to use all means within their power to protect him, and failure on their part to take any precautions whatever to prevent the seizure and killing of the prisoner at the hand of a mob attacking the jail while in a defenseless condition was, under the circumstances of this case, willful negligence, and disregard of duty to, and contempt of, this court; and so held as to the sheriff of Hamilton County, Tennessee, and his deputy and the jailer, in connection with the lynching on March 19, 1906, of Ed Johnson by a mob after this court had allowed his appeal from an order refusing relief on *habeas corpus*. *Ib*.

6. *Members of mob lynching Federal prisoner pending appeal to this court, guilty of contempt.*

Those of a mob who attack a state jail and lynch a person held therein as a Federal prisoner under an order of this court of which they have had notice are guilty of contempt of this court. *Ib*.

*See* MANDAMUS, 6.

#### CONTRACTS.

1. *Construction; reference to similar prior contract between parties.*

Where a contract requires construction as to the mode of its performance, a similar contract in writing between the same parties which had been fully performed prior to the execution of the contract to be construed, serves, within proper limitations, to throw light upon the construction of the later contract and may be referred to for that purpose. *Ceballos & Co. v. United States*, 47.

2. *Same.*

A contract having been made by the United States with Ceballos & Co. for the repatriation of the Spanish prisoners in Cuba after the Spanish war, similar in terms to another contract subsequently made with the same parties for the repatriation of the Spanish prisoners in Manila, providing certain accommodations for officers and steerage accommodations for men and other persons designated by the Secretary of War, the fact that in the performance of the Cuban contract the wives and children of the officers were given similar cabin accommodations to those of their respective husbands and fathers, and the United States had paid therefor the higher rate, held to be material in construing the Philippine

contract and also held that Ceballos & Co. were entitled to payment for the transportation of the wives and children of officers at cabin rates. *Ib.*

3. *Construction of contracts carrying out treaty obligations to be liberal.*

The same contract construed as entitling Ceballos & Co. to half rates of cabin transportation for children under ten, and steerage rates for the "other persons designated by the Secretary of War," that expression not embracing wives and children of officers, but embracing all designated persons other than officers and their wives and children. A contract carrying out treaty obligations should be liberally construed so as to effectuate the purposes intended by the treaty. *Ib.*

4. *Construction of contract for repatriation of Spanish prisoners of war from Philippine Islands.*

In the light of all the surrounding circumstances it will not be assumed that the United States in carrying out its stipulations for the capitulation of Manila would commit an act of inhumanity such as separating the surrendered officers from their wives and children by furnishing the former with cabin, and the latter with steerage, accommodations on the voyage to Spain under the repatriation provision of the treaty of peace. *Ib.*

See BANKRUPTCY, 3;

EVIDENCE;

CONSTITUTIONAL LAW, 4;

LOCAL LAW (PORTO RICO, 2);

VENDOR AND VENDEE, 1, 2.

## CONVEYANCES.

See EVIDENCE.

## COPYRIGHT.

1. *Who entitled under § 4952, Rev. Stat., as amended by act of March 3, 1891. Citizenship of assignee affecting right.*

Under § 4952, Rev. Stat., as amended by the act of March 3, 1891, c. 565, 26 Stat. 1106, the assignee of an author of a painting is not entitled to copyright unless the author is a citizen of a country to the citizens of which reciprocal copyright privileges have actually been extended by proclamation of the President in conformity with § 13 of the act of March 3, 1891. The fact that the assignee is a citizen of such a country does not entitle him to copyright. *Bong v. Campbell Art Co.*, 236.

2. *Who entitled—Assignee defined.*

An assignee within the meaning of the copyright statute is one who receives a transfer not necessarily of the painting but of the right



to multiply copies thereof, and such right depends not only upon the statute but is derived also from the painter, who must have the right to copyright in order to assign it. *Ib.*

3. *Who entitled—Effect of membership in Montevideo Union of country of person claiming.*

A citizen of a country not in copyright relations with the United States under § 13 of the act of 1891 is not entitled to avail of the copyright because his country is a member of the Montevideo Union. *Ib.*

4. *Who entitled—Effect of provision in § 13, act of March 3, 1891, on right of foreign citizen.*

The provision in § 13 of the act of 1891, providing that the President on determining certain conditions extend the privileges of copyright to citizens of countries which are parties to a copyright union to which the United States may become a party is not directory and confers no rights independent of the President's proclamation. *Ib.*

5. *Reciprocity of rights—Extension of right by executive proclamation.*

Where a statute contemplates reciprocity of rights the President is the best fitted officer to determine whether the conditions on which reciprocity depends exist; and this court approves the construction given by the State Department and the Librarian of Congress to the copyright statutes as denying copyright protection to Peru, no proclamation extending copyright to the citizens of that country having ever been made by the President. *Ib.*

## COPYRIGHT RULES.

*See p. 533.*

## COURTS.

1. *As refuge from ill-advised, unjust or oppressive laws.*

A wide range of discretion is necessary to make legislation practical and the courts cannot be made a refuge from ill-advised, unjust or oppressive laws. *District of Columbia v. Brooke*, 138.

2. *Enforcement in Federal courts of statute of limitations of State.*

Where it is established law of a State, as it is of Texas, that when a debt is barred by limitations an action to foreclose a lien or mortgage given as security for it is barred also, the law must be enforced in the courts of the United States, whether sitting in law or in equity. *Dupree v. Mansur*, 161.

3. *Federal courts in applying statute of limitations governed by decisions of State where land lies.*

Whether or not the statute of limitation bars a suit to foreclose is a question of substantive law, created by the State and not by the United States, and not one of procedure or jurisdiction; and the Federal court should be governed by the decisions of the State where the land lies. (*Slide & Spur Mines v. Seymour*, 153 U. S. 509.) *Ib.*

4. *Federal; duty as to application of state statute of limitations.*

The Federal courts cannot declare it wrong or inequitable for a debtor to rely upon a state statute of limitations, as that would be to declare wrong or discreditable what the legislature of the State declares to be right. *Ib.*

5. *Conclusiveness of decision of Land Department.*

Where a decision of the Land Department rests on the priority of equitable rights of a contestant it is conclusive upon the courts so far as it involves questions of fact; and on a mixed question of law and fact it is conclusive unless the court can so separate the question that the mistake of law is clearly apparent. *Whitcomb v. White*, 15.

6. *Same.*

Where the controversy in the Land Department involves the question of whether the first occupant occupied the land for homestead or town-site entry, and there is evidence to support the Secretary's finding, that finding is conclusive on the courts even though the evidence be conflicting. *Ib.*

7. *Duty and power in determining validity of legislation.*

The constitutional right of Congress to enact legislation in regard to a matter wholly within its jurisdiction is the sole measure by which the validity of such legislation is to be determined by the courts, and the courts cannot proceed on the supposition that harm will follow if the legislature be permitted full sway and, in order to correct the legislature, exceed their own authority, and assume that wrong may be done in order to prevent wrong being accomplished. (*McCray v. United States*, 195 U. S. 27.) *Oceanic Navigation Co. v. Stranahan*, 320.

8. *Determination of power of Congress to enact legislation.*

The courts cannot make mere form and not substance the test of the constitutional power of Congress to enact a statute in regard to a matter over which Congress has absolute control. *Ib.*

9. *Presumption of fact not indulged.*

Whether or not an heir in Porto Rico waives benefit of inventory is a pure question of fact; and, if the complaint is silent, the court will not presume that there was such a waiver. *Ubarri v. Laborde*, 168.

<i>See</i> CONGRESS, POWERS OF, 2;	MANDAMUS, 6;
CONTEMPT OF COURT;	PORTO RICO, 2, 3, 4;
EXTRADITION, 3;	TERRITORIES, 2.

## COURT OF CLAIMS.

*See* MANDAMUS, 7.

## COURT AND JURY

*See* NEGLIGENCE.

## CRIMINAL LAW.

*See* EXTRADITION;  
PENALTIES AND FORFEITURES.

## DECEDENTS' ESTATES.

<i>See</i> ACTIONS;	COURTS, 9;
CONSTITUTIONAL LAW, 9;	LOCAL LAW (PORTO RICO, 1, 3, 4).

## DELEGATION OF POWER.

*See* CONGRESS, POWERS OF, 1, 2;  
FEDERAL QUESTION;  
PENALTIES AND FORFEITURES.

## DEPARTMENTAL REGULATIONS.

*See* PUBLIC OFFICERS, 2.

## DESCRIPTION OF PROPERTY.

*See* JURISDICTION, A 12.

## DISCRIMINATORY LEGISLATION.

*See* CONGRESS, POWERS OF, 3, 4.

## DISEASE.

*See* IMMIGRATION;  
PENALTIES AND FORFEITURES.



DISTRICT OF COLUMBIA.

See CONGRESS, POWERS OF, 3, 4;  
CONSTITUTIONAL LAW, 12;  
DRAINAGE, 1.

DRAINAGE.

1. *Power of Congress to create system for District of Columbia. Necessity for system not a question for property owner.*
  - A property owner cannot urge against a statutory drainage system the non-existence of the necessity for drainage, or the fact that he had adopted a system of his own which is either sufficient or better than that required by the law. Such a contention would deny to Congress the right to create any drainage system for the District of Columbia. *District of Columbia v. Brooke*, 138.
  2. *Compulsory drainage of unoccupied dwelling not a deprivation of property without due process of law.*
- The mere existence of dwelling houses, whether occupied or not, indicates the necessity for drainage; and the owner is not deprived of his property without due process of law by a compulsory drainage act because the house happens to be unoccupied at the time. *Ib.*

See CONSTITUTIONAL LAW, 12.

DUE PROCESS OF LAW.

See CONGRESS, POWERS OF, 3;  
CONSTITUTIONAL LAW, 5-9, 12, 13, 17;  
DRAINAGE, 2.

DURESS.

See PAYMENT.

EJECTMENT.

*Estoppel to maintain action against railroad.*

Judgment of the Supreme Court of Arizona holding that ejectment should not be maintained against a railroad company where the owner had remained inactive and permitted the construction of the track affirmed without opinion on authority of *Roberts v. Northern Pacific Railroad Company*, 158 U. S. 1, and *Northern Pacific Railroad Company v. Smith*, 171 U. S. 260. *Donohue v. El Paso & Southwestern R. R.*, 499.

EMPLOYER AND EMPLOYÉ.

See MASTER AND SERVANT.

## ENTRY AND OUSTER.

*See* JURISDICTION, A 2.

## EQUAL PROTECTION OF THE LAWS.

*See* CONGRESS, POWERS OF, 3;  
CONSTITUTIONAL LAW 10-13;  
STATUTES, A 8.

## ESTATES OF DECEDENTS.

*See* ACTIONS; COURTS, 9;  
CONSTITUTIONAL LAW, 9; LOCAL LAW (PORTO RICO).

## ESTOPPEL.

*See* ASSESSMENT AND TAXATION, 3; EJECTMENT;  
BANKRUPTCY, 3; REMOVAL OF CAUSES, 1, 3.

## EVIDENCE.

*Admissibility of extrinsic evidence to show that conveyance absolute in form is intended as security.*

The face of an instrument is not always conclusive of its purpose; and, in equity, extrinsic evidence is admissible to show that a conveyance, absolute in form, is intended as security; and in this case testimony addressed to the consideration of the bill of sale, and showing that although on its face the vendee agreed to give up its debt the real consideration was to help the vendor and give the vendee additional security, would be admissible under our own, as well as the Spanish, law; and *quære* whether the Spanish law does not permit oral testimony, as to all the terms of a contract upon an equal footing with the written instrument itself, to an extent beyond that which our own law permits. *Cabrera v. American Colonial Bank*, 224.

*See* LOCAL LAW (PORTO RICO), 2;  
PRACTICE AND PROCEDURE, 1.

## EXECUTIVE OFFICERS.

*See* CONGRESS, POWERS OF, 1, 2; MANDAMUS, 4, 5;  
CONSTITUTIONAL LAW, 5, 6; PENALTIES AND FORFEITURES;  
PUBLIC OFFICERS, 2.

## EXECUTORS AND ADMINISTRATORS.

*See* CONSTITUTIONAL LAW, 9.

## EXEMPTIONS.

See BANKS AND BANKING, 2;  
STATUTES, A 3.

## EXTRADITION.

1. *Indictment or affidavit as prerequisite; application of § 5278, Rev. Stat.*

Unless the State demanding the return of an alleged fugitive from justice furnishes a copy of an indictment against the accused or an affidavit before a magistrate as provided by § 5278, Rev. Stat., the executive of the State upon whom the demand is made, may decline to honor the requisition; and, in the absence of such indictment or affidavit, no authority is conferred upon him by § 5278, Rev. Stat., to issue his warrant of arrest for a crime committed in another State. *Compton v. Alabama*, 1.

2. *Affidavit to support; sufficiency under § 5278, Rev. Stat.*

An affidavit before a notary public is sufficient under § 5278, Rev. Stat., upon which to base a demand for return of a fugitive from justice if such officer is, as he is regarded in Georgia, a magistrate under the law of the State. *Ib.*

3. *Interference by judiciary—When habeas corpus not available to one held for.*

Where the papers upon which the requisition for the return of an alleged fugitive from justice is based are regarded as sufficient by the executive authorities of both the States making, and honoring, the demand, the judiciary should not interfere on *habeas corpus* and discharge the prisoner upon technical grounds unless it is clear that the action plainly contravenes the law. *Ib.*

4. *Immunity from trial for offense other than that for which extradited.*

The rule that a person extradited under treaty provisions cannot be tried for an offense other than that for which he was extradited until after he has had opportunity to leave the country to which he was surrendered does not apply to an offense committed after he arrives in the latter country. (*United States v. Rauscher*, 119 U. S. 407.) *Collins v. O'Neil*, 113.

5. *Discretion of country to which surrender made in matter of trial of person extradited.*

Whether a person extradited and who thereafter commits a crime in the country to which he is surrendered shall be first tried for the earlier or later crime is a matter wholly within the jurisdiction of the country to which he is surrendered and is of no interest to the surrendering country. *Ib.*



6. *Asylum; right of fugitive from justice to.*

A fugitive from justice has no inherent right of asylum; his rights in that respect depend wholly upon the treaty between the countries demanding and surrendering him. *Ib.*

7. *Treaty of 1842 and convention of 1889 with Great Britain construed—Trial of party extradited, for crime committed after extradition.*

Under the treaty of 1842 and convention of 1889 with Great Britain a surrendered person can be tried for an offense committed in this country after his arrival; and the trial for such offense does not have to await the conclusion of the trial of the offense for which he was surrendered; and so *held* that one who, on the trial of the offense for which he was surrendered and which resulted in a disagreement, committed perjury could be indicted and tried for that offense without being allowed an opportunity to leave this country and without waiting for the final conclusion of the trial for the crime for which he was surrendered. *Ib.*

## FACTS.

*See* ASSESSMENT AND TAXATION, 1;  
COURTS, 5, 6, 9;  
PRACTICE AND PROCEDURE.

## FEDERAL COURTS.

*See* COURTS, 2, 3, 4;  
JURISDICTION.

## FEDERAL QUESTION.

*What constitutes. Question of illegality of state statute.*

Whether a state statute is illegal because it delegates legislative power to a commission does not raise a Federal question. *Welch v. Swasey*, 91.

*See* JURISDICTION, A.

## FIFTH AMENDMENT.

*See* CONSTITUTIONAL LAW, 6.

## FORGED INSTRUMENTS.

*See* BANKS AND BANKING, 3;  
COMMERCIAL PAPER, 1.

## FOURTEENTH AMENDMENT.

*See* CONGRESS, POWERS OF, 3;  
CONSTITUTIONAL LAW, 9, 11, 13.

## FRAUD.

*Evidence to establish.*

Judgment reversed on the facts, it being based on allegations of fraud and corruption which this court holds were not sustained by the evidence. *Ubarri v. Laborde*, 168.

## FUGITIVE FROM JUSTICE.

*See* EXTRADITION.

## FULL FAITH AND CREDIT.

*See* CONSTITUTIONAL LAW, 14, 15, 16.

## GOVERNMENT.

*See* PORTO RICO, 1, 2;

TERRITORIES, 1, 2.

## GOVERNMENT EMPLOYÉS.

*See* PUBLIC OFFICERS, 1.

## GREAT BRITAIN.

*See* EXTRADITION, 7.

## GUARANTY.

1. *Effect of giving of additional security by principal debtor to release one guaranteeing the loan.*

One guaranteeing a loan by mortgage is not released from the guaranty because the loan is subsequently further secured by a bill of sale of other property, absolute on its face but in fact given as additional security, by the principal debtor. *Cabrera v. American Colonial Bank*, 224.

2. *Liability; extent of.*

The liability of one who binds himself with others for the whole debt extends to the whole and not to a part of the debt. *Ib.*

## HABEAS CORPUS.

*See* ABATEMENT;

EXTRADITION, 3.

## HEIRS.

*See* LOCAL LAW (PORTO RICO).

## IMMIGRATION.

*Alien Immigration Act of March 3, 1903, § 9; validity of.*

The prohibition of § 9 of the Alien Immigration Act of March 3, 1903,

c. 1012, 32 Stat. 1213, against bringing into the United States alien immigrants afflicted with loathsome and contagious diseases is within the absolute power of Congress; and that provision of the act is not unconstitutional because it provides that the Secretary of Commerce and Labor may, without judicial trial, impose upon, and exact penalties from, the transportation company for violations of the provisions. *Oceanic Navigation Co. v. Stranahan*, 320.

*See* CONGRESS, POWERS OF, 1;  
PENALTIES AND FORFEITURES.

#### IMPAIRMENT OF CONTRACT OBLIGATION.

*See* CONSTITUTIONAL LAW.

#### INTERSTATE COMMERCE.

*See* COMMERCE;  
CONSTITUTIONAL LAW, 1, 2, 3;  
JURISDICTION, A 10.

#### INTERSTATE RENDITION.

*See* EXTRADITION.

#### INTOXICATING LIQUORS.

*See* COMMERCE;  
CONSTITUTIONAL LAW, 1, 3.

#### INVENTION.

*See* PATENTS.

#### INVOLUNTARY PAYMENT.

*See* PAYMENT.

#### JUDGMENTS AND DECREES.

*See* JURISDICTION, A 1, 2;  
PORTO RICO, 2.

#### JUDICIAL SALES.

*See* JURISDICTION, A 12.

#### JURISDICTION.

##### A. OF THIS COURT.

1. *Amount in controversy—Joinder of distinct judgments to create jurisdictional amount.*

Distinct judgments in favor of or against distinct parties, though in



the same record, cannot be joined to give this court jurisdiction. *Tupito v. Compania de Tabacos*, 268.

2. *Same.*

While in case of joint entry and ouster, where the answer of all defendants takes issue without setting up separate claims to distinct parcels, and the judgment for recovery of possession is against all defendants jointly, the measure of appellate jurisdiction is the value of the whole land, *Friend v. Wise*, 111 U. S. 707, where there is no allegation of joint ownership or joint possession, and the controversy with each defendant relates to a separate and distinct parcel, and judgment is rendered separately, the measure as to each defendant is the value of his separate parcel. *Tupper v. Wise*, 110 U. S. 398. Nor does this court have jurisdiction in such a case if the judgment were jointly against the defendants for damages where the total amount awarded is less than the jurisdictional amount. *Ib.*

3. *Under § 709, Rev. Stat. Sufficiency of raising Federal question.*

The Federal question must be properly and seasonably set up in the state court in order to give this court jurisdiction to review under § 709, Rev. Stat. *Chesapeake & Ohio Ry. Co. v. McDonald*, 191.

4. *Same.*

Where the state statute provides that an appeal from an order refusing to remove a cause to the Federal court must be taken within two years, and no appeal is taken, and the highest court of the State decides that an appeal from the judgment in the case taken more than two years after entry of the order refusing to remove does not bring up that order for review, the Federal question has not been properly preserved, and this court has no jurisdiction. *Ib.*

5. *Of direct appeal from Circuit Court—Sufficiency of involution of constitutional question.*

The mere fact that a constitutional question is alleged does not suffice to give this court jurisdiction of a direct appeal from the Circuit Court if such question is unsubstantial and so clearly devoid of merit as to be clearly frivolous. (*Farrell v. O'Brien*, 199 U. S. 100.) *Goodrich v. Ferris*, 71.

6. *Federal question; sufficiency of involution.*

Where plaintiff in error, defendant below, in a suit for penalty under a state law asks and the court refuses an instruction that if the jury find that the default occurred within a navy yard, over

which the United States had exclusive jurisdiction, the recovery could not be had under the state law, this court has jurisdiction to review the judgment. *Western Union Telegraph Co. v. Chiles*, 274.

7. *Federal question wanting.*

Writ of error to review judgment of the state court dismissed without opinion for want of jurisdiction, there being no Federal question, or if any, it was raised too late. *Kansas City Southern Ry. Co. v. Henrie*, 491.

8. *Federal question; sufficiency of.*

Writ of error to review judgment of the highest court of the state, dismissed without opinion, for want of jurisdiction, notwithstanding the contention of plaintiff in error that where a state court in construing a contract departs from its established and applicable mode of procedure theretofore applied under similar circumstances due process and equal protection of the law are denied. *Fidelity & Casualty Co. v. Southern Railway News Co.*, 498.

9. *Federal question; sufficiency of.*

Writ of error to review the judgment of the state court in a suit for damages for injuries caused by negligence of plaintiff in error dismissed without opinion for want of jurisdiction, notwithstanding contention of plaintiff in error that its claim that the act of April 24, 1905, ch. 163, of Texas legislature was unconstitutional as depriving it of the fellow-servant defense had been duly set up at the proper time in the state court. *Missouri, Kansas & Texas Ry. Co. v. Kennedy*, 502.

10. *Sufficiency of involution of Federal question. Denial by state court that statute conflicts with commerce clause of Constitution.*

Where the state court denied the contention of plaintiff in error, defendant below, that a state statute as applied to transportation of an article from one State to another was in conflict with the commerce clause of the Constitution, a Federal question is involved and this court has jurisdiction. (*Western Turf Association v. Greenberg*, 204 U. S. 359.) *Adams Express Co. v. Kentucky*, 218.

11. *Sufficiency of Federal question for purpose of.*

Where the disposition of a Federal question is not necessary to the determination of the cause and the judgment is based on a distinct non-Federal ground broad enough to sustain it the writ of error cannot be maintained. *Rogers v. Jones*, 196.

12. *When judgment of state court rests on non-Federal grounds sufficient to sustain it.*

Where an act of Congress providing for sale of real estate by a marshal does not define a good and valid description, the question of sufficiency of description is one of general law; and so held in regard to § 4 of the act of February 16, 1839, c. 27, 5 Stat. 317, referring to time and place for making judicial sales in Mississippi; and further held that even if the time and place of sale were wrong under the statute, this court had no jurisdiction as the judgment rested on plaintiff's failure to deraign a title and other non-Federal questions sufficient to sustain it. *Ib.*

13. *Quære as to sufficiency of raising of Federal question for purpose of.*

*Quære:* Where a petition to the highest court of the State for rehearing asserts that a Federal question had been set up in the brief and arguments is simply denied with the statement that no Federal question had been raised in that court, whether this court has jurisdiction to review the judgment on writ of error. *Smithsonian Institution v. St. John*, 19.

14. *Declination of jurisdiction.*

This court cannot decline jurisdiction when it is plain that the fair result of a decision of the state court is to deny a constitutional right. (*Rogers v. Alabama*, 192 U. S. 226.) *Ib.*

15. *To review judgment in condemnation proceeding.*

Writ of error to review judgment of the state court in a condemnation proceeding dismissed without opinion for want of jurisdiction. *Thomas v. South Side Elevated Ry. Co.*, 496; *Yadkin River Power Co. v. Whitney*, 503.

16. *Of appeal in bankruptcy matter.*

An appeal from the Circuit Court of Appeals in a bankruptcy matter dismissed without opinion on authority of *Coder v. Arts*, 213 U. S. 223. *Logan v. Farmers' Deposit Nat. Bank*, 500.

17. *Certificate from Circuit Court of Appeals; sufficiency of.*

Certificate dismissed on the authority of *Chicago, Burlington & Quincy Railway Company v. Williams*, 205 U. S. 444. *Chicago, Burlington & Quincy Ry. Co. v. Williams*, 492.

See APPEAL AND ERROR;

CONSTITUTIONAL LAW, 15.

#### B. OF CIRCUIT COURT.

*Amount in controversy.*

The Circuit Court has not jurisdiction of a suit against a number of



delinquent taxpayers for assessment work where the assessment due from each taxpayer is less than two thousand dollars. *Granite Bituminous Paving Co. v. Landis*, 504.

See CONSTITUTIONAL LAW, 4.

#### C. GENERALLY.

See ATTACHMENT; PILOTAGE;  
EXTRADITION, 5; PORTO RICO, 2, 3, 4;  
MANDAMUS, 6; REMOVAL OF CAUSES, 1, 2;  
UNITED STATES, 1, 2.

#### LAND DEPARTMENT.

See COURTS, 5, 6.

#### LAW GOVERNING.

See COURTS, 2, 3;  
NAVIGABLE WATERS, 2;  
VENDOR AND VENDEE, 2.

#### LEGISLATION.

See CONGRESS, POWERS OF.  
COURTS, 1, 7;  
TERRITORIES, 1.

#### LEX LOCI.

See COURTS, 3;  
NAVIGABLE WATERS, 2;  
VENDOR AND VENDEE, 2.

#### LIBEL.

##### 1. *Publication of portrait as.*

The publication of a portrait with a statement thereunder imports that the original of the portrait makes the statement even if another name be attached to the statement. *Wandt v. Hearst's Chicago American*, 129 Wisconsin, 419; *Morrison v. Smith*, 177 N. Y. 366, approved on this point. *Peck v. Tribune Company*, 185.

##### 2. *Publication of portrait as.*

A woman, whose portrait is published in connection with an endorsement of a brand of whiskey may be seriously hurt in her standing with a considerable portion of her neighbors and she is entitled to prove her case and go to the jury. *Ib.*

3. *Mistake or ignorance as excuse for.*

Publication of the portrait of one person with statements thereunder as of another, by mistake, and without knowledge of whom the portrait really is, is not an excuse. A libel is harmful on its face, and one publishing manifestly hurtful statements concerning an individual does so at his peril; and, if there is no justification other than that it was news or advertising, he is liable if the statements are false or are true only of some one else. See *Morasse v. Brochu*, 151 Massachusetts, 567. *Ib.*

4. *Degree of harm resulting from false statement to render it libellous.*

An unprivileged falsehood need not entail universal hatred to constitute a cause of action; to be libellous a statement need not be that the person libelled has done or said something that every one, or even a majority of persons in the community, may regard as discreditable; it is sufficient if the statement hurts the party alluded to in the estimation of an important and respectable part of the community. *Ib.*

## LICENSE.

See NAVIGABLE WATERS, 6.

## LIMITATION OF ACTIONS.

See COURTS, 2, 3, 4.

## LIQUORS.

See COMMERCE;

CONSTITUTIONAL LAW, 1, 3.

## LOANS.

See GUARANTY.

## LOCAL LAW.

*Arkansas.* Conditional sales (see Vendor and Vendee, 2). *Bryant v. Swofford Bros.*, 279.

*California.* Civil Code, §§ 1633, 1634. Notice in administration proceedings (see Constitutional Law, 9). *Goodrich v. Ferris*, 71.

*Georgia.* Notary public as magistrate (see Extradition, 2). *Compton v. Alabama*, 1.

*Kentucky.* Stats. 1903, § 1307. Intoxicating liquors (see Constitutional Law. 3). *Adams Express Co. v. Kentucky*, 218.

*Massachusetts.* Acts of 1904, ch. 333, and acts of 1905, ch. 383.  
Height of buildings (see Constitutional Law, 13). *Welch v. Swasey*, 91.

*Porto Rico.* 1. *Mortgage of an interest in a succession.* In Porto Rico one can mortgage an interest in a succession after it has accrued notwithstanding it has not been actually assigned or delivered to the mortgagor; this is not prohibited by article 108 of the mortgage law, nor are articles 110, 111 of that law applicable thereto. *Cabrera v. American Colonial Bank*, 224.

2. *Contracts; admissibility of evidence to vary.* The provisions of the Spanish Civil Code, which was in force in Porto Rico until 1902, to the effect that the obligations of a contract must be complied with according to their terms and that evidence cannot be introduced to vary them are practically the same as the principles of the common law and are subject to similar well-recognized exceptions. *Ib.*

3. *Estates of decedents—Effect of waiver of benefit of inventory—Liability of succession.* The effect under the law of Porto Rico of an heir waiving the benefit of inventory is to make him personally liable for the debts of the succession without limit, as under the early law of Rome, of England and of France; but, after the inheritance is divided, the liability of the succession is at an end and gives place to personal liability of each heir for the whole debt to the extent of the assets received by him, if accepted with benefit of inventory, or otherwise in full. *Ubarri v. Laborde*, 168.

4. *Same.* *Ubarri v. Laborde*, ante, p. 168, followed to effect that after a succession in Porto Rico has been divided the liability of the heirs is personal; and, even if the suit can be maintained against the succession, private property of the heirs cannot be attached to answer for the judgment. *Laborde v. Ubarri*, 173.

*Texas.* Act of April 24, 1905, ch. 163 (see Jurisdiction, A 9). *Missouri, Kansas & Texas Ry. Co. v. Kennedy*, 502.  
Limitation of actions (see Courts, 2, 3). *Dupree v. Mansur*, 161.

#### LOUISIANA.

See PILOTAGE.

#### LYNCHING.

See CONTEMPT OF COURT, 5, 6.



## MAGISTRATES.

See EXTRADITION, 2.

## MANDAMUS.

1. *Not substitute for writ of error.*

Mandamus is not a proper substitute for a writ of error. *Matter of Riggs*, 9.

2. *Not available to review adjudication in bankruptcy.*

Where the bankruptcy court in adjudicating a corporation a bankrupt is called upon to decide, and does decide, a question of fact, or of mixed law and fact, that adjudication cannot be reviewed by proceedings in mandamus. (*Re Pollitz*, 206 U. S. 323; *Re Winn*, 213 U. S. 458.) *Matter of Riggs*, 9.

3. *Same.*

Mandamus to the bankruptcy court to dismiss proceedings in bankruptcy against a corporation because the petition failed to show that the principal business of the bankrupt was trading, printing, publishing, mining, manufacturing or a mercantile pursuit, refused. *Ib.*

4. *To control action of executive officer. When performance of duty administrative and when involving exercise of discretion.*

If the reference by Congress to the Secretary of the Treasury to ascertain the amount due to a claimant and pay the same requires the exercise of discretion the courts cannot control his decision, *Riverside Oil Company v. Hitchcock*, 190 U. S. 316; but where the statute simply requires him to ascertain the amount, according to certain prescribed rules, the duty is administrative; and, the amount being ascertained according to those rules, the courts can by mandamus compel the Secretary to issue his warrant therefor. *Parish v. MacVeagh*, 124.

5. *Same.*

The history of the litigation and legislation in regard to the claim of Parish against the United States for damages on contract for ice made in 1863 for use of armies in the field reviewed and held that under the act of February 17, 1903, c. 559, 32 Stat. 1612, directing the Secretary of the Treasury "to determine and ascertain the full amount which should have been paid to Parish if the contract had been carried out in full without charge or default by either party" and to issue his warrant therefor, no judicial duty devolved upon the Secretary, nor has the Secretary power to determine what was right or proper but only the administrative duty of ascertaining the amount and paying the same; and, the amount having

been ascertained, the claimant is entitled to a writ of mandamus directing the Secretary to issue his warrant therefor. *Ib.*

6. *To compel court to take jurisdiction.*

Petition for leave to file petition for mandamus to compel the Circuit Court of Appeals to take jurisdiction of a writ of error to the Circuit Court to review an order fining petitioner for contempt denied without opinion. *Ex parte Heller*, 501.

7. *To compel action by Court of Claims, denied.*

Leave to file petition for mandamus to the Chief Justice and the associate justices of the Court of Claims to make a report to the President of the Senate on petitioner's claim denied. *Matter of Pearson*, 505.

8. *To compel remanding of case to state court.*

Leave to file petition for mandamus to remand a case to the state court denied. *Matter of Tobin*, 506.

### MARSHAL'S SALE.

*See JURISDICTION, A 12.*

### MASTER AND SERVANT.

1. *Duty of master as to safety of place. Right of servant to assume exercise of care in furnishing appliances.*

It is the duty of the master to use reasonable diligence in providing a safe place for his employés to work in and to carry on his business; and the employé may, in the absence of notice to the contrary, assume that the master will use reasonable care in furnishing appliances for carrying on the business. (*Choctaw & Oklahoma R. R. v. McDade*, 191 U. S. 64.) *Kreigh v. Westinghouse & Co.*, 249.

2. *Master's duty a continuing one.*

The duty of the master to provide safe place and appliances for his employés is a continuing one and must be exercised whenever circumstances demand it, *Sante Fe & Pacific R. R. v. Holmes*, 202 U. S. 438; and this applies where the workmen are engaged in work more or less dangerous and it is only a matter of using due skill and care to make the place and appliances safe. (*Choctaw & Oklahoma R. R. v. McDade*, 191 U. S. 64.) *Ib.*

3. *Master's liability not affected by concurring negligence of others.*

Where the negligence of the master in failing to provide and maintain

a safe place contributes to the injury of the employé, the master is liable notwithstanding the concurring negligence of those performing the work. (*Deserant v. Cerillos Coal R. R. Co.*, 178 U. S. 409.) *Ib.*

## MILITARY GOVERNMENT.

*See* PORTO RICO, 1, 2;  
TERRITORIES, 1, 2.

## MISSISSIPPI.

*See* PILOTAGE.

## MISSISSIPPI RIVER.

*See* PILOTAGE.

## MISTAKE.

*See* LIBEL, 3.

## MOB VIOLENCE.

*See* CONTEMPT OF COURT.

## MORTGAGES.

*See* COURTS, 2, 3;  
GUARANTY, 1;  
LOCAL LAW (PORTO RICO, 1).

## MUNICIPAL CORPORATIONS.

*See* CONSTITUTIONAL LAW, 4.

## NATIONAL BANKS.

*See* BANKS AND BANKING, 1, 2;  
STATUTES, A 3.

## NAVIGABLE WATERS.

1. *Wharf as private property.*

A wharf on a navigable stream is private property and subject to the absolute control of the owner as other property is. *Weems Steamboat Co. v. People's Co.*, 345.

2. *Riparian owners; rights of; law governing.*

The rights of a riparian owner on a navigable stream are governed by the law of the State in which the stream is situated, but subject to the paramount public right of navigation. *Ib.*



3. *Wharves; right of riparian owners to construct and maintain.*

One of the rights of a riparian proprietor is to build private wharves out so as to reach the navigable waters of the stream, and this right has been affirmed by the courts of Virginia; but a wharf obstructing navigation or private rights of others or encroaching upon any public landing may be abated. *Ib.*

4. *Wharves; property rights in.*

A private wharf on a navigable stream is the exclusive property of the owner of which he can only be deprived in accordance with established law, and, if taken for public use, on compensation being made. *Ib.*

5. *Wharves; right of third person to demand use of.*

A private wharf on a navigable stream is not held by the owner, as a railroad is, subject to the public use, and a third person has no right to demand its use even on tendering compensation therefor and even though there may be no other wharf at the place. *Munn v. Illinois*, 94 U. S. 113, distinguished. *Louisville & Nashville Railway Co. v. West Coast Naval Stores Co.*, 198 U. S. 483, followed. *Ib.*

6. *Wharves; rights of public; effect of user.*

The public obtains no adverse right against the owner of a private wharf by mere user; in the absence of an intent on the owner's part to dedicate, and an acceptance by the public authority, the use is mere license subject to withdrawal. *Ib.*

7. *Wharves; right of owner to make arbitrary charges for use of.*

The remarks of Mr. Justice Bradley in *Transportation Co. v. Parkersburg*, 107 U. S. 691, as to the right of the owner of a private wharf to make arbitrary charges are *obiter* and are not applicable to the present case. *Ib.*

## NAVIGATION.

See NAVIGABLE WATERS, 2, 3;

PILOTAGE.

## NAVY YARDS.

See JURISDICTION, A 6;

UNITED STATES, 1, 2.

## NEGLIGENCE.

1. *When question for jury and when for court.*

Questions of negligence do not become questions of law except where

all reasonable men must draw the same conclusion from the evidence, nor should a case be withdrawn from the jury unless the conclusion follows as a matter of law that no recovery can be had upon any view which can be properly taken of the facts which the evidence tends to establish. (*Gardner v. Michigan Cent. R. R.*, 150 U. S. 349.) *Kreigh v. Westinghouse & Co.*, 249.

2. *Same.*

In this case *held* that there was sufficient evidence as to the defective condition of a derrick and the method in which it was operated to require the submission, under proper instructions from the court, to the jury. *Ib.*

*See* COMMERCIAL PAPER, 1;  
CONTEMPT OF COURT, 3, 5;  
MASTER AND SERVANT, 3.

### NEGOTIABLE INSTRUMENTS.

*See* COMMERCIAL PAPER.

### NORFOLK NAVY YARD.

*See* UNITED STATES, 1, 2.

### NOTARIES PUBLIC.

*See* EXTRADITION, 2.

### NOTICE.

*Sufficiency—Setting aside notice prescribed by legislature of State.*

Even though the power of the State to prescribe length of notice be not absolute, a notice authorized by the legislature will only be set aside as ineffectual on account of shortness of time in a clear case. (*Bellingham Bay Co. v. New Whatcom*, 172 U. S. 314.) *Goodrich v. Ferris*, 71.

<i>See</i> ACTIONS;	COMMERCIAL PAPER, 1;
ASSESSMENT AND TAXATION, 2, 3;	CONSTITUTIONAL LAW, 5, 9;
BANKS AND BANKING, 3;	CONTEMPT OF COURT, 4, 5;
	MASTER AND SERVANT, 1.

### OBITER DICTA.

*See* NAVIGABLE WATERS, 7.

### OBJECTIONS.

*See* PRACTICE AND PROCEDURE, 4, 5.

## OFFICIAL WARRANTS.

See COMMERCIAL PAPER, 2.

## OPEN ACCOUNTS.

See BANKRUPTCY, 1.

## PATENTS.

1. *Patentability; improvement in art of making expanded metal work.*

The patent involved in this case shows a method for expanding metal consisting of two operations, which when combined produce a new and useful result covered by the claim allowed; and this result, when read in connection with the specifications, shows substantial improvement in the art of making expanded metal work. *Expanded Metal Co. v. Bradford*, 366.

2. *Patentability; new combination of old elements patentable.*

A new combination of elements, though old in themselves, which produces a new and useful result, entitles the inventor to the protection of a patent. (*Loom Co. v. Higgins*, 105 U. S. 580.) *Ib.*

3. *Patentability of method.*

While the mere function or effect of the operation of a machine cannot be the subject-matter of a patent, a method of doing a thing so clearly indicated that those skilled in the art can avail themselves of mechanism to carry it into operation can be the subject-matter of a patent. (*Cochrane v. Deener*, 94 U. S. 780.) *Ib.*

4. *Patentability—Process and apparatus.*

A process and an apparatus by which it is performed are distinct things. They may be found in one patent; they may be the subject of different patents. (*Leeds & Catlin v. Victor Talking Machine Co.*, 213 U. S. 301.) *Ib.*

5. *Patentability of process—Limitation of process.*

An invention or discovery of a process or method involving mechanical operation and producing a new and useful result, such as expanding metal, may, and in this case does, entitle the inventor to a patent, and such a process is not limited to those showing chemical action or elemental changes. *Risdon Locomotive Works v. Medart*, 158 U. S. 68, distinguished. *Ib.*

6. *Patentability of Golding process of expanding metal.*

In this case, *held*, that the Golding patent No. 547,242 for the process of expanding metal was a substantial improvement of the art



involving mechanical operations and producing a new and useful result independently of particular mechanisms for performing such process, and is valid. *Ib.*

## PAYMENT.

*Involuntary payment.*

Money paid to the collector of a port under protest, and on the certainty that if not paid clearance to vessels necessarily sailing on definite schedule would be refused, to the great damage of the owner, is paid involuntarily, and can, if unlawfully exacted, be recovered. *Oceanic Steam Navigation Co. v. Stranahan*, 320.

See BANKRUPTCY, 1;

COMMERCIAL PAPER, 1.

## PENALTIES AND FORFEITURES.

*Power of Congress to provide for imposition of penalty—Enforcement of penalty.*

The authority, given by Congress in the Alien Immigration Act to the Secretary of Commerce and Labor to impose an exaction on a transportation company bringing to the United States an alien immigrant afflicted with a loathsome contagious disease when the medical examination establishes that the disease existed, and could have been detected by medical examination at the time of embarkation, does not purport to define and punish any criminal offense, but merely entails the infliction of a penalty enforceable by civil suit; and it is within the power of Congress to provide for such imposition by an executive officer, and the enforcement is not necessarily governed by the rules controlling the prosecution of criminal offenses. *Wong Wing v. United States*, 163 U. S. 228, distinguished; *Hepner v. United States*, 213 U. S. 103, followed. *Oceanic Steam Navigation Co. v. Stranahan*, 320.

See ACCOUNTS AND ACCOUNTING;

IMMIGRATION;

CONGRESS, POWERS OF, 2;

JURISDICTION, A 6;

CONSTITUTIONAL LAW, 5, 6;

UNITED STATES, 2.

## PENSION CHECKS.

See BANKS AND BANKING, 3;

COMMERCIAL PAPER.

## PILOTAGE.

1. *Jurisdiction of Louisiana over pilotage in Mississippi river.*

The Mississippi river is a boundary between Mississippi and Louisiana from below the port of Natchez as far north as Louisiana ex-

tends; but below Natchez all the river is wholly within Louisiana, and that State, subject only to the paramount power of Congress, has exclusive jurisdiction over pilotage in the river between points south of Natchez. *Leech v. Louisiana*, 175.

2. *Application of § 4236, Rev. Stat., act of March 2, 1837, relative to employment of pilots.*

Section 4236, Rev. Stat., act of March 2, 1837, c. 22, § 5 Stat. 153, allowing the master of vessels coming in or going out of ports on boundary rivers to employ any pilot licensed by either State, does not apply to pilotage to ports on a river below the point where it becomes a boundary river; and a pilot licensed only by Mississippi has no right to pilot a vessel from the Gulf of Mexico to New Orleans. *Ib.*

3. *Quere as to rights of pilots under § 4236, Rev. Stat.*

*Quere* whether under § 4236 a pilot licensed only by Mississippi can pilot a vessel from the Gulf to Natchez. *Ib.*

#### PLEADING.

*See* COURTS, 9;

JURISDICTION, A 2;

MANDAMUS, 3.

#### POLICE POWER.

1. *Nature and scope of power.*

The police power is one of the most essential of governmental powers, at times one of the most insistent, and always one of the least limitable. *District of Columbia v. Brooke*, 138.

2. *Power of Congress paramount over that of State.*

Generally speaking, the police power belongs to, and is to be exercised by, the State, but it must yield to Congress wherever it conflicts with the powers belonging exclusively to Congress. *Adams Express Co. v. Kentucky*, 218.

*See* CONSTITUTIONAL LAW, 7, 8, 10, 11, 13, 17.

#### PORTO RICO.

1. *Status between ratification of treaty of peace and establishment of civil government.*

By the ratifications of the treaty of peace of 1898 with Spain, Porto Rico ceased to be subject to that country and became subject to the legislative power of Congress; but, pending the action of Congress, and the necessary delay in establishing civil government, there was no interregnum, and the authority to govern the

territory ceded by the treaty was, by the law applicable to conquest and cession, under the military control of the President as Commander-in-Chief. (*Cross v. Harrison*, 16 How. 164.) *Santiago v. Noguerras*, 260.

2. *Provisional Court; power of military government to establish.*

The military government in Porto Rico at the time of the ratification of the treaty of peace continued until superseded by the organic act; and it had power to establish the United States Provisional Court, and that court had jurisdiction to render the judgment involved in this case. *Ib.*

3. *Provisional Court; jurisdiction of controversy between subject of Spain and resident of Porto Rico.*

Under the provision of the order establishing the Provisional Court of Porto Rico that it have jurisdiction of controversies between different states and of foreign states, it had jurisdiction of a controversy between a subject of Spain and a resident of Porto Rico. *Ib.*

4. *Provisional court; question of jurisdiction not open in collateral attack.*

Whether the court lost jurisdiction, after having properly obtained it, by disregarding rules of procedure is not open in a collateral attack. *Ib.*

*See* COURTS, 9.

PORTRAITS.

*See* LIBEL;

TORTS.

POWERS OF CONGRESS.

<i>See</i> CONGRESS, POWERS OF;	PENALTIES AND FORFEITURES;
CONSTITUTIONAL LAW, 6;	PILOTAGE, 1;
COURTS, 7, 8;	POLICE POWER, 2;
DRAINAGE, 1;	PORTO RICO, 1;
IMMIGRATION;	UNITED STATES, 2.

PRACTICE AND PROCEDURE.

1. *Assumption as to insufficiency of evidence in bankruptcy proceeding not indulged.*

Where the evidence sustaining an application for an adjudication in bankruptcy is not disclosed this court will not assume that it was not sufficient. *Matter of Riggs*, 9.



2. *Following findings of fact concurred in by lower courts.*

Which is the correct English translation of a will written in the Hawaiian language is a pure question of fact, and in this case this court follows its usual course in regard to the findings of fact of both the lower courts and adopts the translation which both found to be correct. *Gray v. Noholoa*, 108.

3. *Deference to construction given by Supreme Court of Territory to statute of Territory.*

Where there is doubt as to the construction of a statute of a Territory this court leans towards the construction given by the Supreme Court of the Territory, *Copper Queen Mining Co. v. Arizona Board*, 206 U. S. 674, and unless there is manifest error this court will not disturb a decision of that court, *Fox v. Haarstick*, 156 U. S. 674, and in this case this court accepts the decision of the Supreme Court of Arizona in construing a revenue statute of that Territory. *English v. Arizona*, 359.

4. *Effect of failure to seasonably object to technical defect in return.*

Where no objection was made to a technical defect in the return which could have been rectified by amendment had attention seasonably been called thereto, a party who, as disclosed by the record, was not prejudiced, cannot raise the objection at a later date. *District of Columbia v. Brooke*, 138.

5. *Waiver of constitutional objection when question not made in state court by proper procedure.*

A Federal constitutional objection may be waived so far as having the right of review of a judgment in the state court is concerned where the question is not made in the state court by proper procedure. (*Harding v. Illinois*, 196 U. S. 78.) *Chesapeake & Ohio Ry. Co. v. McDonald*, 191.

6. *Disposition of case on opening of counsel condemned.*

The practice of disposing of cases on the opening of counsel is generally an unsafe method of procedure; the case should be developed by the evidence. *Hoffman House v. Foote*, 172 N. Y. 348, approved. *Bong v. Campbell Art Co.*, 236.

7. *Disposition of case on disagreement by this court with determination by lower courts as to amount of compensation to which carrier entitled; the testimony not having been preserved in record.*

Where the Interstate Commerce Commission has held, and its order has been affirmed by the Circuit Court and Circuit Court of Appeals, that a carrier cannot charge for a service rendered at the request and for the benefit of the shipper any amount in excess

of the actual expense incurred, and fixed a rate less than this court considers reasonable, this court cannot, where the testimony has not been preserved in the record, fix a fair and reasonable charge, but will reverse the judgments of both courts and remand the case to the former court with instructions to send the matter back to the commission for further investigation and report. *Southern Ry. Co. v. St. Louis Hay Co.*, 297.

See STATUTES, A 6, 7, 8.

#### PREFERENCES.

See BANKRUPTCY, 1.

#### PRESIDENT.

See PORTO RICO, 1.

#### PRESUMPTIONS.

See COURTS, 9;

PRACTICE AND PROCEDURE, 1;

TERRITORIES;

WILLS.

#### PRINCIPAL AND SURETY.

See BONDS.

#### PROBATE.

See ACTIONS.

#### PROCESS.

*Service; sufficiency of.*

The service of the summons in this case by delivering the same at defendant's usual place of abode into the hands of his wife being strictly in accord with the procedure established by the court, the court had jurisdiction to enter judgment by default. *Santiago v. Nogueras*, 260.

#### PROCESS AND APPARATUS.

See PATENTS, 4, 5.

#### PROHIBITION.

##### 1. *Writ refused.*

Writ of prohibition to prohibit Judges of the District Court from applying any part of proceeds of sale under decrees of admiralty court of same district of vessels belonging to a bankrupt, and surrendered by the receiver for adjudication of the maritime liens, to the payment of the receiver's expenses and commissions

in connection with such vessels, until all maritime liens had been paid in full, refused. *Matter of Hudson Oil & Supply Co.*, 487; *Matter of McWilliams*, 488.

2. *Leave to file petition for, denied.*

Leave to file petition for writ of prohibition to prohibit the United States Circuit Court from retaining jurisdiction of a case, denied. *Matter of Consolidated Rubber Tire Co.*, 490.

### PROPERTY RIGHTS.

See CONSTITUTIONAL LAW, 7, 8, 17;  
NAVIGABLE WATERS.

### PUBLIC IMPROVEMENTS.

See ASSESSMENT AND TAXATION.

### PUBLIC OFFICERS.

1. *Extra compensation—Section 1765, Rev. Stat., construed.*

Where there is no specific provision in the appropriation for government work and there is no intention of the department in which a government employé is employed to call upon him to fill another separate and distinct office, his designation by the head of his department to do certain work for another department does not entitle him to extra compensation; and, under § 1765, Rev. Stat., he cannot be allowed extra compensation therefor, even though the services be of value to the Government, are rendered out of hours, and are in addition to the full performance of his regular employment. *Woodwell v. United States*, 82.

2. *Executive officers; power to make regulations in aid of a law.*

Where the head of a department of the Government is authorized to make regulations in aid of a law, he cannot make regulations which defeat it. (*Williamson v. United States*, 207 U. S. 425.) *Bong v. Campbell Art Co.*, 236.

See ACCOUNTS AND ACCOUNTING;

BONDS.

### PUBLIC USE.

See NAVIGABLE WATERS, 5, 6.

### RAILROADS.

See COMMON CARRIERS;

CONSTITUTIONAL LAW, 2, 3, 4;

EJECTMENT.



REMOVAL OF CAUSES.

1. *Right of one removing to Federal court to thereafter deny its jurisdiction.*

The right of a defendant who has petitioned for removal of a case to the Federal court cannot be extended beyond what is necessary to defend the case; he cannot deny the jurisdiction after invoking it for affirmative relief. *Texas & Pacific Railway v. Eastin*, 153.

2. *Effect of removal to Federal court on jurisdiction of state court.*

A defendant's right to remove to the Federal court is amply protected. He may file his record in the Circuit Court and thereby completely take jurisdiction from the state court. *Ib.*

3. *Estoppel of defendant to attack in this court action of state court in denying petition for removal.*

Even though a defendant's petition to remove is wrongfully denied by the state court, and in his answer he protests against the right of the state court to retain jurisdiction, if he asserts an affirmative remedy in the state court, as in this case in which he brought in a third party for liability over, he submits his whole case and cannot attack the action of the state court in denying his petition for removal in this court on writ of error. *Ib.*

4. *Waiver of defect where neither party a resident of the Federal district into which case removed.*

Where at the time of removal to the Federal court neither of the parties was a resident nor citizen of the district, that defect, although jurisdictional, being only as to the particular district, can be waived; and is waived, if, as in this case, the parties make up the issues on the merits without objecting to the jurisdiction. (*Re Moore*, 209 U. S. 490; *Western Loan Co. v. Butte Co.*, 210 U. S. 368.) *Kreigh v. Westinghouse & Co.*, 249.

See JURISDICTION, A 4;

MANDAMUS, 8.

REQUISITIONS.

See EXTRADITION, 1, 3.

RES JUDICATA.

See COURTS, 5, 6.

REVISED STATUTES.

See ACTS OF CONGRESS;  
STATUTES, A 2, 3.

## INDEX.

## RIGHT OF ASYLUM.

*See* EXTRADITION, 4, 6, 7.

## RIOT.

*See* CONTEMPT OF COURT, 2.

## RIPARIAN RIGHTS.

*See* NAVIGABLE WATERS.

## RIVERS.

*See* BOUNDARIES, 1, 2;  
NAVIGABLE WATERS;  
PILOTAGE.

## RULES RELATING TO COPYRIGHT.

*See* p. 533.

## SAFETY OF APPLIANCES.

*See* MASTER AND SERVANT.

## SALES.

*See* BANKRUPTCY, 2, 3;  
JURISDICTION, A 12;  
VENDOR AND VENDEE.

## SECRETARY OF COMMERCE AND LABOR.

*See* IMMIGRATION;  
PENALTIES AND FORFEITURES.

## SECRETARY OF THE INTERIOR.

*See* COURTS, 6.

## SECRETARY OF THE TREASURY.

*See* MANDAMUS, 4, 5.

## SERVICE OF PROCESS.

*See* PROCESS.

## SHIPPING.

*See* PILOTAGE.

## SPAIN.

*See* PORTO RICO, 1.

## SPECIAL ASSESSMENTS.

*See* ASSESSMENT AND TAXATION.

## STATES.

*See* BOUNDARIES;

COMMERCE;

CONSTITUTIONAL LAW, 1,  
2, 3, 9, 11;

NOTICE;

POLICE POWER, 2;

UNITED STATES, 1, 2.

## STATE BANKS.

*See* BANKS AND BANKING, 1.

## STATUTES.

## A. CONSTRUCTION OF.

1. *Reference to report of congressional committee.*

In construing a congressional statute this court may consider the report of the committee as a guide to its true interpretation in order to dispel ambiguity, if any exists. (*The Delaware*, 161 U. S. 459; *Buttfield v. Stranahan*, 192 U. S. 470.) *Oceanic Steam Navigation Co. v. Stranahan*, 320.

2. *Recourse to prior legislation in construction of sections of Revised Statutes.*

Where two sections of the Revised Statutes when taken together are not free from ambiguity and cannot be harmoniously applied, recourse may be had to legislation prior to the Revised Statutes from which the provisions of those sections were drawn in order to arrive at the correct meaning. *Hamilton v. Rathbone*, 175 U. S. 418, and *Bate Refrigerating Co. v. Sulzberger*, 157 U. S. 1, distinguished. *Merchants' Nat. Bank v. United States*, 33.

3. *Sections 5214 and 3411, Rev. Stat., not capable of being construed together.*

Sections 5214 and 3411, Rev. Stat., cannot be so construed together, and effect given to both, as to leave a national bank liable to the duty imposed by § 5214 and yet entitle it to the exemption provided by § 3411 under the contingency stated therein. *Ib.*

4. *Effect of long continued construction.*

A uniform construction ever since its enactment for a long period, in this case over thirty-five years, engenders doubt of a new and different construction. *Ib.*



5. *Intent of Congress in statute referring claim to executive officers for ascertainment of amount due.*

The statute involved in this case, referring the ascertainment of the amount due a claimant to the Secretary of the Treasury, construed on the supposition that Congress regarded the controversy as over and that only the amount remained for ascertainment, as any intricate judicial problem would naturally be referred to the judicial tribunals. *Parish v. MacVeagh*, 124.

6. *Suppositions and possible questions affecting validity not answered before they arise.*

In determining whether a statute is constitutional suppositions and questions which might possibly arise, but which have not arisen, will be answered when they do arise and affect the operation of the statute. *District of Columbia v. Brooke*, 138.

7. *Determination of validity of state statute affecting height of buildings.*

In determining the validity of a state statute affecting height of buildings, local conditions must be considered; and, while the judgment of the highest court may not be conclusive, it is entitled to the greatest respect, and will not be interfered with unless clearly wrong. *Welch v. Swasey*, 91.

8. *Same—When determination of state court as to reasonableness of state statute followed.*

Where the highest court of the State has held that there is reasonable ground for classification between the commercial and residential portions of a city as to the height of buildings, based on practical and not æsthetic grounds, and that the police power is not to be exercised for merely æsthetic purposes, this court will not hold that such a statute, upheld by the state court, prescribing different heights in different sections of the city, is unconstitutional as discriminating against, and denying equal protection of the law to, the owners of property in the district where the lower height is prescribed. *Ib.*

See CONSTITUTIONAL LAW, 14;

COPYRIGHT, 5;

PRACTICE AND PROCEDURE, 3.

#### B. STATUTES OF THE UNITED STATES.

See ACTS OF CONGRESS.

#### C. STATUTES OF THE STATES AND TERRITORIES.

See LOCAL LAW.

## STATUTE OF LIMITATIONS.

*See* COURTS, 2, 3, 4.

## SUCCESSIONS.

*See* LOCAL LAW (PORTO RICO).

## SUMMONS.

*See* PROCESS.

## TAXES AND TAXATION.

*See* ASSESSMENT AND TAXATION;  
BANKS AND BANKING, 1, 2.

## TELEGRAMS.

*See* UNITED STATES, 2.

## TERRITORIAL COURTS.

*See* APPEAL AND ERROR.

## TERRITORIES.

1. *Ceded conquered territory; continuation of military authority—Presumption arising from delay in legislation.*

The military authority in control of ceded conquered territory at the time of a treaty of peace continues, if not dissolved by the Commander-in-Chief, until legislatively changed; nor is there any presumption of a contrary intention from the inaction of the legislature. Whatever the cause of delay in legislation it must be presumed that the delay was consistent with the true policy of the Government. (*Cross v. Harrison*, 16 How. 164.) *Santiago v. Nogueras*, 260.

2. *Ceded conquered territory—Extent of authority of military government.*

The authority of a military government continued after treaty of peace ceding the conquered territory, though not unlimited, is of large extent, and includes the power to establish courts of justice. (*Leitensdorfer v. Webb*, 20 How. 176.) *Ib.*

*See* PORTO RICO.

## TITLE.

*See* BANKRUPTCY, 2;  
VENDOR AND VENDEE, 1.

## TORTS.

*Publication of person's likeness as.*

*Quære* and not decided whether the unauthorized publication of a person's likeness is a tort *per se*. *Peck v. Tribune Company*, 185.

## TRANSLATIONS.

*See* PRACTICE AND PROCEDURE, 2.

## TREATIES.

*Construction to be reasonable and sensible.*

Where a provision in a treaty or convention is plain it must receive a reasonable and sensible construction, and not one which it is impossible to conceive that the representatives of civilized countries would enter into. *Collins v. O'Neil*, 113.

*See* CONTRACTS, 3, 4;

EXTRADITION, 4, 6, 7;

PORTO RICO, 1.

## TRIAL.

*See* CONSTITUTIONAL LAW, 5;

EXTRADITION, 4, 5, 7.

## TRUSTEES.

*See* BANKRUPTCY, 2, 3.

## UNITED STATES.

1. *Jurisdiction exclusive over Norfolk Navy Yard.*

The Norfolk Navy Yard is one of the places over which, under Art. I, § 8, par. 17, of the Constitution, Congress possesses exclusive power of legislation, and that exclusive power necessarily includes exclusive jurisdiction; and it is of the highest importance that the jurisdiction of the State should be resisted at the border of such places. (*Fort Leavenworth R. R. Co. v. Lowe*, 114 U. S. 525.) *Western Union Telegraph Co. v. Chiles*, 274.

2. *Jurisdiction—Power of State to exact penalty for act of omission within place under exclusive jurisdiction of United States.*

The State cannot inflict a penalty for the non-delivery of a telegram within the limits of a place under the exclusive jurisdiction of the United States; and so held that under the statute of Virginia in that regard the penalty cannot be collected for the non-delivery of a telegram to an addressee within the limits of the Norfolk Navy Yard. Congress alone can prescribe penalties in such a case. *Ib.*

*See* BANKS AND BANKING, 3;

COMMERCIAL PAPER, 1.

## USER.

*See* NAVIGABLE WATERS, 6.



## VENDOR AND VENDEE.

1. *Property rights in articles sold.*

In this case, *held*, that the sale of a stock of dry goods under a contract by which the articles sold remained the property of the vendor until paid for, with provision for substitution of other goods and that proceeds of goods sold also belonged to the vendor, was a conditional sale. *Bryant v. Swofford Bros.*, 279.

2. *Conditional sales; law governing validity.*

The validity of conditional sales depends upon the law of the State where made, and in bankruptcy the construction and validity of such a contract must be determined by the local law of the State, *York Manufacturing Co. v. Cassell*, 201 U. S. 344, and the contract in this case as tested by the law of Arkansas is a conditional sale and is valid without record. *Ib.*

*See* BANKRUPTCY, 2, 3;  
EVIDENCE.

## VESSELS.

*See* PAYMENT;  
PILOTAGE.

## WAIVER.

<i>See</i> COURTS, 9;	PRACTICE AND PROCEDURE, 5;
LOCAL LAW (PORTO RICO, 3);	REMOVAL OF CAUSES, 4.

## WATERS.

*See* BOUNDARIES, 1, 2;  
NAVIGABLE WATERS;  
PILOTAGE.

## WHARVES.

*See* NAVIGABLE WATERS.

## WILLS.

*Construction; presumption against partial intestacy.*

The will of a childless testatrix, who lived with her husband in the leper colony of Hawaii, leaving all her property to her husband, was rightfully construed as relating to all property whether situated in that colony or outside thereof, it not being presumed that she died intestate as to any of her property or that she would

limit her bounty to her husband by omitting any of her property.  
*Gray v. Noholoa*, 108.

See PRACTICE AND PROCEDURE, 2.

#### WILSON ACT.

See COMMERCE.

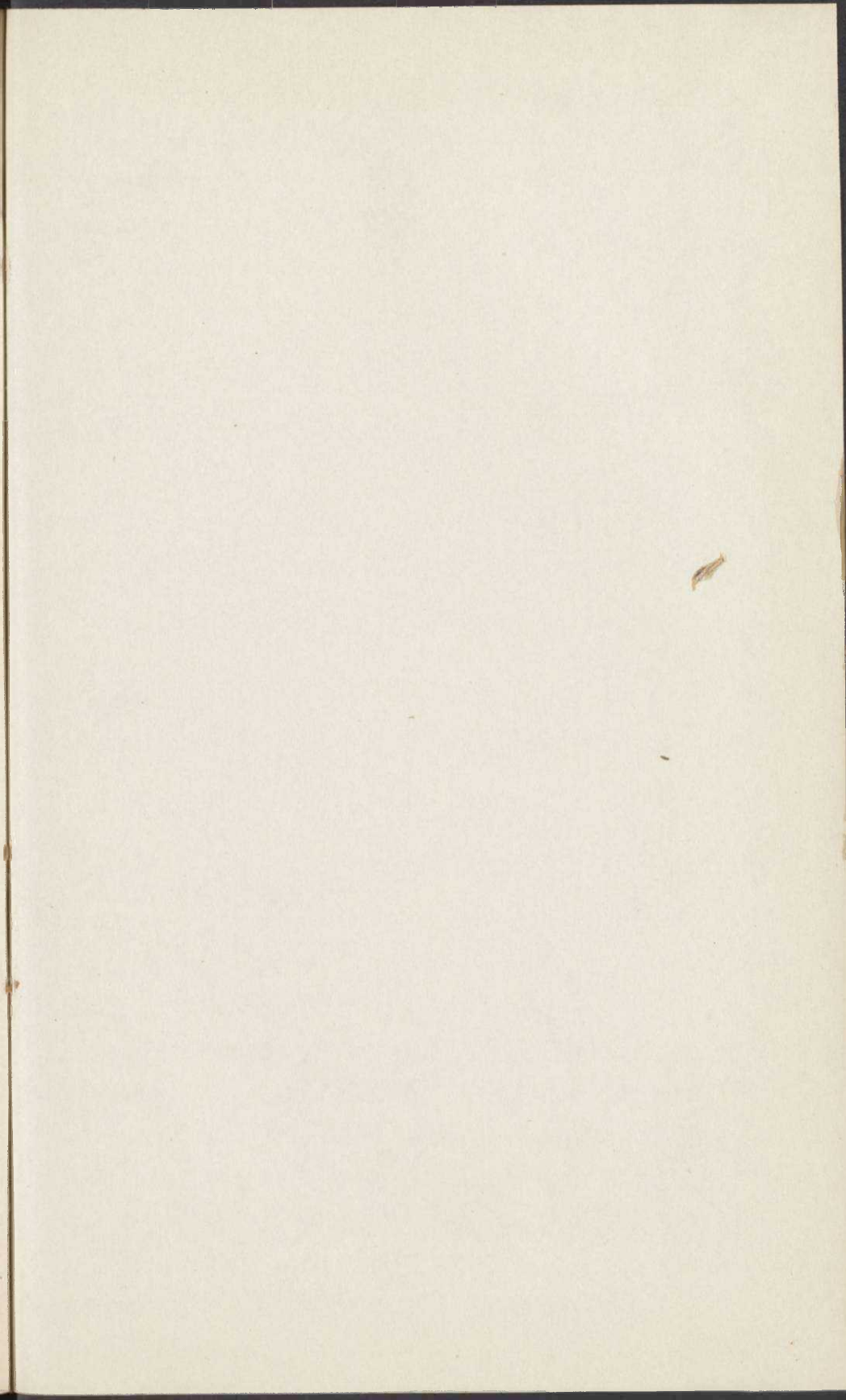
#### WORDS AND PHRASES.

"Parcel" and "letter"—*Quære as to distinction affecting validity of return.*

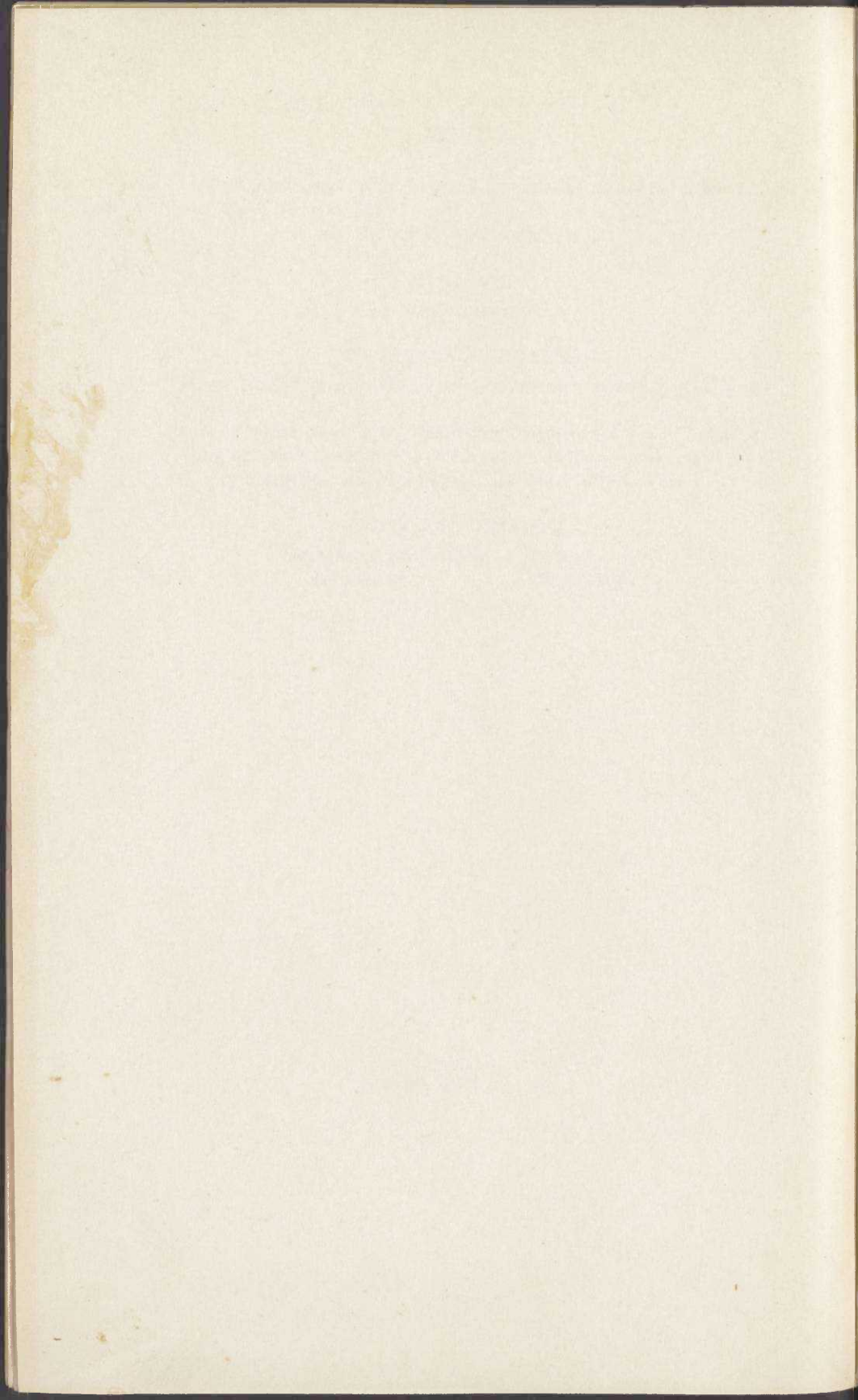
*Quære*, whether there is any distinction between "a parcel" and "a letter" that renders defective a return showing service of statutory notice by mail. *District of Columbia v. Brooke*, 138.

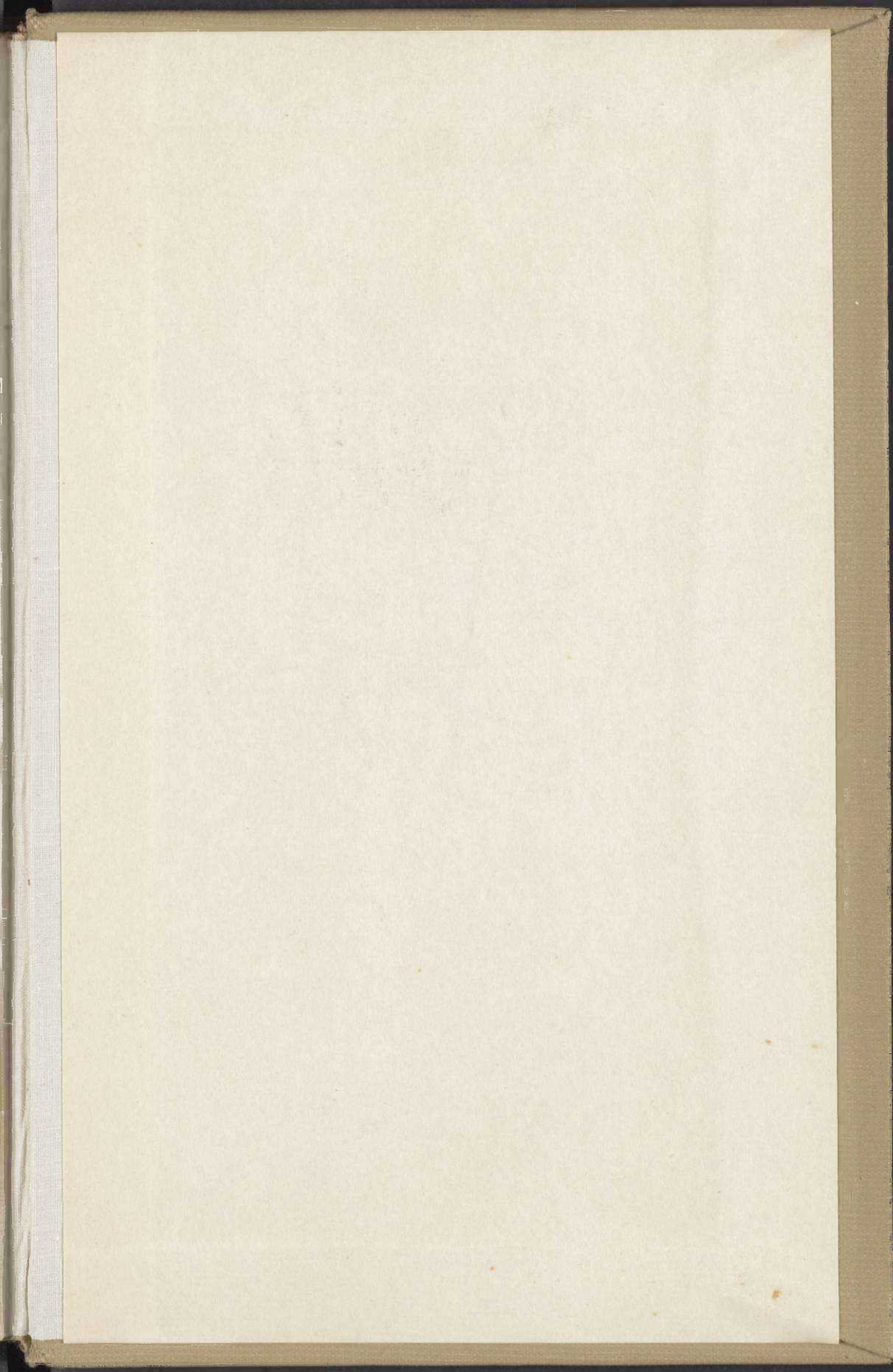
#### WRIT AND PROCESS.

See APPEAL AND ERROR;	PROCESS;
MANDAMUS;	PROHIBITION.











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