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4. A bond was given, payable 30th July 1735, "in good public bills of the Province of Massachusetts Bay, or current lawful money of New England, with interest;" many partial payments had been made, in a depreciated currency, and indorsed at their nominal amounts; in the year 1752, there had been a tender in bills of credit, current in New Hampshire; the province bills, contracted for, had been called in, and the currency of the country had gradually depreciated: *Held*, 1st. That the tender was not good, but that the partial payments ought to be allowed, according to the indorsements: 2d. That as to the balance due, the loss from the depreciated currency ought to be divided between the parties. *Deering* v. *Parker*, App. *xxiii.

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12. An American vessel insured at and from Philadelphia to Havana, was captured by British cruisers, carried into port by them, and there libelled as prize; a decree of restitution was subsequently obtained, after which, though before actual restitution and without knowledge of the decree, she was abandoned; the insurance was effected, and the abandonment made by the agent for the owners, one of whom was with her at the time of the decree of restitution: *Held*, that the assured might recover as for a total loss. *Dutilh* v. *Gatliff*.....*446
13. Freight was insured on a voyage from P. to S.; the government of the country having refused permission to land the cargo at S., it was brought home: *Held*, that the freight was earned, and that the assured were not entitled to recover any thing under the policy. *Morgan* v. *Ins. Co. of North America*..*455
14. Freight advanced is an insurable interest, and is subject to general average: salvage constitutes general average. *Sansom* v. *Ball*.....*459
15. If an agent, having an insurable interest in goods, insure them on behalf of his principal, in case of a loss, the former cannot recover on his own account, though he may on that of his principal. *Donath* v. *Insurance Co. of North America*.....*463
16. When a voyage is entire, and the risk has once commenced, there can be no return of the premium; but when, by a course of trade, or an agreement of the parties, a voyage is divided into distinct parts; and on one of these parts no risk has been run, there will be an apportionment of the premium, and part shall be returned.....*Id.*

INTEREST.

1. A judgment *nisi*, was made absolute by an agreement, which stipulated that proceedings should be stayed until the trial of certain foreign attachments, which had been laid before the commencement of the suit, upon the funds in question: *Held*, that interest should be allowed in the judgment, but only from the time of the settlement of the principle involved in those attachments, by the trial of one of them. *Fitzgerald* v. *Caldwell*...*151
2. Personal residence must accompany every the commencement of the suit upon the funds in question: *Held*, that interest should be allowed on the judgment, but only from the time of the settlement of the principle involved in those attachments, by the trial of one of them. *Fitzgerald* v. *Caldwell*...*251
3. Interest is due on the ascertained balance of

an account, from the time of a demand of payment. In case of a war, the payment of interest on a debt due by a citizen of a belligerent country, to one of a neutral state, will be enforced, unless a remittance cannot be made with safety. *Crawford* v. *Willing*.....*286

INTESTATE.

1. In every case of intestacy, the heir at common law will take the real estate, where its descent is not specifically altered by an act of assembly. *Johnson* v. *Haines's Lessee*.....*64
2. Intestate died on the 13th February 1797, without issue, and leaving no widow, father, mother, brother or sister, but leaving nephews and nieces: *Held*, that the heir at common law was entitled to intestate's real estate, and that the act of assembly of the 19th April 1794, did not provide for this specific case.....*Id.*

INTRUDERS.

See LAND, 1.

JOINT OBLIGATION.

See BOND, 3.

JUDGE.

1. If the presiding judge of a court of common pleas wilfully prevent his associate from delivering his sentiments to the grand jury, after the president has concluded his charge; it is not an indictable offence, and therefore, not a case in which an information will be granted; but every judge has a right, and it is emphatically his duty, to deliver his sentiments upon every subject that occurs in court. *Commonwealth* v. *Addison*.....*225

See RECORDER.

JUDGMENT.

See INTEREST, 1.

JUDICIARY.

See JURISDICTION.

JURISDICTION.

1. Where the jurisdiction of the federal courts depends on alienage, or the citizenship of the parties, it must be set forth on the record. *Turner* v. *Enrille*.....*7
2. Where an action is brought upon a promissory note, in a federal court, by an indorser against the maker, not only the parties to the suit, but also the payee, must be stated on the record, to be such as to give the court jurisdiction. *Turner* v. *Bank of North America*.....*8
3. In proceedings in a federal court, in equity, to foreclose, it is as necessary to describe the parties, as in any other suit. *Mossman* v. *Higginson*.....*12
4. The decree of the court below was reversed, although it was on a supplemental suit in equity, from want of a proper description of the parties to give a federal court jurisdiction. *Course* v. *Stead*.....*22
5. A colorable and collusive conveyance to the lessee of the plaintiff in ejectment, for the purpose of bringing the suit in a federal court, will not give it jurisdiction, and the court will, on motion, dismiss the suit. *Maxwell's Lessee* v. *Levy*.....*330
6. The jurisdiction of a federal court, is not, *primâ facie*, general, but special.....*Id.*
7. The circuit court cannot take original cognisance of a suit for a penalty, incurred by an offence against the laws of the United States. If the offence was committed within a state, it must be tried in such state. *Evans* v. *Bollen*.....*342
8. The jurisdiction of the state courts extends to the case of a forgery of powers of attorney to receive warrants for lands granted by acts of congress for military services. *Commonwealth* v. *Schaffer*.....App. *xxvi

JUROR.

See CHALLENGE: PRACTICE, 23.

LAND.

1. A mere improvement right, subsequent to a legal right vested in another, ought never to be rendered effectual in favor of a settler. *Calhoun's Lessee* v. *Dunning*.....*120
2. Blunston's licenses have always been deemed valid, and many titles in Pennsylvania depend upon them.....*Id.*
3. Ejectment. Location and warrant. *Gander's Lessee* v. *Burns*.....*122
4. Personal residence must accompany every settlement, on which a survey can be regularly made, unless such danger exists, as would prevent a man of reasonable firmness, from remaining on the land, and even then, the *animus residendi* must appear. Deadening an acre or two of timber, planting a few peach-stones, apple-seeds and potatoes, can never be circumstances amounting to a settlement; though a cabin should also be put up —if the party resides at a distance, and no

tenant actually occupies the land. *Ewalt's Lessee* v. *Highlands*.....*161

5. The settlement and residence made necessary by section 9th of the act of 1792, within the times respectively mentioned therein, are not excused by the proviso in the same section; but if a warrant-holder has been prevented from making such settlement, or has been driven therefrom, by force of arms, and has persisted in his endeavors to make such settlement, no advantage can be taken of him, from want of a successive continuation of his settlement. *Commonwealth* v. *Coxe*.....*171

6. The settlement required by section 9th of the act of 1792, need not be made within the time prescribed therein, if the warrant-holder was, by force of arms, prevented from making such settlement, provided he persisted in his endeavors to effect it, after the removal of the force; and in that case, he has not incurred a forfeiture of his land. *Morris's Lessee* v. *Neighman*.....*209

7. A warrant which loses its descriptive location, by a prior warrant, may be laid on any vacant land; but due diligence must be used in making the survey, and a return of it. If a deputy-surveyor die, before a survey has been executed, for the execution of which he has given an order to his assistant, but it was alleged, that neither the assistant, nor the warrant-holder, knew of the death, before the survey was made, it was *held*, that in an old transaction, where the title depends upon it, the examination of the allegation should not be very strict. *Bell's Lessee* v. *Levers*.....*210

8. Neither the negligence, nor the fraud of a public officer, shall work an injury to a warrant-holder.....*Id.*

9. A lost warrant becomes an appropriation, if it is removed to other land which is vacant, and an actual survey is returned into the land-office, and there accepted; provided, no warrant, particularly describing the land, has been delivered to the deputy-surveyor, before the survey has been made. *Hepburn's Lessee* v. *Levy*.....*218

10. To constitute a legal settlement, there must be a personal residence, unless such danger exists, as would affect a man of reasonable firmness. *McLaughlin's Lessee* v. *Dawson*.....*221

11. Warrants granted under the act of April 3d 1792, are not *ipso facto* void, where the conditions of settlement and residence, within the time specified therein, have not been performed. The case of every such warrant must depend on, and be governed by, its own peculiar circumstances. *Attorney-General* v. *The Grantees*.....*237

12. Patents, and prevention-certificates, recited in the patents, are not conclusive evidence against the commonwealth, or any person claiming under the act, that the patentees have performed the conditions enjoined on them, although they have pursued the form prescribed by the land-officers.....*Id.*

13. The act of the 9th of March 1796, declared those Pennsylvania claimants, who had complied with the terms of the confirming law (while the said law was in existence), entitled to the benefit of the same, and enacted that the sums found due to them, should be credited to them in taking out new warrants, in any part of the state where vacant land may be found: *Held*, that the act did not apply to warrants to be located on lots within the city of Philadelphia. *Commonwealth* v. *McKissick*.....*292

14. To constitute a settlement under the act of April 3d, 1792, so as to vest in any one an inceptive title to the lands lying north and west of the Ohio, &c., there must have been an occupancy by him, accompanied by a *bonâ fide* intention to reside upon the land, either in person or by a tenant. The making of improvements merely is not such a settlement. *Balfour's Lessee* v. *Meade*.....*339

15. The proviso of the 9th section of that act applies solely to those who had incipient titles, which could only have been created by such occupancy, or by warrant. A warrant of acceptance for these lands, not founded on such settlement, though containing a false recital of it, gives no title.....*Id.*

16. A grantee by warrant of lands lying north and west of the Ohio, &c., who was prevented from making such settlement as the law requires, for the space of two years from the date of his warrant, but who, during that period, persisted in his endeavors to make the settlement, although he afterwards made no such attempt, is entitled to hold his land in fee-simple. It is not every slight or temporary danger which will excuse him, but such as a prudent man ought to regard. *Huidekoper's Lessee* v. *Douglass*.....*364

17. A grantee of lands by warrant, without a patent, will not be presumed, from the lapse of a length of time, to have paid the consideration-money; but he has an equitable estate, and though he is not entitled to a verdict in his favor, in an action of ejectment, brought by one having the legal title, yet he may compel a conveyance of the legal title, by paying or tendering what is due; and in such case, resort must be had to this court, when sitting in equity. *Penn's Lessee* v. *Klyne*.....*373

See MANOR.

LANDLORD AND TENANT.

See RENT.

LEGACY.

1. Testatrix had, for some time before her death, been in a low state of health; the defendant had taken charge of her affairs, and had some accounts against her, but had borrowed 150*l.* from her, for which he had given a bond; the will contained a bequest of 200*l.* to him, "provided he brings no account against me and my estate:" *Quære?* Whether the legacy is a release of the bond? *Massey* v. *Leaming*.....*112

LETTER OF CREDIT.

1. In order to render a letter of credit obligatory, it is not necessary, that it should be answered. *Eddowes* v. *Niell*.....*133
2. A lapse of 19 years, without notice of a default in payment, by the principal, is not, considering the circumstances of this case, such gross negligence, as to discharge the surety, and from the nature of this contract, such a lapse of time will not warrant a presumption of payment.....*Id.*

LEX LOCI.

1. A contract is governed by the law of the place where it is made. *Conframp* v. *Bunel*.....*419
2. Where the *lex loci contractus* protects a party from execution on a judgment upon a contract, he will not be liable to arrest on mesne process out of this court, for the same cause.....*Id.*

See PAYMENT, 2.

LIEN.

1. A sheriff's sale of land, by virtue of a judgment and execution, subsequent to a mortgage to the trustees of the loan-office, does not destroy its lien. *Febeiger's Lessee* v. *Craighead*.....*151
2. A. had taken out a *ca. sa.* against the defendant, and during his imprisonment under it, his land was sold under an execution of the plaintiff; and afterwards, the defendant was discharged from custody, as an insolvent debtor: *Held*, that the lien of A.'s judgment was discharged, and that he had no claim to the proceeds of the sale. *Freeman* v. *Ruston*.....*203
3. The purchaser of lands of an intestate, sold by an order of an orphans' court, holds them, discharged from the lien of a judgment obtained against the intestate in his lifetime. *Moliere's Lessee* v. *Noe*.....*450

LIQUIDATION.

See DUTIES.

MANOR.

1. A claimant under the proprietaries, of a proprietary tenth or manor, must make his title under the divesting law of 1779, and show that the land was called and known by the name of such tenth or manor, and that it was duly surveyed, and returned into the land-office before July 4th, 1776. *Penn's Lessee* v. *Klyne*.....*402

MANDAMUS.

1. *Quære?* Whether a *mandamus* can be issued against the secretary of the land-office, commanding him to prepare and deliver patents in favor of a warrantee of a tract of land. *Commonwealth* v. *Coxe*.....*171

MANSLAUGHTER.

1. What is manslaughter? *Commonwealth* v. *Biron*.....*125

MASTER OF A VESSEL.

1. The master of a vessel may bind his owners personally, by borrowing money to make necessary repairs to a vessel in a foreign port, if the lenders, after due inquiry, did not know that the master had sufficient funds to relieve the necessity. *Wainwright* v. *Crawford*.....*225

MESNE PROFITS.

See EJECTMENT.

MONTH.

See TIME, 1.

MORTGAGE.

1. If the purchaser of property knows, at the time of his purchase, of the existence of a mortgage, which has not been recorded according to the act of assembly, the premises will be bound by the mortgage. *Stroud* v. *Lockart*.....*153
2. A mortgage, voluntarily given in contemplation of bankruptcy, and intended as a preference to a particular creditor, is void. *Rundle* v. *Murgatroyd's Assignees*.....*304

MURDER.

1. Although murder in the first degree is by the act of assembly confined to the wilful, deliberate and premeditated killing of another, yet the intention remains as much as ever the criterion of the crime. *Respublica* v. *Mulatto Bob*.....*143
2. To constitute the crime of murder on the high seas; the mortal stroke must be given, and the death happen on the high seas. The defendant had given a mortal stroke to one in the haven of Cape Francois, but the deceased did not die, until his removal on shore: *Held*, that the offence was not cognisable under the 8th section of the act of congress of the 30th April 1790. *United States* v. *McGill*.....*426

NEW TRIAL.

See PRACTICE, 10, 23.

NOTICE.

See BILL OF EXCHANGE AND PROMISSORY NOTE, 3, 4, 6: EVIDENCE, 4: INJUNCTION: LETTER OF CREDIT: MORTGAGE, 1.

OFFICER.

See LAND, 6.

ORPHANS' COURT.

See LIEN, 3.

PARTITION.

1. It did not appear by the return of a writ of partition, that the parties attended, or were warned to attend at its execution, and the inquisition did not state, that the property was assigned and delivered, but merely that it was allotted: *Held*, that the partition was valid. *Ewing* v. *Houston*.....*67

PARTNERS.

1. A partner is liable for the acts of his copartner, in relation to partnership business, whether they be known to the former or not. *Crawford* v. *Willing*.....*286
2. One partner cannot maintain *assumpsit* against the other, to recover the balance of the proceeds of a partnership adventure, unless the partners have settled their account, and struck the balance. *Ozeas* v. *Johnson*.....*434

PAYMENT.

1. Where a forged check of a customer is received by a bank, as cash, and passed to the credit of a depositor (who is ignorant of the forgery, and who has paid the full value of the check), it is equivalent to an actual payment, and if the depositor, after having been informed of the forgery, on a sudden misconception of his rights, agrees that if the check is a forgery, it is no deposit, it will not constitute a promise to refund. *Levy* v. *Bank of the United States*.....*234
2. Where by a contract between American citizens, a payment is to be made in a foreign country, the intention of the parties must govern the form of payment. *Searight* v. *Calbraith*.....*325

See AGENT, 1: APPROPRIATION.

PENALTY.

See DAMAGE, 1.

PERJURY.

See REPEAL.

PILOT.

1. Where a collision is occasioned by the gross negligence of a public pilot, while navigating a vessel, the owner is liable for the injury done: *Held*, that in all cases proper for a legal indemnification in damages, the compensation should be equivalent to the injury. *Bussy* v. *Donaldson*.....*206

PLEADING.

See COVENANT: PRACTICE, 14.

POSSESSION.

1. The act of suffering goods to remain in the hands of the defendant, after they have been levied on, furnishes no presumption of fraud; but if the intention of leaving them is fraudulent, a subsequent execution will be preferred. *Levy* v. *Wallis*.....*167
2. Where, after a fair purchase at public sale, under a distress for rent, goods are left in the possession of the former owner, they cannot be taken under an execution against him; such continued possession is not a fraud on creditors. *Water's Ex'rs* v. *McClellan*...*208
3. A number of young cattle were among the goods: *Held*, that the jury might consider, whether the expense of maintaining these cattle exceeded a fair compensation for the use of them, and if such were their opinion, they might make a reasonable reduction for them.....*Id.*
4. Where bricks, after having been levied on, are suffered to remain in the possession of

the defendants, a purchaser from one of them, without notice of the levy, is entitled to hold the goods, discharged from the lien of the execution. *Chancellor* v. *Phillips*. . . .*213

5. Goods, though chiefly household furniture, suffered to remain in the possession of the defendant, for more than a year after a levy, are liable to a subsequent execution. *United States* v. *Conyngham*.....*358

PRACTICE.

1. In a suit in equity, a *subpœna* must be served sixty days before its return. *State of New York* v. *State of Connecticut*.....*6

2. *Non-pros.* for not appearing on a writ of error. *Hazlehurst* v. *United States*.....*6

3. The value of the matter in dispute could neither be determined by the demand of the plaintiff, nor fixed by the finding of the jury; and the court allowed the value to be ascertained by affidavits, on ten days' notice, in the state where the action was originated; the writ of error not to be a *supersedeas*. *Williamson* v. *Kincaid*.....*20

4. A writ of error, not returned at the term to which it is returnable, is a nullity. *Blair* v. *Miller* *21

5. A writ of error will only lie in the case of a final judgment. *Rutherford* v. *Fisher*...*22

6. Whatever may be the original nature of the suit in a circuit court, it cannot be removed into the supreme court, except by writ of error. *Blaine* v. *The Charles Carter*...*22

7. A rule was granted, to ascertain by affidavits, the value of the land in dispute, in order to sustain the jurisdiction of the supreme court on a writ of error. *Course* v. *Stead*....*22

8. This court can enter judgment for the plaintiff in error, without remitting the record to the court below for that purpose. *Ludlow* v. *Bingham*.....*47

9. After a verdict, it will be presumed, that everything was done at the trial, which was necessary to support the action, unless the contrary appear upon the record. *Carson* v. *Hood*.....*108

10. When a new trial will be granted. *Bradley's Lessee* v. *Bradley*.....*112

11. The court will not direct a nonsuit for want of proof by the plaintiffs, of a material fact, where they have offered some evidence of it. *Vaughan* v. *Blanchard*.....*124

12. A decision of the board of property was pronounced upon a *caveat*, in favor of the defendant, on the 14th of February 1796: a declaration, entitled as of April term 1796, was served by a private individual, on the defendant, on the 10th August 1796; and it was entered on the docket of the supreme court, on the 20th of that month; but contrary to expectation, the court had risen on the preceding day, which, of course, then ended the term: *Held*, that the ejectment was well brought within the six months allowed by the act of 1792. *Nicholson's Lessee* v. *Wallis*.....*154

13. An appeal from an orphans' court dismissed, because it did not appear that a definitive decree had been pronounced. *McClay* v. *Hanna*.....*160

14. Issues were joined on the pleas of *non assumpsit* and payment: plaintiffs had been obliged to send a commission to another state, to prove the assumption; and when the jury was about to be empannelled, defendant moved to strike out the former plea: *Held*, that he should not be allowed to strike it out. *Jackson* v. *Winchester*.....*205

15. *Quære?* Whether *certiorari* to remove the proceedings in a case of forcible entry and detainer, operates as a *supersedeas*. *Anonymous*.....*214

16. After a case has been referred, and several meetings have been held by the referees, at which the parties have exhibited their respective proofs, and have been heard, the plaintiff cannot discontinue the suit, without the leave of the court, which, in such a case, would not be granted, unless there are very cogent reasons. *Pollock* v. *Hall*.....*222

17. A bill of exceptions to the charge of the court, may be tendered at any time before the jury have delivered their verdict, even when they are ready to deliver it, and are at the bar. *Jones* v. *Insurance Co. of North America*.....*246

18. The return to a *certiorari*, to remove the proceedings before the mayor of Philadelphia, under an ordinance against huckstering, did not state a conviction, the offence, nor the place where the business was conducted: *Held*, that it was error. *Mayor, &c.* v. *Mason*.....*266

19. A *certiorari* to remove an indictment from a court of quarter sessions to a circuit court, will be granted, on an application by the defendant, supported by his affidavit, in the usual form, unless something is shown in relation to his character or conduct, to induce the supposition, that public justice is likely to be impaired by the removal. *Commonwealth* v. *Lyon*.....*302

20. A *certiorari*, issued to remove an indictment from a court of quarter sessions of, &c., to the circuit court, was directed to the judges of the court of common pleas of, &c., and returned by the associate judges of that court: *Held*, that the direction and return of the writ were fatally irregular. *Commonwealth* v. *Franklin*.....*316

21. As between creditors, judgments do not relate to the preceding term, but they take priority, according to the times of their entry. *Welsh* v. *Murray*.....*320
22. A defendant cannot be compelled to proceed to trial, until payment of the costs of a former action, between the same parties, for the same cause, which had been non-prossed. *Hurst's Lessee* v. *Jones*.....*353
23. A verdict will not be set aside, on account of the alienage of a juror. *Semble*, that it is a cause of challenge, before he is sworn. *Hollingsworth* v. *Duane*.....*353
24. Under the 20th section of the act of assembly of the 24th February 1806, an action may be removed from the court of common pleas to the supreme court, on or before the first day of the term, next after that to which the original writ is returnable. *Lyle* v. *Baker*.....*433
25. Upon a bill of exceptions to another point, and after a general verdict, the court is not bound to consider a judgment by default in replevin, as an affirmance of property. *W. B.* v. *Latimer*.....App. *i

PRIORITY.

See PRACTICE, 2.

PRIVILEGE.

1. A member of the general assembly is privileged from arrest, summons, citation or other civil process, during attendance on his public business, but the benefit of his privilege must be duly claimed at a proper time. *Geyer's Lessee* v. *Irwin*.....*107
2. It seems, that his suits cannot be forced to a trial and decision, while the session of the legislature continues.....*Id.*
3. A *charge d'affaires* is entitled to privilege from arrest, until his return home, although he has been for some months superseded by a minister plenipotentiary; the detention of the former being occasioned by his official business. The court will discharge him from arrest, without requiring proof from the department of state of his reception in his diplomatic character by the president. *Dupont* v. *Pichon*.....*321
4. A witness is privileged from arrest, for a reasonable time, to prepare for his departure, and return to his home, as well as during his actual attendance upon the court. *Smythe* v. *Banks*.....*329
5. A member of congress is not exempt from the service nor obligations of a *subpœna* in a criminal case. *United States* v. *Cooper*, *341
6. A citizen of another state, who, when in attendance on court as a suitor, has been subpœnaed as a witness in another cause, is privileged from an arrest in execution, issuing from a state court, while at his lodgings; and the sheriff will be indemnified by an order of discharge of a court of competent jurisdiction. *Hurst's Case*.....*387

PROMISSORY NOTE.

See BILL OF EXCHANGE AND PROMISSORY NOTE.

RECORDER.

1. The Recorder of the city of Philadelphia, is not a judge, within the meaning of the 8th section of the 2d article of the constitution of the state of Pennsylvania. *Commonwealth* v. *Dallas*.....*229

REFEREES.

1. Referees have no power to erect a new and arbitrary tribunal, to determine future controversies between the parties. *Livezey* v. *Gorgas*.....*71
2. Where, on a reference to two persons, with power to choose an umpire, if they should disagree, an umpire is appointed, who receives the statement of the case from the referees, in the absence of the parties, and without hearing them; the award will be set aside. *Falconer* v. *Montgomery*.....*232
3. An umpire chosen under a rule of reference, by the referees, must not rely upon the information reported by them, but he must examine the case himself, in the presence of the parties. An award will be set aside, if the referees have refused a party sufficient time to procure necessary evidence. All the testimony should be heard, and the documents seen by the parties, in the presence of the referees. *Passmore* v. *Pettit*.....*271

See PRACTICE, 16.

REGISTRY.

1. An action of trover for a vessel, cannot be maintained, by one whose title depends upon a contract in fraud of the registry laws and public policy of the United States. *Duncanson* v. *McLure*.....*308
2. Replevin cannot be maintained for a vessel, by the registered owner; he having received the full value of it from another, for whom he is mere trustee, in fraud of the laws of the United States. *Murgatroyd* v. *McLure*, *342
3. An American registered vessel, while at sea, sold in part to resident citizens of the United States, without a bill of sale, reciting her registry, and without a new registry until her

arrival in her home port, does not lose her privileges as an American vessel. *Willing* v. *United States*.....*374

4. An action cannot be maintained in our courts, founded on a contract between a citizen and an alien, by which the former undertook to purchase vessels and cargoes in his own name for the latter, and in like manner, to import the return cargoes, in fraud of the registry and revenue laws of the United States. *Maybin* v. *Coulon*.....*298

REMITTANCE.

See AGENT, 1: APPROPRIATION.

RENT.

1. If a landlord interrupt the tenant's enjoyment of demised premises, the rent is suspended, unless it be shown that such an interruption was in pursuance of a reserved privilege. *Vaughan* v. *Blanchard*.....*124

REPEAL.

1. The act of congress of the 19th December 1803, repealing the bankrupt law, is a bar to any prosecution for the perjury of a bankrupt, before the commissioners. *United States* v. *Passmore*.....*372

SALE.

1. Where land mortgaged to the trustees of the general loan-office, has been sold by the sheriff of the county, under an alleged precept from the state treasurer, issued by virtue of the act of 1st April 1790, and the writ has been lost, parol evidence of it is admissible. The requisition of the act, that advertisements of the sale shall be posted at some public places, is merely directory to the sheriff, and where there has been no actual injury, it should not affect the title of a *bonâ fide* purchaser. *Lessee of Weitzell* v. *Fry*.....*218

SALVAGE.

1. American re-captors are entitled to salvage, for rescuing an armed neutral vessel from French captors, by whom she was manned. *Talbot* v. *The Amelia*.....*34

SET-OFF.

1. A. & B., partners in trade, issued a foreign attachment against the effects of C., who was indebted to them, in the hands of D.: A. & B. were the indorsers of a note which was discounted by D., but before it came due, A. & B. died, and the note was protested, and the executors of B., who was the surviving partner, obtained judgment against C., and also against D., as garnishee. The debt due by A. & B. to D., cannot be set off against the debt due by D., as garnishee, to B.'s executors. *Crammond* v. *Bank of the United States*.....*291

2. In a suit brought by the commonwealth, the defendant cannot indirectly recover from the state a substantive independent claim. *Commonwealth* v. *Matlack*.....*303

SETTLEMENT.

See LAND, 3, 4, 5, 8, 11, 12.

SHIP.

See MASTER OF A VESSEL: REGISTRY.

STATE SEAL.

See EVIDENCE, 9.

STATE TREASURER.

See BOND, 1.

SUBPŒNA.

See PRACTICE, 1.

SURVEY.

1. A survey under a warrant of resurvey, is good as an original survey, though it recite another, which is invalid. *Penn's Lessee* v. *Klyne*.....*403

See LAND, 6.

TENDER.

1. The demand, by a creditor, of payment, in a certain species of coin, does not dispense with the obligation on the debtor to make a tender, agreeable to his own sense of the law, and the contract. *Searight* v. *Calbraith*, *325

TIME.

1. The computation of time must be by calendar months, in the exception (in the 10th section of the act of 1780, for the gradual abolition of slavery) of domestic slaves attending upon persons passing through, or sojourning in the state, &c., provided they be not retained therein longer than six months. *Commonwealth* v. *Chambre*.....*143

2. Where the time of payment is made a substantial circumstance, it enters into the essence of the contract, and it must be observed. *Hollingsworth* v. *Fry*.....*345

TREASON.

See CURTESY.

TRUST.

See APPROPRIATION: ASSIGNMENT.

VARIANCE.

1. A summons in partition, described the property to be divided as follows: "one ferry at the river Susquehanna, in Hellam township, in, &c., six messuages, &c., with the appurtenances, in the same township of Hellam, in, &c." The writ of partition, in the recital of the summons, had these words, "with the appurtenances, in the same township of Hellam and Windsor, in, &c.;" and in the specification of the property, the ferry was omitted, though it was named in another part of the writ. The inquisition enumerated among the premises which were divided, "the ferry, and also a fishery, on the river Susquehanna, at or near the said ferry, &c.:" *Held*, that these variances were not fatal. *Ewing* v. *Houston*.....*67

VOLUNTARY ASSIGNMENT.

See ASSIGNMENT.

WAR.

1. Limited hostilities, authorized by two governments against each other, constitute a public war, and render the parties, respectively, enemies to each other. *Bas* v. *Tingy*....*37
2. An American vessel, captured by a French privateer, on the 31st March 1799, and recaptured by a public armed American ship, on the 21st April 1799, was condemned to pay salvage, under the act of congress of the 2d March 1799..... .....*Id.*

WARRANT.

See LAND, 6, 7, 9, 10.

WARRANTY.

1. A collateral warranty of an ancestor, who had no estate in possession of the premises, is an estoppel to his heir. *Kesselman's Lessee* v. *Old*.....*168
2. The Statute 4 *Anne*, c. 16, § 21, is not in force in Pennsylvania.

WATER-COURSE.

1. Case, for obstructing a water-course, by which the plaintiff's meadow was watered: plaintiff having proved his right to the course, his counsel executed and filed a writing, by which they bound him to release any damages that the jury might give, if defendant should execute a deed, securing to plaintiff the enjoyment of the water, and the court advised the jury on this condition, to find the full value of the meadow in damages. *Anonymous*.....*147
2. Every one has a right to use the water passing through his land, as he pleases, provided, he does not injure his neighbor's mill, and that, after using the water, he returns it to its ancient channel. *Beissel* v. *Sholl*...*211

WILL.

See DEVISE: LEGACY.

WITNESS.

1. Plaintiff, a certificated bankrupt, was admitted to prove a parol acceptance of a bill of exchange, the foundation of the action, after he had released his interest, at the bar, his assignees having previously entered into security for costs. *McEwen v. Gibbs*..*137
2. A slave is not a competent witness. *Respublica* v. *Mulatto Bob*.....*145
3. An executor, who is entitled to a share in the residuum of his testator's estate, which is interested in the suit, is not a competent witness to prove notice of the non-payment of a note, although the objection appear on his cross-examination. *Bank of North America* v. *Wycoff*..... .....*151
4. The president of an incorporated company, by which a vessel has been insured, is a competent witness against the defendant, on an indictment, for fraudulently casting away and destroying the vessel. *United States* v *Johns*.....*412