INDEX.

ADMIRALTY. See *Collision; Information*, 2; *Jurisdiction*, 20, 21; *Practice*, 12, 15.

1. Vessels are liable in admiralty for marine torts committed by them through the negligence of a pilot in charge, and compulsorily taken on board. *The China*, 53.
2. By its law, all maritime claims upon the vessel extend to the proceeds arising from its sale. *The Siren*, 152.
3. Where, in case of collision, with loss, there is reasonable doubt as to which party is to blame, the loss must be sustained by the one on which it has fallen. *The Grace Girdler*, 196.
4. The rule of navigation which requires that a vessel coming up behind another, and on the same course with her, shall keep out of the way, presupposes that the other vessel keeps her course, and it is not to be applied irrespective of the circumstances which may render a departure from it necessary to avoid immediate danger. *Ib.*

AGENT.

1. Where an instrument payable at a bank is lodged with the bank for collection, the bank becomes the agent of the payee to receive payment. *Ward* v. *Smith*, 447.
2. Where not lodged with the bank, whatever the bank receives from the maker to apply upon the instrument, it receives as his agent. *Ib.*
3. Without special authority, an agent can only receive payment of the debt due his principal in the legal currency of the country, or in bills which pass as money at their par value by the common consent. *Ib.*

ALABAMA.

Her statute of 7th October, 1864, under which contracts of affreightment are authorized to be enforced *in rem* through the courts of the State, by proceedings, the same in form as those used in courts of admiralty of the United States, is unconstitutional. *The Belfast*, 624.

ARBITRAMENT AND AWARD.

An act of Congress referring a claim against the government to an officer of one of the executive departments, to examine and adjust, does not, even though the claimant and government act under the statute, and the account is examined and adjusted, make the case one of "arbitrament and award." *Gordon* v. *United States*, 188.

ASSIGNMENT. See *Equity*, 8.

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ATTORNEY-AT-LAW. See *Judicial Officers*, *Mandamus*, 1.

1. Cannot be disbarred for misbehavior in his office of an attorney generally, upon the return of a rule issued against him for contempt of court, and without opportunity of defence to the first-named charge. *Ex parte Bradley*, 364.
2. However, formal allegations, making specific charges of malpractice, are not essential as a foundation for proceedings against attorneys. What is requisite is, that, when not taken for matters occurring in open court, in the presence of the judges, notice should be given to the attorney of the charges made, and opportunity afforded him for explanation and defence. The manner in which the proceeding shall be conducted, so that it be without oppression or injustice, is a matter of judicial regulation. *Randall* v. *Brigham*, 523.

ATTORNEY-GENERAL. See *Informer*.

AUTHORITY.

1. Where the judges of the Supreme Court of the United States are equally divided in opinion, the judgment of affirmance, which is the judgment rendered in such a case, is as conclusive as if rendered upon the concurrence of all the judges. *Durant* v. *Essex Company*, 107; and see *Appendix*, 753.
2. The law about municipal bonds, as adjudged in *Gelpcke* v. *The City of Dubuque* (1 Wallace, 176–223), is not open for re-examination. *Lee County* v. *Rogers*, 181.

BANK BILLS. See *Tender*.

BILL OF EXCEPTION. See *Practice*, 1, 2, 10.

Should only present the rulings of the court upon some matter of law, and contain only so much of the testimony, or such a statement of the proofs made or offered, as may be necessary to explain the bearing of the rulings upon the issue involved. *Lincoln* v. *Claflin*, 132.

BILL QUIA TIMET. See *Equity*, 1.

BILLS OF EXCHANGE. See *Texas*, 2.

The matter of, when drawn by officers of the government, examined; and the law decided to be, that as under existing laws there can be no lawful occasion for an officer to accept drafts on behalf of the government, such acceptances cannot bind it, though there may be occasions for drawing or paying drafts which may bind the government. *The Floyd Acceptances*, 666.

BLOCKADE. See *Public Law*, 2.

CALIFORNIA.

A grant of land in, purporting to have been made by Governor Pio Pico, on the 2d of May, 1846, and insufficient on the archive papers, decided not to be helped by papers produced by the claimant; these being found by the court, upon the evidence in the case, not genuine, but fabricated on an afterthought, from fragments of papers left unfinished by Pio Pico. *Roland* v. *United States*, 743.

CANCELLATION OF PATENT. See *Practice*, 18.

CAUSA PROXIMA VEL REMOTA. See *Inspection*, 3; *Insurance*, 1.

CHARTER-PARTY.

1. The stipulation of, to take a cargo of lawful merchandise, implies that the articles composing the cargo shall be in such condition, and be put up in such form, that they can be stowed and carried without one part damaging the other. *Boyd* v. *Moses*, 316.
2. The master of a ship may, therefore, refuse to take goods offered for shipment, if in his honest judgment they are in such condition or of such character, that they cannot be carried without injury to the rest of the cargo, without violating a charter-party containing the condition mentioned. *Ib.*
3. A letter from the charterer to the master, making agreement to hold the ship harmless for a shipment of goods of such a character, held to be a modification of the terms of the charter-party, and valid between charterer and owner. *Ib.*

CITIZENSHIP. See *Naturalization.*

COLLECTORS.

Prior to the act of June 12th, 1858, providing compensation not exceeding one quarter of *one per cent.* to them, acting as disbursing agents of the United States in certain cases, they could not, if receiving a general maximum compensation, under the act of March 2d, 1831 (§ 4), and also a special maximum of $400, under the act of May 7th, 1822 (§ 18), recover for disbursements made for building a custom-house and marine hospital at the port where they were collectors. *United States* v. *Shoemaker*, 338.

COLLISION.

1. The meaning of the terms, "meeting end on," and "meeting nearly end on," as used within the 11th Article of the Act of Congress of April 29, 1864, fixing "Rules and Regulations for Preventing Collisions on Water," considered. And, two sailing vessels pursuing, in the night time, lines which, if followed, it was probable, would bring them into collision, considered, when but two or three miles apart, as "meeting end on, or nearly end on, so as to involve risk of collision" within the meaning of the article above referred to; their rate of speed having been, at the time, six miles an hour each, and their rate of approximation, therefore, a mile in each five minutes. *The Nichols*, 656.
2. Vessels are liable for tortious collisions, committed by them at sea, through the negligence of a licensed pilot, compulsorily taken by them on board. *The China*, 53.

COLUMBIA. See *District of.*

COMPULSION. See *Duress.*

Under a State pilot law, which enacted that all vessels "*shall* take a licensed pilot, or, in case of refusal to take such pilot, *shall* pay pi-

COMPULSION (*continued*).

lotage as if one had been employed," and that any person not licensed as a pilot, who should attempt to pilot a vessel as aforesaid, should be "deemed guilty of a misdemeanor, and, on conviction, be punished by a fine not exceeding $100, or imprisonment not exceeding sixty days," and that all persons employing any one to act as a pilot not holding a license, should "forfeit and pay the sum of $100:" *Held*, that vessels were compelled to take a pilot. *The China*, 53.

CONDITION. See *Insurance*, 2, 3.

1. A grant of land, "*upon the express understanding and condition*" that a certain institute of learning then incorporated "shall be *permanently located* upon said lands," between the date of the deed and the same day in the succeeding year, is a grant upon condition. *Mead* v. *Ballard*, 290.
2. The condition is fulfilled when the trustees pass a resolution locating the building on the land, with the intention that it should be the permanent place of conducting the business of the corporation. And this, notwithstanding that the building erected in pursuance of the resolution was afterwards destroyed by fire, and the institute subsequently erected on another piece of land. *Ib.*

CONFLICT OF JURISDICTION.

I. BETWEEN FEDERAL COURTS AND STATE COURTS.

1. The statutes of a State limiting the jurisdiction of suits against counties to Circuit Courts held within such counties can have no application to courts of the National government. *Cowles* v. *Mercer County*, 118; *Payne* v. *Hook*, 425.

II. BETWEEN CONGRESS AND STATE LEGISLATURES.

2. Certificates of indebtedness issued by the United States to creditors of the government, for supplies furnished to it in carrying on the war to suppress the late rebellion, and by which the government promised to pay the sums of money specified in them, with interest, at a time named, are beyond the taxing power of the States. *The Banks* v. *The Mayor*, 16.
3. So are notes issued by the United States under the Loan and Currency Acts of 1862 and 1863, intended to circulate as money, and actually making, with the National bank notes, the ordinary circulating medium of the country. *Bank* v. *Supervisors*, 26.
4. State legislatures have no authority to create maritime liens; nor can they confer jurisdiction upon a State court, to enforce such a lien by a suit or proceeding *in rem*, as practised in admiralty courts. *The Belfast*, 624.
5. The equity jurisdiction and remedies conferred by the Constitution and statutes of the United States cannot be limited or restrained by State legislation, and are uniform throughout the different States of the Union. *Payne* v. *Hook*, 425.

CONFLICT OF JURISDICTION (*continued*).

III. BETWEEN STATE LEGISLATURES.

6. A State has no power to tax the interest of bonds (secured in this case by mortgage) given by a railroad corporation, and binding every part of the road, when the road lies partially in another State;—one road incorporated by the two States. *Railroad Company* v. *Jackson*, 262.

CONSTITUTIONAL LAW. See *Attorney at Law*, 1; *Conflict of Jurisdiction; Internal Revenue*, 3; *Ships and Shipping*, 3.

1. The "full faith and credit" required by the Federal Constitution to be given in each State to the judicial proceedings of every other State, is not given in one State to the judicial proceedings of another, when these last (proceedings *in rem*) do not operate to bar a further suit in the second State as fully as they would do in the first. *Green* v. *Van Buskirk*, 139.
2. The nature of "a State," within the various meanings of the Constitution considered; and the meaning of the word as applied to one of the United States, settled. *Texas* v. *White*, 700.
3. The 5th and 6th Amendments to the Constitution of the United States (relating to criminal prosecutions), were designed exclusively as restrictions upon Federal power. *Twitchell* v. *The Commonwealth*, 321.
4. A statute of a State releasing "whatever interest" in certain real estate may "rightfully" belong to it, is not a law impairing the obligation of a contract in a case where an agent of the State, having by contract with it acquired an interest in *half* the lot, undertakes to sell and conveys the *whole* of it. *Mulligan* v. *Corbins*, 487.
5. The repeal, pending an appeal provided for by it, of an act of Congress enacting that the Supreme Court shall have appellate jurisdiction over final decisions of the Circuit Courts, in certain cases, is not an exercise of judicial power by the legislature, no matter whether the repeal takes effect before or after argument of the appeal. It negatives the jurisdiction. *Ex parte McCardle*, 506.

CONTRACT. See *Constitutional Law*, 4; *Inspection*, 2, 3; *Insurance*, 2; *Public Policy*.

1. A government contract, not very clear in its terms, interpreted against the interests of the government, it having been suggested by one officer of the government, signed by another officer in behalf of the government, without its being signed by the contractor on the other side, and the interpretation which this court thus, and upon what it deemed a reasonable construction of the language of the amendment, gave to the amendment, having been that which the officer who suggested it had acted upon as the right one. *Garrison* v. *United States*, 688.
2. The designation of a bank as the place of payment of a bond, imports a stipulation that its holder will have it at the bank when due to receive payment, and that the obligor will produce there the funds to pay it. *Ward* v. *Smith*, 447.
3. If the obligor is at the bank, at the maturity of the bond, with the

CONTRACT (*continued*).

necessary funds to pay it, he so far satisfies the contract that he cannot be made responsible for any future damages, either as costs of suit or interest, for delay. *Ib.*

4. A stranger with whom the sureties of a contractor in a government contract, which provided that it should *not be sublet*, agree that *he* shall perform the contract (the contractor having abandoned it, and his sureties having taken it up), and whom the sureties constitute *their attorney*, to perform the work, on paying them a percentage of the money received from the government, *held* not to fall within the terms of an act of Congress making a proposition to all persons "interested on account of their *contract*" (describing the purport of the original contract). *Kellogg* v. *United States*, 361.

CORPORATION. See *Authority*, 2; *Equity*, 2.

1. Neither the identity of a municipal corporation, nor its right to hold property devised to it, is destroyed by a change of its name, an enlargement of its area, or an increase in the number of its corporators; changes which the legislature has power to make. *Girard* v. *Philadelphia*, 1.
2. Under the laws of Iowa, a railroad company, having power to issue its own bonds in order to make its road, may guaranty the bonds of cities and counties which have been lawfully issued, and are used as the means of accomplishing the same end. *Railroad Company* v. *Howard*, 392.

COURT OF CLAIMS. See *Estoppel.*

Has no jurisdiction of cases arising under the Revenue Laws. *Nichols* v. *United States*, 122.

CUSTOMS OF THE UNITED STATES. See *Internal Revenue.*

Under the act of Congress of February 26, 1845, relative to the recovery of duties paid under protest, a written protest, signed by the party, with a statement of the definite grounds of objection to the duties demanded and paid, is a condition precedent to a right to sue for their recovery. *Nichols* v. *United States*, 122.

DISTRICT OF COLUMBIA.

The Supreme Court of the, as organized by the act of March 3, 1863, is a different court from the Criminal Court as fixed by the same act, though the latter court is held by a judge of the former. *Ex parte Bradley*, 364.

DOMICILE. See *Fiction of Law.*

DURESS. See *Compulsion.*

A deed procured through fear of loss of life, produced by threats of the grantee, may be avoided for. *Brown* v. *Pierce*, 205.

ENTRY. See *Land Office.*

EQUITY. See *Land Office; Lien; Pleading*, 4, 5; *Practice*, 18.

1. Where a testator devises the income of property in trust primarily for one object, and if the income is greater than that object needs, the surplus to secondary ones, a bill in the nature of a bill *quia timet*, and in anticipation of an incapacity in the trusts to be executed hereafter, and when a surplus arises (there being no surplus now, nor the prospect of any), will not lie by heirs-at-law, to have this surplus appropriated to them on the ground of the secondary trusts having, subsequently to the testator's death, become incapable of execution. *Girard* v. *Philadelphia*, 1.
2. Where a devise is made to a municipal corporation, upon trusts confessedly valid, the right to inquire into, or contest the power of the corporation to execute the trusts, belongs to the State alone as *parens patriæ*, not to the heirs of the testator. *Ib.*
3. Where the legislature creates a city, carving it out of a region previously a town only, and enacts that all bonds which had been previously issued by the town should be paid when the same fell due, by the *city and town*, in the same proportions as if said town and city were not dissolved, and that if either at any time pays more than its proportion, the other shall be liable therefor, a bill will lie to enforce payment by the two bodies respectively, in the proportion which the assessment rolls show that the property in one bears to the property in the other. *Morgan* v. *Beloit, City and Town*, 613.
4. A bill by the owner of real estate, sold at public judicial sale, will lie (over and above efforts for summary relief) against a person who, at such sale, has made untrue representations, which prevent other persons from bidding, and by which he has, himself, got the property at an undervalue. *Cocks* v. *Izard*, 559.
5. A sale of a valuable railroad and its franchises, set aside; the facts being held evidence of collusion between particular creditors and the directors, to the injury of creditors generally. *Drury* v. *Cross*, 299.
6. Same thing done on facts which were held to be evidence of arrangement between particular creditors and stockholders, to the injury of creditors generally. *Railroad Company* v. *Howard*, 392.
7. The fact that a creditor has a remedy at law against a principal, does not prevent him, after the issue in vain of execution against such principal, from proceeding in equity against a guarantor. *Ib.*
8. A claim which has never received the assent of the person against whom it is asserted, and which remains to be settled, cannot be so assigned as to give the assignee an equitable right to prevent the original parties from compromising the claim on any terms that may suit them. *Kendall* v. *United States*, 113.
9. Stockholders in a corporation need not be individually made parties in a creditor's suit where their interest is fully represented both by the railroad company and by a committee chosen and appointed by them. *Railroad Company* v. *Howard*, 392.
10. On a bill, by one distributee of an intestate's estate against an administrator, it is not indispensable that the other distributees be made parties, if the court is able to proceed to a decree, either through a

EQUITY (*continued*).
reference to a master or some other proper way, so as to do justice to the parties who are before it, without injury to absent parties equally interested. *Payne* v. *Hook*, 425.

11. The sureties of an administrator on his official bond may properly be joined with him in an equity proceeding for an erroneous and fraudulent administration of the estate by him, and where, if a balance should be found against the administrator, those sureties would be liable. *Ib.*

ESTOPPEL. See *Res Judicata.*

If a claimant, under a contract made by an inferior officer of an executive department, and which the head of the department has refused to acknowledge, voluntarily come before a board appointed by Congress to decide upon the claim, and present his claim, and the board investigate it, and,—Congress afterwards enacting that all claims allowed by such board shall be deemed to be due and payable, and be paid upon presentation of a voucher with the commissioners' certificate thereon—the petitioner do present his voucher and receive payment of the sum so allowed by the board, he cannot afterwards recover in the Court of Claims a balance which would remain on an assumption of the validity of his original contract. *United States* v. *Adams*, 463.

EVIDENCE. See *Pleading*, 5.

I. IN CASES GENERALLY.

1. Where fraud in the purchase or sale of property is in issue, evidence of other frauds of like character, committed by the same parties, at or near the same time, is admissible. *Lincoln* v. *Claflin*, 132.
2. Where two persons are engaged together in the furtherance of a common design to defraud others, the declarations of each relating to the enterprise are evidence against the other, though made in the latter's absence. *Ib.*

II. IN PATENT CASES. See *Patent*, 6.

3. In bill for infringement, evidence of prior knowledge or use of the thing patented is not admissible, unless the answer contain the names and places of residence of the persons who are alleged to have possessed a prior knowledge of the thing, and a statement of the place where the same had been used. *Agawam Company* v. *Jordan*, 583.

III. IN CASES AGAINST PUBLIC OFFICERS.

4. Before a depositary of public money can, in a suit against him by the United States for a balance, offer proof of credits for clerk hire, he must show by evidence from the books of the treasury that a claim for such credits had been presented to the proper officers of the treasury, and by them had been, in whole or in part, disallowed. *United States* v. *Gilmore et al.*, 491.
5. If proof of such credits have been permitted to go to the jury without such proper foundation for it having been first laid, it must be after-

EVIDENCE (*continued*).

wards absolutely excluded, and all consideration of the claims withdrawn from them. *Ib.*

6. Whether testimony in support of such claims was properly in the case, was a question for the court. *Ib.*

EXECUTIVE OFFICERS OF THE UNITED STATES. See *Bills of Exchange.*

EXPRESSIO UNIUS, &c.

The maxim held not to apply to two statutes, one specific and one general; but both providing for laying taxes to pay debts. *Morgan* v. *Town Clerk*, 610.

FICTION OF LAW.

The one that the domicile of the owner draws to it his personal estate wherever it may happen to be, yields whenever, for the purposes of justice, the actual *situs* of the property should be examined. *Green* v. *Van Buskirk*, 139.

FORFEITURE. See *Landlord and Tenant; Secretary of the Treasury.*

GOVERNMENT OFFICERS. See *Bills of Exchange; Heads of Departments.*

GUARANTY. See *Corporation*, 2.

HABEAS CORPUS.

The appellate jurisdiction in cases of, which was exercised by this court prior to the act of February 5, 1867, remains, notwithstanding the act of 27th March, 1868, repealing the jurisdiction in certain other cases. *Ex parte McArdle*, 506.

HEADS OF DEPARTMENTS.

If there exist well-grounded suspicions, tending strongly to the conclusion that contracts have been entered into, and debts incurred, within a particular military district, in disregard of the rights of the government, the Secretary of War is bound to interpose, has a right and is bound to issue an order to suspend the payment of all claims against it. *United States* v. *Adams*, 463.

ILLINOIS.

By the laws of, an attachment on personal property there will take precedence of an unrecorded mortgage executed in another State where record is not necessary, though the owner of the chattels, the attaching creditor, and the mortgage creditor, are all residents of such other State. *Green* v. *Van Buskirk*, 139.

INFORMATION.

1. One under the acts of August 6th, 1861, and July 17th, 1862, which presents only a case of the unlawful conversion of property to the use of the persons proceeded against, cannot be sustained. *Morris and Johnson* v. *United States*, 578.

INFORMATION (*continued*).

2. Neither the act of 1861, nor the act of 1862, contemplates any proceeding, as in admiralty, where there existed no specific property or proceeds capable of seizure and capture. *Ib.*

INFORMER.

1. Has no vested interest in the subject-matter of the suits, in prosecutions under the act of August 6th, 1861, which subjects to confiscation, upon libel filed, property whose owner used or consented to its use in aiding the rebellion, and this, notwithstanding that the act declares that where any person files an information with the Attorney of the United States (as the act allows any person to do), the proceedings shall be "for the use of such informer and the United States in equal parts." *Confiscation Cases*, 454.
2. Hence, the Attorney-General may properly, and against the interest and objection of the informer, consent to and so cause a dismissal of an appeal, or a reversal of a decree, by which dismissal or reversal he conceives that justice is done. *Ib.*

INSPECTION.

1. At the place of shipping instead of at the place of delivery, by the officers of the United States, of supplies which a contractor has agreed to deliver at a distant point, does not pass the property to the United States so as to relieve the contractor from his obligation to deliver at such point. *Grant* v. *United States*, 331.
2. Where a contract with the government to furnish to it supplies does not stipulate for an inspection at a place earlier than the place of delivery, it is optional with the contractor whether he will have the goods inspected at such earlier place. *Ib.*
3. Where a delay by the government in making an inspection of supplies, agreed to be made at the place of shipping instead of at the place of delivery, is not the proximate cause of a loss of the supplies afterwards suffered, the loss must be borne by the party in whom the title to the supplies is vested; and, if still in the contractor, by him. This rule applies even where supplies have been seized by the public enemy without any default of the owner. *Ib.*

INSURANCE. See *Internal Revenue*, 3.

1. Where an explosion took place in one building, setting it on fire; from which building the fire went to another building across a street; and from the second to a third, across another street, and burnt it. Held, the whole fire having been a continuous affair, and under full headway in about half an hour, that the explosion was the cause of the fire last occurring; and the last building being insured by a policy which contained an exception for loss by fire happening "by means of any explosion," that the insurers were not liable; the case not being one for the application of the maxim, "*Causa proxima, non remota spectatur.*" *Insurance Company* v. *Tweed*, 44.
2. A condition in a policy of fire insurance that no action for recovery

INSURANCE (*continued*).

shall be sustained, unless commenced within twelve months after the loss, and that the lapse of this period shall be conclusive evidence against the validity of any claim, if an action for its enforcement be subsequently commenced, is not against the policy of the statute of limitations, and is valid. *Riddlesbarger* v. *Hartford Insurance Company*, 386.

3. The action mentioned in the condition which must be commenced within the twelve months, is the one which is prosecuted to judgment. The failure of a previous action from any cause cannot alter the case; although such previous action was commenced within the period prescribed. *Ib.*

INTEREST. See *Usury*.

1. Is due on coupons, after payment of them is unjustly neglected or refused. *Aurora City* v. *West*, 82.
2. Is not allowable as a matter of law, in cases of tort. Its allowance as damages rests in the discretion of the jury. *Lincoln* v. *Claflin*, 132.
3. Is, apparently, not sanctioned by the Supreme Court on claims against the government. *Gordon* v. *United States*, 188.
4. If the rule that it is not recoverable on debts between alien enemies during war of their respective countries, is applicable to debts between citizens of States in rebellion and citizens of States adhering to the National government in the late civil war, it can only apply when the money is to be paid to the belligerent directly; it cannot apply when there is a known agent appointed to receive the money, resident within the same jurisdiction with the debtor. In this latter case the debt will draw interest. *Ward* v. *Smith*, 447.

INTERNAL REVENUE. See *Secretary of the Treasury*.

1. The Internal Revenue Act of June 30th, 1864, does not lay a tax on the income of a non-resident alien, arising from bonds held by him of a railroad company incorporated by States of the Union, and situated in them. *Railroad Company* v. *Jackson*, 262.
2. When a person whose income or other moneys subject to tax or duty has been received *in coined money*, makes his return in that form to the assessor, the Internal Revenue Act of July 13th, 1866, is to be construed as requiring that the difference between coined money and legal tender currency shall be added to his return when made in coined money, and that he shall pay the tax or duty upon the amount thus increased. *Pacific Insurance Company* v. *Soule*, 434.
3. The income tax or duties laid by sections 105 and 120 of the act of June 30, 1864, and the amendment thereto of July 13, 1866, upon the amounts insured, renewed, or continued by insurance companies upon the gross amounts of premiums received, and assessments made by them, and also upon dividends, undistributed sums, and income, is not "a direct tax," but a duty or excise. *Ib.*

INTERPRETATION. See *Contract*, 1; *Statutes*, 1, 2.

IOWA. See *Corporation*, 2.

Under its laws, if in an action to recover land, the plaintiff averring that he claims and is entitled to the land, and the defendant denying such right of possession, but setting up no title in himself—there has been a reversal in this court, and a mandate "to enter judgment for the defendant below," the judgment should be that the plaintiff hath no title. *Litchfield* v. *Railroad Company*, 270.

JUDGMENT. See *Lien.*

JUDICIAL OFFICERS.

An action for damages does not lie against a judge of a court of general jurisdiction, for removing, whilst holding court, an attorney-at-law, from the bar, for malpractice in his office, the court being empowered by statute to remove attorneys for "any deceit, malpractice, or other gross misconduct;" and having heard the attorney removed, in explanation of his conduct in the transaction which was the subject of complaint. And such action will not lie against the judge, even if the court, in making the removal, exceeds its jurisdiction, unless, perhaps, in the case where the act is done maliciously or corruptly. *Randall* v. *Brigham*, 523.

JURISDICTION. See *Practice*, 3, 4.

I. Of the Supreme Court of the United States.

(*a*) It has jurisdiction—

1. Of a decree (as final) which on a bill relating to the ownership and transfer of stock decided the right to it, directed it to be delivered by the defendant to the complainant by transfer, and entitled the complainant to have the decree carried immediately into execution; leaving only to be adjusted accounts between the parties in pursuance of the decree settling the question of ownership. *Thompson* v. *Dean*, 342.
2. Or, where ordering an injunction (previously granted to restrain a sale under a deed of trust) to be dissolved, *it directed a sale according to the deed of trust, and the bringing of the proceeds into court. Railroad Company* v. *Bradleys*, 575.
3. Of an appeal (as actually allowed), where the record shows that an appeal was prayed for in open court, and an appeal bond filed and approved by one of the judges. *Ib.*
4. An original bill (as "of controversies between a State and citizens of another State"), where there is a State government competent to represent the State in its relations with the National government, which Texas after the suppression of the rebellion, but before its full restoration to a normal position in the Union, is. *Texas* v. *White*, 700.
5. (Under the twenty-fifth section of the Judiciary Act), where an act of a State legislature authorized the issue of bonds, by way of refunding to banks such portions of a tax as had been assessed on Federal securities made by the Constitution and statutes of the United States exempt from taxation, and the officers who were empowered to issue the obligations refused to sign them, because, as they alleged, a portion

JURISDICTION (*continued*).

of the securities for the tax on which the bank claimed reimbursement, was, in law, not exempt, and the highest court of the State sanctioned this refusal. *The Banks* v. *The Mayor*, 16.

6. In *Habeas Corpus* since the act of 27th March, 1868, to the same extent that it had prior to the act of February 5, 1867. *Ex parte McArdle*, 506.

(*b*) It has NOT jurisdiction—

7. By mere agreement of parties, and without an appeal or writ of error. *Washington County* v. *Durant*, 694.

8. Where a citation upon a writ of error to a State court has been signed only by a district judge. *Palmer* v. *Donner*, 541.

9. Where the transcript contained only a blank form of a certificate of authentication, without the seal of the court below, or certificate of authentication. *Blitz* v. *Brown*, 693.

10. Of a division of opinion between the judges of the Circuit Court, upon a *motion to quash an indictment*. *United States* v. *Rosenburgh*, 580.

11. Of the action of the court below on a motion for new trial. *Laber* v. *Cooper*, 565.

12. Or, as to the terms on which it will allow a complainant to amend a bill to which a demurrer has been sustained. *Sheets* v. *Selden*, 416.

13. Through an order of a Circuit Court directing the transfer of a cause to this court, though such transfer be authorized by the express provision of an act of Congress. *The Alicia*, 571.

14. Nor of an appeal or writ of error which does not bring to this court a transcript of the record before the expiration of the term to which it is returnable. It is no longer a valid appeal or writ. *Edmonson* v. *Bloomshire*, 306.

15. And although a prayer for an appeal, and its allowance by the court below, constitute a valid appeal though no bond be given (the bond being to be given with effect at any time while the appeal is in force), yet if no transcript is filed in this court at the term next succeeding the allowance of the appeal, it has lost its vitality as an appeal. *Ib.*

16. Nor can such vitality be restored by an order of the Circuit Court made afterwards, accepting a bond made to perfect that appeal. Nor does a recital in the citation, issued after such order, that the appeal was taken as of that date, revive the defunct appeal or constitute a new one. *Ib.*

17. Nor (under the twenty-fifth section of the Judiciary Act) if a State statute passed in professed exercise of an authority given by Congress to the States to pass such a statute, does not deprive, contrary to the act of Congress, *the party to the suit*, of any right, nor work, as to *him*, any effect which the act of Congress forbids, can this court, on the case being brought here by such party on the ground that the State statute violated the act of Congress, declare the State statute void. *Austin* v. *The Aldermen*, 694.

II. OF CIRCUIT COURTS OF THE UNITED STATES.

18. Such courts, for any district embracing a particular State, will have

JURISDICTION (*continued*).

jurisdiction of an equity proceeding against an administrator (if according to the received principles of equity a case for equitable relief is stated), notwithstanding that by a peculiar structure of the State probate system such a proceeding could not be maintained in any court of the State. *Payne* v. *Hook*, 425.

19. The act of February 28th, 1839 (§ 8, 5 Stat. at Large, 322), providing for the transfer, under certain circumstances named in it, of a suit from one Circuit Court to the most convenient Circuit Court in the next adjacent State, is not repealed by the act of March 3d, 1863 (12 Stat. at Large, 768), providing that under certain circumstances named in *it*, the circuit judge of one circuit may request the judge of any other circuit to hold the court of the former judge during a specified time. *Supervisors* v. *Rogers*, 175.

III. Of District Courts of the United States.

20. Sitting as prize courts they may hear and determine all questions respecting claims arising *after* the capture of a vessel. *The Siren*, 152.

21. They have exclusive original cognizance of a proceeding *in rem* to enforce a maritime lien, albeit the lien arise from the ordinary contract of affreightment for transportation between ports and places within the same State, and all the parties be citizens of the same State, provided only that such contract be for transportation upon navigable waters to which the general jurisdiction of the admiralty extends. *The Belfast*, 624.

LANDLORD AND TENANT.

1. Where, in a lease, the lease provides in a plain way and with a specification of the rates for an abatement of rent for every failure of the property leased (a water-power), the tenant cannot, on a bill by him to enjoin a writ of possession by the landlord, after a recovery by him at law for forfeiture of the estate for non-payment of rent reserved, set up a counter claim for repairs made necessary by the landlord's gross negligence. *Sheets* v. *Selden*, 416.

2. In such a case, before he can ask relief from a forfeiture, he should at least tender the difference between the amount of rent due, and the amount which he could rightly claim by way of reduction for the failure alleged. *Ib.*

LAND OFFICE. See *Public Lands.*

The act of the Secretary of the Interior and Commissioner of the Land Office, in cancelling an entry for land, is not a ministerial duty, but is a matter resting in the judgment and discretion of these officers as representing the Executive Department. Accordingly, this court will not interfere by injunction more than by mandamus to control it. *Gaines* v. *Thompson*, 347.

LEGAL TENDER. See *Tender.*

LEGISLATIVE POWER. See *Corporations*, 1; *Constitutional Law*, 5.

LIEN. See *Jurisdiction*, 20.

A judgment being but a general one, and the creditor under it obtaining no incumbrance but on such estate as his debtor really had, the equity of such creditor gives way before the superior right of an owner in the land who had conveyed the land to the debtor only by duress, and who had never parted with possession. *Brown* v. *Pierce*, 205.

LIS PENDENS.

The doctrine of, has no application to a case where there were three distinct and independent suits, with an interval of one year between the first and second, and of two years between the second and third. *Lee County* v. *Rogers*, 181.

LOUISIANA.

1. A decree of the Provisional Court of, which was established by order of the President, during the rebellion, having been transferred into the Circuit Court, in pursuance of an act of Congress, must be regarded, in respect to appeal, as a decree of the Circuit Court. *The Grapeshot*, 563.
2. The act of March 3d, 1865 (13 Statutes at Large, 501), which provides a mode by which parties who submit cases to the court, without the intervention of a jury, may have the rulings of the court reviewed in the Supreme Court of the United States, and also what may be reviewed in such cases, binds the Federal courts sitting in Louisiana as elsewhere, and the Supreme Court cannot disregard it. *Insurance Company* v. *Tweed*, 44.
3. However, in a case where the counsel for both parties in the Supreme Court had agreed to certain parts of the opinion of the court below as containing the material facts of the case, and to treat them on review as facts found by that court, the Supreme Court acted upon the agreement as if it had been made in the court below. *Ib.*

MAIL, THE UNITED STATES.

The temporary detention of, caused by the arrest of its carrier upon a bench warrant, issued by a State court, of competent jurisdiction, upon an indictment found therein for murder, is not an obstruction or retarding of the passage of the mail, or of its carrier, within the meaning of the ninth section of the act of Congress of March 3, 1825, which provides "that, if any person shall knowingly and wilfully obstruct or retard the passage of the mail," &c. *United States* v. *Kirby*, 482.

MANDAMUS.

1. Lies from the Supreme Court of the United States to an inferior court to restore an attorney-at-law disbarred by the latter court when it had no jurisdiction in the matter, as (*ex. gr.*) for a contempt committed by him before another court. *Ex parte Bradley*, 364.
2. The return to one, must be as broad as the requirement of the writ, and not broader; and it must disclose facts so fully as will enable the court to judge whether, supposing them true, they are a sufficient answer to the relator's case. *Benbow* v. *Iowa City*, 313.

"MEANDER LINES."

Their nature and effect stated. *Railroad Company* v. *Schurmeir*, 272.

MINNESOTA.

If, by the laws of, in 1859, the recording of a town or city plot, indicating a dedication for a public purpose of certain parts of the land laid out, operated as a conveyance in fee to the town or city, yet it could operate only as a conveyance of the fee, subject to the purpose indicated by the dedication, and subject to that it must be held by any future claimant. *Railroad* v. *Schurmeir*, 272.

MORTGAGE. See *Ships.*

MUNICIPAL BONDS. See *Authority*, 2; *Equity*, 3, 7; *Expressio Unius*, *Wisconsin.*

Of a county, where validity was questioned, *held* to be ratified by a statute which, creating a city out of part of the county, enacted that bonds, originally given by the county, should be paid by city and county in certain proportions. *Beloit* v. *Morgan*, 619.

MUNICIPAL CORPORATION. See *Authority; Corporation*, 1, 2; *Equity*, 1, 2, 7; *Municipal Bonds.*

NATURALIZATION.

The act of Congress of February 10th, 1855, which declares "that any woman, who might lawfully be naturalized under the existing laws, married, or who shall be married to a citizen of the United States, shall be deemed and taken to be a citizen," means that, whenever a woman, who under previous acts might be naturalized, is in a state of marriage to a citizen, she becomes by that fact a citizen also. *Kelly* v. *Owen et al.*, 496.

NEGOTIABILITY. See *Bills of Exchange; Texas.*

Contracts are not necessarily negotiable because by their terms they enure to the benefit of the bearer. *Railroad Company* v. *Howard*, 392.

PATENT. See *Evidence*, 3; *Pleading*, 6, 7; *Practice*, 18, 19.

1. *Semble* that an improvement in the plan of constructing a jail is not a subject of patent within the Patent Acts of 1836 or 1842. *Jacobs* v. *Baker*, 295.
2. He is the first inventor, and entitled to a patent, who, being an original discoverer, has first *perfected and adapted* the invention to actual use. *Whitely* v. *Swayne*, 685; *Agawam Company* v. *Jordan*, 583.
3. Thus, where a patent has been granted for improvements, which, after a full and fair trial, resulted in unsuccessful experiments, and have been finally abandoned, if any other person takes up the subject of the improvements, and is successful, he is entitled to the merit of them as an original inventor. *Whitely* v. *Swayne*, 685.
4. Where a master workman, employing other people in his service, has conceived the plan of an invention, and is engaged in experiments to perfect it, no suggestions from a person employed by him, not amounting to a new method or arrangement which in itself is a complete in-

PATENT (*continued*).

vention, is sufficient to deprive the employer of the exclusive property in the perfected improvement. *Agawam Company* v. *Jordan*, 583.

5. Forbearance to apply for a patent during the progress of experiments, and until the party has perfected his invention and tested its value by practical experiment, affords no ground for presumption of abandonment. *Ib.*

6. Letters patent of long standing will not be declared invalid upon testimony largely impeached; as *ex. gr.*, where forty persons swear that the character of the witness for truth and veracity is bad; although very numerous witnesses, on the other hand, swear that they never heard his reputation in that way questioned. *Ib.*

7. Where a patent is extended by virtue of a special act of Congress, it is not necessary to recite in the certificate of extension all the provisos contained in the act. *Ib.*

8. When a patent is claimed for a discovery of a new substance by means of chemical combinations of known materials, it should state the component parts of the new manufacture claimed, with clearness and precision, and not leave the person attempting to use the discovery to find it out by "experiment." *Tyler* v. *Boston*, 327.

9. The term "*equivalent*," when used with regard to the chemical action of such fluids as can be discovered but by experiment, only means *equally good*. *Ib.*

10. Whether one compound of given proportions is substantially the same as another compound varying the proportions, is a question of fact, and for the jury. *Ib.*

11. Under the fourteenth section of the Patent Act of 1836, enacting that damages may be recovered by action on the case, to be brought in the name of the person "interested," the original owner of the patent, who has afterwards sold his right, may recover for an infringement committed during the time that he was owner. *Moore* v. *Marsh*, 515.

PHILADELPHIA.

Its rights under Girard's will. *Girard* v. *Philadelphia*, 1.

PILOT. See *Collision*, 2; *Compulsion.*

PLEADING. See *Lis Pendens; Public Policy*, 2; *Res Judicata.*

I. AT LAW.

1. In a case having long and complicated pleadings, where a second count of a declaration has been left by the withdrawal of a plea without an answer, so that judgment might have been had on it by *nil dicit*, a superior court will not, on error, infer, as of necessity, that a judgment below for the plaintiff was thus given; the case being one where, after such withdrawal, there were numerous demurrers, pleas, replications, and rejoinder, arising from a first count, and the proceedings showing that these were the subject of controversy. The second count will be taken to be waived. *Aurora City* v. *West*, 82.

2. A reversal in a court of last resort, *remanding a case*, cannot be set up as a bar to a judgment in an inferior court on the same case. *Ib.*

PLEADING (*continued*).

3. The rule that judgment will be given against the party who commits the first fault in pleading, does not apply to faults of mere form. *Ib.*

II. IN EQUITY.

4. A decree dismissing a bill, which is absolute in its terms, unless made upon some ground which does not go to the merits, is a bar to any further litigation of the same subject between the same parties. *Durant* v. *Essex Company*, 107.
5. Where, in a bill, alleging a good title to lands in him, and setting forth, particularly, the nature of it, a complainant sought to have a conveyance made by duress annulled, and the land reconveyed free from the lien of judgments obtained against the grantee after the conveyance, and by way of affecting the judgment creditor with notice, set forth that he, the complainant, was never out of possession of the land, an answer, averring in general terms, that the respondent was informed and believed that the complainant entered as tenant of the grantee, but not specifying any time or circumstances of such entry, nor assigning any reason for not specifying them, is insufficient and evasive; there being nothing alleged which tended to show that the grantee ever pretended to have any other title than that derived from the complainant, or that there was any title elsewhere. *Brown* v. *Pierce*, 205.

III. IN PATENT CASES.

6. On a bill for an infringement of a patent, a defence "that the patentee fraudulently and surreptitiously obtained the patent for that which he knew was invented by another," is not a sufficient defence, unless accompanied by the further allegation, that the alleged first inventor was at the time using reasonable diligence in adapting and perfecting the invention. *Agawam Company* v. *Jordan*, 583.
7. So, to such a bill, the allegation in answer, of sale and public use "prior to the filing of an application for a patent," with the consent and allowance of the inventor, is insufficient, unless it is also alleged in the answer that such sale or use was more than two years before he applied for a patent. *Ib.*

PRACTICE. See *Bill of Exceptions; Constitutional Law*, 1, 3, 5; *Iowa; Jurisdiction; Pleading; Louisiana; Mandamus.*

I. IN THE SUPREME COURT.

(a) *As to writs of error to State courts.* See *Twitchell* v. *The Commonwealth*, 321.

(b) *Of affirmance, dismissal, and reversal.*

1. This court will, generally speaking, AFFIRM (not dismiss), where there is no bill of exceptions, and nothing upon which error can be assigned. *James* v. *Bank*, 692.
2. As it did where the record shows only a judgment rendered in favor of a plaintiff for the recovery of a sum of money, where there was no question raised in the pleadings, no bill of exceptions, and no instructions or ruling of the court, and where what purported to be a state-

PRACTICE (*continued*).

ment of facts, signed by the judge, was filed more than two months after the writ of error was allowed and filed, and nearly a month after the citation was issued. *Generes* v. *Bonnemer*, 564.

3. It will DISMISS, though neither party ask it, if it is apparent that the court has not acquired jurisdiction for want of proper appeal or writ of error. *Edmonson* v. *Bloomshire*, 306.

4. However, where, acting under a statute decided by this court to be unconstitutional, a Circuit Court had transferred a cause to this court, a notice to docket and dismiss, which, if the case had been here constitutionally, would have been granted, was denied, and this court certified its opinion to the Circuit Court, for information, in order that it might proceed with the trial of the cause. *The Alicia*, 571.

5. It will not feel obliged to consider testimony objected to and received, if the record does not show that the objection was overruled and exception taken. *Laber* v. *Cooper*, 565.

6. It will NOT REVERSE because instructions asked for, even if correct in point of law, were refused, provided those given covered the entire case, and submited it properly to the jury. *Ib.*

7. Nor because no replication was put in to two of three special pleas, raising distinct defences, the case having been tried below as if the pleadings had been perfect and in form. *Ib.*

8. Nor because such pleas have concluded to the court instead of to the country; the matter not having been brought in any way to the attention of the court below. *Ib.*

9. Nor, under similar omission, because the language of the verdict in such a case is, that we find the "issue," &c., instead of the "issues." *Ib.*

10. Nor, on a general exception, to a charge embracing several distinct propositions, if any one of the propositions is correct. *Lincoln* v. *Claflin*, 132.

11. Nor where a defence which would have been a proper one in the court below (as that of usury on a promissory note), is attempted to be made for the first time in the Supreme Court; a matter which cannot successfully be done. *Ewing* v. *Howard*, 499.

12. Nor in admiralty cases, depending on a mere difference of opinion as to the weight and effect of conflicting testimony, where both the District and Circuit Courts have agreed. *The Grace Girdler*, 196.

(c) *As to supersedeas.*

13. A writ of error will not operate as a supersedeas unless a copy of the writ be lodged for the adverse party, within ten days, Sundays exclusive, after judgment or decree. *Railroad Company* v. *Harris*, 574.

14. But held so to operate, the record showing that a decree dissolving an injunction was made on the 6th of February, a petition for the suspension of the order filed by one party on the same day, by another on the 15th, a petition to open the decree on the 13th; a motion to rescind, made on the 6th March, during the term at which the decree was rendered, which motion was heard and denied on the 13th, with an appeal

PRACTICE (*continued*).

prayed in open court on the 20th, and an appeal bond filed on the 23d. *Railroad Company* v. *Bradleys*, 575.

(d) *In prize.* See *Information.*

15. A case heard on further proofs, though the transcript disclosed no order for such proofs, it having been plain, from both parties having joined in taking them, that either there was such an order, or that the proofs were taken by consent. *The Georgia*, 32.

II. In Circuit and District Courts.

(a) *In cases generally.*

16. A court of the United States has power to adopt in a particular case a rule of practice under a State statute; and where a Circuit Court is possessed of a case from another circuit, under the act of February 28, 1839, § 8 (5 Stat. at Large, 322), it may adopt the practice of the State in which the Circuit Court from which the case is transferred, sits, as fully as could the Circuit Court which had possession of the case originally. *Supervisors* v. *Rogers*, 175.

17. When contracts, made payable in coin, are sued upon, judgment may be entered for coined dollars and parts of dollars. *Bronson* v. *Rodes*, 229; *Butler* v. *Horwitz*, 258.

(b) *In equity.*

18. In cases where relief is sought on the ground that a patent for lands was issued to one person, while the right was in another, the decree should not annul or set aside the patent, but should provide for transferring the title to the person equitably entitled to it. *Silver* v. *Ladd*, 219.

(c) *In patent cases.*

19. A patentee, claiming under a reissued patent, cannot recover damages for infringements committed antecedently to the date of his reissue. *Agawam Company* v. *Jordan*, 583.

PRECEDENT. See *Authority.*

PUBLIC LANDS. See *California; Land Office; Meander Lines; Practice*, 18; *Riparian Owners.*

1. The fourth section of the act of Congress of 27th September, 1850, granting, by way of donation, lands in Oregon Territory to "*every* white *settler or occupant*, ... American half-breed Indians included," embraced, by a benignant construction within the term single *man*, an unmarried woman. *Silver* v. *Ladd*, 219.

2. The fact that the labor of cultivating the land required by the act was not done by the manual labor of the settler is unimportant, if it was done by her servant, or friends, for her benefit and under her claim. *Ib.*

3. Residence in a house divided by a quarter-section line, enables the occupant to claim either quarter in which he may have made the necessary cultivation. *Ib.*

PUBLIC LAW. See *Public Policy.*

1. A *bonâ fide* purchase for a commercial purpose by a neutral, in his own

PUBLIC LAW (*continued*).

home port, of a ship of war of a belligerent that had fled to such port in order to escape from enemy vessels in pursuit, but which was *bonâ fide* dismantled prior to the sale and afterwards fitted up for the merchant service, does not pass a title above the right of capture by the other belligerent. *The Georgia*, 32.

2. To justify a vessel of a neutral in attempting to enter a blockaded port, she must be in such distress as to render her entry a matter of absolute and uncontrollable *necessity*. *The Diana*, 354.

PUBLIC POLICY.

1. A contract made by a consul of a neutral power, with the citizen of a belligerent State, that he will "protect," with his neutral name, from capture by the belligerent, merchandise which such citizen has in the enemy's lines, is against public policy and void. *Coppell* v. *Hall*, 542.
2. Where suit is brought upon such a contract, a party who pleads its invalidity does not render the plea ineffective by a further defence in "reconvention;" a defence of this sort, to wit, that, if the contract be valid, he himself takes the position of a plaintiff, and makes a claim for damages for its non-performance. *Ib.*

RATIFICATION. See *Municipal Bonds.*

REBELLION, THE. See *Interest.*

General orders of the officer of the United States, commanding in the department, gave no validity to commercial intercourse during it, between places within the lines of military occupation by forces of the United States, and places under the control of insurgents. *Coppell* v. *Hall*, 452.

RECEIPT OF MONEY. See *Estoppel.*

REGISTRY AND RECORDING ACTS. See *Ships and Shipping.*

RES JUDICATA.

1. The plea of, applies to every objection urged in a second suit, when the objection was open to the party within the legitimate scope of the pleadings in a former one, and might have been presented in it. *Sheets* v. *Selden*, 416.
2. Thus a judgment in favor of a bondholder upon certain municipal bonds, part of a larger issue, against the town issuing them, is conclusive on a question of the validity of the issue on a suit brought by the same creditor against the same town, on other bonds, another part of the same issue; the parties being identical, and all objections taken by the town in the second suit having been open to be taken by it in the former one. *Beloit* v. *Morgan*, 619.
3. So where, under a clause of re-entry for non-payment of rent reserved, a landlord sues in ejectment, in Indiana (in which State a judgment in ejectment has the same conclusiveness as common law judgments in other cases), for recovery of his estate, as forfeited, and a verdict is found for him, and judgment given accordingly, the tenant cannot, in another proceeding, deny the validity of the lease, nor his possession,

RES JUDICATA (*continued*).

nor his obligation to pay the rents reserved, nor that the instalment of rent demanded was due and unpaid. *Sheets* v. *Selden*, 416.

4. A decree, absolute in terms, dismissing a bill is a bar to further litigation on the same subject between the same parties, unless the decree be made on some ground which does not go to merits. *Durant* v. *Essex Company*, 107.

RIPARIAN OWNERS.

1. A grant of a fractional part of public lands in Minnesota, on the Mississippi, embracing 9.28 acres, held to include as within the meander lines a piece of 2.78 acres, which at low water was separated by a slough 28 feet wide, but accessible from the main land; and at high water was submerged. *Railroad Company* v. *Schurmeir*, 272.
2. How far the common law rules of *medium filum* apply under statutes relating to the survey and sale of public lands bordering on rivers. *Ib.*

SECRETARY OF THE INTERIOR. See *Heads of Departments; Land Office.*

SECRETARY OF THE TREASURY. See *Court of Claims; Customs of the United States; Heads of Departments; Internal Revenue.*

The power intrusted by the act of Congress of March 3, 1797, and that of June 3, 1864, as amended in its 179th section by the act of March 3, 1865, to the Secretary of the Treasury to remit penalties, is one for the exercise of his discretion in a matter intrusted to him alone, and admits of no appeal to any court. *Dorsheimer* v. *United States*, 166.

SECRETARY OF WAR. See *Heads of Departments.*

SETTLEMENT. See *Estoppel.*

SHIPS AND SHIPPING. See *Charter-Party; Public Law.*

1. Under the act of Congress of July 29th, 1850, enacting, "That no bill of sale, mortgage, hypothecation, or conveyance of any vessel, or part of any vessel, of the United States, shall be valid against any person other than the grantor or mortgagor, his heirs and devisees, and persons having actual notice thereof, unless such bill of sale, mortgage, hypothecation, or conveyance, be recorded in the office of the collector of the customs where such vessel is registered or enrolled," a recording of a mortgage in the office of the collector of the home port of the vessel has the effect, by its own force and irrespective of any formalities required by a State statute to give effect to chattel mortgages, to give the mortgagee a preference over a subsequent purchaser or mortgagee. *White's Bank* v. *Smith*, 646.
2. The home port of the vessel is the port in the office of whose collector the bill of sale, mortgage, &c., should be recorded; not the port of last registry or enrolment when not such home port. *Ib.*
3. The act is constitutional. *Ib.*

SOVEREIGNTY. See *Heads of Departments; Interest.*

Although, for reasons of public policy, a claim for damages against a ves-

SOVEREIGNTY (*continued*).

sel of the United States guilty of a maritime tort, cannot be enforced by direct proceedings against the vessel, yet it will be enforced, by the courts, whenever the property itself, upon which the claim exists, becomes, through the affirmative action of the United States, subject to their jurisdiction and control. The government, in such a case, stands, with reference to the rights of the defendants or claimants, as do private suitors, except that it is exempt from costs, and from affirmative relief against it, beyond the demand or property in controversy. *The Siren*, 152.

STATE. See *Constitutional Law*, 2; *Texas*.

STATUTES. See (for the construction of statutes, either State or Federal, involving questions upon, or touching in some way these heads) *Alabama; Arbitrament and Award; Collector; Collision; Conflict of Jurisdiction*, 1, 2, 3, 5, 6; *Constitutional Law*, 4; *Contract*, 4; *Customs of the United States; District of Columbia; Evidence*, 4; *Illinois; Information*, 4; *Informer; Inspection; Internal Revenue; Iowa; Jurisdiction; Land Office; Louisiana; Mail, The United States; "Meander Lines;" Minnesota; Municipal Bonds; Naturalization; Patent*, 1, 8; *Practice*, 13, 14, 16; *Public Lands; Rebellion, The; Riparian Owners; Secretary of the Treasury; Ships and Shipping; Tender*, 1, 2, 3; *Texas; Wisconsin.*

1. A benevolent statute of the government, made for the benefit of its own citizens, and inviting and encouraging them to settle on its distant public lands, will be liberally construed, especially if aided by the context. *Silver* v. *Ladd*, 219.
2. An enactment in a State law, that the collecting agents of the counties shall pay over to the State treasurer, "in coin," the full amount of the taxes, requires by legitimate, if not necessary consequence, that the taxes named be *collected* in coin. *Lane County* v. *Oregon*, 71.
3. The notes of the United States, issued under the Loan and Currency Acts of 1862 and 1863, are engagements to pay dollars; and the dollars intended are coined dollars of the United States. *Bank* v. *Supervisors*, 26.

TAXATION. See *Wisconsin.*

TENDER. See *Agent; Statutes*, 2, 3.

1. The clauses in the several acts of Congress of 1862 and 1863, making United States notes a legal tender for debts, have no reference to taxes imposed by State authority. *Lane County* v. *Oregon*, 71.
2. Nor to a bond, given in December, 1851, for payment of a certain sum in gold and silver coin, lawful money of the United States, with interest also in coin, at a rate specified, until repayment. *Bronson* v. *Rodes*, 229.
3. Nor to any contract where it appears to have been the clear intent of the parties that payment or satisfaction should be made in coin. *Butler* v. *Horwitz*, 258.
4. The doctrine that bank bills are a good tender, unless objected to at

TENDER (*continued*).

the time, on the ground that they are not money, only applies to current bills, which are redeemed at the counter of the bank on presentation, and pass at par value in business transactions at the place where offered. *Ward* v. *Smith*, 447.

5. The "dollars" which the United States promise, by the notes issued under Loan and Currency Acts of 1862 and 1863, are coined dollars of the United States. *Bank* v. *Supervisors*, 26.

TEXAS.

1. The ordinance of secession of the State of Texas, and all the acts of her legislature intended to give effect to that ordinance, were absolutely null and utterly without operation in law. Texas continued to be a State of the Union, notwithstanding all her acts of rebellion, and notwithstanding that she was still without Representatives in Congress; and under the reconstruction acts was under military government of the United States. *Texas* v. *White*, 700.
2. Purchasers of bonds of the United States, issued payable to that State or *bearer*, alienated during rebellion by the insurgent government, and acquired after the date at which the bonds became redeemable, are affected with notice of defect of title in the seller. *Ib.*

UNITED STATES. See *Sovereignty.*

USURY.

It will not be presumed that a note dated on one day for a sum payable with interest from a day previous, was for money first lent on the day of the date. *Ewing* v. *Howard*, 499.

WISCONSIN.

A provision in a statute of, under which a town issued its bonds to a railroad, that a tax requisite to pay the interest on these bonds should be levied *by the supervisors* of the town, is not exclusive of a right in *the town clerk* to levy the tax under a general statute making it his duty to lay a tax to pay all debts of the town; a mandamus having issued under the first act, but after efforts to make it productive, having produced nothing. *Morgan* v. *Town Clerk*, 610.

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