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2. The proceeds of the sale of a bankrupt's goods being in the hands of one sued as a defendant, another person who had a like judgment and execution levied on the same goods is not a necessary party to this suit, being without the jurisdiction. The rule laid down as to necessary parties in chancery. *Ib.*
3. The proceeds of the sale being in the hands of a bank, though it had given the sheriff a certificate of deposit, the assignee was not obliged to move against the sheriff in the State court to pay over the money to him, but had his option to sue the bank which had directed the levy and sale and held the proceeds in its vaults. *Ib.*
4. The defendant having money received as collections for the bankrupt delivered it to the sheriff, who levied the defendant's execution on it and applied it in satisfaction of the same. This is a fraudulent preference, or taking by process under the act, and does not raise the question whether if the defendant had retained the money it could be set off in this suit against the bankrupt's debt to the defendant. *Ib.*

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5. So taking a check from the bankrupt and crediting the amount of the check then on deposit, on the bankrupt's note the day before taking judgment, was a payment by way of preference and therefore void, and does not raise the question of set-off. *Ib.*
6. The two clauses of the 35th section of the Bankrupt Act, construed and held to differ mainly in their application to two different classes of recipients of the bankrupt's property or means. *Gibson* v. *Warden*, 244.
7. Where an assignee in bankruptcy claims a fund as the property of his bankrupt, which some time before the bankruptcy a firm of which the bankrupt was a member transferred to a third party, and which the transferee now claims adversely to the assignee, the proceedings in the District Court should not be summary and under the first section of the Bankrupt Act, but formal and under the second clause of the third section. *Smith* v. *Mason, Assignee*, 419.
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1. The bill delivered to the shipper of the goods shipped is the bill that makes the contract concerning them, and if it is different from the one retained by the ship, *it* and not the "ship's bill," is evidence of the contract. *The Thames*, 98.
2. Goods shipped under a bill of lading must be delivered to the person named in it or to his order, and under no circumstances may be delivered to a mere stranger. The obligation of the ship stated where the indorsee of the bill is unknown. *Ib.*
3. The indorsee of a, may libel a vessel for non-delivery of the goods shipped, though he be but an agent or trustee of the goods for others. *Ib.* And see *The Vaughan* v. *Telegraph*, 258.
4. A "clean" bill of lading, that is to say a bill of lading which is silent as to the place of stowage, imports a contract that the goods are to be stowed *under* deck. *The Delaware*, 579.
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COLLISION. See *Lights at Sea and on Rivers.*

1. When navigating in a port, it is no excuse for a steamer which runs against another vessel 200 feet and more outside of the ordinary channel, and between 300 and 400 feet out of the ordinary track of steamers, that she was rounding a point and coming into her dock; and that she could not see in consequence of a fog, and that she *supposed* she was at the right place to change her course. *The Bridgeport*, 116.
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4. Though a steamship pursuing, in a crowded harbor, for her own greater convenience in getting into dock in a particular state of the harbor, a channel not entirely the ordinary one for vessels of her size, be bound to more than ordinary precaution, yet if she has a right to use that channel and do take such more than ordinary precaution, she is not responsible for accidents to other vessels that, with it all, were inevitable. *The Java*, 189.
5. The fact that a steamship is in charge of a pilot taken conformably to the laws of a State, is not a defence to a proceeding *in rem* against her for a tortious collision ; the laws of the State providing only that if a ship coming into her waters, refuse to receive on board and pay a pilot, the master shall pay the refused pilot half pilotage, and no penalty for the refusal being prescribed. *The China* (7 Wallace, 58) affirmed. *The Merrimac*, 199.
6. A steamship of 2000 tons having a tug, each of 500 tons, on each side, condemned as guilty of a rash act for sailing in a place from 70 to 75 feet wide, which had little or no more than the width of the ship and tugs abreast, between a buoy which indicated an entire obstruction of navigation, and a ship aground with a steamtug on each side. *Ib.*
7. Where a ship ordered a tug to tow her out of harbor to sea when the navigation was made dangerous by wind, tide, and ice, and the master of the tug remonstrated, and finally went only on the ship's owners insisting and on their agreeing to take the risk of all accident, both ship and tug were held liable on a libel for a collision, there being in addition some evidence of faulty navigation. *The Mabey and Cooper*, 204.

COMMISSIONERS OF TAXES.

1. Though "*authorized*" under the act of 6th February, 1863, to bid off property to the United States "at a sum *not exceeding* two-thirds of its assessed value," are not bound to bid it up so as to make it bring in all cases that much. *Turner* v. *Smith*, 553.
2. Under this act and that of June 7th, 1862, the tax commissioners are not bound to hunt up the real owners. The tax laid is a direct tax on the land and on all the estates, interests, and claims connected with or growing out of it. A rent charge is accordingly cut off and destroyed by a sale of the land. *Ib.*

CONCEALMENT. See *Insurance*, 6.

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CONSTITUTIONAL LAW.

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CONSTITUTIONAL LAW (*continued*).

pavement. The tax need not be a general one on the city. *Willard v. Presbury*, 676.

CONTRACT.

1. In the matter of a contract, a distinction sometimes exists between a *motive* which may induce entering into it and the actual consideration of the contract. This subject illustrated. *Philpot* v. *Gruninger*, 570.
2. A consideration moving to A. and B., with whom C. afterwards enters into partnership, and of which consideration C. thus gets the benefit, will support a promise by C. *Ib.*
3. Confederate treasury notes, which were in ordinary use during the rebellion, how far a valid consideration for. *Delmas* v. *Insurance Company*, 661.
4. Equity will not readily set aside a reasonable one, made for the sake of peace, though want of money may have been an inducing cause with one of the parties to the making of it. *French v. Shoemaker*, 315.

CONTRACTOR. See *Satisfaction of Claim.*

CORPORATE EXISTENCE. See *National Banks*, 2.

CORPORATE SECURITIES.

When a corporation has power under any circumstances to issue negotiable securities, the *bonâ fide* holder has a right to presume that they were issued under the circumstances which give the requisite authority, and they are no more liable to be impeached in the hands of such a holder for any infirmity than any other commercial paper. *City of Lexington* v. *Butler*, 282.

CORPORATION. See *Corporate Securities.*

COUPON.

Statutes of limitation will not bar suit on, unless the time be sufficient to bar suit on bond also. *City of Lexington* v. *Butler*, 282.

COURT AND JURY. See *Evidence*, 8; *Practice*, 7.

1. When a plaintiff presents as an important part of his case a written proposal, and then insists on a recovery on the ground of mere suspicion that there was a verbal proposal differing from it, it is the duty of the court, if there is no evidence at all of such different verbal proposal, to tell the jury when requested that there is none; and to tell them that they may in such a case find such a verbal proposition is error. *Ward* v. *United States*, 28.
2. Where there is such a written proposal it is the duty of the court, at the request of either party, to construe it, and in doing so the admitted facts concerning the relation of the parties to the transaction are to be considered. *Ib.*
3. Parties may by consent waive a jury in the District Court, and state a case for the court independently of any legislative provision. *Henderson's Distilled Spirits*, 44.
4. Whether—under a policy which provides that fraud or false swearing in furnishing the preliminary proofs of loss, or in an examination which by the terms of the policy the assured, on a claim for loss, was

COURT AND JURY (*continued*).

bound to submit to—there has been such fraud or false swearing is a question for the jury. *Insurance Company* v *Weides*, 375.

5. Whether the evidence before a jury does or does not sustain the allegations in a case is a matter wholly within the province of the jury, and if they find in one way, this court cannot review their finding. *Gregg* v. *Moss*, 564.

COURT OF CLAIMS.

1. The 4th and 5th rules regulating appeals from, were designed to enable a party to secure a finding of fact on any point material to the decision by that court. *Mahan* v. *United States*, 109.
2. But a failure of the court to find the fact as the party alleges it to be, will not justify the bringing of all the evidence on that subject before the Supreme Court, though on a refusal of that court to make any finding on the subject, the Supreme Court may remand the case for such finding. *Ib*
3. Directed, by the Supreme Court, to interpret an act of Congress, passed for the furtherance of hearing a claim against the government, in a liberal spirit, and not in a narrow view of the legislative intention, and so as to give substantial effect to technical defences. *Cross* v. *The United States*, 479.

DAMAGES. See *Patent*, 4–8.

DE INJURIA.

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DECEDENTS' ESTATES. See *Parties*, 2–5.

DEED.

1. When one executed by a single partner in the firm name may be regarded as that of the firm. *Gibson* v. *Warden*, 244.
2. One executed by an attorney appointed by a husband and wife under a power drawn in France, and with the verbiage which notaries there usually indulge in, to sell the lands in the United States of the husband and wife, the husband owning lands here, but not the husband and wife, *held* sufficient in favor of a *bonâ fide* purchaser, long in possession, to convey the husband's lands. *Dolton* v. *Cain*, 472.

DEMURRER. See *Pleading*, 2.

DERELICT. See *Salvage*.

The master, officers, and crew of a vessel, with every person on board, having gone off, in extreme anxiety for their personal safety, from the vessel on to another which they had brought to them by signals of distress, the mere expressed intention by the master to employ if possible a tug to go and rescue his vessel (she then lying at anchor in a violent gale), to which expression of intention, the person to whom it was made replied, that he "could not get a tug that would come and bring the boat in, as the weather was too rough," was held not sufficient to deprive the vessel of the character of a derelict, so far as timely effort to save her was contemplated. *The Laura*, 336.

DESIGNS. PATENTS FOR. See *Patents*, 1, 2.

DISTILLED SPIRITS. See *Internal Revenue*, 1

DISTILLERS' BOND. See *Internal Revenue*, 3.

DISTILLERY WAREHOUSE. See *Internal Revenue*, 4

DISTRIBUTIVE SHARE. See *Parties*, 2–5.

DISTRICT OF COLUMBIA.

An appeal from a proceeding in bankruptcy disposing under the first section of the Bankrupt Act of certain claims (see *supra*, *Bankrupt Act*, 8), lies from the Supreme Court of the District of Columbia, to the Supreme Court of the United States. *Smith* v. *Mason*, *Assignee*, 419.

EJECTMENT. See *Pleading*, 1.

EQUITABLE OWNERSHIP.

In a party hiring a vessel with the privilege of buying her at a price named, crediting the money paid for hire, distinguished from an affreightment *Propeller Company* v. *United States*, 670.

EQUITY. See *Parties*, 2–6.

1. The rule stated as to necessary parties in a proceeding in. *Traders' Bank* v. *Campbell*, 87; *Bigler* v. *Waller*, 297.
2. Will not set aside a contract whose purpose is a settlement of disputes, simply because one party to it was in want of money when he made it, and because such want may have been an inducing cause for his making it; the party having been an intelligent person, who acted deliberately and with knowledge of what he was doing. *French* v. *Shoemaker*, 315.
3. Will consider that a party to a contract who, when the act of the other side renders impossible literal performance, has performed all that can be reasonably expected of him, comes in certain cases within the character of a party performing his part. *Dolton* v. *Cain*, 472.
4. Will look through forms to substance, and protect a *bonâ fide* purchaser long in possession under a deed of *cestui que trusts*, and plainly intended for their benefit, from disturbance by conveyance, long afterwards, from the heirs of the party named in the deed as trustee, and now claiming the land under a sharp and mere technical rule of conveyancing. *Ib.*

EVIDENCE. See *Charter Party*, 2; *Court and Jury*; *Insurance*, 1.

1. Parol evidence not admissible to show, in the case of a "clean" bill of lading, that there was an agreement to stow the goods on deck. *The Delaware*, 579.
2. A presumption exists *primâ facie* that the military and fiscal officers of the United States have done their official duty. *United States* v. *Crusell*, 1.
3. To show that a person to whom a deed has been made conveying property in trust did not accept the trust, a declaration not under seal, but signed by him, nine years after the deed, making known to all whom the matter concerned, "that immediately on his receiving notice of

EVIDENCE (*continued*).

the conveyance he did positively refuse to accept, or to act under the trust intended to be created, and that he had at no time since accepted the trust or acted in any wise as trustee in relation to it," is proper evidence; the party making the declaration being dead and his handwriting proved. *Armstrong* v. *Morrill*, 120.

4. Courts may take judicial notice of the fact that, by the common consent of mankind, certain rules of navigation, fixing the number, color, position, power, &c., of lights to be used at sea by night. on steamers and sailing vessels respectively, so as the better to guard against collision by establishing a uniform rule on the subject, have been acquiesced in, as of general obligation. *The Scotia*, 170.
5. An amended answer in admiralty, setting up an improbable defence, and one quite departing from that set up in the original answer, treated unfavorably. *The Mabey and Cooper*, 204.
6. A statement in figures of the value of certain merchandise destroyed by fire, which statement professed to be a copy of another and original statement contained in a book—itself destroyed in the fire—accompanied by proof that on a certain day the witnesses took a correct inventory of the merchandise and that it was correctly reduced to writing by one of them and entered in the volume burnt, and that what is offered is a correct copy, may, on a suit against insurers, be received in evidence to fix the value of the merchandise burnt, even though there be no *independent* recollection by the witnesses affirming to the correctness of the original statement of what they found the value of the merchandise to be. *Insurance Companies* v. *Weides*, 375.
7. The result of an undertaking is sometimes a safe criterion by which to judge of an act which caused it. *The Steamer Webb*, 406.
8. The Supreme Court on error to judgments of Circuit Courts when acting in the place of juries, under the act of March 3d, 1865, cannot pass on the weight of evidence. *Dirst* v. *Morris*, 484.
9. A plaintiff in ejectment, claiming under a deed made on a sale in a foreclosure of a mortgage, may properly put in evidence the record of the proceedings in foreclosure, even though the defendant claim by a deed absolute made by the mortgagor, prior to giving the mortgage under which the foreclosure took place. *Ib.*
10. On an issue between a partnership and third parties as to the day when the partnership was formed, the mere articles of partnership are not evidence in favor of the partnership It must be shown by extrinsic evidence, that they were made on the day when they purport to have been made. *Philpot* v. *Gruninger*, 570.

EXECUTOR. See *Annual Rests*.

FORECLOSURE. See *Evidence*, 9.

Where the terms of a mortgage or deed of trust require that before any foreclosure or sale under it is made, sixty days' notice shall be given in certain newspapers, a sale without the notice conveys no title. *Bigler* v. *Waller*, 297.

FORFEITURE. See *Internal Revenue*, 1.

Where a forfeiture is made absolute by statute, a decree of condemnation relates back to the time of the commission of the wrongful acts, and takes effect from that time, and not from the date of the decree. The doctrine strictly applied and to a hard case. *Henderson's Distilled Spirits*, 44.

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HOMESTEAD LAWS OF ILLINOIS.

The nature of the homestead right under them and the effect of a judicial sale of the property in which it exists or has existed considered. *Black* v. *Curran*, 463.

HUSBAND AND WIFE. See *Deed*, 2.

ILLINOIS. See *Homestead Laws of.*

Under certain of its limitation laws, it is not necessary in ejectment that the defendant's entire title be evidenced by acts of record. What is sufficient, stated. *Dolton* v. *Cain*, 472.

INFRINGER. See *Patents*, 2; 4–8.

INNOCENT PURCHASER. See *Purchaser without Notice.*

INSURANCE. See *Court and Jury*, 4; *Evidence*, 6.

1. Under a policy one of whose conditions is that in case of loss the assured, after furnishing evidence of his loss, shall submit to an examination under oath, and until such examination should be permitted, no loss should be paid; the insurers cannot as a condition of recovery compel the assured to answer questions as to the sum per cent. of claim for which he had settled with other parties insuring him. *Insurance Companies* v. *Weides*, 375.
2. Under a policy one of whose conditions is that fraud or false swearing on the part of the assured in an examination which, by the terms of the policy, he was bound to submit to on a claim by him for loss, it is only fraudulent false swearing in furnishing the preliminary proofs or in the examination which avoids the policy. *Ib.*
3. What may not be asked for, when one of the conditions is that in case of loss the assured shall produce "*certified copies*" of all bills and invoices, the originals of which have been lost, and exhibit the same for examination to any person named by the insurers, and that until the proofs, declarations, and certificates are produced and examinations and appraisals permitted the loss shall not be payable. *Ib.*
4. Insurance may be effected in the name of a nominal partnership where the business is carried on by and for the use of one of the partners. *Phœnix Insurance Company* v. *Hamilton*, 504.

INSURANCE (*continued*).

5. In case of an insurance thus effected, where no representations are made with regard to the persons who compose the firm, there is no misrepresentation on that subject which avoids the policy. *Ib.*
6. And where the firm has no actual care or custody of the property insured (grain), but so far as regards its preservation from fire, it is entirely in the control of the other parties, and is so understood to be by the company making the insurance; the omission to inform the insurance company of an agreement of dissolution previously made cannot be considered a concealment which will avoid the policy. *Ib.*

INTEREST. See *Patents*, 7, 8.

Eight per cent., with annual rests, held to have been properly charged against a fraudulent administrator in a State where as high as ten per cent. is allowed. *Hook* v. *Payne*, 252.

INTEREST WARRANT. See *Coupon.*

INTERNAL REVENUE. See *Collector; Forfeiture; Stamps.*

1. A removal of distilled spirits from the place where distilled to a bonded warehouse of the United States, if made with *intent* to defraud the United States of the tax due on the spirits, is illegal, and, though the intent was never executed, the spirits removed are subject to forfeiture. Removal to even such a place *may be* part of a scheme to defraud the government of its duties. *Henderson's Distilled Spirits*, 44.
2. The 5th section of the act of July 14th, 1870,—by which the power of collectors of internal revenue to post-stamp certain instruments of writing and remit penalties for the non-stamping of them when issued, is extended in point of time,—applies to notes issued before the passage of the act as well as to notes issued subsequently. *Pugh* v. *McCormick*, 361.
3. On a distiller's bond, given under the 7th section of the Internal Revenue Act of July 20th, 1868, conditioned that the obligors "shall in all respects comply with all the provisions of law in relation to the duties and business of distillers," the condition is prospective as well as present, and embraces such provisions of law relating to the duties and business of distillers as may be in force during the term for which the bond is given, whether enacted before or after its execution. *United States* v. *Powell*, 493.
4. The "distillery warehouses" which distillers are required by the 15th section of the same act to provide, situated on their distillery premises, are "bonded warehouses," within the meaning of the joint resolution of Congress of March 29th, 1869, which declares that the proprietors of all "internal revenue bonded warehouses" shall reimburse to the United States the expenses and salary of all storekeepers put by it in charge of them. *Ib.*
5. These expenses properly include *per diem* wages paid to storekeepers for taking charge of them on Sundays. *Ib.*

INTERPRETATION OF ACTS OF CONGRESS.

Acts for the furtherance of hearing a claim against the government in the

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Court of Claims, not to be interpreted in a narrow view, and so as to give substantial effect to technical defences. *Cross* v. *United States*, 479.

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JURISDICTION. See *Ministerial Officers.*

I. OF THE SUPREME COURT OF THE UNITED STATES.

(*a*) It HAS jurisdiction—

1. Of appeals from the highest State courts, under the 25th section of the Judiciary Act, only in a limited number of cases, and this court, in a pointed way, calls the attention of the bar of the court generally to the fact that much expense would be saved to suitors, if before they advised them to appeal from decisions of these courts to this one, they would see that the case was one of which this court had cognizance under the section. *Hurley* v. *Street*, 85.
2. Of a judgment of a State court holding void a contract of which the consideration was the notes of the Confederate States in ordinary use as money during the rebellion, when the judgment holding the contract void was based on a constitutional or legislative enactment passed after the contract was made and not on general grounds of public policy. *Delmas* v. *Insurance Company*, 661.
3. (Other things allowing) of a writ by one defendant, on a judgment against three, the defendant who prosecutes the writ having given notice to his co-defendants of his intention to prosecute it, and there being a refusal by them to co-operate. *O'Dowd* v. *Russell*, 402.
4. As of a "final" judgment, of a judgment in a court of last resort, that a judgment against A. (who had been sued for not faithfully discharging the duties of a vendue-master of a city and been held discharged under the Bankrupt Act) be reversed. As also as of the same final nature, of a judgment in a court of last resort, that a judgment in an inferior court, holding B. and C. (the sureties of A. on his bond as vendue-master) liable, be affirmed. *Ib.*
5. Of appeals from proceedings in bankruptcy from the Supreme Court of the District of Columbia in certain cases. *Smith* v. *Mason, Assignee*, 419.

(*b*) It has NOT jurisdiction—

6. Under the 25th section of the Judiciary Act, unless it can be seen from the record that a State court *decided* the question relied on to give this court jurisdiction. *Cockroft* v. *Vose*, 5.

JURISDICTION (*continued*).

7. Nor under that section, when the decision of the State court is made on precedents of general jurisprudence of this court or on one of its own similar pre-existent rules; notwithstanding (in the latter case) that the State have subsequently made the rule one of the articles of its constitution. *Caperton* v. *Bowyer*, 216; *Tennessee Bank* v. *Bank of Louisiana*, 9; *Palmer* v. *Marston*, 10; *Sevier* v. *Haskell*, 13.
8. Nor under that section, if the judgment of the State court *may* have been given on grounds which the section does not make cause for error, as well as upon some ground which it does so make. *Steines* v. *Franklin County*, 15; *Kennebec Railroad* v. *Portland Railroad*, 23.
9. Nor under that section, when nothing appears in the record to show on what grounds the decision of the matter in which the Federal question is alleged to be involved was made. *Caperton* v. *Bowyer*, 216.
10. Nor under that section, *of necessity*, and in the presence of disproof in the record, merely because a certificate of the presiding justice of the highest court of a State may certify that there was drawn in question the validity of an act of the State, on the ground that it was repugnant to the Constitution of the United States, and that the decision was in favor of its validity. *Ib.*
11. Nor under that section, unless the record shows that more than one Federal question was decided when the certificate certifying that a certain one which it mentions was, is silent as to any other, and when this court considers that the certificate in what it does mention is disproved by the record; and when, moreover, the case may have been well decided on grounds not Federal. *Ib.*
12. Nor under that section when the writ is taken on the ground that the provision of the Constitution which ordains that "full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State," has been violated by a refusal of the highest State court to give proper effect to a judicial record of another State, unless it appear that the record have been authenticated in the mode prescribed by the act of May 26th, 1790, "to prescribe the mode in which the public acts, records, and judicial proceedings in each State shall be authenticated, so as to take effect in every other State." *Caperton* v. *Ballard*, 238.
13. Nor where the decision of the State court consists only in granting or refusing to grant a motion for a rehearing in an equity suit. *Steines* v. *Franklin County*, 15.
14. Nor (when the State court is composed of a chief justice and associates) unless the writ be allowed by the chief justice himself. *Bartemeyer* v. *Iowa*, 26.

II. OF THE CIRCUIT COURTS OF THE UNITED STATES.

(*a*) They HAVE jurisdiction—

15. Under the act of March 2d, 1867, of a suit brought by the assignee of a chose in action, when the case has been transferred under that act from a State court into one of them. *City of Lexington* v. *Butler*, 282.
16. Of negotiable paper (other things allowing), though the plaintiff be an assignee of it. *Ib.*

JURISDICTION (*continued*).

(*b*) They have NOT jurisdiction—

17. (Where the suit is between citizens of the same State) of a suit which does not relate to some matter already litigated in the same court by the same persons, and which is not either in addition to, or a continuance of, an original suit. Such second suit is an original and not an ancillary suit. *Christmas* v. *Russell*, 69.

III. OF THE DISTRICT COURTS OF THE UNITED STATES.

IV. OF THE COURT OF CLAIMS.

JURY AND COURT. See *Court and Jury.*

LAWS OF THE SEA. See *Judicial Notice.*

May be considered as created by the published rules of navigation of a great commercial nation (as Great Britain) regulating the subject of lights at sea on her vessels; which rules are afterwards adopted by another great commercial nation (as the United States) for hers, and adopted finally by nearly all other commercial nations of whatever size and importance having any shipping on the sea, as the law of their vessels, respectively, there. *The Scotia*, 170.

LEGAL TENDER.

1. A cargo was shipped from Canada to New York, October 7th, 1864, when gold was 101 per cent. above legal tender notes of the United States. The cargo was wrecked soon after, on the Hudson. On libel in the admiralty at New York, and on appeal from the District Court, the Circuit Court, on the 26th of March, 1870, when gold was only 12 per cent. above notes, gave the libellants a decree for the value in gold of the cargo on the day and at the place of shipment, converting that value, at the same time, into legal tender notes, at the rate at which such notes stood as compared with gold on the day of shipment, that is to say, when gold was 101 per cent. above legal tender notes, or, in other words, when it required $201 legal tender notes to buy $100 of gold. On appeal to this court (the difference between gold and notes having now sunk to about 9 per cent.), *held* that this decree was right. *The Vaughan and Telegraph*, 258
2. A decree ordering payment in coin of a debt contracted before the passage of the Legal Tender Acts reversed, on the authority of the *Legal Tender Cases* (12 Wallace, 475). *Bigler* v. *Waller*, 298.

LIBEL IN ADMIRALTY.

A bill of lading indorsed and sent to the consignees, who make, on the receipt of it, advances on the cargo, gives the consignees sufficient title to maintain a libel in admiralty against a vessel by whose tortious collision with the vessel in which the cargo consigned to them was coming, the cargo has been wrecked and lost. *The Vaughan and Telegraph*, 258. And see *The Thames*, 98.

LIEN IN ADMIRALTY.

1. While courts of admiralty are not governed by any statute of limitations, they adopt the principle that laches or delay in the judicial en-

LIEN IN ADMIRALTY (*continued*).

forcement of maritime liens, will, under proper circumstances, constitute a valid defence. *The Key City*, 653.

2. No arbitrary or fixed period of time has been, or will be established, as an inflexible rule; but the delay which will defeat such a suit must, in every case, depend on the peculiar equitable circumstances of that case. *Ib.*

3. When an admiralty lien is to be enforced to the detriment of a purchaser for value, without notice of the lien, the defence will be held valid under shorter time and a more rigid scrutiny of the delay than when the claimant is the party who owned the property when the lien accrued. *Ib.*

LIGHTS AT SEA AND ON RIVERS.

1. A boat fastened to shore and out of the proper path of vessels navigating in a port is not bound in the absence of a harbor regulation requiring it to keep a light on deck. *The Bridgeport*, 116.

2. The sorts of lights which steamers and sailing vessels, British, American, and others are required to show at sea since the rules of navigation established by the British Orders in Council of January 9th, 1863 (prescribing the sorts of lights to be used on British vessels) and by our act of Congress of April 29th, 1864, adopting them, and by acceptance, before April, 1857, as obligatory, by almost all states of the world which have shipping on the Atlantic Ocean—the whole matter considered in detail and passed on in a case of collision at sea, and a rule of uniformity enforced. *The Scotia*, 170.

3. Although one vessel may be sailing at night with lights other than those whose use is made obligatory on her by acts of Congress, and may by actually misleading another vessel tend to cause a collision, yet this will not discharge the other vessel if she, on her part, have suffered herself to be misled by the wrong lights when, if she had been intelligently vigilant, other indications would have pointed out or led her to suspect that the vessel was not what her lights indicated. *The Continental*, 345.

LIMITATION OF ACTIONS. See *Coupon; Lien in Admiralty.*

LIMITATION, STATUTES OF. See *Coupon; Lien in Admiralty.*

LOUISIANA.

Inchoate rights to land in the Territory of, such as some made A.D. 1789, were of imperfect obligation on the United States when succeeding A.D. 1803 to the ownership of the region. Their nature and obligation stated. *Dent* v. *Emmeger*, 308.

MANDAMUS.

Cannot perform the office of appeal or writ of error; and will not lie to a Circuit judge to compel him to entertain jurisdiction of a cause on appeal from the District Court, he having once decided that the case—a controversy between a captain and crew of a Prussian vessel, and brought by appeal before him from the District Court—was not within his jurisdiction, but, under a treaty stipulation, within that of the Prussian consul alone. *Ex parte Newman*, 152.

MARINE RISKS.

1. Distinguished from war risks. *Morgan* v. *United States*, 531.
2. Extraordinary marine from ordinary marine. *Leary* v. *United States*, 607.

MATTER OF FACT. See *Court and Jury.*

MEMORY. See *Evidence*, 6.

MINISTERIAL OFFICERS.

Protected, when acting in obedience to process or orders issued to them by tribunals or officers invested by law with authority to pass upon and determine particular facts, and render judgment thereon. *Erskine* v. *Hohnback*, 613.

MISTAKE. See *Bond.*

MORTGAGE. See *Evidence*, 9; *Foreclosure; Parties*, 6.

To redeem property which has been sold under a mortgage, as is alleged, irregularly, the whole mortgage-money must be tendered, or if suit be brought, be paid into court. *Collins* v. *Riggs*, 491.

MORTGAGEE. See *Evidence*, 9; *Parties*, 6.

A mortgagee claiming under a proceeding which purported to be a foreclosure, but which was a void proceeding, is not liable for rents and profits unless he have actually received them. *Bigler* v. *Waller*, 297.

MOTION FOR REHEARING.

In an equity suit. The granting or refusal to grant by the highest court of the State, not a subject for review by the Supreme Court of the United States. *Steines* v. *Franklin County*, 15.

MUNICIPAL CORPORATION. See *Corporate Securities.*

NATIONAL BANKS.

1. May be sued in any state, county, or municipal court in the county or city where located, having jurisdiction in similar cases. *Bank of Bethel* v. *Pahquioque Bank*, 383.
2. Do not lose corporate existence by mere default in paying circulating notes, and upon the mere appointment of a receiver. *Ib.*
3. May be sued though a receiver have been appointed and is acting. *Ib.*
4. The decision of the receiver against the validity of a claim presented to him for a dividend is not final; the creditor may proceed afterwards to have the validity of the claim judicially adjudicated in a suit in a proper State court, against the bank. *Ib.*

NEGOTIABLE PAPER. See *Corporate Securities; Jurisdiction*, 16.

NOTICE. See *Foreclosure.*

OHIO.

Under the statutes of, a seal not necessary to a chattel mortgage. *Gibson* v. *Warden*, 244.

ORIGINAL BILL.

Where a bill does not relate to some matter already litigated in the same court by the same persons, and which is not either in addition to, or a continuance of, an original suit, it is an original bill, not an ancillary one. *Christmas* v. *Russell*, 69.

PARTIES. See *Libel in Admiralty.*

1. To a chancery proceeding. The rules laid down as to the necessary ones. *Traders' Bank* v. *Campbell*, 87; *French* v. *Shoemaker*, 315.
2. In a suit in the Circuit Court of the United States by a distributee of the estate of a decedent to recover a distributive share, the mere fact that the administrator is ordered to account before a master does not make parties all who were entitled to distribution, nor authorize a decree in their favor. *Hook* v. *Payne*, 252.
3. If such persons do not appear before the master no decree can be made for or against them, because they would not be bound thereby. *Ib.*
4. If they should appear and claim an interest, if there are controverted matters between them and the administrator outside of the mere accounting to be made by him, this can only be decided on proper pleadings and regular hearing by the court. *Ib.*
5. A bill which seeks to set aside a fraudulent receipt obtained by an administrator from one distributee, and to recover the amount coming to that distributee, is not a suit in which all other persons interested in the estate can be heard unless they are made parties, or make themselves parties to the suit in some appropriate mode. *Ib.*
6. A mortgagor who, on a revived bill against the personal representatives, attempted to charge his mortgagee's estate with profits because of a foreclosure which, though really void, had been gone through with in form (the mortgagee being the supposed purchaser), and has had his bill dismissed, with a decree that *he* is still owner and liable for unpaid mortgage-money, cannot object, on error, that the decree did not order the heirs of the formal purchaser (the purchaser himself being dead) to convey, if the bill have not made such heirs parties, or if they have not been called in. *Bigler* v. *Waller*, 298.

PARTNERSHIP. See *Evidence*, 10; *Insurance*, 4, 5, 6.

Where one partner, R. M., affixed his name and seal to an instrument whose *testatum* set forth that "R. M. & Sons, by R. M., one of the firm, had thereto set their hands and seals," the instrument may be regarded as the deed of all the partners on proof that prior to the execution the others had authorized R. M. to execute the instrument, and after execution, with full knowledge acquiesced in what he had done. *Gibson* v. *Warden*, 244.

PATENTS.

I. GENERAL PRINCIPLES RELATING TO.

1. In patents for *design*, the thing patented is the peculiar and distinctive *appearance* of an article to which the appearance is given; the sameness of effect upon the eye. *Gorham Company* v. *White*, 511.
2. If, in the eye of an ordinary observer, giving such attention as a purchaser usually gives, two designs are substantially the same,—if the resemblance is such as to deceive such an observer, and sufficient to induce him to purchase one, supposing it to be the other,—the one first patented is infringed by the other. *Ib.*
3. Where in a patent for an improvement in the process of manufacturing cast-iron railroad-wheels, only vague and uncertain directions could

PATENTS (*continued*).

be given as to the degree of foreign heat to be applied in any particular case, there, when a patentee in his specification establishes a *maximum* and a *minimum*, the ascertainment of the proper intermediate degree may be left to the skill and judgment of the operator practicing the process. *Mowry* v. *Whitney*, 620.

4. It is as true of a process, invented as an improvement in a manufacture, as it is of an improvement in a machine, that an infringer is not liable to the extent of his entire profits in the manufacture. *Ib.*

5. In such a case the question to be determined is, what advantage did the infringer derive from using the invention, over what he had in using other processes then open to the public and adequate to enable him to obtain an equally beneficial result? The fruits of that advantage are his profits, and that advantage is the measure of profits to be accounted for. *Ib.*

6. When a patent is for an entire process made up of several constituent steps or stages, the patentee not pretending to be the inventor of those constituents, his claim to the process as an entirety does not secure to him the exclusive use of the constituents singly. What is secured is their use when arranged in the process. *Ib.*

7. The profits recoverable from an infringer are the measure of the patentee's damages, and though called *profits* are really *damages;* and unliquidated until a final decree is made. *Ib.*

8. Interest upon unliquidated damages is not generally allowable, and should not be allowed before a final decree for profits. *Ib.*

9. What language will transfer an extension and renewal of a patent made under the acts of July 4th, 1836, and May 27th, 1846. *Nicolson Pavement Company* v. *Jenkins*, 452.

II. MODE OF VACATING.

10. The ancient mode of annulling or repealing the king's patent was by *scire facias* generally brought in the chancery where the record of the instrument was found. *Mowry* v. *Whitney*, 434.

11. In modern times the court of chancery, sitting in equity, entertained a similar jurisdiction by bill when the ground of relief is fraud in obtaining the patent, and in this country it is the usual mode in all cases, because better adapted to the investigation and to the relief to be administered. *Ib.*

12. But *scire facias* could only be sued out in the English courts by the king or his attorney-general, except in cases where two patents had been granted for the same thing to different individuals, and the sixteenth section of the act of July 4th, 1836, concerning patents for inventions, is based upon analogous principles. *Ib.*

13. Both upon this authority and upon sound principle no suit can be brought to set aside, annul, or declare void, a patent issued by the government, except in the class of cases above mentioned, unless brought in the name of the government or by the authority or permission of the Attorney-General, so as to be under his control. *Ib.*

III. CONSTRUCTION OF PARTICULAR.

14. Asa Whitney's patent of April 25th, 1848, for an "improvement in the

PATENTS (*continued*).

process of manufacturing cast-iron railroad-wheels," was for a process, not for a combination. *Mowry* v. *Whitney*, 620.

PENNSYLVANIA LAND LAW.

1. By the settled land laws of Pennsylvania no title can exist under a second survey, unless such second survey have been ordered by the board of property. *Improvement Company* v. *Munson*, 442.
2. The mere fact that a second survey was made is not evidence, even after a long time, as against another confessedly first, that an order for the second was made by the board of property, and that the order has been lost. And although the loss of such an order may be presumed after a lapse of time, yet the presumption can be made only where the order is shown by some kind of competent proof to have once existed. *Ib.*

PERFORMANCE. See *Equity*, 3.

PLEADING.

1. Judgment in ejectment, in favor of a single plaintiff, sustained, where some counts in the declaration alleged a possession in himself alone, at the time of the ouster, though other counts alleged the possession to have been in him jointly with others; there having been no motion in arrest of judgment or other objection made below to the judgment in the form mentioned, which was one upon a verdict thus finding. *Armstrong* v. *Morrill*, 120.
2. Where a demurrer to a special plea which is a complete avoidance of the whole cause of action is overruled and the plaintiff suffers judgment to be entered against him on the plea, the court may enter judgment on the whole case, though another plea (that of the general issue) had (against the rules of good pleading) been filed, on which issue was taken; provided the issue thus raised on the last plea have by the judgment on the demurrer been in fact disposed of and so rendered immaterial. *United States* v. *Ballard*, 457.
3. The effect of the replication *de injuriâ* considered on the authorities. *Erskine* v. *Hohnbach*, 613.
4. When to a declaration two special pleas are interposed, each setting up substantially the same defence, and by the replication to one issue is joined on the merits, and by the replication to the other an immaterial issue is formed, and upon the trial all the issues are found for the plaintiff, it is a matter of discretion in the court whether to arrest the judgment for the verdict on the immaterial issue and award a repleader with which this court will not interfere. *Ib.*

POLICY.

What representations or concealment do not avoid a policy of insurance. *Phœnix Insurance Company* v. *Hamilton*, 504.

POSSESSION

And actual reception of profits necessary to charge a mortgagee buying on a supposed foreclosure, but one really void. *Bigler* v. *Waller*, 298.

PRACTICE. See *Answer; Bankrupt Act*, 7; *Bill of Review; Parties, Supersedeas.*

1. In the Supreme Court.

(*a*) *In cases generally.*

1. The refusal of the court below to admit further proof of a fact already well established, and which this court can see from the record was not disputed at the trial, is not ground for reversing the judgment, though the evidence offered might have been competent; because the party was not injured by the ruling of the court. *Gregg* v. *Moss*, 564.

2. The incorporation of all the testimony given to a jury, and the consequent attempt of counsel to reargue here, matters of fact decided by the jury, reprehended again, as it has been before. *Ib.*

3. The granting or refusal by the highest court of a State of a motion for the rehearing of an equity suit is not a subject for review by the Supreme Court of the United States; in fact not being within its jurisdiction. *Steines* v. *Franklin County*, 15.

4. When a Supreme Court of a State is composed of a chief justice and several associates, writs of error to the court under the 25th section of the Judiciary Act must be signed by the chief justice. *Bartemeyer* v. *Iowa*, 26.

5. A notice by one of three defendants to his co-defendants of his intention to prosecute a writ of error, and a refusal by them to co-operate, is equivalent to the old proceeding of summons and severance, and the one defendant can take his writ accordingly. *O'Dowd* v. *Russell*, 402.

6. The Supreme Court will not reverse a decree because a deposition showing the amount of damages has been improperly received; there being other evidence that the damages were as great as this court finally awarded. *The Steamer Webb*, 406.

7. Cannot pass on the weight of evidence on error to the Circuit Courts, when acting under the act of March 3d, 1865, as a jury. *Dirst* v. *Morris*, 484.

8. A failure of the Court of Claims to find a fact as a party alleges it to be will not justify the bringing of all the evidence on the subject to the Supreme Court; though on a refusal of the Court of Claims to make any finding on the subject, the Supreme Court may remand the case for such finding. *Mahan* v. *United States*, 109.

9. Though error may have been committed by a court below on the then state of statutory law, yet where a statute has been passed since that court gave their judgment, changing the then existing law, so that if the judgment were reversed and the case sent back, the court would now and in virtue of the new statute have to rightly give the same judgment, that they gave before erroneously, this court will affirm. *Pugh* v. *McCormick*, 361.

(*b*) In *admiralty.*

10. Although the general rule is that a party who does not appeal cannot be heard in opposition to the decree, still where it appeared—the suit below being a libel for collision against a tug and her tow—that an

PRACTICE (*continued*).

appeal from the District Court to the Circuit Court had been taken from the entire decree, by the owners of the tow, who had ordered the tug, and who had undertaken her defence as well as their own, and thus represented the entire interest of the losing party in the suit, an appeal by the tug from the Circuit Court to this court was entertained here, though the tug had not in form appealed from the decree of the District Court. *The Mabey and Cooper*, 204.

11. A decree in admiralty in the District and Circuit Courts for a greater amount than the sum for which the sureties were bound on their bond to release the vessel, reformed by the Supreme Court so as not to exceed that sum. *The Steamer Webb*, 406.

12. Where exceptions of form are taken on a libel in admiralty in the District Court, but are not found in the record of an appeal to the Circuit Court, or from the Circuit Court to the Supreme Court, and do not appear to have been brought to the attention of the Circuit Court, or acted on in any manner by it, they must be held in the Supreme Court to have been waived. *The Vaughan and Telegraph*, 258.

II. In Circuit and District Courts.

13. Where a mortgagor has filed a bill of revivor against the personal representatives and not including the heirs of a mortgagee who had bought the mortgaged property under a proceeding *supposed* to be a valid sale of foreclosure, but which was, in fact, a proceeding wholly void, and has had the bill dismissed and a decree that he is himself still owner, and that he pay the balance unpaid of the mortgage-money, though the fact that the decree did not order the *heirs* of the mortgagee purchaser to convey, cannot be taken advantage of on error, yet the execution of the decree for payment may be stayed until the outstanding title have been brought back. *Bigler* v. *Waller*, 297.

14. Where a charge is merely ambiguous, a party dissatisfied with it ought, before the jury leave the bar, to ask the court to make it clear. He should not take his chance with a jury, and then, after the verdict is against him, claim the benefit of the ambiguity on error. *Improvement Company* v. *Munson*, 442.

15. The rule as to necessary parties in a chancery proceeding, stated. *Traders' Bank* v. *Campbell*, 87.

III In District Courts.

16. Decrees in admiralty *in rem* should not exceed the amount for which the sureties were bound on stipulations for a discharge of the vessel from the marshal's custody. *The Steamer Webb*, 406.

IV. In the Court of Claims. See *supra*, 8; *Court of Claims*.

PREFERENCE, FRAUDULENT. See *Bankrupt Act*, 1, 4, 5.

PRESUMPTION.

A *primâ facie* exists that the military and fiscal officers of the United States have done their duty. *United States* v. *Crusell*, 1.

PROBATE OF WILL. See *Purchaser without Notice*, 2.

PROCESS. See *Patents*, 4-7.

PROFITS. See *Patents*, 7, 8, 9; *Rents and Profits.*

PUBLIC LANDS. See *Auction Sales.*

PURCHASER WITHOUT NOTICE. See *Corporate Securities.*

1. When two corporations united their vessels and other property used in navigation, and formed a new corporation, in which no money was paid by either party, and in the contract of consolidation made arrangements for the payment of the debts of one or both before any dividends should be declared in the new stock, the new corporation cannot avail itself of the doctrine applicable to such a purchaser without notice; and a lien, three years and a half old, will be enforced against one of the vessels so transferred to the new corporation. *The Key City*, 653.
2. A person purchasing for value in one State under a will probated in it, on a surrogate's order of another State, where the decedent died, admitting the will to probate there, will be protected in his purchase against heirs-at-law, though after the purchase the surrogate's order have been reversed by the highest court of the State where the order was made, and the supposed will declared null; the reversal having been made after the sale and after the devisee in the will had sold out all his interest under it to the heirs-at-law; and the purchaser from the devisee not having been made a party to the proceedings setting the surrogate's order aside. *Foulke* v. *Zimmerman*, 113.

RANK IN THE ARMY.

In construing the third section of the act of March 3d, 1865, increasing the commutation price of officers' subsistence, by fixing it at fifty cents per ration, "provided that said increase shall not apply to the commutation price of the rations of any officer above the *rank* of *brevet* brigadier-general"—a brigadier-general is to be regarded as above the rank specified. *United States* v. *Hunt*, 550.

RECEIPT IN FULL.

Not necessary to satisfaction of a disputed claim of a contractor with the government, referred to a commission when *any* sum found by the commission as due has been accepted. *United States* v. *Justice*, 535.

RECEIVER. See *National Banks*, 3, 4.

RENT CHARGE.

Is cut off by a sale for taxes under the act of February 6th, 1863, and the act of June 7th, for the collection of taxes in insurrectionary districts. *Turner* v. *Smith*, 553.

RENTS AND PROFITS.

An actual pernancy of, necessary to charge one who claims only through a proceeding supposed to be a valid foreclosure, but which in fact is wholly void, and therefore no sale at all. *Bigler* v. *Waller*, 297.

RENUNCIATION OF TRUST. See *Trust.*

REPLICATION DE INJURIA.

Effect of, considered on the authorities. *Erskine* v. *Hohnback*, 613.

REPRESENTATIONS. See *Insurance*, 5.

RESTITUTIO IN INTEGRAM.
The rule applied in a case of a claim by a ferry-boat, for demurrage in getting repaired, where there was no charter rate *per day*, and where the rate was fixed by the superintendents of neighboring ferries. *The Cayuga*, 270.

RISKS.
1. War distinguished from marine. *Morgan* v. *United States*, 531.
2. Extraordinary marine from ordinary marine. *Leary* v. *United States*, 607.

SALVAGE. See *Derelict.*
A vessel undertaking in good faith to perform the office of salvor to a derelict vessel held not responsible for the latter having been wholly lost in the effort to save her. *The Laura*, 336.

SATISFACTION OF CLAIM.
Where a contractor with the United States and the United States disagree as to what is justly due to the contractor, and the question is referred to a commission constituted by proper authority to audit such claims as that of the contractor's, and the commission finds a certain sum as justly due, and the contractor receives that sum, he cannot sustain a claim in the Court of Claims for a further sum, even though he have given no receipt in full. *United States* v. *Justice*, 535.

SHIPS AT SEA. See *Judicial Notice; Laws of the Sea; Lights at Sea and on Rivers.*

SLAVE CONTRACTS. See *Jurisdiction*, 7.

SPECIE. See *Legal Tender.*

STAMPS. See *Internal Revenue*, 2.
1. Not required to an indorsement of a promissory note. *Pugh* v. *McCormick*, 361.
2. Nor to a waiver in writing, by an indorser, of demand and notice of dishonor. *Ib.*

STATUTES OF THE UNITED STATES.
The following, among others, referred to, commented on, and construed.
September 24, 1789. See *Jurisdiction.*
May 26, 1790. See *Jurisdiction*, 12.
July 4, 1836. See *Patents.*
August 29, 1842. See *Patents.*
May 27, 1845. See *Patents.*
August 30, 1852. See *Collector.*
June 7, 1862. See *Commissioner of Taxes.*
February 6, 1863. See *Commissioner of Taxes.*
March 12, 1863. See *Captured and Abandoned Property.*
April 29, 1864. See *Lights at Sea and on Rivers*, 2.
June 3, 1864. See *National Banks.*
July 2, 1864. See *Acts of Congress.*

STATUTES OF THE UNITED STATES (*continued*)
February 22, 1865. See *Washington City.*
March 3, 1865. See *Practice*, 7 ; *Rank in the Army.*
July 13, 1866. See *Internal Revenue*, 1 ; *Stamps.*
July 25, 1866. See *Lights at Sea and on Rivers*, 3.
July 13, 1866. See *Stamps.*
March 2, 1867. See *Bankrupt Act; Jurisdiction*, 5.
July 20, 1868. See *Internal Revenue*, 3.
July 14th, 1870. See *Stamps.*

STRANDING.

Under a charter to government agreeing "that the owners should bear marine risks and the government war risks," held to be a marine risk. *Morgan* v. *United States*, 531.

SUMMONS AND SEVERANCE. See *Practice*, 5.

SUNDAYS. See *Internal Revenue*, 5.

SUPERSEDEAS.

A writ of error cannot operate as a, when the record does not show that a copy of the writ was lodged within ten days in the clerk's office, nor that the bond was approved and filed within the same term. *O'Dowd* v. *Russell*, 402.

SUPREME COURT OF THE DISTRICT OF COLUMBIA. See *District of Columbia.*

SURVEY. See *Pennsylvania Land Law.*

TAX SALES. See *Commissioners of Taxes.*

TAXES. See *Washington City.*

TENDER. See *Legal Tender.*

To redeem property which has been sold under a mortgage (as is alleged irregularly) the whole mortgage-money must be tendered, or, if suit be brought, be paid into court. *Collins* v. *Riggs*, 491.

TOW AND TUG. See *Tug and Tow.*

TRANSFER OF PATENT. See *Patents*, 9.

TRUST. See *Evidence*, 3.

The mere making of a deed to one as trustee does not vest the party with title as trustee, if he never in any form have accepted the trust. *Armstrong* v. *Morrill*, 120.

TRUSTEE.

1. As *ex gr.*, the cashier of a bank, when made consignee of goods under a bill of lading, may libel a vessel for their non-delivery. *The Thames*, 98.
2. A person is not constituted a, by the mere making a deed to him in trust; he not, in any way, accepting the trust. *Armstrong* v. *Morrill*, 120.

TUG AND TOW.

A tug held responsible for bad towage much on the proof of a disaster; the court declaring that there may be cases where the result of an engagement to tow is a safe criterion to judge of the act which caused it. *The Steamer Webb*, 406.

VENDORS AND PURCHASERS. See *Auction Sales; Purchaser without Notice.*

VIGILANCE.

The measure of, required of vessels at sea to guard against collisions likely to happen through fault of other vessels, when they themselves are not, except by want of intelligent vigilance, in fault. *The Continental*, 345; *The Scotia*, 170.

VIRGINIA See *Adverse Possession*, *West Virginia.*

1. Construction given to its act of June 2d, 1788, authorizing the governor of the State to issue grants with reservation of claims to lands included within surveys then made *Armstrong* v. *Morrill*, 120.
2. Also to its act of 27th of February, 1835, declaring forfeiture for nonpayment of taxes, as affected by a subsequent private act allowing redemption. *Ib.*

WAR RISKS.

What, as distinguished from marine. *Morgan* v. *United States*, 531.

WASHINGTON CITY.

The authorities of, if authorized by Congress, may constitutionally assess upon the adjacent proprietors of lots the expense of repaving with a new and different pavement or of repaving an old pavement. The tax need not be a general one on the city. *Willard* v. *Presbury*, 676.

WEST VIRGINIA.

Her statutes of limitation of March 1st, 1865, and February 27th, 1866, remarked on. *Caperton* v. *Boyer*, 216.

WHITNEY'S PATENT. See *Patents*, 14.

WILL, PROBATE OF. See *Purchaser without Notice*, 2.

WITNESS. See *Evidence.*

WRIT OF ERROR. See *Jurisdiction*, 1-14; *Practice*, 3-5; *Supersedeas.*

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