

Chicago. No such features were disclosed in the *Thompson case*, and they are, as we think, sufficient not only to distinguish the present case from that one, but to authorize the instructions of which the company complains.

The assignments of error bring to our attention numerous exceptions taken by the company to the admission of evidence, and to the refusal to give instructions asked in its behalf. We deem it unnecessary to consider them in detail. So far as they affect the substantial rights of the parties they are disposed of by what has been said touching the charge of the court upon the essential questions in the case.

The judgment must, therefore, be affirmed. It is so ordered.

ABSTRACTS OF RECENT DECISIONS.

SUPREME COURT OF THE UNITED STATES.¹

SUPREME COURT OF ILLINOIS.²

COURT OF ERRORS AND APPEALS OF MARYLAND.³

SUPREME JUDICIAL COURT OF MASSACHUSETTS.⁴

SUPREME COURT OF MISSOURI.⁵

SUPREME COURT OF OHIO.⁶

ADMIRALTY. See *Errors and Appeals*.

Collision—Damages, where both Parties are in Fault how estimated—Statute of Limited Liability—Set-off—Practice—In cases of collision of vessels, where both parties are at fault, the rule is to divide the entire damage equally between them, and to make a decree for half the difference between their respective losses in favor of the one that suffers most, so as to equalize the burden: *Reynolds et al. v. Vanderbilt et al.*, S. C. U. S., Oct. Term 1882.

Semble, there is no good reason why the respondent, in such cases, should not have the benefit of a set-off or recoupment of his damage at least to the extent of the damage done to the libellants, provided that, in his answer, he pleads such set-off or recoupment: *Id.*

At all events, if both parties file libels, the courts of the United States have the power to consolidate the actions, and prescribe one proceeding,

¹ Prepared expressly for the American Law Register, from the original opinions filed during Oct. Term 1882. The cases will probably appear in 16 Otto.

² From Hon. N. L. Freeman, Reporter; to appear in 104 Illinois Reports.

³ From J. Shaaf Stockett, Esq., Reporter; to appear in 58 Maryland Reports.

⁴ From John Lathrop, Esq., Reporter; to appear in 132 Massachusetts Reports.

⁵ From T. J. Skinker, Esq., Reporter; to appear in 75 Missouri Reports.

⁶ From E. L. Dewitt, Esq., Reporter; the cases will probably appear in 38 or 39 Ohio St. Reports.

and pronounce one decree; which decree will be for one-half of the difference of damage suffered by the two vessels, as before stated: *Id.*

The Statute of Limited Liability is not to be applied in such a case, until the balance of damage has been struck; and then the party against whom the decree passes, may have the benefit of the statute (if he is otherwise entitled to it), in respect of the balance which he is decreed to pay: *Id.*

Quære: Whether the benefit of the Statute of Limited Liability can be accorded to any shipowner in the absence of any claim therefor in the pleadings: *Id.*

ASSIGNMENT.

Assignee not Legal Representative—National Currency Act of 1864.—An assignee for the benefit of creditors, whose trust is administered under the laws of the state, is not the "legal representative" of his assignor, within the meaning of section 30 of the National Currency Act of 1864, which, in case usurious interest has been paid to a national banking association, provides that "the person or persons paying the same or their legal representatives, may recover back in an action of debt, twice the amount of interest thus paid": *Barnet v. First National Bank*, 38 or 39 Ohio St.

Delivery of Savings Bank Book.—The delivery of a savings bank book, although unaccompanied by a written assignment, and with the intention only that it shall be held as collateral security for the payment of a debt, transfers an equitable title to the deposit represented by the book, which will prevail against a subsequent attachment of it by trustee process: *Taft v. Bowker*, 132 Mass.

ATTACHMENT.

Land Fraudulently Conveyed—Decree avoiding Conveyance subsequent to Attachment.—By the levy of an attachment upon lands which have been fraudulently conveyed, for the debt of the grantor, the attaching creditor acquires a lien which is not disturbed by a decree in chancery setting aside the fraudulent conveyance, and subjecting the property to sale, for the payment of a judgment recovered by another creditor after the levy of the attachment. The levy of the attachment, before the recovery of judgment by the other creditor and the filing of his bill, creates a prior lien on the property: *McKinney et al. v. Farmers' Nat. Bank et al.*, 104 Ill.

ATTORNEY.

Right to Compromise Suit.—The compromise of a pending suit by an attorney having apparent authority, will be binding upon his client, unless it be so unfair as to put the other party upon inquiry as to the authority, or imply fraud: *Black v. Rogers*, 75 Mo.

BILLS AND NOTES.

Right of Drawee against Drawers.—If the drawee of a bill of exchange is without funds of the drawer and pays the bill, he is entitled to be reimbursed by the drawer; and if there are several drawers part of whom are securities for the others, all are alike liable to reimburse the

drawee in the absence of any understanding to the contrary: *Church v. Swope*, 38 or 39 Ohio St.

Where a bill of exchange is made payable to S. and at the time of its execution, C. signs his name on the back, he becomes a party to the request upon the drawee to pay the bill; and in an action by the drawee to recover the amount paid in taking up the bill, C. is to be regarded as a drawer: *Id.*

BOND.

Liability of Signer whose Name does not appear in Bond.—To charge one as obligor, who has signed a bond or written undertaking, it is not necessary that his name should appear in the body of such instrument, provided the intention that he shall be so charged appears clearly from its terms taken in connection with the circumstances attending its execution: *Partridge v. Jones*, 38 or 39 Ohio St.

McLain v. Simington, 37 Ohio St. 484, followed and approved: *Id.*

COLLISION. See *Admiralty*.

COMMON CARRIER.

Regulation as to Price of Ticket purchased on Cars—Re-entry of Passenger after Eviction.—A regulation of a railroad corporation, that a passenger who shall purchase a ticket before entering its cars shall be entitled to a discount from the advertised rates of fare, but, if such ticket is not purchased, the full rate of fare shall be charged, is a reasonable regulation, and does not violate a rule prescribed by statute, that the rates of fare shall be the same for all persons between the same points: *Swan v. Man. & Law. Railroad*, 132 Mass.

A passenger who enters a railroad car at one station, and is properly expelled from it for nonpayment of his fare, at a second station, is not entitled to be carried to a third station by the same train of cars, by tendering the fare between the second and third stations: *Id.*

Act prohibiting unjust Discrimination in Rates—Constitutionality of—A State law to prevent the unjust discrimination in rates for the transportation of passengers or freight from a point within to a point without the State, though it may incidentally affect commerce between States, cannot be said to be a law regulating commerce among the States, within the meaning of the Federal Constitution, especially when it does not purport to exercise control over any railroad corporation except those that run or operate in the State, and which have domestic relations with the people of the State: *People v. W., St. L. & P. Railway Co.*, 104 Ill.

CONFLICT OF LAWS.

Lex Fori—Lex Loci Solutionis.—Defendant executed and delivered in New York a bond conditioned to indemnify the obligee against all loss or damage arising from the liability of the latter on an appeal bond which he had entered into in Louisiana, as surety, for a certain railroad company, defendant in a judgment rendered against it in the courts of that state, and which, being affirmed, he was compelled to pay. By the law of New York, any written instrument, although under seal, was subject to impeachment for want of consideration; and a pre-existing liability, entered into without request, which was the sole

consideration of the bond of indemnity sued on, was insufficient. It was otherwise in Louisiana. *Held*, that the question of validity of the bond, as dependent upon the sufficiency of its consideration, was not a matter of procedure and remedy, to be governed by the *lex fori*, but belonged to the substance of the contract, and must be determined by the law of the seat of the obligation: *Fritchard v. Norton*, S. C. U. S., Oct. Term 1882.

In every *forum* a contract is governed by the law with a view to which it is made, because by the consent of the parties that law becomes a part of their agreement; and it is therefore to be presumed, in the absence of any express declaration or controlling circumstances to the contrary, that the parties had in contemplation a law according to which their contract would be upheld, rather than one by which it would be defeated: *Id.*

The obligation of the bond of indemnity was either to place funds in the hands of the obligee, wherewith to discharge his liability when it became fixed by judgment, or to refund to him his necessary advances in discharging it, in the place where his liability was legally solvable: and as this obligation could only be fulfilled in Louisiana, it must be governed by the law of that state as the *lex loci solutionis*: *Id.*

CONSTITUTIONAL LAW. See *Common Carrier*; *United States Government*.

CONTRACT. See *Conflict of Laws*.

Alternative Agreement.—When the agreement is in the alternative, to do some particular thing, or pay a given sum of money, the court will hold the party failing, to have had his election, and compel him to pay the money: *Pennsylvania Railroad Co. v. Reichert*, 58 Md.

CORPORATION.

Right to Purchase its own Stock—Lien of Creditors on Capital Stock.—Private corporations may purchase their own stock in exchange for money or other property, and hold, re-issue or retire the same, if it is done in entire good faith, and the exchange is of equal value, and is free from all fraud, actual or constructive, and if the corporation is not insolvent or in process of dissolution, and the rights of creditors are not affected thereby: *Clapp v. Peterson*, 104 Ill.

The capital stock of an incorporated company is a fund set apart for the payment of its debts, and its creditors have a lien in equity. If diverted, they may follow it as far as it can be traced, and subject it to their claims, except as against holders who have taken it *bona fide* for a valuable consideration and without notice: *Id.*

Malicious Prosecution.—A corporation is liable to an action for malicious prosecution instituted by its authority. *Gillett v. Mo. Volley Railroad Co.*, 55 Mo. 315, overruled: *Boogher v. Life Association of America*, 75 Mo.

Assignment for Benefit of Creditors—Insurance Company.—A corporation may make an assignment for the benefit of creditors: *Schockley v. Fisher*, 75 Mo.

But an insurance company after it has violated the insurance laws

cannot make such an assignment and thus withdraw itself from the control of the insurance department: *Williams v. Commercial Ins. Co.*, 75 Mo.

COSTS. See *Executors and Administrators*.

COVENANT.

Agreement to Build and Pay for Party Wall—Covenant running with the Land.—An agreement under seal between the 'owners' or adjoining premises, whereby one is to build a party wall, one-half on the ground of each, for building purposes, and the other is to pay for one-half the cost of its construction when he uses the same, or any part thereof for a building upon his premises, when executed gives to each of the parties an easement on the lot of the other for the purpose of support of their respective buildings, which becomes appurtenant to their several estates, and as such passes to their respective assignees by any mode of conveyance that passes the title to the land itself: *Roche v. Ullman*, 104 Ill.

CRIMINAL LAW. See *Errors and Appeals*.

Larceny 'outside of the State—Indictment for bringing Stolen Goods into the State.—When a person steals goods in another state and brings them into this, the person stealing cannot be indicted and punished here for the crime committed in the former state; but the act of bringing such stolen goods into this state is a new larceny, for which the party may be indicted in the courts of this state and be punished: *Worthington v. The State of Maryland*, 58 Md.

DAMAGES. See *Admiralty*

EQUITY.

Reimbursing Party for Taxes paid by Mistake.—If a party pays taxes on land which belongs to another, under the mistaken belief of ownership, a court of equity will not grant him any relief by which he may be reimbursed the sum paid: *St. Louis, Jacksonville and Chicago Railroad Co. v. Mathers*, 104 Ill.

Joinder of Parties—When several Creditors may join in one Suit.—Two or more creditors of an insolvent corporation, after having recovered judgments for their several demands, and the return of executions issued thereon *nulla bona*, may unite in filing a creditors' bill against the corporation and its stockholders to reach unpaid subscriptions to the company, and such bill is not multifarious, as in such case there is an identity of interest in the question involved and in the relief sought, and the separate injury sustained by each complainant is produced by the same cause or wrongful acts, and also because it prevents multiplicity of suits, which is of itself a distinct source of equity jurisdiction: *Hickling v. Wilson*, 104 Ill.

ERRORS AND APPEALS.

Appeal to U. S. Supreme Court — \$5000 Limit—When a Decree in Admiralty not within.—A barge and her cargo having been injured in a collision with a steamer, their respective owners united in a libel against
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the steamer, and in the decree were awarded separate sums, which were each less than \$5000—but *together* amounted to more than that sum. *Held*, that the owners of the steamer could not appeal, as the causes of action were distinct and in favor of distinct parties: *In re B. and O. Railroad Co.*, S. C. U. S., Oct. Term 1882.

Escape of Prisoner Pending Appeal.—Where a person who has been convicted upon a criminal charge has sued out writ of error, and pending the writ makes his escape from the custody of the law, it is within the discretion of the court whether it will proceed to the hearing of the cause while the escaped prisoner is still at large: *McGowan v. People*, 104 Ill.

EXECUTORS AND ADMINISTRATORS.

Allowance of Expenditures on Contest of the Will.—Moneys expended by an executor in defending a suit to contest the validity of a will, in behalf of the personal interests of the devisees named in the will, in which suit the will is set aside, are not proper credits to be allowed against the estate. For such expenditures the executor must look to such devisees: *Shaw v. Moderwell*, 104 Ill.

Settlement of Account—Correction of Mistakes in former Account.—Upon every settlement of an account by an executor or administrator, all his former accounts may be so far opened as to correct any mistake or error therein, except as to matters in dispute between two parties which had been previously heard and determined by the court, which shall not again be brought in question without leave of the court. This includes the power to correct all errors or mistakes of the court, as well as of the executor or administrator, found in former settlements, whether as to items embraced in or omitted from such former accounts: *Watts v. Watts*, 38 or 39 Ohio St.

FIXTURES

Machinery—Mortgage.—A mortgage of land does not cover machines resting upon the floor of a building on the land, by means of iron legs, fastened to the floor by screws only for the purpose of steadying them when in use, and, which although of great weight, connected with shafting, and adapted for use and necessary in the business carried on in the building, can be moved without injury to the building and used elsewhere: *Hubbell v. East Cam. Savings Bank*, 132 Mass.

FRAUDS, STATUTE OF.

Memorandum in Writing—Failure to Deliver—Place of Signature.—The note or memorandum in writing of a contract of sale, required by the seventeenth section of the Statute of Frauds to be made and signed by the party to be charged, need not be delivered to the other party—delivery is not essential to its validity: *Drury v. Young*, 58 Md.

The place of the signature in the memorandum of sale, required by the seventeenth section of the Statute of Frauds, is immaterial; and the name may as well be printed as written. The name in the print is a sufficient signing if it be recognised and appropriated as his, by the party: *Id.*

HUSBAND AND WIFE.

Power to Purchase Lands—Lien of Vendor reserved in the Deed—Unpaid Purchase-money—Interest.—Where a married woman, with the consent of her husband, buys land and gives her promissory notes for part of the purchase-money, and a lien is reserved in the deed of conveyance for the payment of the notes, such lien may be enforced against the land, though the notes be void as against the woman personally: *Bedford v. Burton*, S. C. U. S., Oct. Term 1882.

In such case the grantee is not entitled, by reason of her coverture, to have the sale set aside and the purchase-money already paid refunded, though consenting to account for rents and profits, nor will she, or her husband, be allowed for permanent improvements erected by them. *Id.*

In such case, also, in a state where, by contract, interest above the ordinary legal rate may be stipulated for, such interest may be recovered under the vendor's lien if agreed to be given in the notes for purchase-money: *Id.*

Curtsey in Wife's Separate Estate.—A conveyance to the sole and separate use of a married woman does not debar her husband from curtesy in land of which she died in the actual possession, or the rents, issues and profits of which she received through her trustee, unless it appears from the deed that such result was intended by the grantor. A covenant on the part of the trustee to convey the property at her death as she may appoint, and in default of appointment then to her heirs, held, not to indicate such intent: *Tremmel v. Kleiboldt*, 75 Mo.

Contract for Necessaries—Ratification by Husband.—A promise by a husband to pay for necessaries which have been furnished to his wife upon his credit, if they are such as he is bound to supply her with, although accompanied by a direction to sell no more goods to her on his credit, amounts to a ratification of her contract, upon which an action may be maintained, even if she had no previous authority to purchase them: *Conrad v. Abbott*, 132 Mass.

INSURANCE. See *Corporation*.

Fire—When immediate cause of Loss.—A steamboat, on which were goods insured against "immediate loss by fire," came into collision with another steamboat. A fire caused by the collision at once broke out, and the vessel subsequently sank, with the goods insured, before they were touched by the fire. Held, that if the damage to the goods could have been avoided but for the intervention of the fire, the fire was the immediate cause of the loss, and an action on the policy of insurance could be maintained: *N. Y. & Boston Des. Exp. Co. v. Traders' & Mech. Ins. Co.*, 132 Mass.

INTEREST. See *Husband and Wife*.

INSURANCE.

Mutual Company—Knowledge of By-Laws—Usage of Company—Application of Dividends.—When a party takes out a policy in a mutual insurance company, and the contract is complete, he at once becomes a

member, and is bound by the rules and provisions of the charter and by-laws of the company, and he is presumed to have knowledge of them all: *Mutual Fire Ins. Co. v. Miller Lodge*, 58 Md.

While the charter and by-laws are explicit in requiring payment of the interest on the deposit note, at or before a fixed and definite time, the contract of insurance has reference to the time thus expressly designated, and the member is bound to take notice of it at his peril: *Id.*

Although there may be a habit or usage of the company to give notice to the members, of the amount of the annual interest, and the time of payment: yet if no obligation to give such notice is created by the charter or by-laws of the company, there is nothing in such habit or usage that could impose such a duty upon the company, with the consequence of making the notice a condition precedent to the right of the company to receive the interest on the premium note, according to the contract of insurance: *Id.*

And even if a dividend of profits were declared in favor of the policy holder, unless expressly made applicable to the payment of the annual interest on his premium note, the insurance company would neither be bound nor justified, in the absence of the assent or request of the insured, in so applying the dividend: *Id.*

JOINDER OF PARTIES. See *Equity*.

LANDLORD AND TENANT.

Eviction—What amounts to.—If wrongful acts of a lessor upon the demised premises are such as to permanently deprive the lessee of the beneficial enjoyment of them, and the lessee, in consequence thereof, abandons the premises, it is an eviction; and the intent to evict is conclusively presumed: *Skalar v. Shurte*, 132 Mass.

Assignee for Creditor—Liability for Rent.—An assignee, who, in the conduct of the business of his trust, continues in possession of premises let to his assignor does not thereby subject himself to a personal liability for the rent. To create such liability there must be a special agreement. And when the assignee is sued personally, the fact that he may have assets as assignee will not authorize recovery: *White v. Thomas*, 75 Mo.

MALICIOUS PROSECUTION. See *Corporation*.

MASTER AND SERVANT.

Duty of Master—Negligence—Railroad.—As between employees of a railroad company, whose duty it is to repair its track, while trains are using the same, and the company and its representatives, who are engaged in running trains over the same where the trackmen are so employed, it is the duty of the latter, as far as is practicable, to adopt such precautions as will guard its employees on the track from dangers incident to their employment: *Dick v. I. C. & L. Railroad*, 38 or 39 Ohio St.

Agreement between Connecting Roads—Injury to Employee of one by Servant of other.—Whatever effect an agreement between the several companies owning connecting lines of railroad, may have upon the parties thereto, it cannot have any upon strangers to it, nor alter or change the relations of either of them towards third parties, nor have the effect of making those who were employed and paid wages by either of the

contracting parties, the co-employees of the agents and workmen of the other parties, or make the others liable either severally or jointly for any loss or damage caused by the neglect of any one of them, even were the agreement silent in this respect: *Philadelphia, Wil. and Balt. Railroad Co. v. The State of Maryland*, 58 Md.

Where injury to the employ e of one of said companies occurs on the road of another of said companies, and is caused by the imperfect condition of said road, the principle that every employee assumes the risk of the negligence of his co-employee, is not applicable to him: *Id.*

NEGOTIABLE INSTRUMENT.

Coupons—Transfer after Maturity.—Where interest coupons payable to bearer on a day named, are transferred after maturity, the holder takes no better title than the transferrer had, and if they were obtained by him by fraud or theft, no title passes against the lawful owner; and he can maintain trover against the holder for their conversion: *McKim v. King*, 58 Md.

NEGLIGENCE See *Railroad*.

PARTNERSHIP.

Sale of Interest of one Partner to another—Liability of Firm Assets.—Where the members of a firm, acting in good faith, dissolve the partnership, and one member sells his interest in the partnership property to the other, the latter will not be deprived of the right to hold such property exempt from the payment of a debt thereafter asserted against him, on the ground that such debt was a partnership debt due at the time of the dissolution; nor will the fact that the partners knew the firm to be insolvent, at the time of such dissolution make any difference. *Gaylord v. Imhoff*, 26 Ohio St. 317, distinguished: *Mortley v. Flanagan*, 38 or 39 Ohio St.

Death—Right of Surviving Partner.—The executor or administrator of a surviving partner, who dies with partnership assets in his possession and while he is engaged in settling the partnership business, is entitled to the possession of such assets, and is charged with the duty of completing such settlement unless relieved from that duty by contract, or by an order of a competent court: *Dayton v. Bartlett*, 38 or 39 Ohio St.

He is not, as a matter of law, precluded from receiving compensation out of the partnership funds for his services in the performance of this duty: *Id.*

PATENT.

Prior Invention.—A device which might be made to accomplish the purpose of the patented invention, but which was not designed for that purpose, and which no person looking at or using it, would understand to have been intended to be used in the same way as the patented invention, and which was not shown to have been really used and operated in that way, held not to amount to a "prior invention:" *Clough v. Manuf. Co.*, S. C. U. S., Oct Term 1882.

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PRACTICE. See *Admiralty*.

RAILROAD.

Negligence by Employees of Sleeping Car Co.—Liability of Railroad.
—A passenger, by train of a railroad company, travelling in the coach of a sleeping car company, may properly assume, in the absence of notice to the contrary, that the whole train is under one management, and in such case, where he sustains injury by the negligence of one in the employ of the sleeping car company, he may maintain an action against the railroad company. What the effect of such notice would be is not determined: *C. C. C. & I. Railroad v. Walrath*, 38 or 39 Ohio St.

On proof of injury sustained by a passenger on a railroad train, by the fall of a berth in a sleeping car, and that the passenger was without fault, a presumption arises, in the absence of other proof, that the railroad company is liable: *Id.*

REMOVAL OF CAUSES. See *United States Government*.

Corporation of a Foreign State—When Jurisdiction of the State Court ceases—Practice.—The rule by which the individual members of a corporation created by a state of the Union, are conclusively presumed to be citizens of that State, for purposes of suit by or against the corporation, extends to corporations created by foreign states: *Steamship Co. v. Tugman*, S. C. U. S., Oct. Term 1882.

In a suit in which the jurisdiction of a U. S. Circuit Court depends upon the character of the parties, it is sufficient if their citizenship is shown, affirmatively, by the record; it need not be set out in the petition for removal: *Id.*

Upon the filing of the petition and bond required by the statute—the suit being removable—the jurisdiction of the state court absolutely ceases; and a failure to file the transcript within the time prescribed by the statute does not have the effect of restoring the jurisdiction of the state court: *Id.*

A petition and bond for removal having been filed in the state court, that court ruled that the suit was not removable, and the party seeking the removal consented to a reference and contested the suit in the courts of the state up to final judgment: *Held*, that the jurisdiction of the state court was not thereby restored, and that the consent to the order of reference was to be deemed as only an expression of preference for that one of the several modes of trial authorized by the laws of the state: *Id.*

SALE.

Delivery of Possession—Lease.—The delivery of a bill of parcels of a chattel to the purchaser, who thereupon gives to the seller a lease of the chattel, if there is no other delivery or change of possession, is not sufficient to pass the title as against a subsequent purchaser in good faith from the original seller: *Harlow v. Hall*, 132 Mass.

SLANDER.

Words known to hearer to be False.—Slanderous words are actionable, although spoken, when no one else is present, to a person who knows them to be false, and who does not repeat them until after action brought: *Marble v. Chapin*, 132 Mass.

STATUTE OF LIMITED LIABILITY. See *Admiralty*.

SURETY.

Bank Officer—Additional Employment.—The fact that the bookkeeper of a bank performs the duties of teller also, will not relieve the sureties in his bond given for the faithful performance of his duties as bookkeeper, from liability for errors committed by him in that capacity, unless the errors were in some way connected with some improper act on his part as teller, or were superinduced by his employment as such : *Home Savings Bank v. Traube*, 75 Mo.

TAXATION.

Municipal Corporations—Exemption.—Municipal corporations have no power to grant exemption from or commutation of taxes, and a contract which undertakes to do so is void : *State v. Hannibal and St. Joseph Railroad Co.*, 75 Mo.

TAXES. See *Equity*.

TROVER.

Conversion—What amounts to.—One who innocently obtains the property of another from a third party may, when informed of the right of the true owner, lawfully return it to the person from whom he obtained it, provided he does this before demand made or suit brought ; but if he asserts any title in himself, or if he returns it after demand made, he will be guilty of conversion : *Rembaugh v. Phipps*, 75 Mo.

UNITED STATES.

When Exempt from Suit—Exemption does not extend to U. S. Government Officers.—The United States cannot be sued except where Congress has provided for such suit : but this exemption does not extend to officers and agents of the United States when sued by private persons for property in their possession as such officers and agents : *Kaufman v. Lee*, S. C. U. S., Oct. Term 1882.

In such cases a court of competent jurisdiction over the parties before it, may inquire into the lawfulness of the possession of the United States as held by such officers or agents, and give judgment according to the result of that inquiry : *Id.*

The constitutional provisions that no person shall be deprived of life, liberty, or property without due process of law, nor private property taken for public use without just compensation, are intended as limitations upon the power of the government in its dealings with the citizen, and relate to that class of rights whose protection is peculiarly within the province of the judicial branch of the government : *Id.*

In regard to the life and liberty of the citizen, the courts have so often exercised the power by writ of habeas corpus that there remains no question about their right to do so. They are equally bound to give remedy for unlawful invasion of rights of property by officers of any branch of the government : *Id.*

Such suits, if commenced elsewhere, are by existing laws always re-