

tried at such court, or with any other person, in relation to the merits of such action, or receiving a communication from a party or other person in respect to it without immediately disclosing the same to the court.

"12. Disobedience by an inferior tribunal, magistrate, or officer, of the lawful judgment, order, or process of a Superior Court, or proceeding in an action or special proceeding contrary to law, after such action or special proceeding is removed from the jurisdiction of such inferior tribunal, magistrate, or officer. Disobedience of the lawful orders or process of a judicial officer is also a contempt of the authority of such officer.

"But no speech, statement or publication reflecting upon, or concerning any court, or any officer thereof, shall be treated or punished as a contempt of such court, unless made in the immediate presence of such court while in session, and in such a manner as to actually interfere with its proceedings.

"SECTION 2. This act shall take effect immediately."

This law has a feature in it which is worthy of remark from its excellent character. It is that directed against spurious lawyers, in the sixth subdivision. This is an almost inexcusable evil, as the requirements for admission to the bar are so few as to justify no one in pretending to be an attorney at law who is not.

J. B. U.

ABSTRACTS OF RECENT DECISIONS.

ASSIGNMENTS FOR BENEFIT OF CREDITORS.

A preference in an assignment is voidable only, even under the Tennessee statute, which provides that "preferences of creditors in general assignments of all a debtor's property shall be illegal and void;" and the preferred creditors are entitled to their shares *pro rata* with the other creditors: *Comer v. Tabler et al.*, U. S. C. Ct., E. D. Tenn., November 29, 1890.

CONSTITUTIONAL LAW.

The law of the State of Minnesota, forbidding the sale of oleomargarine in that State, whether manufactured therein or in any other State, and making no distinction between the importer who sells in the original package as imported, and one who sells it when the packages are broken up, is unconstitutional and void; and an agent arrested upon the charge of selling the article in violation of such law, and committed on failure to pay a fine imposed, will be released on *habeas corpus*: *In re Gooch, State of Minnesota v. Gooch*, U. S. C. Ct., D. Minn., November 25, 1890.

CRIMINAL LAW.

An application for a subpoena for witnesses will not be granted under the Revised Statutes of the United States, section 878, on behalf of an indigent person, where the indictment has not been given to the grand jury, or no bill found, as the person is not indicted: *United States v. Stewart*, U. S. D. Ct., E. D. S. C., January 7, 1891.

DAMAGES.

Exemplary damages may be awarded against a master for the acts of his servant acting within the scope of his employment, where there has

been willful misconduct on the part of the servant, and he has manifested a reckless indifference for the rights of the plaintiff, and of the consequences that might result from his action, although the master neither authorized or ratified such unlawful act: *Fell v. Northern Pac. R. Co.*, U. S. C. Ct., D. N. Dak., November 19, 1890.

MARRIED WOMEN.

In South Carolina a mortgage by a married woman of her separate estate to a mortgagee to secure her husband's debt, is void: *People's National Bank of Charleston v. Epstein et al.*, U. S. C. Ct., D. S. C., November 14, 1890.

PATENTS.

Equity only takes jurisdiction of suits for infringement when the bill shows that complainant is or may be entitled to an injunction, or some other special form of equitable relief; therefore, a bill filed the day before the patent expires makes no cause for an injunction *pendente lite*, and being filed only to obtain damages and profits, cannot be maintained; the proper remedy is at law: *American Cable Ry. Co. v. Citizens' Ry. Co. et al.*, U. S. C. Ct., E. D. Mo., January 3, 1891.

There is novelty in a machine for working roads, the combination of a carriage or body frame, supported on front and rear traveling wheels, a diagonally disposed scraper blade extending across and supported beneath said body frame, and an extended longitudinally adjustable rear axle, whereby one of the rear traveling wheels can be projected laterally beyond the working line of said diagonal scraper blade, for the purposes set forth: *American Road Mach. Co. v. Gould et al.*, U. S. C. Ct., N. D. Ill., July 22, 1890.

There is no novelty sufficient to support a patent in the design of a pin in the shape of a spoon or fork two inches long, similar in all respects to those articles in common use: *Foster v. Crossin et al.*, U. S. C. Ct., D. R. I., October 18, 1890.

RECEIVERS.

Against a mortgagee in possession a receiver will not generally be appointed in favor of subsequent lien holders, but an injunction will issue restraining the transfer or further incumbrance of the property, and applying the rents and profits of the estate in satisfaction of the mortgage: *United States v. Masich et al.*, U. S. C. Ct., E. D. La., November, 1890.

TRUSTS.

An implied trust in favor of the party in possession of property does not arise under a deed reciting "And whereas, the said land is intended to be for a residence for William Murphy [the party in possession] and his family, and the said Joseph Pennock pays toward the purchase money \$1,200, and Isaac M. Pennock * * pays \$500, and Archibald Paull * * pays \$500," executed to Joseph Pennock "in trust as well for the said Isaac Pennock and Archibald Paull as for himself, in the proportions the amount paid by each bears to the whole purchase money;" and the possession held thereunder is merely that of a tenant at will: *Mitchell et al. v. Murphy*, U. S. C. Ct., W. D. Pa., August 5, 1890.

UNITED STATES COURTS.

To give jurisdiction to a United States Circuit Court, in any case, it is essential that the bill of complaint distinctly allege that the matter in dispute exceeds in value the sum of two thousand dollars: *Oleson et al. v. Northern Pac. R. Co.*, U. S. C. Ct., D. Wash., September 9, 1890.

The decision of the Supreme Court of a State upon a demurrer is binding upon the Federal Court upon a removal of the suit to the latter court: *Lookout Mountain R. Co. et al. v. Houston et al.*, U. S. C. Ct., E. D. Tenn., December 2, 1890.

WITNESS. See CRIMINAL LAW.

The privilege given by the Revised Statutes of the U. S., § 860, that "No pleading of a party, nor any discovery or evidence obtained from a party or witness by means of a judicial proceeding in this or any foreign country, shall be given in evidence, or in any manner used against him, or his property or estate, in any court of the United States, in any criminal proceeding, or for the enforcement of any penalty or forfeiture," prevents a witness before a grand jury from claiming the privileges of the Fifth Amendment of the Constitution of the United States, as such witness is, by the Statute, as fully protected as the Constitution intended he should be: *In re Counselman*, U. S. C. Ct., N. D. Ill., December 11, 1890.

Where the testimony of a witness before a grand jury shows that he was not guilty of the offense which the grand jury was investigating, he needs no privilege, and he cannot refuse to produce papers demanded of him, as their production would not criminate him: *In re Peasley*, U. S. C. Ct., N. D. Ill., December 11, 1890.

ERNEST WATTS.