to obligations incurred prior to the passage of the law. The idea of property in men has grown gradually weaker, and since the abolishment of imprisonment for debt, has nearly vanished.

In lieu thereof, the state for its own purposes and the well-being of the individual and family, has secured what are deemed necessaries against the claims of creditors, and directed the latter to look to the integrity and property of his debtor for security.

Exemption laws now exist in all the states, and are deservedly becoming more and more popular. There is something so humane underlying them, that courts will not interfere unless they violate a plain mandate of the organic law.

We find nothing in the provisions of the Bankrupt Law which we are now considering, that is in violation of the Constitution of the United States. The order of the District Court is affirmed.

MILLER, J., concurred.

ABSTRACTS OF RECENT AMERICAN DECISIONS.

SUPREME COURT OF THE UNITED STATES.[1]

SUPREME COURT OF INDIANA.[2]

SUPREME COURT OF MAINE.[3]

SUPREME COURT OF MISSOURI.[4]

SUPREME COURT OF NEW YORK.[5]

SUPREME COURT OF PENNSYLVANIA.[6]

AGENT. See *Master, &c.*; *Pleading.*

Suit between Consignor and Factor—Order to Factor to sell—Advances by Factor—Right to determine when to sell.—In a suit between a consignor and his factors who had made advances on the consignment nearly equal to its value—the allegation of the consignor

[1] From J. Wm. Wallace, Esq.; to appear in vols. 10 and 11 of his reports.

[2] From J. B. Black, Esq., Reporter; to appear in 32 Indiana Rep.

[3] From W. W. Virgin, Esq., Reporter; to appear in 57 Maine Rep.

[4] From C. C. Whittlesey, Esq., late Reporter; to appear in 46 or 47 Mo. Rep.

[5] From Hon. O. L. Barbour; to appear in vol. 57 of his reports.

[6] From P. F. Smith, Esq., Reporter; to appear in 63 Penna. State Rep.

being non-compliance by the factors with his orders to sell—the alleged order being, however, but a verbal one, and a conflict of testimony existing as to whether such an order was given at all, an instruction was rightly refused to the consignor which rested the liability of the factor on the bare fact of an order to sell, and which made no allusion either to the advances or to the fact that three weeks after the alleged order was given, the factors wrote to their consignor a letter informing him that they had not sold his goods, as the market had been dull and on the decline every day since he left them; that the goods would not then sell for more than so much (a decline on former prices); that they would be compelled to sell unless he made other shipments, or remitted cash as a margin, the money market being tight; that they had held on thus far to *meet his views*, but that the declining tendency of the market induced them to write, *and asking to hear from him on his receipt of their letter*, which letter the consignor received, but purposely declined to answer: *Feild* v. *Farrington*, 10 or 11 Wall.

When factors have made large advances or incurred expense on account of the consignment, the principal cannot by any subsequent orders control their right to sell at such a time, as in the exercise of a sound discretion, and in accordance with the usage of trade, they may deem best to secure indemnity to themselves, and to promote the interest of the consignor; they acting of course in good faith and with reasonable skill: *Id.*

The effect of a refusal by the consignor to reply to such a letter as that mentioned in the paragraph next but one above, within a reasonable time after he received it, was to raise a presumption that he approved of what his factors had done, so far as their letter informed him, and in the absence of anything to rebut that presumption, he was to be regarded as having consented to whatever delay had occurred in effecting a sale, even though the delay was contrary to his directions: *Id.*

The receipt and non-acknowledgment of such a letter would not, however, relieve the factors from a continuing obligation to sell within a reasonable time after sending it off, all the circumstances of the case being considered, and at the best prices that could be obtained: *Id.*

Hence where, after mailing such a letter, the factors did not sell for nearly ten months afterwards, the market declining all the while: *Held*, though the letter was never acknowledged, that it was a question which should have been submitted to the jury whether the long delay to sell in view of a market falling all the while, was in the exercise of sound discretion, good faith, and reasonable diligence; and that an instruction that the consignors should bear all losses sustained after a refusal to answer the factor's letter, without excepting such portion of the loss as might have been caused by the factor's fault, was error: *Id.*

Cannot make profit for himself out of his Principal's Property.—The managing agent of a steamboat employed to secure freights and make contracts, cannot speculate for his own private advantage with the business intrusted to him. If he make a contract in his own name for freight which is carried out by the boat, he will be compelled to account for the sums received by him to his co-owners, notwithstanding he may have owned the larger share of the boat: *Rea et al.* v. *Copelin*, 46 or 47 Mo.

ASSUMPSIT.

Contract—Member of Family—Liability for Board.—Where a man lives in the family of his son-in-law, such marriage connection rebuts any presumption of an implied promise of the father-in-law to pay for board which would exist in the absence of such a relation between the parties: *Daubenspeck, Executor*, v. *Powers*, 32 Ind.

ATTACHMENT.

Whether an action in rem or in personam—Must be a Levy on Property as Foundation of Jurisdiction—Regularity of Proceedings.—Proceedings to enforce a debt or demand by attachment of the defendant's property partake of the character of suits both *in rem* and *in personam*: *Cooper* v. *Reynolds*, 10 or 11 Wall.

If there is a personal service of the process on the defendant or personal appearance by him, the case is mainly a personal action; but if in the absence of either of these the property is attached and sold, it becomes essentially a proceeding *in rem* and is governed by principles applicable to that class of actions: *Id.*

In this class of cases the court cannot proceed without a levy on the property of the defendant; and the judgment binds nothing but the property attached: *Id.*

The seizure of the property of the defendant under the proper process of the court, is, therefore, the foundation of the court's jurisdiction, and defective or irregular affidavits and publication of notice, though they might reverse a judgment in such case for error in departing from the directions of the statute, do not render such a judgment void: *Id.*

Where there is a valid writ and levy, a judgment of the court, an order of sale, and a sale and sheriff's deed, the proceeding cannot be held void when introduced collaterally in another suit: *Id.*

BOND.

Reforming.—A bond will not be reformed by striking out portions alleged to be erroneous, where there is no evidence to show that it was not drawn in exact conformity to the agreement previously made between the parties, but on the contrary the complaint alleges that the bond was drawn according to such agreement, and it is clear that both obligor and obligee understood that the bond should contain the provisions sought to be stricken out: *Garner* v. *Bird et al., Ex'rs.*, 57 Barb.

The fact that the obligor employed a lawyer, who gave him bad advice, and thereby deceived him as to his rights, and induced him to execute the bond, furnishes no authority to the court to alter the contract of the parties: *Id.*

BOUNDARY.

Deed referring to Map or Plat—Evidence dehors the Deed to show the Line.—A deed which refers to a plat of the land for one of the lines of the boundary, may be read in evidence to the jury without the production of the plat, subject to an identification of such line by competent evidence during the progress of the trial: *Dreery* v. *Cray*, 10 Wall.

A deed which refers to such a plat for one line, or which authorizes the line to be run by a certain person according to such a plat, is not void for uncertainty on its face: *Id.*

In case of such a deed made a great many years ago, though the plat is not produced, it is competent to show by other proof, written or parol, or both, that such a line existed and where it was located: *Id.*

This may be shown by long possession on each side of the line, evidenced by a fence, by the parol declarations of the parties holding under the deed on each side of the line, or by any facts which clearly establish the existence of such a line and its location: *Id.*

Hearsay Evidence—Ancient Maps and Surveys.—In trespass *q. c. f.*, "not guilty" puts the plaintiff's possession in issue, which the defendant may disprove by proving his own ancient and continued possession of the *locus in quo*: *McCausland* v. *Fleming*, 63 Penna.

Pedigree and boundary are the excepted cases wherein reputation and hearsay of *deceased* persons are received in evidence: *Id.*

Ancient maps and surveys are evidence to elucidate and ascertain boundary and fix monuments: *Id.*

No drafts when offered for title will be received except they bear an *official* character; and in this they differ from those offered to show *boundary*: *Id.*

A party claimed to what was known as the "Taylor line." On the trial he offered a draft dated forty-five years previously, proved to have been in the possession of a former owner, who claimed by it thirty-five years before, and proved also to be the handwriting of Taylor, who was a surveyor, and was dead. *Held*, to be evidence of boundary: *Id.*

BROKER. See *Evidence.*

COMMON CARRIER.

Negligence—Act of God or the Public Enemy.—When a common carrier shows that a loss was by some *vis major* as by flood, he is excused without proving affirmatively that he was guilty of no negligence: *Railroad Co.* v. *Reeves*, 10 Wall.

The proof of such negligence, if the negligence is asserted to exist, rests on the other party: *Id.*

In case of a loss of which the proximate cause is the act of God or the public enemy, the common carrier is excused, though his own negligence or laches may have contributed as a remote cause: *Id.*

The maxim *causa proxima non remota spectatur* applies to such cases as to other contracts and transactions, and ordinary diligence is all that is required of the carrier to avoid or remedy the effects of the overpowering cause: *Id.*

The mere promise of a carrier, made without additional consideration, to forward freight already on the route by an earlier train than usual, is not evidence from which a jury may infer a special contract to do so: *Id.*

Towboats.—Steam towboats or tugs are not common carriers as regards the vessels they have in tow and their cargoes. The common-law rule as to common carriers applied to goods only, and not to vessels: *Brown* v. *Clegg*, 63 Penna.

CONFEDERATE STATES. See *International Law.*

CONFLICT OF LAWS. See *Descent.*

Limitations—Lex Fori.—The statute of the state where the suit is brought is alone applicable to a cause of action accruing in another state: *Carson* v. *Hunter*, 46 or 47 Mo.

CONTRACT.

Covenant to Forbear—Breach of.—A covenant or agreement to forbear to sue on an obligation for a limited time after maturity of such obligation, though founded on a sufficient consideration, cannot be pleaded as a release, or in bar of an action on such obligation brought within the time limited. In such case, the defendant sued is left to his action for a breach of the covenant or agreement: *Irons* v. *Woodfill*, 32 Ind.

Illegal Consideration.—A promissory note, given for the purchase of slaves taken from Missouri and sold in Arkansas after the date of the President's proclamation of August 18th 1861, forbidding commercial intercourse with the insurgent states, is founded upon an illegal consideration and is void: *Carson* v. *Hunter*, 46 or 47 Mo.

Dependent Contracts.—Where a note is given in consideration of the purchase which is to be conveyed upon payment of the money, the payee cannot recover upon the note without tender of a conveyance: *Dietrich* v. *Franz*, 46 or 47 Mo.

CORPORATION.

Promissory Note—Signature.—The secretary of the "Neal Manufacturing Co., Madison, Ind.," gave a promissory note, in which were the words "we promise," &c., signed in his own name, with "Sec'y" affixed thereto, and bearing the seal of said corporation. *Held*, that he was not personally liable on the note. *Means* v. *Swormstedt*, 32 Ind.

CRIMINAL LAW.

Ohio River—Boundary of the State—Jurisdiction.—A county of this state lying along the Ohio river is bounded, on the side adjoining that river, by low-water mark; and the boundary of Kentucky opposite to such county is low-water mark on the Indiana side of the river. The proper courts of such county have concurrent jurisdiction with the courts of Kentucky over crimes committed on said river opposite to such county: *Carlisle* v. *The State*, 32 Ind.

Venue—Variance.—A variance between the allegation in an indictment as to the place where the offence was committed and the proof on the trial, the place not being a part of the description of the offence, and both places being within the jurisdiction of the court, is not material: *Id.*

An indictment for murder, in the Circuit Court of the county of Spencer, charged the offence to have been committed "at and in the said county of Spencer." The evidence tended to prove that the crime was committed on the Ohio river opposite to said county, below low-water mark. *Held*, that the variance was immaterial: *Id.*

DEBT. See *Master and Servant.*

DEBTOR AND CREDITOR. See *Evidence; Husband and Wife.*

Fraudulent Assignment—Set-off.—If an insolvent debtor take notes payable to his wife, the consideration moving from him, with intent to hinder and delay his creditors, the notes will be treated as an assignment of the debt to the wife and fraudulent as to creditors. If the payees of the note when sued by the wife have a claim against the husband which would be a competent set-off at law, they may plead this debt as an equitable set-off against the wife, the husband being insolvent: *Reppy* v. *Reppy*, 46 or 47 Mo.

Fraudulent Conversion of Debtor's Property.—Although one may have intended to defraud the creditors of another by taking and converting his property into cash, such intention will be rendered harmless by his delivering the proceeds of the sale to the debtor, or his wife as authorized agent: *Cramer, Receiver, &c.*, v. *Blood*, 57 Barb.

And if he subsequently receives a portion of such proceeds, with like intent, from the debtor's agent, for the use of the debtor and his wife, and to be handed over to them or for their use as they may want, such intent will be rendered harmless by his paying over the money to creditors, or to the debtor or his wife by his directions: *Id.*

Rights of Subsequent Judgment Creditors.—A settlement between such person and the debtor, and payment of the amount due for such property or its proceeds, will discharge the former from any liability to creditors of the owner who subsequently obtain judgments against the latter: *Id.*

Creditors at Large—Fraudulent Transfers.—A creditor at large is not in a situation to question the *bona fides* of a transfer of the debtor's property; nor the right of a third person to take such property; nor his right to retain the proceeds of its sale: *Id.*

The statute in relation to conveyances of a debtor's property with the intent to delay, hinder, and defraud his creditors, has no application to a fraudulent transfer of such property by any one except the debtor; and no one can avail himself of the statute except a creditor who is hindered, delayed, or defrauded thereby. A creditor at large cannot be hindered by such transfer, within the purview of the statute: *Id.*

DEED. See *Boundary.*

DESCENT.

Personal Status.—When a canon of descent makes the right of inheritance to depend on personal *status*, such *status* must be ascertained from the *lex domicilii;* but if a statute of descent directs the inheritance of land without regard to personal *status*, then the law of another state as to such *status* can have no influence in determining upon whom the descent is cast: *Harvey* v. *Ball*, 32 Ind.

Section 123 of chapter 28, Revised Statutes 1843, which provided, that "if any man shall marry a woman who has, previous to the marriage, borne an illegitimate child, and after marriage shall acknowledge such child as his own, such child shall be deemed legitimate to all

intents and purposes," did not merely or primarily declare the personal *status* of such child, but bestowed upon it the capacities of an heir; and as a provision governing the descent of lands in this state, it operated without regard to domicil: *Id.*

EQUITY. See *Husband and Wife; Partnership.*

Power to reform Written Instruments.—The authority which a court of equity has to reform a written instrument does not extend to any alteration of a contract, but only to making the contract in which a mistake has occurred correct, by conforming it to what was actually agreed upon between the parties: *Garner* v. *Bird*, 57 Barb.

Relief from Acts done under a False Impression as to the Facts.—Courts do not relieve from acts done under a false impression as to the facts, though under a mistake of the law. The parties must be left to other remedies founded on fraud if it existed; or, if relief can be granted in any case for mistake of the law it must be founded on the fact that the adverse party had parted with nothing of value: *Id.*

ERROR.

Erroneous Instruction which did not damage the Party complaining of it.—The erroneous instruction of the court in regard to the effect of a deed of mortgage on the plaintiff's title, is no ground of reversal when this court can see that the plaintiff had no title on which the jury could have found in his favor: *Dreery* v. *Cray*, 10 Wall.

ESTOPPEL. See *Partnership.*

What amounts to.—To a suit brought for the partition of a lot, several persons who owned the rear part thereof were made parties. In the decree the description of the property ordered to be sold did not include the rear of the lot. The whole lot being sold, F., one of the owners of the rear portion, although knowing of the sale, made no objection, and accepted her share of the proceeds, but executed no release. *Held*, that her acts, in not objecting to the sale and afterwards receiving payment for her share, *estopped* her and her representatives from claiming any interest in the land; and that the sale of the lot under the decree was to be considered as conveying a good title to the whole lot, although it was not correctly described in such decree: *Garner* v. *Bird*, 57 Barb.

Although a mistake as to the law forms no ground for reforming a contract, yet where a party, acting under a mistake of law or of fact, does acts which mislead the adverse party, he is estopped, as well as if he was not acting under such mistake: *Id.*

EVIDENCE. See *Boundary.*

Declarations of Strangers to affect Title.—The declarations of a grantor after the grant cannot be received to affect the title of his grantee; but if the grantee permits the grantor to remain in actual possession, the grantor's declarations whilst in possession may be given in evidence: this is not extended to a constructive possession: *Pier* v. *Duff*, 63 Penna.

What a man in possession of land or goods says, is admissible to prove in what capacity he is there: *Id.*

The admission during his tenancy, by one under whom a plaintiff claims, affects such plaintiff only: *Id.*

Tenants in common have no community of title and interest which will make their declarations admissible against each other: *Id.*

One authorized to sell, but not in actual possession, is a mere broker, and not even constructively in possession: his declarations are not admissible to affect his principal: *Id.*

If there be even very slight evidence of complicity between a grantor and grantee to defraud creditors, the declarations of one, although after the grant, are admissible against the other: *Id.*

FACTOR. See *Agent.*

FRAUD.

Purchase by one for several Associates—Disclosure of Real Price.—Stevenson being in negotiation for oil land, proposed to form a company, represented that the land could be bought for $12,000, and induced Short to take and pay for a share of it at $1000. Stevenson bought the land for $6000, without disclosing to his associates the price which he gave: *Held*, that on these facts Short could recover his money back: *Short* v. *Stevenson*, 63 Penna.

If Stevenson had disclosed the sum for which the land could be bought, and which he paid, and refused to sell for less than $12,000, and Short had agreed to pay $1000 for a share with a knowledge of the facts, the transaction would have been unimpeachable: *Id.*

Good faith required that Stevenson should charge his associates no more for their respective shares than the amount actually paid therefor: *Id.*

FRAUDS, STATUTE OF.

Payment of Another's Debt.—Where A. sells to B. lands which are subject to the lien of a judgment, and C., the judgment creditor, agrees to accept the promise of B. to pay the judgment-debt which is credited in part payment of the purchase-money, and part of which is paid to C., the contract is not within the Statute of Frauds, and the judgment as against A. is thereby satisfied: *Bishears* v. *Rowe*, 46 or 47 Mo.

HABEAS CORPUS.

A party held under arrest by virtue of legal process by a court having jurisdiction of the person and the offence, cannot be discharged upon a *habeas corpus*, on the ground that the statute creating the offence is unconstitutional: *In re Harris*, 46 or 47 Mo.

HUSBAND AND WIFE. See *Debtor and Creditor.*

Indirect Conveyance by Husband and Wife—Mortgage.—To constitute an indirect conveyance of real estate to a married woman by her husband, within the meaning of R. S. c. 61, § 1, the deed from him must be made as one step in the conveyance to her, for her benefit, and for the purpose of getting the estate into her hands: *Bean* v. *Boothby*, 57 Me.

If the grantee of real estate mortgage it back to secure the purchase-money, and the mortgagee assign *bonâ fide* the mortgage to the wife of the mortgagor, such assignment will not operate as a discharge of the mortgage: *Id.*

And if, when the mortgage given back for the purchase-money of real estate is assigned *bonâ fide* to the wife of the mortgagor, the husband quitclaim to her, and she thereupon convey to a third person, by a deed of warranty, therein referring to the mortgage, "as having been cancelled by assignment," the mortgage will not thereby become merged, but it will be upheld: *Id.*

Fraudulent Conveyance of Property to Wife.—Only a judgment debtor can seek relief in equity, on the ground that real estate, paid for by his debtor, has been fraudulently conveyed to the debtor's wife: *Griffin* v. *Nitcher*, 57 Me.

Insurance.

Notice of Loss—Waiver of Objections to Form of Notice.—The defendants, by their policy, promised the plaintiff to pay him the amount insured upon his house, within three months next after a loss and "notice thereof given," by the plaintiff, "in writing to the secretary within thirty days from the time such may have happened." In less than a week after the loss, the defendants' local agent gave the secretary a written notice of the following tenor: "James R. Works, of ——, requests me to notify you that his house, insured in policy No. 72,272, was totally destroyed by fire on the 29th ult.;" to which the secretary replied by letter, acknowledging the receipt of the notice, and declaring that it will receive the attention of the directors, at their first meeting, and that "in all probability some one will be there to prepare the necessary papers before that time." In an action on the policy, *Held*, that no objection ever having been made to the notice, all exception thereto was thereby waived: *Works* v. *Farmers' M. F. Ins. Co.*, 57 Me.

Mutual Insurance Company—Deposit Note for Losses and other Expenses.—Where the charter of a Mutual Insurance Company provides that the deposit note shall be payable in part, or in whole, when the directors deem the same requisite for the "payment of losses or other expenses," and the remainder, after deducting such payment, to be relinquished to the signer; that every member "shall pay his proportion of all losses and expenses accruing in and to the class in which his property is embraced;" and that the policy shall create a lien upon the property insured for the security of the deposit note, "and the cost which may accrue in collecting the same;" an assessment of ninety-five per cent. additional to the actual losses in a certain class, upon the premium notes in such class to "meet estimated bad debts, interest, expenses, and costs of collection," is illegal: *York Co. Mut. Fire Ins. Co.* v. *Bowden*, 57 Me.

International Law.

Foreclosure of Mortgage by Proceedings Inside the Federal Lines during the War—Rights of Parties inside the Confederate Lines not affected by such Proceedings.—The equity of redemption of a mortgage is not ex-

tinguished by proceedings to foreclose the same during the rebellion, when such proceedings were taken within the Union lines, while the defendants were absent in the rebel lines, and were prohibited by the Federal officers from entering the Union lines: *Dean* v. *Nelson*, 10 or 11 Wall.

Limitations, Statute of.

Suspension of Running of the Statute by a Forced Disability—How long such Suspension was an enforced one.—Although the running of a Statute of Limitations to the right of suing may be suspended by causes not mentioned in the statute itself, as, for example, by the fact that the plaintiff without default of his own, has been disabled by a superior power from the capacity to sue—still, when by the removal of the disabling power, the right reverts, the question, in a case where the statute is afterwards set up as a bar to a suit, will be, "*how long* did the suspension which it caused continue?" And the operation of the statute will not be prevented for a longer time than that during which the suspension was an enforced one: *Braun* v. *Saurwein*, 10 or 11 Wall.

Maps. See *Boundary*.

Master and Servant.

Hiring for Indefinite Time—Discharge of Servant—Damages—Action of Debt.—By a written contract, Kirk agreed with Hartman to act "as agent or salesman for stock of (a company) stone, coal and coke and to travel," &c., Hartman "to pay him $3000 in equal quarterly payments" and his travelling expenses, and to allow him to take orders from others, &c. *Held*, that this was a hiring for a year: *Kirk* v. *Hartman*, 63 Penna.

When one is employed as an agent, &c., for no definite time, it is a hiring at the will of both parties, and the servant may be discharged without notice: *Id.*

In a suit on a contract of hiring by a servant discharged before his term, his being engaged in other profitable business or refusing it if offered may be shown by the defendant (on whom is the burden) in mitigation of damages: *Id.*

Evidence that other agents in similar business at the same places did much more business than the plaintiff, is not admissible to prove his negligence or default: *Id.*

Debt will lie on a contract for service for a determinate time and fixed compensation, when the servant is dismissed before its expiration: *Id.*

Debt lies on any contract in which the certainty of the sum or duty appears: *Id.*

Mortgage. See *Husband and Wife; International Law.*

Foreclosure—Parties.—Parties claiming an interest in the land mortgaged, are entitled upon their own application to be made defendants to a suit to foreclose to protect their own interest, although they may not have secured the legal title to the equity of redemption. It is sufficient that they have a substantial interest in the property: *Bates* v. *Miller et al.*, 46 or 47 Mo.

NEGLIGENCE. See *Common Carrier.*

OFFICE.

Title to.—If a person is legally entitled to an office of which he is not in actual possession, it is his property, and he cannot be restricted to the compensation provided therefor, but may demand the office itself: *City of Madison* v. *Korbly*, 32 Ind.

A writ of mandate will lie to reinstate a city attorney appointed by the common council and afterwards wrongfully removed by it from the office: *Id.*

PARTNERSHIP. See *Fraud.*

Accounts—How to be made where one Partner has entire charge of the Business.—In stating partnership accounts, where one partner has had entire charge of the business, he is to be debited with the whole capital placed in his hands, as well as with the proceeds of sales realized by him: *Gunnell* v. *Bird*, 10 Wall.

If part of the capital consisted of stock, which has been used in the business, or disposed of, and the proceeds charged against him, he should be credited with such stock as a disbursement, to the amount at which it was originally charged against him: *Id.*

An allegation in an answer entirely impertinent to the bill cannot be used as evidence for the defendant, even though the plaintiff neglect to file a replication: *Id.*

Representation of Partnership whether it existed in fact or not.—In a suit against two as partners on contract, the question would be whether they were partners in that contract. Whether they were general partners is immaterial: *Kirk* v. *Hartman & Co.*, 63 Penna.

If one holds himself out or knowingly suffers himself to be held out, as a partner, on the faith of which others trust or enter into a contract with the firm, he is responsible, although not a partner: *Id.*

Estoppels shut the mouth of a party, whether his original act or declaration was intended to deceive or not: *Id.*

PLEADING. See *Contract.*

Agency.—In suing upon a promissory note it is sufficient to allege that the defendant executed the note. It is not necessary to state whether he signed the note himself or by his agent. The question of authority is one of evidence, not of pleading: *Slivin* v. *Rippey*, 46 or 47 Mo.

PROMISSORY NOTES.

Defence that Plaintiff is not the Real Owner.—In an action upon a promissory note, brought since the Code, the defendant has a right to prove that the plaintiff is not the real owner of the note sued on: *Eaton* v. *Alger*, 57 Barb.

If the plaintiff is not a regular endorsee or holder, but holds the note merely as agent for the payee, against whom the defendants claim to have a good defence, they are interested in questioning the plaintiff's title, and have the right to show his want of interest: *Id.*

REBELLION. See *Contract; International Law.*

RIVER.

Title of Riparian Owner.—The title of a riparian owner on the Allegheny (it being a navigable stream), since the reservation of islands under the Act of 1785, would not include an island opposite his land, but would extend only to ordinary low-water mark on his own side: *Wainwright* v. *McCullough*, 63 Penna.

Between high and low water mark, the title of the riparian owner is qualified, being subject to the right of navigation over it and improvement of the stream as a highway; and the riparian owner cannot occupy to the prejudice of navigation, nor place obstructions on the shore without express authority from the state: *Id.*

The Act of April 16th 1858, "to establish high and low water lines in the Allegheny," &c., is not applicable to disputed boundaries between private owners, but for regulating the respective rights of the public and landowners over whose property the right of navigation extends between high and low water marks: *Id.*

The wrongful diversion of the waters of a navigable river from its bed does not extinguish the title of the state nor add to that of individuals: *Id.*

Riparian Owner—Ohio River.—The title of the riparian owner on the Ohio river extends to low-water mark, subject only to the easement in the public of the right of navigation: *Martin* v. *City of Evansville*, 32 Ind.

The city of Evansville, under her charter, has the power, as a police regulation, to establish water lines and to make reasonable provisions for the protection of navigation, and for this purpose may prohibit the erection of buildings below high-water mark which would have a tendency to obstruct navigation; but this power does not extend to private wharfs above high-water mark: *Id.*

SET-OFF. See *Debtor and Creditor.*

SLANDER.

Proof of Repetition.—In an action for slander, it is proper to allow the plaintiff, after giving evidence to prove the speaking of the actionable words alleged in the complaint, to prove the repetition of the same slanderous charge on other occasions, and subsequent to the commencement of the action: *Johnson* v. *Brown*, 57 Barb.

Proof of a repetition of the original charge is allowed, not for the purpose of proving a general malicious feeling or intention on the part of the defendant towards the plaintiff, but to show the degree of malice with which the slander involved in the action was uttered: *Id.*

Qualification of the Slanderous Words.—It is not erroneous for the judge to charge the jury, in an action for slander, that even if the words were spoken with the qualification "if reports were true," that will not change the actionable nature of the words: *Id.*

TENANT IN COMMON. See *Evidence.*

TITLE. See *Boundary; Evidence.*

A person who has conveyed land by deed of warranty may acquire a subsequent title thereto by disseisin: *Traip* v. *Traip*, 57 Me.