the United States. This allowed to the litigants all the advantage which they might claim from the litigation being conducted in the local State court. The party whose constitutional right might be supposed to be violated by the decision of the inferior court was required to secure the vindication of his right by final appeal to the supreme appellate court of the State. If this last decided adversely to his claim, he could make his appeal to the jurisdiction of the Supreme Court of the United States.

The constitutionality of this law was fiercely contested in the early part of the century on the ground that the appeal from the highest State court to the Supreme Court of the United States assumed the relation of the superiority of the one to the other when it was held that each was supreme in its own ascertained sphere and there was nothing in the Constitution to make the judicial power of the United States supreme upon appeal over the judicial power of the State. It was contended that the Federal and State judiciary constituted co-ordinate departments of two distinct governments, and neither held the relationship of supremacy on appeal. The reasoning on this subject will be found in full in the great case of *Fairfax v. Hunter*.[1] In this case an appeal was taken from the decision of the Court of Appeals of Virginia to the Supreme Court of the United States, and in *Martin v. Hunter*[2] the decision of the Virginia Court of Appeals was reversed, and the Supreme Court issued its mandate to the Court of Appeals to substitute the decision of the Supreme Court in place of its own. The Court of Appeals refused to obey; the Supreme Court declined to attempt to compel obedience by a further procedure, but by its own officer put the party prevailing under the decision of the Supreme Court of the United States in possession of the property in controversy.[3]

[1] 4 Munford's Rep. 1.

[2] 1 Wheat. 304.

[3] The author, after searching in vain in the record of the Supreme Court for any evidence on this subject, obtained from Mr. James Marshall, a very eminent lawyer of Winchester, Virginia, a nephew of the Chief Justice, these facts in reference to the action of the Supreme Court, and the end of that controversy. See also Williams v. Bruffy, 102 U. S. 248.

That was the end of the conflict. In the case of *Martin v. Hunter* the Supreme Court agreed that the twenty-fifth section of the act of 1789 was constitutional, and in *Cohens v. Virginia*[1] Chief Justice Marshall vindicated it in one of his most famous opinions. It is unnecessary to discuss the merits of this celebrated controversy, for the State courts throughout the Union, in Virginia as well as in the other States, have recognized the finality of the decision of the Supreme Court, and for nearly eighty years this has been established in all of the courts as a settled construction of the Constitution. Besides, an analysis of this twenty-fifth section will show that it adopts a more convenient system for the people in securing trial of these cases in their early stages by State tribunals and under local influence, which would not have been the case if either of the other methods referred to had been adopted.

§ 368. We proceed to analyze this section. First, the Supreme Court of the United States, in the cases provided for by it, is given the final appellate jurisdiction. The original trial and procedure is in the inferior court of the State. From the decision of this inferior court an appeal must be taken mediately or immediately to the highest appellate court of the State itself. Again, upon this appeal in the Supreme Court of the United States, nothing will be held as ground for reversal of the decision of the State court unless that decision rested on a ground which involved a right under the Constitution or a treaty or law of the United States, and such decision must have been adverse to such right as claimed.[2] If, however, the State appellate court so decides by a divided court, so that the decision of the inferior court would stand affirmed, an appeal still lies to the Supreme Court of the United States;[3] or if the State appellate court denies an appeal from the decision of the inferior State court, which was adverse to such rights so claimed, an appeal still lies to the Supreme

[1] 6 Wheat. 264.

[2] Hartman v. Greenhow, 102 U. S. 769.

[3] Antoni v. Greenhow, 107 U. S. 672; Boyd v. Thayer, 143 id. 135.

Court of the United States.[1] But if the decision of the State appellate court rests on some ground other than one involving the rights so claimed under the Constitution, or a treaty or law of the United States, no such questions arising in the cases, the Supreme Court of the United States will not have jurisdiction upon appeal, and if an appeal be taken will consider no error in the decision other than where it rests upon a decision adverse to the rights so claimed under the Constitution. The Constitution gave this jurisdiction to the Supreme Court that it might be the guardian of the Constitution of the United States, their treaties and their laws, but not upon any other ground.[2] It thus appears that this twenty-fifth section was faithfully guarded so as to give the State court the exclusive and final jurisdiction of any case, though a question of a right under the Constitution, or a law or treaty of the United States, may arise therein, unless the decision of the State court necessarily involves the denial of the rights so claimed by a party in the case. Cases without number arising under the Constitution have thus been decided by the Supreme Court of the United States, the citation of which will be made as occasion calls for it hereafter. A few may be cited where the constitutionality of the law has been in question.[3] The unconstitutionality of the act of the Executive Department in *Milligan's Case* was adjudged and the sentence annulled.[4]

Where an inferior United States court convicts a person without having jurisdiction to try, the Supreme Court, having no appellate jurisdiction in such cases, will, upon *habeas corpus*, discharge the convict.[5] Where State laws are in violation of the Constitution, decisions of the State courts giving effect to them have been reversed by appeal in the Supreme

[1] Williams v. Bruffy, 102 U. S. 248; Choffin v. Taylor, 114 id. 309.

[2] Murdock v. Memphis, 20 Wall. 590; Spies v. Illinois, 123 U. S. 131; Henderson Bridge Co. v. City of Henderson, 141 id. 679; Hamblin v. Western Land Co., 147 id. 531; Eustis v. Bolles, 150 id. 361.

[3] Marbury v. Madison, 1 Cr. 137; Boyd v. Thayer, 143 U. S. 135.

[4] 4 Wall. 2.

[5] Bain's Case, 121 U. S. 1; In re Ayres, 123 id. 443; Fitts et al. v. McGhee et al., 172 id. 516.

Court. Under this head the cases are innumerable.[1] Thus, however a constitutional right may have been invaded, whether by Congress or any of the departments of the government, or by State law or any other action of a State, on appeal to the Supreme Court of the United States the integrity of the Constitution will be vindicated, and all laws violating that Constitution will be adjudged null and void. This clause goes farther. The Supreme Court, under this twenty-fifth section, can by appeal annul any violation of a right claimed under a treaty made under the authority of the United States. This was done in the case already cited of *Martin v. Hunter*,[2] where a treaty right was involved. So this twenty-fifth section applies to rights claimed under a law of the United States. If the law is valid, then, in effect, this right is under the Constitution of the United States, because under a law passed in pursuance of it; and when such right is violated by a State court, the decision will be reversed and the right upheld, as in the case of *Boyd v. Nebraska*,[3] already referred to.

§ 369. Further, this judicial power extends to all cases in law and equity, whether cases at common law or cases in the chancery. Mr. Hamilton has vindicated the propriety of retaining these distinct jurisdictions in the Federal courts with his usual ability.[4] This first clause uses the words "shall extend to all cases." This clearly means that while Congress has power under the succeeding clause to make exceptions from, and regulations of, this appellate jurisdiction, yet that Congress has the power to extend the jurisdiction to all cases without the exceptions and without any rule abridging it. The judicial power extends to all such cases and it would seem should not be abridged or abated by any action of Congress.

[1] Dartmouth College Case, 4 Wheat. 518; Virginia Coupon Case, 114 U. S. 269.

[2] 1 Wheat. 304. See also Hauenstein v. Lynham, 100 U. S. 483; Geofroy v. Riggs, 133 id. 258.

[3] 143 U. S. 135.

[4] The Federalist, Nos. LXXX-LXXXIII.

The next clause which calls for comment is in these words: "to all cases affecting ambassadors, other public ministers and consuls." It is only necessary to say that the extension of the judicial power to all these cases, and especially by a subsequent clause giving the Supreme Court original jurisdiction in such cases, manifested the wisdom of the framers of the Constitution in preserving the peace of the whole country in its relations with foreign countries. Public ministers of either class are the immediate representatives of their sovereigns. They are invested with an exterritoriality while resident in the country to which they are sent, which gives them immunity from all the laws of the latter. These immunities are determined by the law of nations. If the immunities and privileges of these public functionaries are invaded while they reside in the United States, the sovereign sending them can make it a subject of international controversy which may end in war. Should suits in which these public persons are interested be left to the courts of the States it would be a dangerous anomaly. The government of the United States is responsible to the sovereign sending a public minister for his exemption from everything which trenches upon his exterritorial immunities and privileges. It is therefore clear that the judicial power of the government, internationally responsible for matters affecting these public ministers, should be clothed with complete power to try all cases affecting them.[1] Therefore in the subsequent clause it is provided that the Supreme Court shall have original jurisdiction in all cases affecting ambassadors. Under this provision an indictment against one who has offered violence to a minister has been held not to be a case affecting the ambassador. It is a case affecting the United States, in which the ambassador has no concern.[2] But if a suit be brought against a foreign

[1] See opinion of Chief Justice Marshall in The Exchange v. McFaddon, 7 Cr. 478; Story on Constitutional Law, pp. 1652–54.

[2] United States v. Ortega, 11 Wheat. 467.

minister, the Supreme Court alone has original jurisdiction, and so it would seem with any one connected with his legation.

This jurisdiction has been very much affected by Congressional legislation. As the language extends the jurisdiction of the judicial department to all cases affecting ambassadors, etc., it involves the power of Congress to make this jurisdiction exclusive of that of State courts. But though original jurisdiction is given by a subsequent clause, in such cases, to the Supreme Court, it has been held that as there are no words to negative the power of Congress to confer original jurisdiction on the inferior courts ordained and established by it, Congress has vested the jurisdiction in such cases in these inferior courts. There were some dicta in earlier cases which were adverse to this construction of the Constitution, but in the later case of *Bors v. Preston*,[1] after a full review of all of these decisions, the court adopted the view taken by Chief Justice Taney in the case of *Giddings v. Crawford*,[2] and held that the original jurisdiction given to the Supreme Court in cases of ambassadors is not exclusive of the jurisdiction which Congress may vest in the inferior courts of the United States, but that Congress can make such jurisdiction in the Federal courts exclusive of that in the State courts. So that it seems that the present state of the law upon this question is that the district courts of the United States and the Supreme Court have concurrent jurisdiction of "suits against ambassadors or other public ministers," or their domestics, or domestic servants, or against consuls or vice-consuls, and that, except as to consuls and vice-consuls, all jurisdiction in the Federal courts is exclusive of the jurisdiction in the State courts. The decision of *Ames v. Kansas*,[3] in which Chief Justice Waite reviewed the decisions, is in accord with the decision in *Bors v. Preston*. Reference is made to these de-

[1] 111 U. S. 252.

[2] Taney's Decisions, 1.

[3] 111 U. S. 449.

cisions so reviewed, and to the statutes bearing upon the subject.[1]

It is further agreed that the circuit court of the United States, which has no jurisdiction of a suit against a consul, but has jurisdiction of a suit against an alien, may have jurisdiction of such, though the alien be a consul; and it seems, though the defendant does not plead to the jurisdiction, the court will inspect the record and dismiss the suit in the interest of the foreign government whose privileges are involved, and not in the mere personal interest of the defendant. This power of Congress to regulate the jurisdiction of the courts, except as expressly fixed by the Constitution itself, results from the several purposes mentioned, to wit: The power to constitute tribunals inferior to the Supreme Court,[2] and the clause which vests all judicial power in a Supreme Court and in such inferior courts as Congress may ordain and establish, taken in connection with the power to pass all laws necessary and proper to carry them into execution. It has been the purpose of the legislation of Congress from time to time, sanctioned by the decisions of the Supreme Court just cited, to use these large powers which have produced the results summarized in *Borsv. Preston*, *supra*, as to jurisdiction affecting these foreign officials. The purpose has been to retain, as far as possible, the jurisdiction of the Federal courts over all questions affecting the official representatives of foreign powers in the interest of the public peace, which would be jeopardized if the jurisdiction in these cases was left to the local State courts of the Union.

§ 370. The next clause to which attention will be directed is in these words: "to all cases of admiralty and maritime jurisdiction." By recurring to the powers of Congress, we

[1] United States v. Ortega, 11 Wheat. 467; United States v. Ravara, 2 Dall. 297; Davis v. Packard, 7 Pet. 276; Cohens v. Virginia, 6 Wheat. 264; Osborne v. Black, 9 id. 738; Marbury v. Madison, 1 Cr. 137; R. S. U. S., secs. 563, 629, 711; Act of Feb. 18, 1875 (18 Stats. at Large, 318).

[2] Const. U. S., Art. I, sec. 8, clause 9.

find (art. I, sec. 8, cls. 10 and 11) that Congress has power in respect to offenses committed on the high seas and against the law of nations, connected with the power to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water. These relate very largely to the rights of the United States in case of war, and to their rights in time of peace. It is well known that, by the rules of international law, captures upon the high seas are adjudicated only in the courts of prize in the country of the captor. That these adjudications should be left to any other courts than the courts of the United States would have been a blunder not to be attributed to the framers of the Constitution. Therefore, as under the term "cases in admiralty" are included all cases of prizes and the like, the propriety of vesting this branch of the admiralty jurisdiction in the exclusive jurisdiction of the United States courts is eminently proper. "All cases" are indicative of their purpose. Prize cases were within the exclusive jurisdiction of admiralty in England, and the clauses of the Constitution above referred to make the jurisdiction of the State courts in such cases out of the question. The Articles of Confederation[1] vested this jurisdiction in the Federal government, and the laws necessary and proper to carry into execution this judicial power as to admiralty make exclusive jurisdiction necessary and proper.[2]

But what other cases are implied in these words? There was great contention in England between the admiralty and common-law courts as to this jurisdiction, which was settled by the statutes of Richard II. and Edward III. A history of this contention may be seen in the dissenting opinion of Mr. Justice Campbell in *The Magnolia*.[3] In the case of *Waring v. Clarke*[4] the Supreme Court held that the admiralty

[1] Art. IX.

[2] United States v. Bevans, 3 Wheat. 387; Houston v. Moore, 5 id. 49.

[3] 20 How. 324.

[4] 5 How. 441.

jurisdiction was not limited or to be interpreted by the English admiralty rules, and that a collision upon a river, as far as the tide ebbs and flows, though *infra corpus comitatus*, is within these terms in the Constitution; and this case was followed in *The Lexington*,[1] in *St. John v. Payne*,[2] and *The New Jersey*.[3] The reasons for the constricted jurisdiction of admiralty under the influence of the statutes of Richard II. and Edward III., and under the potent influence of the opinions of Lord Coke, are stated with great force by Chief Justice Taney in his dissenting opinion in *Taylor v. Carryl*.[4] This opinion of the Chief Justice was obviously intended as an answer to the dissent of Mr. Justice Campbell in *The Magnolia*, *supra*, and should be read in connection with that dissent in order to a full understanding of that subject.

In the important case of *New Jersey Steam Navigation Co. v. Merchants' Bank*,[5] the Supreme Court, reviewing previous cases,[6] held that when the subject-matter arose out of transactions upon the high seas or within tide, though within the body of the county, the jurisdiction was within admiralty. To this there was strong dissent, by the opinions of Justices Daniel and Woodbury. The drift of the decisions in these cases and others[7] confines the jurisdiction to cases where the vessel was engaged in maritime commerce in tidal waters. But in *The Genesee Chief*[8] the Supreme Court took a new departure, with an earnest dissenting opinion from Mr. Justice Daniel. The opinion of Mr. Chief Justice Taney in this case sustained the act of Congress of 1845.[9] He held that the admiralty jurisdiction in England was confined to tidal waters, because their tidal and navigable waters were in

[1] 6 How. 244.
[2] 10 How. 557.
[3] 10 How. 586.
[4] 20 How. 583.
[5] 6 How. 344.
[6] 3 Dall. 297; 2 Cr. 406; 4 id. 443; 1 Wheat. 9; Id. 20.
[7] The Thomas Jefferson, 10 Wheat. 498; Steamer Orleans v. Phœbus, 11 id. 175; The Santissima Trinidad, 7 id. 324.
[8] 12 How. 443.
[9] Stat. at Large, p. 726.

substance synonymous, for all tidal waters were navigable, and none were navigable which were not tidal; but he held that the test of admiralty was not the character of the water, but the character of the stream; if it was navigable, whether it was fresh or tidal, admiralty jurisdiction attached. This opinion and this decision was the initial point of a series of decisions which has established as the law that the navigability of the stream, or of the water, is the characteristic from which arose the admiralty jurisdiction. This was followed immediately by *Fretz v. Bull*,[1] with the same dissent as in the case of *The Magnolia*, *supra;* the court made the same decision with the dissent of Justices Catron, Daniel and Campbell. In the case of *De Lovio v. Boit*,[2] Mr. Justice Story, in 1815, had indicated an opinion in favor of an enlargement of the admiralty jurisdiction; a decision which Mr. Justice Campbell declared was recognized as not law in the later case of *Insurance Co. v. Younger*.[3] It was held, however, in two cases,[4] that where the contract of affreightment and for repairs was as to a voyage of the vessel between two ports of the same State, the admiralty jurisdiction did not attach; but these decisions were disapproved in *The Commerce*,[5] and the admiralty jurisdiction was upheld even as to the voyage between two ports of the same State. In *The Lottawanna*,[6] Mr. Justice Bradley, for the court, sanctioned the decision in *The Genesee Chief* case, and held that the Constitution, by these words "admiralty and maritime jurisdiction," intended "to adopt the general system of maritime law which is familiar to lawyers and statesmen when the Constitution was adopted;" but the Constitution, he said, did not define this jurisdiction nor fix the limits between the local and maritime jurisdiction. This, he said, was a judicial question; and that while the court cannot make, but can only

[1] 12 How. 446.
[2] 2 Gall. 395.
[3] 2 Curtis' Rep. 322.
[4] Allen et al. v. Newberry, 21 How. 245; McGuire v. Card, id. 250.
[5] 1 Black, 578. *Accord:* The Steamer St. Lawrence, id. 522.
[6] 21 Wall. 558.

declare, the law, Congress can change it under the commerce power. To this decision there were two dissenting opinions. The term "navigable rivers" was held to mean those which are such in fact.[1] In *The Hine v. Trevor* the decision sustains *The Genesee Chief*, and upholds the admiralty jurisdiction in the district courts of the United States as exclusive of the State courts. In the case of *The Scotland*[2] it was held that the general maritime law was binding only so far as it was adopted in any particular country.

In *Ex parte Boyer*[3] the admiralty jurisdiction was extended to the cases of the collision of tow-boats on a canal between two points in the State of Illinois.[4] In *The Alaska*,[5] referring to *The Harrisburg*,[6] it was held that no suit in admiralty could be maintained for the death of a person, unless Congress gives the remedy or it is given by a State. In the case of *The Steamer Eclipse*[7] it was held that a court of admiralty cannot administer an equitable remedy. In *In re Garnett*[8] the law of Congress creating a limited liability, in case of tort, was thus made a part of our maritime law, and in this case all the cases were reviewed and the decision was unanimous in its sanction of the Genesee Chief decision. The act of 1851, creating limited liability,[9] is in accord with these decisions. The distinction between admiralty and maritime jurisdiction is thus stated by Judge Cooley, quoting Judge Story: "The first (that is, admiralty) respects acts or injuries done upon the high seas, where all nations claim common right and common jurisdiction; or acts or injuries done upon the coasts of the sea; or, as for these, acts or injuries done within the ebb and flow of the tide. The second (that is, maritime) respects contracts, claims and services purely maritime, and touching rights and duties appertaining to commerce and navigation. The former (that is, admiralty) is again divisible into two great branches — one embracing captures and questions of prize arising *jure belli;* the other embracing acts, torts and injuries strictly of civil cognizance, independent of belligerent operations."[1] This quoted statement must be qualified so as to take in, under the decision of *The Genesee Chief*, the great lakes and their navigable waters, and the great rivers, even though their navigable course may be entirely within the limits of a single State; and in *The Commerce*[2] it was held that this jurisdiction had not depended on the Congressional power to regulate commerce, but upon the judicial power over cases of admiralty, as to which Congress can pass laws to carry it into execution. The Federal jurisdiction, therefore, includes cases of collision on navigable lakes or rivers; of vessels engaged in commerce between ports of the same State and occurring within the body of the county; and also contracts of affreightment, though to be carried out in the State where made.[3]

[1] The Daniel Ball, 10 Wall. 557; The Montello, 20 id. 430.
[2] 105 U. S. 24.
[3] 109 U. S. 629.
[4] The Belfast, 7 Wall. 655; Aldrich v. Ætna Co., 8 id. 491.
[5] 130 U. S. 201.
[6] 119 U. S. 199.
[7] 135 U. S. 599.
[8] 141 U. S. 1.
[9] R. S., secs. 4282–89; The Corsair, 145 U. S. 335.

§ 371. From this rapid review it will be seen how extended, at this day, the admiralty jurisdiction has become, as compared with what it was in an earlier period of the government. This is due largely to the fact of the great extension of our commerce, foreign and domestic, and especially to the fact that our commerce upon the navigable fresh waters of the Union, the lakes and great rivers, has become so enormous as to have produced great inconvenience, if the admiralty jurisdiction had not been extended to commerce upon these fresh waters, and had been left to the courts of the States. The broad and sagacious opinion of Chief Justice Taney in the *Genesee Chief Case* widened the scope of admiralty jurisdiction without any detriment to the interests of commerce or the reserved jurisdiction of the State. This jurisdiction may be now said to embrace among others the follow-

[1] Cooley's Const. Law, p. 130.
[2] 1 Black, 578; Waring v. Clark, 5 How. 441.
[3] The Belfast, 6 Wall. 624.

ing cases: The case of salvage,[1] bottomry bonds,[2] seamen's wages,[3] charter-party and affreightment of ship, cases of maritime injuries, and maritime liens.[4] It is not necessary in this work to go into the principles of admiralty practice. This has been regulated by Congress, and rules under its legislation have been prescribed by the Supreme Court. Some cases may be referred to in the note.[5] It may be well to state that as the power of Congress to legislate so as to vest the complete jurisdiction in admiralty in the courts of the United States is nearly connected with its power "to regulate commerce" between the States and with foreign nations, it has been held that Congress may pass laws regulating the mode of navigation by vessels engaged in such commerce, and the violation of such regulations would therefore become the subject of admiralty jurisdiction. The rules, therefore, prescribed for navigation are within the powers of Congress, and Congress may enact laws for the sale and mortgage of vessels, rendering them invalid as against *bona fide* purchasers unless duly registered at the custom-house, and making other regulations for the safety of passengers, and such statutes may be enforced in the admiralty courts.[6] But though Congress may regulate the navigation of the waters of the United States, and the vessels employed therein may be subject to the admiralty jurisdiction, the ownership of the water and of the fish which it contains, and of the soil beneath, remains in the States.[7] These State rights do not appertain to navigation and therefore are not subject to admiralty; nor can admiralty take cognizance where the damage is wholly on land, or to a bridge injured by a pass-

[1] 12 Pet. 72; United States v. Coombs, The Blackwell, 10 Wall. 1.

[2] Carrington v. Pratt, 18 How. 63.

[3] Leon v. Galceran, 11 Wall. 185.

[4] The Belfast, 7 Wall. 624.

[5] Phillips' Practice in the Federal Courts; also the rules prescribed in 3, 10, 13, 17 and 21, Howard's Reports. See also Allen v. Newberry, 21 How. 244; Andrews v. Wall, 3 id. 568.

[6] Steamship Co. v. Manufacturing Co., 109 U. S. 578; Ex parte Boyer, id. 629; The Belfast, 7 Wall. 624.

[7] United States v. Bevans, 3 Wheat. 336; McCready v. Virginia, 94 U. S. 391; Smith v. Maryland, 18 How. 71.

ing vessel, nor where a fire on board the ship is communicated to buildings near which she is moored.[1] But where damage is done to the ship by a bridge or other structure, or by defect in the dock, or from piles left in a stream, redress may be had for the ship in admiralty.[2] The jurisdiction of the admiralty is so far exclusive that no State or federal tribunal can take jurisdiction of a pure proceeding *in rem*.[3] But the courts of common law or of equity may entertain a suit *in personam* on a maritime contract, and execute the decree by attaching the vessel, or taking it in execution as in case of other chattels, but they cannot proceed against the vessel *in rem*, or affect it with a lien, except through their jurisdiction over the person of the owner.[4] So under the Judiciary Act of 1789, which saves the right to a party to a suit at common law on any tort or contract, a party may institute suit *in personam* in the common-law court.[5]

§ **372.** One question remains to be considered: How far, under the admiralty jurisdiction, can crimes be punished? In the case of *R. v. Keyn*[6] the English court discussed the question whether a man could be tried in the Lord Admiral's court within the marine league of the English coast, and a majority of the court doubted whether by international law the marine league was a part of the territory of England, though by act of Parliament it might be made so. The minority held that it was within the territory of England. The only question considered in that case was as to the jurisdiction of the court which succeeded the Lord Admiral's jurisdiction, and it was held that the court had

[1] The Plymouth, 3 Wall. 20; Johnson v. Elevator Co., 119 U. S. 388.

[2] Railroad Co. v. Towboat Co., 23 How. 209; Leathers v. Blessing, 105 U. S. 626; Cope v. Dry Dock Co., 119 id. 625; Atlee v. Packet Co., 21 Wall. 389.

[3] The Moses Taylor, 4 Wall. 411; The Hine v. Trevor, id. 556; The Glide, 167 U. S. 606.

[4] 24 Pa. St. 259, or s. c., Taylor v. Carryl, 20 How. 583; Leon v. Galceran, 11 Wall. 185.

[5] Cases *supra;* also Schoonmaker v. Gilmore, 102 U. S. 114; Steamboat Co. v. Chase, 16 Wall. 522.

[6] 2 L. R. Ex. D. 3.