

SECTION IV.

PRESUMPTIONS.

CONTENTS.

1.—Of law.

2.—Of fact.

I.

Law.

When facts cannot be directly proved by positive testimony, it may frequently be inferred that they have happened, from circumstances which either necessarily, or usually attend such facts:—this is called presumption, and is admitted in both civil and criminal cases, and is either, a presumption of law or of fact; the following examples are instances of the first description of presumptions.

- 1.—The *innocence* of a person is presumed, until guilt is proved.
- 2.—Where a criminal act has been proved, *malice* will be presumed.
- 3.—When a person has been once shown to be *alive*, his existence shall be presumed, at any time within *seven years*, from the time of showing that he was alive; but after that time, the presumption of life ceases.
- 4.—It shall be presumed, that a child born during *wedlock*, is legitimate, until illegitimacy is shown, by proof of circumstances rendering it physically impossible that the husband can be the father of the child.
- 5.—Where a *receipt* has been given for rent due on a certain day, it is strong presumptive evidence, that the former rents have been regularly paid down to that time, although the other party may prove the contrary.