

## 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.