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Decree of court having jurisdiction to determine all questions relating to internal management of corporation managing mortuary fund, in suit brought on behalf of all similarly situated, establishing rights of members of fund, is binding upon all members similarly situated, and is entitled to full faith and credit in courts of other States in suits between the corporation and such members. *Id.*

Even if such suits are for a different purpose than the one in which decree entered, it must be given full faith and credit, and is conclusive so long as unmodified. *Id.*

Where, under laws of State of commission of wrongful act causing death, right of action is for benefit of widow and mother of decedent, and the widow, suing as administratrix, recovered judgment in another State, court of State in which wrongful act committed, in suit by mother, not bound to regard such judgment as having been prosecuted by or on behalf of the mother; nor did attempt of mother to obtain a part of the proceeds of such judgment, which was successfully denied, amount to a ratification thereof, entitling it to full faith and credit in the suit by the mother. *Spokane & Inland Empire R. R. v. Whitley* 487

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Under § 189, Crim. Code, successive cuttings of different mail bags separate offenses. *Id.*

Same course of conduct and upon same occasion may amount to separate offenses. *Id.*

In prosecution under § 189, Crim. Code, proof of cutting one mail sack will not support counts as to other sacks, but the cutting into each sack constitutes separate crime. *Id.*

Under §§ 190, 192, Crim. Code, two offenses—breaking into a post office and stealing property belonging to Post Office Department—may be committed and separately charged and punished. *Morgan v. Devine* 632

Congress may define offenses against the law and its purpose was manifest in enacting §§ 190, 192, Crim. Code, to create separate offenses under each section. *Id.*

Test of whether breaking and larceny constitute two separate offenses is whether separate acts have been committed with requisite criminal intent and such as are punishable by the statute. *Id.*

Test of identity of offenses when double jeopardy pleaded is whether same evidence required to sustain them; and if not, then fact that both charges relate to and grow out of one transaction does not make single offense where more than one defined by statute. *Id.*

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Importer not concluded by reliquidation order made more than year after entry where complaint contains no allegation of presence of protest or of fraud, but may plead and defend even though he did not file protest and make payment required in case of original liquidation. *Id.*

In suit to recover duty assessed under such reliquidation, Government must conform to general rule of pleading where recovery sought on ground of fraud. *Id.*

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Where Creek Indian allottee under Supplemental Agreement of 1902 died leaving father of Creek blood and mother of non-Creek blood, father takes fee simple to allotment; had both been of Creek blood and duly enrolled each would have taken one-half. *Id.*

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What regulations State may establish as to discipline of its educational institutions, and how to be enforced, for determination of state courts, whose decision conclusive in absence of denial of due process of law. *Id.*

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Damages recoverable: Provisions in § 9, as amended, that there shall be only one recovery, does not restrict personal representative of decedent who suffered pain after injury to one basis of recovery to exclusion of other or require him to make choice, but does limit him to one recovery for both. *St. Louis, I. M. & S. Ry. v. Craft* 648

Under §§ 1 and 9, as amended, personal representative to recover, on part of designated beneficiaries, such damages as will compensate them for their own pecuniary loss and such as will be reasonably compensatory for loss and suffering of decedent while he lived. *Id.*

Such recovery not a double one for single wrong, but a single one for a double wrong. *Id.*

Quære whether personal representative of deceased employé can recover where recovery by decedent in lifetime. *Id.*

Generally such pain and suffering as are substantially contemporaneous with death, or mere incidents to it, afford no basis for separate estimation or award of damages under the statute. *Id.*

Where there was uncontradicted evidence that decedent survived his injuries for something more than half an hour, and that the injuries were such as to cause extreme pain if he remained conscious, and there was conflicting evidence as to whether he did so remain, those questions were properly submitted to the jury; and the question for this court is not which way the evidence preponderated but whether there was evidence from which the jury could reasonably find that decedent did endure conscious pain during the period between his injury and death. *Id.*

Where causal negligence attributable partly to carrier and partly to injured employé, latter may recover only diminished sum bearing same relation to full damages that negligence attributable to carrier bears to that attributable to both. *Seaboard Air Line v. Tilghman* 499

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Where trial court might have dismissed for want of equity jurisdiction, but did not do so, this court not called upon to pass on question. *Id.*

Right to object to jurisdiction on ground of adequate remedy at law may be waived. *Id.*

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Remedies and procedure in equity in Federal courts not determined by local laws or rules of decision, but by general principles, rules and usages of uniform operation therein. *Guffey v. Smith.* 101, 120

In Federal courts, a clause in a lease permitting lessee to surrender is no obstacle to enforcing lease in equity against subsequent lessee committing waste. *Id.*

Whether lease enforceable in equity determined in view of circumstances under which given; and lease in this case held not so unfair and inequitable as to preclude relief. *Id.*

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On proof of different contract from that expressed in policy of insurance, equity will reform. *Lumber Underwriters v. Rife.* 605

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Under the statute of Idaho giving remedy for wrongful death, recovery is not for benefit of estate of decedent, but for that of his heirs as established by law of State. *Spokane & Inland Empire R. R. v. Whitley* 487

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Where homesteader entitled to patent, his heirs on his death take as such under § 2448, Rev. Stat., and not directly under § 2291. *Id.*

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In suit under Employers' Liability Act contract between plaintiff and third party may be admissible to show that plaintiff was not defendant's employé, even though demurrer sustained to special plea that contract contained release of liability. *Robinson v. Baltimore & Ohio R. R.* 84

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Control over lands of: Reclamation Act of 1902 gave Secretary of Interior power to acquire rights and property of allottees by paying for improvements and giving right to lieu lands. *Henkel v. United States*. 43

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Restrictions on alienation: Restrictions upon alienation are absolute and bind land for specified period, and neither the act of June 10, 1896, nor that of June 7, 1897, providing for leases, gave allottee or his heirs any power to dispose of his or their interest in the lands subject to the lease or any part of it. *United States v. Noble*. 74

Restrictions on alienation of allotted lands held not to extend to sale of improvements to United States with right to select other lands, for purpose of devoting allotted lands to irrigation purposes as provided by Congress. *Henkel v. United States*. 43

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Carrier not liable for failure to supply cars as result of sudden and great demands which could not be foreseen, but must treat shippers fairly if not identically. *Id.*

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7. *Transportation*: Definition of transportation in § 1 of Commerce Act includes instrumentalities which owners and builders let to railroads, but the definition is a preliminary to requirement that carrier shall furnish instrumentalities upon reasonable request, not that owners and builders thereof shall be regarded as carriers contrary to truth. *Ellis v. Interstate Com. Comm.* 434

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- Until corporation, not carrier, furnishing instrumentalities to shipper shown to be mere tool of latter for obtaining preferences, witness need not answer questions concerning private business of corporation, but should answer questions in regard to furnishing instrumentalities so far as they affect matters which under § 15, Commerce Act, are subject to Commission. *Ellis v. Interstate Com. Comm.* 434
- Where intervening corporation is means by which owner of property transported incidentally renders services its charges are subject to supervision by Commission. *Id.*

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Where trial court refuses to hold that rights of parties were determined by law of another State in which decree rendered establishing them, and to apply such law, a question arises under the full faith and credit clause of the Constitution. *Royal Arcanum v. Green.* 531

Judgment of State of incorporation sustaining as legal an amendment to constitution and by-laws of fraternal and beneficial corporation, is entitled to full faith and credit in courts of another State. *Id.*

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Even if such suits are for a different purpose than the one in which decree entered, it must be given full faith and credit, and is conclusive so long as unmodified. *Id.*

Where, under laws of State of commission of wrongful act causing death, right of action is for benefit of widow and mother of decedent, and the widow, suing as administratrix, recovered judgment in another State, court of State in which wrongful act committed, in suit by mother, not bound to regard such judgment as having been prosecuted by or on behalf of the mother; nor did attempt of mother to obtain a part of the proceeds of such judgment, which was successfully denied, amount to a ratification thereof, entitling it to full faith and credit in the suit by the mother. *Spokane & Inland Empire R. R. v. Whitley* 487

That judgment may not, under full faith and credit clause, be enforced in another State, affords no ground for court entering it without jurisdiction in violation of due process of law. *Riverside Mills v. Menefee* 189

Due process cannot be denied in fixing, by judgment against one beyond jurisdiction of court, an amount due, even though enforcement of judgment postponed until issue of execution. *Id.*

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Under refunding acts such claims are founded upon law of Congress within meaning of Tucker Act and Judicial Code. *Id.*

Although Government in demurrer asserts special appearance, if pleading raises not only question of jurisdiction of subject-matter of action but also that of merits, there is a general appearance which waives objection to jurisdiction. *Thames & Mersey Ins. Co. v. United States* 19

The court having jurisdiction of claim against United States is that of District of plaintiff's residence, but that requirement is subject to waiver by failure to specifically object to jurisdiction before pleading to merits. *United States v. Hvoslef* 1

Such requirement waived by general appearance. *Thames & Mersey Ins. Co. v. United States* 19

Where it appears from plaintiff's statement that his case is for infringement and arose under patent laws, the court has jurisdiction, notwithstanding he may also rely upon a contract as furnishing mode in which damages should be ascertained. *Healy v. Sea Gull Specialty Co.* 479

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- V. Of Interstate Commerce Commission.** See **Interstate Commerce Commission.**
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- Under par. 20, § 24, Jud. Code, court has jurisdiction of suit against United States for refund of money paid for stamps affixed to charter parties under § 25, War Revenue Act of 1898. *United States v. Hvoslef*. 1
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- VII. Of state courts.**
- State courts have jurisdiction of action of shipper against carrier for damages for failure to furnish needed cars; and motive of carrier is immaterial. *Pennsylvania R. R. v. Puritan Coal Co.*. 121
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- Notwithstanding §§ 8, 22 of Commerce Act, jurisdiction of state courts in existing causes of action not superseded where determination of matters calling for exercise of administrative power and discretion of Commerce Commission or which are within exclusive jurisdiction of Federal courts, are not involved. *Id.*
- Courts of one State cannot, without violating due process clause, extend authority beyond their jurisdiction to condemn resident of another State when neither his person nor property within jurisdiction of former. *Riverside Mills v. Menefee*. 189

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Pleading to merits on removal to Federal court and after continuance obtained therein amounts to waiver of objection to jurisdiction of state court. *Texas & Pacific Ry. v. Hill*..... 208

In action *in personam* state court has jurisdiction to issue auxiliary attachment against vessel. *Rounds v. Cloverport Foundry* 303

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Constitution and by-laws of fraternal and beneficial corporation construed by laws of State of incorporation. *Id.*

While right given by law of one State may be enforceable in another, if not opposed to its policy, when so enforced the law of enacting State governs. *Spokane & Inland Empire R. R. v. Whitley* 487

When suit is brought in another jurisdiction, such provisions of law of place of wrongful act as are merely procedural may be treated as non-essential; but in an action for death by wrongful act the law of the place of commission of the act must be looked to, to determine the obligation, to whom it runs, and the persons entitled. *Id.*

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Oil and gas lease held to pass to lessee, his heirs and assigns, a present vested freehold interest in premises; and option on part of lessee to surrender does not create tenancy at will, give lessor option to compel surrender, or make lease wanting in mutuality. *Guffey v. Smith* 101, 120

Where ejectment not maintainable by holder of gas and oil lease against subsequent lessee, and there is no other adequate remedy, former may obtain equitable relief in Federal courts where requisite amount in controversy and diverse citizenship exists, even though such suit not maintainable in state courts. *Id.*

In Federal courts, a clause in a lease permitting lessee to surrender is no obstacle to enforcing lease in equity against subsequent lessee committing waste. *Id.*

Whether lease enforceable in equity determined in view of circumstances under which given; and lease in this case held not so unfair and inequitable as to preclude relief. *Id.*

Under statutes of Illinois, lessee failing to pay rent when due may cure default by payment at any time prior to demand and notice or within time named in notice. *Id.*

Under law of Illinois holder of oil and gas lease cannot maintain ejectment. *Id.*

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One acting under state authority who erects anything in navigable waters does so with full knowledge of paramount authority of Congress and subject to its exercise. *Id.*

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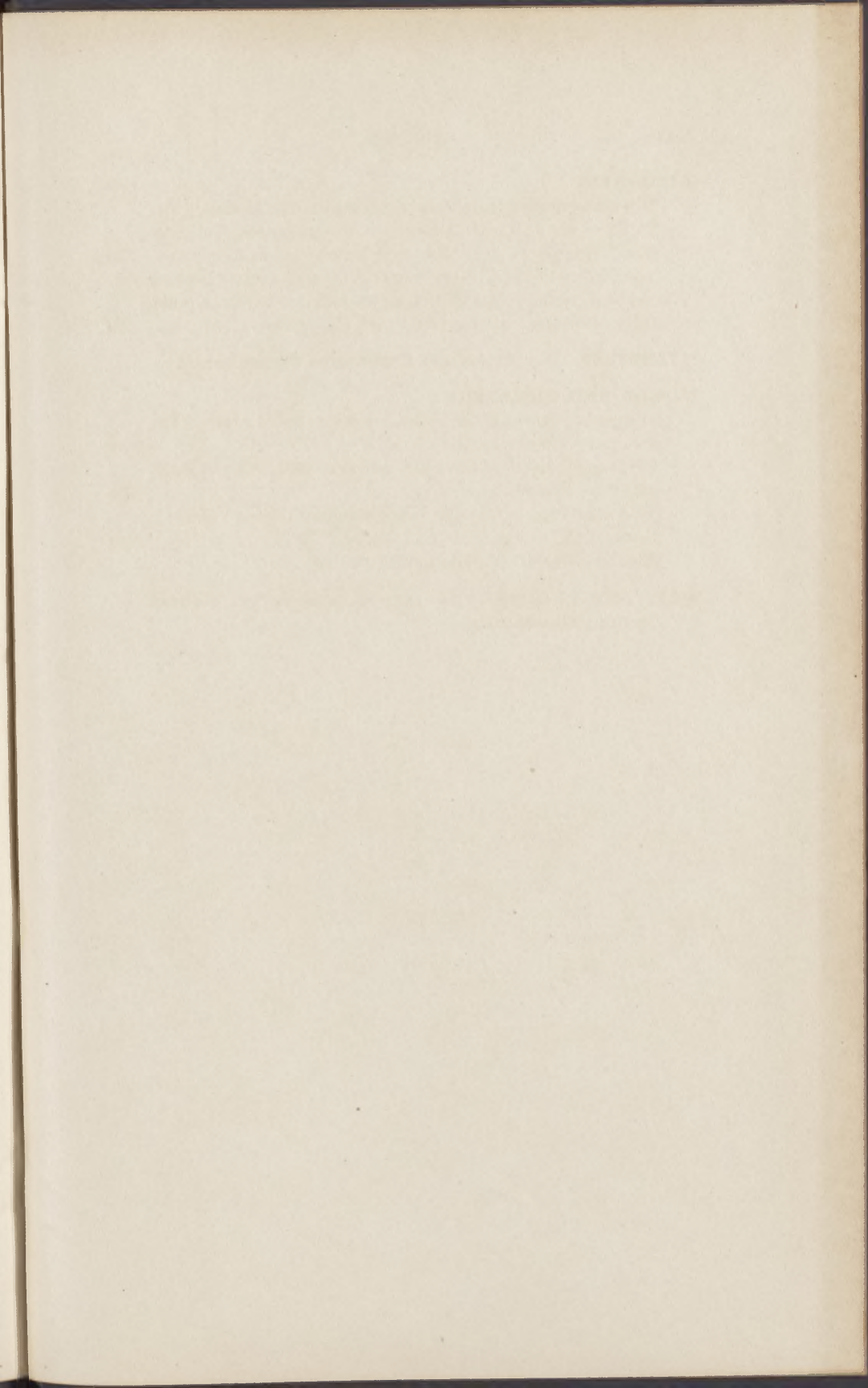
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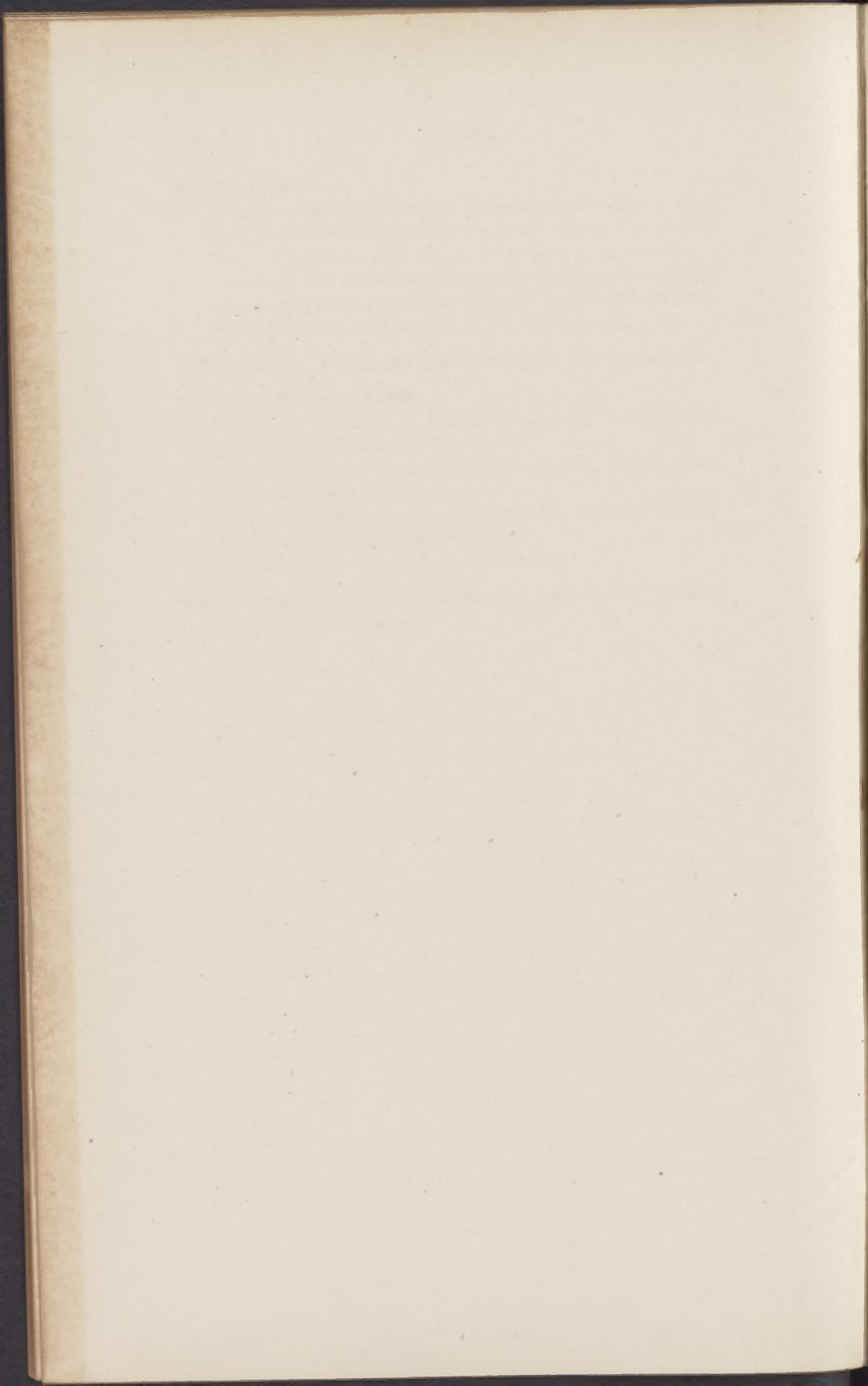
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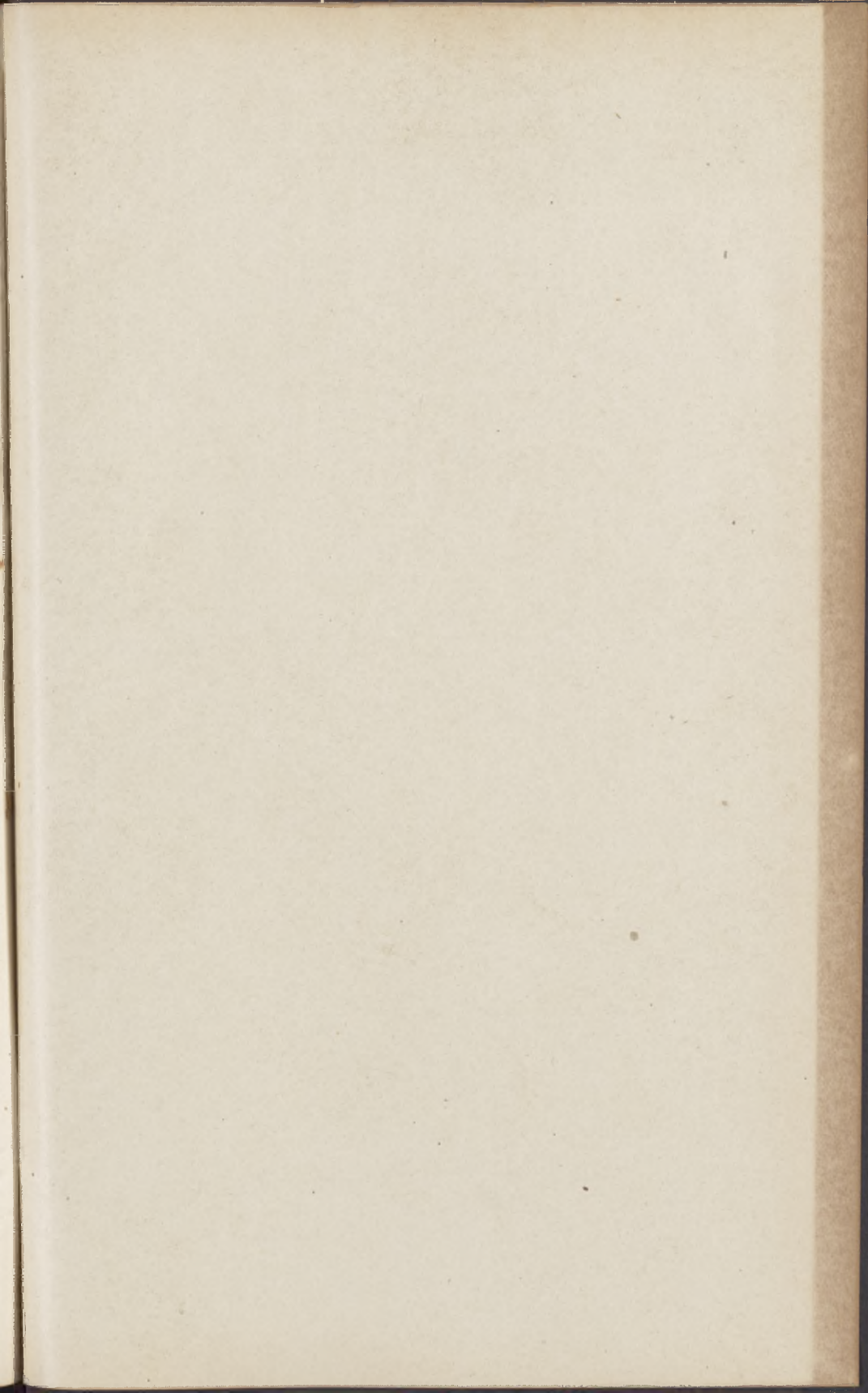
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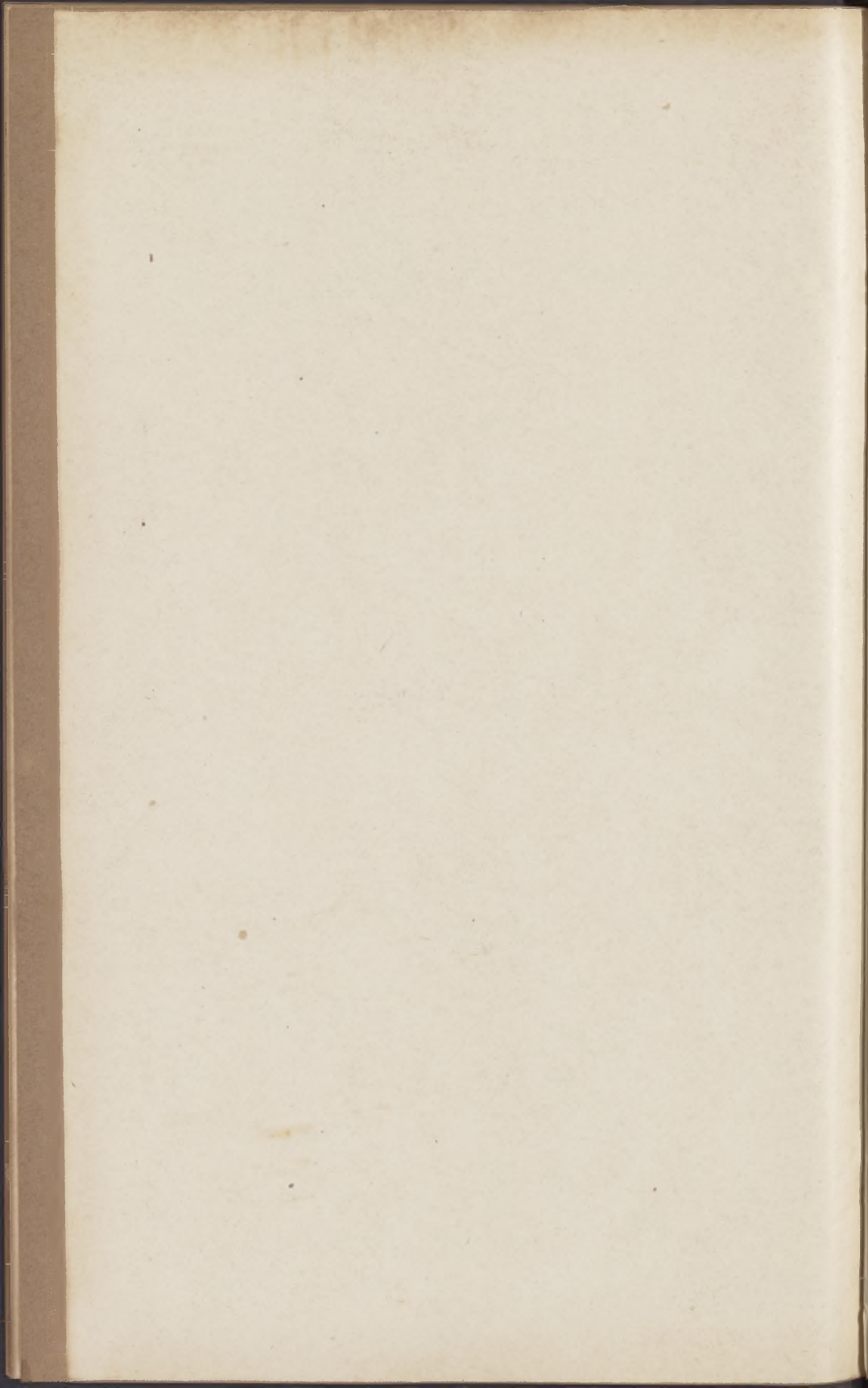
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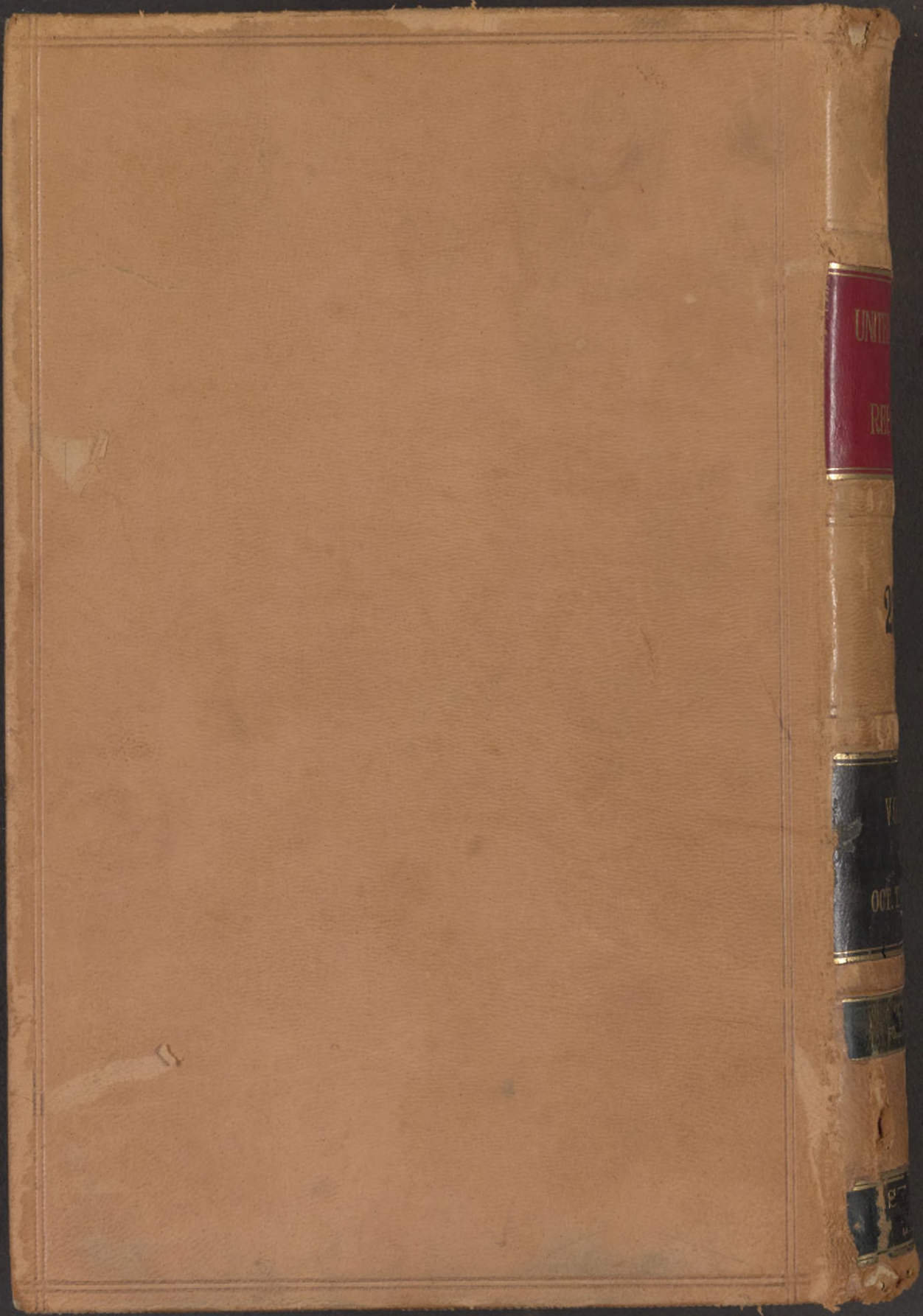












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