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State may not, by mandamus, compel railroad to comply with rates fixed by state law unless opportunity afforded to test question of confiscation. *Missouri v. Chicago, B. & Q. R. R. Co.* 533

In exerting public rate-making power State cannot, without violating Constitution, make rates so low as to be confiscatory. *Missouri v. Chicago, B. & Q. R. R. Co.* 533

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- assessments of all other property owners. *St. Louis & K. C. Land Co. v. Kansas City*..... 419
- The question under Amendment is one of state power and not of state policy; of what State must accord, not what it may grant or withhold in its discretion. *Id.*
- Owner of property which may be assessed for benefits to pay for property condemned, is not entitled to be made party to condemnation proceedings or be heard as to amount of awards; provision requires only those whose property is to be taken to have prior notice. *Id.*
- Law imposing license fee to operate employment agencies and prohibiting agents from sending applicants to employer who has not applied for labor, is not unconstitutional as deprivation of property without due process of law. *Brazee v. Michigan*..... 340
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- Parties to contract of an interstate shipment by rail made pursuant to Commerce Act cannot waive its terms; nor can carrier by conduct give shipper right to ignore such terms and hold carrier to different responsibility than that fixed by the agreement made under published tariffs and regulations. *Georgia, F. & A. Ry. v. Blish Milling Co.*..... 190
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In construing government contract, held, that extent of promise for extension of time was confined to what engineer in charge would grant with sanction of chief engineer, and that latter was not, in absence of fraud, bound to give such sanction. *Id.*

A provision in a government contract that the time was sufficient unless extraordinary conditions should intervene, held not to amount to a promise for extension if such conditions do supervene. *Id.*

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- Congress has not clothed railroad corporations organized under acts of Congress with state citizenship for jurisdictional purposes. *Id.*
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- State court in enforcing right created by Federal statute does not derive its authority as a court from the United States, but from the State, and the Seventh Amendment does not apply to it. *Minneapolis & St. Louis R. R. v. Bombolis.* 211
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Proper and reasonable construction of criminal statute must not be refused for fear of delay in prosecution of offenders. *United States v. Lombardo* 73

Where in criminal prosecution there is proof of criminality, it is not error to refuse an instruction to acquit and to submit case to jury. *Lamar v. United States* 103

Sec. 32, Penal Code, prohibits and punishes the false assuming, with intent to defraud, to be an officer or employee of the United States; and also the doing in the falsely assumed character of any overt act to carry out the fraudulent intent, whether it would have been legally authorized had the assumed capacity existed or not. *Id.*

A member of the House of Representatives is an officer of the United States within the meaning of § 32, Penal Code. *Id.*

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In action by representatives of employee for his death, from negligence of interstate carrier by rail, defendants are entitled to insist upon applicable Federal law as exclusive measure of liability, whether plaintiff presents case under that or state law. *Osborne v. Gray* 16

Who within: Act applicable only where injured employee engaged in interstate commerce at time of injury. *Chicago, B. & Q. R. R. v. Harrington* 177

To bring a case under Act test is whether employee at time of injury was engaged in interstate transportation, or in work so closely related thereto as to be practically a part thereof. *Id.*

In absence of evidence showing that employee was engaged in interstate commerce, court cannot supply deficiency by taking judicial notice of fact. *Osborne v. Gray* 16

One engaged in removing coal from storage tracks to coal chutes is not engaged in interstate commerce, even though coal previously had been brought from another State and was to be used by locomotives in interstate hauls. *Chicago, B. & Q. R. R. v. Harrington* 177

Defenses: Where contributory negligence of injured employee and defendant's violation of Safety Appliance Act concurrent proximate causes, former must be disregarded. *Spokane & I. E. R. R. Co. v. Campbell* 497

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While Act does not require damages to be apportioned among beneficiaries; *quære*, whether such apportionment is prohibited. *Id.*

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- One not estopped from asserting that judge making order for new trial had jurisdiction to make the same, because in another proceeding he had moved to quash an indictment for subornation of perjury, in connection with such new trial, on ground that judge acted beyond his jurisdiction in granting motion, because not made within time prescribed by a rule of court, the indictment being quashed on a different ground and one not taken by defendant. *Abbott v. Brown*. 606
- Interstate carrier, defendant in action for death of employee, failing to inform court as to actual movement of its trains and whether they were interstate, cannot complain of deprivation of Federal right because court does not take judicial notice of facts bearing thereon. *Osborne v. Gray*. . . . 16

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- Recitals in bill of lading, signed by both carrier and shipper, that lawful alternate rates based on valuations were offered, constitute admissions by shipper and *prima facie* evidence of choice, and cast on shipper burden of proof to contradict. *Cincinnati, N. O. & T. Ry. v. Rankin*. 319
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- Illegal arrest by state or municipal authorities does not affect jurisdiction of United States commissioner. *Kelly v. Griffin*. 6
- Fair observance of treaties with Great Britain requires that accused be surrendered where objections are technical and evidence furnishes reasonable ground for belief that accused had committed crime within treaty and law of place where found. *Bingham v. Bradley*. 511
- One of objects of § 5271, Rev. Stat., is to obviate necessity of confronting accused with witnesses against him; and neither that section, nor Art. X, treaty of 1842 with Great Britain, should be so construed as to require demanding government to send its citizens to country where fugitive found to institute legal proceedings. *Id.*
- Omission of formal act of release of one held under illegal

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arrest by state authorities held to furnish no ground for release on habeas corpus of one in custody of United States Marshal under extradition warrant. *Kelly v. Griffin* 6

A complaint charging person demanded with having committed in Canada perjury, obtaining money under false pretenses and receiving stolen property, states the first two offenses within meaning of treaty with Great Britain both in Canada where offenses committed and in Illinois where person demanded was arrested; but *quære* as to latter offense. *Id.*

Where complaint properly charges offense included in treaty and also charges one not included, court will not release on *habeas corpus* party demanded, presumption being that demanding country will respect treaty and try only for offense on which extradition allowed. *Id.*

Court will not presume that demanding government will suffer person surrendered to be tried for any offense other than that for which surrendered. *Bingham v. Bradley* . . . 511

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Where certiorari granted to review question of law, assumption that lower courts right where they agreed upon construction of facts. *Pacific Mail S. S. Co. v. Schmidt* 245

Where, on appeal from Court of Claims, findings of fact not sufficiently definite, the court, without expressing any opinion and reserving all questions of law, remands case for more particular findings on testimony already taken or, in discretion of court, on further testimony. *United States v. Archer* 119

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Section 32, Penal Code, prohibits and punishes the false assuming, with intent to defraud, to be an officer or employee of the United States; and also the doing in the falsely assumed character of any overt act to carry out the fraudulent intent, whether it would have been legally authorized had the assumed capacity existed or not. *Lamar v. United States* 103

Indictment held to charge fraudulent intent under § 32, Penal Code, and to be sufficient under § 1025, Rev. Stat. *Id.*

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- Where case necessarily turns on construction of Act of Congress, which is charter of one of parties, a Federal question is presented. *Knights of Pythias v. Mims* 574
- Question of proper construction of bill of lading of interstate shipment is a Federal one. *Georgia, F. & A. Ry. v. Blish Milling Co.* 190
- Whether, in construing an interstate bill of lading issued under the Carmack Amendment, due effect is given to the latter, is a Federal question. *Nor. Pac. Ry. Co. v. Wall.* 87
- Interpretation and effect of bill of lading of interstate shipment may present a Federal question even though there is no affirmative proof that carrier has filed tariff schedules. *Cincinnati, N. O. & T. Ry. v. Rankin.* 319
- Whether state court, in permitting amendment to complaint in action under Employers' Liability Act, disregarded provision of § 6 of Act limiting time to commence action, is a Federal question. *Seaboard Air Line v. Renn.* 290
- Ruling as to effect, with respect to supplemental proceeding, of decree in court of same State holding prior assessment void for want of notice, does not present Federal question. *St. Louis & K. C. Land Co. v. Kansas City.* 419
- In action by representative of employee against interstate carrier, in absence of showing bringing injury within Federal act, question whether declaration permits recovery at common law is a state and not a Federal one. *Osborne v. Gray.* 16

FELLOW SERVANTS. See **Employers' Liability Act.**

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There is deception and fraud within meaning of that section where article is not of character represented and hence does not serve purpose. *Id.*

Persons employing false representations as to use to which an article offered may be put, are engaged in scheme to defraud within meaning of § 215. *Id.*

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Tribal Seneca Indians are subject to fish and game laws of New York as to lands ceded by Big Tree Treaty of 1797. That Indians are wards of United States does not derogate from authority of State. *Id.*

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In interpleader proceedings brought by garnishee, personal service on judgment debtor necessary. *New York Life Ins. Co. v. Dunlevy* . . . 518
In Pennsylvania judgment debtor not party to garnishment proceeding to condemn claim due him from third person, nor bound by judgment discharging garnishee. *Id.*

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Forts, arsenals and like places over which exclusive jurisdiction has been ceded to United States are not regarded as part of State. *Southern Surety Co. v. Oklahoma* . . . 582

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- Omission of formal act of release of one held under illegal arrest by state authorities held to furnish no ground for release on habeas corpus of one in custody of United States Marshal under extradition warrant. *Kelly v. Griffin*. 6
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- Opportunity to be heard not denied by administrative board accepting *ex parte* sworn statements if all testimony is to be subsequently reviewed by the court in proceedings wherein testimony may be taken. *Pacific Live Stock Co. v. Oregon Water Board*. 440
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- Legislation affecting Indians is to be construed in their interest and a purpose to make a radical departure is not lightly to be inferred. *United States v. Nice*. 591
- Tribal relations may be dissolved and guardianship ended at such time and in such manner as Congress shall determine. *Id.*
- Statute should be construed in light of obvious policy, and it would require clear language to show intent to impose restriction against alienation on allotted lands of non-Indians even if inherited from Indians. *Lerindale Lead Co. v. Coleman*. 432
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- among themselves are to be controlled by customs and laws of tribe, save where Congress expressly and clearly directs otherwise. *United States v. Quiver*. 602
- General Allotment Act of 1887 discloses that tribal relation, while ultimately to be broken up, was not to be dissolved by making or taking of allotments; and by subsequent legislation tribal relation of allottees was recognized as continuing during trust period. *United States v. Nice*. 591
- Under Acts of 1887 and 1889, tribal relations and wardship were not disturbed by the allotments or trust patents; and during trust period Congress has power to regulate or prohibit sale of intoxicating liquor to allottees. *Id.*
- Restriction on alienation provisions of Osage Allotment Act of 1906 do not apply to lands, or interests therein, of white men in lawful possession who are non-members of tribe. *Levindale Lead Co. v. Coleman*. 432
- Later acts in regard to Osage allotments held not to attempt to import into earlier act a restriction wholly outside of its express terms and policy. *Id.*
- Restrictions, such as in Osage Allotment Act of 1906, do not run with land until they attach and then only in accord with intendment of Act. *Id.*
- Nothing in legislative history of act of 1884 indicates that it was passed as amendment to act of 1875, or that Congress deemed earlier act did not sufficiently protect Indians in retention of homesteads. *United States v. Hemmer*. 379
- Indian who made homestead entry prior to passage of act of 1884, but not final proof until thereafter, *held* to have made entry under act of 1875 and limitations of inalienability was according to that act. *Id.*
- Provisions in act of 1875, relative to homestead entries, not repealed by act of 1884 relative to same subject. *Id.*
- Under acts of 1906 and 1910, Secretary of Interior has exclusive authority and jurisdiction to determine heirs of allottee Indian entitled to succeed to allotment made under act of 1887, in case of his death during restricted period, including right to reopen and review previous administrative order on proper charges of newly discovered evidence or fraud. *Lane v. Mickadiet*. 201
- Tribal Seneca Indians are subject to fish and game laws of New York as to lands ceded by Big Tree Treaty of 1797. That Indians are wards of United States does not derogate from authority of State. *Kennedy v. Becker*. 556

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Reservation to tribe of privilege of fishing and hunting on land conveyed by Treaty of Big Tree of 1797, *held* one in common with grantees and others to whom privilege might be extended, but subject to appropriate regulation by State. *Id.*

Congress has power to regulate or prohibit traffic in intoxicating liquor with tribal Indians within State, whether upon or off reservation. *United States v. Nice*..... 591
Matter of Heff, 197 U. S. 488, overruled. *Id.*

Section 316, Penal Code, does not embrace offense of adultery as between Indians on reservation. *United States v. Quiver*..... 602

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- Where court explicitly enjoins jury that there must be proximate and causal relation between damages and negligence and refers to amount stated in declaration as limitation on amount of award, and there is no misunderstanding as to the purpose of such reference, there is no error. *Ches. & Ohio Ry. v. Carnahan* 241
- When evidence shows that there will be future effects of injury, instruction justifying their inclusion in award of damages not error. *Id.*
- That trial court in action under Employers' Liability Act, in instructing jury as to reduction of damages for contributory negligence, failed to define the word proportion, held not error. *St. Louis & San Francisco R. R. v. Brown*. 223
- Where in criminal prosecution there is proof of criminality, it is not error to refuse an instruction to acquit. *Lamar v. United States*. 103

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- Material misrepresentations in application, known to be untrue by assured when made, invalidate policy issued in reliance thereon, without further proof of actual conscious design to defraud. *Mutual Life Ins. Co. v. Hilton-Green* 613
- Applicant should exercise toward insurer same good faith which he may rightfully demand from it: relationship demands fair dealing by both parties. *Id.*
- One consciously permitting application containing material misrepresentations to be presented by subordinate agents to officers of life insurance company, under circumstances which he knows negative probability of actual facts being revealed, can claim nothing under policies which he knew were issued in reliance upon such misrepresentations. *Id.*
- Section 2765, Florida Statutes, does not fix scope of authority of agents as between company and third persons, and does not raise special agents with limited authority into general ones. *Id.*

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- A discretion is recognized in regard to allowing interest even in matters of tort, and court will not hold that court below erred in fixing date at which, but for law's delay, money would have been paid, even though appellate court reduced the amount awarded. *De la Rama v. De la Rama* 154

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2. *Scope of Commerce Act:* Rights and liabilities of parties to interstate shipment by rail depend upon acts of Congress, bill of lading and common-law principles. *Cincinnati, N. O. & T. Ry. v. Rankin* 319
Right of employee of interstate carrier by rail to recover for injury depends upon acts of Congress, to which all state legislation affecting subject-matter yields. *Spokane & I. E. R. R. Co. v. Campbell* 497
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Under amendment, duty to issue bills of lading and the responsibilities thereunder is action of Congress and necessarily excludes state action in regard thereto. *Id.*
Amendment casts upon initial carrier responsibility with respect to entire transportation, including delivery. *Georgia, F. & A. Ry. v. Blish Milling Co* 190
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- Attempt by State to prohibit interstate shipments C. O. D. or prevent fulfillment of such contracts, is repugnant to the Constitution. *Id.*
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5. *Burdens on and interference with:* The general rule against state burdens on interstate shipments, applicable to intoxicating liquor, has been modified so as to bring it under state control after delivery, but before sale, in its original package. *Rosenberger v. Pacific Express Co.* 48
- Texas statute of 1907, imposing special license taxes on express companies maintaining offices for C. O. D. shipments of intoxicating liquors, is an unconstitutional burden on and interference with interstate commerce, and does not justify an express company accepting such a shipment in refusing to deliver the same. *Id.*
- Quære*, whether attributing to interstate bill of lading characteristics in conflict with general commercial rule would not, even in absence of legislation by Congress, constitute direct burden. *A., T. & S. F. Ry. Co. v. Harold.* 371
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- Interstate carrier cannot, at request of consignee under contract to receive interstate shipments, declare embargo on the shipments and refuse to furnish cars for shippers; and if it temporarily does so and then removes embargo, latter act is but return to duty, and failure to notify consignee of its action does not relieve him from liability for demurrage provided by published tariff. *Id.*

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That interstate carrier complied with request of consignee having private siding to deliver daily thereon only the number of cars that could conveniently be handled, although more could actually be placed thereon, *held* not to relieve consignee from demurrage charges specified in published tariff on cars held by carrier awaiting consignee's convenience after arrival and readiness to deliver on siding. *Id.*

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Provision in interstate bill of lading is to be construed the same as to connecting or terminal carrier as to initial carrier. *Id.*

Bill of lading issued by initial carrier upon interstate shipment governs entire transportation and fixes obligations of all participating carriers to extent that its terms are applicable and valid. *Id.*

A stipulation in bill of lading of interstate shipment that shipper must, as condition precedent to right of recovery for injury to shipment while in transit, give notice thereof in writing to some officer or station agent of the initial carrier, is satisfied by notice to station agent of connecting or delivering carrier. *Northern Pacific Ry. Co. v. Wall* 87

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Under the Wilson Act a State has power to prevent solicitation of orders for intoxicating liquors to be shipped from other States. *Rosenberger v. Pacific Express Co.*. 48

Power of States to control interstate C. O. D. shipments prior to enactment of Penal Code, not deducible from enactment of § 239 of that Code. *Id.*

The general rule against state burdens on interstate shipments, applicable to intoxicating liquor, has been modified so as to bring it under state control after delivery, but before sale, in its original package. *Id.*

Texas statute of 1907, imposing special license taxes on express companies maintaining offices for C. O. D. shipments of intoxicating liquors, is an unconstitutional burden on and interference with interstate commerce, and does not justify an express company accepting such a shipment in refusing to deliver the same. *Id.*

Matter of Heff, 197 U. S. 488, overruled. *United States v. Nice*. 591

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leave matter open so that in subsequent individual case brought by State to recover excess fares paid during period covered by company's suit latter can attack constitutionality of law as a whole. *Id.*

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Personal judgment by state court against one not voluntarily submitting to jurisdiction, not citizen of State, nor served with process within its border, is void. *New York Life Ins.*

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It is not a denial of due process of law for a State to make a preliminary order of an administrative board effective pending final determination by court. *Pacific Live Stock Co. v.*

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ville & Nashville R. R. Co. v. Stewart 261

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JUDICIAL DISCRETION:

A discretion is recognized in regard to allowing interest even in matters of tort, and court will not hold that court below erred in fixing date at which, but for law's delay, money would have been paid, even though appellate court reduced the amount awarded. *De la Rama v. De la Rama* 154

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- Court cannot know judicially that no opium is produced in this country, nor so assume when construing statute itself purporting to deal with producers of article. *United States v. Jin Fuey Moy* 394
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Employee not bound to exercise care to discover dangers resulting from employer's negligence and not ordinarily incident to the employment. *Id.*

Employee not regarded as having assumed risk attributable to employer's negligence until he becomes aware of it. *Id.*

While employee assumes risks ordinarily incident to employment, so far as not attributable to negligence of employer or those for whom responsible, employee has right to assume that employer has exercised proper care as to safety of place and method of work. *Id.*

To subject employee without warning to unusual danger, not normally incident to employment, is itself an act of negligence. *Id.*

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Conditions in valley of river demonstrate that work of Federal and various state commissions in constructing series of levees is for purpose of prevention of destruction and improvement of navigation and not for purposes of reclamation. *Id.*

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- Employee not bound to exercise care to discover dangers resulting from employer's negligence and not ordinarily incident to the employment. *Id.*
- Even if employee knows and assumes risk of inherently dangerous method of work, he does not assume increased risk attributable to negligence in pursuing it. *Id.*
- Engineer of approaching train, on seeing lights of brakeman sent out to guard latter's train, has right to presume that brakeman is standing on guard, and does not owe him duty to immediately stop train. *Southern Railway v. Gray*. 333
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 Section 32, Penal Code, prohibits and punishes the false assuming, with intent to defraud, to be an officer or employee of the United States; and also the doing in the falsely assumed character of any overt act to carry out the fraudulent intent, whether it would have been legally authorized had the assumed capacity existed or not. *Id.*

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- Under §§ 16, 20, Enabling Act, and sched. 28, constitution of Oklahoma, State took place of United States in prosecutions for adultery, neither party being Indian, commenced in Indian Territory, and all essential parts of prosecution, including bail bond, passed to State with power of enforcement. *Southern Surety Co. v. Oklahoma* 582
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"Any person not registered" in § 8 of Act, refers to those required to register, and one not in that class is not subject to the penalties prescribed. *Id.*

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Owner of property which may be assessed for benefits to pay for property condemned is not entitled under due process provision of Fourteenth Amendment to be made party to condemnation proceedings or be heard as to amount of awards; provision requires only those whose property is to be taken to have prior notice. *St. Louis & K. C. Land Co. v. Kansas City* 419

In Pennsylvania judgment debtor not party to garnishment proceeding to condemn claim due him from third person, nor bound by judgment discharging garnishee. *New York Life Ins. Co. v. Dunlevy* 518

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PENAL STATUTES:

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Under § 4529, Rev. Stat., as amended in 1898, shipowner not liable for penalty for delay in payment of seaman's wages during period between judgment and affirmance by appellate court, where reasonable cause for prosecuting appeal. *Pacific Mail S. S. Co. v. Schmidt* 245

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An amendment which merely expands or amplifies what was alleged in original complaint relates back to commencement of action and is not affected by intervening lapse of time; but an amendment which introduces a new or different cause of action is the equivalent of a new suit barred by the expiration of the period of limitation. *Id.*

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POLICE POWER:

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PORTO RICO:

Even though government has sovereign attributes and has only consented to be sued in its own courts, the solemn appearance in the United States District Court, and the taking of other steps by, its Attorney General, held to have amounted to a consent to be sued in that court, and thereafter government could not deny its jurisdiction. *Richardson v. Fajardo Sugar Co.* 44

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Scope of review: This court has the power to, and in exceptional cases will, determine the merits on reversal of decision of Circuit Court of Appeals on question of its jurisdiction. *Lamar v. United States*. 103

Objection to competency of presiding judge not made in courts below and which could have been corrected if made in trial court, not open here except under most peremptory requirements of law. *De la Rama v. De la Rama* 154

An attempt to open questions of detail in trial court, no clear and important error being shown, and the matter being one of local administration, disallowed. *Id.*

Where charge as whole is fair, objections made at time, but which did not specifically draw attention of trial court to inaccuracies in portions thereof, cannot, where not dealt with by appellate court, be pressed in this court. *Seaboard Air Line v. Renn*. 290

Where state court has treated instrument involved as properly in evidence and has undertaken to determine its validity and effect, this court will not consider mooted questions of pleading as to whether instrument properly before court. *Cincinnati, N. O. & T. Ry. v. Rankin*. 319

Validity of severable provisions of statute, not raised by charge against one violating it, nor considered by court below, not considered by this court. *Brazee v. Michigan*. 340

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Disposition of case: That state appellate court may have inaccurately expressed in one respect its reasons for affirmance, does not require this court to reverse, if in fact, no reversible error exists. *St. Louis & S. F. R. R. v. Brown* 223

Where, in action under Employers' Liability Act, state trial and appellate courts have in effect held that conditions of assumption of risk were satisfied, this court, in absence of palpable error, simply announces concurrence. *Baugham v. New York, P. & N. R. R.* 237

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Omission to plead or prove injury in interstate commerce, not made basis of assignment of error, *held* not ground for reversal; and also so held as to striking out certain special defenses. *San Antonio & A. P. Ry. v. Wagner* 476

Demurrer to indictment under § 215, Crim. Code, having been sustained, and Government having appealed, and appellee having contended that court below passed only on sufficiency of indictment and did not consider statute, *held*, that such contentions involved construction of the statute; but in reversing District Court as to action in sustaining demurrer there was no intention of controlling lower court in its construction of the indictment. *United States v. New South Farm* 64

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Decision of highest state court that under a state constitutional amendment legislative power of State was vested not only in legislature but also in people by referendum, and that a law disapproved by referendum was no law, is conclusive here. <i>Davis v. Ohio</i>	565
Where decision of state court is necessary result of construction of state statute, this court accepts it as correct. <i>Pacific Live Stock Co. v. Oregon Water Board</i>	440
Rule that local practice sanctioned by local courts should not be disturbed, applied. <i>De la Rama v. De la Rama</i>	154
<i>In general:</i> When evidence admissible for one purpose only counsel need not announce its purpose. <i>Kansas City Southern Ry. v. Jones</i>	181
That after the close of testimony plaintiff suing under both Employers' Liability Act and Safety Appliance Act withdrew his claim under latter, <i>held</i> not to amount to withdrawal of testimony in regard to defective condition of appliances entitling defendant to directed verdict on ground of assumption of risk. <i>St. Louis & S. F. R. R. v. Brown</i> ...	223
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<i>Quere</i> , whether under Conformity Act trial court is required, in action under Employers' Liability Act, to adhere to state practice governing effect of general verdict and special findings. <i>Spokane & I. E. R. R. Co. v. Campbell</i>	497
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Amendment of Rule 10, §§ 2 and 9, relative to printing of record. See p. 633.

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While state legislature may go far in raising presumptions and changing burden of proof, there must be rational connection between fact proved and ultimate fact presumed.

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Presumption that if Congress has purpose to take class of suits out of usual jurisdictional restrictions relating thereto, it will make its purpose plain. *Bankers Trust Co. v. Texas*

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Engineer of train, on seeing lights of brakeman sent out to guard latter's train, has right to presume that brakeman is standing on guard. *Southern Railway v. Gray*. 333

Court will not presume that demanding government will suffer person surrendered to be tried for any offense other than that for which surrendered. *Bingham v. Bradley*. . . . 511

PRINCIPAL AND AGENT:

Rule imputing agent's knowledge to principal not applicable when third party knows there is no foundation for ordinary presumption and is acquainted with circumstances plainly indicating that agent will not advise principal. *Mutual Life*

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- Service essential to validity of personal judgment by state court where party does not voluntarily submit to jurisdiction and is not citizen of State. *New York Life Ins. Co. v. Dunlevy*. 518
- Personal service on judgment debtor necessary in interpleader proceedings brought by garnishee. *Id.*
- See **Appeal and Error; Certiorari; Habeas Corpus; Injunction; Jurisdiction.**

PUBLIC LANDS:

- While Congress may exercise control over lands to which claims have attached under existing statutes, such lands are not regarded as public lands under acts of Congress passed thereafter. *United States v. Hemmer*. 379
- Nothing in legislative history of act of 1884 indicates that it was passed as amendment to act of 1875, or that Congress deemed earlier act did not sufficiently protect Indians in retention of homesteads. *Id.*
- Provisions in act of 1875 permitting Indians to make homestead entries, not repealed by act of 1884. *Id.*
- Indian who made homestead entry prior to passage of act of 1884, but not final proof until thereafter, held to have made entry under act of 1875 and limitations of inalienability was according to that act. *Id.*

PUBLIC OFFICERS. See **Members of Congress.**

PUBLIC UTILITIES:

- Corporation authorized by its charter to carry passengers and goods, but not to exercise any powers of a public service corporation, and which does such business, including carrying of passengers to and from railroad terminals and hotels under contracts therewith, and also does a garage business with individuals, held a common carrier within meaning of District of Columbia Public Utility Act of 1913, and subject to jurisdiction of Commission as to terminal and hotel business, but not as to garage business; and under the Act is bound to furnish information properly required by Commission in regard to former but not as to latter business. *Terminal Taxicab Co. v. District of Columbia*. 252
- Omission from a general order of a public utilities commission of concerns doing a small volume of business held not to amount to such a preference as to deny those affected by order the equal protection of the law. *Id.*

PURE FOOD AND DRUGS ACT:

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While a distinctive name may be purely arbitrary, it must be one that distinguishes the article; and where more than one name, each descriptive of the article, are united, it amounts to misbranding if the article sold does not contain any of the article generally known individually by any of such names. *United States v. Coca Cola Co.* 265

A compound food product, the formula of which included a poisonous or deleterious ingredient, is not adulterated by the omission of such ingredient. *Id.*

Adulteration as used in § 7 is used in a special sense and an article may be adulterated by the adding of an injurious ingredient including component parts of the article itself; it is not to be confused with misbranding and provisions as to latter do not limit explicit provisions of § 7; and proprietary foods sold under descriptive names are within its provisions, including those on market when Act was passed. *Id.*

A poisonous or deleterious ingredient may be an added ingredient although it is covered by the formula and made a constituent of the article sold. *Id.*

Whether an added ingredient is poisonous or deleterious held to be a question for the jury. *Id.*

The fact that a formula has been made up and followed and a distinctive name therefor adopted does not suffice to take an article from § 7, subd. 5 of Act: the standard by which the combination is to be judged is not necessarily the combination itself. *Id.*

RAILROADS:

Have right to test rates prescribed by state statute as a unit, and to obtain injunction restraining state officers from enforcing law in its entirety if found to be confiscatory. *Missouri v. Chicago, B. & Q. R. R. Co.* 533

Right is not exclusive of right to test it by resisting in each particular case an individual effort to enforce a single rate prescribed. *Id.*

Engineer of approaching train, on seeing lights of brakeman sent out to guard latter's train, has right to presume that brakeman is standing on guard, and does not owe him duty to immediately stop train. *Southern Railway v. Gray* 333

Danger to brakeman at work in switching at one end of "manifest" train, arising from switching operations by another crew at the other end, is not an ordinary risk, and,

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- in absence of notice or knowledge, is not an assumed one. *Chesapeake & Ohio Ry. v. Proffitt*..... 462
- In absence of knowledge of custom of employer in making up trains, brakeman not bound by custom unless it is such as reasonably careful employer would adopt. *Chesapeake & Ohio Ry. v. Proffitt*..... 462
- Continuance of an engineer in his employment on locomotive equipped with old style lubricator glass, after he has requested that new and safe style be substituted, held not to amount to assumption of extraordinary risk involved in retention of older appliance. *Chicago & N. W. Ry. v. Bower* 470
- See **Common Carriers; Employers' Liability Act; Interstate Commerce; Rate Regulation; Safety Appliance Act.**

RATE REGULATION:

- In exerting public power State cannot, without violating Constitution, make rates so low as to be confiscatory. *Missouri v. Chicago, B. & Q. R. R. Co.* 533
- From power to fix railroad rates results duty to provide opportunity to test their repugnancy as a unit to Constitution in case confiscation charged. *Id.*
- State may not, by mandamus, compel railroad to comply with rates fixed by state law unless opportunity afforded to test question of confiscation. *Id.*
- Railroad has right to test rates prescribed by state statute as a unit, and to obtain injunction restraining state officers from enforcing law in its entirety if found to be confiscatory. *Id.*
- Right to test rate-making law as a unit is not exclusive of right to test it by resisting in each particular case an individual effort to enforce a single rate prescribed. *Id.*
- Qualification as "without prejudice" of decrees in rate cases where assertions of confiscation not upheld, held not to leave controversy open as to period dealt with by decree, but to avoid prejudice as to property rights in future if confiscation should result. *Id.*
- Qualification of decree dismissing bill to enjoin state officers from enforcing rate statute as without prejudice does not leave matter open so that in subsequent individual case brought by State to recover excess fares paid during period covered by company's suit latter can attack constitutionality of law as a whole. *Id.*
- That State not party to company's suit in which decree

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dismissing bill without prejudice entered, does not make decree inapplicable in individual suit of State to recover excess fares paid during period covered by company's suit. *Id.*

Quære as to ultimate right to recover for excess rates paid pending stay while constitutionality of statute pending, in absence of condition to that effect imposed when injunction issued. *Id.*

Quære, whether suit by railroad against state officers to enjoin enforcement of rate-making statute is not a class suit binding upon all. *Id.*

REAL PROPERTY. See **Condemnation of Land.**

RECORD:

Amendment of Rule 10, §§ 2 and 9, relative to printing. See p. 633.

REFERENDUM:

Nothing in Act of Congress of 1911, apportioning representation among States, prevents people of State from reserving right of approval or disapproval by referendum of a state act redistricting State for purpose of congressional elections. *Davis v. Ohio*. 565

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REMEDIES:

Right to test rate-making law as a unit is not exclusive of right to test it by resisting in each particular case an individual effort to enforce a single rate prescribed. *Missouri v. Chicago, B. & Q. R. R. Co.* 533

REMOVAL OF CAUSES:

State may not prevent foreign commercial corporations doing local business from exercising constitutional right to remove suits into Federal courts. *Wisconsin v. Philadelphia & Reading Coal Co.* 329

Section 1770f, Wisconsin Statutes, providing for revocation of license of foreign corporation in case it removes, or makes application to remove, into Federal court, any action commenced against it by citizen of State is unconstitutional as beyond power of State. *Id.*

Nothing is accomplished by unsuccessful attempt to remove administrative proceeding into Federal court where

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District Court has by remanding order adjudged that removal not authorized. *Pacific Live Stock Co. v. Oregon Water Board* 440

Under § 28, Jud. Code, remanding order of District Court is final and conclusive and not subject to review. *Id.*

REPEALS. See **Construction.**

REPRESENTATIVES. See **Members of Congress.**

REPUBLICAN FORM OF GOVERNMENT. See **Congress.**

RES IPSA LOQUITUR. See **Admiralty.**

RES JUDICATA:

Doctrine furnishes a rule for decision of subsequent case between same parties or their privies respecting same cause of action, and only applies where the subsequent action has been brought. *Merriam v. Saalfeld* 22

Only final judgment is *res judicata* as between parties; and decree is not *res judicata* as against third party participating in defense unless such against defendant himself. *Id.*

RESTRICTIONS ON ALIENATION. See **Indians.**

REVISED STATUTES:

For sections construed, etc., see Table of Statutes Cited in front of volume.

RIPARIAN RIGHTS:

Rights of riparian owners on opposite sides of a stream embrace authority of both, without giving rise to legal injury to other, to protect themselves from harm resulting from accidental or extraordinary floods, such as occur in the Mississippi River, by building levees if they so desire. *Cubbins v. Mississippi River Commission*. 351

General right to unrestrained flow of rivers and streams and duty not to unduly deflect or change same by works constructed for individual benefit, qualified by limitation as to accidental and extraordinary floods, prevail under Roman Law, in England, and in this country. *Id.*

Owner of land fronting on Mississippi River has no right to complain of the overflow of his land caused by building of levees along banks of river for purpose of confining water in times of flood within river and preventing it from spreading out from river into and over alluvial valley through

RIPARIAN RIGHTS—*Continued.*

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which river flows to destination, although keeping water within river is to so increase its volume as to raise level and cause overflow complained of. *Id.*

State may require all claimants to same water to submit their claims to an administrative board and to pay a reasonable fee for the expenses of such board. *Pacific Live Stock Co. v. Oregon Water Board* 440

Statutes of Oregon, establishing proceedings for ascertainment and adjudication of relative rights of claimants to same water, do not deny due process of law. *Id.*

RIVERS. See **Mississippi River; Navigable Waters; Riparian Rights.**

RULES OF COURT:

Amendment of Rule 10, §§ 2 and 9, relative to printing of record. See p. 633.

Amendment of Rule 37, relative to presentation of petitions for certiorari. See p. 635.

SAFETY APPLIANCE ACT:

Right of private action by employee injured while engaged in duties unconnected with interstate commerce, but injured by defect in a safety appliance required by act of Congress, is within constitutional authority of Congress. *Texas & Pacific Ry. v. Rigsby*. 33

Employee of railroad has right of action for damages sustained by reason of defective appliances in violation of Act, even though he was engaged at time in intrastate commerce. *Id.*

Amendment of 1903 enlarged scope of Act so as to embrace all vehicles used on any railway a highway of interstate commerce, whether or not employed at time in such commerce. *San Antonio & A. P. Ry. v. Wagner* 476

Exception exempting cars used upon street railways does not extend to cars used in regular interstate traffic and also to some extent used on street railways. *Spokane & I. E. R. R. Co. v. United States*. 344

Cars used on electric railway doing interstate business held subject to Act in respect of grab-irons and hand-holds, notwithstanding use at terminals upon street railways. *Id.*
Electric interstate road is not exempted from requirements of Act because its terminals run over street railways. *Spokane & I. E. R. R. Co. v. Campbell*. 497

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- Congress may require installation of safety appliances on cars used on highways of interstate commerce, irrespective of the use made of any particular car at any particular time. *Texas & Pacific Ry. v. Rigsby* 33
- If equipment is defective or out of repair, question of whether it is attributable to railroad company's negligence is immaterial. *Spokane & I. E. R. R. Co. v. Campbell* 497
- Whether defective condition of car is or is not due to negligence of carrier is immaterial, an absolute duty being imposed. *Texas & Pacific Ry. v. Rigsby* 33
- Section 4 does not relieve carrier from liability in a remedial action for death or injury of employee caused by, or in connection with, movement of a defectively equipped car. *Id. Quære*, whether failure of coupler to work at any time does not sustain charge of violation. *San Antonio & A. P. Ry. v. Wagner* 476
- Requires locomotives to be equipped with automatic couplers and protection extends to men when coupling, as well as uncoupling, cars. *Id.*
- Whether methods substituted for grab-irons and hand-holds offer same, better, or adequate protection to employees, than those prescribed by Act, is not question for expert testimony. *Spokane & I. E. R. R. Co. v. United States* 344
- Act may not be violated with impunity by omitting grab-irons and hand-holds because company deems provisions onerous or because it considers that it has adopted more expedient methods for protection of employees. *Id.*
- Under § 8, Act of 1893, and § 5, Act of 1910, an employee is not deemed to have assumed risk although continuing in employment after knowledge of defect. *Texas & Pacific Ry. v. Rigsby* 33
- Proof that employee violated an order is not proof that he did so wilfully, and where wilfulness not found, such violation is negligence and not departure from course of employment. *Spokane & I. E. R. R. Co. v. Campbell* 497
- That employee may have violated an order does not take him from the protection of the Act, if brakes were defective and such defectiveness was proximate cause of injury. *Id.*
- Disregard of Act is wrongful act, and where it results in damage to one of class for whose especial benefit it was enacted, right to recover damages from party in default is implied. *Texas & Pacific Ry. v. Rigsby* 33
- State cannot make or enforce laws inconsistent with Act. *Id.*

SAFETY APPLIANCE ACT—*Continued.*

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Employers' Liability and Safety Appliance Acts are *in pari materia*, and where former refers to any defect or insufficiency, due to employer's negligence, in its appliances, it is legislative intent to treat violation of latter act as negligence *per se*. *San Antonio & A. P. Ry. v. Wagner*. 476

SALES:

Section 215, Crim. Code, prohibits using the mails for fraudulent statements assigning to article to be sold qualities which it does not possess. *United States v. New South Farms*. 64

There is deception and fraud within the meaning of § 215, Crim. Code, where the article is not of the character represented and hence does not serve the purpose. *Id.*

Persons employing false representations as to use to which an article offered may be put, are engaged in scheme to defraud within meaning of § 215. *Id.*

SEAMEN'S WAGES. See **Maritime Law.**

SECRETARY OF INTERIOR:

Under Acts of 1906 and 1910, Secretary has exclusive authority and jurisdiction to determine heirs of allottee Indian entitled to succeed to allotment made under Act of 1887, in case of his death during restricted period, including right to reopen and review previous administrative order on proper charges of newly discovered evidence or fraud. *Lane v. Mickadiet* 201

Mandamus will not lie to control conduct of Secretary concerning matter within his administrative authority. *Id.*

SECRETARY OF TREASURY:

Decision in dispute regarding interpretation of specifications of Government contract held final. *Merrill-Ruckgaber Co. v. United States* 387

SENECA INDIANS. See **Indians.**

SOVEREIGNTY:

Even though government of Porto Rico has sovereign attributes and has only consented to be sued in its own courts, the solemn appearance in the United States District Court, and the taking of other steps by, its Attorney General, held to have amounted to a consent to be sued in that court, and thereafter government could not deny its jurisdiction. *Richardson v. Fajardo Sugar Co.* 44

SPECIAL ASSESSMENTS. See **Condemnation of Land; PAGE**
Taxes and Taxation.

STATES:

- Legislative power* may not declare one guilty, or presumptively guilty, of a crime. *McFarland v. American Sugar Co.* 79
- While legislature may go far in raising presumptions and changing burden of proof, there must be rational connection between fact proved and ultimate fact presumed. *Id.*
- Cannot make or enforce laws inconsistent with the Safety Appliance Act. *Texas & Pacific Ry. v. Rigsby* 33
- May require all claimants to same water to submit their claims to an administrative board and to pay a reasonable fee for the expenses of such board. *Pacific Live Stock Co. v. Oregon Water Board* 440
- Power to preserve fish and game within its border is inherent in sovereignty of State, subject to any valid exercise of authority under Federal Constitution. *Kennedy v. Becker* . . . 556
- Tribal Seneca Indians are subject to fish and game laws of New York as to lands ceded by Big Tree Treaty of 1797. That Indians are wards of United States does not derogate from authority of State. *Id.*
- Judicial power of United States is wholly independent of state action and States may not, directly or indirectly, destroy, abridge, limit or render it inefficacious. *Wisconsin v. Philadelphia & Reading Coal Co.* 329
- Regulation of common carriers:* State may not, by mandamus, compel railroad to comply with rates fixed by state law unless opportunity afforded to test question of confiscation. *Missouri v. Chicago, B. & Q. R. R. Co.* 533
- In exerting public rate-making power State cannot, without violating Constitution, make rates so low as to be confiscatory. *Id.*
- Regulation of corporations:* State may not prevent foreign commercial corporations doing local business from exercising constitutional right to remove suits into Federal courts. *Wisconsin v. Philadelphia & Reading Coal Co.* 329
- Section 1770f, Wisconsin Statutes, providing for revocation of license of foreign corporation in case it removes, or makes application to remove, into Federal court, any action commenced against it by citizen of State, is unconstitutional as beyond power of State. *Id.*
- Interstate commerce:* The general rule against state burdens on interstate shipments, applicable to intoxicating liquor,

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- has been modified so as to bring it under state control after delivery, but before sale, in its original package. *Rosenberger v. Pacific Express Co.* 48
- Attempt to prohibit interstate shipments C. O. D. or prevent fulfillment of such contracts, is repugnant to the Constitution. *Id.*
- Power to control interstate C. O. D. shipments prior to enactment of Penal Code, not deducible from enactment of § 239 of that Code. *Id.*
- Under the Wilson Act a State has power to prevent solicitation of orders for intoxicating liquors to be shipped from other States. *Id.*
- Police power:* State may require licenses for employment agencies and prescribe reasonable regulations in respect to them enforceable in legal discretion of commissioner. *Brazee v. Michigan.* 340
- Adultery is an offense against the marriage relation and belongs to the class of subjects which each State controls in its own way. *Southern Surety Co. v. Oklahoma.* 582
- Republican form of government:* Whether guarantee has been disregarded by action of people of State in amending its constitution presents no justiciable controversy, but involves exercise by Congress of authority vested in it by Constitution. *Davis v. Ohio.* 565
- Elections:* Nothing in Act of Congress of 1911, apportioning representation among States, prevents people of State from reserving right of approval or disapproval by referendum of a state act redistricting State for purpose of congressional elections. *Davis v. Ohio.* 565
- Suits by and against:* Although State not suable without consent, state officer may be enjoined from doing act violative of Federal Constitution. *Missouri v. Chicago, B. & Q. R. R. Co.* 533
- State should be given opportunity to accept and abide by decision of this court; and where legislature has not met in regular session since rendition of decision, motion for execution denied without prejudice. *Virginia v. West Virginia.* 531
- In general:* Forts, arsenals and like places over which exclusive jurisdiction has been ceded to United States are not regarded as part of State. *Southern Surety Co. v. Oklahoma.* 582
- Due process of law does not require State to provide for suspension of judgment pending appeal, nor prevent it making

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it costly in case judgment upheld. <i>Louisville & Nashville</i> <i>R. R. Co. v. Stewart</i>	261
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STATUTE OF LIMITATIONS. See **Limitations.****STATUTES.** See **Congress; Construction.****STOCK BROKERS.** See **Brokers.****STOCK AND STOCKHOLDERS.** See **Bankruptcy; Brokers.****STOCK TRANSFERS:**

In California, title to stock may be transferred by delivery of certificates and the corporate books are not open for public information. <i>Stowe v. Harvey</i>	199
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STREET RAILWAYS:

That the terminals of an electric interstate railroad run over street railways does not exempt it from requirements of Safety Appliance Act. <i>Spokane & I. E. R. R. Co. v. Campbell</i>	497
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SUIT AGAINST STATE. See **States.****SUPPLEMENTAL BILL:**

A supplemental bill is not dependent or ancillary to original suit in sense that jurisdiction of it follows jurisdiction of original cause. <i>Merriam v. Saalfeld</i>	22
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TARIFFS:

Published rules relating to tariffs of interstate carriers must have a reasonable construction. <i>Menasha Paper Co. v. Chicago & N. W. Ry. Co.</i>	55
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TAXES AND TAXATION:

Scheme of distribution of taxes and assessments which is palpably arbitrary and constitutes plain abuse may be condemned: mere fact that there may be inequalities is not enough to invalidate action of State. <i>St. Louis & K. C. Land Co. v. Kansas City</i>	419
Owner of property which may be assessed for benefits to pay for property condemned is not entitled under due process provision of Fourteenth Amendment to be made party to condemnation proceedings or be heard as to amount of awards; provision requires only those whose property is to be taken to have prior notice. <i>Id.</i>	
Property owner entitled to be heard as to amount of his	

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assessment for benefits, but not entitled to be heard as to assessments of all other property owners. *Id.*

See **Condemnation of Land; States.**

TAX SALES:

Under § 64a of Bankruptcy Act, holders of tax-certificates who have paid taxes and assessments on property of bankrupt at tax sales which have been declared invalid, are entitled to reimbursement out of general fund of bankrupt's estate, with legal interest, but not with larger interest and penalties imposed by statute in redemptions. *Dayton v. Pueblo County*. 588

TERMS OF COURT:

Statutory provisions relating to terms of District Courts of Florida and provisions of Judicial Code, *held* to permit special terms to be held at any time for transaction of any kind of business. *Abbott v. Brown* 606
General Rule No. 1 of District Court for Southern District of Florida, should be liberally construed so as to keep court open from beginning of one statutory term to beginning of next; and an adjournment made pursuant to that rule does not bring term to end. *Id.*

TERRITORIES. See **Indian Territory.**

TEXAS:

Statute of 1907, imposing special license taxes on express companies maintaining offices for C. O. D. shipments of intoxicating liquors, is an unconstitutional burden on and interference with interstate commerce, and does not justify an express company accepting such a shipment in refusing to deliver the same. *Rosenberger v. Pacific Express Co.* 48

TEXAS AND PACIFIC RAILWAY:

Provision in § 1 of Act of 1871 was not intended to confer jurisdiction upon any particular court, but merely render company capable of suing and being sued in any court of competent jurisdiction. *Bankers Trust Co. v. Texas & Pacific Ry.* 295

TREATIES:

Art. X of Extradition Treaty with Great Britain of 1842, not to be so construed as to require demanding govern-

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- ment to send its citizens to country where fugitive found to institute legal proceedings. *Bingham v. Bradley* 511
- Status of merchant, as defined by treaty with China of 1880, is that acquired in China. *Chin Fong v. Backus* 1
- Reservation to tribe of privilege of fishing and hunting on land conveyed by Treaty of Big Tree of 1797, held one in common with grantees and others to whom privilege might be extended, but subject to appropriate regulation by State. *Kennedy v. Becker* 556

See **Extradition.****TRIAL:**

- Due process of law does not forbid a hearing upon a transcript of evidence formerly heard in court, and where the parties assented to the course pursued. *De la Rama v. De la Rama* 154

TRIAL BY JURY:

- Seventh Amendment exacts trial by jury according to course of common law—that is, by unanimous verdict. *Minneapolis & St. Louis R. R. v. Bombolis* 211
- State court in enforcing right created by Federal statute does not derive its authority as a court from the United States, but from the State, and the Seventh Amendment does not apply to it. *Id.*
- Seventh Amendment applies only to proceedings in Federal courts, and does not in any manner govern or regulate trials by jury in state courts, even in action brought under Federal act. *Minneapolis & St. Louis R. R. v. Bombolis* . . 211
- St. Louis & S. F. R. R. v. Brown* 223
- Chesapeake & Ohio Ry. v. Carnahan* 241
- Louisville & Nashville R. R. v. Stewart* 261
- Chesapeake & Ohio Ry. v. Kelly* 485
- Chesapeake & Ohio Ry. v. Gainey* 494
- Verdict in state court in action under Employers' Liability Act, which is not unanimous, but which is legal under laws of State, is not illegal under Seventh Amendment. *Minneapolis & St. Louis R. R. v. Bombolis* 211
- St. Louis & S. F. R. R. v. Brown* 223
- Chesapeake & Ohio Ry. v. Carnahan* 241
- Louisville & Nashville R. R. v. Stewart* 261

UNITED STATES:

- Congress had power to create Mississippi River Commission and through it to build levees to improve navigation, and

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- Government is not responsible to riparian owners for deflection of water by reason thereof. *Cubbins v. Mississippi River Commission*. 351
- Quære*, whether suit against Mississippi River Commission to enjoin construction of levees is not suit against United States. *Id.*
- Quære* as to liability to owner of tract of land part of which taken for erection of dike in navigable river. *United States v. Archer* 119

UNITED STATES COMMISSIONERS:

- Illegal arrest by state or municipal authorities does not affect jurisdiction of United States extradition commissioner. *Kelly v. Griffin* 6

VENUE:

- Court will not, in order to accommodate venue of particular offense, introduce confusion into the law. *United States v. Lombardo* 73

VIRGINIA V. WEST VIRGINIA:

- State should be given opportunity to accept and abide by decision of this court; and where legislature has not met in regular session since rendition of decision, motion for execution denied without prejudice. *Virginia v. West Virginia*. . 531

WAIVER:

- Parties to contract of an interstate shipment by rail made pursuant to Commerce Act cannot waive its terms; nor can carrier by conduct give shipper right to ignore such terms and hold carrier to different responsibility than that fixed by the agreement made under published tariffs and regulations. *Georgia, F. & A. Ry. v. Blish Milling Co.* 190

WASHINGTON STATE:

- Under Mining Act it is duty of mine owner to supply ventilation that will prevent accumulations of gas, which duty cannot be delegated, and gas-tester is a representative of the principal and not a fellow-servant of other employees engaged in mining. *Brown v. Pacific Coast Coal Co.* 571

WATERS. See Riparian Rights.

WHITE SLAVE TRAFFIC ACT:

- Under § 6 the required certificate must be filed in office of Commissioner of Immigration, and offense of not filing is not committed in another district where person is harbored;

WHITE SLAVE TRAFFIC ACT—*Continued.*

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- and District Court of that district has not jurisdiction of offense. *United States v. Lombardo* 73
- Offense of failing to file certificate as required by § 6, is not a continuing one which, under § 42, Jud. Code, can be punished in either of more than one district. *Id.*

WILLS:

- Sections 6509 and 6521, Mansfield's Digest, Laws of Arkansas, were not put in force in Indian Territory by Act of May 2, 1890; but *quære* as to § 6523. *Gidney v. Chappel* . . . 99
- Section 5625, Mansfield's Digest, Laws of Arkansas, was put in force in Indian Territory by Act of May 2, 1890. *Id.*

WILSON ACT:

- Under Act State has power to prevent solicitation of orders for intoxicating liquors to be shipped from other States. *Rosenberger v. Pacific Express Co.* 48
- Modifies general rule as to state burdens on interstate commerce so as to bring intoxicating liquor under state control after delivery, but before sale, in its original package. *Id.*

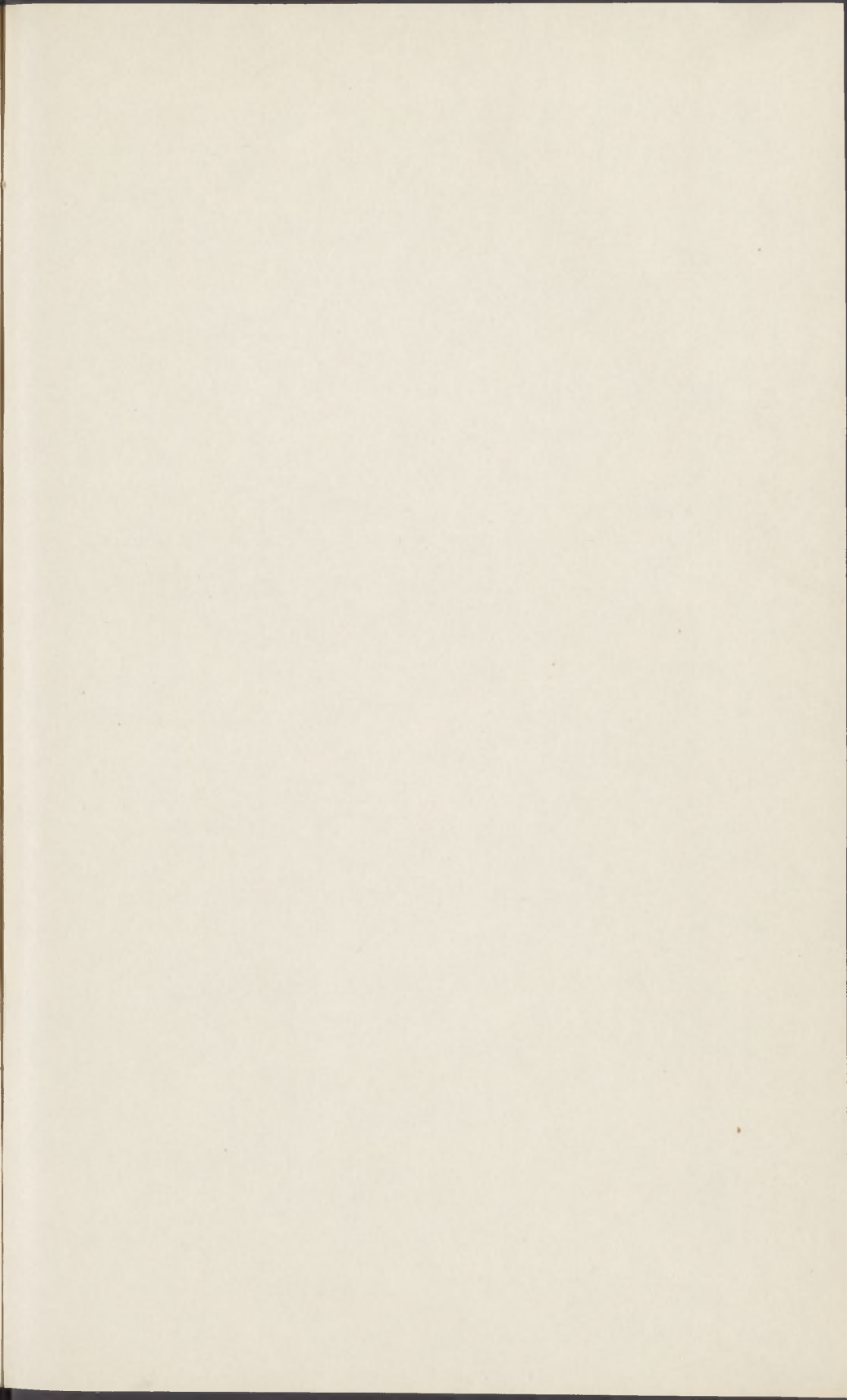
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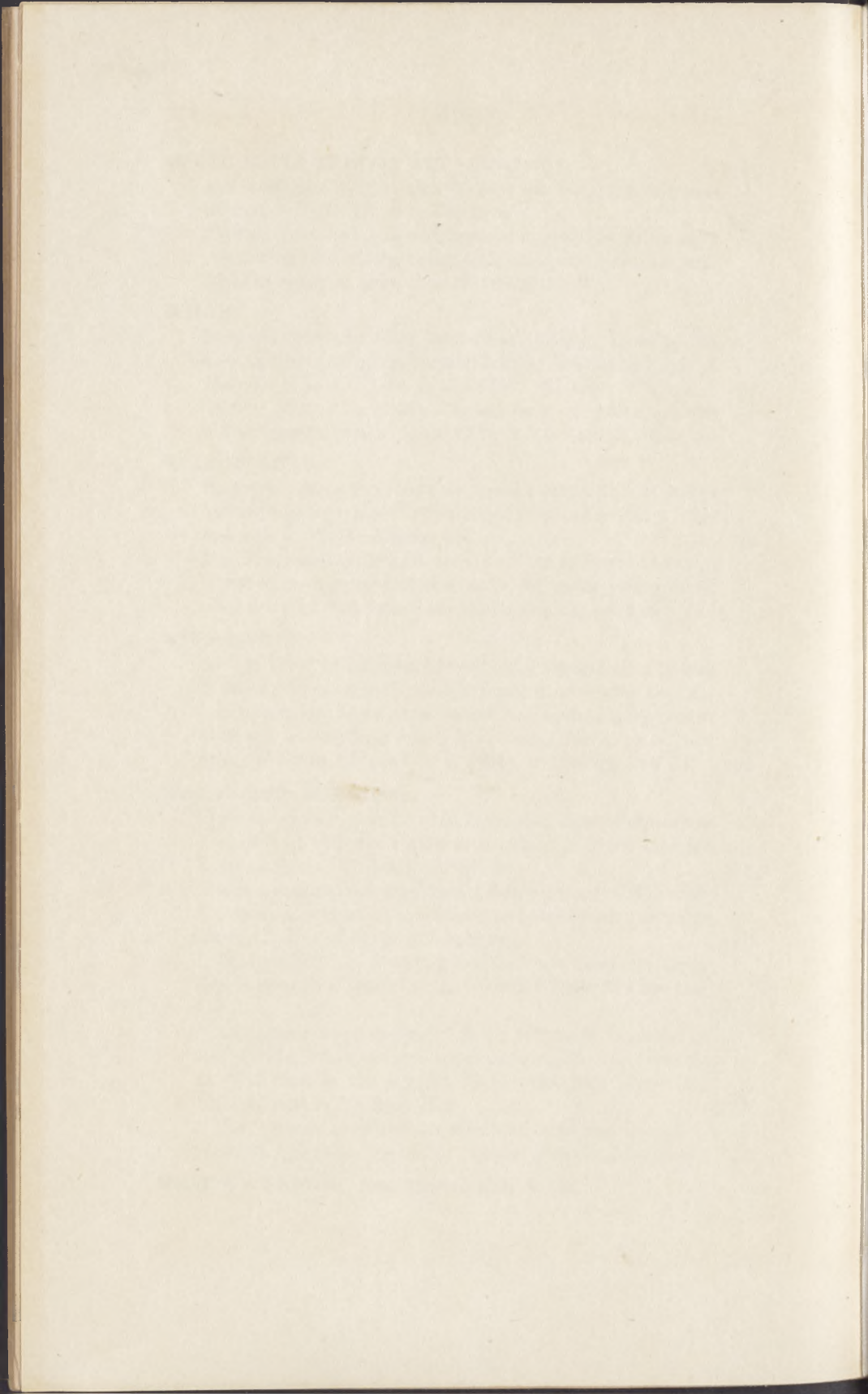
- Section 1770f, of statutes, providing for revocation of license of foreign corporation in case it removes, or makes application to remove, any action commenced against it by citizen of State, into Federal court, is unconstitutional as beyond power of State. *Wisconsin v. Phila. & Reading Coal Co.* . . 329

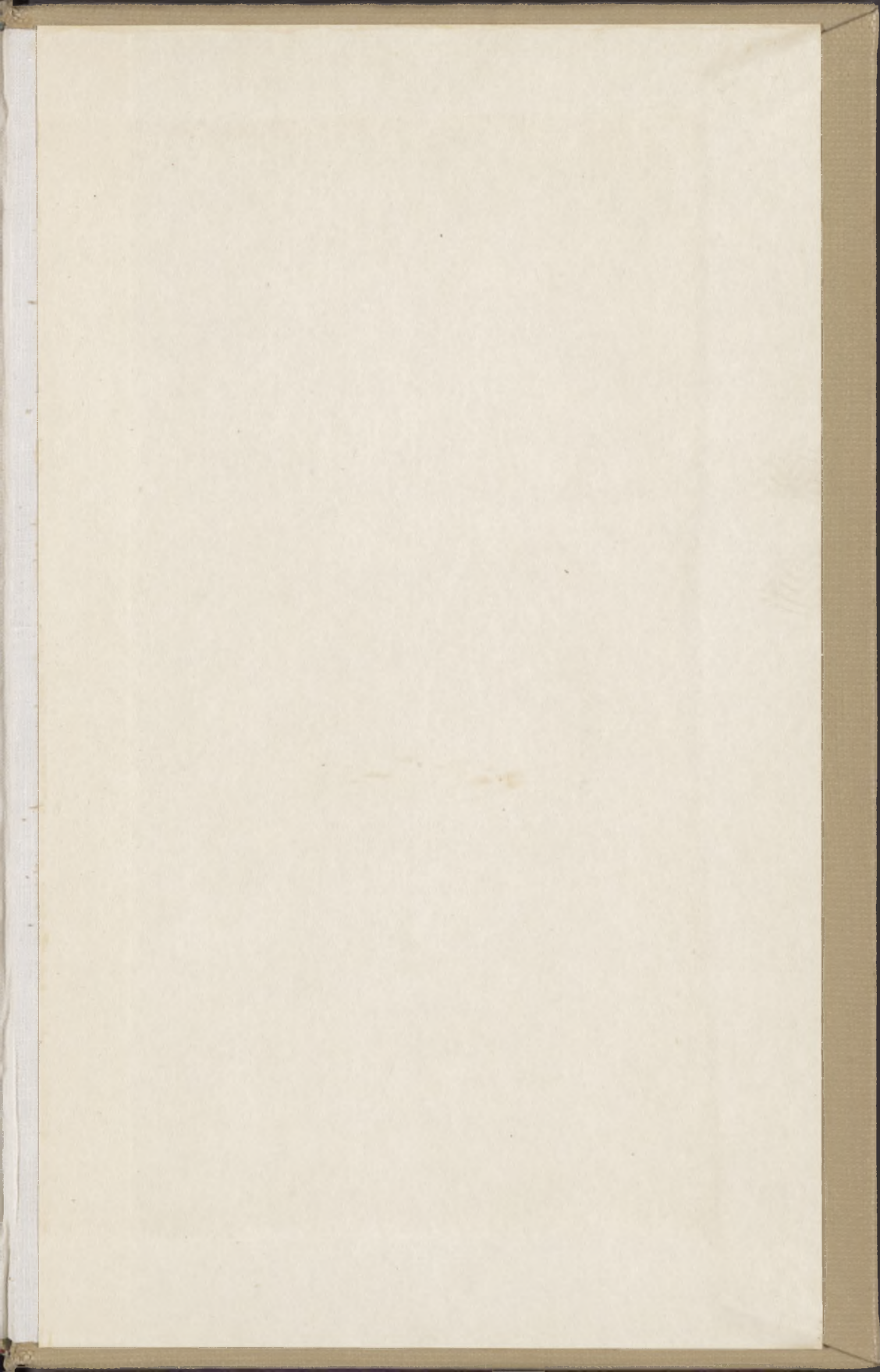
WORDS AND PHRASES:

- General words in statute must be read in light of statute as a whole and with due regard to situation in which they are to be applied. *United States v. Nice* 591
- Where a criminal statute does not define a word used therein, its etymology must be considered and its ordinary meaning applied. *United States v. Lombardo* 73
- "Adulteration" as used in § 7 of the Pure Food and Drugs Act is used in a special sense. *United States v. Coca Cola Co.* 265
- "Any person not registered" in § 8 of Opium Registration Act of 1914, refers to those required to register, and one not in that class is not subject to the penalties prescribed. *United States v. Jin Fuy Moy* 394
- "File" means to deliver to office indicated and to send to such office through the mails. *United States v. Lombardo* . . 73

WRIT OF ERROR. See **Appeal and Error.**







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