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5. *Id. Presumption from Patent.* In absence of adverse suit, no presumption that anything was considered by Land Department, in patenting claim, except question of right to the surface. *Id.*

6. *Id. Duty to Adverse.* An application to patent a lode mining claim invites only such contests as affect surface; and where no surface conflict involves the apex, a prior locator of adjacent unpatented claim is not obliged to adverse to protect his right to follow his vein extralaterally on the dip. *Id.*

7. *Id. Conveyance.* Quitclaim of undivided interest in claim, *held* to pass only rights appertaining to that claim and not to affect extralateral rights appertaining to adjoining claim owned by grantor. *Id.*

8. *Id. Decreeing Relief.* In suit to determine extralateral mining rights and for accounting, plaintiff may be granted relief which proven conditions warrant without prejudice to future supplemental proceedings based on revelations of future mining development. *Id.*

9. *Discovery and Location; Oil Lands.* To create valid rights or initiate title as against United States, discovery within location essential. *Union Oil Co. v. Smith* . . . . . 337

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11. *Id. Right of possession before discovery* may be maintained only by continued actual occupancy by qualified locator engaged in prosecution of work looking to discovery. *Id.*

12. *Id. Marking and Recording.* Discovery may follow marking and recording of mining claim, and perfect location as of time of discovery, provided no rights of third parties have intervened. *Id.*

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14. *Id.* *Oil Lands.* Act of 1903, providing that annual assessment labor may be done upon any one of group of contiguous oil-land locations not exceeding 5, in same ownership, provided it will tend to development or to determine oil-bearing character, refers to locations based each on discovery of oil within its limits, and evinces no purpose to break down distinction between mere *pedis possessio* of prospector before discovery and rights resulting from discovery and perfected location. *Id.*

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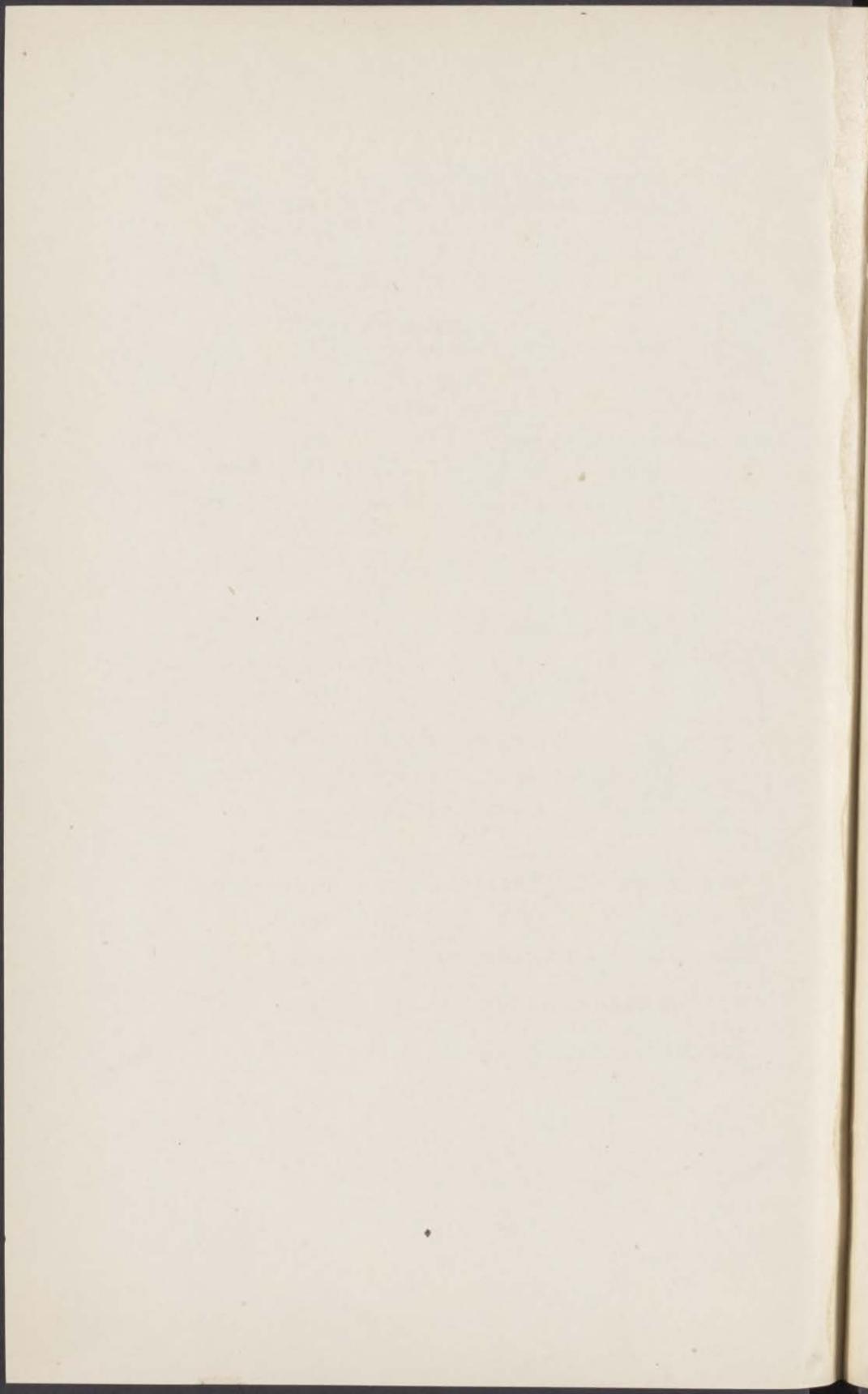
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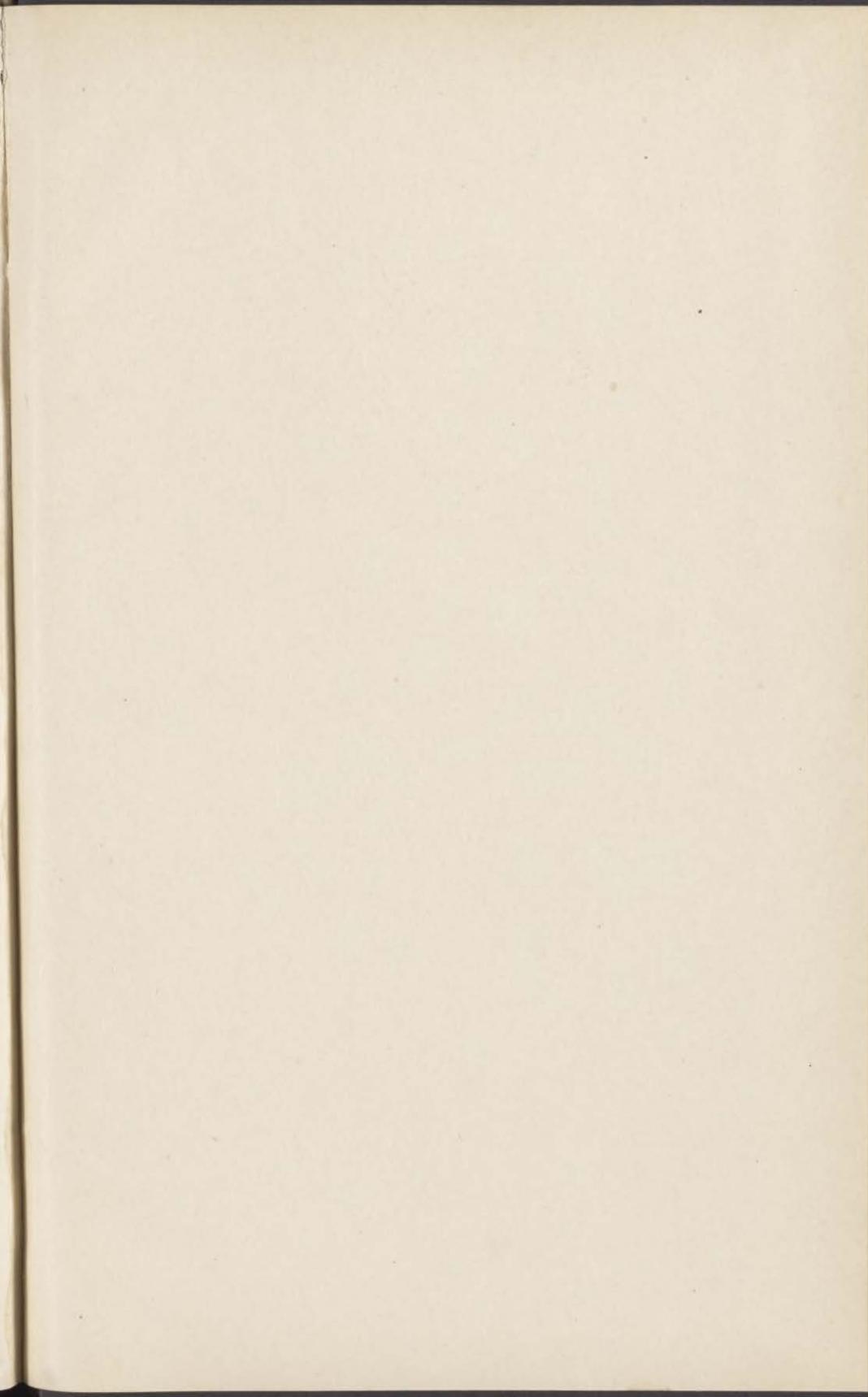
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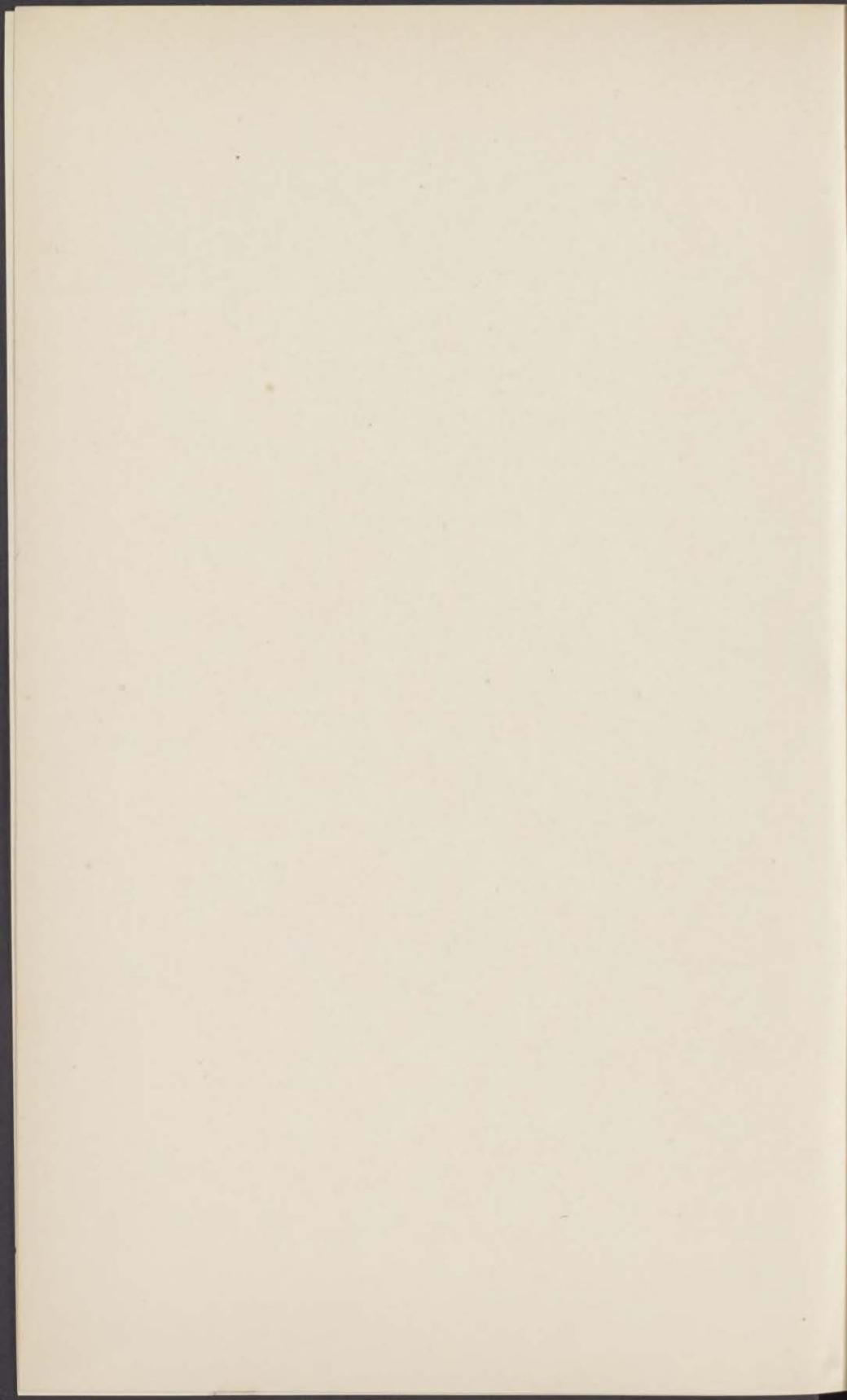
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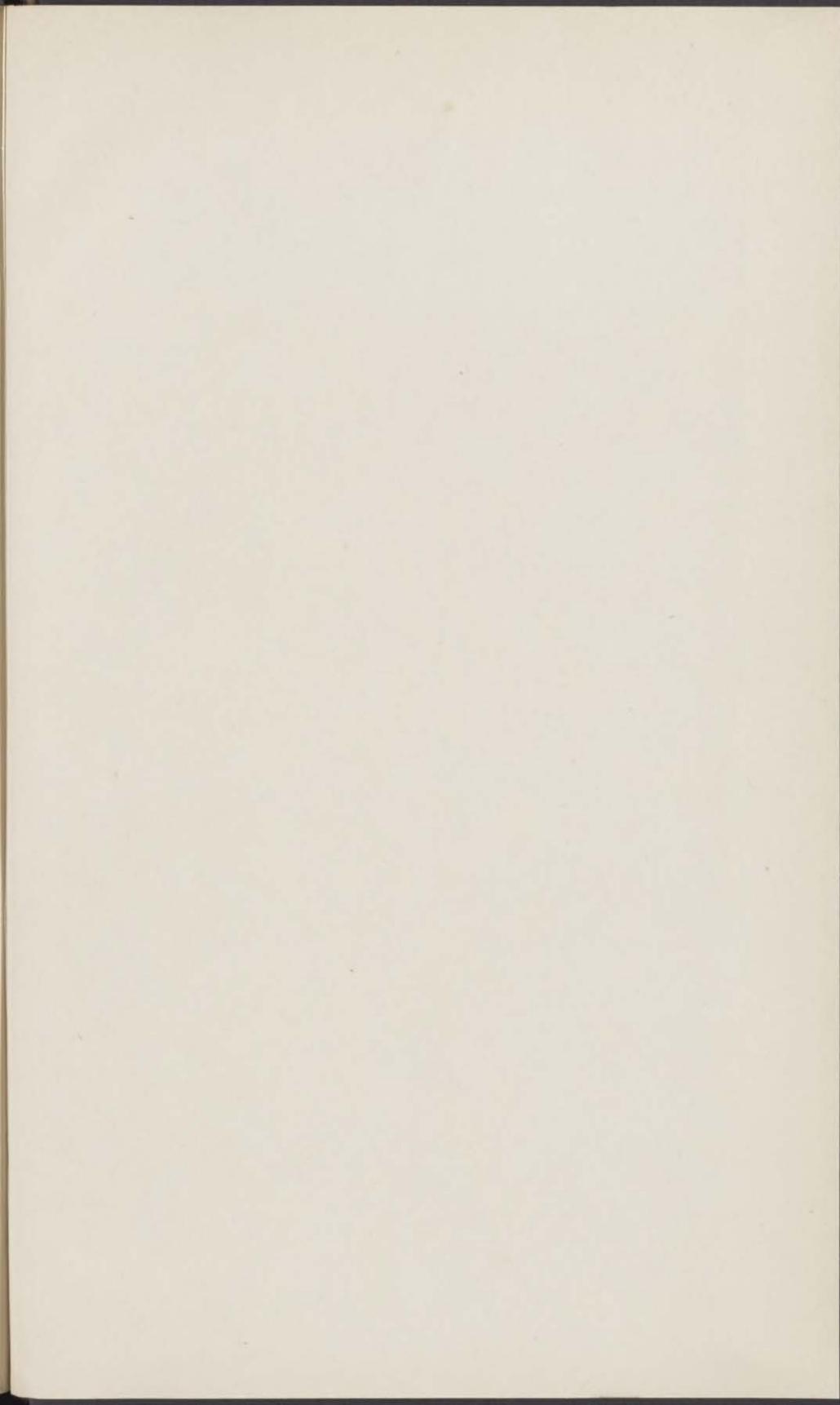
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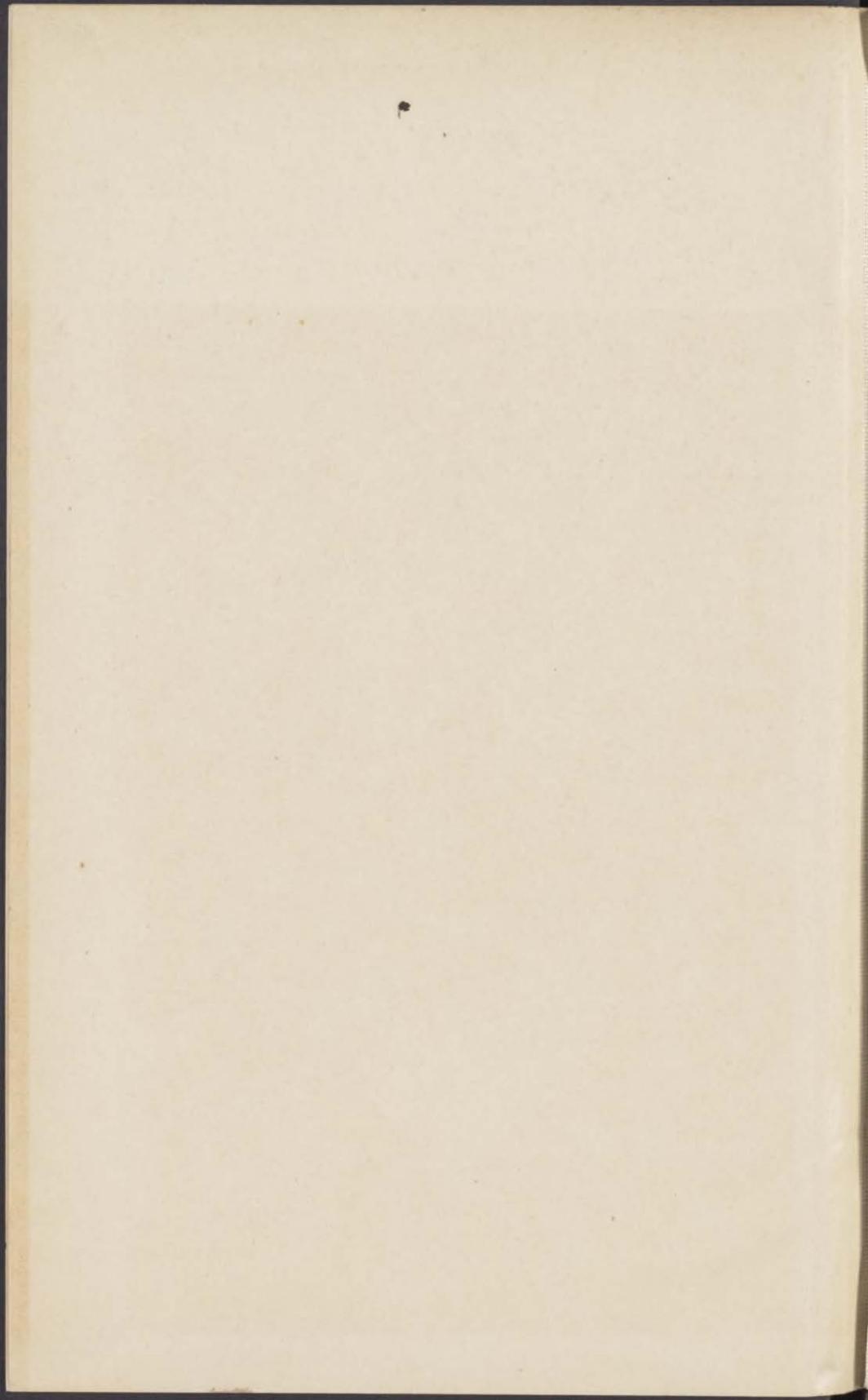
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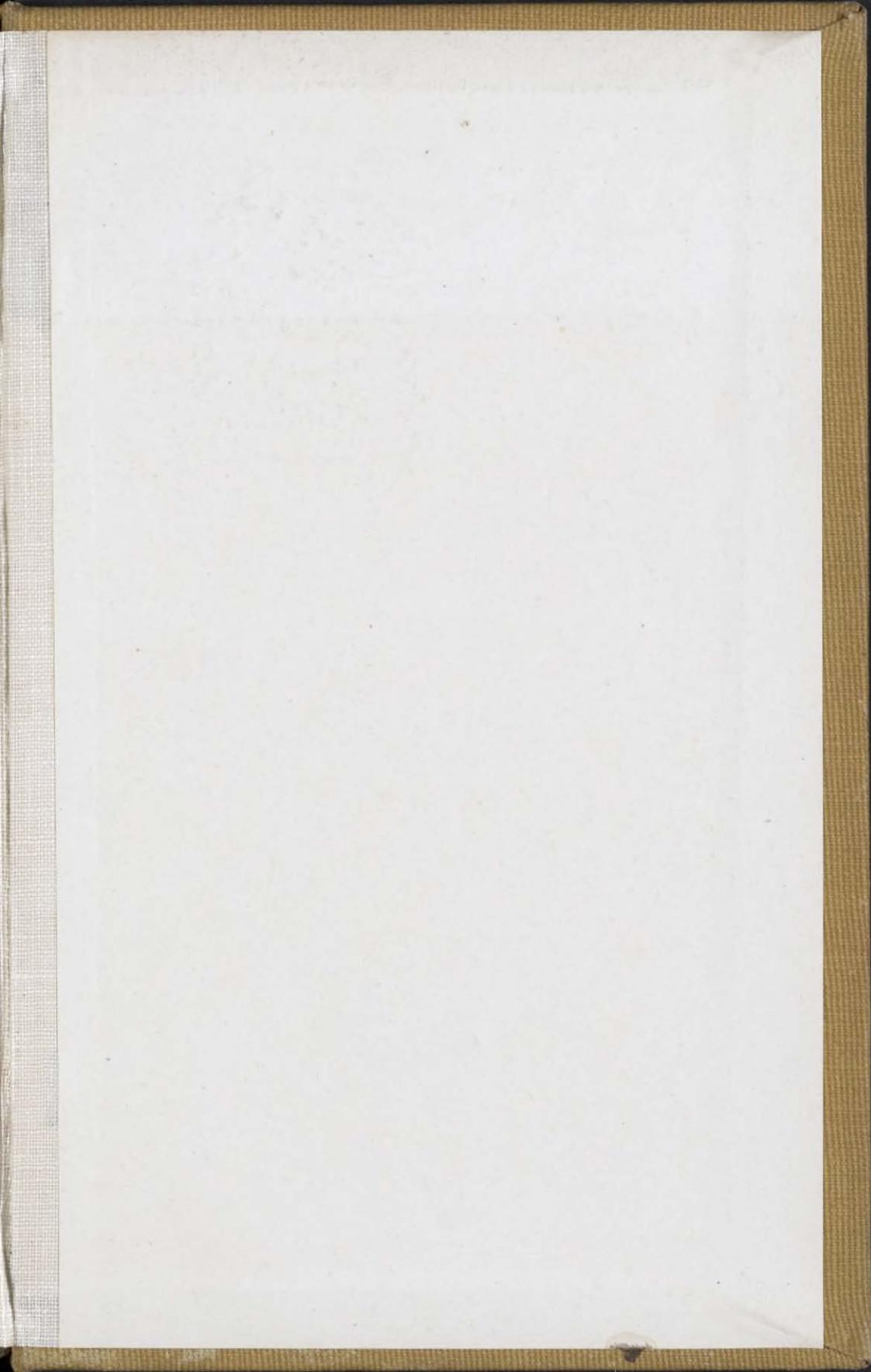












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