

# INDEX.

	PAGE
<b>ABANDONED PROPERTY ACT.</b> See <b>Claims</b> , 6.	
<b>ACCOUNTING.</b> See <b>Jurisdiction</b> , III, 1; <b>Procedure</b> , I, 3; <b>Trusts and Trustees</b> , 13.	
<b>ACTIONS AND DEFENSES.</b> See particular titles.	
<b>ADMINISTRATION:</b> Insolvent estates. See <b>Bankruptcy Act</b> . Estates of decedents; legacies. See <b>Taxation</b> , I, 5-8.	
<b>ADMINISTRATIVE DECISIONS.</b> See <b>Alien Enemies</b> , 2; <b>Interstate Commerce Acts</b> , III; <b>Procedure</b> , IV, 3; <b>Public Lands</b> .	
<b>ADMINISTRATIVE REGULATIONS.</b> See <b>Indians</b> , 8, 9.	
<b>ADMIRALTY:</b> Rules of practice for courts of admiralty. See Appendix, p. 671. 1. <i>Jurisdiction. Contracts for Construction of Ships</i> , are non-maritime and not within admiralty jurisdiction; rule applies to contracts for work and material necessary to finish partly constructed vessel which had been launched. <i>Thames Co. v. The "Francis McDonald"</i> . . . . . 242 2. <i>Id. Collision in Foreign Waters.</i> District Court has jurisdiction over libel of private ship to recover damages for collision in foreign waters. <i>Ex parte Muir</i> . . . . . 522 3. <i>Id. Immunity of Ships of Foreign Government.</i> Facts necessary to support claim, not being subjects of judicial notice, must be established. <i>Id.</i> 4. <i>Id. Manner of Raising Claim of Immunity.</i> Foreign government is entitled to appear and propound its claim upon ground that status of vessel is public and places it beyond jurisdiction; or its accredited representative may appear in	

**ADMIRALTY—Continued.**

PAGE

its behalf; or, its claim, if recognized by our executive department, may be presented to court by suggestion of Attorney General; but public status of ship, when in doubt, can not be determined upon suggestion of private counsel appearing as *amici curiæ* in behalf of embassy of foreign government. *Id.*

5. *Id. Prohibition and Mandamus by this Court.* This court, in its discretion, may decline to issue writs to prevent exercise of jurisdiction by District Court, where jurisdiction is merely in doubt and state of case is such that question may be reconsidered by District Court and on appeal. *Id.*

6. *Maritime Lien; Act June 23, 1910; Prior Mortgagee.* One furnishing coal to the owner of vessels and factories who in turn furnished part for use of the vessels, as contemplated, held not entitled to lien upon vessels as against prior mortgagee. *Piedmont Coal Co. v. Seaboard Fisheries Co.* . . . . . 1

7. *Id. Intent.* Contemplation by parties of maritime use did not render subsequent appropriation by owner a furnishing by coal dealer to the several vessels. *Id.*

8. *Id.* Understanding of parties that law would afford a lien is immaterial. *Id.*

**AGENCY.** See **Carriers, 3, 7; Corporations, 9, 10.**

**AGRICULTURE, SECRETARY OF.** See **Claims, 3.**

**ALIENS.** See **Alien Enemies; Chinese Exclusion Acts.**

Claim against United States for reimbursement for bills paid under duress of immigration officials for maintenance and medical care furnished immigrants temporarily detained. See **Claims, 7.**

Inheritance of real property; Treaty with Great Britain, of 1899. See **Treaties.**

*Inheritance, in Absence of Treaty.* Capacity of alien to inherit land within State of Union depends upon law of that State. *Sullivan v. Kidd* . . . . . 433

**ALIEN ENEMIES.** See **Jurisdiction, II, 2; IV, 7.**

1. *Seizure of Property.* Congress has power to provide for immediate seizure, *in pais* or through a court, of enemy prop-

**ALIEN ENEMIES**—*Continued.*

PAGE

erty, leaving question of enemy ownership *vel non* to be settled later at suit of claimant *Central Union Trust Co. v. Garvan*. . . . . 554

2. *Trading With Enemy Act; Alien Property Custodian; Determination of Enemy Property; How Litigated.* Upon determination after investigation by Custodian that securities are held by trustees for benefit of enemy insurance companies, followed by demand, duty arises to deliver them to Custodian; question of enemy property *vel non* can not be inquired into in suit to compel delivery, but rights in that regard can be asserted by claim and suit for return, under § 9, as amended. *Id.*

3. *Id. Right of Possession.* Such proceedings are alternative to direct seizure by Custodian under § 7 (c), and involve only right to possession. *Id.*

4. *Id. Title.* In so far as concerns claimants who proceed as allowed by § 9, proceeding by Custodian for delivery of property gives mere preliminary custody, although in other respects Custodian may get a conveyance under the act, with broad powers of management and disposition under § 12. *Id.*

**ALIEN PROPERTY CUSTODIAN.** See **Alien Enemies**, 2-4; **Jurisdiction**, II, 2; IV, 7.

**ALIENATION, RESTRAINT ON.** See **Indians**.

**AMENDMENT.** See **Pleading**, 2.

Articles of incorporation; when ineffective to terminate trust. See **Trusts and Trustees**, 8, 10.

**AMICUS CURIÆ.** See **Admiralty**, 4.

**AMOUNT INVOLVED.** See **Jurisdiction**, II, 11.

**ANCILLARY JURISDICTION.** See **Jurisdiction**, II, 3.

**ANIMALS.** See **Constitutional Law**, IX, 27, 28.

**ANIMAL DISEASE.** See **Claims**, 3.

**ANTI-NARCOTIC ACT.** See **Criminal Law**, 6, 7. PAGE

**ANTI-TRUST ACT.** See **Interstate Commerce Acts**, I.

1. *Combination by Purchase, Lease and Stock Control*, between railroad and subsidiary coal companies, resulting in practical monopoly of transportation and sale of anthracite coal from field reached by railroad, held violative of §§ 1 and 2 of Sherman Act. *United States v. Lehigh Valley R. R.* . . . . 255

2. *Id. Sales Company Device.* Agreement between coal and sales companies created and controlled by railroad, whereby sales company agreed to buy all coal produced by coal company at fixed percentage of New York prices and not to buy or sell coal except that purchased from coal company, held violative of act. *Id.*

3. *Sherman Act; Remedies; Setting Aside Sale.* Act provided exclusive remedies for rights it created; did not enable private party to set aside sale because purchaser bought in pursuance of purpose to restrain interstate commerce in a commodity. *Geddes v. Anaconda Mining Co.* . . . . . 590

4. *Monopoly; Injunction; Clayton Act, § 16.* Evidence fails to show that defendants constituted, when suit began, such a combination in restraint of interstate trade within Act of 1890, as would justify injunction under Clayton Act. *Id.*

5. *Clayton Act*, in so far as it grants relief by injunction to private suitors, or modifies Sherman Act, is applicable to suit for injunction pending at time of its enactment. *Duplex Co. v. Deering* . . . . . 443

6. *Id. Labor Unions; Conspiracy; Secondary Boycott.* Acts of labor organizations directed against manufacturer in effort to unionize its factory, held a combination and conspiracy to restrain interstate commerce relievable by injunction. *Id.*

7. *Id. Conspiracy Defined*, as combination of two or more by concerted action to accomplish an unlawful purpose or to accomplish a purpose not in itself unlawful by unlawful means. *Id.*

8. *Id. Secondary Boycott Defined*, as combination not merely to refrain from dealing with person aimed at, or to advise or by peaceful means persuade his customers to refrain, but to exercise coercive pressure upon such customers, actual or

**ANTI-TRUST ACT**—*Continued.* PAGE

prospective, in order to cause them to withhold or withdraw patronage through fear of loss or damage to themselves. *Id.*

9. *Id.* *Acts of Congress Determine Right to Injunction*; legality or illegality of boycott under common law or state statutes is of minor consequence. *Id.*

10. *Id.* *Beneficial Object.* Restraint produced by peaceable persuasion but violating Sherman Act, not justified by fact that participants in combination or conspiracy have an object beneficial to themselves which they might have been at liberty to pursue in absence of the statute. *Id.*

11. *Id.* *Clayton Act, § 6, Recognizing Legality of Labor Organizations*, assumes normal objects of such organizations are legitimate, but does not exempt them from accountability when they engage in combination or conspiracy in restraint of trade. *Id.*

12. *Id.* *Section 20*, prohibiting injunctions in cases of dispute between employer and employees, etc., is merely declaratory of the law as it stood before. *Id.*

13. *Id.* Paragraph 2 of § 20, prohibiting injunction against specified acts, refers to injunctions in cases between employer and employees; and provision that specified acts shall not be held violations of any law of United States, means only that those acts are not to be so held when committed by parties concerned in a dispute concerning terms or conditions of employment. *Id.*

14. *Id.* *Strict Construction.* As section imposes restriction upon equity powers of federal courts, and upon general operation of anti-trust laws, conferring special privilege upon particular class, rules of statutory construction forbid that privilege be enlarged by resorting to loose construction or by ignoring qualifying words of the section. *Id.*

15. *Id.* The section confines privilege to those proximately concerned in actual dispute respecting terms of their own employment; it does not use "employers and employees" in a general class sense, or treat all members of labor organization as parties to dispute which proximately affects but a few. *Id.*

16. *Id.* *Legislative History*, of Clayton Act, shows it was not intended to legalize secondary boycott. *Id.*

**ANTI-TRUST ACT** ---Continued. PAGE

17. *Id.* Debates, expressing motives of individual members, may not be resorted to; reports of committees and explanatory statements by committee member in charge of bill may. *Id.*

**APPEAL AND ERROR.** See **Admiralty**, 2-5; **Bankruptcy Act**, 4-6; **Jurisdiction**; **Parties**, 2; **Procedure**.

**APPEARANCE.** See **Admiralty**, 4.

**APPROPRIATIONS.** See **Claims**, 3, 4; **Contracts**, 2.

**ARBITRATION.** See **Taxation**, II, 1.

**ARMY.** See **Constitutional Law**, V, 2, 3; IX, 3.

**ARTICLES OF CONFEDERATION.** See **Constitutional Law**, VI.

**ARTICLES OF INCORPORATION.** See **Trusts and Trustees**, 8, 10.

**ASSIGNMENT OF ERRORS.** See **Jurisdiction**, II, 4.

**ASSUMPTION OF RISK.** See **Employers' Liability Act**; **Master and Servant**, 3.

**AUCTION SALE.** See **Corporations**, 5.

**AUTOMOBILES.** See **Constitutional Law**, II, 1; VIII, 4.

**BANKRUPTCY ACT:**

Debts due United States; priority as respects surety which pays United States amount due on bond of insolvent. See **Sureties**.

1. *Self-incrimination; Fifth Amendment.* Involuntary bankrupt who filed schedules of assets and liabilities, which, standing alone, did not furnish proof of crime, and who later declined to answer questions concerning them on ground of self-incrimination, held not to have waived privilege under Amendment. *Arndstein v. McCarthy* . . . . . 71

2. *Section 7*, providing that no testimony given by bank-

**BANKRUPTCY ACT—Continued.** PAGE

rupt shall be used against him in any criminal proceeding, is not a substitute for protection of the Amendment, since it does not prevent use of his testimony to search out other evidence to be used against him or his property. *Id.*

3. *Rehearing; Intervention by Trustee in this Court.* Petition of trustee for leave to intervene, for certification of entire record, and for reargument, denied. *Arndstein v. McCarthy*. . . . . 379

4. *Jurisdiction. Petition to Revise, § 24b,* is proper remedy to review order vacating adjudication for want of jurisdiction upon motion of bankrupt after expiration of time for appeal. *Valley v. Northern Fire Ins. Co.* . . . . . 348

5. *Id. Insurance Corporations, § 4.* Where it appears from petition in involuntary bankruptcy that person proceeded against is an insurance corporation, court is without jurisdiction and its adjudication, rendered upon due service of process and default, and not appealed from, should be vacated upon motion of the company, even after time for appeal has expired. *Id.*

6. *Id. Failure to Contest Proceedings; Estoppel.* Where such corporation is adjudged bankrupt in an involuntary proceeding, after the Act of 1910, and does not appeal but acquiesces in adjudication and aids the trustee in administering the estate, it is not estopped from thereafter questioning the validity of the adjudication and the power of court and trustee to proceed. *Id.*

7. *Claims; Money Advanced to Purchase Stock Exchange Seat; Effect of Release.* Petitioner advanced his son money to buy seat in New York Stock Exchange, executing releases to son which were filed with Exchange in compliance with its rules, and son paid interest on amount advanced. Evidence showed that advance was intended as a gift and interest was paid as moral obligation merely. *Held,* irrespective of technical operation of releases, that petitioner had no valid claim to reimbursement against trustee of son's firm in bankruptcy. *Atwater v. Guernsey*. . . . . 423

**BILL OF EXCEPTIONS.** See **Exceptions.**

**BILL OF LADING.** See **Carriers, 1-7; Interstate Commerce Acts, II, 4.**

**BILL OF REVIEW.** See *Jurisdiction*, III, 1-3. PAGE

**BONA FIDE PURCHASER:**

Bill of lading. See *Carriers*, 5.

**BONDS.** See *Sureties*.

**BOUNDARIES:**

*States; Interlocutory Decree*, defining boundary and appointing commissioners to locate and designate it. *Minnesota v. Wisconsin* . . . . .

14

**BOYCOTT.** See *Anti-Trust Act*, 6 *et seq.*

**BRIDGES:**

1. *Corporations; Charter Rights; Tolls.* In action for penalties for failure to construct foot and carriage ways on railway bridge as required by act amending charter, it is premature to inquire whether provision reducing tolls on such ways impairs contract obligation. *International Bridge Co. v. New York* . . . . . 126

2. *Id. State Power to Require Improvements.* Where New York and Canadian companies, after consolidation, constructed bridge over Niagara River for railroad uses only, held, that new company had no charter immunity from being required to add foot and carriage ways, as contemplated by original charters; nor, in absence of showing that additions would not yield a reasonable return, was the Fourteenth Amendment violated. *Id.*

3. *International Bridges; Authority of State.* Act of 1870 in recognizing bridge as a lawful structure subject to supervision, etc., of Secretary of War, recognized that existence of bridge company and its right to build on New York land came from the State. *Id.*

4. *Id.* Facts that bridge was devoted wholly to international commerce and that Act of 1874 declared it a lawful structure and established post route, did not supplant authority of State to require foot and carriage ways. *Id.*

5. *Id.* Act of 1874, by declaring bridge lawful as built, did not repeal authority given by Act of 1870 to build subject to approval of Secretary of War; fact that bridge was twice rebuilt without foot and carriage ways with Secretary's con-

**BRIDGES**—*Continued.*

PAGE

sent, but under plans approved by him and providing for such additions in future, supports power of State to require them. *Id.*

6. *Id.* International character of bridge does not of itself divest State of power over its part of structure, in silence of Congress. *Id.*

7. *Id.* Act of 1899, requiring assent of Congress to erection of bridges over navigable waters not wholly within a State, does not make Congress source of right to build but assumes that right comes from State. *Id.*

8. *Id.* *Ownership of Land Under Bridge.* Conveyance to United States of part of land under bridge for public purpose not connected with administration of the Government, did not affect authority of State over residue nor invalidate state law requiring additional construction. *Id.*

**BROKERS.** See **Bankruptcy Act**, 7.

**BURDEN OF PROOF.** See **Evidence**, 1-4.

**CANADA.** See **Treaties**, 2 *et seq.*

**CANAL ZONE.** See **Negligence**, 1-3.

**CARMACK AMENDMENT.** See **Interstate Commerce Acts**, II, 2-4.

**CARRIERS.** See **Anti-Trust Act**, 1, 2; **Employers' Liability Act**; **Interstate Commerce Acts**; **Safety Appliance Act**; **Trusts and Trustees**, 4 *et seq.*

Baggage; liability for loss. See **Interstate Commerce Acts**, II, 2, 3.

Personal injury. See **Master and Servant**; **Negligence**.

Rates. See **Judgments**, 2.

Diversion of intrastate shipment; when initial carrier not liable. See **Interstate Commerce Acts**, II, 4.

Grade crossings. See **Constitutional Law**, III, 2; IV, 1, 2; IX, 10-23.

1. *Bill of Lading; Delivery.* Upon arrival of carload of goods at destination, carrier at direction of one in possession of bill of lading turned over car to another carrier for further car-

**CARRIERS**—Continued.

PAGE

riage, the old waybill being retained with names of new carrier and destination inserted in lieu of old. *Held*, a delivery under original consignment. *Pere Marquette Ry. v. French & Co.* . . . . . 538

2. *Uniform Bills of Lading Act; Delivery.* Under the act, carrier is justified in delivering to person in physical possession of order bill of lading properly endorsed, unless it has information that such person is not lawfully entitled to goods. *Id.*

3. *Id. Agency.* Delivery to person holding such bill as agent of another is tantamount to delivery to latter if ratified by him. *Id.*

4. *Id. Taking up Bill.* Exoneration, through delivery in good faith to person in possession of bill properly endorsed, is not defeated by failure of carrier to take up bill, if no loss is occasioned by such failure. *Id.*

5. *Id. Bona Fide Purchasers.* Where carrier delivered to one who without right acquired possession of bill apart from draft originally attached by shippers, *held*, that shippers, upon buying back bill and draft with knowledge of facts did not become *bona fide* purchasers within §§ 10-12 of Uniform Bills of Lading Act. *Id.*

6. *Id.* The act does not impose upon carrier specific duty to shipper to take up bill of lading. *Id.*

7. *Id. Surrender Clause; Conversion.* Noncompliance with this clause will not render carrier liable for conversion, when delivery is to holder of bill, duly endorsed, or his agent, and loss to shipper is not attributable to carrier's failure to take up bill, but to its wrongful acquisition by the deliverer for which carrier was not responsible. *Id.*

8. *Train Service; Burdensome Regulation.* Order of state commission requiring interstate road to detour two of its through passenger trains from main line over a branch for benefit of small city already adequately served by local, connecting trains, *held* void. *St. Louis & S.F. Ry. v. Public Service Comm.* . . . . . 535

9. *Operation at a Loss; Consent of State.* Apart from statute or express contract, those who invest in a railroad, though built under charter and eminent domain power received

**CARRIERS**—*Continued.*

from State, are not bound to go on operating at a loss; right to stop not dependent on consent of State. *Bullock v. R. R. Comm. of Florida.* . . . . . 513

10. *Id. Foreclosure; Rights of Mortgagee.* Where state Supreme Court prohibited lower court from confirming sale with liberty to purchaser to dismantle, on ground that State was not a party, *held* that prohibition could not affect rights of mortgagee, since right to dismantle, as against the State, could not be conferred by foreclosure decree in the State's absence, and would pass to purchaser, if it existed, whether decree so provided or not. *Id.*

**CERTIFICATE.** See **Jurisdiction**, II, 12; **VI**; **Procedure**, III.

**CERTIORARI.** See **Jurisdiction**, II, 3, 14.

**CHINESE EXCLUSION ACTS:**

*Unlawful Landing; Indictment*, for unlawfully bringing in Chinese aliens, will lie under § 8 of Immigration Act of 1917, where acts charged do not amount to a landing in violation of § 11 of Chinese Exclusion Act of 1884. *United States v. Butt.* . . . . . 38

**CIRCUIT COURT OF APPEALS.** See **Bankruptcy Act**, 4, 5; **Jurisdiction**, II (2); **III**; **IV**, 4, 5.

**CITIZENSHIP:**

Diversity. See **Jurisdiction**, IV, 1.  
 Privileges and immunities. See **Constitutional Law**, VI;  
**Criminal Law**, 8.

**CLAIMS.** See **Bankruptcy Act**, 7; **Contracts**, 2; **Patents for Inventions**, 3-7.

Return of property, by Alien Property Custodian. See **Alien Enemies**, 2-4.

1. *Taking of Property; Contract Implied*, is to pay for property actually taken. *Bothwell v. United States.* . . . . . 231

2. *Id.* Where construction of dam flooded private land, destroyed owner's hay there stored and forced him to remove and sell cattle, *held*, assuming an implied obligation to

**CLAIMS—Continued.**

	PAGE
pay for hay, there was none to pay loss due to forced sale of cattle. <i>Id.</i>	
3. <i>Id.</i> Obligation to pay not implied from destruction of anti-hog-choleera serum by officers, without agreement to purchase; nor from Act of 1915 authorizing Secretary of Agriculture to expend money in eradication of animal disease, including payment of claims growing out of purchase and destruction of exposed materials. <i>Great Western Serum Co. v. United States</i> . . . . .	240
4. <i>Use of Patented Devices; No Contract to Pay</i> implied from appropriation acts evincing willingness of Congress to expend money in testing devices, but no intention to pay until their usefulness should be proved. <i>Haupt v. United States</i> . . . .	272
5. <i>Loss Attributable to Mistake of Claimant.</i> Where shipments of newspapers which owner supposed were going by express at lower rates were in fact sent by mail, at higher but legal postal rates, through oversight of its agents, <i>held</i> , that United States was under no implied contract to reimburse it. <i>Journal &amp; Tribune Co. v. United States</i> . . . . .	581
6. <i>Abandoned Property Act; Ownership.</i> To establish claim, under Jud. Code, § 162, claimant must prove his ownership at time of seizure. <i>Mangan v. United States</i> . . . . .	494
7. <i>Tucker Act; Payments under Tortious Coercion.</i> Claim of foreign steamship company for reimbursement for bills for maintenance and medical care furnished by United States to immigrants temporarily detained before admission paid under duress of immigration officials, <i>held</i> founded on tort and not within Tucker Act or jurisdiction of Court of Claims. <i>United States v. Holland-America Lijn</i> . . . . .	148
8. <i>Refund; Internal Revenue Taxes; Right to Sue,</i> conditioned on prior appeal to and decision by Commissioner of Internal Revenue, which means an appeal, after payment, for a refund, and is not satisfied by an appeal or application for abatement of tax before it was paid. Rev. Stats., §§ 3226, 3220, 3228, construed. <i>Rock Island &amp;c. R. R. v. United States</i> . . . . .	141

**CLASSIFICATION.** See **Constitutional Law, IX (3); Interstate Commerce Acts, III, 3-5.**

- CLAYTON ACT.** See **Anti-Trust Act.** PAGE
- COAL COMPANIES.** See **Anti-Trust Act, 1, 2; Interstate Commerce Acts, I.**
- COLLISION.** See **Admiralty, 2-4.**
- COLONIES.** See **Treaties, 2 et seq.**
- COMBINATIONS.** See **Anti-Trust Act; Interstate Commerce Acts, I.**
- COMITY.** See **Jurisdiction, I, 3.**
- COMMERCE.** See **Anti-Trust Act; Bridges, 3 et seq.; Constitutional Law, III; Interstate Commerce; Interstate Commerce Acts; Jurisdiction, IV, 2.**
- COMMERCIAL PAPER:**  
Bill of lading. See **Carriers, 1-7.**
- COMMISSIONER OF INTERNAL REVENUE.** See **Taxation, I, 4, 6.**
- COMMITTEE REPORTS.** See **Statutes, 8.**
- COMMODITIES CLAUSE.** See **Interstate Commerce Acts, I.**
- COMMON CARRIERS.** See **Anti-Trust Act, 1, 2; Carriers; Employers' Liability Act; Interstate Commerce Acts; Master and Servant; Negligence; Safety Appliance Act; Trusts and Trustees, 4 et seq.**
- COMMON LAW.** See **Anti-Trust Act, 9; Employers' Liability Act, 2; Indians, 15; Priority, 1, 2.**
- CONCURRENT FINDINGS.** See **Procedure, IV, 6.**
- CONFLICT OF LAWS.** See **Insurance, 2.**
- CONGRESS:**  
Powers. See **Constitutional Law.**  
Appropriations. See **Claims, 3, 4; Contracts, 2.**

- CONGRESS**—*Continued.* PAGE  
 Legislative history, debates and committee reports. See  
**Statutes**, 7, 8.
- CONSIDERATION.** See **Corporations**, 2-6.
- CONSPIRACY.** See **Anti-Trust Act**, 6 *et seq*; **Criminal Law**, 8.
- CONSTITUTIONAL LAW:**
- I. Judicial Power, p. 722.
  - II. Federal Agency; Post Routes, p. 722.
  - III. Commerce Clause, p. 723.
  - IV. Contract Clause, p. 723.
  - V. War Power, p. 724.
  - VI. Privileges and Immunities, p. 725.
  - VII. Treaties, p. 725.
  - VIII. Fifth Amendment, p. 725.
  - IX. Fourteenth Amendment:
    - (1) Notice and Hearing, p. 726.
    - (2) Liberty and Property; Police Power; Taxation,  
 p. 726.
    - (3) Equal Protection of the Laws, p. 729.
  - X. Eighteenth Amendment; Intoxicating Liquors, p. 730.  
 See **Jurisdiction; Procedure; Taxation.**  
 States; regulation of inheritance by aliens. See VII, *infra*.  
*Id.* Relation to international bridges. See **Bridges.**  
 Delegation of legislative power; state agencies. See IX, 19,  
*infra*.  
 Right of jury, in criminal case. See **Criminal Law**, 3.
- I. Judicial Power.**
- Constitutionality and Construction of Statutes.* Power to  
 construe is necessary incident of power to determine con-  
 stitutionality. *Heald v. District of Columbia*..... 20
- II. Federal Agency; Post Routes.**
- 1. *Post Office Employee Using State Roads*, in transporting  
 mails, held not subject to state automobile license law.  
*Johnson v. Maryland*..... 51

**CONSTITUTIONAL LAW**—*Continued.* PAGE

2. *International Bridge; Post Route.* Facts that bridge when built, as a railroad bridge only, was devoted wholly to international commerce and that Act of 1874 declared it a lawful structure and established post route, did not supplant authority of State to require addition of foot and carriage ways. *International Bridge Co. v. New York* . . . . . 126

3. *Id. Ownership of Land Under Bridge.* Conveyance to United States of part of land under bridge for public purpose not connected with administration of the Government, did not affect authority of State over residue nor invalidate state law requiring additional construction. *Id.*

**III. Commerce Clause. See Bridges.**

1. *Railroads; State Regulation.* Order requiring interstate road to detour two of its through passenger trains from main line over a branch for benefit of small city already adequately served by local, connecting trains, held void. *St. Louis & S. F. Ry. v. Public Service Comm.* . . . . . 535

2. *Id. Grade Crossings.* Where public safety requires removal of dangerous grade crossings, fact that execution of State's plan will involve expenditures so heavy as to impair efficiency of railroad as agency of interstate commerce, does not bring State's order into conflict with commerce clause. *Erie R. R. v. Public Utility Commrs.* . . . . . 394

3. *Income Tax; Foreign Corporations; Earnings Within State.* Tax based on proportion of net profits earned within State, the enforcement of which is left to ordinary means of collecting taxes, does not violate commerce clause. *Underwood Typewriter Co. v. Chamberlain.* . . . . . 113

4. *International Bridge.* International character does not of itself divest State of power over its part of structure, in silence of Congress. *International Bridge Co. v. New York.* 126

**IV. Contract Clause.**

1. *Reserved Power of State; Railroads.* Power to require abolition of railroad grade crossings, regarded as authority impliedly reserved when State granted right to occupy land. *Erie R. R. v. Public Utility Commrs.* . . . . . 394

2. *Police Power. Grade Crossings.* Where public safety requires change, fact that execution of plan will interfere with

**CONSTITUTIONAL LAW**—*Continued.* PAGE

prior contracts does not bring it into conflict with contract clause. *Id.*

3. *Change of State Regulations.* Right of State to enforce legitimate public policy includes right to change regulations for that purpose, even to making of changes in conflict with contracts made by individuals in reliance on previous regulations. *Thornton v. Duffy* . . . . . 361

4. *Id. Workmen's Compensation.* Where State first allowed employers the privilege of paying directly to workmen instead of contributing to state insurance fund, but afterwards took it away from employers who insured themselves, *held* that change did not impair contract rights of employer who had elected to pay directly and had insured himself before change was made. *Id.*

5. *Tax Exemption; Local Corporations.* Law granting exemption to terminal company properly construed by state courts as creating repealable privilege rather than contract right to exemption. *Troy Union R. R. v. Mealy* . . . . . 47

6. *Id. Following State Courts.* In determining whether such exemption was a privilege or contract right, this court inclines to follow state tribunals. *Id.*

7. *Bridge Companies; Charter Rights; Tolls.* In action for penalties for failure to construct foot and carriage ways on railway bridge as required by act amending charter, it is premature to inquire whether provision reducing tolls on such ways impairs contract obligation. *International Bridge Co. v. New York* . . . . . 126

8. *Id. Reserved Power over Charter.* Where New York and Canadian companies, after consolidation, constructed bridge over Niagara River for railroad uses only, *held*, that new company had no contract immunity from being required to add foot and carriage ways in New York, as contemplated by both original charters, irrespective of whether the duty, expressed positively in the Canadian charter, attached to the consolidation in New York. *Id.*

**V. War Power.** See IX, 3, *infra*.

1. *Enemy Property.* Congress may provide for immediate seizure, *in pais* or through a court, of enemy property, leav-

**CONSTITUTIONAL LAW—Continued.** PAGE

ing question of enemy ownership *vel non* to be settled later at suit of claimant. *Central Union Trust Co. v. Garvan* . . . 554

2. *State Legislation*, prohibiting teaching of citizens not to aid United States in prosecuting war sustained. *Gilbert v. Minnesota* . . . . . 325

3. *Id.* *Aid to Federal Power; Police Power.* Such regulation is legitimate as a measure of coöperation by State with United States, not in conflict with federal war power; and also as an exercise of power to preserve peace of State. *Id.*

**VI. Privileges and Immunities.**

1. *Free Residence, Ingress and Regress.* Right possessed by citizens in all States, prior to Articles of Confederation; authority of States to protect it. *United States v. Wheeler* 281

2. *Id.* By Art. IV of those Articles, the continued state power was subjected to limitation that it should not be used to discriminate. *Id.*

3. *Id.* *Const., Art. IV, § 2*, preserved this limitation and assumed that States possessed authority to protect right as part of reserved power. *Id.*

4. *Id.* Constitution does not guarantee this right against wrongful interference by individuals, but only against discriminatory action by States. *Id.*

**VII. Treaties.**

*Inheritance by Aliens.* In absence of treaty, capacity to inherit land within State of the Union depends upon law of that State. *Sullivan v. Kidd* . . . . . 433

**VIII. Fifth Amendment.**

1. *Self-incrimination.* Involuntary bankrupt who filed schedules of assets and liabilities, which, standing alone, did not furnish proof of crime, and who later declined to answer questions concerning them on ground of self-incrimination, held not to have waived privilege under Amendment. *Arndstein v. McCarthy* . . . . . 71

2. *Id.* Privilege applies if it cannot be said that questions propounded, considered in light of circumstances disclosed, may be answered with entire impunity. *Id.*

**CONSTITUTIONAL LAW—Continued.** PAGE

3. *Id.* *Bankruptcy Act*, § 7, is not a substitute for the protection of the Amendment, since it does not prevent use of bankrupt's testimony to search out other evidence to be used against him or his property. *Id.*

4. *Forfeiture; Property Used to Defraud United States of Tax.* Under Rev. Stats., § 3450, an automobile so used by person who had it on credit from the owner, is subject to forfeiture, although the owner was without notice of the forbidden use; so construed, the statute does not violate this Amendment. *Goldsmith-Grant Co. v. United States* . . . 505

**IX. Fourteenth Amendment.**

(1) *Notice and Hearing.*

1. *Assessment; Arbitration.* Assessment without notice or hearing, held invalid, where taxpayer's remedy by arbitration proved abortive because arbitrators, though agreeing assessment was excessive, could not unite on new assessment before expiration of time within which law required them to render decision, in consequence of which, under the law, original assessment stood affirmed. *Turner v. Wade* . . 64

(2) *Liberty and Property; Police Power; Taxation.* See 1, *supra*; 32, 36, *infra*.

2. *Seditious Teaching; State Legislation.* State law prohibiting teaching of citizens not to aid in prosecution of war is legitimate as a measure of cooperation by State with United States, not in conflict with federal war power; and also as an exercise of power to preserve peace of State. *Gilbert v. Minnesota* . . . . . 325

3. *Id. Limitations on Free Speech.* False and malicious misrepresentations of objects and motives of this country in entering war, made for purpose of discouraging recruiting, while war is flagrant, are not protected. *Id.*

4. *Change of State Regulations.* Right to enforce legitimate public policy includes right to change regulations for that purpose, even to making of changes in conflict with arrangements made by individuals in reliance on previous regulations. *Thornton v. Duffy* . . . . . 361

5. *Id. Workmen's Compensation.* Where State first allowed employers privilege of paying directly to workmen, instead

**CONSTITUTIONAL LAW—Continued.** PAGE

of contributing to state insurance fund, but afterwards took it away from employers who insured themselves, held that change did not impair property rights of employer who had elected to pay directly and had insured himself before change was made. *Id.*

6. *Natural Gas; Conservation.* State may prohibit use of natural gas for manufacturing carbon without fully utilizing heat for other manufacturing or domestic purposes. *Walls v. Midland Carbon Co.* . . . . . 300

7. *Id.* So held over objection that investment would be destroyed and manufacture would be impracticable if heat were utilized as prescribed. *Id.*

8. *Id.* State may prevent disproportionate use by landowner to protect equal rights of others and to conserve gas as a resource of the State. *Id.*

9. *Id.* That plaintiff's product may be sold for more than gas consumed in its manufacture would bring for fuel purposes, is no ground for denying state power. *Id.*

10. *Railroad Crossings.* State may abolish grade crossings, whether laid out before or after construction of railroad, and may place upon company expense of running streets over or beneath tracks, if it desires to continue operating. *Erie R. R. v. Public Utility Commrs.* . . . . . 394

11. *Id. Conflicting Interests.* Interest of public using streets is paramount to that of railroad and public using them; State may require streets to be kept free of danger whatever cost to parties introducing it. *Id.*

12. *Id.* Authority so exercised is an obvious case of police power; or it may be regarded as authority impliedly reserved when State granted right to occupy the land. *Id.*

13. *Id. Operation at a Loss* cannot be required. *Id.*

14. *Id. Requiring Ruinous Expenditure.* That plan will involve expenditures so heavy as to impair efficiency of railroad or even lead to bankruptcy, does not bring State's order into conflict with due process clause. *Id.*

15. *Id. Private Sidings.* Rights of railroad in respect of private sidings are no greater than those in respect of main line. *Id.*

- CONSTITUTIONAL LAW—Continued.** PAGE
16. *Id. Operating Lessee.* Burden of changes may be laid on, without regard to financial ability of lessors to compensate if leases terminated. *Id.*
17. *Id. Apportionment of Expense.* Railroad cannot complain that only 10 per cent. is cast upon street railway as to streets used by latter. *Id.*
18. *Id. Reasonableness. Finding of Danger,* by state board, confirmed by state courts, if reasonable, must stand. *Id.*
19. *Id. Delegation of Legislative Power, Subject to Judicial Review.* Constitutional aspect of changes ordered at grade crossings is same whether state board was obliged to order them upon finding danger or had a discretion in the matter, under state law. *Id.*
20. *Id. Street Railway,* crossing tracks of steam road at grade, increases danger; may be required to bear part of expense of removal. *Id.*
21. *Id. Water Companies.* May constitutionally be required to adjust pipes at their own expense. *Id.*
22. *Id. Telegraph Companies.* Changes involving expense in adjusting lines at crossings do not infringe rights under Amendment. *Id.*
23. *Id. Private Sidings.* Order not invalid because it will dislocate private sidings and put their owners to expense. *Id.*
24. *Id. Railroads; Right to Dismantle; Consent of State.* Apart from statute or express contract, those who invest in a railroad, though built under charter and eminent domain power, are not bound to go on operating at a loss; right to stop not dependent on consent of State. *Bullock v. R. R. Comm. of Florida.* . . . . . 513
25. *Id. Foreclosure; Rights of Mortgagee.* Where state Supreme Court prohibited lower court from confirming sale with liberty to purchaser to dismantle, on ground that State was not a party, *held* that prohibition could not affect rights of mortgagee, since right to dismantle, as against State, could not be conferred by foreclosure decree in the State's absence, and would pass to purchaser, if it existed, whether decree so provided or not. *Id.*

<b>CONSTITUTIONAL LAW—Continued.</b>	PAGE
26. <i>Bridge Companies; Charter Rights; Tolls; Reserved Power of State.</i> Requiring company constructing international railroad bridge to add foot and carriage ways, as contemplated by charter, <i>held</i> not to violate Amendment in absence of showing that additions would not yield reasonable return. <i>International Bridge Co. v. New York</i> . . . . .	126
27. <i>Dog License Fees.</i> State may require payment, under penalty of fine. <i>Nichia v. New York</i> . . . . .	228
28. <i>Id. Enforcement; Private Agency.</i> Exercise of power through private corporation created to aid in enforcement of laws for prevention of cruelty to animals, with power to issue licenses, collect fees and apply them toward its expenses. <i>Id.</i>	
29. <i>Income Tax; Foreign Corporations.</i> In considering whether tax on locally-earned income reaches income earned outside State, it is not necessary to decide whether it is a direct tax on income or an excise measured by income. <i>Underwood Typewriter Co. v. Chamberlain.</i> . . . . .	113
30. <i>Id. Computing Tax; Earnings Within and Without State.</i> Tax on income of corporation manufacturing within State but deriving greater part of receipts from sales outside, computed by taking proportion of total net income which value of real and personal tangible property within bears to that outside, <i>held</i> not unreasonable. <i>Id.</i>	
31. <i>Id.</i> Fact that amount of net income allocated to taxing State greatly exceeded portion actually received there, does not prove that income earned outside was included in assessment. <i>Id.</i>	
(3) <i>Equal Protection of the Laws.</i> See 6-9, 29-31, <i>supra.</i>	
32. <i>Classification. Natural Resources.</i> A statute prohibiting use of natural gas for manufacturing carbon without fully utilizing heat for other manufacturing or domestic purposes, where source of supply is within 10 miles of an incorporated town or industrial plant, <i>held</i> reasonable. <i>Walls v. Midland Carbon Co.</i> . . . . .	300
33. <i>Id.</i> Validity of regulation cannot depend upon relative values or importance of industries favorably and unfavorably affected by it, or their relations to the welfare of State, these being matters for judgment of state legislature. <i>Id.</i>	

**CONSTITUTIONAL LAW**—Continued. PAGE

34. *Id.* *Inheritance Tax.* State may distinguish between property which has borne fair share of tax burden in decedent's lifetime and property of same kind which has not. *Watson v. State Comptroller*. . . . . 122
35. *Id.* *Transfer of Securities.* Additional tax on transfer of certain kinds of securities held by decedent at his death on which neither general property tax nor alternative stamp tax has been paid during fixed period prior thereto, held reasonable. *Id.*
36. *Foreign Corporations; Income Tax; Discrimination.* Principle that State may not impose discriminatory tax on sister-state corporation which had made permanent investments in State before law was enacted, held inapplicable to case involving non-discriminatory tax on locally-earned income of manufacturing corporation. *Underwood Typewriter Co. v. Chamberlain*. . . . . 113
37. *Abolishing Grade Crossings; Apportioning Expense.* Where State orders removal of grade crossings, a water company, which is required to adjust pipes at its own expense, is not denied equal protection as compared with street railroad required to pay 10 per cent. of expense of crossing, presumably more than expense of merely readjusting its tracks. *Erie R. R. v. Public Utility Comms.*. . . . . 394

**X. Eighteenth Amendment; Intoxicating Liquors.**

- Scope of Prohibition.* Amendment indicates no purpose to confiscate liquors lawfully owned when it became effective and intended for lawful use. *Street v. Lincoln Safe Deposit Co.*. . . . . 88

**CONSTRUCTION.** See **Admiralty**, 6-8; **Alien Enemies**; **Anti-Trust Act**; **Bankruptcy Act**; **Bridges**; **Carriers**, 2-7; **Chinese Exclusion Acts**; **Constitutional Law**; **Contracts**; **Criminal Law**; **Employers' Liability Act**; **Indians**; **Insurance**; **Interstate Commerce Acts**; **Intoxicating Liquors**; **Judgments**, 2; **Jurisdiction**; **Patents for Inventions**; **Public Lands**; **Safety Appliance Act**; **Statutes**; **Sureties**; **Taxation**; **Treaties**; **Trusts and Trustees**.

**CONTRACTS.** See **Bankruptcy Act**, 7; **Claims**, 7; **Insurance**.

Maritime supplies. See **Admiralty**, 1.

Restraint of trade. See **Anti-Trust Act**, 1-3.

**CONTRACTS—Continued.**

PAGE

As device to evade commodities clause. See **Interstate Commerce Acts, I.**

Impairment of. See **Constitutional Law, IV.**

Transportation. See **Carriers; Interstate Commerce Acts.**

Charter. See **Bridges; Carriers, 9, 10.**

Lease. See **Indians, 8-13, 16, 17.**

Agency; when stockholders not bound. See **Corporations, 10.**

Sale of corporate property; adequacy of consideration. See *id.*, 1-6.

Employment; protection by injunction. See **Equity, 4.**

Employment; assumption of risk; release from liability for negligence; specific performance. See **Employers' Liability Act, 3, 5.**

Express and railroad companies, contract for conducting express business over railroad lines. See *id.*, 3.

Creating trust. See **Trusts and Trustees.**

1. *Non-Maritime.* Contracts for construction of ships are non-maritime and not within admiralty jurisdiction; rule applies to contracts for work and material necessary to finish partly constructed vessel which had been launched. *Thames Co. v. The "Francis McDonald"* . . . . . 242

2. *Government Work; Suspension; Damages.* Where contract gave Government power to suspend where necessary for purpose or advantage of work, permitted it to change materials, and, besides providing against claims for damages on account of such changes, declared that no claim should be allowed contractor for damages arising out of any delay caused by Government, *held*, that a delay ordered to await appropriation by Congress for substituted materials and another in anticipation of passage of postal law because of which plans were altered, would not support claim for damages. *Wells Bros. Co. v. United States* . . . . . 83

3. *United States; Taking of Property. Contract Implied* is to pay for property actually taken. *Bothwell v. United States* . . . . . 231

4. *Id.* Where construction of dam flooded private land, destroyed owner's hay there stored and forced him to remove and sell cattle, *held*, assuming an implied obligation to

**CONTRACTS**—*Continued.*

PAGE

pay for hay, there was none to pay loss due to forced sale of cattle. *Id.*

5. *Id.* Obligation to pay not implied from destruction of anti-hog-cholera serum by officers, without agreement to purchase; nor from Act of 1915 authorizing Secretary of Agriculture to expend money in eradication of animal disease, including payment of claims growing out of purchase and destruction of exposed materials. *Great Western Serum Co. v. United States* . . . . . 240

6. *Use of Patented Devices; No Contract to Pay* implied from appropriation acts evincing willingness of Congress to expend money in testing devices, but no intention to pay until their usefulness should be proved. *Haupt v. United States*. . . . . 272

7. *Loss Attributable to Mistake of Claimant.* Where shipments of newspapers which owner supposed were going by express at lower rates were in fact sent by mail, at higher but legal postal rates, through oversight of its agents, *held*, that United States was under no implied contract to reimburse it. *Journal & Tribune Co. v. United States* . . . . . 581

**CONTRIBUTORY NEGLIGENCE.** See **Employers' Liability Act**, 1, 2; **Negligence**, 5.

**CONVERSION.** See **Carriers**, 7.

**CONVEYANCE.** See **Bridges**, 8; **Alien Enemies**, 4; **Indians; Trusts and Trustees**.

**CORPORATIONS.** See **Bridges; Telegraph Companies**.

Agency for enforcement of state law. See **Constitutional Law**, IX, 28.

Reserved power of State; tax exemption. See *id.*, IV, 5, 6.

Foreign corporations; income tax. See **Taxation**, II, 3-6.

*Id.* Priority of State for payment of license tax. See **Priority**, 3.

*Id.* Claims against United States. See **Claims**, 7.

Insurance companies. See **Bankruptcy Act**, 5, 6.

Railroads; elimination of grade crossings. See **Constitutional Law**, IX, 10-23.

*Id.* Adjustment of lines and pipes of street railway, tele-

**CORPORATIONS—Continued.**

PAGE

graph, and water companies; apportionment of expense. See *id.*, IX, 20-22.

Parties; alignment; diverse citizenship. See **Jurisdiction**, IV, 1.

Trust agreement; conveyance by railroads for terminal use; rights as stockholders and *cestui que trustent*, and rights against purchasers of stock in terminal with notice. See **Trusts and Trustees**, 1-13.

Articles; when amendment ineffective to terminate trust. See *id.*, 8, 10.

1. *Sale of Property; Rights of Shareholders.* Where business unprofitable and corporation cannot pay debts and continue, though it is not insolvent, majority shareholders may authorize sale of all corporate property for adequate consideration, and distribute net proceeds after payment of debts, over objection of minority. *Geddes v. Anaconda Mining Co.* 590

2. *Id. Adequacy of Consideration.* Such sale will not be set aside because consideration is shares in another corporation, if such shares have established market value and shareholders receiving them may convert them into cash consideration adequate for their interest in corporate property sold. *Id.*

3. *Id. Common Directors; Burden of Proof.* Where minority seek to set aside sale to another corporation negotiated by boards of directors having a member in common, burden is on those who would maintain transaction to show fairness and adequacy of consideration. *Id.*

4. *Id. Concurrent Findings*, of lower courts, that consideration was inadequate, accepted by this court. *Id.*

5. *Id. Public Auction.* When it appears from evidence that consideration was inadequate, court is not justified in affirming transaction merely because no greater amount is bid at public auction. *Id.*

6. *Id. Setting Aside Sale.* In suit to set aside sale for inadequacy of consideration, held that, under pleadings, the court, having found price inadequate, should have set sale aside, and was without power to depart from parties' contract by selling property at auction for cash price found adequate. *Id.*

7. *Stock Control of Subsidiaries; Contract Fixing Prices; Limitation on Purchase and Sale.* Agreement between coal and

**CORPORATIONS**—*Continued.*

- |  | PAGE |
|--|------|
| sales companies created and controlled by railroad company, whereby sales company agreed to buy all coal produced by coal company at fixed percentage of New York prices and not to buy or sell coal except that purchased from coal company, <i>held</i> a mere device to evade commodities clause and violative of Anti-Trust Act. <i>United States v. Lehigh Valley R. R.</i> . . . . . | 255  |
| 8. <i>Emergency Fleet Corporation.</i> Though all its stock is owned by United States, it is a separate entity. <i>United States v. Strang.</i> . . . . .  | 491  |
| 9. <i>Id. Agents.</i> Inspector employed by Fleet Corporation is not an agent of United States, within Crim. Code, § 41. <i>Id.</i>  |      |
| 10. <i>Stockholders.</i> Generally agents of a corporation are not agents for stockholders and cannot contract for them. <i>Id.</i>  |      |

**CO-TENANCY.** See **Indians**, 17.

**COURT OF CLAIMS.** See **Jurisdiction**, II (4); V.

**COURTS.** See **Admiralty**, 1-5; **Bankruptcy Act**, 4-6; **Evidence**; **Indians**, 4-7; **Jurisdiction**; **Procedure**; **Statutes**; **Trial**.

Power over administrative decisions. See **Alien Enemies**, 2; **Interstate Commerce Acts**, III; **Procedure**, IV, 3; **Public Lands**.

Instructions. See **Criminal Law**, 3, 4; **Evidence**, 5; **Master and Servant**, 2; **Trial**, 1.

**CREEK INDIANS.** See **Indians**, 1-7.

**CRIMINAL CODE.** See **Criminal Law**, 6, 8, 9; **Jurisdiction**, IV, 3.

**CRIMINAL LAW:**

Conspiracy. See **Anti-Trust Act**, 6 *et seq.*

Self-incrimination. See **Constitutional Law**, VIII, 1-3.

Competency of wife as witness for husband. See **Evidence**, 6.

Indictment for murder within Indian reservation; objection *held* not to raise jurisdictional question. See **Jurisdiction**, IV, 3.

**CRIMINAL LAW—Continued.**

	PAGE
1. <i>Intent.</i> One whose intentional conduct violates prohibitions of penal statute is not excused by purpose to keep within the law and his belief that he did so. <i>Horning v. District of Columbia</i> . . . . .	135
2. <i>Pawnbrokers; Engaging in Business Without License.</i> Act of 1913, prohibiting business in District of Columbia, without license, is violated where part of transaction occurs outside the jurisdiction. <i>Id.</i>	
3. <i>Instructions; Verdict of Guilty.</i> When undisputed facts establish offense charged, the judge may instruct jurors that, while they cannot be constrained to return a verdict of guilty, it is their duty to do so. <i>Id.</i>	
4. <i>Id. Harmless Error.</i> When cured by § 269, Jud. Code, in a case of admitted facts. <i>Id.</i>	
5. <i>Unlawful Landing of Aliens.</i> Indictment, for unlawfully bringing in Chinese aliens, will lie under § 8 of Immigration Act of 1917, where acts charged do not amount to a landing in violation of § 11 of Chinese Exclusion Act of 1884. <i>United States v. Butt</i> . . . . .	38
6. <i>Anti-Narcotic Act; Indictment; Surplusage; Principals.</i> Where indictment charges unlawful selling by issuing a prescription, the clause as to issuing prescription, being intimately involved in description of offense, cannot be treated as surplusage, but it is not repugnant to charge of selling, since under the act one may take a principal part in a prohibited sale of morphine belonging to another by issuing a prescription for it, and Crim. Code, § 332, makes whoever aids, abets, etc., the commission of an offense a principal. <i>Jin Fuey Moy v. United States</i> . . . . .	189
7. <i>Id. Professional Practice.</i> Immunity of § 2 (a) of act is confined strictly within appropriate bounds of a physician's professional practice; it does not permit sales to dealers or distributions intended to satisfy appetites of persons addicted to use of drugs. <i>Id.</i>	
8. <i>Conspiracy; Crim. Code, § 19,</i> does not embrace conspiracy to deprive citizens of right to remain in particular State, by seizing and deporting them to another State. <i>United States v. Wheeler</i> . . . . .	281

- CRIMINAL LAW**—*Continued.* PAGE
9. *Crim. Code, § 41; Agent of Corporate Agency of United States.* One employed as inspector by the Emergency Fleet Corporation is not an agent of the United States. *United States v. Strang* . . . . . 491
- CUMMINS AMENDMENT.** See **Interstate Commerce Acts**, II, 3.
- DAMAGES.** See **Admiralty**, 2; **Claims**, 1-3; **Contracts**, 2; **Employers' Liability Act**, 1; **Interstate Commerce Acts**, II, 4; **Jurisdiction**, II, 4; **Telegraph Companies**, 2. Limitation of liability. See **Interstate Commerce Acts**, II, 2, 3.
- Pain; Panama Law.* Damages are recoverable for pain in case of personal injuries. *Panama R. R. v. Pigott* . . . . . 552
- DEBATES.** See **Statutes**, 8.
- DECREES.** See **Judgments**.
- DEEDS.** See **Indians**, 3-6, 8-17; **Trusts and Trustees**.  
Of trust. See **Trusts and Trustees**, 14.
- DELEGATION OF POWER.** See **Constitutional Law**, IX, 19, 28.
- DELIVERY.** See **Carriers**, 1-7; **Interstate Commerce Acts**, II, 4; **Intoxicating Liquors**, 2.
- DEMURRER.** See **Pleading**, 2.
- DEPORTATION.** See **Criminal Law**, 8.
- DESCENT AND DISTRIBUTION.** See **Indians**, 1-7, 13-15.
- DEVISE.** See **Indians**, 14, 15.
- DIRECT TAXES.** See **Constitutional Law**, IX, 29.
- DIRECTOR GENERAL.** See **Interstate Commerce Acts**, III, 3.
- DISCRIMINATION.** See **Interstate Commerce Acts**, II, 5; III, 1, 2.

**DISTRICT OF COLUMBIA.** See **Jurisdiction**, II (5); VI. PAGE  
**Pawnbrokers.** See **Criminal Law**, 2.

**DISTRICT COURT.** See **Admiralty**, 2-5; **Bankruptcy Act**,  
 4-6; **Jurisdiction**, II (3); IV; **Procedure**, IV, 6.

**DIVERSE CITIZENSHIP.** See **Jurisdiction**, IV, 1.

**DOCUMENTS.** See **Constitutional Law**, VIII, 1-3.

**DOG LICENSES.** See **Constitutional Law**, IX, 27, 28.

**DRUGS.** See **Criminal Law**, 6, 7.

**DUE PROCESS.** See **Constitutional Law**.

**DURESS.** See **Claims**, 7.

**EIGHTEENTH AMENDMENT.** See **Constitutional Law**,  
 X.

**ELECTION.** See **Constitutional Law**, IV, 4; IX, 5.

**EMERGENCY FLEET CORPORATION:**

1. *Legal Entity.* Fleet Corporation, though all stock owned  
 by United States, is a separate entity. *United States v.*  
*Strang*. . . . . 491

2. *Agents; Crim. Code, § 41.* Inspector employed by Fleet  
 Corporation is not an agent of United States. *Id.*

**EMINENT DOMAIN.** See **Carriers**, 9; **Claims**, 1, 2.

**EMPLOYER AND EMPLOYEE.** See **Anti-Trust Act**, 6-15;  
**Emergency Fleet Corporation**, 2; **Employers' Liability**  
**Act**; **Master and Servant**; **Negligence**, 1.

Workmen's compensation. See **Constitutional Law**, IV,  
 4; IX, 5.

Contracts; protection by injunction. See **Equity**, 4.

**EMPLOYERS' LIABILITY ACT.** See **Master and Servant**.

1. *Assumption of Risk.* Bars action; does not, like con-  
 tributory negligence, go to reduction of damages. *Pryor v.*  
*Williams*. . . . . 43

**EMPLOYERS' LIABILITY ACT—Continued.** PAGE

2. *Id.* *State Law Inapplicable.* Decision, applying local construction of common law, that risk of injury from defective tool was attributable to master's negligence, and that plaintiff did not assume it but was guilty of contributory negligence, *held* erroneous. *Id.*

3. *Employees Not Within Act; Express Companies.* Contract for conducting express business over lines of railroad, under which express company assumed risk of injury to its employees engaged in work on trains of railroad company and agreed to indemnify latter against claims for injuries, constitutes business of express company distinct from that of railroad, not a partnership, so that employee of former is not an employee of latter within federal act. *Wells Fargo & Co. v. Taylor*. . . . . 175

4. *Id.* "*Common Carriers by Railroad.*" Act does not embrace express company conducting business under such arrangement. *Id.*

5. *Id.* *Contract of Employment; Assumption of Risk; Enforcing Obligation.* Express messenger, who, as condition to employment, assented to such arrangement and agreed to assume risk, and was injured by negligence of railroad, *held* bound not to assert liability against either company. *Id.*

**ENEMIES.** See **Alien Enemies.**

**EQUAL PROTECTION OF THE LAWS.** See **Constitutional Law**, IX (3).

**EQUITY.** See **Judgments**, 8; **Pleading**; **Trusts and Trustees.**

Concurrent findings. See **Procedure**, IV, 6.

Bill of review; setting up decree in another circuit. See **Jurisdiction**, III, 1-3.

Injunction. See **Anti-Trust Act**, 4-15; **Judgments**, 2; **Trusts and Trustees**, 12.

*Id.* United States; enjoining rights under leases of restricted allotments. See **Indians**, 8.

Lien. See **Admiralty**, 6-8; **Jurisdiction**, II, 7; **Priority.** Federal courts; limitation on powers; strict construction. See **Statutes**, 6.

Subrogation. See **Sureties.**

**EQUITY—Continued.**

PAGE

1. *Injunction; Trade-marks; Defense of Fraud and Unclean Hands.* That trade-mark and advertisements convey fraudulent representations to public affords but a narrow ground for refusing relief against infringer who seeks to reap advantages of plaintiff's good will. *Coca-Cola Co. v. Koke Co.* . . . . . 143

2. *Id.* As respects this defense, plaintiff's position must be judged by facts when suit was begun, not by facts of a different condition and earlier time. *Id.*

3. *Id.* Use of "Coca-Cola" with accompanying pictures on labels, held not to constitute fraud depriving plaintiff of right to enjoin infringement and unfair competition in selling like product under name of "Koke." *Id.*

4. *Id.* *Protection of Contracts of Employment.* In suit by corporation against its subsidiary and former employees of latter and their labor unions, wherein plaintiff sought to enjoin molestation of workmen of, and interference with performance of contract with plaintiff for manufacture of Government supplies by, defendant corporation, held that plaintiff's right was a right to protect from interference the contract between the defendant corporation and its workmen. *Niles-Bement-Pond Co. v. Iron Moulders Union* . . . 77

5. *Id.* *Enforcement of State Judgment.* *Jud. Code, § 265,* does not forbid enjoining collection of judgment obtained in state court where its enforcement would be contrary to equity and good conscience. *Wells Fargo & Co. v. Taylor* . . 175

6. *Id.* Obligation of messenger, under contract of employment, not to assert liability for injury against either express or railroad company, enforced by suit in District Court to enjoin collection of judgment obtained in state court. *Id.*

**ERROR AND APPEAL.** See **Admiralty, 2-5; Bankruptcy Act, 4-6; Jurisdiction; Parties, 2; Procedure.**

**ERRORS, ASSIGNMENT OF.** See **Jurisdiction, II, 4.**

**ESTATES OF DECEDENTS.** See **Indians, 1-7, 13-15; Taxation, II, 7-9.**

Inheritance by aliens. See **Treaties, 1-6.**

Legacy taxes. See **Taxation, I, 5-8.**

**ESTOPPEL.** See **Bankruptcy Act**, 6; **Trusts and Trustees**, PAGE 7, 10, 11.

**EVIDENCE.** See **Judicial Notice.**

Presumption. See **Master and Servant**, 3.

Instructions. See **Criminal Law**, 3, 4; **Trial**, 1.

Self-incrimination. See **Constitutional Law**, VIII, 1-3.

Administrative findings. See **Procedure**, IV, 3.

Concurrent findings. See *id.*, IV, 6.

Porto Rico; Supreme Court; findings. See **Jurisdiction**, III, 4, 5.

Of gift or loan. See **Bankruptcy Act**, 7.

Of invention. See **Patents for Inventions**, 5.

Of monopoly. See **Anti-Trust Act**, 4.

Of trust. See **Trusts and Trustees**, 9.

1. *Burden of Proof; Intent to Evade Jurisdiction.* In action for damages for mental anguish caused by mistake in transmission of telegram, where message was routed through another State to destination in State of origin, *held*, that if motive to evade state jurisdiction, by making the transaction interstate commerce, were material, it was error to lay burden on defendant of disproving it. *Western Union Tel. Co. v. Speight* . . . . . 17

2. *Id. Attacking Legality of Tax.* Necessity of proving illegality to recover money voluntarily paid; mere assertion and speculation may not be relied upon. *Cochran v. United States* . . . . . 387

3. *Id. Inadequacy of Consideration; Interested Director.* Where minority shareholders of corporation seek to set aside sale of its property to another corporation negotiated by boards of directors having a member in common, burden is upon those who would maintain transaction to show its entire fairness and adequacy of consideration. *Geddes v. Anaconda Mining Co.* . . . . . 590

4. *Id.* Where it appears from evidence that consideration was inadequate, court is not justified in affirming transaction merely because no greater amount is bid upon offering property at public auction. *Id.*

5. *Foreign Law.* Whether or not Panama law as to negligence and damages for pain should be judicially noticed by District Court for Canal Zone, in case involving injuries

**EVIDENCE—Continued.**

suffered in Panama, *held*, that defendant was not harmed by leaving it to be determined by jury on conflicting evidence of experts. *Panama R. R. v. Pigott* . . . . . 552

6. *Witnesses; Competency; Husband and Wife.* In criminal prosecution in federal court in Pennsylvania, defendant's wife is not competent to testify for her husband either generally or by contradicting testimony that certain matters transpired in her presence. *Jin Fuey Moy v. United States* 189

**EXCEPTIONS:**

1. *Errors of Law.* Rule that errors of law by trial court cannot be considered on writ of error unless raised by bill of exceptions, has no application upon review of a judgment of the Supreme Court of Porto Rico, although that court has power to review evidence and make new findings of fact. *Ana Maria Sugar Co. v. Quinones* . . . . . 245

2. *Id. Record.* Such rulings are part of record and need not be excepted to. *Id.*

**EXCISE TAXES.** See **Constitutional Law**, IX, 29-31, 36.

**EXECUTIVE DEPARTMENTS.** See **Admiralty**, 4; **Treaties**, 7.

**EXECUTIVE OFFICERS.** See **Alien Enemies**, 3, 4; **Bridges**, 3, 5; **Claims**, 3, 7; **Indians**, 3, 9-14, 16; **Taxation**, I, 4, 6. Administrative decisions. See **Alien Enemies**, 2; **Interstate Commerce Acts**, III; **Procedure**, IV, 3; **Public Lands**.

**EXECUTORS AND ADMINISTRATORS.** See **Taxation**, I, 5-7.

**EXPRESS COMPANIES.** See **Employers' Liability Act**, 3-5.

**FACTS.** See **Judicial Notice; Jurisdiction**, III, 4, 5; **Procedure**, IV, 6; **Trial**, 2.

Administrative decisions. See **Alien Enemies**, 2; **Interstate Commerce Acts**, III; **Procedure**; IV, 3; **Public Lands**.

- FAVORED NATION CLAUSE.** See *Treaties*, 4, 5. PAGE
- FEDERAL CONTROL ACT.** See *Interstate Commerce Acts*, III, 3.
- FEDERAL EMPLOYERS' LIABILITY ACT.** See *Employers' Liability Act*; *Master and Servant*.
- FEDERAL QUESTION.** See *Jurisdiction*, II, 6-9, 13, 15, 17, 18; IV, 2.
- FIFTH AMENDMENT.** See *Constitutional Law*, VIII.
- FINAL JUDGMENT.** See *Jurisdiction*, II, 3.
- FORECLOSURE.** See *Carriers*, 10; *Jurisdiction*, II, 16.
- FOREIGN CORPORATIONS.** See *Claims*, 7; *Priority*, 3; *Taxation*, II, 3-6.
- FOREIGN COUNTRIES.** See *Admiralty*, 3, 4; *Interstate Commerce Acts*, II, 1; *Treaties*.
- FOREIGN LAW.** See *Evidence*, 5.
- FORFEITURE.** See *Constitutional Law*, VIII, 4.
- FOURTEENTH AMENDMENT.** See *Constitutional Law*, IX.
- FRANCHISE.** See *Bridges*; *Carriers*, 9, 10; *Constitutional Law*, IV, 1, 2, 5, 6.
- FRAUD.** See *Equity*, 1-3.  
Forfeiture; defrauding United States of tax. See *Constitutional Law*, VIII, 4.
- FREE SPEECH.** See *Constitutional Law*, IX, 2, 3.
- GAS.** See *Constitutional Law*, IX, 6-9, 32, 33; *Mines and Mining*.
- GIFT.** See *Bankruptcy Act*, 7.
- GRADE CROSSINGS.** See *Constitutional Law*, III, 2; IX, 10-23, 37; *Negligence*, 4.

	PAGE
<b>GREAT BRITAIN.</b> See <i>Treaties</i> , 2 <i>et seq.</i>	
<b>GUARDIANSHIP.</b> See <i>Indians</i> , 4-17.	
<b>HEIRS.</b> See <i>Indians</i> , 1-7, 11-15.	
<b>HIGHWAYS.</b> See <i>Constitutional Law</i> , III, 2; IX, 10-23, 37; <i>Negligence</i> , 4.	
<b>HOMESTEAD.</b> See <i>Public Lands</i> .	
<b>HUSBAND AND WIFE.</b> See <i>Evidence</i> , 6.	
<b>IMMIGRATION.</b> See <i>Chinese Exclusion Acts; Claims</i> , 7.	
<b>INCOME TAX.</b> See <i>Taxation</i> , II, 3-6.	

**INDIANS:**

Murder within reservation; objection held not to raise jurisdictional question. See *Jurisdiction*, IV, 3.

1. *Creek Allotment, in Name of Decedent; Alienation by Full-blood Heirs.* Lands of Indian who died after enrollment and before allotment and which were thereafter allotted in his name under Act of 1906, descend to his heirs, not as direct allotment but as an inheritance; alienability by full bloods is determined, not by provisions of Acts of 1906 and 1908 respecting allotments to living allottees, but by those governing alienability by heirs. *Harris v. Bell* . . . . . 103

2. *Id. Intent of Congress*, and not usual distinction between title by purchase and by descent, controls. *Id.*

3. *Id. Approval by Secretary of Interior.* Power, under Act of 1906, to approve conveyances by adult full-blood heirs, was not recalled by Act of 1908, as to conveyances made, though not approved, before its enactment; lapse of 2 1/2 years between deed and its approval does not affect validity of conveyance in absence of lawful intervening disposal. *Id.*

4. *Id. Approval by Court; Act of 1908, § 9*, providing that no conveyance of interest of full-blood Indian heir shall be valid unless approved by court having jurisdiction of settlement of estate of deceased allottee, prescribes rule for future conveyances. *Id.*

## INDIANS—Continued.

PAGE

5. *Id.* *Minors; Probate Courts; Act of 1908, § 6*, subjecting persons and property to jurisdiction of probate courts of Oklahoma, does not affect inherited lands in its provision that no restricted lands of living minors shall be sold or encumbered, except by leases authorized by law, by order of court, etc. *Id.*
6. *Id.* Construing §§ 6 and 9 of Act of 1908, *held*, that proviso of § 9 refers only to adult full-blood heirs, and that probate court having jurisdiction over persons and property of minor full-blood heirs, but not of settlement of estate of deceased allottee from whom they inherited, was proper court to sanction conveyance of allotment made by their guardian. *Id.*
7. *Id.* *Guardianship.* General rule giving court of guardianship exclusive power to supervise ward's property, obtains in Oklahoma; intention to depart from it in act of Congress respecting lands of minor full-blood Indians not accepted unless clearly evinced. *Id.*
8. *Guardianship of United States; Right to Sue; Leases.* United States may enjoin assertion of rights under leases of restricted allotments obtained without conforming to statutes and administrative regulations, and enjoin negotiation of other unlawful leases in future. *La Motte v. United States* 570
9. *Act of 1906; Approval of Osage Leases; Regulations.* Secretary may not merely approve or disapprove leases after execution, but may make regulations prescribing in advance as conditions to approval mode in which they shall be executed and terms for protection of Indian lessors. *Id.*
10. *Id.* Section 7, in providing that leases shall be subject "only" to approval of Secretary, distinguishes between leases by individuals, to be approved by Secretary alone, and leases for tribe, which, under § 3, need sanction of tribal council as well. *Id.*
11. *Id.* *Minor Allottees; Guardianship.* Under § 7, construed with §§ 3 and 6 of Act of 1912, approval of Secretary is requisite to validity of leases of restricted lands of minor allottees or minor heirs, given by guardians with sanction of local courts in which guardianships were pending. *Id.*
12. *Id.* *Competency.* Under § 7, leases made by Indian parent having certificate of competency, or white parent

**INDIANS**—*Continued.*

PAGE

not a member of tribe, on behalf of minor allottees or heirs, require Secretary's approval. *Id.*

13. *Id. Heirs.* Land allotted in right of deceased member cannot be leased by his heirs without Secretary's approval if they are members of tribe and without certificates of competency. *Id.*

14. *Id. Devise; Removal of Restrictions.* Devise of restricted allotment by will under § 8 of Act of 1912, approved by Secretary, operates as conveyance free of restrictions. *Id.*

15. *Id. Indefinite Restraint on Alienation.* Neither at common law nor under Oklahoma statutes may testator impose indefinite restriction on right of devisee to alienate land devised. *Id.*

16. *Lease After Removal of Restrictions.* Osage members, though without certificates of competency, may lease, without Secretary's approval, allotments purchased after such allotments had become unrestricted, since Acts of 1906 and 1912 do not reimpose restrictions once removed, or subject to restrictions all lands, however acquired, which members without such certificates may own. *Id.*

17. *Id. Co-tenants; Restricted and Unrestricted Interests; Form of Injunction.* Purchasers or lessees of unrestricted, undivided interests should be enjoined from exerting control over lands to exclusion of Indian co-tenants of restricted interests but not from dealing with their own interests. *Id.*

**INDICTMENT.** See **Criminal Law**, 5, 6.

**INFANTS.** See **Indians**, 5-7, 11, 12; **Negligence**, 5.

**INFRINGEMENT.** See **Patents for Inventions; Trade-marks.**

**INHERITANCE.** See **Indians**, 1-7, 11-15; **Taxation**, II, 7-9; **Treaties**, 1-6.

**INJUNCTION.** See **Anti-Trust Act**, 4-15; **Equity; Judgments**, 2; **Trusts and Trustees**, 12.

Right of United States to enjoin assertion of rights under leases of restricted allotments. See **Indians**, 8.

*Id.* Scope and form of injunction. See **Judgments**, 7.

- INSANITY.** See **Insurance.** PAGE
- INSOLVENCY.** See **Bankruptcy Act; Corporations, 1; Priority; Sureties.**
- INSTRUCTIONS.** See **Criminal Law, 3, 4; Evidence, 5; Master and Servant, 2; Trial, 1.**
- INSURANCE.** See **Bankruptcy Act, 5, 6.**  
 Workmen's compensation. See **Constitutional Law, IV, 4; IX, 5.**
1. *Suicide; Sane or Insane and Incontestable Clauses*, of life policies, construed as implying that suicide of insured, sane or insane, after time specified, shall not be a defense. *Northwestern Mutual Life Ins. Co. v. Johnson* ..... 96
2. *Id. Public Policy.* Validity of such agreements, even when death is due to suicide, if it occur after lapse of certain time, depends upon state public policy. Where it did not appear in what State contracts were made, the court upheld them, which, *semble*, is in accord with general rule. *Id.*
- INTEREST:**  
 Payment, as evidence of gift or loan. See **Bankruptcy Act, 7.**
- INTERIOR, SECRETARY OF.** See **Indians, 3, 9-14, 16; Public Lands.**
- INTERLOCUTORY DECREE.** See **Judgments, 1.**
- INTERNAL REVENUE.** See **Taxation, I.**
- INTERNATIONAL BRIDGES.** See **Bridges.**
- INTERNATIONAL LAW.** See **Alien Enemies; Negligence.**  
 Aliens; capacity to inherit. See **Treaties, 1-6.**  
 Admiralty; jurisdiction over vessel in service of foreign government. See **Admiralty, 2, 3.**  
*Id.* Manner of raising question. See *id.*, 4.
- INTERSTATE COMMERCE.** See **Anti-Trust Act; Bridges, 3 et seq.; Constitutional Law, III; Employers' Liability Act; Interstate Commerce Acts; Jurisdiction, IV, 2; Safety Appliance Act.**  
 Uniform Bills of Lading Act. See **Carriers, 2-7.**

**INTERSTATE COMMERCE—Continued.** PAGE

- 1. *What Is?* Transmission of telegram between two States is interstate commerce as matter of fact; the fact must be tested by the actual transaction. *Western Union Tel. Co. v. Speight* . . . . . 17
- 2. *Id.* Message routed through another State to destination in State of origin *held* interstate. *Id.*

**INTERSTATE COMMERCE ACTS.** See **Anti-Trust Act;**  
**Employers' Liability Act;** **Safety Appliance Act.**  
 Uniform Bills of Lading Act. See **Carriers, 2-7.**

**I. Commodities Clause.**

*Sales Company Device.* Agreement between coal and sales companies created and controlled by a railroad company, whereby sales company agreed to buy all coal produced by coal company at fixed percentage of New York prices and not to buy or sell coal except that purchased from coal company, *held* a mere device to evade commodities clause. *United States v. Lehigh Valley R. R.* . . . . . 255

**II. Shipper and Carrier.** See III, *infra.*

1. *Foreign Commerce.* Section 1 applies to carrier engaged in transportation of persons or property from adjacent foreign country into United States as well as from the United States to an adjacent foreign country. *Galveston &c. Ry. v. Woodbury* . . . . . 357

2. *Carmack Amendment; Limitation of Liability.* Where passenger traveling from Canada to Texas and return without express stipulation as to liability for loss of baggage, through fault of carrier lost her trunk in Texas on the journey out, *held*, that amount of recovery was limited under Carmack Amendment by published tariffs filed with Interstate Commerce Commission. *Id.*

3. *Id. Cummins Amendment* did not alter right of carrier under Carmack Amendment to limit by tariff amount of liability for baggage of passenger. *Id.*

4. *Bill of Lading; Diversion; Carmack Amendment.* Where shipment is purely intrastate and neither bill of lading nor state regulation gives right to divert, action of shipper and connecting carrier in forwarding goods, after arrival at des-

**INTERSTATE COMMERCE ACTS—Continued.** PAGE

tionation, to new destination in another State under new bill, cannot impress original shipment with interstate character, subject it to Commerce Act and interstate tariffs, and so render initial carrier liable under Carmack Amendment for damage occurring under new consignment. *Bracht v. San Antonio & Aransas Pass Ry.* . . . . . 489

5. *Discrimination; Rates.* Discrimination between shippers, otherwise violative of § 2 of act, cannot be justified by exigencies of competition between carriers. *Seaboard Air Line Ry. v. United States* . . . . . 57

**III. Powers and Proceedings of Commission.**

1. *Switching Charges; Discrimination.* Finding of Commission that practice of carriers as to absorption of switching charges in transporting carload freight to and from Richmond was discriminatory between shippers, held not arbitrary nor beyond Commission's authority, and that order was not too vague and uncertain to be enforced. *Seaboard Air Line Ry. v. United States.* . . . . . 57

2. *Id. Findings of Commission,* as to likeness of contemporary transportation services rendered to different shippers and as to substantial similarity of circumstances and conditions in which they were rendered, will not be disturbed by courts unless arbitrary or in excess of authority. *Id.*

3. *Jurisdiction; Classification.* Under Federal Control and Transportation Acts, changes in classification of commodity and in rules determining its acceptance for shipment are as fully within jurisdiction of Commission when proposed by Director General as if proposed by carrier. *Director General v. Viscose Co.* . . . . . 498

4. *Id.* Amendment of freight tariff schedule, filed with Commission, canceling published classification and rates on silk and amending rule so as to include silk among articles not accepted for shipment, attempts both classification and change of regulation, the reasonableness of which, when challenged by a shipper, presents a question within exclusive initial jurisdiction of Commission. *Id.*

5. *Id.* Shipper complaining of changes should apply for relief to Commission; District Court is without jurisdiction, in first instance, to annul changes and enjoin carriers from complying. *Id.*

**INTERSTATE COMMERCE COMMISSION.** See **Inter-** PAGE  
**state Commerce Acts, II, 2; III.**

**INTERVENTION.** See **Procedure, III.**

**INTOXICATING LIQUORS:**

Forfeiture; vehicles used for removal, etc., in defrauding United States of tax. See **Constitutional Law, VIII, 4.**

1. *Prohibition Act; Lawful Possession; Warehouses.* Liquors lawfully acquired and stored by owner prior to effective date of act in a room leased in public warehouse and so kept for his personal use, might lawfully be so stored after act became effective. *Street v. Lincoln Safe Deposit Co . . . . .* 88

2. *Id. Section 3; Possession and Delivery.* Warehouse owner did not "possess" such liquors, within § 3, nor would it "deliver" them, if it permitted removal to owner's dwelling for lawful use. *Id.*

3. *Id. Transportation, under Permit,* from warehouse to home of owner, is not unlawful. *Id.*

4. *Id. Eighteenth Amendment* indicates no purpose to confiscate liquors lawfully owned when it became effective and intended for lawful use. *Id.*

5. *Id. Unlawful Possession.* Section 25 does not apply to liquors stored by lawful owner in good faith for personal use; for that use is declared lawful by § 33. *Id.*

6. *Id. Place Where Manufactured, Sold, Kept; Nuisance under § 21.* Word "kept" means kept for sale or other commercial purposes. *Noscitur a sociis. Id.*

7. *Id. Intent to Confiscate* private property, even in intoxicating liquors, not raised by inference and construction from provisions which have ample field for other operation in effecting a purpose clearly indicated and declared. *Id.*

**INVENTIONS.** See **Patents for Inventions.**

**JOINT LIABILITY.** See **Trusts and Trustees, 14.**

**JUDGMENTS:**

State courts; jurisdiction of federal courts to enjoin enforcement in. See **Jurisdiction, I, 3, 4.**

## JUDGMENTS—Continued.

PAGE

Administrative decisions. See **Alien Enemies**, 2; **Inter-state Commerce Acts**, III; **Procedure**, IV, 3; **Public Lands**.

Final. See **Jurisdiction**, II, 3.

Function and effect of railroad foreclosure decree, and rights of purchaser thereunder. See **Carriers**, 10.

1. *Original Cases. Interlocutory Decree*, defining state boundary and appointing commissioners to locate and designate it. *Minnesota v. Wisconsin* . . . . . 14

2. *Effect of Decree in Subsequent Suit; Rates*. Decree of this court affirming without prejudice injunctive decree of state court upholding statutory railroad rate as non-confiscatory, determines adequacy of rate for period antedating decree, and is not superseded by decree in subsequent suit holding rate confiscatory upon new evidence. *Minneapolis &c. Ry. v. Merrick Co* . . . . . 376

3. *Res Judicata; Decree in Another Circuit; Bill of Review*. When Circuit Court of Appeals has sustained a patent and remanded the case for accounting, party desirous of setting up a subsequent decree in another circuit as *res judicata* should petition the Circuit Court of Appeals for leave to file a bill of review in District Court, setting up new matter as bar to further proceedings. *National Brake Co. v. Christensen* . . . . . 425

4. *Id. Discretion*. Such applications addressed to sound discretion of appellate tribunal. *Id.*

5. *Id. Close of Term*. Leave to file such bill of review may be granted after judgment of appellate tribunal and after going down of mandate at close of term. *Id.*

6. *Id.* Application held of that character, and not one to have the other decree pronounced *res judicata* by the appellate court. *Id.*

7. *Scope of Injunction; Indian Leases*. Injunction of purchasers or lessees of unrestricted, undivided interests in Osage allotments, from exercising control to exclusion of Indian co-tenants of restricted interests, should not be so broad as to prevent them from dealing with their own interests. *La Motte v. United States* . . . . . 570

**JUDGMENTS**—*Continued.*

PAGE

8. *Id.*; *Trade-mark Infringement.* Use of "Coca-Cola" with accompanying pictures on labels, *held* not to constitute fraud depriving plaintiff of right to enjoin sale of like product under name of "Koke"; but injunction should not restrain use of "Dope," a featureless word not specifically suggestive of "Coca-Cola" by similarity or in use, nor forbid manufacture and sale of product, including coloring matter. *Coca-Cola Co. v. Koke Co.* . . . . . 143

**JUDICIAL CODE.** See **Jurisdiction**; **Statutes**, 2.

**JUDICIAL DISCRETION.** See **Judgments**, 4; **Jurisdiction**, IV, 4, 5; **Procedure**, II.

**JUDICIAL NOTICE:**

1. *Foreign Law; Leaving Question to Jury.* Whether or not Panama law as to negligence and damages for pain should be judicially noticed by District Court for Canal Zone, in an action involving injuries suffered in Panama, *held*, that defendant was not harmed in this case by leaving it to be determined by jury on conflicting evidence of experts. *Panama R. R. v. Pigott.* . . . . . 552

2. *Inventions; Prior Art.* Court notices earlier forms of scaffolding used in construction of buildings, in determining invention. *New York Scaffolding Co. v. Liebel-Binney Co.* . . . 24

3. *Public Status of Vessel.* When it is claimed that ship is immune from process in libel for damages for collision, because in service of foreign government, the facts necessary to support claim, not being subjects of judicial notice, must be established. *Ex parte Muir.* . . . . . 522

**JURISDICTION:**

I. In General, p. 752.

II. Jurisdiction of this Court:

- (1) In General, p. 753.
- (2) Over Circuit Court of Appeals, p. 753.
- (3) Over District Court, p. 753.
- (4) Over Court of Claims, p. 754.
- (5) Over Courts of District of Columbia, p. 754.
- (6) Over State Courts, p. 755.

III. Jurisdiction of Circuit Court of Appeals, p. 755.

**JURISDICTION**—*Continued.*

PAGE

IV. Jurisdiction of District Court, p. 756.

V. Jurisdiction of Court of Claims, p. 757.

VI. Jurisdiction of Courts of District of Columbia, p. 758.

VII. Jurisdiction of State Courts, p. 758.

See **Admiralty**, 1-5; **Anti-Trust Act**; **Bankruptcy Act**, 4-6; **Constitutional Law**; **Equity**; **Procedure**.Legislation limiting equity powers of federal courts; strict construction. See **Statutes**, 6.Jurisdiction over property. See II, 7, *infra*.Probate courts; conveyances by minor Indian allottees. See **Indians**, 4-7, 11.Approval of conveyances by Secretary of the Interior. See *id.*, 9-14.Concurrent findings. See **Procedure**, IV, 6.Of Interstate Commerce Commission. See **Interstate Commerce Acts**, III.Administrative decisions. See **Alien Enemies**, 2; **Interstate Commerce Acts**, III; **Procedure**, IV, 3; **Public Lands**.Certiorari. See *infra*, II, 3, 14.Federal question. See *infra*, II, 6-9, 13, 15, 17, 18; IV, 2.Local question. See *infra*, I, 5; II, 13, 16.**I. In General.**1. *Constitutionality and Construction of Statutes.* Power to construe is necessary incident of power to determine constitutionality. *Heald v. District of Columbia* . . . . . 202. *Allegations of Bill.* Whether adequate to justify relief sought, is not a question of jurisdiction. *De Rees v. Costaguta* . . . . . 1663. *Enjoining Enforcement of Judgment in State Court.* *Jud. Code*, § 265, is intended to give effect to principle of comity and prevent interference with orderly disposal of litigation in state courts, but not to hamper federal courts in discharge of duties otherwise plainly cast upon them by Constitution and laws of Congress. *Wells Fargo & Co. v. Taylor* . . . . . 175

## JURISDICTION—Continued.

PAGE

4. *Id.* The inhibition does not forbid enjoining collection of judgment obtained in state court where its enforcement would be inequitable. *Id.*
5. *Local Questions.* Whether priority of State for payment of license taxes is a prerogative right or a rule of administration is a local question, the determination of which by highest court of State concludes federal courts. *Marshall v. New York* . . . . . 380

## II. Jurisdiction of this Court.

(1) *In General.*

1. *Error or Appeal.* Mistake, in bringing up case by appeal instead of writ of error, is cured by Act of 1916, but act does not abolish distinction between two modes of review. *Ana Maria Sugar Co. v. Quinones* . . . . . 245

(2) *Over Circuit Court of Appeals.* See III, *infra*.

2. *Writ of Error; Trading with Enemy Act.* Decrees affirming decrees of District Court, placing Alien Property Custodian in possession of property, reviewable by writ of error. *Central Union Trust Co. v. Garvan* . . . . . 554

3. *Certiorari.* Refusal of Circuit Court of Appeals after it has sustained a patent for an invention and ordered an accounting, to grant leave to file bill of review in District Court setting up an adjudication in another circuit, is ancillary to original jurisdiction arising under patent laws, and is reviewable by certiorari. *National Brake Co. v. Christensen* . . . . . 425

4. *First Circuit; Porto Rico; Assignment of Errors.* Where judgment of Supreme Court of Porto Rico in law action was assailed in Court of Appeals for error in measuring damages, but it appeared from opinion of former court that damages were allowed on other grounds not assigned as error in Court of Appeals and not there considered, *held*, that they could not be insisted upon as grounds for reversal by this court. *Ana Maria Sugar Co. v. Quinones* . . . . . 245

(3) *Over District Court.* See IV, *infra*.

5. *Admiralty; Mandamus and Prohibition.* This court, in its discretion, may decline to issue writs to prevent exercise

**JURISDICTION**—*Continued.*

PAGE

of jurisdiction by District Court, where jurisdiction is merely in doubt and state of case is such that question may be re-considered by District Court and on appeal. *Ex parte Muir* 522

6. *Direct Appeal; Jurisdiction as Federal Court*, necessary to support appeal under Jud. Code, § 238. *De Rees v. Costaguta* . . . . . 166

7. *Id. Non-residents; Publication*. Such jurisdiction is not involved where jurisdiction is invoked against non-resident defendants under Jud. Code, § 57, to enforce lien on property within district, claimed to result from contract between them and plaintiff, and District Court quashes service by publication and dismisses bill, on ground that contract creates no lien. *Id.*

8. *Id. Merits and Jurisdiction*. Objection that District Court has no jurisdiction over indictment of Indian because defendant had been emancipated and act was committed on allotment in fee, goes not to jurisdiction, but to merits, and judgment of District Court is not reviewable by direct writ of error from this court. *Louie v. United States* . . . . . 548

9. *Deciding All Questions*. Jurisdiction to decide other questions, after federal questions have been settled by decisions of this court rendered in other cases. *Geddes v. Anaconda Mining Co.* . . . . . 590  
*Jin Fuey Moy v. United States* . . . . . 189

(4) *Over Court of Claims*. See V, *infra*.

10. *Necessity of Appeal*. To review judgment, Government must appeal; it cannot attack it on claimant's appeal. *Bothwell v. United States*. . . . . 231

11. *Amount Involved; Jud. Code, § 242*. For purpose of appeal, amount determined from petition as amended, and is whole amount claimed without deduction for a partial defense. *Journal & Tribune Co. v. United States* . . . . . 581

(5) *Over Courts of District of Columbia*. See VI, *infra*.

12. *Certificate; Jud. Code, § 251*. No power in this court to entertain certificate where judgment of Court of Appeals reviewable by error or appeal under § 250. *Heald v. District of Columbia* . . . . . 20

**JURISDICTION—Continued.**

PAGE

13. *Error or Appeal; Jud. Code, § 250, par. 3.* Judgment reviewable when it involves constitutionality as well as construction of act of Congress, though act be local to District of Columbia. *Id.*
- (6) *Over State Courts.* See I, 3-5, *supra*.
14. *Certiorari.* Judgment of state Supreme Court held reviewable by certiorari and not by writ of error. *Bullock v. R. R. Comm. of Florida* . . . . . 513
15. *Federal Question; When Really Decided.* Where judgment of state Supreme Court prohibiting proceedings in lower court in effect denies a substantive right claimed, the jurisdiction of this court to review on a constitutional ground is not affected by fact that in terms the prohibition is based on a denial of prohibited court's jurisdiction. *Id.*
16. *Local Question.* Whether State is bound by railroad foreclosure proceeding to which it voluntarily makes itself a party before final decree, is a local question. *Id.*
17. *Federal Question,* which has been settled and is no longer an open one in this court, no basis for writ of error. *Minneapolis &c. Ry. v. Merrick Co.* . . . . . 376
18. *Id. Decision on Independent Non-federal Grounds.* State judgment not reviewable where it appears from state court's opinion that it rested its decision on independent non-federal grounds, substantial in character, broad enough to sustain judgment, and not involving federal question reviewable by writ of error under Jud. Code, § 237. *Minneapolis &c. Ry. v. Washburn Co.* . . . . . 370
19. *Following State Construction.* Construction of constitution and laws of State by its highest court accepted by this court in determining their consistency with Federal Constitution. *Thornton v. Duffy* . . . . . 361
- III. **Jurisdiction of Circuit Court of Appeals.** See II (2), *supra*; IV, 4, 5, *infra*.  
 Petition to revise, under Bankruptcy Act. See **Bankruptcy Act**, 4, 5.
1. *Bill of Review; Decree in Another Circuit; Res Judicata.* When Circuit Court of Appeals has sustained a patent and remanded the case for accounting, a party desirous of set-

**JURISDICTION**—*Continued.*

PAGE

ting up a subsequent decree in another circuit as *res judicata* should petition Circuit Court of Appeals for leave to file bill of review in District Court, setting up new matter as a bar to further proceedings. *National Brake Co. v. Christensen*. . . . . 425

2. *Id. Close of Term.* Such leave may be granted after judgment of appellate tribunal and after going down of mandate at close of term. *Id.*

3. *Id.* Application held of that character, and not one to have the other decree pronounced *res judicata* by the appellate court. *Id.*

4. *First Circuit; Over Supreme Court of Porto Rico.* No jurisdiction to review findings of fact made by Supreme Court of Porto Rico in action at law. *Ana Maria Sugar Co. v. Quinones*. . . . . 245

5. *Id. Bill of Exceptions.* Errors committed by Supreme Court of Porto Rico in rulings of law in a law case become part of record and are reviewable on writ of error without a bill of exceptions, although that court has power to review evidence and make new findings of fact. *Id.*

IV. **Jurisdiction of District Court.** See II (3), *supra*.

In admiralty. See **Admiralty**, 2-5.

In bankruptcy. See **Bankruptcy Act**, 4-6.

Enjoining enforcement of state judgment. See I, 3, 4, *supra*.

1. *Diverse Citizenship; Alignment of Parties.* In suit by corporation against its subsidiary, a citizen of another State, and former employees of latter and their labor unions, to enjoin molestation of workmen of, and interference with performance of contract with plaintiff for manufacture of Government supplies by, defendant corporation, held that plaintiff's right was a right to protect from interference the contract between the defendant corporation and its workmen; that defendant corporation was an indispensable party, and that, having no interest in conflict with plaintiff's, it must be aligned as a plaintiff in determining jurisdiction of District Court through diverse citizenship. *Niles-Bement-Pond Co. v. Iron Moulders Union*. . . . . 77

2. *Federal Question.* Allegations that Government contracts had priority under National Defense Act, and involved

**JURISDICTION**—*Continued.*

PAGE

interstate commerce, do not render suit one arising under laws of United States. *Id.*

3. *Merits and Jurisdiction.* Objection that an Indian indicted for murder of another Indian on a reservation (Crim. Code, §§ 273, 328) was emancipated and that offense was on an allotment in fee, goes to merits and not to jurisdiction. *Louie v. United States* . . . . . 548

4. *Amendment after Reversal on Demurrer.* Discretion to permit amendment of bill after reversal by Circuit Court of Appeals holding bill insufficient. *Wells Fargo & Co. v. Taylor* . . . . . 175

5. *Id.* Fact that Court of Appeals, in denying rehearing, refused to direct allowance of amendment, signifies merely that it sees no occasion to control District Court's discretion. *Id.*

6. *Railroad Tariff; Classifications and Regulations.* Shipper complaining of changes should apply for relief to Interstate Commerce Commission; District Court without jurisdiction, in the first instance, to enjoin carriers from complying. *Director General v. Viscose Co.* . . . . . 498

7. *Trading With Enemy Act, § 17.* Jurisdiction to enforce demands of Alien Property Custodian for delivery of property to the possession of which act entitles him. *Central Union Trust Co. v. Garvan* . . . . . 554

8. *Setting Aside Sale.* In suit to set aside sale of corporate property for inadequacy of consideration, *held*, that, under pleadings, the court, having found price inadequate, should have set sale aside, and was without power to depart from parties' contract by selling property at auction for cash price found adequate. *Geddes v. Anaconda Mining Co.* . . . . 590

9. *Directed Verdict; Right to Jury.* When party joining in request for peremptory instruction may reserve right to go to jury. *Sampliner v. Motion Picture Co.* . . . . . 233

**V. Jurisdiction of Court of Claims.** See II (4), *supra*.

1. *Tucker Act; Payments under Tortious Coercion.* Claim of foreign steamship company for reimbursement for bills for maintenance and medical care furnished by United States to immigrants temporarily detained before admission,

**JURISDICTION**—*Continued.*

PAGE

paid under duress of immigration officials, held founded on tort and not within Tucker Act. *United States v. Holland-America Lijn* . . . . . 148

2. *Abandoned Property Act*; *Jud. Code*, § 162. To establish claim to proceeds of property seized by Government, claimant must prove ownership at time of seizure. *Mangan v. United States*. . . . . 494

3. *Refund*; *Internal Revenue Taxes*. *Right to Sue* conditioned on prior appeal to and decision by Commissioner of Internal Revenue after payment; not satisfied by application for abatement of tax before it was paid. *Rock Island &c. R. R. v. United States*. . . . . 141

**VI. Jurisdiction of Courts of District of Columbia.** See II (5), *supra*.

*Court of Appeals*; *Certificate*. No power to certify questions to this court under *Jud. Code*, § 251, where judgment reviewable by error or appeal under § 250. *Heald v. District of Columbia* . . . . . 20

**VII. Jurisdiction of State Courts.** See II (6), *supra*.

Enjoining enforcement of state judgment in federal courts. See I, 3, 4, *supra*.

**JURY.** See **Criminal Law**, 3, 4; **Evidence**, 5; **Master and Servant**, 2; **Trial**, 1.

**LABOR UNIONS.** See **Anti-Trust Act**, 5-17.

Injunction to protect contract of employment. See **Equity**, 4.

**LACHES.** See **Trusts and Trustees**, 10.

**LEASE.** See **Constitutional Law**, IX, 16; **Indians**, 8-13, 16, 17.

**LEGACIES.** See **Taxation**, I, 5-7.

**LICENSE:**

Taxes. See **Constitutional Law**, II, 1; IX, 27, 28; **Priority**, 3.

Pawnbrokers. See **Criminal Law**, 2.

**LIEN.** See **Admiralty**, 6-8; **Jurisdiction**, II, 7; **Priority**.

<b>LIFE ESTATE:</b>	PAGE
Computation of value. See <b>Taxation</b> , I, 6.	
<b>LIFE INSURANCE.</b> See <b>Insurance</b> .	
<b>LIMITATIONS.</b> See <b>Indians</b> , 3; <b>Insurance</b> ; <b>Taxation</b> , II, 1; <b>Trusts and Trustees</b> , 10.	
Of liability. See <b>Employers' Liability Act</b> , 5; <b>Interstate Commerce Acts</b> , II, 2-4.	
<b>LOCAL LAW.</b> See <b>Employers' Liability Act</b> , 2; <b>Insurance</b> , 2; <b>Jurisdiction</b> , I, 5; II, 13, 16.	
<b>MAILS.</b> See <b>Claims</b> , 5.	
Post routes. See <b>Bridges</b> , 4.	
Railway mail cranes; personal injury. See <b>Master and Servant</b> .	
<i>Post Office Employees; State Regulation.</i> Employee using state roads in transporting mails held not subject to state automobile license law. <i>Johnson v. Maryland</i> . . . . .	51
<b>MANDAMUS.</b> See <b>Procedure</b> , II; <b>Public Lands</b> .	
<b>MANDATE.</b> See <b>Jurisdiction</b> , III, 2.	
<b>MARITIME LAW.</b> See <b>Admiralty</b> .	
<b>MARRIED WOMEN.</b> See <b>Evidence</b> , 6.	
<b>MASTER AND SERVANT.</b> See <b>Anti-Trust Act</b> , 6-17; <b>Emergency Fleet Corporation</b> , 2; <b>Employers' Liability Act</b> ; <b>Negligence</b> , 1.	
Workmen's compensation. See <b>Constitutional Law</b> , IV, 4; IX, 5.	
1. <i>Negligence of Railroad; Mail Cranes.</i> Installation of mail cranes so near to track as to endanger engineer while in performance of duty, is not negligence, when such placing of cranes is uniform along road and done by direction of Post Office Department pursuant to plan for handling mails. <i>Southern Pac. Co. v. Berkshire</i> . . . . .	415
2. <i>Id. Jury; Instructions.</i> Whether such installation was negligence should not have been submitted to jury. <i>Id.</i>	

**MASTER AND SERVANT**—*Continued.*

PAGE

3. *Assumption of Risk.* Experienced engineer who has operated many times over railroad where mail cranes are set up close to track, presumed to have known danger, and held, as matter of law, to have assumed risk. *Id.*

**MENTAL ANGUISH.** See **Telegraph Companies**, 2.

**MINES AND MINING:**

1. *Natural Gas; Nature of Property Right.* Possession of land is not possession of gas within it; landowner does not gain absolute property in the gas until he has captured it. *Walls v. Midland Carbon Co.* . . . . . 300
2. *Id. Conservation; Police Power.* State may prevent waste or disproportionate use by particular landowner to protect equal rights of others and to conserve gas as a resource of the State. *Id.*

**MINNESOTA.** See **Boundaries**.

**MINORS.** See **Indians**, 5-7, 11, 12; **Negligence**, 5.

**MISTAKE.** See **Claims**, 5; **Jurisdiction**, II, 1; **Telegraph Companies**, 2; **Trusts and Trustees**, 11.

**MONOPOLIES.** See **Anti-Trust Act**; **Interstate Commerce Acts**, I; **Patents for Inventions**; **Trade-marks**.

**MORTALITY TABLES.** See **Taxation**, I, 6.

**MORTGAGE.** See **Admiralty**, 6-8; **Carriers**, 10; **Receivers**, 1; **Trusts and Trustees**, 14.

**MURDER.** See **Jurisdiction**, IV, 3.

**NARCOTIC ACT.** See **Criminal Law**, 6, 7.

**NATIONAL PROHIBITION ACT.** See **Intoxicating Liquors**.

**NATURAL GAS.** See **Constitutional Law**, IX, 6-9, 32, 33; **Mines and Mining**.

**NAVIGABLE WATERS.** See **Boundaries**; **Bridges**.

**NEGLIGENCE.** See **Employers' Liability Act; Interstate Commerce Acts, II, 2, 3; Master and Servant; Telegraph Companies, 2; Trusts and Trustees, 11.**

1. *Panama; Railroads; Personal Injury.* By law of Panama, railroad is liable for negligence of servants. *Panama R. R. v. Pigott.* . . . . . 552

2. *Id. Pain.* Damages for, are recoverable in case of personal injuries. *Id.*

3. *Id. Judicial Notice; Jury.* Whether or not Panama law on these subjects should be judicially noticed by District Court for Canal Zone, *held*, that defendant was not harmed by leaving it to be determined by jury on conflicting evidence of experts. *Id.*

4. *Id. Street Crossings.* Due care requires railroad to keep flagman at dangerous street crossing. *Id.*

5. *Contributory Negligence; Infants.* Conduct that would be contributory negligence as matter of law in an older person may not be so in a boy of seven. *Id.*

**NEW YORK.** See **Bridges; Taxation, II, 8.**

**NON-RESIDENTS.** See **Jurisdiction, II, 7.**

**NOTICE.** See **Carriers, 5; Constitutional Law, VIII, 4; IX, 1; Judicial Notice; Treaties, 2; Trusts and Trustees, 10.**

**OFFICERS.** See **Alien Enemies, 3, 4; Bridges, 3, 5; Claims, 3, 7; Corporations, 3; Indians, 3, 9-14, 16; Taxation, I, 4, 6; Trusts and; Trustees, 6-8, 10, 11.**

Construction of treaty. See **Treaties, 7.**

Agent of United States. See **Emergency Fleet Corporation, 2.**

Administrative decisions. See **Alien Enemies, 2; Interstate Commerce Acts, III; Procedure, IV, 3; Public Lands.**

**OKLAHOMA.** See **Indians, 5, 7, 15; Procedure, I, 2, 3.**

**ORIGINAL CASES.** See **Procedure, I.**

**OSAGE INDIANS.** See **Indians, 8-17.**

**PAIN.** See **Negligence**, 2. PAGE

**PANAMA.** See **Negligence**, 1-3.

**PARENT AND CHILD.** See **Indians**, 12.

**PARTIES:**

United States; enjoining assertion of rights under leases of restricted allotments. See **Indians**, 8.

State; relation to foreclosure proceeding authorizing purchaser to dismantle railroad. See **Carriers**, 9, 10; **Jurisdiction**, II, 16.

Foreign governments; manner of asserting immunity of vessel in libel proceedings. See **Admiralty**, 3, 4.

Intervention. See **Procedure**, III.

1. *Alignment; Indispensable Parties; Diverse Citizenship.* In suit by corporation against its subsidiary, a citizen of another State, and former employees of the latter and their labor unions, wherein plaintiff sought to enjoin molestation of workmen of, and interference with performance of contract with plaintiff for manufacture of Government supplies by, defendant corporation, *held* that plaintiff's right was a right to protect from interference the contract between the defendant corporation and its workmen; that defendant corporation was an indispensable party, and that, having no interest in conflict with plaintiff's, it must be aligned as a plaintiff in determining jurisdiction of District Court through diverse citizenship. *Niles-Bement-Pond Co. v. Iron Moulders Union* . . . . . 77

2. *Appeal.* Government cannot attack judgment of Court of Claims on claimant's appeal. *Bothwell v. United States* . . 231

**PARTNERSHIP.** See **Employers' Liability Act**, 3.

**PASSENGERS:**

Loss of baggage. See **Interstate Commerce Acts**, II, 2, 3.

Train service. See **Carriers**, 8.

**PATENTS FOR INVENTIONS.** See **Claims**, 4; **Jurisdiction**, II, 3.

1. *Invention.* Patent claiming homogeneous lard-like food product consisting of incompletely hydrogenized vegetable oil and of cottonseed oil, *held* void for want of invention. *Berlin Mills Co. v. Procter & Gamble Co.* . . . . . 156

**PATENTS FOR INVENTIONS**—*Continued.* PAGE

2. *Id.* Fact that certain advantages over prior art asserted for patented device were not asserted in patent itself, held not to deprive patent of their benefit in determining invention. *New York Scaffolding Co. v. Liebel-Binney Co.* . . . . . 24
3. *Judicial Notice*, of earlier forms of scaffolding used in construction of buildings. *Id.*
4. *Invention.* Patent No. 959,008, claims 1 and 3, held not to involve invention over prior art as displayed in earlier patent, but merely mechanical changes, etc. *Id.* *New York Scaffolding Co. v. Chain Belt Co.* . . . . . 32
5. *Id.* Fact that change in composite instrumentality was readily made may be evidence that change was result of mere mechanical facility as opposed to invention. *Id.*
6. *Scope of Monopoly.* Advantages found in patented device may count in favor of patentee though he did not discern them when he secured patent; but if device is only an alteration of earlier patented device, involving no invention, they redound to benefit of earlier patentee though he did not attribute them to his invention. *Id.*

**PAWNBROKERS.** See **Criminal Law**, 2.

**PAYMENT.** See **Claims; Priority; Sureties; Taxation**, I.

**PENALTIES.** See **Bridges**, 1; **Constitutional Law**, IX, 27; **Taxation**, II, 9.

**PERSONAL INJURY.** See **Employers' Liability Act; Master and Servant; Negligence.**

Workmen's compensation. See **Constitutional Law**, IV, 4; IX, 5.

**PETITION TO REVISE.** See **Bankruptcy Act**, 4.

**PHYSICIANS:**

Anti-Narcotic Act. See **Criminal Law**, 6, 7.

**PLEADING:**

Bill of review. See **Jurisdiction**, III, 1-3.

Amount in controversy; determined from petition. See *id.*, II, 11.

Indictment; surplusage. See **Criminal Law**, 6.

- PLEADING**—*Continued.* PAGE
1. *Allegations of Bill.* Whether adequate to justify relief sought, is not a question of jurisdiction. *De Rees v. Costaguta* . . . . . 166
  2. *Amendment, after Reversal on Demurrer.* Discretion of District Court, to permit amendment of bill after reversal, holding bill insufficient, by Circuit Court of Appeals. *Wells Fargo & Co. v. Taylor* . . . . . 175
- POLICE POWER.** See **Constitutional Law.**
- PORTO RICO.** See **Jurisdiction, II, 4; III, 4, 5.**
- POST OFFICE DEPARTMENT.** See **Claims, 5; Mails.**
- POST ROUTES.** See **Bridges, 4; Constitutional Law, II.**
- PRESUMPTION.** See **Master and Servant, 3; Statutes, 4.**
- PRINCIPALS.** See **Criminal Law, 6.**
- PRINCIPAL AND AGENT.** See **Carriers, 3, 7; Corporations, 9, 10.**
- PRINCIPAL AND SURETY.** See **Sureties.**
- PRIORITY.** See **Sureties.**
1. *Debts Due State; Priority.* At common law the Crown, by prerogative right, had priority over all subjects for payment out of debtor's property, whether in possession of debtor, or third person, or *in custodia legis.* *Marshall v. New York* . . . . . 380
  2. *Id.* This priority could be defeated only by passing title, absolutely or by way of lien, before sovereign sought to enforce his right. *Id.*
  3. *Id.* A like right of priority belongs to State of New York, and attaches to debt due by sister-state corporation as license tax for doing business, although no statute makes tax a lien or declares its priority. *Id.*
  4. *Id. Enforcement Against Receiver.* This priority extends to all property of debtor within State, whether he be a resi-

**PRIORITY**—*Continued.*

PAGE

dent or a non-resident, and is enforceable against property in hands of receiver appointed by federal court, since such receiver takes property subject to all liens, priorities, etc., existing or accruing under state laws. *Id.*

**PRIVILEGES AND IMMUNITIES.** See **Constitutional Law**, VI; **Criminal Law**, 8.

**PROBATE COURTS.** See **Indians**, 4-7, 11.

**PROCEDURE.** See **Admiralty**; **Bankruptcy Act**; **Criminal Law**; **Damages**; **Equity**; **Evidence**; **Exceptions**; **Interstate Commerce Acts**; **Judgments**; **Judicial Notice**; **Jurisdiction**; **Parties**; **Pleading**; **Statutes**; **Trial**.

Abandoned Property Act; proof of ownership. See **Claims**, 6.

Administrative decisions. See **Alien Enemies**, 2; **Interstate Commerce Acts**, III; **Public Lands**; *infra*, IV, 3.

Admiralty; rules of practice. See Appendix, p. 671.

Amendment; discretion of District Court to permit amendment of bill after reversal by Circuit Court of Appeals. See **Jurisdiction**, IV, 4, 5.

Assignments of error, in Circuit Court of Appeals. See *id.*, II, 4.

Bill of review; after remand; setting up decree in another circuit. See *id.*, III, 1-3.

Burden of proof. See **Evidence**, 1-4.

Certiorari. See **Jurisdiction**, II, 3, 14.

Demurrer. See **Pleading**, 2.

Discretion. See **Judgments**, 4; **Jurisdiction**, IV, 4, 5; *infra*, II.

Estoppel. See **Bankruptcy Act**, 6; **Trusts and Trustees**, 7, 10, 11.

Federal question. See **Jurisdiction**, II, 6-9, 13, 15, 17, 18; IV, 2.

Final judgment. See *id.*, II, 3.

Injunction. See **Anti-Trust Act**, 4-15; **Equity**; **Indians**, 8; **Judgments**, 2, 7; **Trusts and Trustees**, 12.

Instructions. See **Criminal Law**, 3, 4; **Evidence**, 5; **Master and Servant**, 2; **Trial**, 1.

Intervention. See *infra*, III.

Judicial sale; testing adequacy of consideration by public auction. See **Evidence**, 4.

**PROCEDURE—Continued.**

- |   | PAGE |
|---|------|
| Laches. See <b>Trusts and Trustees</b> , 10.  |      |
| Limitations. See <b>Indians</b> , 3; <b>Insurance</b> ; <b>Taxation</b> , II, 1; <b>Trusts and Trustees</b> , 10. |      |
| Local law. See <b>Jurisdiction</b> , I, 5; II, 13, 16.  |      |
| Mandamus. See <b>Public Lands</b> ; II, <i>infra</i> .  |      |
| Mistake; error or appeal. See <b>Jurisdiction</b> , II, 1.  |      |
| Petition to revise. See <b>Bankruptcy Act</b> , 4.  |      |
| Porto Rico Supreme Court; review by writ of error; findings of fact. See <b>Jurisdiction</b> , III, 4, 5.         |      |
| Presumption. See <b>Master and Servant</b> , 3; <b>Statutes</b> , 4.  |      |
| Prohibition; state courts. See <b>Jurisdiction</b> , II, 15.  |      |
| Record. See <b>Exceptions</b> , 2.  |      |
| Refund; internal revenue taxes. See <b>Taxation</b> , I, 4-8.   |      |
| Rehearing. See <b>Jurisdiction</b> , IV, 4; <i>infra</i> , III.   |      |
| Reversal. See <i>id.</i> , II, 4; IV, 4.  |      |
| Trading With Enemy Act; determination of enemy property; how litigated. See <b>Alien Enemies</b> , 2-4.           |      |
| Verdict. See <b>Criminal Law</b> , 3; <b>Trial</b> .  |      |
| Witnesses; competency. See <b>Evidence</b> , 6.   |      |

**I. Original Cases.**

- |   |     |
|---|-----|
| 1. <i>Interlocutory Decree</i> , defining state boundary and appointing commissioners to locate and designate it. <i>Minnesota v. Wisconsin</i> . . . . . | 14  |
| 2. <i>Order</i> , directing receiver to return certain lands, etc. <i>Oklahoma v. Texas</i> . . . . .   | 280 |
| 3. <i>Motions</i> for refund by receiver, accounting, and for return of property. <i>Oklahoma v. Texas</i> . . . . .                                      | 603 |

**II. Mandamus and Prohibition. See Public Lands.**

*District Court; Admiralty.* This court, in its discretion, may decline to issue writs to prevent exercise of jurisdiction by District Court, where jurisdiction is merely in doubt and state of case is such that question may be reconsidered by District Court and on appeal. *Ex parte Muir* . . . . . 522

**III. Rehearing.**

*Application by Trustee in Bankruptcy*, for leave to intervene, for certification of entire record, and for reargument, denied. *Arndstein v. McCarthy*. . . . . 379

**IV. Scope of Review and Disposition of Case.**

1. *Construction of State Constitution and Laws*, by highest

**PROCEDURE—Continued.**

	PAGE
court of State, accepted by this court in determining consistency with Federal Constitution. <i>Thornton v. Duffy</i> . . .	361
2. <i>Id. Contract Rights.</i> In determining whether exemption from taxes granted by State to local corporation was a privilege or contract right, this court inclines to follow state tribunals. <i>Troy Union R. R. v. Mealy</i> . . . . .	47
3. <i>State Findings.</i> Conclusion of state board, confirmed by state courts, that grade crossing is dangerous, is entitled to much weight and, if reasonably warranted, must stand. <i>Eric R. R. v. Public Utility Commrs.</i> . . . . .	394
4. <i>Appeal; Necessity.</i> To review judgment of Court of Claims, Government must appeal; it cannot attack judgment on the claimant's appeal. <i>Bothwell v. United States</i> . . . . .	231
5. <i>Deciding All Questions.</i> Jurisdiction continues to decide other questions after federal questions have been settled by decisions of this court rendered in other cases. <i>Geddes v. Anaconda Mining Co.</i> . . . . .	590
<i>Jin Fuey Moy v. United States.</i> . . . . .	189
6. <i>Concurrent Findings</i> of fact, by two lower courts, accepted by this court, unless clearly erroneous. <i>Piedmont Coal Co. v. Seaboard Fisheries Co.</i> . . . . .	1, 13
<i>Geddes v. Anaconda Mining Co.</i> . . . . .	590
7. <i>Raising Question in Court Below.</i> Where judgment of Supreme Court of Porto Rico in law action was assailed in Court of Appeals for erroneous method of measuring damages, but it appeared from opinion of former court that damages were allowed on other grounds not assigned as error in Court of Appeals and not there considered, <i>held</i> , that they could not be insisted upon as grounds for reversal by this court. <i>Ana Maria Sugar Co. v. Quinones</i> . . . . .	245
8. <i>Formal Errors; Jud. Code, § 269; Instructions; Criminal Cases.</i> When undisputed facts establish offense charged, the judge may instruct jurors that, while they cannot be constrained to return a verdict of guilty, it is their duty to do so; any wrong done the defendant from manner in which such instructions were given, is purely formal, in a case where the facts are admitted and there can be no doubt of his guilt, and it is cured by § 269, Jud. Code. <i>Horning v. District of Columbia</i> . . . . .	135

- PROCEDURE—Continued.** PAGE
9. *Affirmance Without Prejudice* of injunctive decree of state court upholding railroad rate as non-confiscatory, determines adequacy of rate for period antedating decree, and is not superseded by decree in subsequent suit holding rate confiscatory upon new evidence. *Minneapolis &c. Ry. v. Merrick Co.* . . . . . 376
- PROCESS, SERVICE OF.** See **Jurisdiction**, II, 7.
- PROHIBITION.** See **Procedure**, II.
- PROHIBITION ACT.** See **Intoxicating Liquors**.
- PUBLICATION.** See **Jurisdiction**, II, 7.
- PUBLIC LANDS:**
- Homesteads; Reservation for State Selection; Mandamus.* Whether homestead right can be initiated by filing application while land is reserved for lieu selections by State, under Act of 1894, is a question involving construction of that statute which Secretary of Interior must decide in determining between applicant and one who was in possession and made application when period for state selection expired; and mandamus will not lie to control Secretary's decision. *Hall v. Payne.* . . . . . 343
- PURCHASE, TITLE BY.** See **Indians**, 2.
- RAILROADS.** See **Anti-Trust Act**, 1, 2; **Carriers; Employers' Liability Act; Interstate Commerce Acts; Master and Servant; Negligence; Safety Appliance Act.**
- Franchise; reserved power of State. See **Constitutional Law**, IV, 1, 2.
- Right to dismantle, when operated at a loss. See **Carriers**, 9.
- Id.* Function and effect of foreclosure decree, and rights of purchaser thereunder. See *id.*, 10.
- Grade crossings; removal. See **Constitutional Law**, III, 2; IX, 10-23, 37.
- Rates. See **Interstate Commerce Acts**, II, 5; III; **Judgments**, 2.
- Regulation of train service. See **Constitutional Law**, III, 1.

**RAILROADS**—*Continued.*

PAGE

Trust agreement; conveyance for terminal use; rights as stockholders and *cestui que trustent* and rights against purchasers of terminal stock with notice. See **Trusts and Trustees**, 1-13.

Uniform Bills of Lading Act. See **Carriers**, 2-7.

**RATES.** See **Interstate Commerce Acts**, II, 5; III; **Judgments**, 2.

Tolls. See **Bridges**, 1, 2.

**RECEIVERS:**

Original cases. See **Procedure**, I, 2, 3.

1. *Liability for Profits.* Persons who knowingly join with receiver in purchasing real estate at sale by trustee of deed of trust mortgage securing debt due receivership, are jointly and severally liable to receivership for all profits realized from purchase. *Jackson v. Smith* . . . . . 586

2. *Debts Due State.* Priority of State over all subjects for payment out of debtor's property, is enforceable against property in hands of receiver appointed by federal court, since such receiver takes property subject to all liens, priorities, etc., existing or accruing under state laws. *Marshall v. New York* . . . . . 380

**RELEASE.** See **Bankruptcy Act**, 7; **Employers' Liability Act**, 5.

**RESIDENCE.** See **Constitutional Law**, VI; **Criminal Law**, 8; **Jurisdiction**, II, 7.

**RES JUDICATA.** See **Judgments**, 3-6.

**RESTRAINT OF TRADE.** See **Anti-Trust Act**; **Interstate Commerce Acts**, I.

**REVIEW, BILL OF.** See **Jurisdiction**, III, 1-3.

**REVISE, PETITION TO.** See **Bankruptcy Act**, 4.

**RULES:**

Admiralty rules. See Appendix, p. 671.

**SAFETY APPLIANCE ACT:**

PAGE

1. *Train-brake Provision.* Applies to "transfer trains" moving between two yards of railroad company, over a "transfer" track which crosses at grade streets and lines of independent railroad companies. *United States v. Northern Pac. Ry.* . . . . . 251

2. *Id.* A moving locomotive and cars attached are without the provision only when they are not a train; as where locomotive is engaged in switching, classifying and assembling cars. *Id.*

3. *Id.* In applying act, courts will not weigh dangers incident to particular railway operations. *Id.*

**SALES.** See **Admiralty**, 6-8; **Trusts and Trustees**, 7, 12, 14.  
 Anti-Narcotic Act. See **Criminal Law**, 6, 7.  
 Contracts in restraint of. See **Anti-Trust Act**, 1-3; **Interstate Commerce Acts**, I.  
 Corporate property. See **Corporations**, 1-6.  
 Foreclosure. See **Carriers**, 10.

**SECRETARY OF THE INTERIOR.** See **Indians**, 3, 9-14, 16; **Public Lands**.

**SECRETARY OF WAR.** See **Bridges**, 3, 5.

**SELF-INCRIMINATION.** See **Constitutional Law**, VIII, 1-3.

**SERVICE OF PROCESS.** See **Jurisdiction**, II, 7.

**SHAREHOLDERS.** See **Corporations**; **Trusts and Trustees**, 4-12.

**SHERMAN ACT.** See **Anti-Trust Act**.

**SHIPPING BOARD.** See **Emergency Fleet Corporation**.

**SPECIFIC PERFORMANCE.** See **Equity**, 5, 6.

**STATES.** See **Boundaries**; **Constitutional Law**; **Jurisdiction**; **Taxation**, II.  
 Administrative agency; findings. See **Procedure**, IV, 3.  
 Debts due State. See **Priority**.

**STATES—Continued.**

PAGE

- Delegation of power. See **Constitutional Law**, IX, 19.  
 Federal war power; legislation in aid of. See *id.*, V, 2, 3; IX, 3.  
 Inheritance, by aliens; regulation. See *id.*, VII.  
 International bridges. See **Bridges**.  
 Local law. See **Jurisdiction**, I, 5; II, 13, 16.  
 Local rule; assumption of risk; when inapplicable. See **Employers' Liability Act**, 2.  
 Public lands; lieu selections. See **Public Lands**.  
 Public policy. See **Insurance**, 2.  
 Railroads; relation to dismantling by purchaser at foreclosure sale. See **Carriers**, 9, 10.  
 Reserved power; corporations. See **Constitutional Law**, IV.  
*Id.* Privileges and immunities. See *id.*, VI.  
 Residence; conspiracy to deprive of right of. See **Criminal Law**, 8.  
 Resources; conservation. See **Constitutional Law**, IX, 6-9, 32, 33.

**STATUTES.** See **Admiralty**, 6-8; **Alien Enemies**; **Anti-Trust Act**; **Bankruptcy Act**; **Bridges**; **Carriers**, 2-7; **Chinese Exclusion Acts**; **Constitutional Law**; **Criminal Law**; **Employers' Liability Act**; **Indians**; **Interstate Commerce Acts**; **Intoxicating Liquors**; **Jurisdiction**; **Patents for Inventions**; **Public Lands**; **Safety Appliance Act**; **Sureties**; **Taxation**; **Trade-marks**.  
 Construction of treaties. See **Treaties**.

1. *Judicial Power.* Power to construe statute is necessary incident of power to determine constitutionality. *Heald v. District of Columbia*. . . . . 20
2. *Reenactment of Preexisting Law.* *Jud. Code*, § 250, pars. 3, 6, must retain settled meaning attached to them before reenactment, in absence of plain implication to contrary. *Id.*
3. *Noscitur a Sociis.* Word "kept" as used in § 21 of National Prohibition Act, means kept for sale or other commercial purposes. *Street v. Lincoln Safe Deposit Co* . . . . 88
4. *Intent to Confiscate* private property, even in intoxicating liquors, not implied from provisions which have ample

**STATUTES**—*Continued.*

PAGE

field for other operation in effecting a purpose clearly indicated and declared. *Id.*

5. *Departure from General Rule*, giving court of guardianship exclusive power to supervise ward's property, in an act of Congress respecting lands of minor full-blood Indians, should not be accepted unless clearly evinced. *Harris v. Bell*..... 103

6. *Strict Construction*. Where statute imposes restriction upon equity powers of federal courts, and upon general operation of anti-trust laws, conferring special privilege upon particular class, rules of statutory construction forbid that privilege be enlarged by resorting to loose construction or by ignoring qualifying words. *Duplex Co. v. Deering*..... 443

7. *Legislative History*, of Clayton Act, shows that it was not intended to legalize secondary boycott. *Id.*

8. *Debates and Committee Reports*. In construing act of Congress, debates expressing motives of individual members may not be resorted to; but committee reports and explanatory statements by committee member in charge of bill may. *Id.*

9. *Safety Appliance Act*. In applying act courts will not weigh dangers incident to particular railway operations. *United States v. Northern Pac. Ry.*..... 251

**STOCK.** See **Taxation**, II, 8.

**STOCK EXCHANGE.** See **Bankruptcy Act**, 7.

**STOCKHOLDERS.** See **Corporations; Trusts and Trustees**, 4-12.

**STREETS:**

Grade crossings. See **Constitutional Law**, IX, 10-23, 37.

**STRIKES.** See **Anti-Trust Act**, 6-17.

**SUBROGATION.** See **Sureties**.

**SUICIDE.** See **Insurance**.

**SURETIES:**

PAGE

1. *Subrogation to Priority of United States. Rev. Stats., § 3468*, giving surety which pays United States amount due on bond of insolvent debtor the priority enjoyed by United States over other creditors under § 3466, does not entitle surety to share equally with United States when estate is insufficient to satisfy claim of United States. *United States v. National Surety Co.* . . . . . 73
2. *Id.* This is in harmony with rule under which surety liable only for part of debt does not become subrogated to remedies available to creditor unless he satisfies whole debt. *Id.*

**SURPLUSAGE:**

Indictment. See **Criminal Law**, 6.

**SWITCHING.** See **Interstate Commerce Acts**, III, 1, 2.

**TARIFFS.** See **Interstate Commerce Acts**, II, 2; III, 3-5.

**TAXATION:**

License fees. See **Constitutional Law**, II, 1; IX, 27, 28.  
*Id.* Priority of State for payment. See **Priority**, 3.

**I. Federal Taxation.**

1. *Forfeitures; Rev. Stats., § 3450; Vehicles Used to Defraud United States of Tax.* An automobile so used by person who had it on credit from the owner, is subject to forfeiture, although the owner was without notice of the forbidden use. *Goldsmith-Grant Co. v. United States* . . . . . 505
2. *Id. Fifth Amendment.* So construed and applied, statute does not deprive owner of property without due process. *Id.*
3. *Id. Sections 3460, 3461*, do not modify or affect § 3450 in this respect. *Id.*
4. *Refund. Right to Sue* is conditioned on prior appeal to and decision by Commissioner of Internal Revenue, after payment, and is not satisfied by an application for abatement of tax before it was paid. *Rock Island &c. R. R. v. United States.* . . . . . 141
5. *Id. Legacies; Assessment.* In action for refund of taxes computed, returned and voluntarily paid by executors after July 1, 1902, on legacies paid over before that date, formal

**TAXATION—Continued.**

PAGE

assessment prior to July 1, 1902, held not necessary to bring taxes within saving clause of Repealing Act of 1902 as taxes imposed prior to that date. *Cochran v. United States* . . . . 387

6. *Id. Life Estates; Trust Funds.* Such assessment not necessary to ascertain value, their value being ascertainable by computation upon mortality tables and rules of Commissioner of Internal Revenue. *Id.*

7. *Id. Unsettled Estate.* Estate's being unsettled and legatees and trustees possibly liable to refund if retained assets insufficient to pay claims, is no ground for recovery, where personal estate greatly exceeded amount of legacies, and total of claims and expenses of administration was comparatively insignificant. *Id.*

8. *Burden of Proof.* One who seeks to recover money voluntarily paid as tax, upon ground that tax was illegal, must prove its illegality and may not rely on mere assertion and speculation. *Id.*

**II. State Taxation.**

1. *Assessment; Notice and Hearing; Arbitration.* Assessment without notice or hearing, held invalid, where taxpayer's remedy by arbitration proved abortive because arbitrators, though agreeing assessment was excessive, could not unite on new assessment before expiration of time within which law required them to render decision, in consequence of which, under the law, original assessment stood affirmed. *Turner v. Wade* . . . . . 64

2. *Exemption; Reserved Power Over Corporations.* Law granting tax exemption to terminal company properly construed by state courts as creating repealable privilege rather than contract right to exemption. *Troy Union R. R. v. Mealy* . . 47

3. *Income Tax; Foreign Corporations; Earnings Within and Without State.* Tax based on proportion of net profits earned within State, the enforcement of which is left to ordinary means of collecting taxes, does not violate commerce clause. *Underwood Typewriter Co. v. Chamberlain* . . . . . 113

4. *Id.* In considering whether tax on locally-earned income reaches income earned outside the State, it is not necessary to decide whether it is a direct tax on income or an excise measured by income. *Id.*

**TAXATION—Continued.**

PAGE

5. *Id. Computing Tax.* Tax on income of corporation manufacturing within State but deriving greater part of its receipts from sales outside, computed by taking proportion of total net income which proper value of real and personal tangible property within bears to that outside, *held* not unreasonable. *Id.*

6. *Id. Foreign Corporations.* Principle that State may not impose discriminatory tax on sister-state corporation which had made large permanent investments in State before tax law was enacted, *held* inapplicable to case involving non-discriminatory tax on locally-earned income of manufacturing corporation. *Id.*

7. *Inheritance Tax; Classification.* State may distinguish between property which has borne fair share of tax burden in decedent's lifetime and property of same kind which has not. *Watson v. State Comptroller.* . . . . . 122

8. *Id. Transfer of Securities; New York Law.* Additional tax on transfer of certain kinds of securities held by decedent at his death on which neither general property tax nor alternative stamp tax has been paid during fixed period prior thereto, is based upon reasonable classification. *Id.*

9. *Id.* Tax is neither a property tax nor a penalty. *Id.*

**TELEGRAPH COMPANIES:**

Adjustment of lines on change of railroad grade crossing. See **Constitutional Law**, IX, 22.

1. *Interstate Commerce.* Transmission of telegram between two States is interstate commerce as matter of fact; fact tested by actual transaction. *Western Union Tel. Co. v. Speight* . . . . . 17

2. *Id. Mental Anguish.* Where recovery hung on interstate character of message, *held* that message routed through another State to destination in State of origin was interstate. *Id.*

3. *Burden of Proof.* If motive, in so routing message, to evade jurisdiction of State of origin were material, it was error to lay burden on defendant of disproving it. *Id.*

**TEXAS.** See **Procedure**, I, 2, 3.

**TITLE.** See **Alien Enemies**, 4; **Claims**, 6; **Constitutional Law**, VIII, 4; **Indians; Trusts and Trustees**, 2.  
By purchase. See **Indians**, 3.

**TOLLS.** See **Bridges**, 1, 2.

**TORTS.** See **Claims**, 7; **Employers' Liability Act; Master and Servant; Negligence; Telegraph Companies**, 2.

**TRADE-MARKS.** See **Judgments**, 8.

1. *Injunction; Infringement and Unfair Competition; Fraud and Unclean Hands.* That trade-mark conveys fraudulent representations to public affords but a narrow ground for refusing relief against infringer who seeks to reap advantages of plaintiff's good will. *Coca-Cola Co. v. Koke Co.* . . . 143

2. *Id.* As respects this defense, plaintiff's position must be judged by facts when suit was begun, not of a different condition and earlier time. *Id.*

3. *Id.* Use of "Coca-Cola" with accompanying pictures on labels, held not to constitute fraud depriving plaintiff of right to enjoin infringement and unfair competition in selling like product under name of "Koke." *Id.*

**TRADING WITH THE ENEMY ACT.** See **Alien Enemies; Jurisdiction**, II, 2; IV, 7.

**TRANSPORTATION ACT, 1920.** See **Interstate Commerce Acts**, III, 3.

**TREATIES:**

1. *Inheritance by Aliens.* In absence of treaty capacity to inherit land within State of the Union depends upon law of that State. *Sullivan v. Kidd* . . . . . 433

2. *Id.* *Treaty with Great Britain; Application to Canada.* Treaty of 1899 requires notice to bring foreign possessions within provisions granting rights of inheritance and enable subjects resident in the Dominion to inherit land in United States. *Id.*

3. *Id.* Fact that Canada, as self-governing dependency, has granted aliens right to inherit, cannot affect construction of treaty. *Id.*

**TREATIES**—Continued.

PAGE

4. *Id.* "Most Favored Nation Clause." Held not to extend rights acquired by treaties containing it because of reciprocal benefits expressly conferred in treaties with other nations in exchange for rights or privileges given to our Government. *Id.*

5. *Id.* Such clause in Treaty of 1899 does not control specific condition upon right of citizens of foreign possession to participate in its benefits. *Id.*

6. *Aids to Construction.* Little weight attached to construction by Great Britain of earlier treaty with Japan but which was not made known to representative who negotiated treaty in question for this country. *Id.*

7. *Id.* Construction by Executive, consistently adhered to, should be given much weight by courts. *Id.*

8. *Principles of Construction.* Like written contracts between individuals, all parts of treaty considered with view to giving fair operation to whole; they are to be executed in utmost good faith to effectuate purposes of parties. *Id.*

**TRIAL.** See **Criminal Law**, 3, 4; **Evidence**, 5; **Exceptions; Master and Servant**, 2.

1. *Directed Verdict; Right to Jury.* When party joining in request for peremptory instruction may reserve right to go to jury. *Sampliner v. Motion Picture Co* . . . . . 233

2. *Id. Findings.* Court cannot ignore reservation and assume to find facts from evidence as though case unconditionally submitted. *Id.*

**TRUST DEED.** See **Receivers**, 1.

**TRUSTS AND TRUSTEES.** See **Taxation**, I, 5-7.

1. *Creation.* Particular words unnecessary; certainty as to property, objects and beneficiaries required. *Chicago &c. Ry. v. Des Moines &c. Ry* . . . . . 196

2. *Id. Legal Title,* must be in trustee, where subject is legal interest capable of legal transfer. *Id.*

3. *Id. Several Instruments,* read together to establish intention. *Id.*

**TRUST AND TRUSTEES—Continued.**

PAGE

4. *Railroad Terminal Company*, deriving its property from railroads which created it to serve their common use, taking its shares, etc., in proportion to their contributions, held not an independent concern but a trustee, bound to use property and to exercise its corporate powers for the railroads as beneficiaries. *Id.*

5. *Id. Significance of Shares*. Represent merely right of participation in use of terminal under the trust, and have no independent exchangeable value, at least in hands of purchaser with notice of trust. *Id.*

6. *Id. Officers*. Fiduciary character of terminal held to extend to its officers and directors. *Id.*

7. *Id. Estoppel*. Sale by railroad of shares in terminal company to officers of latter, for value, to enable them to sell them to company capable of participating in use of terminal, does not estop successor of vendor from denying that vendees acquired substantial interest in terminal and seeking to enjoin inequitable use of such shares. *Id.*

8. *Id. Unauthorized Amendment of Articles*. Officers of proprietaries authorized to vote their terminal stock may not amend articles of terminal company so as to terminate trust. *Id.*

9. *Id. Evidence*. Absence of reference to trust in deeds of property, including terminal shares, made by proprietaries, and in contracts made by terminal in discharging functions, is not persuasive evidence against existence of trust. *Id.*

10. *Id. Estoppel; Laches; Notice*. Unauthorized amendment of articles in purport discharging trust, unchallenged for 17 years, held not to estop, or bar for laches, successors of proprietaries from asserting trust against officers and directors of terminal company, who for value acquired from proprietaries majority of terminal shares. *Id.*

11. *Id.* Fiduciaries holding such shares are estopped to avail themselves of negligent or mistaken acts of officers of the railroad companies to obtain advantage. *Id.*

12. *Id. Injunction*. Such shares represent no interest which fiduciaries could set up against proprietaries; latter, upon repaying what former had paid for them, with in-

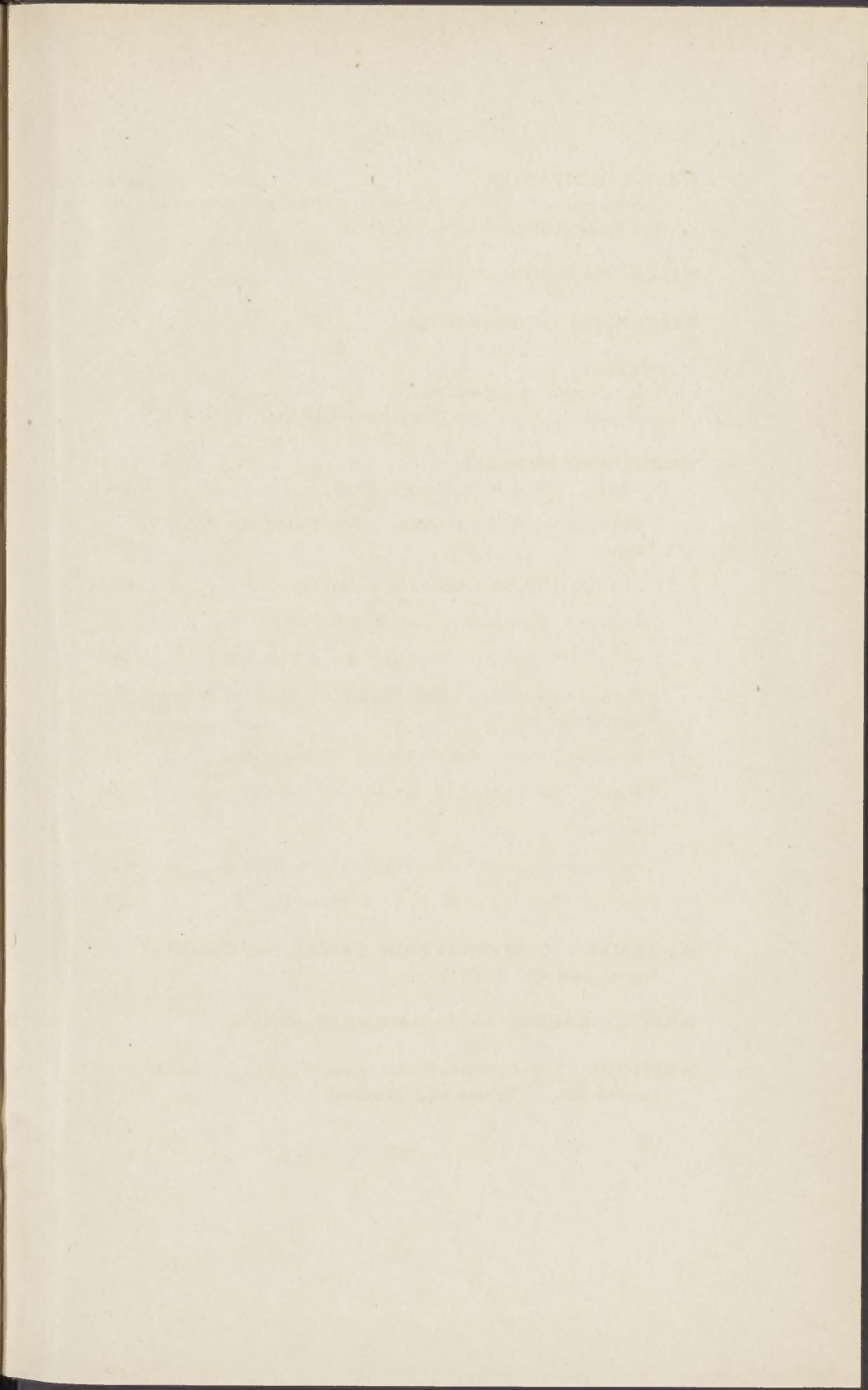
- TRUSTS AND TRUSTEES**—*Continued.* PAGE
- terest, may have shares surrendered and canceled, and meanwhile prevent sale or voting thereof by injunction. *Id.*
13. *Accounting. Earnings* from switching and other terminal services credited to proprietaries in proportion to their use of terminal. *Id.*
14. *Receivers; Liability for Profits.* Persons who knowingly join with receiver in purchasing real estate at sale by trustee of deed of trust mortgage securing debt due receivership, are jointly and severally liable to receivership for all profits realized from purchase. *Jackson v. Smith* . . . . . 586
- UNFAIR COMPETITION.** See **Anti-Trust Act; Interstate Commerce Acts, I; Trade-marks.**
- UNITED STATES.** See **Alien Enemies; Bridges; Claims; Contracts, 2-7; Emergency Fleet Corporation.**
- Contracts. See **Jurisdiction, IV, 1, 2.**
- War power. See **Constitutional Law, V; IX, 3.**
- Forfeitures. See *id.*, VIII, 4.
- Agents; Crim. Code, § 41. See **Emergency Fleet Corporation, 2.**
- Debts due United States; priority. See **Sureties.**
- Right to enjoin assertion of rights under leases of restricted allotments. See **Indians, 8.**
- VERDICT.** See **Criminal Law, 3; Trial.**
- WAIVER, OF PRIVILEGE.** See **Constitutional Law, VIII, 1-3.**
- WAR.** See **Alien Enemies; Constitutional Law, V; IX, 3.**
- WAR REVENUE ACT, 1898.** See **Taxation, I, 5-7.**
- WAR, SECRETARY OF.** See **Bridges, 3, 5.**
- WAREHOUSES.** See **Intoxicating Liquors.**
- WASTE.** See **Mines and Mining, 2, 3.**
- WATERS.** See **Boundaries; Bridges.**

**WATER COMPANIES:**

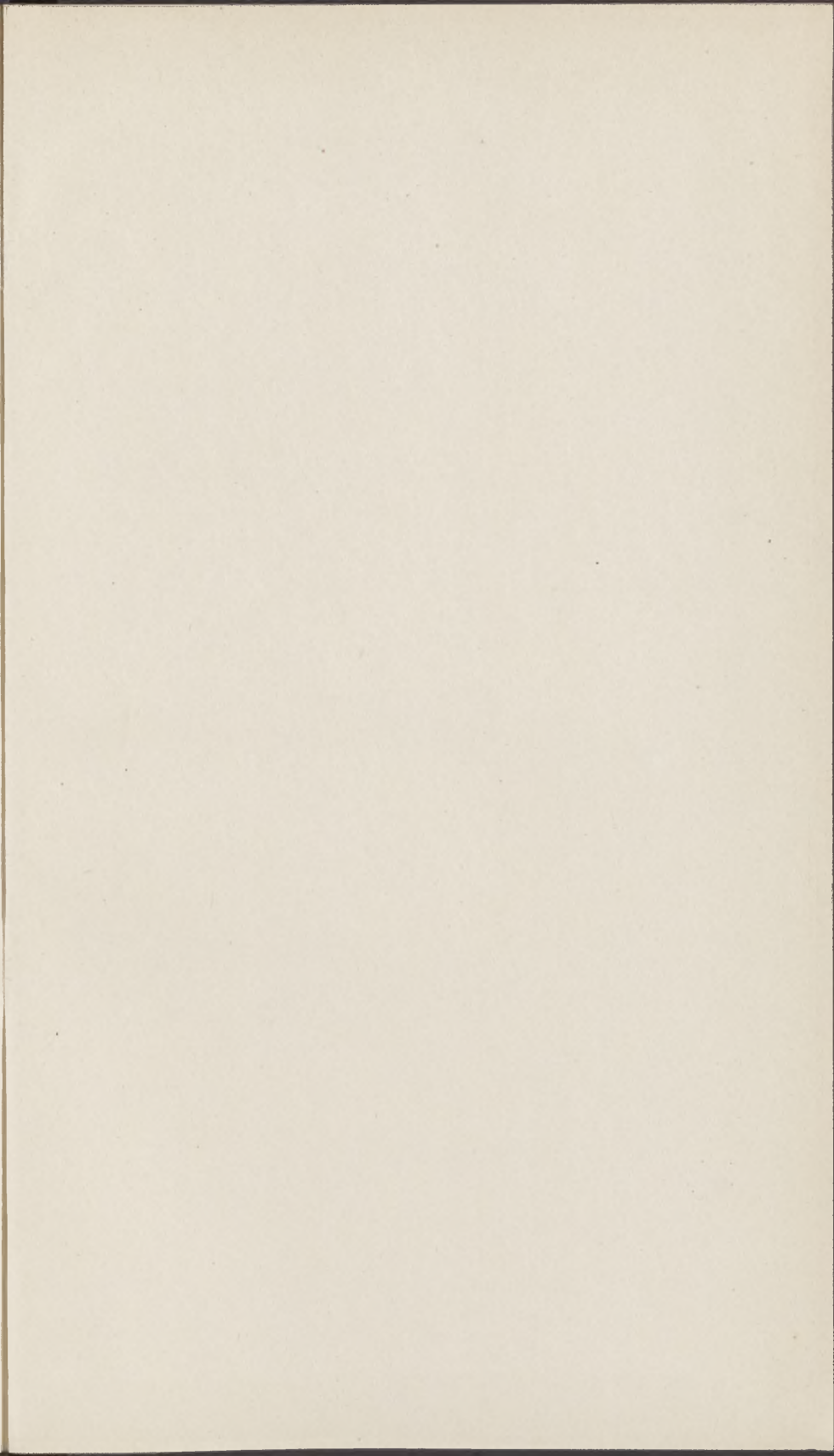
PAGE

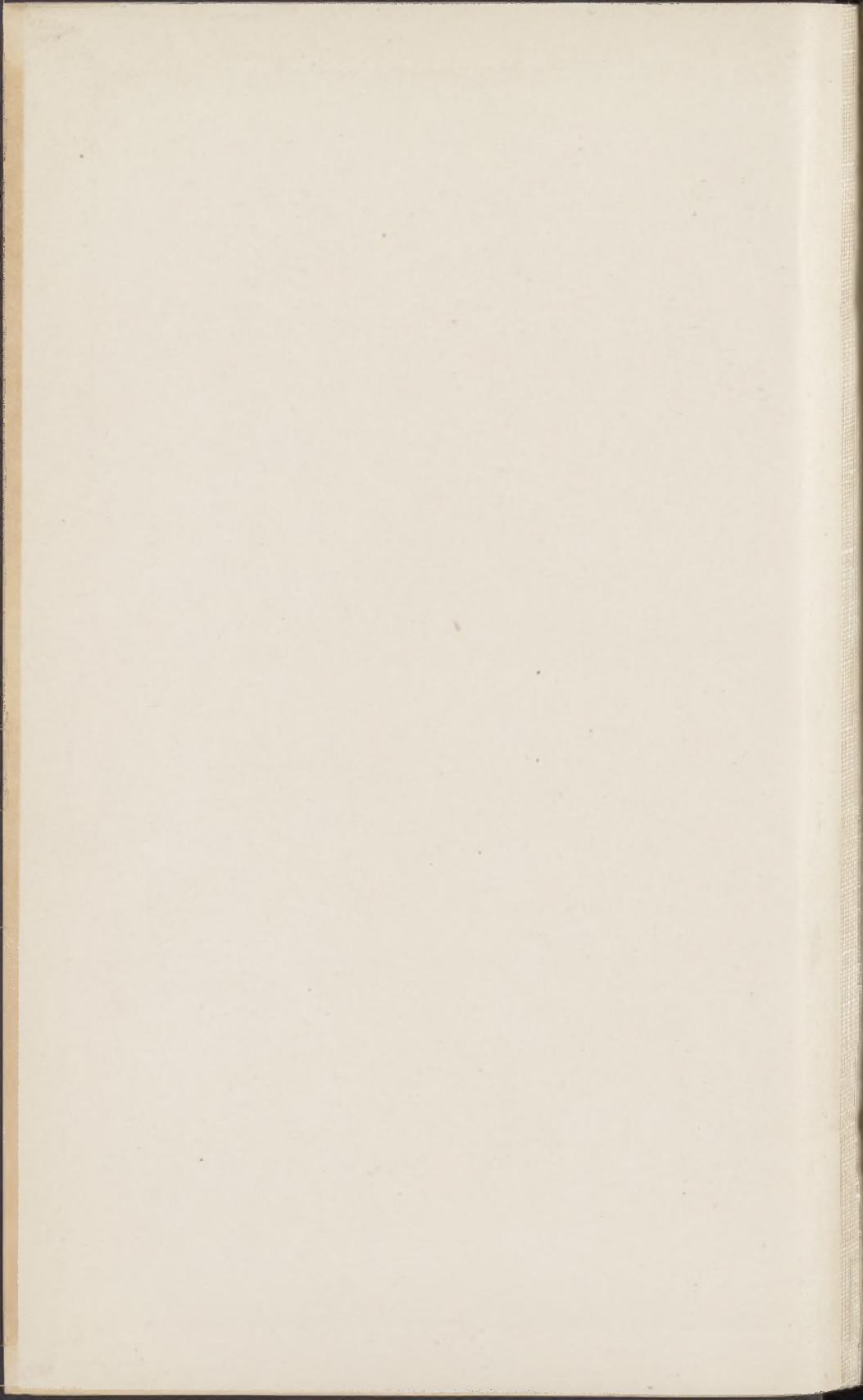
Adjustment of pipes on change of railroad grade crossing.

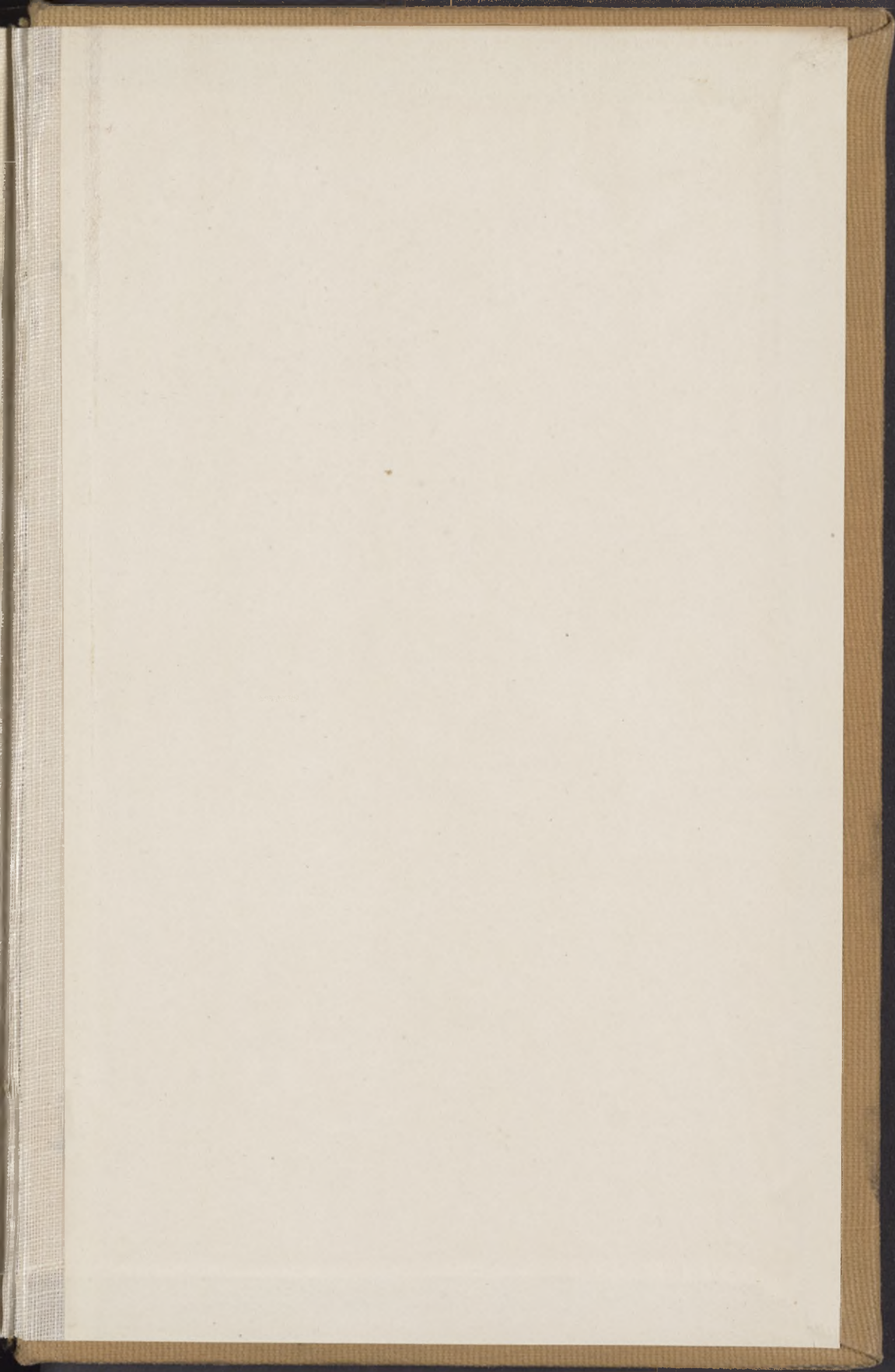
See **Constitutional Law**, IX, 21, 37.**WILLS.** See **Indians**, 14, 15.**WISCONSIN.** See **Boundaries**.**WITNESSES:**Competency. See **Evidence**, 6.Self-incrimination. See **Constitutional Law**, VIII, 1-3.**WORDS AND PHRASES:**"Agent." See *United States v. Strang* ..... 491"Common carrier by railroad." See *Wells Fargo & Co. v. Taylor*..... 175"Conspiracy." See *Duplex Co. v. Deering* . . . . . 443"Deliver." See *Street v. Lincoln Safe Deposit Co.* . . . . . 88"Delivery." See *Pere Marquette Ry. v. French & Co* . . . . . 538"Furnishing supplies." See *Piedmont Coal Co. v. Seaboard Fisheries Co.* . . . . . 1"Imposed," taxes. See *Cochran v. United States* . . . . . 387"Kept." See *Street v. Lincoln Safe Deposit Co* . . . . . 88"Possess." See *id.*"Secondary boycott." See *Duplex Co. v. Deering* . . . . . 443"Train." See *United States v. Northern Pac. Ry* . . . . . 251**WORKMEN'S COMPENSATION LAWS.** See **Constitutional Law**, IV, 4; IX, 5.**WRIT OF ERROR.** See **Jurisdiction; Procedure**.**WRITINGS.** See **Constitutional Law**, VIII, 1-3; **Bankruptcy Act**, 7; **Trusts and Trustees**.

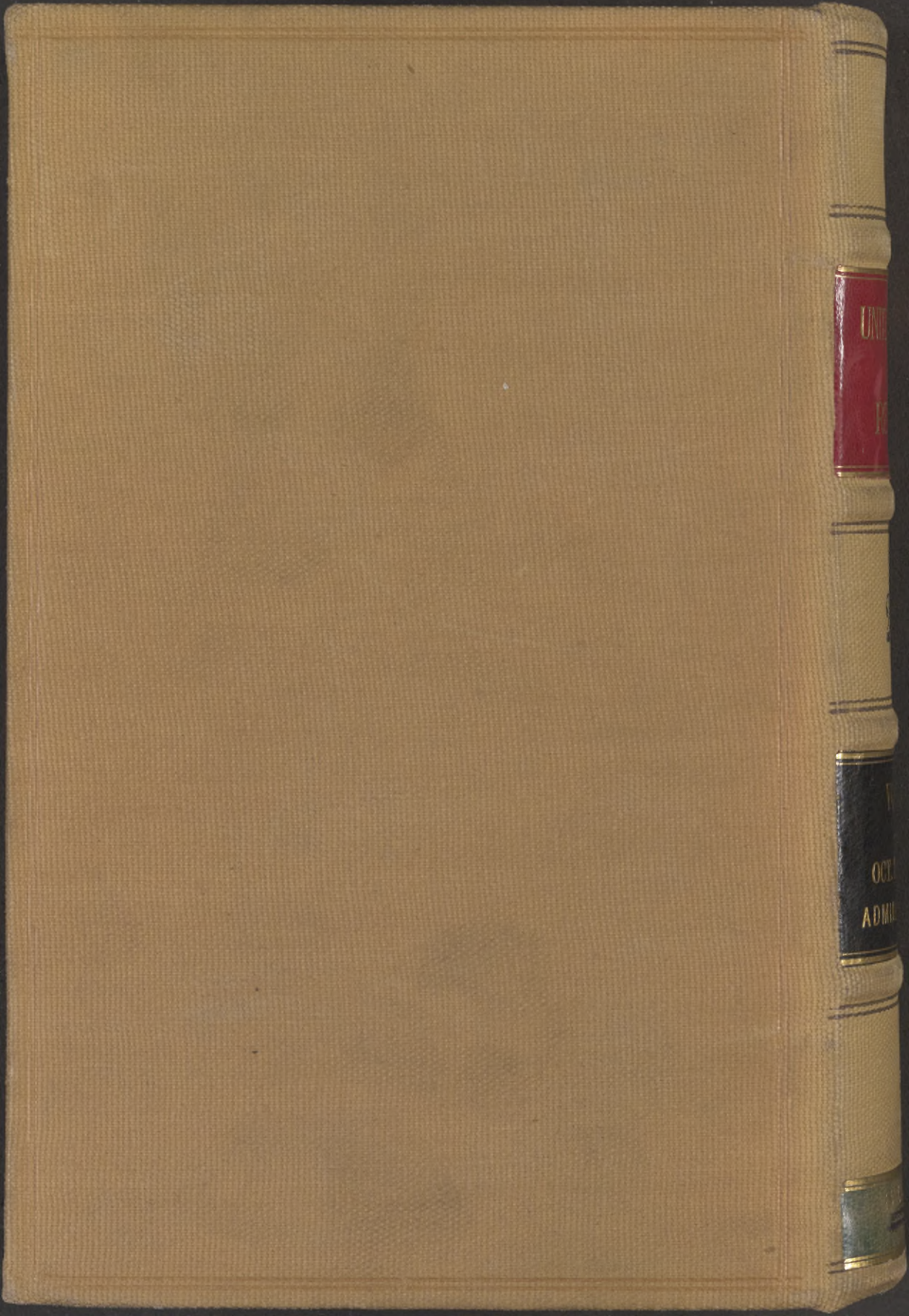












UNIVERSITY OF  
CAMBRIDGE

OCTOBER  
ADMINISTRATION