

# INDEX.

---

**ADMIRALTY.** See **Aliens; Seamen's Act.** Page

**ADMISSIONS.** See **Pleadings, 2.**

**AGENCY.** See **Criminal Law, 4.**

**ALASKA.** See **Taxation, II, 1-2.**

## **ALIENS:**

1. *Alien Seamen*; Act of 1920 requiring hospital treatment of and payment of expenses by owner of vessel, includes all seamen alien in citizenship, irrespective of nationality of vessel. *U. S. v. New York &c. S. S. Co.*..... 304
2. *Id.* Power of Congress to require this of American vessels. *Id.*

## **AMENDMENT:**

Of Pleadings. See **Interstate Commerce Acts, II, 3.**

## **ANTI-NARCOTIC ACT:**

1. *Indictment and Sentence* under. *U. S. v. Daugherty*.... 360
2. *Validity of Act*, queried. *Id.*

## **ANTI-TRUST ACTS:**

1. *Dissolution of Combination. Buckeye Co. v. Hocking Valley Ry. Co.*..... 42
2. *Id. Decree Retaining Jurisdiction.* No power, on application of private interests, after expiration of term to revoke order approving a sale. *Id.*
3. *Id. Enforcement.* Private parties with no private interest have no standing to seek enforcement in public interest. *Id.*
4. *Judgment of State Court.* When *res judicata* as to private rights involved in decree and sale in dissolution proceeding in District Court. *Id.*
5. *Intervention*, in Anti-Trust case. *Id.*

**APPEAL.** See **Damages; Jurisdiction, I, (3), 1-2; I, (5), 3; 17; III, 1; Procedure.**

**ARMY:**

Page.

- Condemnation of land for military purposes. *Land Co. v. U. S.* ..... 55

**ASSIGNMENT.** See **Insolvency**, 4.

**ASSUMPTION OF RISK.** See **Safety Appliance Act**, 2.

**ATTACHMENT:**

1. *Attachment Affidavit*, contents of under West Virginia Code. *Stephenson v. Kirtley* ..... 163
2. *Id. Defects in.* Do not deprive court of jurisdiction acquired by levy of writ. *Id.*

**ATTORNEY GENERAL.** See **Eminent Domain**, 2.

**ATTORNEYS:**

- Limitation of Fees*, in war risk insurance claims. *Margolin v. U. S.* ..... 93

**BAILMENTS.** See **Stocks**, 2.

**BANKRUPTCY.** See **Evidence**, 2.

1. *Pendency of Earlier Petition*, precludes consideration of second one filed in respect of the same debts. *Freshman v. Atkins* ..... 121
2. *Act of Bankruptcy*—what amounts to, or to voluntary assignment, under law giving priority to claim of United States against insolvent. *Bramwell v. Fidelity Co.* ..... 483

**BANKS.** See **Insolvency**, 2.

**BILLS OF LADING.** See **Interstate Commerce Acts I**, 4.

**BONDS.** See **Insolvency**, 2.

**BORROWING.** See **Stocks**, 1.

**BOUNDARY.** See **Costs**, 2.

1. *Method of Relocating*, old river boundary, adopted by commissioners in suit between States, outlined and approved. *Arkansas v. Tennessee* ..... 152
2. *Id. Reasonable Certainty*, enough; absolute accuracy not being attainable. *Id.*
3. *Id. Opinion Evidence*, that line cannot be located with reasonable certainty. *Id.*
4. *Decree*, establishing boundary. *Oklahoma v. Texas* ..... 314

**CALIFORNIA.** See **Husband and Wife**.

Page.

**CARRIERS.** See Evidence, 4; Federal Control Act, 1-2; Interstate Commerce Acts; Safety Appliance Acts, 1-3.

**CERTIORARI.** See Jurisdiction, I, (1), 1; I, (3), 3; I, (5), 9, 15.

**CHIEF JUSTICE.** See Jurisdiction, II, 2.

**CLAIMS.** See Contracts, 1-2; Interstate Commerce Acts, I, 3; Jurisdiction, I, (4), 5; I, (6), 1; Trading with the Enemy Act, 3.

**COMBINATIONS.** See Anti-Trust Acts, 1.

**COMMERCE COURT.** See Jurisdiction, II, 2.

**COMMUNITY PROPERTY.** See Husband and Wife.

**COMPENSATION.** See Eminent Domain, 4; Officers.

**CONDEMNATION.** See Eminent Domain.

**CONSPIRACY.** See Criminal Law, 4.

**CONSTITUTIONAL LAW.** See Attachment; Jurisdiction.

I. Judiciary. P. 605.

II. Commerce Clause. P. 605.

III. Contract Clause. P. 606.

IV. Taxation. P. 606.

V. Ex Post Facto Laws. P. 606.

VI. Fourth Amendment. P. 606.

VII. Fifth Amendment. P. 606.

VIII. Fourteenth Amendment. P. 607.

IX. Eighteenth Amendment. P. 607.

**I. Judiciary.** See Jurisdiction.

1. *State Appellate Courts.* System by which constitutional questions, federal and state, are waived if appeal taken to intermediate court instead of state supreme court directly, is valid. *Central Tel. Co. v. Edwardsville*..... 190
2. *Original Jurisdiction of Supreme Court.* Grant of in cases affecting ambassadors etc., does not refer to representatives of this country abroad. *Ex parte Gruber*..... 302

**II. Commerce Clause.**

1. *Foreign Corporation.* Infliction of Penalty on, for non-compliance with state law with respect to doing local business, valid where business partakes of both interstate and intrastate character. *Kansas City Steel Co. v. Arkansas*..... 148



## II. Commerce Clause—Continued.

Page.

2. *Federal Water Power Act*. Power of Congress to preserve navigable capacity of streams, subordinating state authority. *New Jersey v. Sargent* ..... 328
3. *Riparian Rights*. Can not be arbitrarily impaired under guise of river improvement. *U. S. v. Improvement Co.*..... 411

## III. Contract Clause.

1. *Suit by State*. Law authorizing suit to determine a claim under contract with State, does not impair the contract. *Western Union Tel. Co. v. Georgia*..... 67

IV. Taxation. See *Infra*, VII, 6-8; Taxation.

1. *Joint Stock Association*. Power of Congress to tax income. *Burk-Waggoner Ass'n. v. Hopkins*..... 110
2. *Grain Exchanges*. "Future Trading Act," levying per bushel tax on contracts for purchase or sale of grain, known as "privileges," etc., exceeds taxing power. *Trusler v. Crooks*..... 475
3. *State Agencies; Exemption* of inapplicable to compensation under contract with State, when tax not shown to impair ability to comply with contract or to hamper State in securing proper service. *Metcalf v. Mitchell*..... 514

## V. Ex Post Facto Laws.

1. *Procedural Statute*, valid, by which right to separate trial in criminal cases becomes allowable only for cause. *Beazell v. Ohio* ..... 167

## VI. Fourth Amendment.

1. *Search Without Search Warrant*. Lawful as respects person of one lawfully arrested. *Agnello v. U. S.*..... 20
2. *Id. Dwelling*. Search without warrant, even for probable cause, unlawful. *Id.*
3. *Id. Seizure; Evidence*. Articles unconstitutionally seized in dwelling, inadmissible in evidence as against owner, even to rebut his evidence that he never saw them. *Id.*

VII. Fifth Amendment. See II, (3), *supra*.

1. *Unlawful Search*. Evidence obtained by inadmissible. *Agnello v. U. S.*..... 20
2. *Id. Objection to Evidence*, need not be preceded by application for return of things wrongfully seized. *Id.*

VII. Fifth Amendment—Continued.

	Page.
3. <i>Condemnation; Damages.</i> Value of buildings which United States had right under lease to remove on day suit started, not included in land-owner's compensation. <i>Old Dominion Co. v. U. S.</i> .....	55
4. <i>Attorneys Fees.</i> Limitations of in claims for war risk insurance, valid. <i>Margolin v. U. S.</i> .....	93
5. <i>Alien Seamen.</i> Power of Congress to require American vessel owner to pay alien seamen's expenses in hospital. <i>U. S. v. N. Y. S. S. Co.</i> .....	304
6. <i>Graduated Fish Cannery Tax</i> , of Alaska legislature, valid under Organic Act and Fifth Amendment. <i>Pac. Fisheries v. Alaska</i> .....	269
7. <i>Id. Ulterior Purpose</i> , of fish protection, legitimate consideration in using tax power. <i>Id.</i>	
8. <i>Id. Discrimination</i> , valid when supported by intelligible grounds of policy. <i>Id.</i>	
9. <i>Alien Property Act</i> , constitutionality of. See <i>White v. Securities Corp</i> .....	283

VIII. Fourteenth Amendment.

1. <i>Extension of Gas Mains</i> —reasonableness of order requiring, how tested. <i>N. Y. v. Pub. Serv. Comm.</i> .....	244
2. <i>Id.</i> Validity of such order determined without reference to adequacy of maximum statutory price for gas. <i>Id.</i>	
3. <i>Attachment; Notice.</i> Sale of land ordered, after holding deeds fraudulent without proof, conclusive on non-residents served by publication. <i>Stephenson v. Kirtley</i> .....	163
4. <i>Special Road Assessment.</i> Notice and hearing on question of benefits must be given property-owner where legislature or municipality did not create district or determine benefits. <i>Browning v. Hooper</i> .....	396
5. <i>Vague Criminal Statute</i> , imposing severe, cumulative punishments upon contractors with the State who pay their workmen less than the "current rate of per diem wages in the locality where the work is performed,"—held void for uncertainty. <i>Connally v. Construction Co.</i> .....	385

IX. Eighteenth Amendment.

<i>Anticipatory Legislation</i> , allowable, between ratification and effective date of amendment. <i>Druggan v. Anderson</i> .....	36
---	----

CONSTRUCTION. See Statutes.

	Page.
<b>CONTRACTS.</b> See Constitutional Law, III; Jurisdiction, I, (5), 2; Taxation, I, 1-2.	
1. <i>Sale by Specific Lots</i> , not warranting quantity. <i>Lipshitz v. U. S.</i> .....	90
2. <i>Id. Naming of Quantities</i> , merely estimate of probable amounts in which good faith alone required. <i>Id.</i>	
3. <i>Reinsurance</i> . Return of unearned premiums on policies of insurance by the receivers of an insurance company, party to a reinsurance or participation contract, does not release liability of reinsurance company to pay one-third of losses as provided by it. <i>Hicks v. Poe</i> .....	118
<b>CORPORATIONS.</b> See Anti-Trust Acts, 1; Constitutional Law, II, 1; Judicial Sales; Receivers; Taxation, I, 6, 7; Trade Marks, 1.	
<b>COSTS:</b>	
1. <i>Clerk's Costs</i> . Party paying judgment recovered by United States must under § 828 Rev. Stats. pay clerk commission of 1%. <i>Gulf Ref. Co. v. U. S.</i> .....	125
2. <i>Apportionment</i> . Unnecessary printing, paid for by guilty party. <i>Arkansas v. Tennessee</i> .....	152
<b>COURT OF CLAIMS.</b> See Jurisdiction, I, (6), 1-2.	
<b>COURT OPINIONS.</b> See <i>Stare Decisis</i> .	
<b>COURTS.</b> See Constitutional Law, I, 1; <i>Stare Decisis</i> .	
<b>CRIMINAL LAW.</b> See Constitutional Law, V; VI, 1-3; VII, 1-2.	
1. <i>Anti-Narcotic Act</i> . Allegation of separate sales as distinct offenses. <i>U. S. v. Daugherty</i> .....	360
2. <i>Id.</i> Sentence under. <i>Id.</i>	
3. <i>Sentence</i> —certainty required. <i>Id.</i>	
4. <i>Conspiracy; Innocent Agency</i> —Conspirators responsible for acts of. <i>Agnello v. U. S.</i> .....	20
5. <i>Id. Evidence of Intent</i> , improperly admitted against one of joint defendants, does not affect judgment against others. <i>Id.</i>	
6. <i>Excessive Attorneys Fees</i> , in war risk insurance claims. <i>Margolin v. U. S.</i> .....	93
7. <i>Statutory Offense</i> —vague statute void. <i>Connally v. Constr. Co.</i> .....	385

**DAMAGES.** See Eminent Domain, 1, 4; Interstate Commerce Acts; Trading with the Enemy Act, 5.  
*Trespass.* Effect of "moral good faith" (in Louisiana) where trespass on public land, and allowance to trespassers of all *bona fide* expenditures in developing federal oil lands, as against oil extracted before decree against them and also during their appeal. *Gulf Ref. Co. v. U. S.*..... 125

**DEBT.** See Trading with the Enemy Act, 5.

**DEBTOR AND CREDITOR.** See Insolvency, 2; Receivers.

**DECREE.** See Anti-Trust Acts, 2; Judgments.

**DEMURRER.** See Procedure, II, 5.

**DIVIDENDS.** See Taxation, I, 8.

**EMINENT DOMAIN.** See Jurisdiction, II, 3; Statutes, 1.

1. *Improvements on Leased Premises.* Beginning of suit to condemn land on last day allowed Government under expired lease to remove improvements, preserves Government's right in them, so that they are not to be included in the land-owner's compensation. *Old Dom. Land Co. v. U. S.*..... 55
2. *Public Purpose*—effect of declaration of in Act of Congress, and function of Secretary of War's request to Attorney General to start proceedings. *Id.*
3. *Id.* Is saving loss of buildings erected by Government on leased land public purpose for condemning it? *Id.*
4. *Special Benefits*, from river improvement, to land not taken deductible from compensation, under Act 1918. *U. S. v. Improvement Co* ..... 411
5. *Riparian Rights*, on navigable river cannot be impaired arbitrarily, and are to be considered in ascertaining benefits derived from river improvement. *Id.*

**EMPLOYER AND EMPLOYEE.** See Hours of Service Act; Officers; Safety Appliance Acts, 1.

*Regulation of Wages.* Criminal statute held void for uncertainty. *Connally v. Gen. Constr. Co.*..... 385

**EMPLOYERS' LIABILITY ACT.** See Safety Appliance Acts, 3.

**ENEMY.** See Trading with the Enemy Act.



**EQUITY.** See **Injunction**; **Jurisdiction**, I, (5), 8; **Patents for Inventions**, 2.

**EVIDENCE.** See **Boundary**, 3; **Constitutional Law**, VI, 3; VII, 1-2; **Interstate Commerce Acts**, I, 6; II, 7; **Trading with the Enemy Act**, 4.

Effect of Land Patent. See **Public Lands**, II, 4.

1. *Of Intent.* When improper admission of as to one joint defendant does not affect judgment against others, in conspiracy case. *Agnello v. U. S.*..... 20

2. *Judicial Notice*, of pendency of an earlier petition in bankruptcy and rejection by court *sua sponte* of later application as respects the same debts. *Freshman v. Atkins*..... 121

3. *Id.* As to principle of conveying and distributing mobile substances by gravity. *Concrete Appliances Co. v. Gomery*. 177

4. *Railroad Tariff*, showing relation between values and rates, error to exclude in action for loss of goods. *Am. Ry. Exp. Co. v. Daniel*..... 40

5. *Admissions*, in pleadings. See *White v. Securities Corp.*.. 283

**EXCHANGE.** See **Trading with the Enemy Act**, 5.

**EXEMPTION.** See **Constitutional Law**, IV, 3; **Taxation**, I, 1-2.

**FARM LOANS.** See **National Banks**, 2.

#### **FEDERAL CONTROL ACT:**

1. *Suits Under.* Director General of Railroads not suable generally, but only with reference to particular system or carrier out of whose operations the liability arises. *Davis v. Alexander*..... 114

2. *Id.* *Federal Agent* suable for injuries on a subsidiary of the system of which he had control as dominant carrier may be sued for injuries resulting from negligence of its subsidiary. *Id.*

**FINAL JUDGMENTS.** See **Judgments**; **Jurisdiction**, I, (5), 17.

**FINDINGS OF FACT.** See **Jurisdiction**, I, (6), 2.

**FISH AND FISHERIES.** See **Constitutional Law**, VII, 6-7; **Taxation**, II, 1-2.

**FIXTURES.** See **Eminent Domain**, 1.

**FUTURE TRADING.** See **Taxation**, I, 13.

**GAS COMPANIES.** See **Constitutional Law**, VIII, 1-2.



# INDEX.

611

<b>GOODS.</b>	See Interstate Commerce Acts, I, 3, 5.	Page
<b>GRAIN EXCHANGES.</b>	See Taxation, I, 13.	
<b>HABEAS CORPUS.</b>	See Jurisdiction, I, (5), 1.	
<b>HOMESTEADS.</b>	See Public Lands, I, 1.	
<b>HOURS OF SERVICE ACT:</b>		
	<i>Nine Hour Limitation</i> , inapplicable to yard master. <i>Atchison &amp;c. Ry. Co. v. U. S.</i> .....	266
<b>HUSBAND AND WIFE:</b>		
	<i>Community Property</i> , in California—nature of interests and taxability of income. <i>U. S. v. Robbins</i> .....	315
<b>IMMIGRATION.</b>	See Aliens, 1-2.	
<b>IMPROVEMENTS.</b>	See Eminent Domain.	
<b>INDIANS.</b>	See Insolvency, 2.	
	See <i>U. S. v. Tyler</i> .....	13
<b>INFRINGEMENT.</b>	See Patents for Inventions, 1.	
<b>INHERITANCE.</b>	See Public Lands, I, 1.	
<b>INJUNCTION.</b>	See Jurisdiction, I, (2), 1.	
	1. <i>Absence of Notice.</i> Does not invalidate preliminary injunction issued under Prohibition Act without compliance with Equity Rule 73 and Act of 1914. <i>Druggan v. Anderson.</i>	36
	2. <i>Enjoining Secretary of Interior.</i> Suit not to be premature or control Secretary's discretion. <i>Work v. Louisiana</i> .....	250
	3. <i>Unconstitutional Rates.</i> Exhaustion of further administrative remedy after test as condition to bringing suit. <i>Henderson Water Co. v. Corp. Comm.</i> .....	278
<b>INSOLVENCY.</b>	See Receivers.	
	1. <i>Priority of United States.</i> Taxes debts within R. S. § 3466. <i>Price v. U. S.</i> .....	492
	2. <i>Id.</i> Extends to deposits of Indian moneys to secure which bank gave bond to United States. <i>Id. Bramwell v. Fidelity Co.</i> .....	483
	3. <i>R. S. §§ 3466, 3467</i> , liberally construed. <i>Id. Price v. U. S.</i> .....	492
	4. <i>Id. Act of Bankruptcy</i> , or assignment under, what amounts to. <i>Id. Price v. U. S.</i> .....	492
	<i>U. S. v. Butterworth Corp.</i> .....	504

- INSURANCE.** See **Contracts**, 3. Page.  
     See *So. Elec. Co. v. Stoddard*..... 186
- INSURANCE COMPANIES.** See **Taxation**, I, 9.
- INTEREST.** See **Interstate Commerce Acts**, II, 1; **Trading with the Enemy Act**, 6.
- INTERNATIONAL LAW.** See **Boundary**, 1-3; **Public Lands**, II, 1; **Trading with the Enemy Act**.
- INTERSTATE COMMERCE ACTS.** See **Constitutional Law**, II, 1; **Federal Control Act**, 1-2; **Jurisdiction**, I, (5), 5.
- I. Carrier and Shipper.**
1. *Excessive Joint Through Rates.* All participating carriers jointly and severally liable. *L. & N. R. R. Co. v. Sloss-Sheffield Co.*..... 217
  2. *Excessive Rates.* When consignor may recover, though paid by consignee. *Id.*
  3. *Notice; Misdelivery*, not within second proviso of first Cummins Amendment, and notice of claim may be required by carrier. *Davis v. Roper Co.*..... 158
  4. *Id. Bills of Lading Act.* Does not invalidate requirement of notice in bill of lading. *Id.*
  5. *Valuation of Goods*, in express receipt, in consideration of lower tariff rate, binds shipper in action for loss. *Am. Ry. Exp. Co. v. Daniel*..... 40
  6. *Id. Mistake*, of shipper's and carrier's agent in adopting lower valuation, immaterial. *Id.*
  7. *Tariff Schedules*, notice of chargeable to shipper. *Id.*
- II. Powers and Proceedings of Commission.**
1. *Reparation.* Interest, allowable in order, and in judgment enforcing it. *L. & N. R. R. Co. v. Sloss-Sheffield Co.*..... 217
  2. *Id. Notice.* Power of Commission to substitute order, less in amount, for earlier one, without notice to carrier. *Id.*
  3. *Id. Two Year Limitation*, suspended by general but amendable prayer for reparation. *Id.*
  4. *Id. Limitation*—does not attach because of delay in filing or in decision of petition for rehearing. *Id.*
  5. *Reparation Petition*—liberally construed. *Id.*
  6. *Aggregate-of-Intermediates Clause.* Power to relieve from, Commerce Act, § 34. *Patterson v. L. & N. R. R. Co.*..... 1
  7. *Id.* Rate higher than aggregate-of-intermediates, presumptively unlawful. *Id.*

II. Powers and Proceedings of Commission.—Continued. Page.

8. *Id. Through Rates.* Effect on rates of pending application to suspend aggregate-of-intermediates clause. *Id.*

INTERVENTION. See Anti-Trust Acts, 5; Judicial Sales.

JOINT STOCK ASSOCIATIONS. See Taxation, I, 6-7.

JUDGES. See Jurisdiction, II, 2.

JUDGMENTS. See Anti-Trust Acts, 4; Criminal Law, 2-3; Interstate Commerce Acts, II, 1; Jurisdiction, I, (3), 5; I, (5), 12, 16, 17; Mandamus; Patents for Inventions, 3.

1. *Interpretation of District Court Judgment*, in mandamus requiring assessment and levy of state tax. *Arkansas v. St. Louis &c. Ry. Co.*..... 172

2. *Recitals in Decree of Sale*, in creditor's suit, of satisfaction of the court "from the papers and evidence" that deeds in question were made to defraud creditors, import verity, and are not open to collateral attack. *Stephenson v. Kirtley* ..... 163

3. *Default.* Effect of as substitute for proof, in attachment case. *Id.*

JUDICIAL NOTICE. See Evidence, 2-3.

JUDICIAL SALES. See Anti-Trust Acts, 2-4.

*Scope of Order*, approving sale of all the shares of a corporation, and inability of purchaser to rid himself of attendant obligations through intervention of corporation. *Buckeye Coal Co. v. Hocking Valley Ry. Co.*..... 42

JURISDICTION:

I. Jurisdiction of this Court:

- (1) In General, p. 614.
- (2) Original Cases, p. 614.
- (3) Over Circuit Court of Appeals, p. 614.
- (4) Over District Court, p. 615.
- (5) Over State Courts, p. 615.
- (6) Over Court of Claims, p. 616.

II. Jurisdiction of District Court, p. 616.

III. Jurisdiction of State Courts, p. 617.

Diverse Citizenship. See II, 4, *Infra.*

Error or Certiorari. See I, (1), 1; I, (5), 9, *Infra.*



Federal and Local Questions. See I, (4), 1; I, (5), 1, 4-8, 11-13, 16, *infra*.

Finality, for Purposes of Review. See I, (3), 2, 3, 5; I, (4), 2, 3; I, (5), 14, 15, 17, *infra*.

Moot, Frivolous, or Abstract Questions. See I, (1), 2; I, (2), 1; I, (5), 2, 16, *Infra*.

## I. Jurisdiction of this Court.

### (1) *In General*.

1. *Error or Certiorari*. See *L. & N. R. Co. v. Sloss-Sheffield Co.* ..... 217

2. *Moot Case*. Question of validity of order requiring gas company to extend its mains not made moot by making part of extensions pending writ of error. *N. Y. v. Pub. Ser. Comm.* ..... 244

### (2) *In Original Cases*.

1. *Abstract Question*, of validity of Act of Congress under which no actual case or controversy has arisen, can not confer original jurisdiction in injunction suit by State to restrain future enforcement of act by federal officials. *New Jersey v. Sargent* ..... 328

2. *Ambassadors, Public Ministers, and Consuls*, grant of original jurisdiction in cases affecting does not refer to diplomatic and consular representatives of this country abroad. *Ex parte Gruber* ..... 302

### (3) *Over Circuit Court of Appeals*.

1. *Act of 1925*. Appeal from decree entered prior to Jurisdictional Act of February 13, 1925, not affected by it. *Del Pozo v. Wilson Cypress Co.* ..... 82

2. *Jud. Code, § 128*. Under Jud. Code §§ 128, 241, a decree of the Circuit Court of Appeals in case not final, reviewable by appeal to this Court if involving \$1000, exclusive of costs. *Id.*

3. *Certiorari before Judgment*, under § 240 Jud. Code, as amended by the Act of February 13, 1925. *White v. Securities Corp.* ..... 283

4. *Findings Reviewed*, as to novelty of patented device when contrary conclusion reached by Circuit Court of Appeals in another circuit. *Concrete App. Co. v. Gomery* .... 177

# INDEX.

615

## I. Jurisdiction of this Court—Continued.

Page

5. *Final Judgment; Separable Controversy* affecting other parties does not prevent review. *U. S. v. Improvement Co.*.. 411

### (4) *Over District Court.*

1. *Local Questions.* Jurisdiction to decide when review based on a federal constitutional question. *Metcalf v. Mitchell* ..... 514

2. *Finality*, of judgment of District Court reversed by Circuit Court of Appeals with specific directions. *Gulf Ref. Co. v. U. S.*..... 125

3. *Id.* Reservation by District Court of power to execute provisions of decree by further accounting *pendente lite*, consistent with finality. *Id.*

4. *Tucker Act.* Judgment under reviewable directly under Jud. Code, § 24-20. *U. S. v. Robbins*..... 315

5. *Findings Reviewable.* See I, (3), 4, *supra*.

### (5) *Over State Courts.*

1. *Habeas Corpus.* Federal questions involved in imprisonment by state court, properly determined first by review of that case in state appellate tribunals, and review of their decision here. *U. S. ex rel. Kennedy v. Tyler*..... 13

2. *Frivolous Claim* that state law impairs obligation of contract will not confer jurisdiction. *Western Un. Tel. Co. v. Georgia*..... 67

3. *Waiver of Constitutional Questions* under state law by appealing to intermediate court instead of state supreme court directly. *Central Union Tel. Co. v. Edwardsville*.... 190

4. *Id. Local Question.* Decision of state supreme court adjudging such waiver on reasonable construction of state statute, not obstruction of appellant's right under Jud. Code § 237, to review here, and binds this Court. *Id.*

5. *Local Question.* Decision of state court accepted, as to what constitutes intrastate business within meaning of its laws. *Kansas City Steel Co. v. Arkansas*..... 148

6. *Federal Questions*,—whether business of foreign corporation interstate commerce, and whether local enactments as applied are repugnant to Commerce Clause. *Id.*

7. *Federal Question.* Sufficiency of allegation determined by this Court for itself. *First Nat. Bank v. Anderson*..... 341

8. *Equitable Jurisdiction.* Acceptance of by state court not reexamined here. *Id.*

## I. Jurisdiction of this Court—Continued.

Page.

9. *Error or Certiorari. Id.*10. *Jud. Code § 237, as amended by Act of 1916. Rate fixing order equivalent to state statute. Water Users' Assn. v. R. R. Comm.*..... 35411. *Id. Federal Question, time for raising in state court. Id.*12. *Local Decision; Disposition of Case. Writ of error dismissed rather than judgment affirmed, where whole case covered by decision on local question. Id.*13. *Federal Question; Dismissal. Decision of state supreme court dismissing petition in error because constitutional question deemed frivolous, is decision of merits. Matthews v. Huwe* ..... 26214. *Highest Court. Writ of error to state supreme court and not intermediate court. Id.*15. *Id. Discretionary power of state supreme court to review intermediate decision by certiorari must be invoked before coming here from intermediate court. Id.*16. *Frivolous Federal Question. No basis for review under § 237 Jud. Code. Arkansas v. St. L.-S. F. Ry.*..... 17217. *Finality; Highest Court. Judgment of intermediate court not reviewable here when right of appeal to highest state court not exercised. Sou. Elec. Co. v. Stoddard*..... 186(6) *Over Court of Claims.*1. *Order Limiting Testimony and Findings of Fact, not objected to below, not reëxamined. Woerishoffer v. U. S.*... 1022. *Findings of Fact, not reëxaminable. Stiltz v. U. S.*..... 144

## II. Jurisdiction of District Court. See Attachment, 2.

1. *Habeas Corpus, where applicant in custody of state court. United States ex rel. Kennedy v. Tyler*..... 132. *Assignment of Commerce Court Circuit Judge, to District Court by the Chief Justice of the United States. Donegan v. Dyson*..... 493. *Condemnation. Jurisdiction not dependent on form of letter from Secretary of War to Attorney General requesting suit. Old Dominion Co. v. U. S.*..... 554. *Patent Laws; Diverse Citizenship. Suit by exclusive licensee against stranger, without joining patent-owner as co-plaintiff, not maintainable in absence of diverse citizenship. Ind. Wireless Tel. Co. v. Radio Corp.*..... 459



III. Jurisdiction of State Courts.

Page.

1. *New York Practice Act*. Allows appeal to Court of Appeals from judgment of Supreme Court, Appellate Division, affirming disallowance by Special Term of claim against liquidating Insurance Company, in which claimant relies on federal judgment and full faith and credit clause, as against time limit set by New York insurance law. *Sou. Elec. Co. v. Stoddard* ..... 186
2. *Attachment*. After levy of writ and entry of decree *nisi* on order of publication, failure to hear proof before adjudging deeds of the debtor fraudulent and ordering sale, does not go to jurisdiction, or constitute denial of due process as to non-residents having no actual notice. *Stephenson v. Kirtley* ..... 163

**JURY:**

Erroneous Instruction. See **Procedure**, II, 11.

**LACHES**. See **Public Lands**, II, 2.

**LEASE**. See **Eminent Domain**, 1.

**LIMITATIONS**. See **Interstate Commerce Acts**, II, 3, 4; **Public Lands**, II, 2.

**MANDAMUS:**

*Judgment Commanding State Tax*, entered by District Court, to enforce its money judgment previously entered against county, is to be construed as requiring assessments to be made in accordance with laws of State. *Arkansas v. Ry. Co.* 172

**MASTER AND SERVANT**. See **Employer and Employee**; **Hours of Service Act**.

**MINERAL LANDS**. See **Public Lands**, I, 3.

**MISTAKE**. See **Interstate Commerce Acts**, I, 6.

**MOOT CASE**. See **Jurisdiction**, I, (1), 2.

**MORTGAGES**. See **National Banks**, 2.

**NATIONAL BANKS:**

1. *Taxation*, by States. *First Nat. Bk. v. Anderson*..... 341
2. *Farm Loan Mortgages*—investment in. *Id.*

**NAVIGABLE WATERS**. See **Waters**.

**NAVIGATION**. See **Constitutional Law**, II, 3.

- Page.
- NOTICE.** See Injunction, 1; Interstate Commerce Acts, I, 3, 7; II, 2; Jurisdiction, III, 2; Taxation, II, 4.
- OATH.** See Officers.
- OFFICERS:**  
*Consulting Engineer*, engaged by contract for special non-exclusive jobs, who takes no oath of office, not officer or employee of State, and compensation subject to federal income tax. *Metcalf v. Mitchell*..... 514
- OIL LANDS.** See Damages; Trespass.
- OPINIONS.** General expressions in. *Bramwell v. Fidelity Co.* 483
- PARTIES.** See Anti-Trust Acts, 3; Jurisdiction I, (3), 5.  
 Patents for Inventions, 2; Trading with the Enemy Act, 2.  
*Indispensable.* United States and homestead entryman not indispensable in suit by State to enjoin Secretary of Interior from rejecting claim to swamp land. *Work v. Louisiana*... 250
- PATENT.** See Public Lands, II, 4.
- PATENTS FOR INVENTIONS.** See Jurisdiction, II, 4.  
 1. *Infringement*, a question of fact. *Stilz v. U. S.*..... 144  
 2. *Id.* *Suit by Exclusive Licensee*—joining patent-owner as co-plaintiff. *Ind. Wireless Co. v. Radio Corp.*..... 459  
 3. *Id.* *Judgment*—when binding on patent-owner. *Id.*  
 4. *Novelty. Findings*—when reviewable. *Concrete Appliances Co. v. Gomery*..... 177  
 5. *Mechanical Skill.* Combination of apparatus for transferring wet concrete, from source to working points on building, void for want of invention. *Id.*
- PERSONAL INJURIES.** See Safety Appliance Acts, 1.
- PLEADING.** See Attachment; Criminal Law, 1; Interstate Commerce Acts, II, 3, 5; Jurisdiction, I, (5), 7.  
 1. *Amendment*, in this Court. *L. & N. R. R. Co. v. Sloss-Sheffield Co.* ..... 217  
 2. *Admissions*, in. *White v. Securities Corp.*..... 283
- PLEDGE.** See Stocks, 2.
- PRESUMPTION.** See Interstate Commerce Acts, II, 7.
- PRIVATE LAND CLAIMS.** See Public Lands, II.
- PROBABLE CAUSE.** See Constitutional Law, VI, 2.

PROCEDURE OF THIS COURT.

Page.

For other matters related to procedure, see: **Anti-Trust Acts**; **Attachment**; **Attorneys**; **Bankruptcy**; **Boundary**; **Constitutional Law**; **Costs**; **Criminal Law**; **Damages**; **Eminent Domain**; **Evidence**; **Federal Control Act**; **Injunction**; **Insolvency**; **Interstate Commerce Acts**; **Judgments**; **Judicial Sales**; **Jurisdiction**; **Mandamus**; **Notice**; **Opinions**; **Parties**; **Patents**; **Public Lands**; **Pleadings**; **Receivers**; **Statutes**; **Trading with the Enemy Act**; **Trespass**; **Waters**.

**Laches.** See **Public Lands**, II, 2.

**Limitations.** See **Public Lands**, II, 2; **Interstate Commerce Acts**, II, 3, 4.

*New York Practice*, governing review of orders denying, because of delay, claims against liquidating Insurance Company, where claimant relies on federal constitution. *Sou. Elec. Co. v. Stoddard*..... 186

I. Original Cases.

*Boundary Decree.* See *Oklahoma v. Texas*..... 314

II. Appellate Cases.

1. *Findings of Fact.* Reviewed on certiorari to harmonize holdings in different circuits. *Concrete App. Co. v. Gomery*. 177

2. *Findings of Fact*, not reëxaminable. *Stilz v. U. S.*..... 144

3. *Concurrent Findings*, of two lower federal courts, accepted here. *Del Pozo v. Wilson Cypress Co.*..... 82

4. *Order Limiting Testimony* and *Findings of Fact*, not objected to in Court of Claims, not reëxamined. *Woerishoffer v. U. S.*..... 102

5. *Scope of Review.* Confined to questions raised by bill when disposed of on demurrer. *Stephenson v. Kirtley*..... 163

6. *Local and Federal Question.* Conclusiveness of state court decision. *Kansas City Steel Co. v. Arkansas*..... 148

\* See **Jurisdiction**, I (5), 5, 6.

7. *Local Question; Disposition of Case.* Dismissal of writ of error better procedure than affirmance of judgment, where decision of local question by state court covers whole case. *Live Oak Assn. v. R. R. Comm.*..... 354

8. *Amendment* of pleadings, in this Court. *L. & N. R. R. v. Sloss-Sheffield Co.*..... 217

9. *Motion to Affirm.* Questions determined on former appeal no longer debatable. *Ind. Wireless Co. v. Radio Corp.*.. 82



II. **Appellate Cases**—Continued.

Page.

10. *Habeas Corpus*, should not anticipate and interfere with proceedings in state trial and appellate Courts. *U. S. ex rel. Kennedy v. Tyler*..... 13
11. *Erroneous Instruction*, requires reversal, when relating to substantial rights and not shown by record to have been harmless. *U. S. v. Improvement Co.*..... 411
12. *Technical Errors* only covered by Jud. Code § 269. *Id.*

**PROHIBITION ACT.** See **Constitutional Law**, IX; **Injunction**, 1.

**PROXIMATE CAUSE.** See **Safety Appliance Act**, 1.

**PUBLIC LANDS.** See **Damages**; **Trespass**.

I. **In General.**

1. *Soldier's Additional Right*, inheritable and passes to estate as other property, subject to rights of widow and minor orphan children. *Anderson v. Clune*..... 140
2. *Swamp Land Acts*—nature of State's title and functions of Secretary of Interior. *Work v. Louisiana*..... 250
3. *Id.* *Mineral Lands*—not excepted. *Id.*

II. **Private Land Grants.**

1. *Spanish Grant; Florida.* Confirmation by Act of May 23, 1828, a recognition, by treaty obligation, of prior right under Spain. *Del Pozo v. Cypress Co.*..... 82
2. *Taxation; Laches; Limitations.* Survey under Act of 1828, where grant less than league square, perfected legal title and land then became taxable by State and doctrine of laches, and state statute of limitation, became applicable to owners. *Id.*
3. *Approval of Survey*, under Act of 1828, by Surveyor General; approval by Commissioner of General Land Office unnecessary. *Id.*
4. *Patent*, under Act of 1828, not conveyance but evidence of it. *Id.*
5. *Id.* Act of March 3, 1807, forbidding acts of proprietorship before patent, inapplicable to confirmed Spanish Grant. *Id.*

**PUBLIC UTILITIES.** See **Constitutional Law**, VIII, 1-2; **Injunction**, 3; **Jurisdiction**, I, (1), 2.

	Page.
<b>RAILROADS.</b> See Federal Control Act, 1-2; Hours of Service Act; Interstate Commerce Acts; Safety Appliance Acts, 1-3.	
<b>RATES.</b> See Injunction, 3; Interstate Commerce Acts, I, 5-7; II, 7; Jurisdiction, I, (5), 10.	
<b>RECEIVERS.</b> See Contracts, 3.	
<i>Insolvency.</i> Consent receivership of corporation for payment of debts, is voluntary assignment within R. S. § 3466, giving priority to claims of United States. <i>Price v. U. S.</i> ... 492	
<i>U. S. v. Butterworth Corp.</i> ..... 504	
<b>REHEARING.</b> See Interstate Commerce Acts, II, 4.	
<b>RES JUDICATA.</b> See Anti-Trust Acts, 4; Judgments.	
<b>RIPARIAN RIGHTS.</b> See Waters.	
<b>ROADS.</b> See Constitutional Law, VIII, 4; Taxation, II, 3.	
<b>SAFETY APPLIANCE ACTS:</b>	
1. <i>Coupling and Repair</i> ,—distinction between; when standing car “in use”; and when defective coupling is proximate cause of injury to brakeman. <i>Minneapolis &amp;c. Ry. Co. v. Goneau</i> ..... 406	
2. <i>Id.</i> Right of carrier to haul car in for repairs. <i>Id.</i>	
3. <i>Employers' Liability Act</i> ; Assumption of risk. <i>Id.</i>	
<b>SALES.</b> See Anti-Trust Acts, 2; Contracts, 1; Criminal Law, 1; Taxation, I, 13-14.	
<b>SEAMEN'S ACT:</b>	
<i>Sailors</i> , how divided into watches. <i>O'Hara v. S. S. Co.</i> ..... 364	
<b>SEARCH AND SEIZURE.</b> See Constitutional Law, VI; VII, 1, 2.	
<b>SECRETARY OF INTERIOR.</b> See Injunction, 2; Public Lands.	
<b>SECRETARY OF WAR.</b> See Eminent Domain, 2.	
<b>SECURITY.</b> See Stocks, 2.	
<b>SENTENCE.</b> See Criminal Law, 2-3.	
<b>SEPARABLE CONTROVERSY.</b> See Jurisdiction, I, (3), 5.	
<b>SHAREHOLDERS.</b> See Anti-Trust Acts, 2-4; Judicial Sales; Stocks; Taxation, I, 7.	

**SPANISH GRANTS.** See Public Lands, II.

Page.

**SPECIAL IMPROVEMENTS.** See Constitutional Law, VIII,  
4; Taxation, II, 3.

**STARE DECISIS:**

*General Expressions*, in opinion to be limited to case under consideration. *Bramwell v. Fidelity Co.*..... 483

**STATES.** See Boundary, 1; Constitutional Law; Costs, 2.

**STATUTES.**

Consult titles indicative of subject matter, and table at beginning of volume.

- I. *General and Specific.* General purpose to authorize acquisition of property only to carry out existing agreements of Government, will not control specific provision for the acquisition of property specifically mentioned, as to which there was no agreement. *Land Co. v. U. S.*..... 55
2. *Reports of Committees of Congress*, and recommendation of department, do not justify departing from plain words. *Margolin v. U. S.*..... 93
3. *Criminal Law*, defining offense vaguely, is void. *Connally v. Gen. Constr. Co.*..... 385
4. "*Divided into Watches*," meaning acquired by nautical usage. *O'Hara v. S. S. Co.*..... 364
5. *Executive Construction*; approval by subsequent reenactment without change. *Provost v. U. S.*..... 443
6. *Amendment*, adoption of after earlier rejection, shows intent to alter law. *Id.*

**STOCKS.**

1. "*Borrowing*" and "*Return*," between brokers on New York Stock Exchange, involve transfers of legal title and deliveries of certificates, within federal taxing acts. *Provost v. United States* ..... 443
2. *Id.* "*Borrower*" neither pledgee, trustee, bailee, nor lender of money on security. *Id.*

**STOCKHOLDERS.** See Taxation, I, 7, 8.

**SURETY.** See Insolvency, 2.

**SURVEY.** See Public Lands, II, 2-3.



SWAMP LANDS. See Public Lands, I, 2.

Page.

TARIFF. See Interstate Commerce Acts, I, 7.

TAXATION. See Anti-Narcotic Act; Judgments, 1; Mandamus; Public Lands, II, 2.

I. Federal Taxation.

1. *Income Tax. State Officers and Employees.* Exemption of by War Revenue Act, 1917, does not include consulting engineer engaged by State by contract for particular, non-exclusive service, who takes no oath of office. *Metcalf v. Mitchell* ..... 514
2. *Id. Constitutional Exemption of State Agencies*, inapplicable to compensation under contract with State, when tax not shown to impair ability to comply with contract or to hamper State in securing proper service. *Id.*
3. *Id. Community Property*, in California. Entire income from taxable to husband under Rev. Act, 1919. *U. S. v. Robbins* ..... 315
4. *Id. "Accrual Basis,"* of reflecting income, instead of basis of actual receipts and disbursements, under Rev. Act, 1916. *U. S. v. Anderson*..... 422
5. *Id. Deduction of Reserve*, to meet federal munitions tax, accrued during the year but not payable until year following. *Id.*
6. *Id. Unincorporated Joint Stock Associations*, are corporations for purposes of taxation on income and excess profits, within Rev. Act. of 1918. *Burk-Waggoner Assn. v. Hopkins.* 110
7. *Id.* Income of the association may be taxed even though, under the state law, it is not recognized as legal entity and can not hold title to property and the shareholders are liable for its debts. *Id.*
8. *Id. Income from Dividends; Rev. Act, 1917*—meaning of "most recently accumulated undivided profits or surplus." *Edwards v. Douglas*..... 204
9. *Id. Insurance Reserve Funds*, to cover accrued but unsettled claims for losses by fire and marine insurance company, as required by state superintendent of insurance, not deductible under Rev. Act 1916. *U. S. v. Boston Ins. Co.* 197
10. *Legacy Taxes*, assessed under § 29 of the Spanish War Revenue Act held to have been "imposed" prior to July 1, 1902, within saving clause of Act repealing § 29. *Woerishoffer v. U. S.*..... 102

## I. Federal Taxation—Continued.

Page.

11. *Id.* *Formal Assessment* by Treasury Department before that date unnecessary. *Id.*
12. *Act of June 27, 1902*—meaning of "contingent beneficial interests not absolutely vested" etc. *Id.*
13. *Grain Exchanges.* "Future Trading Act," levying per bushel tax on contracts for purchase or sale of grain known as "privileges," etc., exceeds taxing power and is void. *Trusler v. Crooks*..... 475
14. *Stock Transfers; Rev. Acts 1917-18.* "Borrowing" and "return" of shares on New York Stock Exchange, in short sale transactions, involve physical delivery of certificates and transfer of legal title; and are therefore taxable under above Acts. *Provost v. U. S.*..... 443

## II. State and Territorial Taxation.

1. *Graduated Surtax* on salmon canneries within taxing power of Alaska legislature under Organic Act. *Pacific Fisheries v. Alaska*..... 269
2. *Id.* Use of taxing power for ulterior purpose of protecting fish. *Id.*
3. *Special Assessment*—for road improvement—distinction from general taxation; creation of assessment district; legislative and non-legislative assessments. *Browning v. Hooper*. 396
4. *Notice and Hearing*, on question of benefits, essential in absence of legislative determination. *Id.*
5. *National Banks.* Invalidity of discriminatory state tax *First Nat. Bk. v. Anderson*..... 341

## TRADE MARKS:

1. *Corporate Name.* Right of corporation to adopt word constituting part of, though adopted also by others for other kinds of goods. *Am. Foundries v. Robertson*..... 372
2. *Principles of Trade Mark and Unfair Competition; Trade Mark Act of 1905, § 5.* *Id.*

## TRADING WITH THE ENEMY ACT:

1. *Act Constitutional*, and conforms to *Treaty with Germany.* *White v. Securities Corp*..... 283
2. *Action on German Government Notes*—maintainable by private parties against Alien Property Custodian and Treasurer of United States, to collect from funds of German Government seized by them. *Id.*
3. *United States a Trustee; claim not preferred.* *Id.*

**TRADING WITH THE ENEMY ACT**—Continued.

Page.

4. *Admission in Answer*, of Custodian and Treasurer that German Government funds were seized and deposited, are evidence, irrespective of custodian's authority to determine the fact. *Id.*

5. *Damages*. In an action for a debt due and payable here in marks before the war, damages in dollars should be fixed at exchange value of marks at time of default. *Hicks v. Guinness*..... 71

6. *Interest*. When not suspended during time covered by war. *Id.*

**TREATIES.** See **Public Lands**, II, 1; **Trading with the Enemy Act**, 1.

**TRESPASS.**

*Moral Good Faith*, mitigating damages for trespasser on public land, not affected by filing of Government's bill or by decree against him, but persists and applies to his further extractions of oil during his appeal. *Gulf Ref. Co. v. U. S.*..... 125

**TRIAL:**

*Severance*. See **Constitutional Law**, V, 1.

**TRUSTS.** See **Receivers**; **Stocks**, 2; **Trading with the Enemy Act**, 3.

**UNFAIR COMPETITION.** See **Trade Marks**, 2.

**UNITED STATES.** See **Bankruptcy**, 2; **Costs**, 1; **Eminent Domain**; **Insolvency**, 1-2; **Receivers**; **Trading with the Enemy Act**, 2-3.

**USAGE.** See **Statutes**, 4.

**VALUATION.** See **Interstate Commerce Acts**, I, 6-7.

**WAGES.** See **Employer and Employee**.

**WAIVER.** See **Jurisdiction**, I, (5), 3.

**WAR.** See **Trading with the Enemy Act**, 6.

**WARRANTY.** See **Contracts**, 1.



**WAR RISK INSURANCE ACT:**

Page.

- Attorney's Fee.* Limitation of, to three dollars for services  
in claim for insurance on life of deceased soldier. *Margolin*  
*v. U. S.* ..... 93

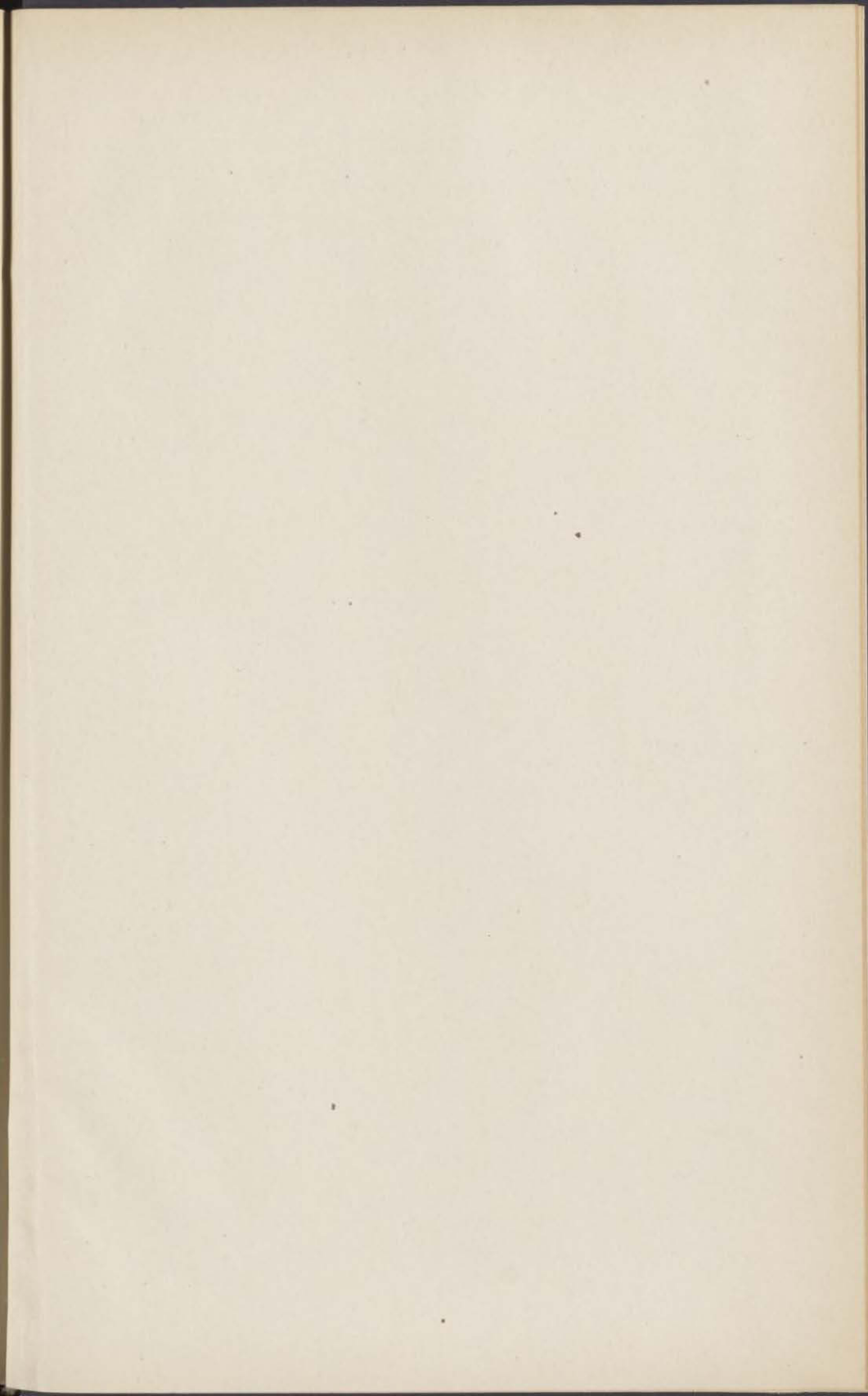
**WATCHES.** See *Seamen's Act.*

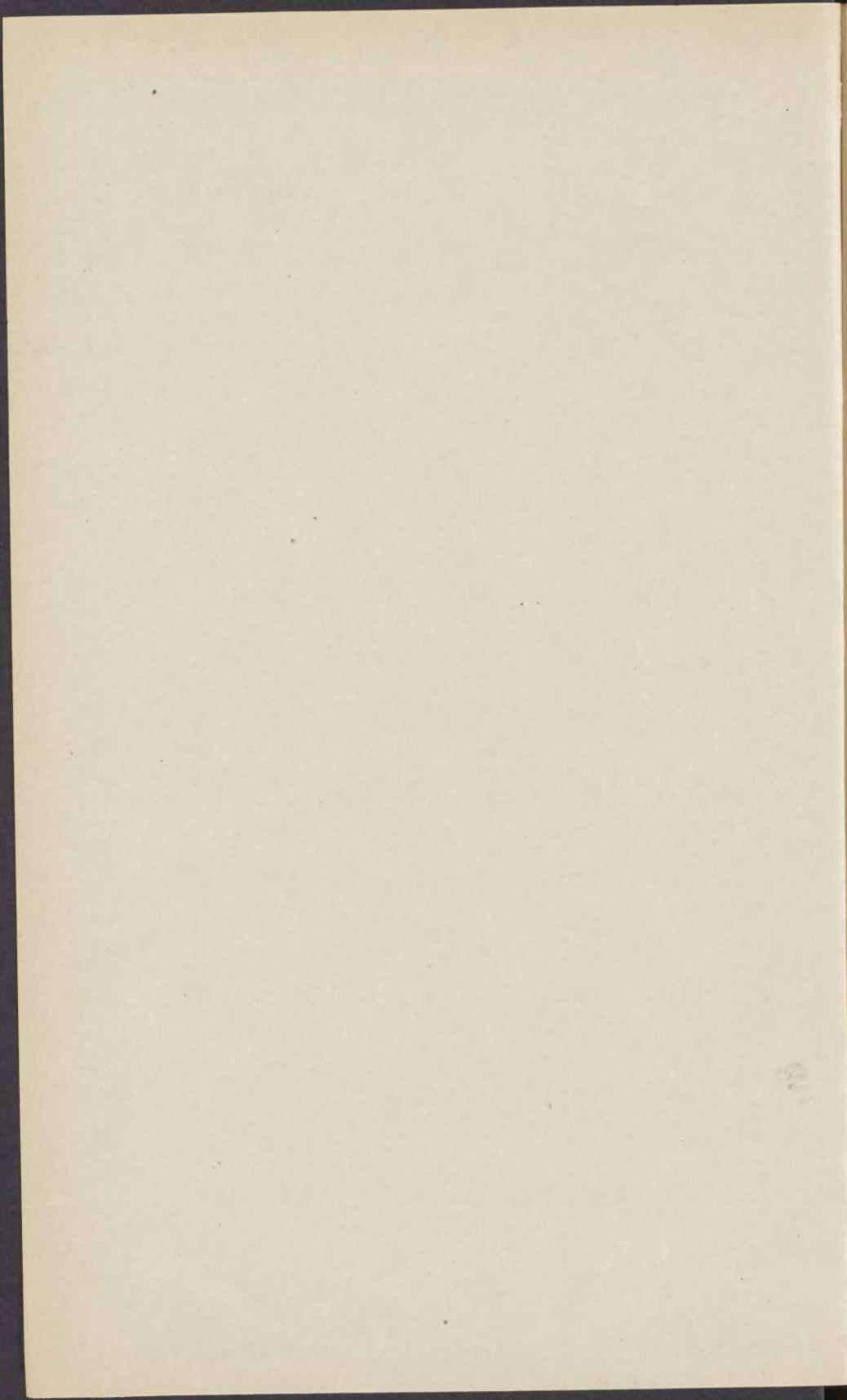
**WATER COMPANY.** See *Injunction*, 3.

**WATERS:**

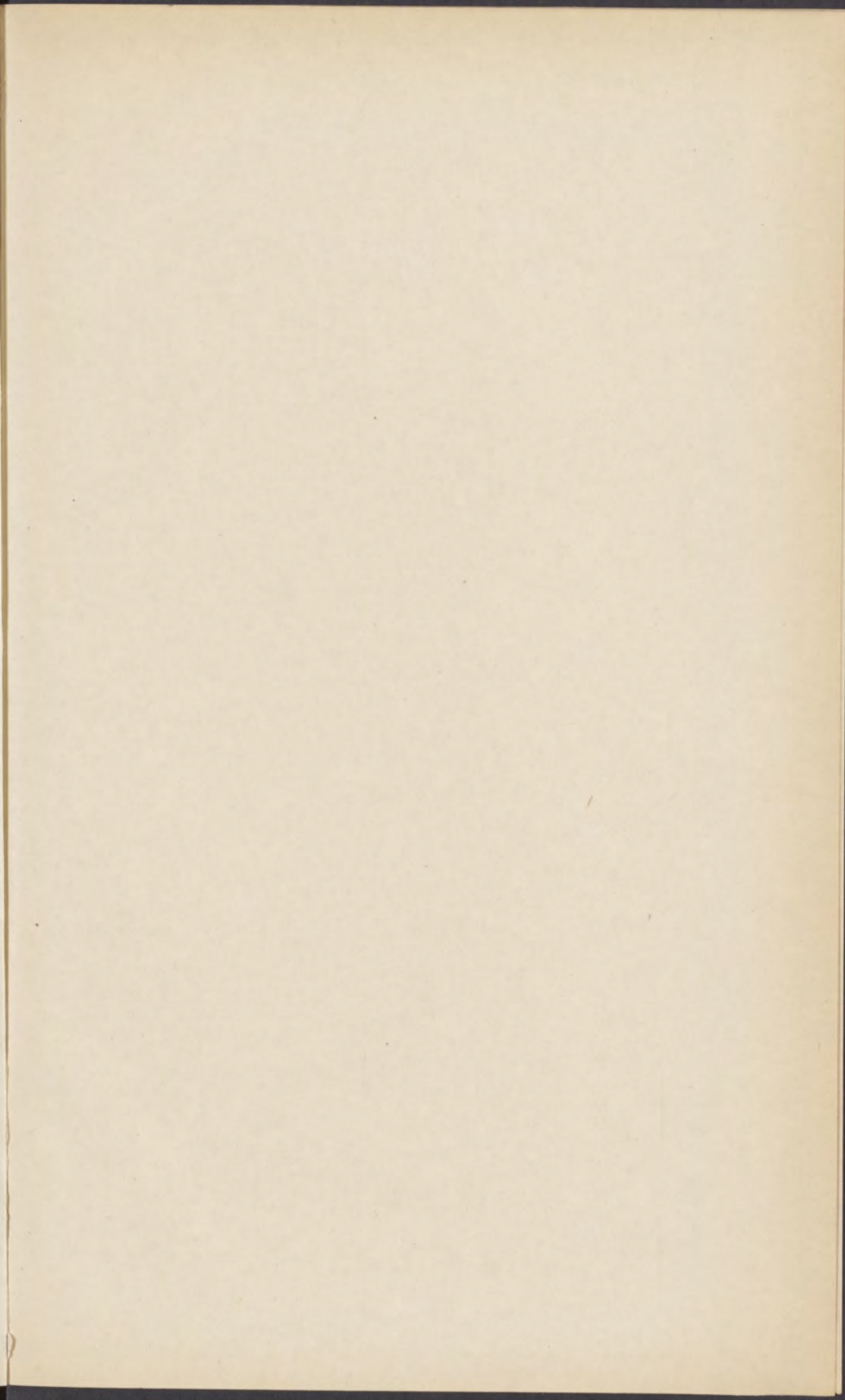
- See *Live Oak Assn. v. R. R. Comm.* ..... 354
1. *Navigable Waters.* Riparian rights on navigable river,  
protection from arbitrary impairment by Congress; consid-  
eration of in determining, in condemnation case, the special  
benefits derived from river improvement by part of land not  
taken. *U. S. v. Improvement Co.* ..... 411
  2. *Federal Water Power Act. New Jersey v. Sargent.* ..... 328

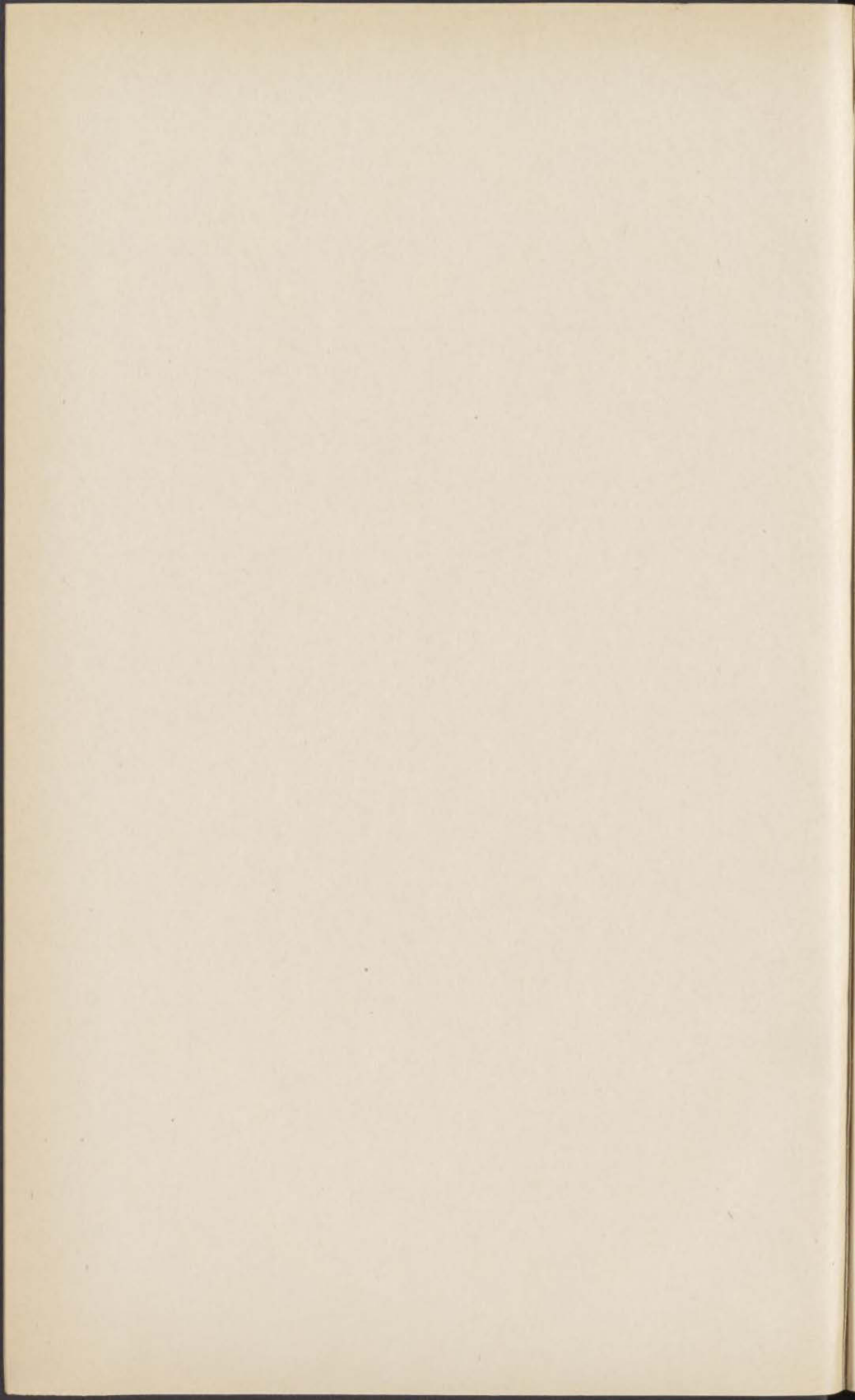


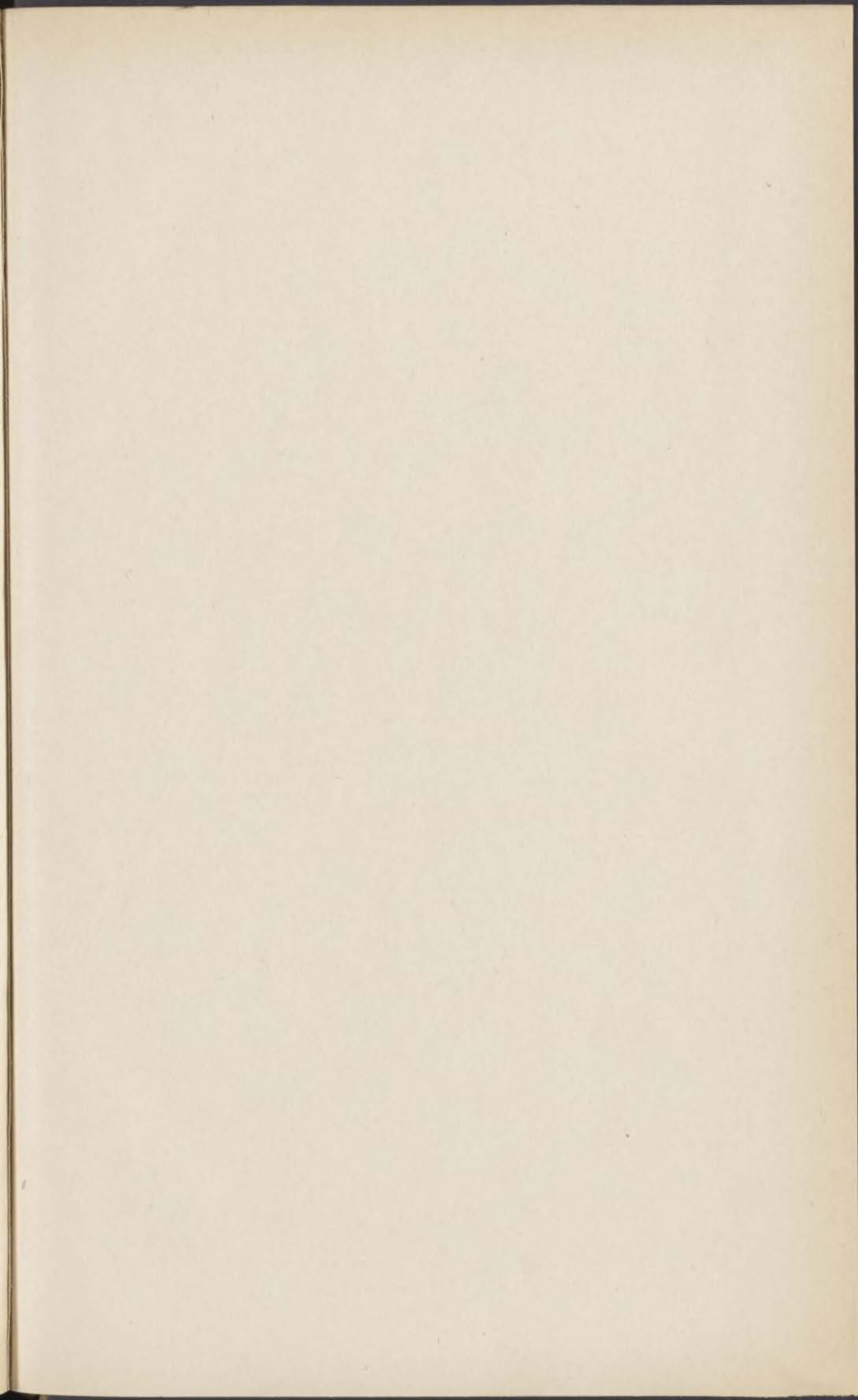




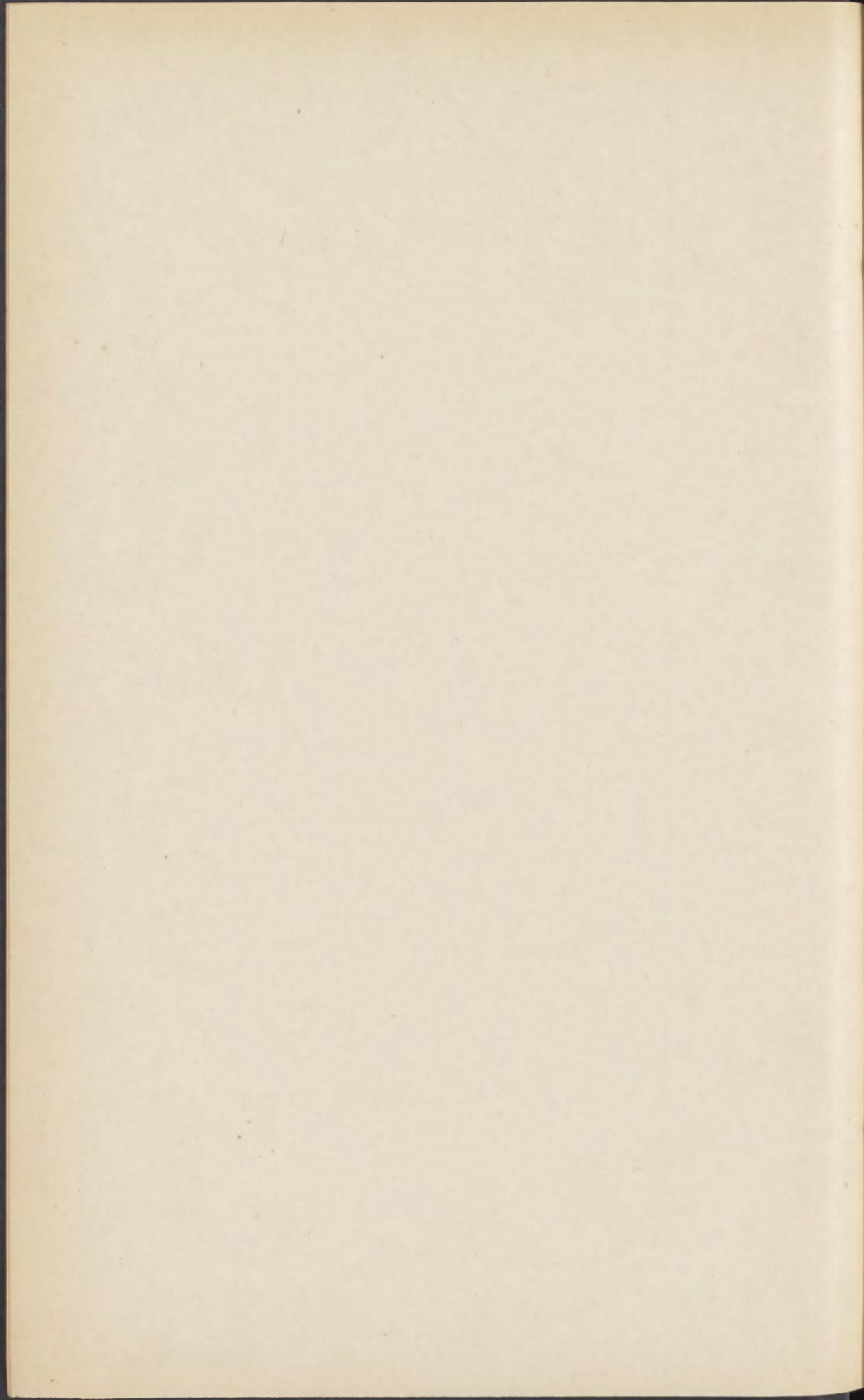


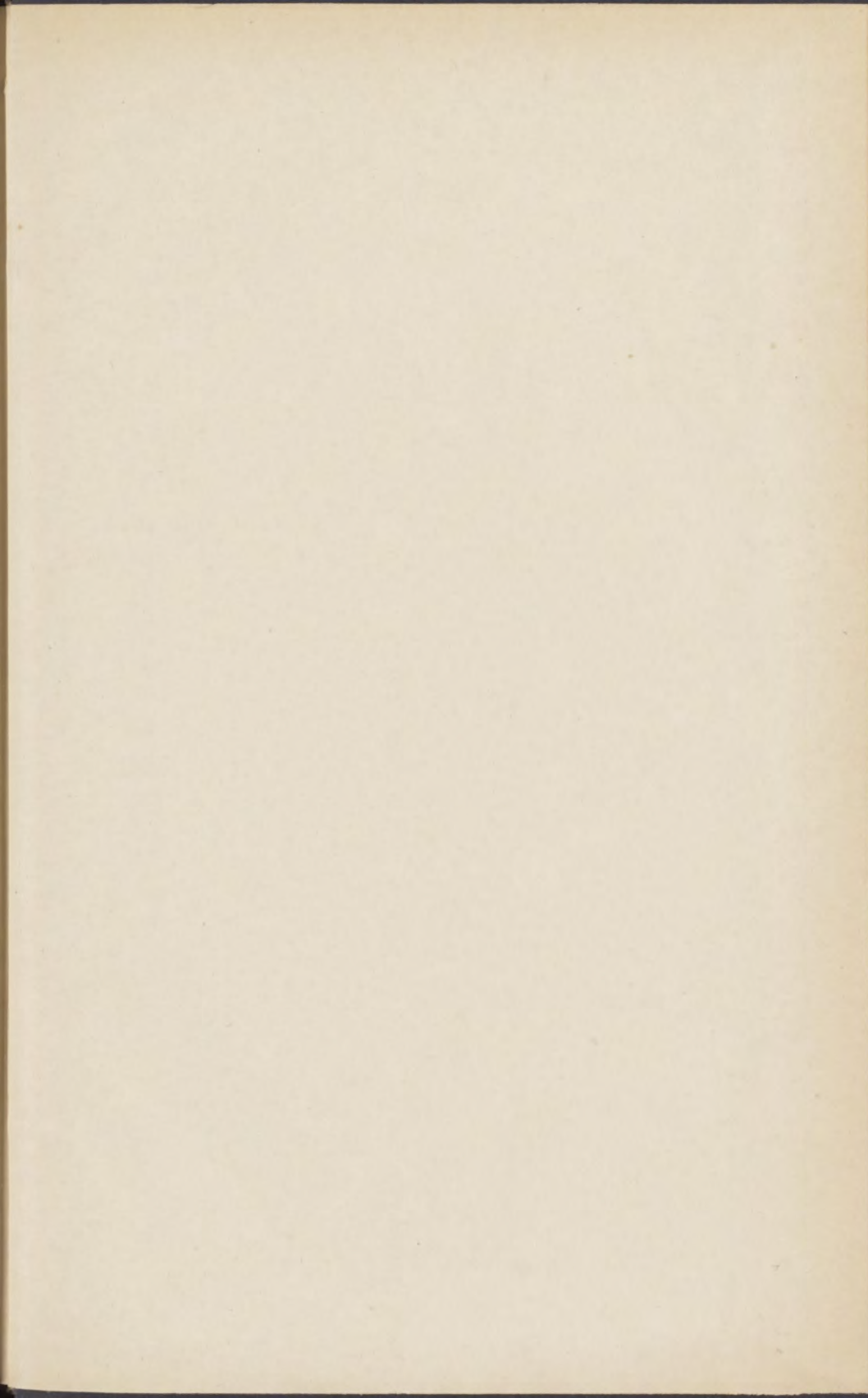


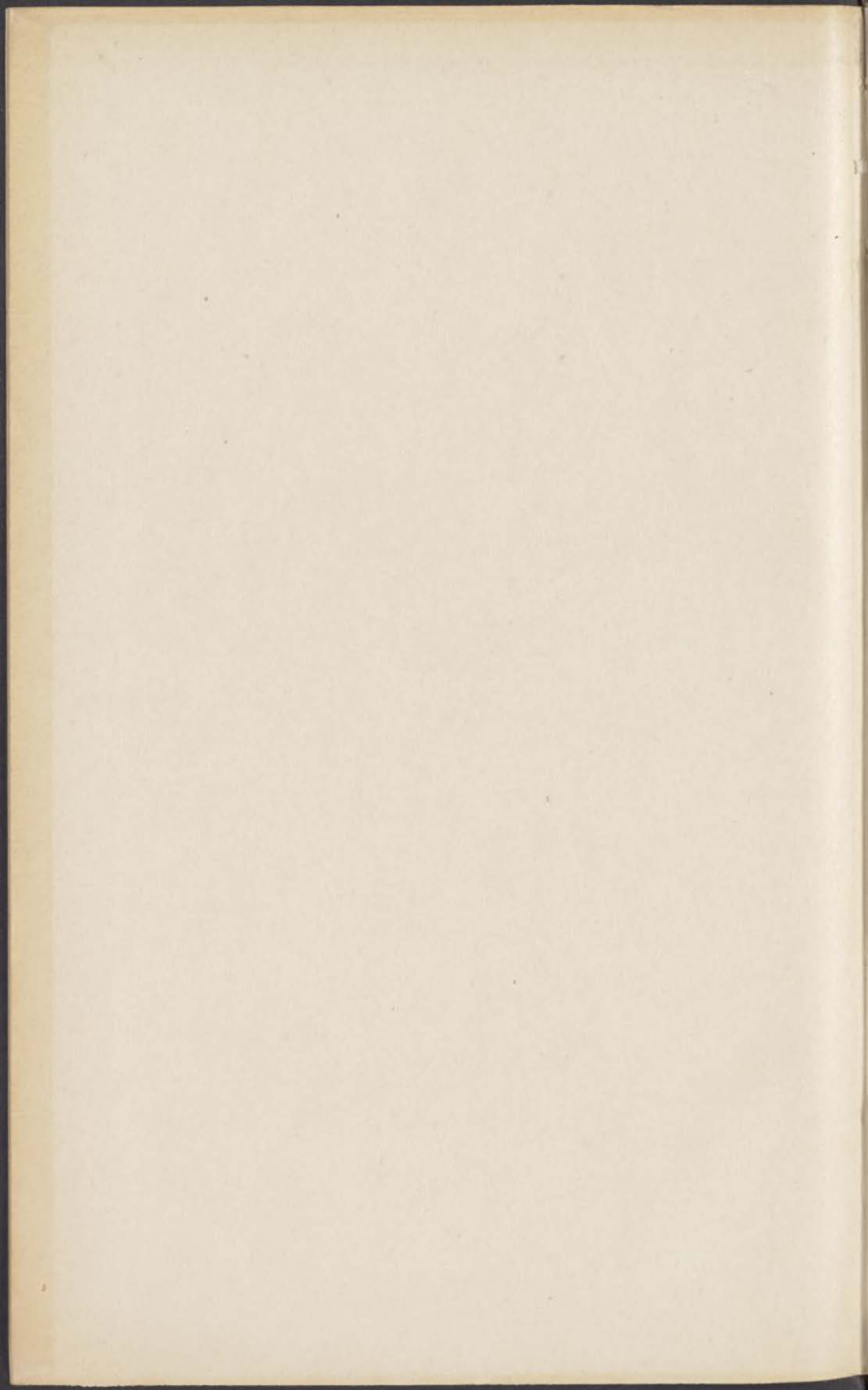




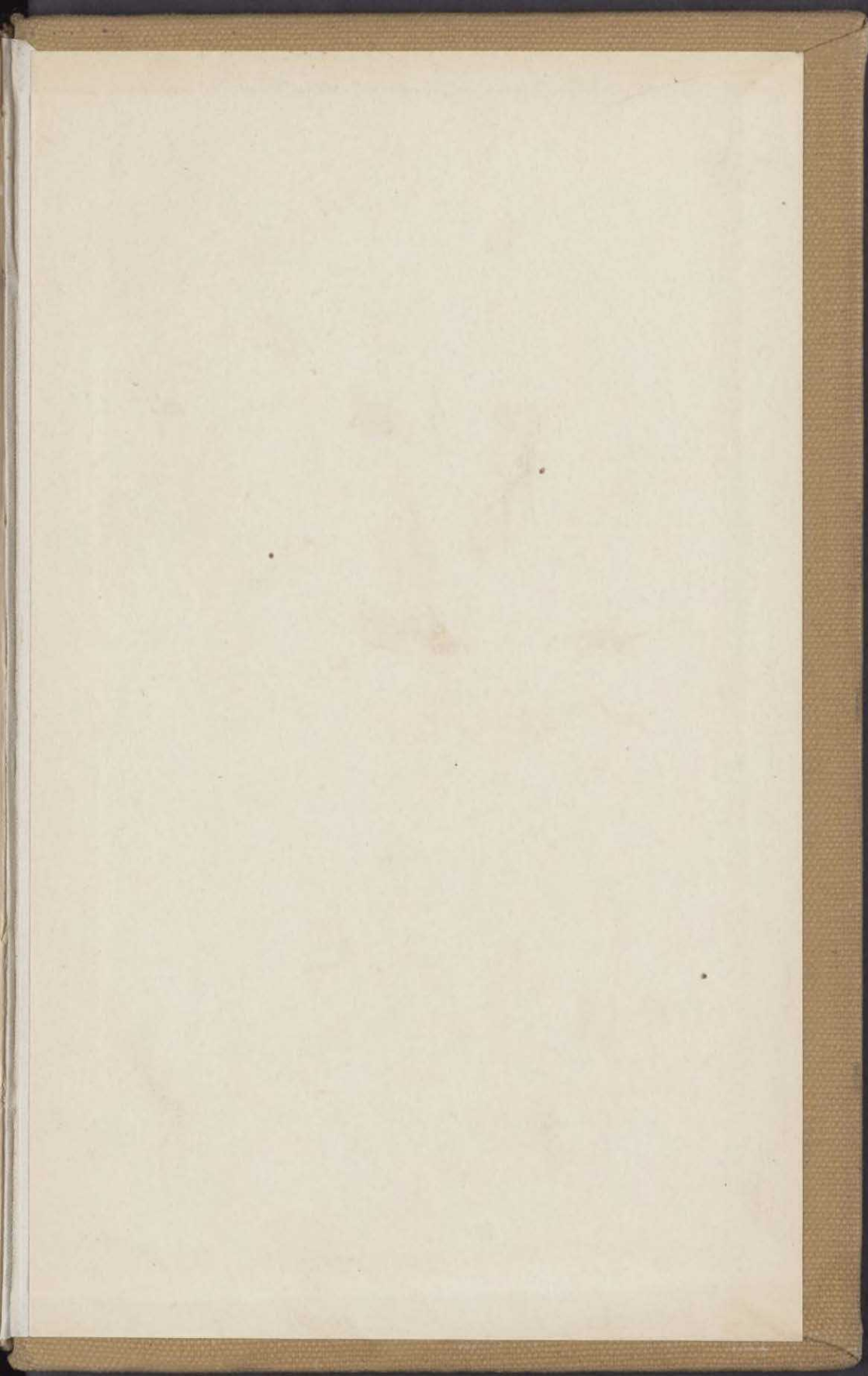












UNIVERSITY OF CHICAGO  
LIBRARY

2

W  
OCT 19

LIBRARY

61