

INDEX

ACCOUNTING. See **Jurisdiction**, VI, 2; **Taxation**, II, 9-10.

ACTIONS. See **Constitutional Law**, V, 11; **Employers' Liability Act**, 6-7.

ADMINISTRATIVE FINDINGS. See **Federal Trade Commission**, 4; **Packers and Stockyards Act**, 7.

ADMIRALTY.

Suits in Admiralty Act. Provides exclusive remedy against the United States or Fleet Corporation on maritime causes of action arising out of possession and operation of merchant vessels. *Johnson v. U. S. S. B. Emergency Fleet Corp.*, 320.

AGENCY. See **Constitutional Law**, V, 6; **Insurance**.

ALLOTMENTS. See **Indians**.

ANTI-TRUST ACTS.

1. *Stock Acquisitions.* Clayton Act forbids only such as may lessen competition to a substantial degree. *International Shoe Co. v. Federal Trade Comm'n*, 291.

2. *Id.* Purchase of stock of competitor in failing circumstances, with purpose of facilitating accumulated business of purchaser, *held* not violation of Clayton Act. *Id.*

3. *Evidence of Competition.* Uncontradicted testimony of officers of defendant corporations, as to non-existence of competition, should be accepted. *Id.*

4. *Id.* Upon record in this case, *held* insufficient to show existence of substantial competition. *Id.*

APPEAL AND ERROR. See **Jurisdiction**; **Procedure**.

APPORTIONMENT. See **Constitutional Law**, I, 1.

ASSESSMENTS. See **Banks and Banking**.

AUTOMOBILES. See **Constitutional Law**, V, 8.

Injury to Passenger. State statute denying right of action where carriage gratuitous, valid. *Silver v. Silver*, 117.

ASSIGNMENTS OF ERROR. See **Procedure**, 2.

BANKRUPTCY.

Preferential Treatment of Creditor. Provision in lease making mere filing of petition in bankruptcy against lessee a breach held unenforceable against trustee. *Kothe v. R. C. Taylor Trust*, 224.

BANKS AND BANKING. See **Farm Loan Act.**

1. *Stockholders' Liability.* Title to stock passes upon delivery to purchaser of certificate properly endorsed, and purchaser is liable thereafter for subsequent assessments. *Early v. Richardson*, 496.
2. *Id.* Actual owner of stock is liable for assessments though name does not appear on transfer book of bank. *Id.*
3. *Id.* One purchasing shares as gift for his minor children, in whose names certificates are issued, is liable for subsequent assessments. *Id.*
4. *Id.* One purchasing shares as gift for his minor children, in whose names certificates are issued, does not become trustee for minors. *Id.*

CANAL ZONE. See **Mails.**

CERTIORARI. See **Jurisdiction**, II, (A), 4-5, II, (E); **Procedure**, 4; **Patents for Inventions**, 5.

CHAPLAINCY. See **Jurisdiction**, VI, 2.

CHURCH. See **Parties**, 1; **Religious Organizations**.

CITIZENS. See **Indians**, 3.

CLAIMS. See **Admiralty**.

CLASS SUIT. See **Parties**, 4.

CLAYTON ACT. See **Anti-Trust Acts**.

COMMERCE. See **Constitutional Law**, III; **Interstate Commerce Acts**.

COMPENSATION. See **Constitutional Law**, IV, 4-5.

CONDEMNATION. See **Constitutional Law**, V, 13-14.

CONGRESS. See **Constitutional Law**; **Corrupt Practices Act**.

CONSTITUTIONAL LAW. See **Corrupt Practices Act**; **Indians**, 1-2, 5; **Parties**, 5; **Public Utilities**; **Taxation**.

- I. **Taxing Power**, p. 621
- II. **Judicial Power**, p. 621.
- III. **Commerce Clause**, p. 621.
- IV. **Fifth Amendment**, p. 621.
- V. **Fourteenth Amendment**, p. 622.

CONSTITUTIONAL LAW—Continued.**I. Taxing Power.**

1. *Federal Gift Tax.* Valid as indirect tax, without apportionment. *Bromley v. McCaughn*, 124.
2. *Uniformity.* Requirement of Art. I, § 8, is geographic, not intrinsic. *Id.*
3. *Graduations and Exemptions.* Not repugnant to uniformity clause or the Fifth Amendment. *Id.*

II. Judicial Power. See Jurisdiction.

Cases Affecting Ambassadors, etc. Provision of Art. III, § 2, extending federal judicial power to all such cases, does not exclude jurisdiction of state court over suit against vice-consul for divorce and alimony. *Ohio ex rel. Popovici v. Agler*, 379.

III. Commerce Clause.

1. *Packers & Stockyards Act.* Regulation of rates of market agencies is valid exercise of power of Congress. *Tagg Bros. & Moorhead v. United States*, 420.
2. *State Taxation.* State tax law operating as burden on interstate commerce invalid. *New Jersey Bell Tel. Co. v. State Board of Taxes*, 338.
3. *Id.* Sales of gasoline held not in interstate commerce and subject to state tax. *Superior Oil Co. v. Mississippi*, 390.
4. *Effect of Contract.* Parties can not convert local business into interstate commerce by contract which achieves nothing else. *Id.*

IV. Fifth Amendment. See I, 3, *supra*.

1. *Packers & Stockyards Act.* Regulation of rates of market agencies not invalid as wage-fixing or limitation on income of individual. *Tagg Bros. & Moorhead v. United States*, 420.
2. *“Affected With a Public Interest.”* Depends upon character of service rendered, not amount of capital employed. *Id.*
3. *Revenue Act of 1921.* Section 202 (a) (2) not invalid because of retroactive effect as to gifts. *Cooper v. United States*, 409.
4. *Compensation for Business Terminated by Law.* Government incurs no liability for loss of business proscribed by prohibition legislation. *Clarke v. Haberle C. S. Brewing Co.*, 384; *Renziehausen v. Lucas*, 387.
5. *Id.* No presumption that Congress intended partial compensation by allowance of deduction under Revenue Act of 1918 for “exhaustion” or “obsolescence” of good will. *Clarke v. Haberle C. S. Brewing Co.*, 384.

CONSTITUTIONAL LAW—Continued.

6. *Assailing Validity of Statutes.* Party attacking must show himself within class entitled to complain. *United States v. Wurzbach*, 396.
7. *Defining Crime.* Statute held not so vague as to be invalid. *Id.*
8. *Indian Homesteads.* Extension of time restrictions against alienation does not impair vested rights. *United States v. Jackson*, 183.

V. Fourteenth Amendment.

1. *Taxation. Property Outside State.* State may not tax property wholly beyond its jurisdiction or control. *Safe Deposit & Tr. Co. v. Virginia*, 83.
2. *Id. Intangibles.* When may not be taxed at domicile of equitable owner. *Id.*
3. *Illegal Assessments.* Statute limiting suits to recover taxes illegally assessed to such as were paid "at the time and in the manner provided by law," can not justify denial of recovery of taxes exacted by state officer in violation of Federal Constitution or laws. *Carpenter v. Shaw*, 363.
4. *Classification.* Not arbitrary unless grounds for distinction are plainly absent. *Silver v. Silver*, 117.
5. *Attacking Validity of Taxation.* Individual can not sue to enjoin enforcement of state tax on distributors of gasoline, the burden of which is shared generally by all motorists using highways. *Williams v. Riley*, 78.
6. *Regulation of Business. Fire Insurance.* License fee charged as condition to appointment of additional agents is a regulation of the corporation and not an interference with rights of individuals to do business as agents. *Herbring v. Lee*, 111.
7. *Property of Public Utility.* Though devoted to public service is none the less private and is within the protection of the due process clause. *United Railways & E. Co. v. West*, 234.
8. *Carriers of Freight by Motor Vehicle.* Distinction in tax statute between such as operate over regular routes between fixed termini and others held valid. *Bekins Van Lines v. Riley*, 80.
9. *Contract Rates.* Where fixed by franchise granted street railway by municipal corporation are valid even though inadequate. *Railroad Comm'n v. Los Angeles R. Co.*, 145.
10. *Id.* Power of State to abrogate rates fixed by municipal corporation. *Id.*

CONSTITUTIONAL LAW—Continued.

11. *Statute Abolishing Rights of Action.* In cases of injuries suffered by passengers carried gratuitously in automobiles and due to negligent operation, valid though inapplicable to other vehicles. *Silver v. Silver*, 117.
12. *Notice and Hearing.* Statute of ancient origin allowing property of absconding husband to be taken over and applied to maintenance of wife and children, without notice to husband, *held* due process. *Corn Exchange Bank v. Coler*, 218.
13. *Id.* Eighteen days between service by publication and return day sufficient in condemnation proceeding. *Wick v. Chelan Electric Co.*, 108.
14. *Id.* Description of property in petition in condemnation proceeding *held* adequate. *Id.*

CONSULS. See **Constitutional Law**, II; **Jurisdiction**, IV, 2.

CONTRACTS. See **Constitutional Law**, III, 4; V, 9; **Municipal Corporations**.

Liquidated Damages for Breach. Unenforceable where without reasonable relation to probable damages. *Kothe v. R. C. Taylor Trust*, 224.

CORPORATION SOLE. See **Parties**, 1.

CORPORATIONS. See **Banks and Banking**, 1-4; **Constitutional Law**, V, 6; **Stockholders**.

CORRUPT PRACTICES ACT.

1. *Validity of Act.* Congress has power to provide that its officers and employees neither shall exercise nor be subjected to pressure for money for political purposes. *United States v. Wurzbach*, 396.
2. *Validity as Affected by Uncertainty.* One of class specifically named can not object to uncertainty of application to other classes. *Id.*
3. *Id.* Term "political purpose" not so vague as to render statute invalid. *Id.*
4. *Id.* That statute is vague as to which section imposes penalty need not be considered on appeal from judgment quashing indictment. *Id.*
5. *Scope of Act.* Not confined to political purposes within control of the United States. *Id.*
6. *Offenses Under Act.* Receipt of money by Congressman from federal officers and employees for promotion of his nomination at party primary is offense. *Id.*

COSTS. See **Parties**, 3.

COURT OF CLAIMS. See **Jurisdiction**, II, (D).

COURTS. See **Constitutional Law**, II; **Jurisdiction**.

CRIMINAL LAW. See **Corrupt Practices Act**.

DAMAGES. See **Contracts**.

DEATH. See **Employers' Liability Act**, 6-7.

DECLARATORY JUDGMENT. See **Jurisdiction**, I, 2.

DEPRECIATION. See **Public Utilities**, 4.

DIPLOMATIC OFFICERS. See **Constitutional Law**, II; **Jurisdiction**, IV, 2.

DIVIDENDS. See **Stockholders**.

DIVORCE AND ALIMONY. See **Constitutional Law**, II; **Jurisdiction**, IV, 2.

DOMICILE. See **Constitutional Law**, V, 2.

ECCLESIASTICAL COURTS. See **Jurisdiction**, I, 1.

EJECTMENT. See **Jurisdiction**, IV, 4.

ELECTIONS. See **Corrupt Practices Act**.

EMINENT DOMAIN. See **Constitutional Law**, V, 13-14.

EMPLOYERS' LIABILITY ACT.

1. *Rule of Safe Place.* Liability of master ceases when servant is warned. *New York Cent. R. Co. v. Ambrose*, 486.
2. *Id.* Duty of employer not absolute; held only to exercise of reasonable care. *Id.*
3. *Defenses.* No recovery where injury received two days after termination of employment. *Chesapeake & O. R. Co. v. Bryant*, 404.
4. *Sufficiency of Evidence.* Verdict resting upon speculation and conjecture can not be sustained. *New York Cent. R. Co. v. Ambrose*, 486.
5. *Id.* That accident may have resulted from one of several causes, for some of which defendant was responsible, is insufficient. *Id.*
6. *Limitations.* Complaint for injuries may not be amended to include claim for death after period has run against latter cause of action. *Baltimore & O. S. W. R. Co. v. Carroll*, 491.
7. *Id.* Two-year period begins to run against action for death at time of death. *Id.*

EQUITY RULES. See **Procedure**, 1.

EQUIVALENCY. See **Patents for Inventions**, 7.

ESTOPPEL. See **Patents for Inventions**, 6.

EVIDENCE. See **Anti-Trust Acts**, 3-4; **Employers' Liability Act**, 4-5; **Packers and Stockyards Act**, 3, 7-8, 10; **Patents for Inventions**, 3.

EXECUTORS AND ADMINISTRATORS.

Title of Residuary Legatee. Right to share vests immediately upon testator's death and title under decree of distribution relates back. *Brewster v. Gage*, 327.

EXEMPTIONS. See **Constitutional Law**, I, 3.

EXPROPRIATION. See **Constitutional Law**, V, 13-14.

FARM LOAN ACT.

Stockholders' Liability. Board has no power to levy assessment, or receiver to maintain suit, to enforce liability created by Act. *Wheeler v. Greene*, 49.

FEDERAL CONTROL ACT. See **Parties**, 2.

FEDERAL FARM LOAN ACT. See **Farm Loan Act**.

FEDERAL TRADE COMMISSION.

1. *Public Interest.* Prerequisite to proceeding for restraint of unfair method of competition. *Federal Trade Comm'n v. Klesner*, 19.

2. *Id.* Section 5 of Act does not provide remedy for private wrongs. *Id.*

3. *Id.* Duty of Commission to dismiss complaint and of courts to refuse enforcement of desist order where interest purely private. *Id.*

4. *Conclusiveness of Order.* Order not enforceable if findings not supported by evidence. *International Shoe Co. v. Federal Trade Comm'n*, 291.

FEDERAL WATER POWER ACT. See **Navigable Waters**.

FIREs. See **Negligence**, 2.

FRANCHISES. See **Municipal Corporations**.

FRIVOLOUS APPEAL. See **Jurisdiction**, II, (F), 1.

GIFTS. See **Constitutional Law**, I, 1; V, 3.

HEIRS. See **Parties**, 4; **Trusts**, 1.

HOMESTEAD LAWS. See **Indians**, 1-3.

HUSBAND AND WIFE. See **Constitutional Law**, II; V, 12; **Jurisdiction**, IV, 2.

INDIANS.

1. *Indian Homestead Act.* Congress has power to extend trust period any time before issuance of patent in fee. *United States v. Jackson*, 183.

2. *Id.* Extension of trust period under Act of 1906 does not impair vested rights. *Id.*

3. *Id.* Provision of Act of 1906 for extension of trust period has no application to acquisition of rights under the general homestead laws by Indians entering land as citizens. *Id.*

4. *Tax Exemptions.* Agreements with Government are to be liberally construed in favor of the Indians. *Carpenter v. Shaw*, 363.

5. *Id.* Provision in "Atoka Agreement" of August 24, 1898, to be construed in sense naturally understood by Indians and may not be narrowed by subsequently declared intention of Congress. *Id.*

6. *Id.* Section 9814, Comp. Stats., Okla., 1921, imposing tax upon owner of royalty interest in mineral lands, *held* violation of "Atoka Agreement." *Id.*

INFANTS. See **Banks and Banking**, 3-4.

INFRINGEMENT. See **Patents for Inventions**, 8.

INJUNCTION. See **Jurisdiction**.

When Proper Remedy. Does not lie to recover possession of real estate. *White v. Sparkill Realty Corp.*, 500.

INSOLVENCY.

Priority of United States. R. S., § 3466, does not apply to indebtedness of railroads to United States arising under Transportation Act of 1920, §§ 207, 209, 210. *United States v. Guaranty Trust Co.*, 478.

INSURANCE. See **Constitutional Law**, V, 6.

Agents. State regulation and licensing in respect to appointment. *Herbring v. Lee*, 111.

INTERNATIONAL LAW. See **Constitutional Law**, II; **Mails**.

INTERSTATE COMMERCE. See **Constitutional Law**, III; **Inter-state Commerce Acts**.

INTERSTATE COMMERCE ACTS See **Anti-Trust Acts; Employers' Liability Act; Insolvency.**

1. *Character of Commerce.* Whether shipment is intrastate or foreign determined by essential character. *United States v. Erie R. Co.*, 98.
2. *Extension of Line.* Order denying application for, held not subject to review. *Piedmont & Nor. Ry. Co. v. United States*, 469.
3. *Id.* Remedy in substance a declaratory judgment that carrier is not subject to authority of Commission, held not within jurisdiction of federal courts. *Id.*
4. *Intrastate Rates.* Commission has jurisdiction to establish, where shipment is in foreign commerce. *United States v. Erie R. Co.*, 98.
5. *Passenger Terminals.* Commission has no power to compel carriers to abandon existing terminals and construct new union station. *Interstate Commerce Comm'n v. U. S. ex rel. Los Angeles*, 52.

INTERSTATE COMMERCE COMMISSION. See **Interstate Commerce Acts.****JOINT STOCK LAND BANKS.** See **Farm Loan Act.****JUDGMENTS.** See **Packers and Stockyards Act; Parties**, 2-3; **Patents for Inventions**, 5-6; **Receivers**, 2; **Verdict**.**JUDICIAL NOTICE.** See **Public Utilities**, 6.**JURISDICTION.** See **Federal Trade Commission; Packers and Stockyards Act; Procedure.**

- I. In General, p. 629.
- II. Jurisdiction of This Court.
 - (A) Generally, p. 629.
 - (B) Over Circuit Courts of Appeals, p. 630.
 - (C) Over District Courts, p. 630.
 - (D) Over Court of Claims, p. 630.
 - (E) Over Supreme Court of Philippine Islands, p. 630.
 - (F) Over State Courts, p. 630.
- III. Jurisdiction of Circuit Courts of Appeals, p. 631.
- IV. Jurisdiction of District Courts, p. 631.
- V. Jurisdiction of Court of Appeals, District of Columbia, p. 632.
- VI. Jurisdiction of Supreme Court of Philippine Islands, p. 632.

JURISDICTION—Continued.

VII. Jurisdiction of State Courts, p. 632.

References to particular subjects under this title:

- Accounting. VI, 2.
- Administrative Officer. II, (A), 13.
- Amount in Controversy. II, (E).
- Appeal. II, (A), 3; II, (D); III, 2.
- Assignments of Error. II, (A), 10.
- Board of Tax Appeals. III, 1.
- Certiorari. II, (A), 4, 5; II, (E).
- Clayton Act. II, (A), 11.
- Consuls. IV, 2.
- Courts. II, (A), 12; IV, 5, 6; VII.
- Declaratory Judgment. I, 2.
- Diplomatic Officers. IV, 2.
- Dismissal. II, (B); II, (C); IV, 10; V.
- Diversity of Citizenship. III, 2.
- Divorce. IV, 2.
- Ecclesiastical Tribunals. I, 1; VI, 1.
- Ejectment. IV, 4.
- Employers Liability. II, (A), 4.
- Federal Agents. II, (A), 1, 5.
- Federal Question. II, (F), 1; III, 2; IV, 1.
- Federal Trade Commission. II, (A), 11; V.
- Finality of Judgments. II, (F), 2.
- Frivolous Appeal. II, (F), 1.
- Injunction. II, (A), 12; III, 2; IV, 4, 5.
- Interstate Commerce. I, 2, 3; II, (A), 8; IV, 3.
- Mandamus. I, 3; II, (A), 12, 13.
- Parties. II, (A), 1, 5, 6; II, (B); VI, 1.
- Public Utilities. II, (A), 10.
- Railroads. I, 2.
- Receivers. IV, 7; VII.
- Return Day. II, (A), 7.
- Scope of Review. II, (A), 7-11.
- Service by Publication. II, (A), 7.
- State Courts. II, (A), 7; II, (F).
- Taxation. II, (A), 8.
- Three-Judge Court. II, (A), 12; IV, 5.
- Time for Review. II, (A), 1, 2, 6.
- Transfer to Law Side. IV, 9, 10.
- Transportation Act. II, (A), 2.
- Trusts. VI, 2.

JURISDICTION—Continued.

I. In General.

1. *Ecclesiastical Tribunals.* Power of, and of civil courts, in enforcing trusts. *Gonzalez v. Archbishop*, 1.
2. *Declaratory Judgment.* Federal courts without jurisdiction to render, holding railway within exemption of par. 22 of Interstate Commerce Act. *Piedmont & Nor. Ry. Co. v. United States*, 469.
3. *Mandamus.* Whether action of Interstate Commerce Commission may be controlled or corrected by mandamus need not be determined where not proper remedy. *Interstate Commerce Comm'n v. U. S. ex rel. Los Angeles*, 52.

II. Jurisdiction of this Court.

(A) Generally.

1. *Time Within Which Review May be Invoked.* Federal Agent's successor in office can not be substituted after time has expired. *Davis v. Preston*, 406.
2. *Id.* Section 206 of Transportation Act does not alter statutory period for invoking reviewing power of this Court. *Id.*
3. *Appeal.* Cause held properly here on appeal. *Safe Deposit & Tr. Co. v. Virginia*, 83.
4. *Certiorari.* Would not have issued to review judgment of state court in employers liability case where injuries were received after termination of employment. *Chesapeake & O. R. Co. v. Bryant*, 404.
5. *Id.* Grant of on application of former Federal Agent and surety on appeal bonds, *held* improvident where official status of Agent had ceased. *Davis v. Preston*, 406.
6. *Substitution of Parties.* Can not be made here upon motion after statutory time allowed for application to review has expired. *Id.*
7. *Scope of Review.* Construction by state court of condemnation statute, with respect to when service by publication is complete and as to manner of fixing return day, accepted here. *Wick v. Chelan Electric Co.*, 108.
8. *Id.* This Court not bound by legislative or judicial designation of state tax law which actually operates as burden on interstate commerce. *New Jersey Bell Tel. Co. v. State Board of Taxes*, 338.
9. *Id.* This Court not bound by legislative or judicial designation of state tax law challenged as violating rights asserted under federal laws. *Carpenter v. Shaw*, 363.

JURISDICTION—Continued.

10. *Id. Question Not Raised Below.* Objections by state commission to valuation of utility made by it and accepted by state court come too late when raised for first time in this Court. *United Railways & Elec. Co. v. West*, 234.

11. *Id. Federal Trade Commission.* Findings that substantial competition existed between corporations proceeded against under the Clayton Act held reviewable here. *International Shoe Co. v. Federal Trade Comm'n*, 291.

12. *Mandamus.* Proper remedy to require district judge to call in other judges under U. S. C., Title 28, § 380, to determine motion for interlocutory injunction. *Ex parte Northern Pacific R. Co.*, 142; *Ex parte Hobbs*, 168.

13. *Id.* Proper remedy where executive officer misapplies plain statute. *Wilbur v. Krushnic*, 306.

(B) Over Circuit Courts of Appeals.

Erroneous Dismissal. Where decree of District Court erroneously dismissed on ground of lack of authority in plaintiff to sue, case will be remanded for determination on merits. *Grant v. A. B. Leach & Co.*, 351.

(C) Over District Courts.

Erroneous Dismissal. Where bill erroneously dismissed on merits instead of for want of jurisdiction, decree must be reversed with appropriate directions. *Piedmont & Nor. Ry. Co. v. United States*, 469.

(D) Over Court of Claims.

Appeal on Certiorari. Appeal allowed by Special Jurisdictional Act (44 Stats. 1807) was usual method of review and not a technical appeal. *Colgate v. United States*, 43.

(E) Over Supreme Court of Philippine Islands.

Jurisdictional Amount. Where amount in controversy exceeds \$25,000, judgment is reviewable on certiorari. *Gonzalez v. Archbishop*, 1.

(F) Jurisdiction of this Court Over State Courts.

1. *Frivolous Appeal.* This Court without jurisdiction where federal question unsubstantial. *Wick v. Chelan Electric Co.*, 108.

2. *Finality of Judgment.* Application to intermediate appellate court for certificate of importance held unnecessary where supreme court has denied application for review. *Chesapeake & O. R. Co. v. Mihas*, 102.

JURISDICTION—Continued.**III. Jurisdiction of Circuit Courts of Appeals.**

1. *Over Board of Tax Appeals.* Board's interpretation of revenue acts should not be interfered with unless clearly unlawful. *Lucas v. American Code Co.*, 445.

2. *Interlocutory Appeal.* From decree of interlocutory injunction based on non-federal ground in suit to enjoin enforcement of state statute as unconstitutional, diversity of citizenship being present. *Ex parte Hobbs*, 168.

IV. Jurisdiction of District Courts.

1. *Federal Question.* Test is whether complaint in orderly statement, without anticipating defenses, presents case under Federal Constitution or laws. *White v. Sparkill Realty Corp.*, 500.

2. *Suits Against Consuls and Vice-Consuls.* Provisions of Judicial Code conferring original and exclusive jurisdiction on federal courts in all such suits *held* not applicable to suits for divorce and alimony. *Ohio ex rel. Popovici v. Agler*, 379.

3. *Interstate Commerce Cases.* Findings of Commission should be accepted as conclusive where sustained by evidence. *United States v. Erie R. Co.*, 98.

4. *Injunction. Ejectment Bill.* Does not lie to eject state officials from land, though constitutionality of statute under which they claim possession be challenged in anticipation. *White v. Sparkill Realty Corp.*, 500.

5. *Id. Three Judge Court.* Duty to call in two other judges under U. S. C., Title 28, § 380. *Ex parte Northern Pacific R. Co.*, 142; *Ex parte Hobbs*, 168.

6. *Id.* Duty to call in other judges does not arise when motion for interlocutory injunction made and granted on construction of state statute. *Ex parte Hobbs*, 168.

7. *Receivers.* Rule that receivers cannot maintain suit in foreign jurisdiction *held* inapplicable to suit in federal court in same State. *Grant v. A. B. Leach & Co.*, 351.

8. *Id.* Authority of state court to appoint not subject to collateral attack. *Id.*

9. *Transfer to Law Side.* Section 274 (a) of Jud. Code refers only to cases of which the court would have jurisdiction if brought on law side. *White v. Sparkill Realty Co.*, 500.

10. *Id.* If court is without jurisdiction of case if brought as action at law, bill must be dismissed without prejudice. *Id.*

JURISDICTION—Continued.

V. Jurisdiction of the Court of Appeals of the District of Columbia.

Federal Trade Commission. Suit to enforce desist order dismissed as one involving no public interest. *Federal Trade Comm'n v. Klesner*, 19.

VI. Jurisdiction of the Supreme Court of the Philippine Islands.

1. Parties. Ecclesiasts. Roman Catholic Archbishop of Manila is juristic person. *Gonzalez v. Archbishop*, 1.

2. Religious Trusts. Jurisdiction of civil courts over suit to enforce appointment to chaplaincy under trust and accounting for accrued income. *Id.*

VII. Jurisdiction of State Courts.

Ohio Court of Common Pleas. Jurisdiction to appoint receiver, etc. *Grant v. A. B. Leach & Co.* 351.

LANDLORD AND TENANT. See **Bankruptcy**.

LEASE. See **Bankruptcy**.

LEASE, MINERAL. See **Public Lands**, 3.

LEGACY. See **Executors and Administrators**.

LICENSE. See **Navigable Waters**.

LIENS. See **Insolvency**.

LIMITATIONS. See **Employers' Liability Act**, 6-7; **Taxation**, II, 11-14.

LIQUIDATED DAMAGES. See **Contracts**.

MAILS.

Compensation for Transportation. Canal Zone ports held "foreign" within meaning of statute establishing rates. *Luckenbach S. S. Co. v. United States*, 173.

MANDAMUS. See **Jurisdiction**.

MARITIME LAW. See **Admiralty**.

MARKET AGENCIES. See **Packers and Stockyards Act**.

MASTER AND SERVANT. See **Employers' Liability Act**.

MERCHANT MARINE. See **Admiralty**.

MINERAL LANDS. See **Indians**, 6; **Public Lands**.

MONOPOLIES. See **Anti-Trust Acts**.

MUNICIPAL CORPORATIONS. See **Public Utilities.**

1. *Street Car Rates.* Power of city to fix by franchise contract must be clearly expressed in state laws. *Railroad Comm'n v. Los Angeles R. Co.*, 145.
2. *Id.* Power to fix by contract not granted City of Los Angeles by California statute. *Id.*
3. *Abrogation of Contract Rates.* Effected when California Railroad Commission exercises jurisdiction over them. *Id.*

NATIONAL BANKS. See **Banks and Banking.****NAVIGABLE WATERS.**

Federal Water Power Act. Licensee under § 6 may not, without compensation to owners, destroy or appropriate vested rights acquired under state laws. *Henry Ford & Son, Inc. v. Little Falls Fibre Co.*, 369.

NEGLIGENCE. See **Employers' Liability Act.**

1. *Breach of Duty.* Must be of one owed to complainant. *Chesapeake & O. R. Co. v. Mihas*, 102.
2. *Fires.* Mere fact that building near railroad took fire soon after passing of train not proof of negligence by railroad company. *General Ins. Co. v. Northern Pacific Co.*, 72.

NOTICE AND HEARING. See **Constitutional Law**, V, 12-14; **Packers and Stockyards Act**, 2, 5.**OPERATOR.** See **Packers and Stockyards Act**, 11.**PACKERS AND STOCKYARDS ACT.** See **Constitutional Law**, III, 1.

1. *Nature of Court Proceeding.* Proceeding under § 316 is judicial review, not trial *de novo*. *Tagg Bros. & Moorhead v. United States*, 420.
2. *Notice of Department Hearing.* Held sufficient to apprise parties of Secretary's intention to fix new schedule. *Id.*
3. *Reasonableness of Rates.* Evidence held sufficient to support Secretary's conclusion. *Id.*
4. *Validity of Rate Order.* Not affected by mere error in admission of, or reasoning upon, evidence. *Id.*
5. *Id.* Effect of failure of Secretary to give due notice of hearing. *Id.*
6. *Id.* On review must be determined upon record of proceedings before Secretary. *Id.*

PACKERS AND STOCKYARDS ACT—Continued.

7. *Findings of Secretary.* Are conclusive where supported by evidence and proceedings are regular. *Id.*
8. *Modification of Order.* Secretary has power to make, where new evidence warrants. *Id.*
9. *Id.* Rate order is not *res judicata*. *Id.*
10. *Review of Proceedings.* *Query*, whether new evidence on issue of confiscation is admissible? *Id.*
11. “*Operator.*” Term as used in § 310 (b) of Act includes market agencies. *Id.*

PARENT AND CHILD. See **Banks and Banking**.**PARTIES.** See **Constitutional Law**, V, 5; **Jurisdiction**.

1. *Corporation Sole.* Archbishop of Manila suable as juristic person. *Gonzalez v. Archbishop*, 1.
2. *Public Officers.* One against whom judgment is rendered as Federal Agent is without standing to invoke review when official status ceases. *Davis v. Preston*, 406.
3. *Sureties.* Fact that surety on appeal bond was assessed costs in courts below does not enable it to contest judgment on other grounds. *Id.*
4. *Class Suit.* Suit by heir in his own interest not convertible into one for heirs as a class. *Gonzalez v. Archbishop*, 1.
5. *Attacking Statute.* Party must be himself interested in constitutional question raised. *United States v. Wurzbach*, 396; *Williams v. Riley*, 78.

PASSENGERS. See **Automobiles**.**PATENT.** See **Patents for Inventions**; **Public Lands**, 4.**PATENTS FOR INVENTIONS.**

1. *Effect as Disclosure.* Not limited to precise scope of claims. *Minerals Separation N. A. Corp. v. Magma Copper Co.*, 400.
2. *Prior Disclosure.* Patent for mineral separation process *held* anticipated by disclosure in earlier patent. *Id.*
3. *Commercial Success as Evidence of Invention.* Rule attributing weight to, *held* inapplicable. *Id.*
4. *Presumption of Validity.* Not available in support of later against earlier patent. *Sanitary Refrigerator Co. v. Winters*, 30.
5. *Conflicting Decisions.* Scope of review on certiorari. *Id.*
6. *Res Judicata.* Decision in another circuit not adjudged estoppel if not in record but merely called to attention of circuit court of appeals on argument. *Id.*
7. *Equivalency.* When a question of law, *Id.*

PATENTS FOR INVENTIONS—Continued.

8. *Infringement.* Patent for swinging latches on refrigerator doors infringed by device copying its substance and principles and differing only in form. *Id.*

PHILIPPINE ISLANDS. See **Jurisdiction**; **Religious Organizations**.

PERSONAL INJURIES. See **Employers' Liability Act**.

POLICE POWER. See **Constitutional Law**, IV; V.

POSTAL SERVICE. See **Mails**.

PRESUMPTIONS. See **Patents for Inventions**, 4.

PRINCIPAL AND AGENT. See **Constitutional Law**, V, 6; **Insurance**.

PRIORITY. See **Insolvency**.

PROCEDURE. See **Jurisdiction**; **Packers and Stockyards Act**, 6, 8, 10.

1. *Pleadings. Equity Rule 30.* Strict proof required of plaintiff by answer denying knowledge or information as to allegation. *Grant v. A. B. Leach & Co.*, 351.

2. *Assignments of Error.* Must cover questions to be raised. *Herbring v. Lee*, 111.

3. *Scope of Review.* When limited to federal question discussed in state court's opinion. *Silver v. Silver*, 117.

4. *Id. Certiorari.* Validity of patent not determined on review of conflicting decisions of two circuits dealing only with question of infringement. *Sanitary Refrigerator Co. v. Winters*, 30.

PROHIBITION ACT. See **Constitutional Law**, IV, 4-5.

PUBLIC LANDS. See **Indians**.

1. *Mineral Lands.* Perfected location of mining claim under General Mining Law is tantamount to a grant by the United States. *Wilbur v. Krushnic*, 306.

2. *Assessment Labor.* Failure to perform does not forfeit claim but only renders it subject to loss by relocation. *Id.*

3. *Id.* Under Mineral Leasing Act of 1920, owner of oil placer may resume work and thus "maintain" it. *Id.*

4. *Patent.* Mandamus to compel Secretary of Interior to hear application for when refusal based on plain misconstruction of statute. *Id.*

PUBLIC OFFICERS. See **Parties**, 2.

PUBLIC UTILITIES. See **Constitutional Law**, V, 9-10; **Municipal Corporations**.

1. *Character of Property.* Though devoted to public service property of utility is none the less private and entitled to protection of due process clause. *United Railways & Elec. Co. v. West*, 234.
2. *Adequate Return.* Enforcement against street railway company of rates producing less than 7.44 per cent., *held* denial of due process. *Id.*
3. *Id.* Cannot be determined by decisions of other years under radically different conditions. *Id.*
4. *Allowance for Annual Depreciation.* Must be based upon present value, not upon cost. *Id.*
5. *Compulsory Service.* Street railway company cannot complain that particular line is unprofitable where rates for system as a whole yield adequate return. *Id.*
6. *Judicial Notice.* Of increase in recent years of annual returns on invested capital, and of wages and cost of maintenance. *Id.*

RAILROADS. See **Employers' Liability Act**; **Interstate Commerce Acts**; **Insolvency**; **Municipal Corporations**; **Negligence**, 2; **Parties**, 2; **Public Utilities**.

RATES. See **Constitutional Law**, IV, 1; V, 9-10; **Interstate Commerce Acts**; **Municipal Corporations**; **Packers and Stock yards Act**, 2-9; **Public Utilities**.

RECEIVERS. See **Farm Loan Act**.

1. *Ohio Court of Common Pleas.* Jurisdiction to appoint, and control over receiver. *Grant v. A. B. Leach & Co.*, 351.
2. *Id.* Order authorizing and directing receiver to bring action, not subject to collateral attack in federal court. *Id.*

RELIGIOUS ORGANIZATIONS. See **Parties**, 1.

1. *Trusts.* Powers and duties of Roman Catholic Archbishopric relative to trust founding a collative chaplaincy, and to disposition of income from trust property. *Gonzalez v. Archbishop*, 1.
2. *Id.* *Jurisdiction of Civil Courts* and ecclesiastical tribunals. *Id.*

RES JUDICATA. See **Packers and Stockyards Act**, 9; **Patents for Inventions**, 6; **Receivers**, 2.

RESTRAINT OF TRADE. See **Anti-Trust Acts**.

RETROACTIVE LAW. See **Constitutional Law**, IV, 3.

ROYALTIES. See Indians, 6.

SECRETARY OF AGRICULTURE. See Packers and Stockyards Act, 2-7.

SECRETARY OF THE INTERIOR. See Public Lands, 4.

SERVICE OF PROCESS. See Constitutional Law, V, 12-14.

STATUTES. See Corrupt Practices Act, 2-4; Indians.

1. *Administrative Construction.* Where acted on for a period of years will be favored by court. *Luckenbach S. S. Co. v. United States*, 173; *United States v. Jackson*, 183.

2. *Id.* Will not be disturbed except for weighty reasons. *Brewster v. Gage*, 327.

3. *Id.* Re-enactment of provisions *held* persuasive evidence of legislative approval. *Id.*

STOCKHOLDERS. See Banks and Banking, 1-4; Farm Loan Act.

Right to Dividends. Non-cumulative preferred stock not entitled to dividend credit for year when earnings were applied to capital improvements. *Wabash R. Co. v. Barclay*, 197.

STREET RAILWAYS. See Municipal Corporations; Public Utilities.

SURETIES. See Parties, 3.

TAXATION. See Constitutional Law, I, 1-3; III, 2-3; IV, 3; V, 1-8; Indians, 4, 6.

I. In General, p. 637.

II. Federal Taxation, p. 637.

III. State Taxation, p. 639.

I. In General.

1. *Recovery of Payment.* Taxpayer has burden of proving illegality of tax already paid. *Reinecke v. Spalding*, 227.

2. *Mobilia Sequuntur Personam.* Maxim not applicable where injustice would result. *Safe Deposit & Tr. Co. v. Virginia*, 83.

3. *Id.* Maxim applies to negotiable bonds and certificates of indebtedness issued by State or municipality. *Farmers Loan & Tr. Co. v. Minnesota*, 204.

II. Federal Taxation.

1. *Retroactive Effect of Act.* Section 202 (a) (2) of Revenue Act of 1921, in application to gain from sale of property acquired by gift, *held* intended to have retroactive effect. *Cooper v United States*, 409.

TAXATION—Continued.

2. *Gain From Sale; How Computed.* Under Revenue Acts of 1918 and 1921, § 202 (a), basis for computing gain from sale of securities acquired by bequest after March 1, 1913, is value at date of testator's death. *Brewster v. Gage*, 327.
3. *Id.* Section 113 (a) (5) of the Revenue Act of 1928, defining basis for calculating gain or loss from sales of property acquired by bequest, held not intended to affect construction of earlier acts. *Id.*
4. *Capital Gain.* Owner not entitled to more favorable rate allowed by Revenue Act of 1921, § 206 (a) (6), where goods are properly regarded as part of stock in trade. *Renziehausen v. Lucas*, 387.
5. *Allowance for Obsolescence.* Owner of business proscribed by prohibition legislation not entitled to deduction for "exhaustion" or "obsolescence" of good will. *Clarke v. Haberle C. S. Brewing Co.*, 384; *Renziehausen v. Lucas*, 387.
6. *Deduction for Losses.* Claim of deduction as loss sustained in 1919 of amount of judgment suffered in 1922 and paid in 1923, held properly rejected. *Lucas v. American Code Co.*, 445.
7. *Id.* Reserves to cover contingent liabilities not allowable as deductions. *Id.*
8. *Deduction for Depletion.* Amount allowable to lessor under royalty lease made prior to March 1, 1913, computed on basis of fair market value of lessor's interest as of that date in mine as an entity. *Reinecke v. Spalding*, 227.
9. "Basis of Keeping Accounts." As used in Act of September 8, 1916, § 13, par. (d) refers to general bookkeeping system followed by taxpayer. *United States v. American Can Co.*, 412.
10. *Correction of Valuations and Reassessment.* Does not constitute rejection by Commissioner of basis upon which return was made. *Id.*
11. *Limitations.* Period barring assessment (Act of 1921, § 250 (d)) does not begin to run with filing of "tentative return." *Florsheim Bros. Co. v. United States*, 453.
12. *Id.* A waiver, Act of 1921, § 250 (d), extending the statutory period limiting the time in which assessment and collection may be made can not operate as limitation on power of Congress to extend period. *Id.*

TAXATION—Continued.

13. *Id.* *Applicability of Later Acts.* Six years limitation of Act of 1924, § 278 (d), applies to assessments made after its enactment and not previously barred. *Id.*
14. *Id.* Six years limitation of Act of 1926, § 278 (d), applies to an assessment the collection of which was not barred prior to the enactment. *Id.*

III. State Taxation.

1. *Situs of Intangibles.* State or municipal bonds and certificates of indebtedness, owned and held by person domiciled in another State and not used elsewhere in business, *held* subject to tax on testamentary transfer at domicile of owner, not in State where issued. *Farmers Loan & Tr. Co. v. Minnesota*, 204. See *Safe Deposit & Tr. Co. v. Virginia*, 83.
2. *Tax on Gross Receipts.* Found to be direct tax on receipts derived from interstate commerce, and therefore void, *pro tanto*. *New Jersey Bell Tel. Co. v. State Board of Taxes*, 338.
3. *Effect of Contract.* Vendor may not escape state taxation by a contract the only purpose of which is to convert local transaction into one in interstate commerce. *Superior Oil Co. v. Mississippi*, 390.

TELEPHONE COMPANIES. See **Taxation**, II, 2.

TITLE. See **Executors and Administrators**.

TORTS. See **Negligence**.

TRANSPORTATION ACT. See **Insolvency**; **Interstate Commerce Acts**.

TREATIES. See **Indians**.

TRUSTS. See **Banks and Banking**, 4; **Indians**, 1-3; **Jurisdiction**; **Parties**; **Religious Organizations**.

1. *Testamentary Trust*, founding collative chaplaincy. Right of heir to compel appointment and accounting for income. *Gonzalez v. Archbishop*, 1.

2. *Implied Trust*. Not created by purchase of national bank stock by father in names of children. *Early v. Richardson*, 496.

UNFAIR COMPETITION. See **Federal Trade Commission**.

UNITED STATES. See **Insolvency**.

VALUATION. See **Public Utilities**.

VERDICT. See **Employers' Liability Act**, 4.

Indeterminate. Where for single sum on two causes of action, one of which was erroneously allowed to go to jury, judgment must be reversed and remanded for new trial. *Baltimore & O. S. W. R. Co. v. Carroll*, 491.

WAGE FIXING. See **Constitutional Law**, IV, 1.

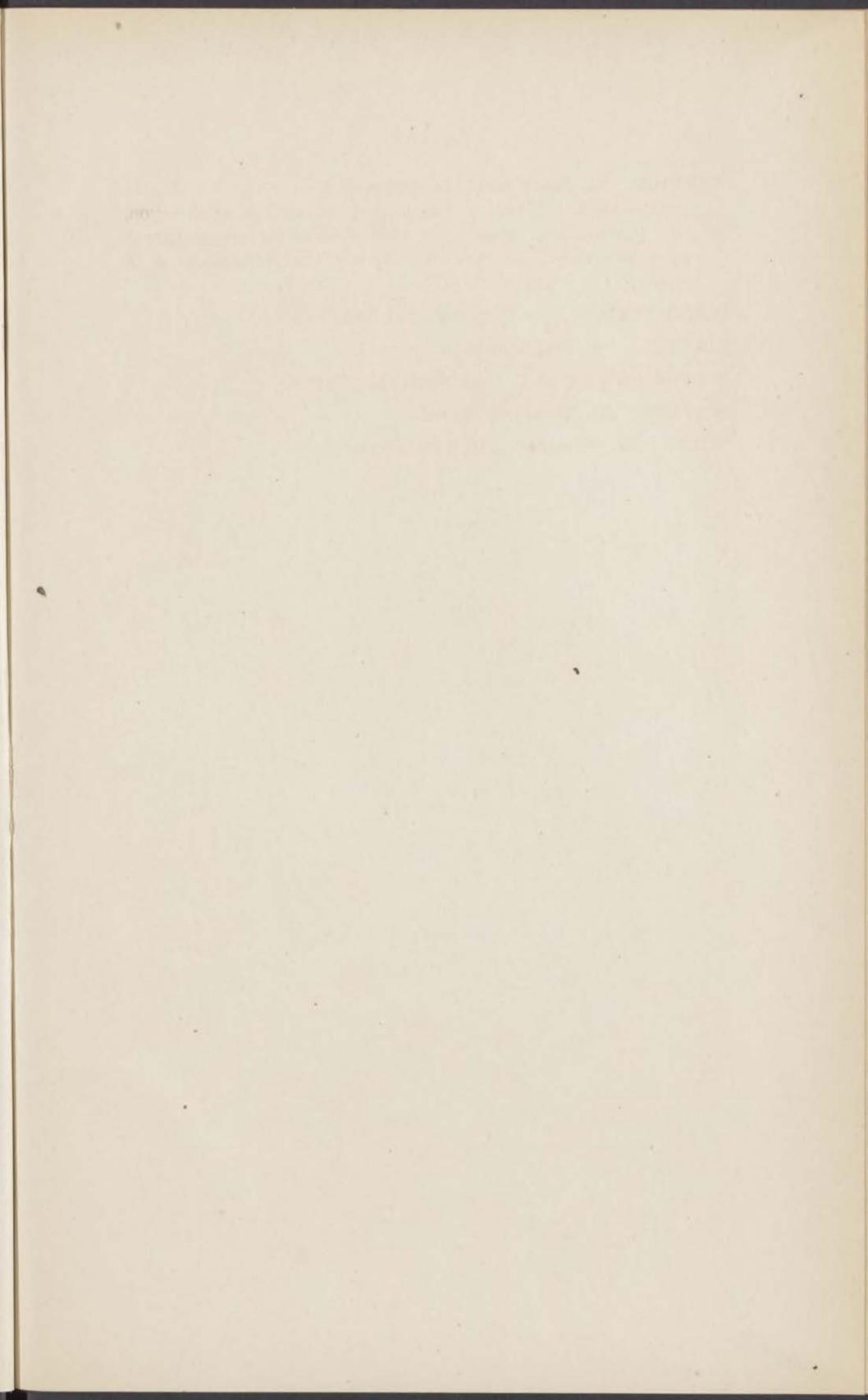
WAIVER. See **Taxation**, II, 12.

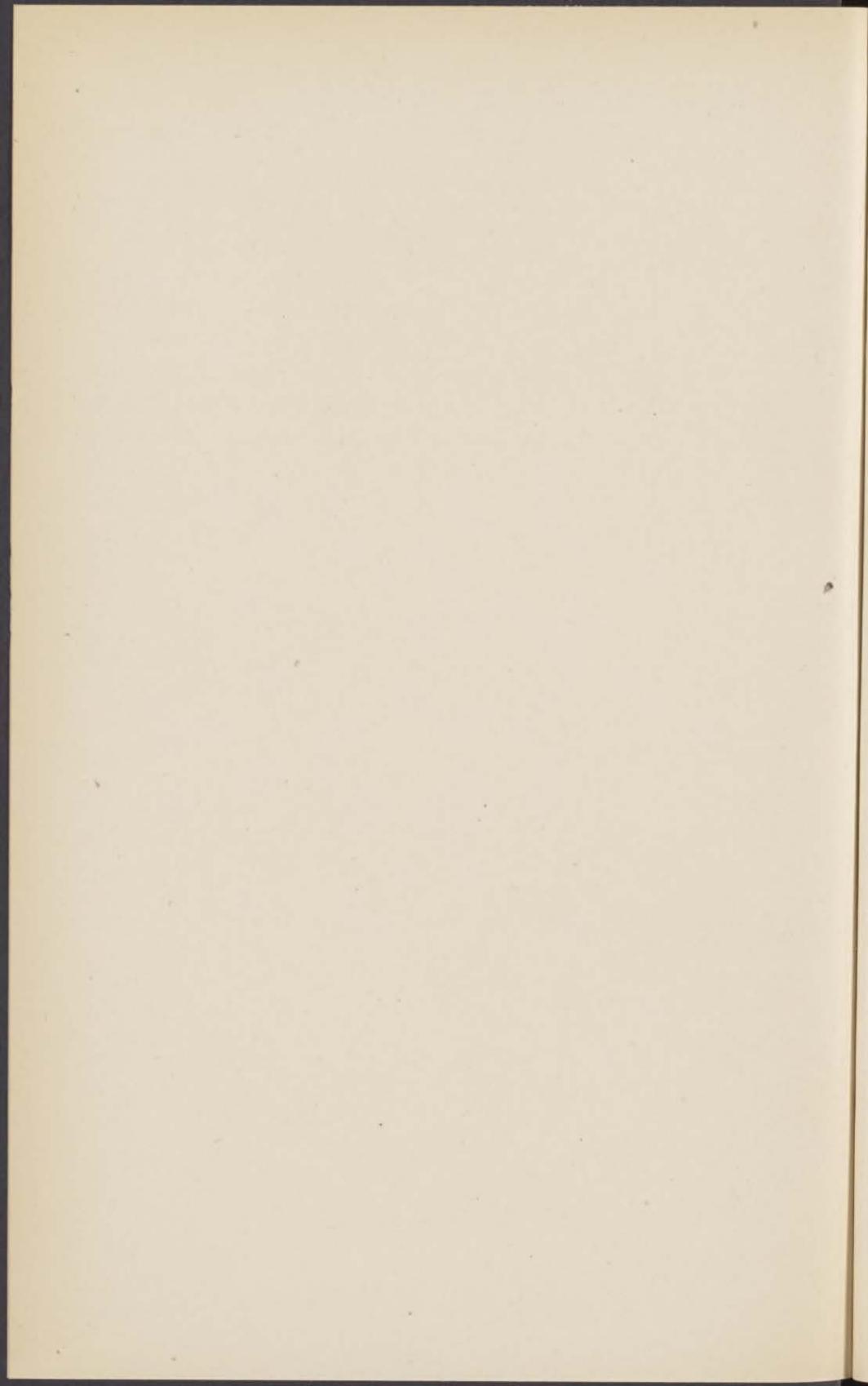
WATER POWER ACT. See **Navigable Waters**.

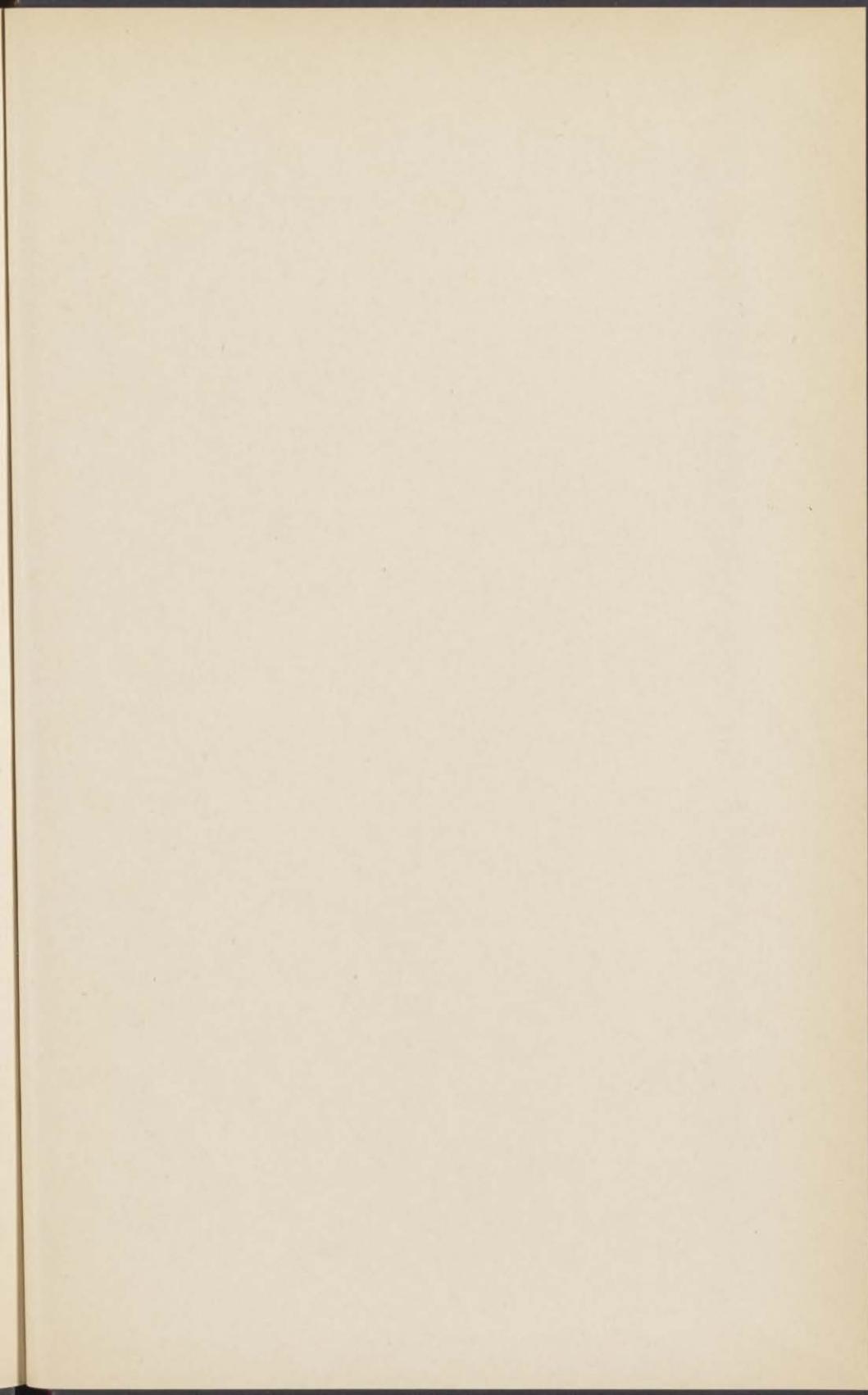
WATERS. See **Navigable Waters**.

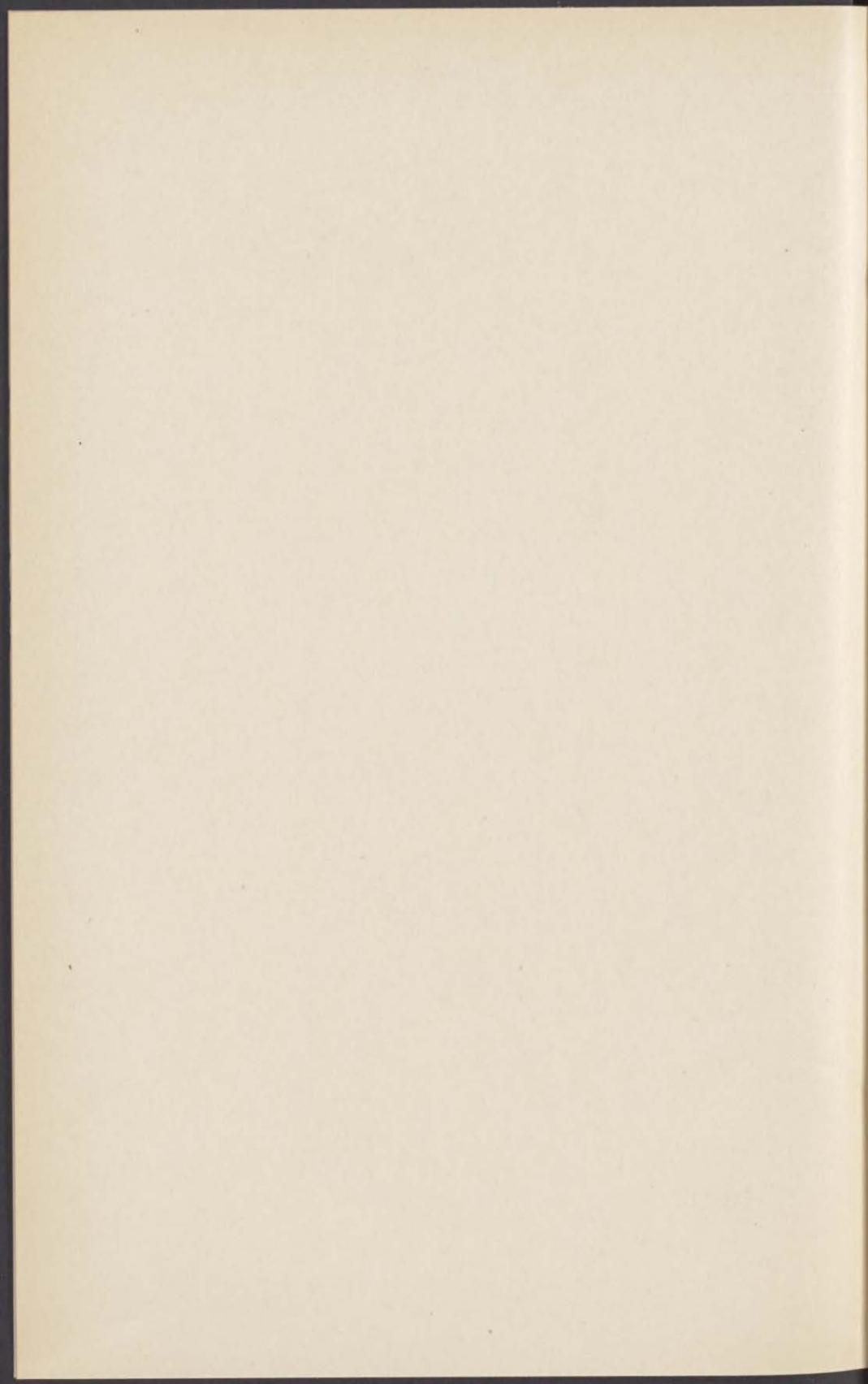
WILLS. See **Executors and Administrators**.

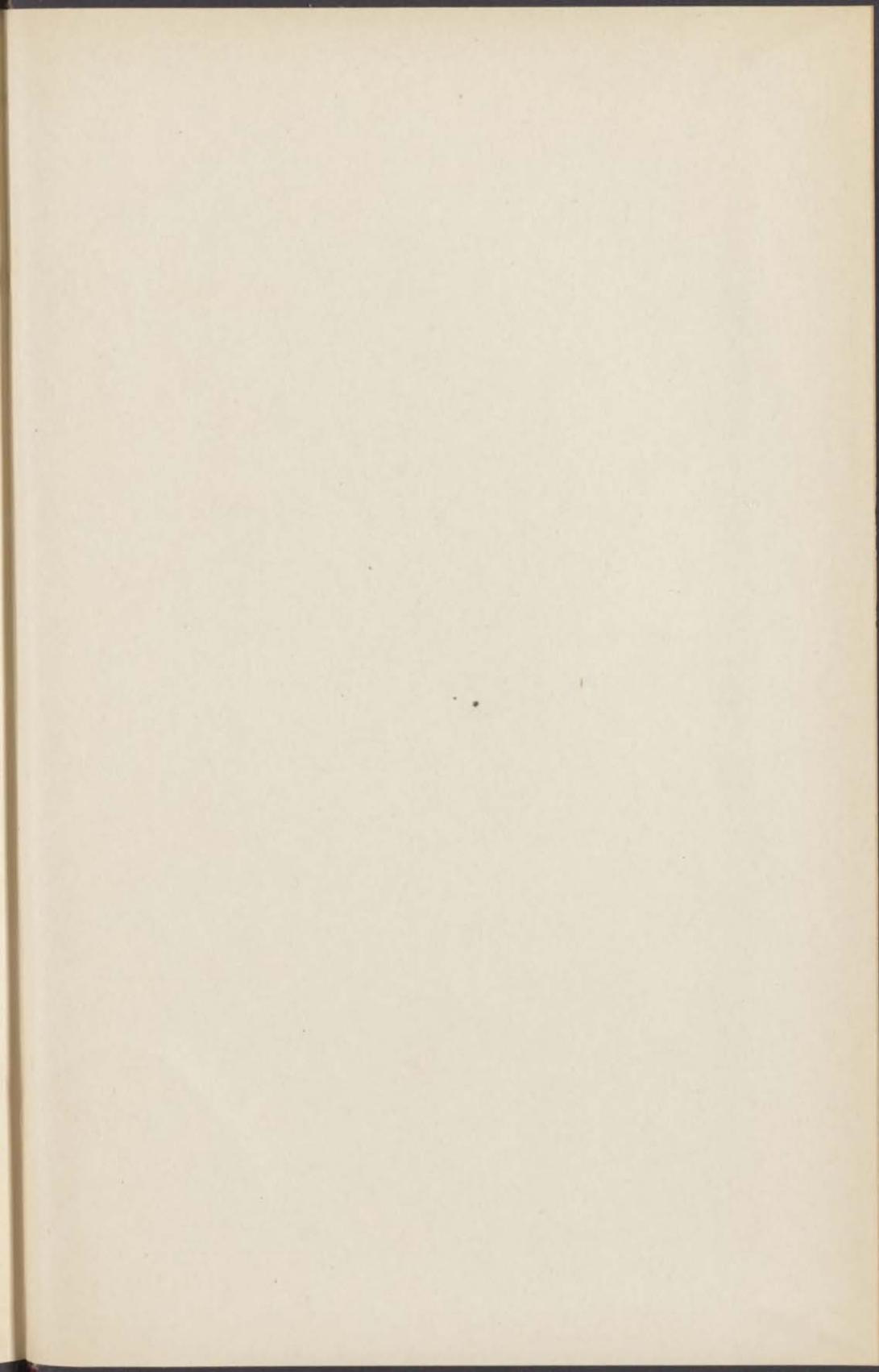


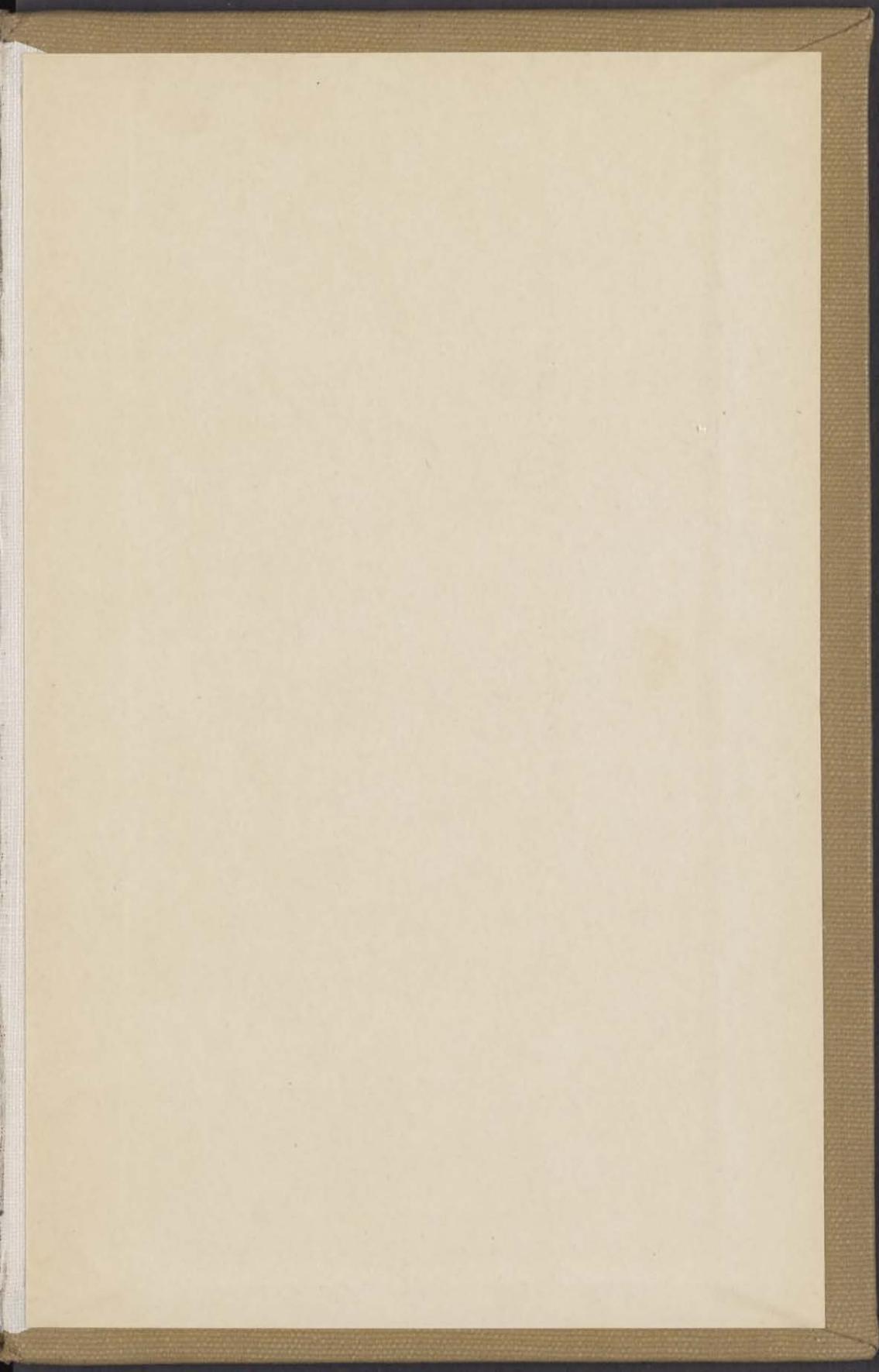














UNI

001