

I N D E X

ADMINISTRATIVE PROCEDURE. See Aliens; Civil Rights Act; Constitutional Law, II, 1-2; Jurisdiction, 2; Taxation, 4; Trading with the Enemy Act; Transportation.

ADMIRALTY.

Procedure—Depositions—Discovery.—A federal district court sitting in admiralty has no power to order the taking of oral depositions for the purpose of discovery only. *Miner v. Atlass*, p. 641.

AIR CONDITIONERS. See Taxation, 4.

ALABAMA. See Submerged Lands Act.

ALASKA. See Jurisdiction, 1; Procedure, 1.

ALIENS. See also Constitutional Law, II, 2; Trading with the Enemy Act.

Suspension of deportation—Burden of proof—Refusal to answer questions re Communism.—Alien applying for suspension of deportation has burden of showing eligibility; application properly denied when applicant refused to say whether he was Communist. *Kimm v. Rosenberg*, p. 405.

ANTITRUST ACTS.

1. *Clayton Act—Robinson-Patman Act—Allowance to buyer in lieu of brokerage.*—Section 2 (c) of Clayton Act, as amended by Robinson-Patman Act, forbids a seller's broker to reduce brokerage commission to induce seller to reduce price to meet bid of favored buyer. *Federal Trade Commission v. Henry Broch & Co.*, p. 166.

2. *Clayton Act—Robinson-Patman Act—Price discriminations.*—Section 2 (a) of Clayton Act, as amended by Robinson-Patman Act, violated when leading national brewer reduced prices of beer to customers in one area while maintaining higher prices to all purchasers outside that area, thus diverting business from its competitors in the affected area. *Federal Trade Commission v. Anheuser-Busch*, p. 536.

APPEALS. See Constitutional Law, III; Jurisdiction, 1; Procedure, 1-4.

ARBITRATION. See Labor, 1-2.

ATTORNEY GENERAL. See Procedure, 2-3; Trading with the Enemy Act.

BACK PAY. See Labor, 2.

BANKRUPTCY. See Taxation, 7.

BEER. See Antitrust Acts, 2.

BILLS OF ATTAINDER. See Constitutional Law, II, 2, 4.

BROKERS. See Antitrust Acts, 1.

BURDEN OF PROOF. See Aliens.

CALIFORNIA. See Taxation, 5.

CARRIERS. See Transportation.

CHURCHES. See Constitutional Law, I.

CIVIL RIGHTS ACT.

Commission on Civil Rights—Rules of procedure—Right to confrontation and cross-examination.—Rules of Commission on Civil Rights governing hearings re alleged racially discriminatory deprivation of voting rights authorized by Act are constitutional, though they deny accused persons right to confront and cross-examine witnesses; Administrative Procedure Act inapplicable. *Hannah v. Larche*, p. 420.

CLAYTON ACT. See Antitrust Acts, 1-2.

COMMUNISM. See Aliens; Constitutional Law, II, 2.

CONFLICT OF LAWS. See Eminent Domain; Procedure, 1, 4; Taxation, 5-7.

CONFRONTATION. See Civil Rights Act.

CONSPIRACY. See Criminal Law.

CONSTITUTIONAL LAW. See also Aliens; Eminent Domain; Jurisdiction, 1; Procedure, 1-4; Taxation, 3.

I. Freedom of Religion.

State common law—Transfer of administrative control of church.—Decision of New York court that common law of State forbids use and occupancy of cathedral by official entitled thereto under canon law, violated freedom of religion. *Kreshik v. St. Nicholas Cathedral*, p. 190.

II. Due Process.

1. *Federal administrative proceedings—Commission on Civil Rights—Right to confrontation and cross-examination.*—Rules of Commission on Civil Rights constitutional, though they deny accused persons right to confront and cross-examine witnesses. *Hannah v. Larche*, p. 420.

CONSTITUTIONAL LAW—Continued.

2. *Federal proceedings—Aliens—Termination of old-age benefits.*—Social Security Act, § 202 (n), providing for termination of old-age benefits payable to alien deported for being Communist does not violate Due Process Clause of Fifth Amendment, Art. III, § 2, cl. 3 of Constitution, or Sixth Amendment, and is not bill of attainder or *ex post facto* law. *Flemming v. Nestor*, p. 603.

3. *Due process—State courts—Right to counsel.*—Conviction of defendant without benefit of counsel after codefendant pleaded guilty in presence of jury deprived defendant of due process required by Fourteenth Amendment. *Hudson v. North Carolina*, p. 697.

4. *Due process—State action—Supremacy Clause—Ex post facto law—Bill of attainder—Statute disqualifying felons from holding office in labor unions.*—Section 8 of New York Waterfront Commission Act, disqualifying felons from holding office in waterfront labor unions, does not violate Supremacy or Due Process Clause and is not *ex post facto* law or bill of attainder. *De Veau v. Braisted*, p. 144.

III. Equal Protection of Laws.

State criminal appeals—Indigents.—Allegation of indigent prisoner that State Supreme Court denied right to appeal from conviction without payment of docket fees made out case of denial of equal protection of laws, and federal district court should not have denied habeas corpus without hearing. *Douglas v. Green*, p. 192.

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

COURTS OF APPEALS. See **Procedure**, 4-5.

COURT OF CLAIMS. See **Transportation**.

CRIMINAL LAW. See also **Constitutional Law**, II, 3; III.

Using mails to defraud—"For the purpose of executing such scheme."—Though indictment charged, and evidence tended to show, that defendants devised and practiced a scheme to defraud a school district, they did not support conviction under 18 U. S. C. § 1341, when indictment did not charge, and evidence did not show, any use of mails "for the purpose of executing such scheme," within meaning of that section. *Parr v. United States*, p. 370.

CROSS-EXAMINATION. See **Civil Rights Act**.

DAMS. See **Eminent Domain**.

DECLARATORY JUDGMENT ACT. See **Trading with the Enemy Act**.

DEPARTMENT OF JUSTICE. See **Procedure**, 2-3.

DEPORTATION. See **Aliens**; **Constitutional Law**, II, 2.

DEPOSITIONS. See **Admiralty**.

DISCOVERY. See **Admiralty.**

DISCRIMINATION. See **Antitrust Acts, 1-2; Civil Rights Act.**

DUE PROCESS. See **Civil Rights Act; Constitutional Law, II; Taxation, 3.**

ELECTIONS. See **Civil Rights Act.**

EMBEZZLEMENT. See **Criminal Law.**

EMINENT DOMAIN.

Water-power rights—"Taking"—Government dam on nonnavigable tributary to protect capacity of navigable river.—When state agency had been authorized by state law and license from Federal Power Commission to build hydroelectric plants on nonnavigable tributary of navigable stream, and Federal Government prevented consummation by building its own dam to protect navigable capacity of the navigable stream, the state agency was not entitled to compensation for "taking" of its water-power rights. *United States v. Grand River Dam Authority*, p. 229.

EN BANC PROCEEDINGS. See **Procedure, 5.**

EQUAL PROTECTION OF LAWS. See **Constitutional Law, III.**

ESTATE TAXES. See **Taxation, 3.**

EVIDENCE. See **Criminal Law.**

EXCISE TAXES. See **Taxation, 4.**

EX POST FACTO LAWS. See **Constitutional Law, II, 2, 4.**

FALSE PRETENSES. See **Criminal Law.**

FEDERAL POWER COMMISSION. See **Eminent Domain; Natural Gas Act.**

FEDERAL-STATE RELATIONS. See **Civil Rights Act; Constitutional Law, I; II, 3-4; III; Eminent Domain; Jurisdiction, 1; Procedure, 1, 4; Submerged Lands Act; Taxation, 5-7.**

FEDERAL TRADE COMMISSION. See **Antitrust Acts.**

FELONS. See **Constitutional Law, II, 4.**

FIFTEENTH AMENDMENT. See **Civil Rights Act.**

FIFTH AMENDMENT. See **Aliens; Civil Rights Act; Constitutional Law, II; Eminent Domain; Taxation, 3.**

FIRST AMENDMENT. See **Constitutional Law, I.**

FLOOD CONTROL ACTS. See **Eminent Domain.**

FLORIDA. See **Submerged Lands Act.**

FORUM NON CONVENIENS. See **Procedure, 7.**

FOURTEENTH AMENDMENT. See Constitutional Law, II, 3-4.

FRAUD. See Criminal Law.

FREEDOM OF RELIGION. See Constitutional Law, I.

GAS. See Natural Gas Act; Submerged Lands Act.

GENERAL ADMIRALTY RULES. See Admiralty.

GIFTS. See Taxation, 1-2.

HABEAS CORPUS. See Constitutional Law, III.

HYDROELECTRIC POWER. See Eminent Domain.

IMMIGRATION ACTS. See Aliens; Constitutional Law, II, 2.

INCOME TAX. See Taxation, 1-2.

INDICTMENT. See Criminal Law.

INDIGENTS. See Constitutional Law, III.

INJUNCTIONS. See Labor, 3.

INSURANCE. See Procedure, 4; Taxation, 3.

INTERNAL REVENUE CODE. See Taxation, 1-7.

INTERNAL SECURITY ACT OF 1950. See Aliens.

INTERSTATE COMMERCE COMMISSION. See Transportation.

JURISDICTION. See also Admiralty; Labor, 1-3; Procedure; Trading with the Enemy Act; Transportation.

1. *Supreme Court—Appeal from state court holding state statute constitutional—Alaska.*—During interim between attainment of Alaska statehood and organization of new state courts and Federal District Court for Alaska, the old District Court for Alaska was “highest court” of the State, within meaning of 28 U. S. C. § 1257 (2), and this Court had jurisdiction of direct appeal from decision sustaining constitutionality of state statute. *Metlakatla Indian Community v. Egan*, p. 555.

2. *District Courts—Action to review administrative decision—Constitutionality of federal statute—One-judge or three-judge court.*—When action under § 205 (g) of Social Security Act to review administrative decision challenged constitutionality of Act but did not seek injunction or otherwise interdict operation of statutory scheme, 28 U. S. C. § 2282 did not require three-judge court and jurisdiction was properly exercised by single-judge court. *Flemming v. Nestor*, p. 603.

LABOR. See also Constitutional Law, II, 4; Taxation, 2.

1. *Labor Management Relations Act, 1947—Suit to compel arbitration—Function of court.*—In suit under § 301 (a) of Labor Management Relations Act, 1947, to compel arbitration of dispute under

LABOR—Continued.

provision for arbitration of all disputes arising under collective bargaining agreement, function of court limited to ascertaining whether party seeking arbitration is making a claim which on its face is governed by agreement to arbitrate. *Steelworkers v. American Manufacturing Co.*, p. 564; *Steelworkers v. Warrior & Gulf Navigation Co.*, p. 574; *Steelworkers v. Enterprise Wheel & Car Corp.*, p. 593.

2. *Arbitration agreement—Wrongful discharge—Reinstatement and back pay after expiration of agreement.*—When collective bargaining agreement provided for arbitration of disputes and for reinstatement with back pay of employees wrongfully discharged, arbitrator finding that employees had been wrongfully discharged during life of agreement could order reinstatement and back pay after its expiration. *Steelworkers v. Enterprise Wheel & Car Corp.*, p. 593.

3. *Railway Labor Act—Adjustment Board—Injunction to protect jurisdiction—Conditions.*—In granting injunction against strike to protect jurisdiction of National Railroad Adjustment Board, District Court had equitable power to impose condition to protect employees against harmful change in working conditions during pendency of dispute before Board. *Locomotive Engineers v. Missouri-Kansas-Texas R. Co.*, p. 528.

LIENS. See **Taxation**, 5-7.

LIFE INSURANCE. See **Taxation**, 3.

LONGSHOREMEN. See **Constitutional Law**, II, 4.

LOUISIANA. See **Submerged Lands Act**.

MAILS. See **Criminal Law**.

MECHANICS' LIENS. See **Taxation**, 6-7.

MISAPPROPRIATION. See **Criminal Law**.

MISSISSIPPI. See **Submerged Lands Act**.

MORTGAGES. See **Taxation**, 5.

NATIONAL RAILROAD ADJUSTMENT BOARD. See **Labor**, 3.

NATURAL GAS ACT.

Rates—Favored nation clause—Effect of pipeline paying a higher price to another producer.—Effective rate for sale of gas by producer to pipeline company not increased automatically under "favored nation" clause of contract when pipeline company agreed to pay another producer higher price under pre-existing long-term contract which required price to be redetermined periodically. *Texas Gas Transmission Corp. v. Shell Oil Co.*, p. 263.

- NAVIGABLE WATERS.** See **Eminent Domain.**
- NEGROES.** See **Civil Rights Act; Constitutional Law, II, 1.**
- NEW YORK.** See **Constitutional Law, II, 4; Taxation, 6.**
- NORTH CAROLINA.** See **Constitutional Law, II, 3; Taxation, 7.**
- OHIO.** See **Constitutional Law, III.**
- OIL.** See **Submerged Lands Act.**
- OKLAHOMA.** See **Eminent Domain.**
- OLD-AGE BENEFITS.** See **Constitutional Law, II, 2; Jurisdiction, 2.**
- PAUPERS.** See **Constitutional Law, III.**
- PENNSYLVANIA.** See **Taxation, 5.**
- PIPELINES.** See **Natural Gas Act.**
- PRICE DISCRIMINATIONS.** See **Antitrust Acts, 1-2.**
- PRIORITIES.** See **Taxation, 5-7.**
- PROCEDURE.** See also **Admiralty; Civil Rights Act; Constitutional Law, II, 1-4; III; Labor, 1-3; Taxation, 5; Trading with the Enemy Act; Transportation.**

1. *Supreme Court—Appeal from decision of interim court sustaining constitutionality of state statute—Alaska.*—When decision of interim court of Alaska sustaining constitutionality of state statute was entangled with questions of state law, this Court refrained from passing on appeal pending opportunity for Supreme Court of Alaska to rule on questions of state law. *Metlakatla Indian Community v. Egan*, p. 555.

2. *Supreme Court—Case challenging constitutionality of federal statute—Failure to notify Attorney General.*—Appeal in case involving challenge to constitutionality of federal statute affecting public interest having been argued without notification to Attorney General, case set for reargument; Court certified to Attorney General, pursuant to 28 U. S. C. § 2403, that constitutionality of statute was drawn in question. *Machinists v. Street*, p. 825.

3. *Supreme Court—Amendment of Rules—Litigation challenging constitutionality of federal statute—Notice to Solicitor General.*—Rule 33 amended so as to require notice to Solicitor General regarding litigation challenging constitutionality of Act of Congress when United States or any agency, officer or employee thereof is not a party. P. 859.

4. *Courts of Appeals—Constitutional questions—Issues of local law.*—When District Court had awarded judgment to policyholder

PROCEDURE—Continued.

against foreign insurance company on ground that, under local law, losses were not excluded from coverage of policy and suit was not barred by time provision in policy, Court of Appeals should have passed on these issues of local law before ruling on constitutionality of application of local law to contract made in another State. *Clay v. Sun Insurance Office*, p. 207.

5. *Courts of Appeals—Rehearing en banc—Participation by retired judge.*—Circuit judge who has retired under 28 U. S. C. § 371 (b) not eligible to participate in decision of case on rehearing *en banc* under 28 U. S. C. § 46 (c). *United States v. American-Foreign SS. Corp.*, p. 685.

6. *District Courts—Admiralty—Depositions for purpose of discovery.*—A federal district court sitting in admiralty has no power to order the taking of oral depositions for the purpose of discovery only. *Miner v. Atlss*, p. 641.

7. *District Courts—Transfer of civil action to another District—“Where it might have been brought.”*—Under 28 U. S. C. § 1404 (a), a federal district court in which a civil action has been properly brought is not empowered to transfer it on motion of defendant to a district in which the plaintiff did not have a right to bring it. *Hoffman v. Blaski*, p. 335.

PUNISHMENT. See **Constitutional Law**, II, 2.

RACIAL DISCRIMINATION. See **Civil Rights Act**.

RAILROADS. See **Labor**, 3; **Transportation**.

REHEARING EN BANC. See **Procedure**, 5.

REINSTATEMENT. See **Labor**, 2.

RELIGION. See **Constitutional Law**, I.

RETIRED JUDGES. See **Procedure**, 5.

ROBINSON-PATMAN ACT. See **Antitrust Acts**, 1-2.

RULES. See **Supreme Court**, 1.

SELF-INCRIMINATION. See **Aliens**.

SIXTH AMENDMENT. See **Civil Rights Act**; **Constitutional Law**, II, 1-2.

SOCIAL SECURITY ACT. See **Constitutional Law**, II, 2; **Jurisdiction**, 2.

SOLICITOR GENERAL. See **Procedure**, 2-3.

STRIKES. See **Labor**, 3; **Taxation**, 2.

SUBCONTRACTORS. See **Taxation**, 6-7.

SUBMERGED LANDS ACT.

Extent of grants to Gulf Coast States.—Texas and Florida entitled under Act to land under Gulf of Mexico within three marine leagues of their coasts; but Louisiana, Mississippi and Alabama entitled only to three geographical miles from their coastlines. *United States v. Louisiana*, p. 1; *United States v. Florida*, p. 121.

SUPREMACY CLAUSE. See **Constitutional Law**, II, 4.

SUPREME COURT. See also **Jurisdiction**, 1; **Procedure**, 1-3.

1. *Amendment of Rules—Litigation challenging constitutionality of federal statute—Notice to Solicitor General.*—Rule 33 amended so as to require notice to Solicitor General regarding litigation challenging constitutionality of Act of Congress when United States or any agency, officer or employee thereof is not a party. P. 859.

2. *Statistics.*—Statement showing the number of cases filed, disposed of, and remaining on dockets, at conclusion of October Terms, 1957, 1958 and 1959. P. 860.

TAXATION.

1. *Income tax—"Gifts"—Business associates—Retiring employees.*—Whether transaction amounts to "gift" excludable from income depends upon facts of each case; presentation of automobile to business associate in appreciation of services rendered held not "gift"; in concluding that payment of cash to retiring employee in appreciation of past services was "gift," District Court made insufficient findings. *Commissioner v. Duberstein*, p. 278.

2. *Income tax—"Gifts"—Strike assistance by labor union.*—On record, jury was justified in finding that strike assistance, by way of room rent and food vouchers, rendered by labor union to striker who was in need, was "gift" excludable from income. *United States v. Kaiser*, p. 299.

3. *Estate tax—Life insurance—Policies assigned to wife but premiums paid by decedent.*—Internal Revenue Code of 1939, § 811 (g) (2) (A), construed and applied as requiring that, where a husband had assigned insurance policies on his own life to his wife but continued to pay premiums on them until he died in 1954, proceeds attributable to premiums so paid after January 10, 1941, must be included in husband's estate for purposes of federal estate tax, held constitutional. *United States v. Manufacturers National Bank*, p. 194.

4. *Excise tax—"Self-contained air-conditioning units"—Revenue Rulings.*—Revenue Rulings holding that excise tax on "self-contained air-conditioning units" applied to those having certain physical

TAXATION—Continued.

features, designed for installation in window or other opening and having "a total motor horsepower of less than 1 horsepower," held valid. *Cory Corporation v. Sauber*, p. 709.

5. *Federal tax liens—Junior—Extinguish by enforcement of senior liens under state law.*—Federal tax liens on real estate which are junior to defaulted mortgages held on same properties by other parties may be effectively extinguished by state proceedings to which the United States is not a party. *United States v. Brosnan*, p. 237.

6. *Federal tax liens—Mechanics' liens—Priority.*—When contractor defaulted both on federal taxes and on payments to subcontractors, extent of federal tax lien on his "property and rights to property" depended upon what rights, if any, he had under New York State law to funds paid into court by owners of real estate as amounts remaining due under construction contract. *Aquilino v. United States*, p. 509.

7. *Federal tax liens—Mechanics' liens—Priorities.*—Under North Carolina law, bankrupt contractor who had defaulted both on federal taxes and on payments to subcontractors had no property interest in amount due under general contract except to extent it exceeded aggregate of amounts due subcontractors; therefore, federal tax lien could attach only to such excess. *United States v. Durham Lumber Co.*, p. 522.

TEXAS. See **Submerged Lands Act.**

TIDELANDS. See **Submerged Lands Act.**

TRADING WITH THE ENEMY ACT.

Return of vested property—Administrative determination—Judicial review.—Section 7 (c) of Trading with the Enemy Act precludes judicial review of administrative determination that alien is not eligible for return of property vested by Alien Property Custodian; Administrative Procedure Act and Declaratory Judgment Act not applicable. *Schilling v. Rogers*, p. 666.

TRANSFERS OF ACTION. See **Procedure**, 7.

TRANSPORTATION. See also **Labor**, 3.

Railroads—Rate determinations—Interstate Commerce Commission—Review by District Court.—When railroad sued in Court of Claims to recover from Government difference between domestic rates and export rates on certain shipments, Court of Claims suspended proceedings until Interstate Commerce Commission passed on reasonableness of rates, and railroad then sued in Federal District Court for review of Commission's determination, Court of Claims

TRANSPORTATION—Continued.

should have continued to stay its proceedings until District Court had passed upon validity of Commission's order. *Pennsylvania R. Co. v. United States*, p. 202.

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

UNIONS. See **Labor**, 1-3; **Taxation**, 2.

VENUE. See **Procedure**, 7.

VOTERS. See **Civil Rights Act**.

WATER POWER. See **Eminent Domain**.

WITNESSES. See **Aliens**; **Civil Rights Act**.

WORDS.

1. "*Active circuit judges.*"—28 U. S. C. § 46 (c). *United States v. American-Foreign SS. Corp.*, p. 685.

2. "*Committed to agency discretion.*"—Administrative Procedure Act. Schilling v. Rogers, p. 666.

3. "*Criminal prosecutions.*"—Sixth Amendment. *Hannah v. Larche*, p. 420.

4. "*Discriminate in price.*"—Clayton Act, § 2 (a). *Federal Trade Comm'n v. Anheuser-Busch*, p. 536.

5. "*For the purpose of executing such scheme.*"—18 U. S. C. § 1341. *Parr v. United States*, p. 370.

6. "*Gift.*"—Internal Revenue Code. *Commissioner v. Duberstein*, p. 278; *United States v. Kaiser*, p. 299.

7. "*Heard and determined.*"—28 U. S. C. § 46 (c). *United States v. American-Foreign SS. Corp.*, p. 685.

8. "*Highest court of a State in which a decision could be had.*"—28 U. S. C. § 1257 (2). *Metlakatla Indians v. Egan*, p. 555.

9. "*Other person.*"—Clayton Act, § 2 (c). *Federal Trade Comm'n v. Henry Broch & Co.*, p. 166.

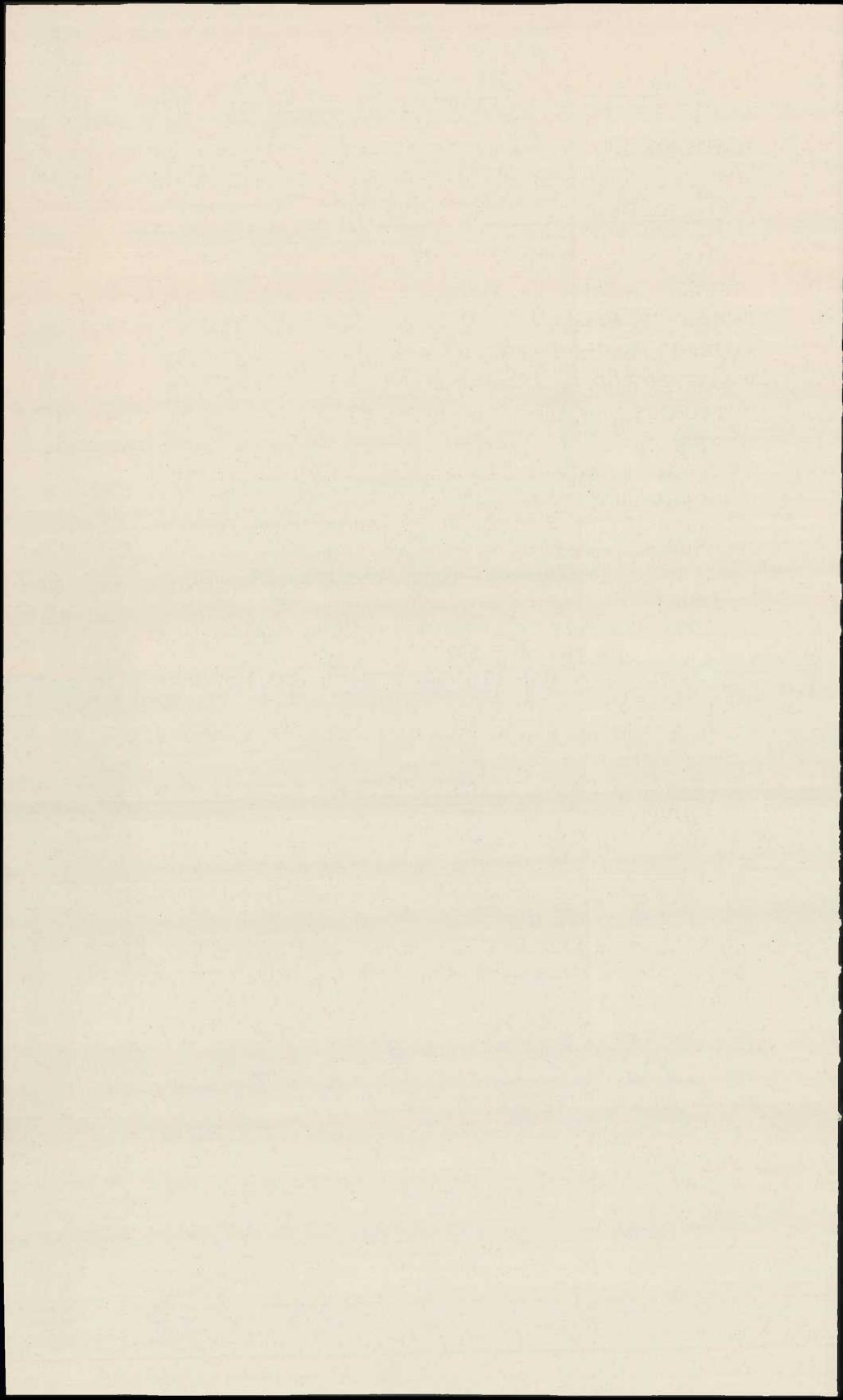
10. "*Property and rights to property.*"—Internal Revenue Code. *Aquilino v. United States*, p. 509; *United States v. Durham Lumber Co.*, p. 522.

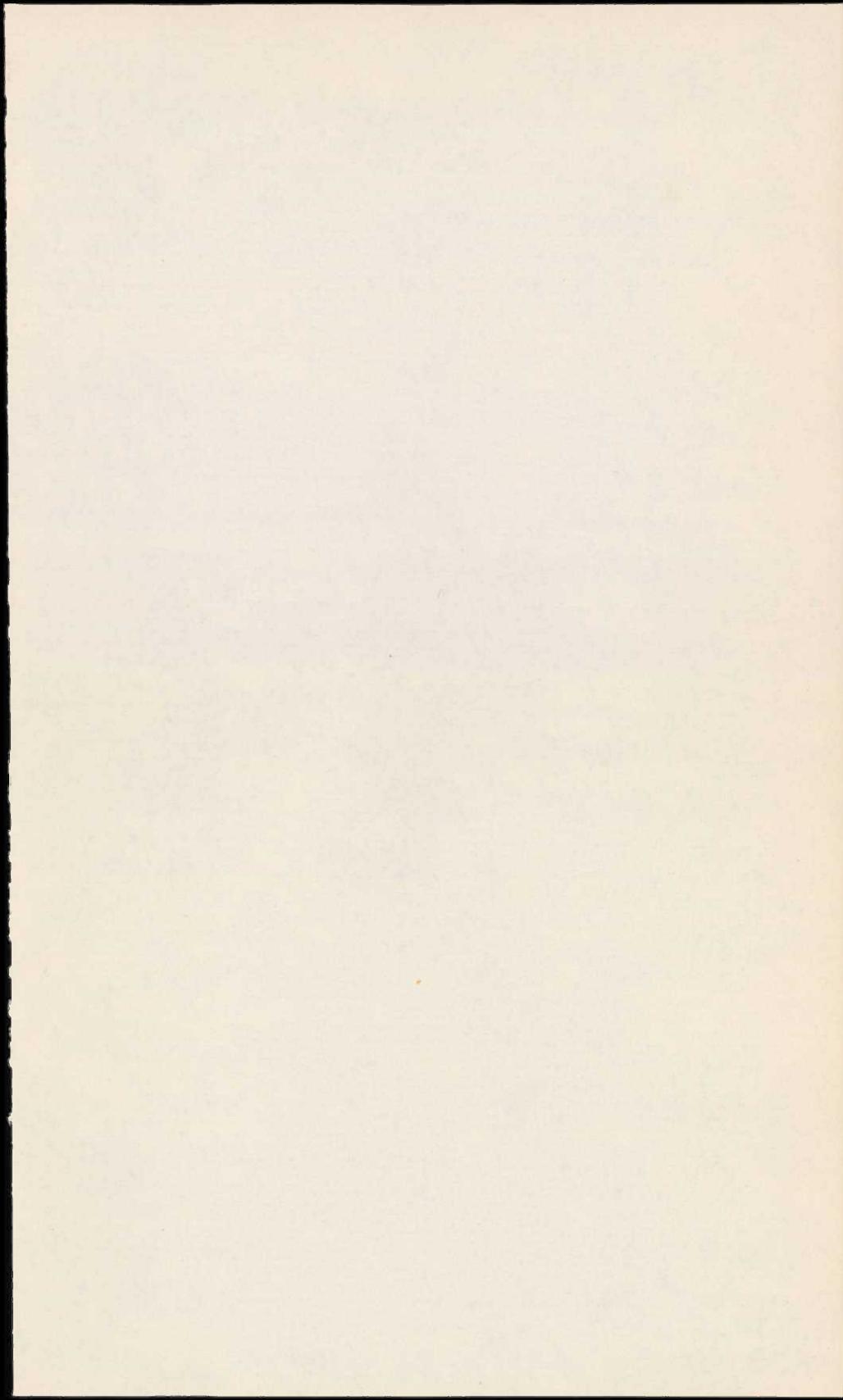
11. "*Self-contained air-conditioning units.*"—Internal Revenue Code. *Cory Corporation v. Sauber*, p. 709.

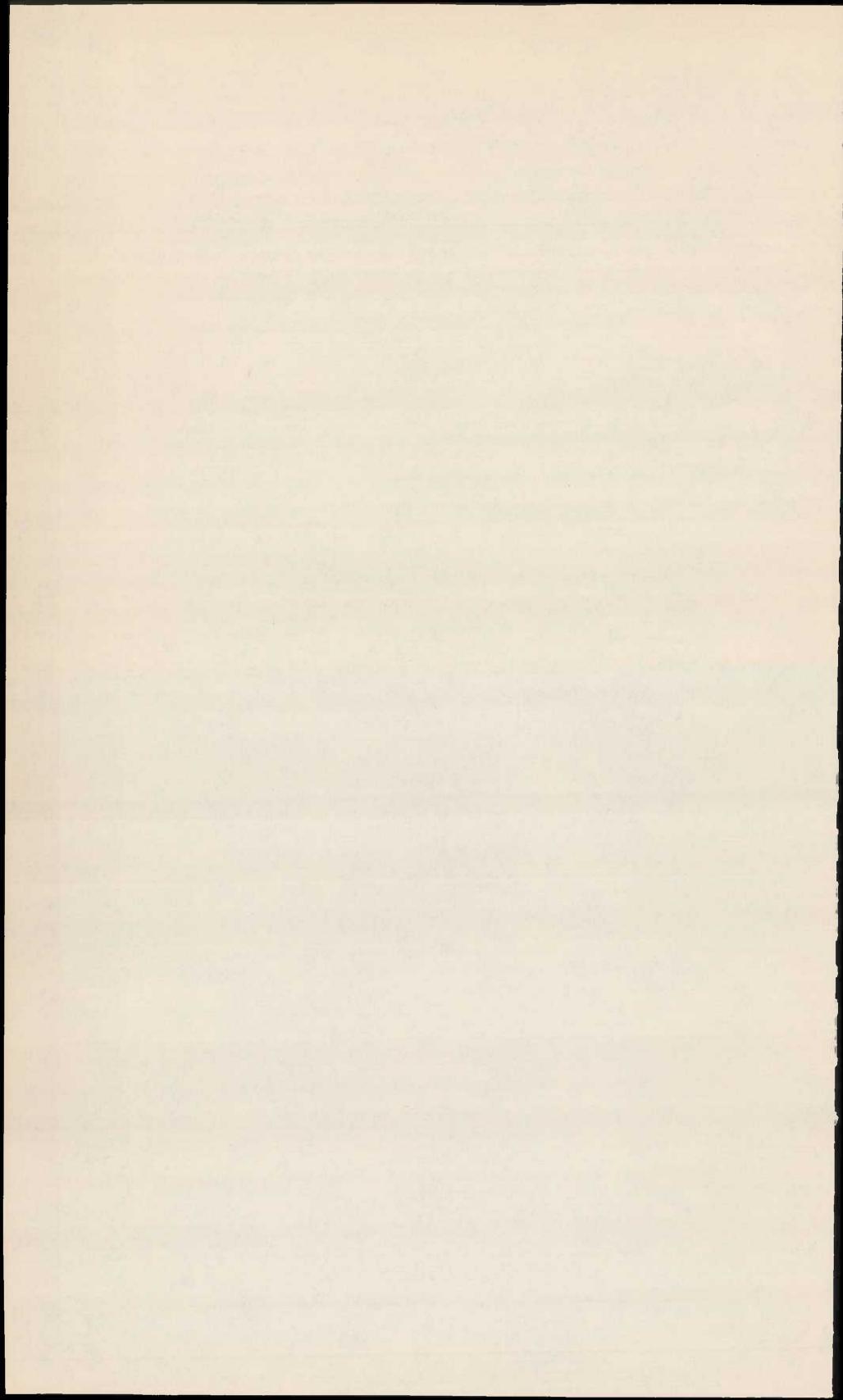
12. "*Sole relief and remedy.*"—Trading with the Enemy Act, § 7 (c). Schilling v. Rogers, p. 666.

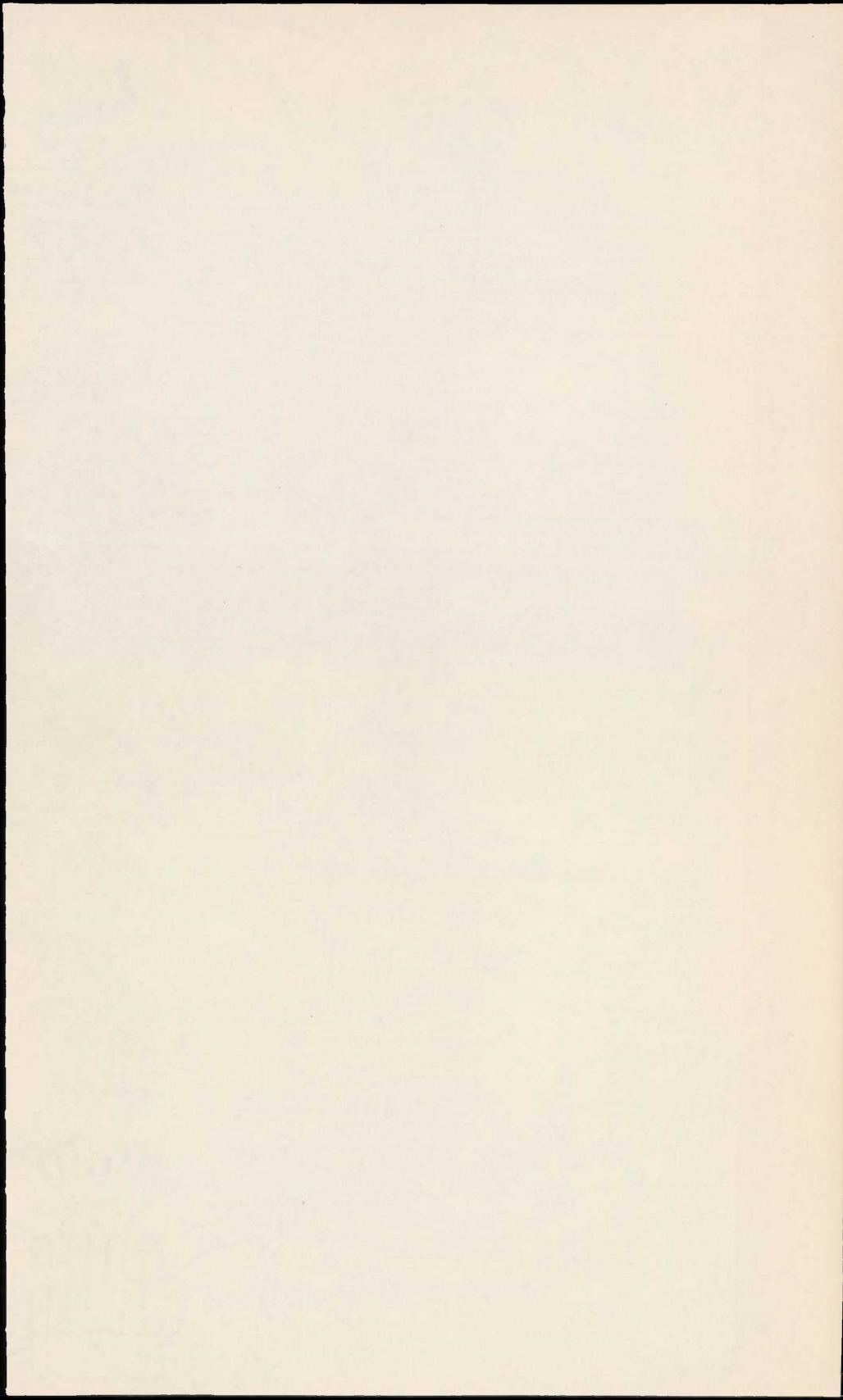
13. "*Take.*"—Fifth Amendment. *United States v. Grand River Dam Authority*, p. 229.

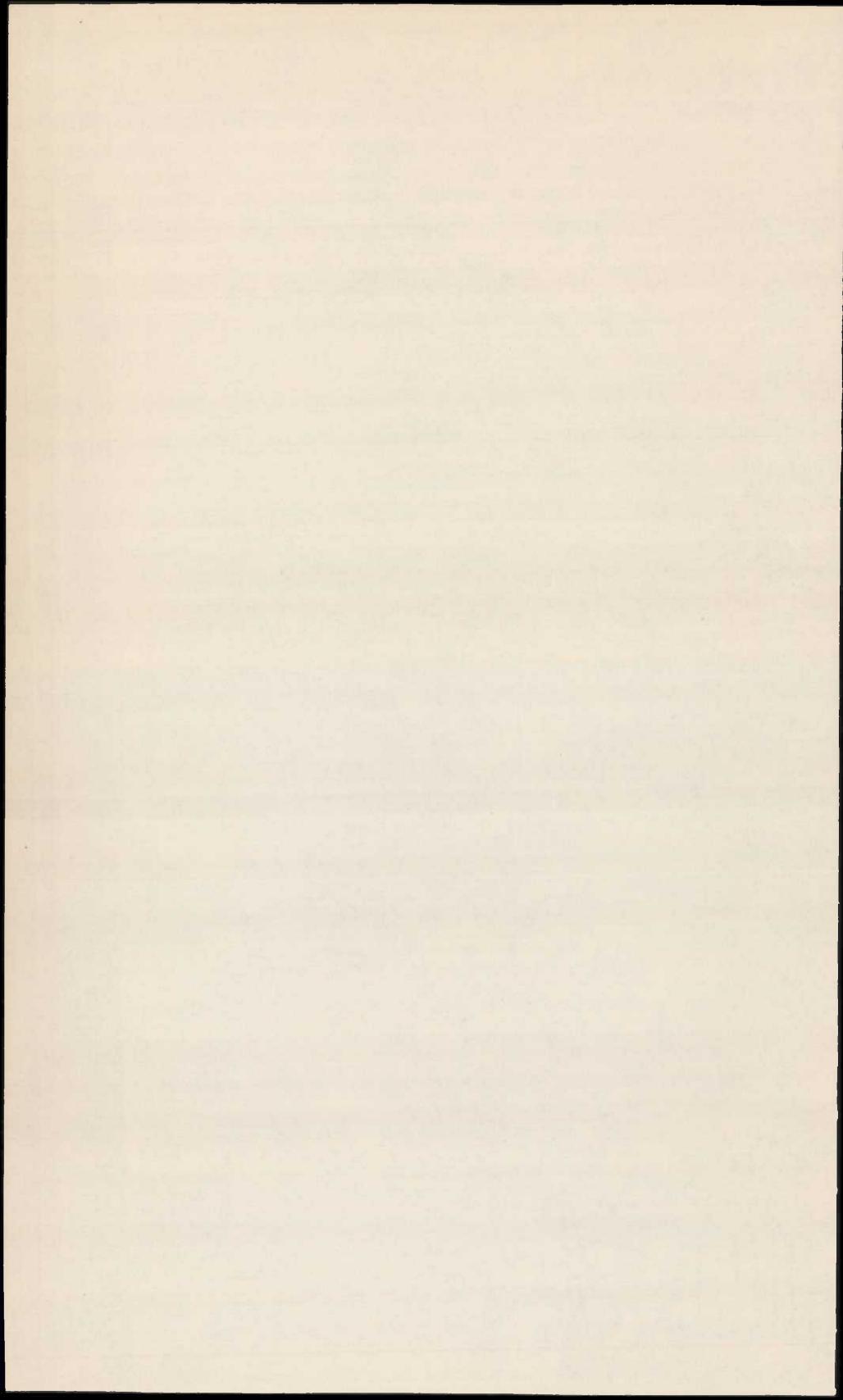
14. "*Where it might have been brought.*"—28 U. S. C. § 1404 (a). *Hoffman v. Blaski*, p. 335.

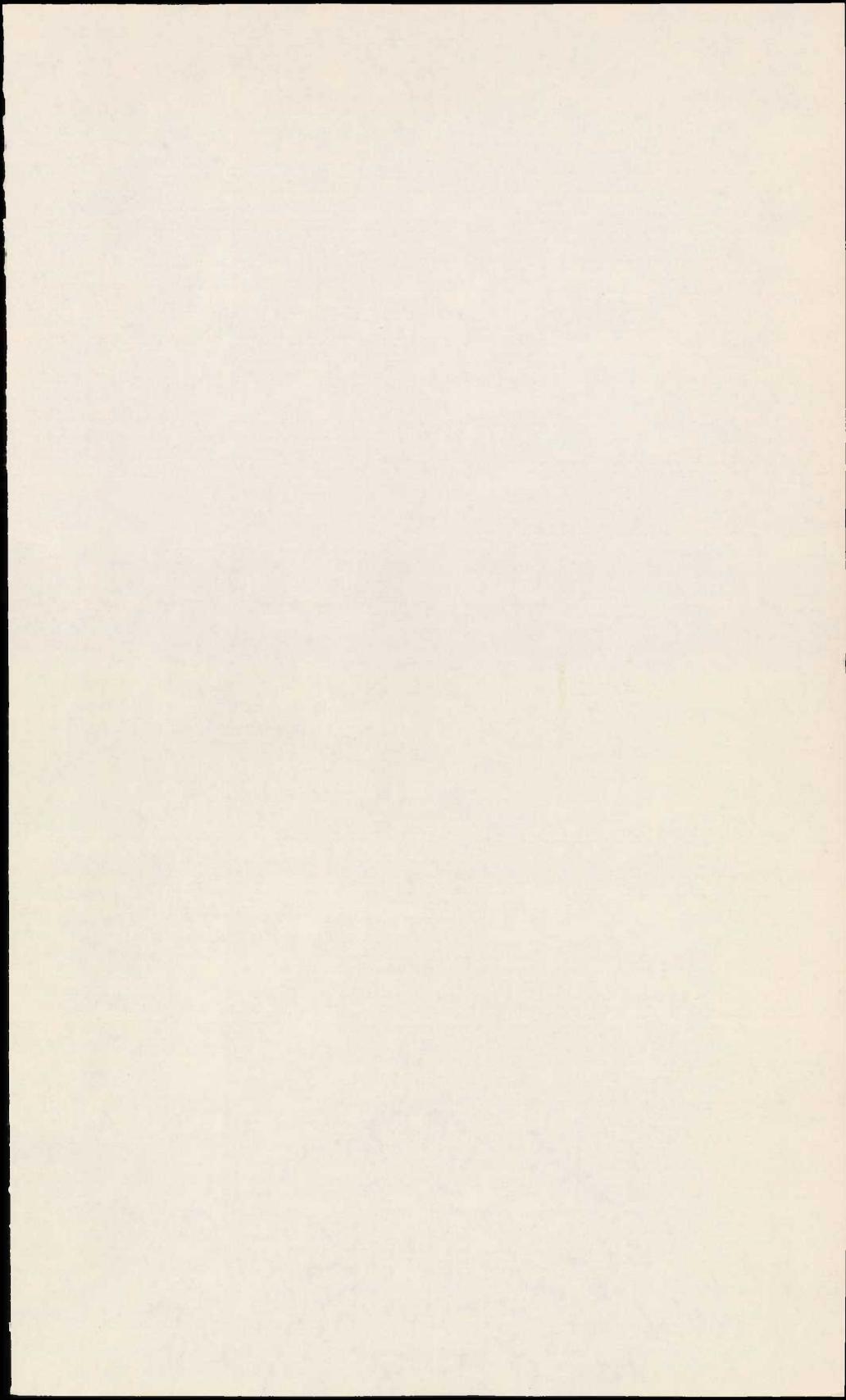


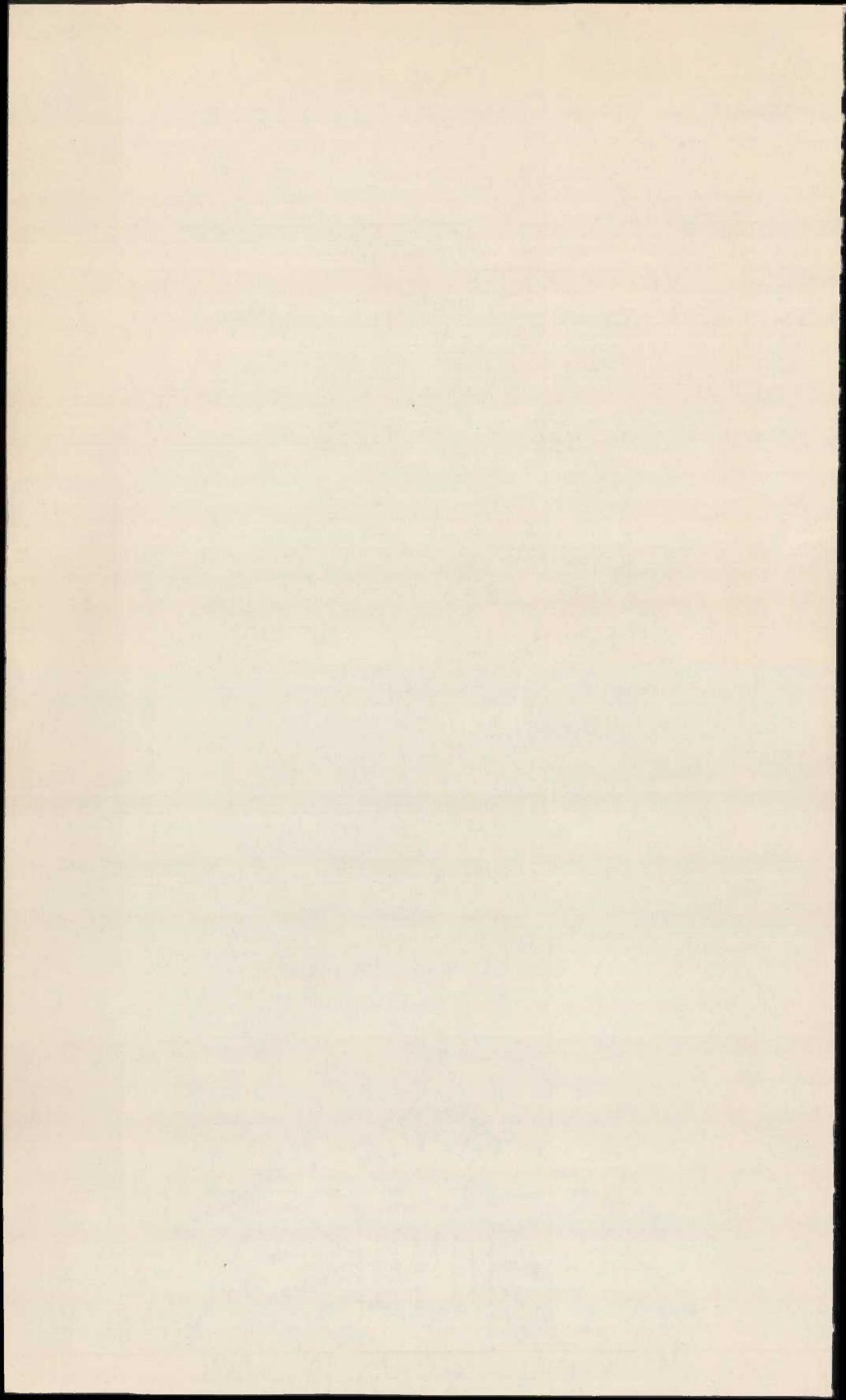


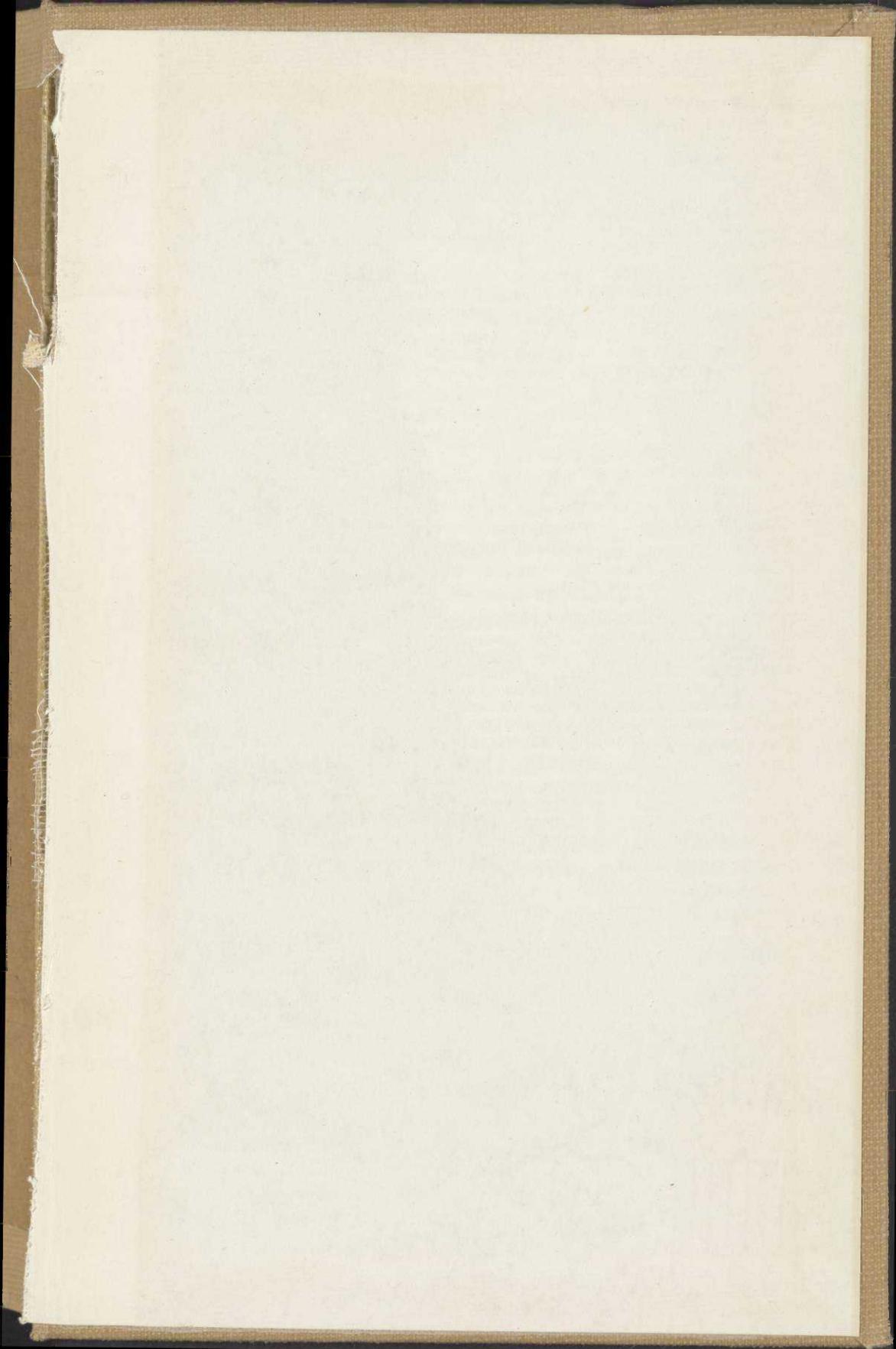














OAMGENPUB1115