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2. *Eviction from public housing—Hearings.*—It would be premature to decide, as petitioner urges, that this Court establish guidelines to insure that she is given not only the reasons for her eviction but also a hearing comporting with due process requirements. *Thorpe v. Housing Authority*, p. 268.

3. *Procedure before eviction—Notice and hearing.*—Authorities of federally assisted public housing projects must follow the requirements of the Department of Housing and Urban Development's circular providing for notice to tenants of the reasons for eviction and an opportunity for explanation or reply before evicting any tenant residing in such projects on the date of this decision, and such procedure does not involve impairment of contractual obligations in violation of the Due Process Clause of the Fifth Amendment. *Thorpe v. Housing Authority*, p. 268.

4. *Right to counsel—Revocation of probation and deferred sentencing—Retroactivity.*—Decision in *Mempa v. Rhay*, 389 U. S. 128, holding that the Sixth Amendment, as applied through the Fourteenth, requires that counsel be afforded felony defendants in

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2. *Indigent prisoner—Transcripts of hearings.*—Under California's system of no appeal but repeated hearings on habeas corpus petitions, where transcripts of evidentiary hearings before lower court are readily available to judicial and prosecuting officials of the State, and where no suggestion is made that there is any adequate substitute therefor, they may not be furnished to those who can afford them and denied to those who are paupers. *Gardner v. California*, p. 367.

3. *Political parties—Position on Ohio ballots—Presidential election.*—State laws enacted to regulate the selection of presidential electors must meet the equal protection requirements of the Fourteenth Amendment, and Ohio's restrictive election laws violate those requirements because they give the two old, established parties a decided advantage over new political parties. *Williams v. Rhodes*, p. 23.

4. *Racial classification—Housing discrimination.*—Akron's City Charter amendment contains an explicitly racial classification treating racial housing matters differently from other racial and housing matters and places special burdens on minorities within the governmental process by making it more difficult to secure legislation on their behalf. Racial classifications "bear a heavier burden of justification" than other classifications, and Akron has not justified its discrimination against minorities, which constitutes a denial of equal protection of the laws. *Hunter v. Erickson*, p. 385.

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and Equal Protection Clauses; and the full-crew laws do not violate Equal Protection Clause by singling out railroads from other forms of transportation, and appellees' contention that the statutes are "unduly oppressive" under the Due Process Clause affords no basis for their invalidation apart from any effect on interstate commerce. *Firemen v. Chicago, R. I. & P. R. Co.*, p. 129.

III. First Amendment.

1. *Church property dispute—Ecclesiastical questions.*—Civil courts cannot, consistently with First Amendment principles, determine ecclesiastical questions in resolving property disputes; and since the departure-from-doctrine element of Georgia's implied trust theory requires civil courts to weigh the significance and meaning of religious doctrines, it can play no role in judicial proceedings. *Presbyterian Church v. Hull Church*, p. 440.

2. *Establishment of religion—Arkansas' anti-evolution statute.*—Arkansas' anti-evolution statute, making it unlawful to teach or to use a textbook that teaches "that mankind ascended or descended from a lower order of animals," violates the Fourteenth Amendment, which embraces the First Amendment's prohibition of state laws respecting an establishment of religion. *Epperson v. Arkansas*, p. 97.

3. *Restraining order—Ex parte orders.*—The 10-day restraining order must be set aside, because, where principles guaranteed by the First Amendment are involved, there is no place for such *ex parte* order, issued without formal or informal notice to petitioners, where no showing is made that it is impossible to serve or notify opposing parties and to give them an opportunity to participate in an adversary proceeding. *Carroll v. Princess Anne*, p. 175.

4. *Student protests—Black armbands.*—In wearing armbands, the students were quiet and passive. They were not disruptive and did not impinge on the rights of others. In these circumstances, their conduct was within the protection of the Free Speech Clause of the First Amendment and the Due Process Clause of the Fourteenth. *Tinker v. Des Moines School Dist.*, p. 503.

5. *Teachers and students—School discipline.*—First Amendment rights are available to teachers and students, subject to application in light of the special characteristics of the school environment. A prohibition against expression of opinion, without any evidence that the rule is necessary to avoid substantial interference with school discipline or the rights of others, is not permissible under the First and Fourteenth Amendments. *Tinker v. Des Moines School Dist.*, p. 503.

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2. *Warrantless search—Incidental to arrest.*—Entry was not justified as incidental to petitioner's arrest, as police did not have probable cause to believe that crime was being committed. Even where search warrant is obtained police must show more than mere assertion by an unidentified informer, and at least as much is needed to support warrantless search. *Recznik v. City of Lorain*, p. 166.

3. *Warrantless search—Public places.*—Petitioner's rights were infringed by entry of police onto his premises, as there was no support for finding the apartment was a "public establishment," and the fact that large number of persons congregate in a private home does not transform it into a public place. *Recznik v. City of Lorain*, p. 166.

V. Sixth Amendment.

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2. *Speedy state trial—Federal prisoner.*—Under the Sixth Amendment as made applicable to the States by the Fourteenth the State of Texas, on demand of federal prisoner who was indicted on Texas criminal charge, was required to make a diligent, good-faith effort to bring him to trial in state court. *Smith v. Hooy*, p. 374.

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CONSULTANTS. See **Arbitration.**

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GOOD-FAITH EFFORT. See **Constitutional Law**, V, 1-2; **Procedure**, 8; **Witnesses.**

GOVERNMENT FINANCING. See **Antitrust Acts**, 2; **Mootness**, 2.

GUIDED TOURS. See **District of Columbia**; **Secretary of the Interior**; **Transportation.**

GUIDELINES. See **Constitutional Law**, I, 2-3; **Public Housing.**

HABEAS CORPUS. See also **Constitutional Law**, I, 1; II, 2; **Judicial Review**, 4; **Procedure**, 4, 9; **Prisoners**; **Selective Service Act**, 3.

1. *Evidentiary hearing—Intervening decision—Abuse of writ.*—Petitioner's failure to demand evidentiary hearing in 1961 followed by such demand after *Townsend v. Sain*, 372 U. S. 293, was decided constitutes no abuse of the writ or a waiver of claim to a hearing. *Smith v. Yeager*, p. 122.

2. *Prison regulations—"Jail-house lawyers."*—In the absence of some provision by Tennessee for a reasonable alternative to assist illiterate or poorly educated prisoners in preparing petitions for post-conviction relief, the State may not validly enforce a regulation which absolutely forbids inmates from furnishing assistance to other prisoners. *Johnson v. Avery*, p. 483.

3. *Successive proceedings—Res judicata—Waivers.*—Essential question in a subsequent habeas corpus proceeding (to which usual principles of *res judicata* do not apply and regardless of waiver standards in other circumstances) is whether petitioner in prior proceeding "deliberately withheld the newly asserted ground or otherwise abused the writ." *Smith v. Yeager*, p. 122.

HEARINGS. See **Constitutional Law**, I, 2-3, 5; II, 2; **Habeas Corpus**, 1, 3; **Procedure**, 4, 7; **Public Housing.**

HOMES. See **Constitutional Law**, II, 4; **Mootness**, 1.

HOMOSEXUALS. See **Extortion.**

HOUSING. See **Constitutional Law**, I, 2-3; II, 4. **Public Housing.**

- HOUSING DISCRIMINATION.** See Constitutional Law, II, 4; Mootness, 1.
- ILLITERATE PRISONERS.** See Habeas Corpus, 2; Prisoners.
- ILLITERATE VOTERS.** See Jurisdiction, 3; Procedure, 10, 12-13; Three-Judge Courts; Voting Rights Act of 1965, 1-3.
- IMPAIRMENT OF CONTRACTS.** See Constitutional Law, I, 2-3; Public Housing.
- IMPLIED TRUST.** See Constitutional Law, III, 1.
- INCOME TAXES.** See Federal Power Commission; Judicial Review, 3; Taxes, 1.
- INDEMNITY.** See Constitutional Law, VI; Procedure, 11.
- INDEPENDENT CANDIDATES.** See Jurisdiction, 3; Procedure, 10, 12-13; Three-Judge Courts; Voting Rights Act of 1965, 1-3.
- INDICTMENTS.** See Extortion.
- INDIGENT PRISONERS.** See Constitutional Law, II, 2.
- INDUCTION.** See Judicial Review, 2, 4; Selective Service Act, 1-3.
- INFORMATION EXCHANGE.** See Antitrust Acts, 1.
- INFORMERS.** See Constitutional Law, IV, 1-3.
- INJUNCTIONS.** See also Constitutional Law, III, 3; Mootness, 3.
Restraining order—Ex parte orders—First Amendment.—The 10-day restraining order must be set aside because, where principles guaranteed by the First Amendment are involved, there is no place for such *ex parte* order, issued without formal or informal notice to petitioners, where no showing is made that it is impossible to serve or notify opposing parties and to give them an opportunity to participate in an adversary proceeding. *Carroll v. Princess Anne*, p. 175.
- INJURY.** See Constitutional Law, VI; Courts; Damages; Procedure, 5, 11.
- INMATES.** See Habeas Corpus, 2; Prisoners.
- INSTRUCTIONS TO JURY.** See Constitutional Law, I, 1; Procedure, 9.
- INSURANCE COMPANIES.** See Securities and Exchange Commission, 1-3.
- INTERNAL REVENUE CODE.** See Taxes, 1.

INTERSTATE COMMERCE. See also **Taxes**, 2.

Alabama license tax on photographers—Local activity—Discrimination.—Appellant was engaged in the essentially local activity of taking pictures and could constitutionally be made subject to Alabama license tax on that local activity. The tax does not discriminate against interstate commerce, since it is levied equally on interstate and intrastate transient photographers and on the record here the tax on out-of-state photographers is not so disproportionate to the tax on fixed-location photographers as to come within the condemnation of the Constitution. *Dunbar-Stanley Studios v. Alabama*, p. 537.

INTERSTATE COMMERCE COMMISSION.

1. *Expertise—Average territorial costs—Adjustments.*—If average territorial costs are shown to be a distortion when applied to particular North-South traffic, reliance on administrative "expertise" is not sufficient, but it must be shown that there is no basic difference, or there must be an adjustment which fairly reflects the difference in costs; and on remand the ICC must make specific findings to adjust average territorial costs with respect to commuter deficits, interchange of cars at border points, and empty freight car return ratios. *B. & O. R. Co. v. Aberdeen & R. R. Co.*, p. 87.

2. *Railroad rate divisions—Costs.*—While mathematical precision and exactitude are not required the nature and volume of the traffic must be known and exposed, if costs are to govern railroad rate divisions. *B. & O. R. Co. v. Aberdeen & R. R. Co.*, p. 87.

INTERSTATE COMPACTS. See **District of Columbia; Secretary of the Interior; Transportation.**

INTERSTATE GAMBLING. See **Constitutional Law**, IV, 1.

INTERSTATE RAILROADS. See **Constitutional Law**, II, 5; **Railroads.**

INTERSTATE TRAVEL. See **Extortion.**

INTRASTATE RAILROADS. See **Constitutional Law**, II, 5; **Railroads.**

INVESTIGATIONS. See **Constitutional Law**, IV, 1.

IOWA. See **Constitutional Law**, I, 1; **Procedure**, 9.

"**JAIL-HOUSE LAWYERS.**" See **Habeas Corpus**, 2; **Prisoners.**

JENCKS ACT. See **Courts-Martial; Judicial Review**, 1.

JOINT RATES. See **Interstate Commerce Commission**, 1-2.

JUDICIAL ENFORCEMENT. See **Administrative Procedure**, 2; **National Labor Relations Act.**

JUDICIAL REVIEW. See also **Courts; Courts-Martial; Damages; Federal Power Commission; Jurisdiction, 2; Procedure, 1, 3, 5; Selective Service Act, 1-3.**

1. *Collateral attack on court-martial—Back-pay suit—Constitutional challenge.*—Even if it is assumed, *arguendo*, despite Article 76 of the Uniform Code of Military Justice, that collateral attack on a court-martial judgment may be made in the Court of Claims through a back-pay suit alleging a “constitutional” defect in the military decision, the claims herein, which involve a rule of evidence concerning accomplice testimony, and the possible application of the Jencks Act, do not on their facts rise to the constitutional level. *United States v. Augenblick*, p. 348.

2. *Draft registrants—Pre-induction review—Exemption for theological students.*—Pre-induction judicial review is not precluded in this case, as § 10 (b) (3) of the Military Selective Service Act of 1967 cannot be construed to impair the clear mandate of § 6 (g) of the Selective Service Act governing the exemption for theological students. *Oestereich v. Selective Service Bd.*, p. 233.

3. *Federal Power Commission—Court of Appeals—Remand.*—Court of Appeals, after this Court’s remand to determine whether it was significant in applying FPC’s tax component formula that respondent had both jurisdictional and nonjurisdictional income, should not have held the issue sufficiently raised by respondent’s petition for rehearing before the FPC, as the FPC did not disclose the basis for its order and thus the cases were not in proper posture for judicial review. *FPC v. United Gas Pipe Line Co.*, p. 71.

4. *Pre-induction review—Conscientious objectors—Draft Board discretion.*—The draft Board had exercised its statutory discretion, evaluating the evidence regarding appellee’s claim to classification as a conscientious objector, and had rejected that claim. Congress may constitutionally require that a registrant’s challenges to such decisions be deferred until after induction, when remedy of habeas corpus would be available, or until defense of criminal prosecution, should he refuse to submit to induction. *Clark v. Gabriel*, p. 256.

JURIES. See **Constitutional Law, VI; Procedure, 5, 11.**

JURISDICTION. See also **Constitutional Law, II, 3; III, 1; District of Columbia; Federal Power Commission; Judicial Review, 3; Procedure, 10, 12-13; Secretary of the Interior; Three-Judge Courts; Transportation; Voting Rights Act of 1965, 1-3.**

1. *Court of Appeals—Three-judge court—Appeals.*—Where three-judge court dissolved itself for want of jurisdiction and single district judge then dismissed the case on ground of abstention and incorpo-

JURISDICTION—Continued.

rated the three-judge court's dissolution order in his opinion by reference, jurisdiction of the appeal from both judgments is in Court of Appeals and not the Supreme Court. *Mengelkoch v. Welfare Comm'n*, p. 83.

2. *Federal courts—Dispute between employees and union and management acting together—Railway Labor Act.*—Federal courts have jurisdiction over this action which essentially involves dispute between some employees, on the one hand, and union and management together, on the other, and not dispute between employees and a carrier concerning meaning of collective bargaining agreement's terms, over which Railroad Adjustment Board would have exclusive jurisdiction under the Railway Labor Act. *Glover v. St. Louis-S. F. R. Co.*, p. 324.

3. *Voting Rights Act of 1965—District courts—Private litigants.*—Restriction of § 14 (b) of the Act, which provides that "[n]o court other than the District Court for the District of Columbia . . . shall have jurisdiction to issue any declaratory judgment pursuant to [§ 5] or any . . . order . . . against the enforcement of any provision of this subchapter," does not apply to suits by private litigants seeking declaratory judgment that new state enactment is subject to § 5's approval requirements, and these actions may be brought in local district courts. *Allen v. State Board of Elections*, p. 544.

JURY VERDICT. See **Courts; Damages; Procedure**, 5.

KOREA. See **Antitrust Acts**, 2; **Mootness**, 2.

LABOR. See **Administrative Procedure**, 2; **Constitutional Law**, II, 5; **Jurisdiction**, 2; **National Labor Relations Act; Procedure**, 3, 5; **Railroads**.

LABOR UNIONS. See **Jurisdiction**, 2; **Procedure**, 3.

LANDLORDS. See **Constitutional Law**, I, 2-3; **Public Housing**.

LAW ENFORCEMENT. See **Extortion**.

LEASES. See **Administrative Procedure**, 1; **Constitutional Law**, I, 2-3; **Federal Trade Commission**, 1-2; **Public Housing**.

LICENSE TAXES. See **Interstate Commerce; Taxes**, 2.

LOCAL ACTIVITY. See **Interstate Commerce; Taxes**, 2.

LOCAL CHURCHES. See **Constitutional Law**, III, 1.

LONGSHOREMEN. See **Constitutional Law**, VI; **Procedure**, 11.

MALL. See **District of Columbia; Secretary of the Interior; Transportation**.

- MARYLAND.** See **Constitutional Law**, III, 3; **Injunctions**; **Mootness**, 3.
- MASSACHUSETTS.** See **Constitutional Law**, I, 5; **Procedure**, 7.
- MASS TRANSIT SERVICES.** See **District of Columbia**; **Secretary of the Interior**; **Transportation**.
- McCARRAN-FERGUSON ACT.** See **Securities and Exchange Commission**, 1-3.
- MERGERS.** See **Securities and Exchange Commission**, 1-3.
- MILEAGE CLASSIFICATION.** See **Constitutional Law**, II, 5; **Railroads**.
- MILITARY JUSTICE.** See **Courts-Martial**; **Judicial Review**, 1.
- MILITARY SELECTIVE SERVICE ACT OF 1967.** See **Judicial Review**, 2, 4; **Selective Service Act**, 1-3.
- MINIBUSES.** See **District of Columbia**; **Secretary of the Interior**; **Transportation**.
- MINIMUM TRAIN CREWS.** See **Constitutional Law**, II, 5; **Railroads**.
- MISREPRESENTATIONS.** See **Securities and Exchange Commission**, 1-3.
- MISSISSIPPI.** See **Jurisdiction**, 3; **Procedure**, 10, 12-13; **Three-Judge Courts**; **Voting Rights Act of 1965**, 1-3.
- MOOTNESS.** See also **Antitrust Acts**, 2; **Constitutional Law**, II, 4; III, 3; **Injunctions**.

1. *Akron fair housing ordinance—Civil Rights Acts—State statute.*—The case is not moot. Neither the Civil Rights Act of 1968 (which specifically preserves local fair housing laws), nor the 1866 Civil Rights Act, was intended to pre-empt local housing ordinances; the Ohio Act of October 30, 1965 (which concerns "commercial" housing), does not apply to this case; and the Akron ordinance provides an enforcement mechanism unmatched by either state or federal legislation. *Hunter v. Erickson*, p. 385.

2. *Antitrust liability—Dissolution of association—Export trade.*—Case is not moot, as Government sought relief not only against the association but also against its members; the Agency for International Development regulation does not apply to all contracts on which former members of the association might bid; and appellees' statement that it would be uneconomical to engage in further joint operations, standing alone, does not satisfy the stringent test for mootness. *U. S. v. Phosphate Export Assn.*, p. 199.

MOOTNESS—Continued.

3. *Restraining order*—*National States Rights Party*—*Public rallies*.—Case is not moot, as the Maryland Court of Appeals' approval of the 10-day restraining order continues to play a role in the response of local officials to efforts of petitioners (members of "white supremacist" National States Rights Party) to continue their activities in the county. *Carroll v. Princess Anne*, p. 175.

MOTIVES. See **Taxes**, 1.

MURDER. See **Constitutional Law**, I, 1, 5; **Procedure**, 7, 9.

NATIONAL LABOR RELATIONS ACT. See also **Administrative Procedure**, 2.

NLRB's authority—*Payment of fringe benefits*—*Judicial enforcement of decree*.—NLRB's authority under the Act to remedy unfair labor practice which occurred when respondent refused to sign collective bargaining agreement negotiated on his behalf included power to require payment of fringe benefits under NLRB's remedial authority to take "affirmative action including reinstatement of employees with or without back pay," which is not "affected by any other means of adjustment . . . established by agreement, law, or otherwise . . ." *NLRB v. Strong*, p. 357.

NATIONAL PARK LANDS. See **District of Columbia**; **Secretary of the Interior**; **Transportation**.

NATIONAL STATES RIGHTS PARTY. See **Constitutional Law**, III, 3; **Injunctions**; **Mootness**, 3.

NATURAL GAS. See **Federal Power Commission**; **Judicial Review**, 3.

NEGROES. See **Constitutional Law**, II, 4; **Jurisdiction**, 2; **Mootness**, 1; **Procedure**, 3.

NEW JERSEY. See **Constitutional Law**, II, 1; **Corporations**.

NONCOMMERCIAL STATIONS. See **Constitutional Law**, II, 1; **Corporations**.

NONCOMPETITIVE PRICING. See **Antitrust Acts**, 2; **Mootness**, 2.

NONPROFIT CORPORATIONS. See **Constitutional Law**, II, 1; **Corporations**.

NORTH-SOUTH TRAFFIC. See **Interstate Commerce Commission**, 1-2.

NOTICE. See **Constitutional Law**, I, 2-3; III, 3; **Injunctions**; **Public Housing**.

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

- ORDINANCES.** See Constitutional Law, II, 4; Mootness, 1.
- ORGANIZED CRIME.** See Extortion.
- PAINTING CONTRACT.** See Arbitration.
- PARKS.** See District of Columbia; Secretary of the Interior; Transportation.
- PARTIALITY.** See Arbitration.
- PAUPERS.** See Constitutional Law, II, 2.
- PENNSYLVANIA.** See Constitutional Law, II, 1; Extortion; Corporations.
- PETITIONS.** See Constitutional Law, II, 3; Habeas Corpus, 2; Prisoners.
- PETROLEUM COMPANIES.** See Administrative Procedure, 1; Federal Trade Commission, 1-2.
- PHOSPHATES.** See Antitrust Acts, 2; Mootness, 2.
- PHOTOGRAPHERS.** See Interstate Commerce; Taxes, 2.
- PIPELINES.** See Federal Power Commission; Judicial Review, 3.
- PLEAS.** See Constitutional Law, I, 5; Procedure, 7.
- POLICE OFFICERS.** See Constitutional Law, IV, 2-3.
- POLITICAL PARTIES.** See Constitutional Law, II, 3.
- POST-CONVICTION RELIEF.** See Constitutional Law, I, 5; Habeas Corpus, 1-3; Prisoners; Procedure, 4, 7.
- PRACTICE OF LAW.** See Habeas Corpus, 2; Prisoners.
- PRE-EMPTION.** See Constitutional Law, II, 5; Railroads; Securities and Exchange Commission, 1-3.
- PRE-INDUCTION JUDICIAL REVIEW.** See Judicial Review, 2, 4; Selective Service Act, 1-3.
- PRELIMINARY HEARING TESTIMONY.** See Constitutional Law, V, 1; Witnesses.
- PREMATURITY.** See Constitutional Law, I, 2-3; Public Housing.
- PRESBYTERIAN CHURCHES.** See Constitutional Law, III, 1.
- PRESIDENTIAL ELECTIONS.** See Constitutional Law, II, 3.
- PRICE DATA.** See Antitrust Acts, 1.
- PRICE-FIXING AGREEMENT.** See Antitrust Acts, 1.
- PRIME CONTRACTORS.** See Arbitration.
- PRINCESS ANNE.** See Constitutional Law, III, 3; Injunctions; Mootness, 3.

PRISONERS. See also **Constitutional Law**, II, 2; **Habeas Corpus**, 2.

Post-conviction relief—Prison regulations—“Jail-house lawyers.”—In the absence of some provision by Tennessee for a reasonable alternative to assist illiterate or poorly educated prisoners in preparing petitions for post-conviction relief, the State may not validly enforce a regulation which absolutely forbids inmates from furnishing assistance to other prisoners. *Johnson v. Avery*, p. 483.

PRISON “WRIT WRITERS.” See **Habeas Corpus**, 2; **Prisoners**.

PRIVATE HOMES. See **Constitutional Law**, IV, 2-3.

PRIVATE LITIGANTS. See **Jurisdiction**, 3; **Procedure**, 10, 12-13; **Three-Judge Courts**; **Voting Rights Act of 1965**, 1-3.

PRIVILEGE TAXES. See **Interstate Commerce**; **Taxes**, 2.

PROBABLE CAUSE. See **Constitutional Law**, IV, 2-3.

PROBABLE-CAUSE HEARINGS. See **Constitutional Law**, I, 5; **Procedure**, 7.

PROBATION. See **Constitutional Law**, I, 4; **Procedure**, 6.

PROCEDURE. See also **Constitutional Law**, I, 1, 4-5; II, 2; V, 2; **Courts**; **Courts-Martial**; **Damages**; **Federal Communications Act**; **Federal Power Commission**; **Habeas Corpus**, 1, 3; **Judicial Review**, 1-4; **Jurisdiction**, 1-3; **Prisoners**; **Public Housing**; **Selective Service Act**, 1-3; **Three-Judge Courts**; **Voting Rights Act of 1965**, 1-3.

1. *Admissibility of evidence—Federal Communications Act—Non-retroactivity.*—This Court's decision holding inadmissible in state criminal trials evidence violative of § 605 of the Act is to be applied only to trials in which such evidence is sought to be introduced after the date of that decision (*Lee v. Florida*, 392 U. S. 378). *Fuller v. Alaska*, p. 80.

2. *Appeal from three-judge court—Jurisdiction—Court of Appeals.*—Where three-judge court dissolved itself for want of jurisdiction and single district judge then dismissed the case on ground of abstention and incorporated the three-judge court's dissolution order in his opinion by reference, jurisdiction of the appeal from both judgments is in Court of Appeals and not the Supreme Court. *Mengelkoch v. Welfare Comm'n*, p. 83.

3. *Exhaustion of remedies—Futility of remedies—No bar to judicial review.*—In this case where resort to contractual or administrative remedies would be wholly fruitless, petitioners' failure to exhaust such remedies constitutes no bar to judicial review of their claims. *Glover v. St. Louis-S. F. R. Co.*, p. 324.

PROCEDURE—Continued.

4. *Habeas corpus*—*Evidentiary hearing*—*Intervening decision*.—Petitioner's failure to demand evidentiary hearing in 1961 followed by such demand after *Townsend v. Sain*, 372 U. S. 293, was decided constitutes no abuse of the writ or a waiver of claim to a hearing. *Smith v. Yeager*, p. 122.

5. *Jury award*—*Trial court's discretion*—*Federal Employers' Liability Act*.—This Court makes its own independent appraisal, and concludes that there was no abuse of the trial court's discretion in allowing the award, which the Court of Appeals thought excessive, to stand. *Grunenthal v. Long Island R. Co.*, p. 156.

6. *Right to counsel*—*Revocation of probation and deferred sentencing*—*Retroactivity*.—Decision in *Mempa v. Rhay*, 389 U. S. 128, holding that the Sixth Amendment, as applied through the Fourteenth, requires that counsel be afforded felony defendants in proceeding for revocation of probation and imposition of deferred sentencing, should be applied retroactively. *McConnell v. Rhay*, p. 2.

7. *Right to counsel at probable-cause hearing*—*Retroactivity*.—Petitioner's plea of guilty to murder at probable-cause hearing when he had no counsel should not have been admitted at his trial, where he had counsel and denied guilt, as *White v. Maryland*, 373 U. S. 59, applies retroactively. *Arsenault v. Massachusetts*, p. 5.

8. *State criminal procedure*—*Trial of federal prisoner*.—Under the Sixth Amendment as made applicable to the States by the Fourteenth the State of Texas, on demand of federal prisoner who was indicted on Texas criminal charge, was required to make a diligent, good-faith effort to bring him to trial in state court. *Smith v. Hoey*, p. 374.

9. *State criminal trial*—*Intervening decision*.—In view of holding by Court of Appeals in another case that the Iowa rule shifting to the defendant the burden of proving an alibi defense in a criminal trial violated due process requirements, this case is vacated and remanded for reconsideration. *Johnson v. Bennett*, p. 253.

10. *Supreme Court*—*Voting Rights Act of 1965*—*Not argued below*.—Since the Virginia legislation was generally attacked as inconsistent with the Voting Rights Act of 1965, and there is no factual dispute, the Court may, in the interests of judicial economy, determine the applicability of § 5 of the Act, even though that section was not argued below. *Allen v. State Board of Elections*, p. 544.

11. *Trial by jury*—*Seventh Amendment*—*Reasonableness of conduct*.—Court of Appeals should not have reversed jury's verdict for petitioner, stevedoring company, on ground that as matter of law it

PROCEDURE—Continued.

had not taken reasonable action to avoid injury to employee, as under the Seventh Amendment the issue as to reasonableness of petitioner's conduct should have been left to the jury. *International Co. v. Nederl. Amerik*, p. 74.

12. *Voting Rights Act of 1965—Prospective effect of decision.*—In view of complexity of issues of first impression, lack of deliberate defiance of the Act from States' failure to submit these enactments for approval, and fact that discriminatory purpose or effect of statutes, if any, has not been judicially determined, decision has prospective effect only. States remain subject to § 5 until they obtain from District Court for District of Columbia declaratory judgment that for at least five years they have not used "tests or devices" proscribed by § 4. *Allen v. State Board of Elections*, p. 544.

13. *Voting Rights Act of 1965—Three-judge courts.*—In light of the extraordinary nature of the Act and its effect on federal-state relationships, and the unique approval requirements of § 5, which also provides that "[a]ny action under this section shall be heard and determined by a court of three judges," disputes involving the coverage of § 5 should be determined by three-judge courts. *Allen v. State Board of Elections*, p. 544.

PROMOTIONS. See **Jurisdiction**, 2; **Procedure**, 3.

PROPERTY. See **Constitutional Law**, II, 4; **Mootness**, 1.

PROPERTY DISPUTES. See **Constitutional Law**, III, 1.

PROSECUTION. See **Judicial Review**, 4; **Selective Service Act**, 3.

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

PROSPECTIVITY. See **Jurisdiction**, 3; **Procedure**, 10, 12-13; **Three-Judge Courts**; **Voting Rights Act of 1965**, 1-3.

PROTESTS. See **Constitutional Law**, III, 4-5.

PROXIES. See **Securities and Exchange Commission**, 1-3.

PUBLIC HOUSING. See also **Constitutional Law**, I, 2-3.

Eviction of tenant—Directive to local housing authorities—Procedure.—Authorities of federally assisted public housing projects must follow the requirements of the Department of Housing and Urban Development's circular providing for notice to tenants of the reasons for eviction and an opportunity for explanation or reply before evicting any tenant residing in such projects on the date of this decision. *Thorpe v. Housing Authority*, p. 268.

PUBLIC OFFICIALS. See **Extortion**.

PUBLIC PLACES. See **Constitutional Law**, IV, 2-3.

- PUBLIC RALLIES.** See Constitutional Law, III, 3; Injunctions; Mootness, 3.
- PUBLIC SCHOOL CURRICULUMS.** See Constitutional Law, III, 2.
- PUBLIC SCHOOLS.** See Constitutional Law, III, 4-5.
- PUERTO RICO.** See Arbitration.
- PUPILS.** See Constitutional Law, III, 4-5.
- PURCHASES.** See Securities and Exchange Commission, 1-3.
- QUALIFICATIONS FOR VOTING.** See Jurisdiction, 3; Procedure, 10, 12-13; Three-Judge Courts; Voting Rights Act of 1965, 1-3.
- RACIAL DISCRIMINATION.** See Constitutional Law, II, 4; Mootness, 1.
- RAILROAD ADJUSTMENT BOARD.** See Jurisdiction, 2; Procedure, 3.
- RAILROAD EMPLOYEES.** See Jurisdiction, 2; Procedure, 3.
- RAILROADS.** See also Constitutional Law, II, 5; Interstate Commerce Commission, 1-2.
- Full-crew laws—Legislative judgment—Railroad safety.*—Whether full-crew laws are necessary to railroad safety is for legislative determination. Here the District Court erred in rejecting the legislative judgment that such laws promote railroad safety and that cost of additional crewmen is justified by the safety such laws might achieve. *Firemen v. Chicago, R. I. & P. R. Co.*, p. 129.
- RAILWAY LABOR ACT.** See Jurisdiction, 2; Procedure, 3.
- RALLIES.** See Constitutional Law, III, 3; Injunctions; Mootness, 3.
- RATE DIVISIONS.** See Interstate Commerce Commission, 1-2.
- REAL PROPERTY.** See Constitutional Law, II, 4; Mootness, 1.
- REASONABLENESS.** See Constitutional Law, VI; Procedure, 11.
- RECIPROCITY.** See Antitrust Acts, 1.
- REFUSAL TO SIGN CONTRACT.** See Administrative Procedure, 2; National Labor Relations Act.
- REGISTRATION CERTIFICATES.** See Judicial Review, 2; Selective Service Act, 1-2.
- REGULATIONS.** See Antitrust Acts, 2; Constitutional Law, III, 4-5; Habeas Corpus, 2; Mootness, 2; Prisoners.
- REGULATORY JURISDICTION.** See District of Columbia; Secretary of the Interior; Transportation.

- RELIGION.** See Constitutional Law, III, 2.
- RELIGIOUS DISCRIMINATION.** See Constitutional Law, II, 4; Mootness, 1.
- RELIGIOUS DOCTRINES.** See Constitutional Law, III, 1.
- REMEDIES.** See Administrative Procedure, 2; Jurisdiction, 2; National Labor Relations Act; Procedure, 3; Securities and Exchange Commission, 1-3.
- RENTS.** See Constitutional Law, I, 2-3; Public Housing.
- RES JUDICATA.** See Habeas Corpus, 1, 3; Procedure, 4.
- RESTRAINING ORDERS.** See Constitutional Law, III, 3; Injunctions; Mootness, 3.
- RETROACTIVITY.** See Constitutional Law, I, 4-5; Federal Communications Act; Procedure, 1, 6-7; Witnesses.
- REVOCAION OF PROBATION.** See Constitutional Law, I, 4; Procedure, 6.
- RIGHT TO COUNSEL.** See Constitutional Law, I, 4-5; Procedure, 6-7.
- RIGHT TO VOTE.** See Jurisdiction, 3; Procedure, 10, 12-13; Three-Judge Courts; Voting Rights Act of 1965, 1-3.
- SAFETY.** See Constitutional Law, II, 5; Railroads.
- SALES.** See Antitrust Acts, 2; Mootness, 2.
- SALES COMMISSIONS.** See Administrative Procedure, 1; Federal Trade Commission, 1-2.
- SCHOOL BOOKS.** See Constitutional Law, III, 2.
- SCHOOLS.** See Constitutional Law, III, 4-5.
- SCHOOL TEACHERS.** See Constitutional Law, III, 2, 4-5.
- SCIENTIFIC THEORY.** See Constitutional Law, III, 2.
- SEARCH AND SEIZURE.** See Constitutional Law, IV.
- SECRETARY OF THE INTERIOR.** See also District of Columbia; Transportation.

Jurisdiction—Bus service on the Mall—District of Columbia.—When Congress established the Washington Metropolitan Area Transit Commission it did not intend to create dual regulatory jurisdiction by divesting the Secretary of the Interior of his long-standing "exclusive charge and control" over the Mall. D. C. Transit System's franchise does not protect it against competition from petitioner's leisurely sightseeing service on the Mall outside WMATC jurisdiction. *Shuttle Corp. v. Transit Comm'n*, p. 186.

SECURITIES AND EXCHANGE COMMISSION.

1. *Arizona's regulation of insurance companies—McCarran-Ferguson Act—Federal securities regulation.*—Arizona's statutory regulation insofar as it applies to the relationship between insurance companies and their stockholders does not come within the scope of the McCarran-Ferguson Act and does not render the federal securities laws inapplicable. SEC v. National Securities, Inc., p. 453.

2. *McCarran-Ferguson Act—Fraudulent misrepresentations—Remedies.*—The Act does not bar the remedies, including return to the *status quo ante*, which the SEC is seeking, as the complaint is based on fraudulent misrepresentations and not on the illegality of the merger; any "impairment" of the state insurance laws is very indirect; and the paramount federal interest in protecting shareholders is compatible with the paramount state interest in protecting policyholders. SEC v. National Securities, Inc., p. 453.

3. *Securities Exchange Act—Exchange of shares—"Purchases."*—Deception alleged here has affected stockholders' decisions in a way not unlike that involved in typical cash sale or share exchange and in light of the broad antifraud purposes of § 10 (b) of the Act and SEC Rule 10b-5, which apply "in connection with the purchase or sale of any security," exchanges of old stock for shares in the new merged company are "purchases" within the meaning of that statutory language. SEC v. National Securities, Inc., p. 453.

SECURITIES EXCHANGE ACT. See **Securities and Exchange Commission.**

SELECTIVE SERVICE ACT. See also **Judicial Review**, 2, 4.

1. *Draft registrants—Theological students—Deprivation of exemption.*—There is no legislative authority to deny an unequivocal statutory exemption to a registrant who has qualified for one because of conduct unrelated to merits of granting or continuing the exemption, and delinquency proceedings cannot be used for that purpose. Oestereich v. Selective Service Bd., p. 233.

2. *Draft registrants—Theological students—Pre-induction judicial review.*—Pre-induction judicial review is not precluded in this case, as § 10 (b) (3) of the Military Selective Service Act of 1967 cannot be construed to impair the clear mandate of § 6 (g) of the Selective Service Act governing the exemption for theological students. Oestereich v. Selective Service Bd., p. 233.

3. *Pre-induction judicial review—Conscientious objectors—Draft Board discretion.*—The draft Board had exercised its statutory discretion evaluating the evidence regarding appellee's claim to classification as a conscientious objector, and had rejected that claim.

SELECTIVE SERVICE ACT—Continued.

Congress may constitutionally require that a registrant's challenges to such decisions be deferred until after induction, when remedy of habeas corpus would be available, or until defense of criminal prosecution, should he refuse to submit to induction. Clark v. Gabriel, p. 256.

SENTENCES. See **Constitutional Law**, I, 4; **Procedure**, 6.

SERVICE STATIONS. See **Administrative Procedure**, 1; **Federal Trade Commission**, 1-2.

SEVENTH AMENDMENT. See **Constitutional Law**, VI; **Procedure**, 11.

“**SHAKE DOWN.**” See **Extortion**.

SHERMAN ACT. See **Antitrust Acts**, 2; **Mootness**, 2.

SHIPOWNER. See **Constitutional Law**, VI; **Procedure**, 11.

SIGHTSEEING SERVICES. See **District of Columbia**; **Secretary of the Interior**; **Transportation**.

SIXTH AMENDMENT. See **Constitutional Law**, V; **Procedure**, 8; **Witnesses**.

SOCIALIST LABOR PARTY. See **Constitutional Law**, II, 3.

SOMERSET COUNTY. See **Constitutional Law**, III, 3; **Injunctions**; **Mootness**, 3.

SOUTHEASTERN UNITED STATES. See **Antitrust Acts**, 1.

SOVEREIGNTY. See **Constitutional Law**, V, 2; **Procedure**, 8.

SPEEDY TRIAL. See **Constitutional Law**, V, 2; **Procedure**, 8.

STABILIZATION OF PRICES. See **Antitrust Acts**, 1.

STATE CRIMINAL TRIALS. See **Constitutional Law**, V, 2; **Procedure**, 8.

STATE INSURANCE REGULATION. See **Securities and Exchange Commission**, 1-3.

STATE STATUTES. See **Jurisdiction**, 3; **Procedure**, 10, 12-13; **Three-Judge Courts**; **Voting Rights Act of 1965**, 1-3.

STATE TAXES. See **Interstate Commerce**; **Taxes**, 2.

STATUTORY EXEMPTIONS. See **Judicial Review**, 2; **Selective Service Act**, 1-2.

STEVEDORES. See **Constitutional Law**, VI; **Procedure**, 11.

STOCKHOLDERS. See **Securities and Exchange Commission**, 1-3; **Taxes**, 1.

STUDENTS. See **Constitutional Law**, III, 4-5.

SUBCONTRACTORS. See **Arbitration**.

SUBMISSIONS. See **Voting Rights Act of 1965**, 1-3.

SUPERINTENDENTS OF EDUCATION. See **Jurisdiction**, 3;
Procedure, 10, 12-13; **Three-Judge Courts**; **Voting Rights Act of 1965**, 1-3.

SUPREME COURT. See also **Jurisdiction**, 1; **Procedure**, 2.

1. Assignment of Mr. Justice Reed (retired) to United States Court of Claims, p. 1113.

2. Assignment of Mr. Justice Clark (retired) to United States Court of Appeals for the Second Circuit, p. 1113.

SURVEILLANCE. See **Constitutional Law**, IV, 1.

TAX AVOIDANCE. See **Taxes**, 1.

TAXES. See also **Corporations**; **Federal Power Commission**; **Interstate Commerce**; **Judicial Review**, 3.

1. *Accumulated earnings tax—Tax avoidance—Dominant motive.*—Tax imposed on accumulated earnings of a corporation “formed or availed of for the purpose of avoiding the income tax with respect to shareholders” applies if such tax avoidance was one of the purposes of an unreasonable accumulation of corporate earnings even though it was not the dominant, controlling, or impelling motive for the accumulation. *United States v. Donruss Co.*, p. 297.

2. *License tax on photographers—Interstate commerce—Discrimination.*—Appellant was engaged in the essentially local activity of taking pictures and could constitutionally be made subject to Alabama license tax on that local activity. The tax does not discriminate against interstate commerce, since it is levied equally on interstate and intrastate transient photographers and on the record here the tax on out-of-state photographers is not so disproportionate to the tax on fixed-location photographers as to come within the condemnation of the Constitution. *Dunbar-Stanley Studios v. Alabama*, p. 537.

TEACHERS. See **Constitutional Law**, III, 2, 4-5.

TELEGRAMS. See **Federal Communications Act**; **Procedure**, 1.

TELEPHONES. See **Constitutional Law**, IV, 1.

TELEVISION STATIONS. See **Constitutional Law**, II, 1; **Corporations**.

TENANTS. See **Constitutional Law**, I, 2-3; **Public Housing**.

TENNESSEE. See **Habeas Corpus**, 2; **Prisoners**.

TERRITORIAL COSTS. See Interstate Commerce Commission, 1-2.

TESTIMONY. See Constitutional Law, V, 1; Witnesses.

TESTS OR DEVICES. See Jurisdiction, 3; Procedure, 10, 12-13; Three-Judge Courts; Voting Rights Act of 1965, 1-3.

TEXAS. See Constitutional Law, V, 2; Procedure, 8.

TEXTBOOKS. See Constitutional Law, III, 2.

THEOLOGICAL STUDENTS. See Judicial Review, 2; Selective Service Act, 1-2.

THREE-JUDGE COURTS. See also Jurisdiction, 1, 3; Procedure, 2, 10, 12-13; Voting Rights Act of 1965, 1-3.

Voting Rights Act of 1965—Procedure.—In light of the extraordinary nature of the Act and its effect on federal-state relationships, and the unique approval requirements of § 5, which also provides that “[a]ny action under this section shall be heard and determined by a court of three judges,” disputes involving the coverage of § 5 should be determined by three-judge courts. *Allen v. State Board of Elections*, p. 544.

TIPS. See Constitutional Law, IV, 1-3.

TIRES. See Administrative Procedure, 1; Federal Trade Commission, 1-2.

TOURS. See District of Columbia; Secretary of the Interior; Transportation.

TRAIN CREWS. See Constitutional Law, II, 5; Railroads.

TRANSCRIPTS OF HEARINGS. See Constitutional Law, II, 2.

TRANSIENT PHOTOGRAPHERS. See Interstate Commerce; Taxes, 2.

TRANSIT SYSTEMS. See District of Columbia; Secretary of the Interior; Transportation.

TRANSPORTATION. See also Constitutional Law, II, 5; District of Columbia; Interstate Commerce Commission, 1-2; Railroads; Secretary of the Interior.

Bus service on the Mall—District of Columbia—Jurisdiction.—When Congress established the Washington Metropolitan Area Transit Commission it did not intend to create dual regulatory jurisdiction by divesting the Secretary of the Interior of his long-standing “exclusive charge and control” over the Mall. D. C. Transit System’s franchise does not protect it against competition from petitioner’s leisurely sightseeing service on the Mall outside WMATC jurisdiction. *Shuttle Corp. v. Transit Comm’n* p. 186.

- TRAVEL ACT.** See Extortion.
- TRIAL BY JURY.** See Constitutional Law, VI; Procedure, 11.
- TRIALS.** See Constitutional Law, I, 1; V, 2; Procedure, 8-9.
- TRUST OF CHURCH PROPERTY.** See Constitutional Law, III, 1.
- UNAVAILABILITY OF WITNESSES.** See Constitutional Law, V, 1; Witnesses.
- UNFAIR COMPETITION.** See Administrative Procedure, 1; Federal Trade Commission.
- UNFAIR LABOR PRACTICES.** See Administrative Procedure, 2; National Labor Relations Act.
- UNIDENTIFIED INFORMERS.** See Constitutional Law, IV, 2-3.
- UNIFORM CODE OF MILITARY JUSTICE.** See Courts-Martial; Judicial Review, 1.
- UNIONS.** See Administrative Procedure, 2; Jurisdiction, 2; National Labor Relations Act; Procedure, 3.
- UNITED STATES ARBITRATION ACT.** See Arbitration.
- UNITED STATES COMMISSIONERS.** See Constitutional Law, IV, 1.
- UNREASONABLE ACCUMULATIONS.** See Taxes, 1.
- VENTILATING SYSTEM.** See Constitutional Law, VI; Procedure, 11.
- VIETNAM.** See Constitutional Law, III, 4-5; Judicial Review, 2; Selective Service Act, 1-2.
- VIRGINIA.** See Jurisdiction, 3; Procedure, 10, 12-13; Three-Judge Courts; Voting Rights Act of 1965, 1-3.
- VOTING.** See Constitutional Law, II, 3.
- VOTING RIGHTS ACT OF 1965.** See also Jurisdiction, 3; Procedure, 10, 12-13; Three-Judge Courts.
1. *Approval requirements—State statutes and regulations.*—State statutes involved here are subject to § 5's approval requirements as the Act, which gives a broad interpretation to the right to vote and recognizes that voting includes "all actions necessary to make a vote effective," was aimed at the subtle as well as the obvious state regulations which have the effect of denying citizens their right to vote because of race. *Allen v. State Board of Elections*, p. 544.
2. *Approval requirements—Submission to Attorney General.*—The Act requires that the State must in some unambiguous and recordable manner submit any legislation or regulation to the Attor-

VOTING RIGHTS ACT OF 1965—Continued.

ney General with a request for his consideration, and there is no "submission" when the Attorney General merely becomes aware of the legislation or when briefs are served on him. *Allen v. State Board of Elections*, p. 544.

3. *Denial of right to vote—Private litigants.*—Private litigants may invoke the jurisdiction of the district courts to obtain relief under § 5, to insure the Act's guarantee that no person shall be denied the right to vote for failure to comply with an unapproved new enactment subject to that section. *Allen v. State Board of Elections*, p. 544.

WAGERING. See **Constitutional Law**, IV, 1.

WAIVERS. See **Habeas Corpus**, 1, 3; **Procedure**, 4.

WAR. See **Judicial Review**, 2; **Selective Service Act**, 1-2.

WARRANTLESS SEARCH. See **Constitutional Law**, IV, 2-3.

WARRANTS. See **Constitutional Law**, IV, 1.

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION. See **District of Columbia**; **Secretary of the Interior**; **Transportation**.

WEBB-POMERENE ACT. See **Antitrust Acts**, 2; **Mootness**, 2.

WHITE SUPREMACISTS. See **Constitutional Law**, III, 3; **Injunctions**; **Mootness**, 3.

WITNESSES. See also **Constitutional Law**, V, 1.

Absence from jurisdiction—Good-faith effort to secure—Retroactivity.—The holding in *Barber v. Page*, 390 U. S. 719, that absence of witness from the jurisdiction would not justify use at trial of preliminary hearing testimony unless State had made good-faith effort to secure witness' presence, should be given retroactive application. *Berger v. California*, p. 314.

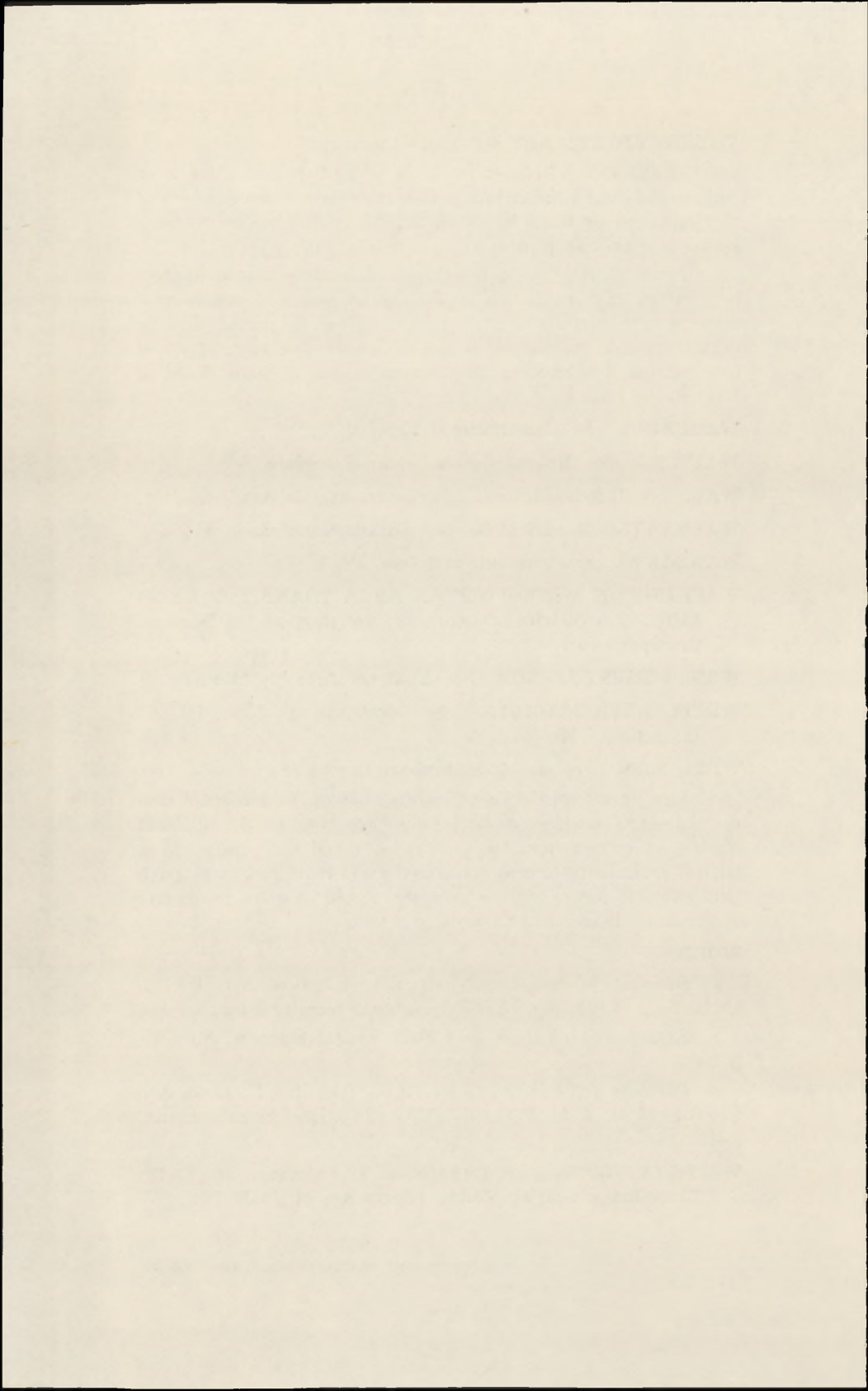
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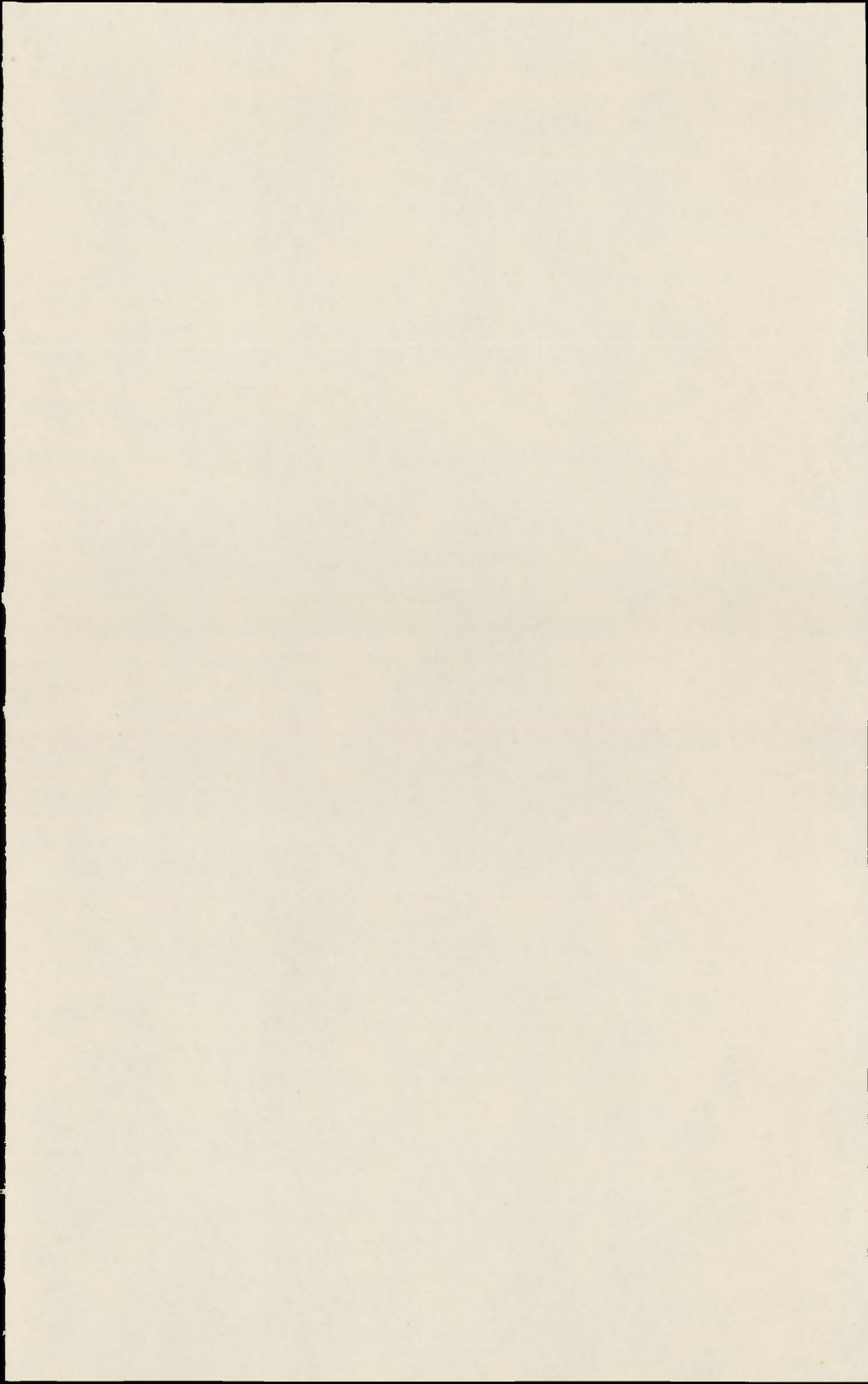
1. "*Business of insurance.*" *McCarran-Ferguson Act*, § 2 (b), 15 U. S. C. § 1012 (b). *SEC v. National Securities, Inc.*, p. 453.

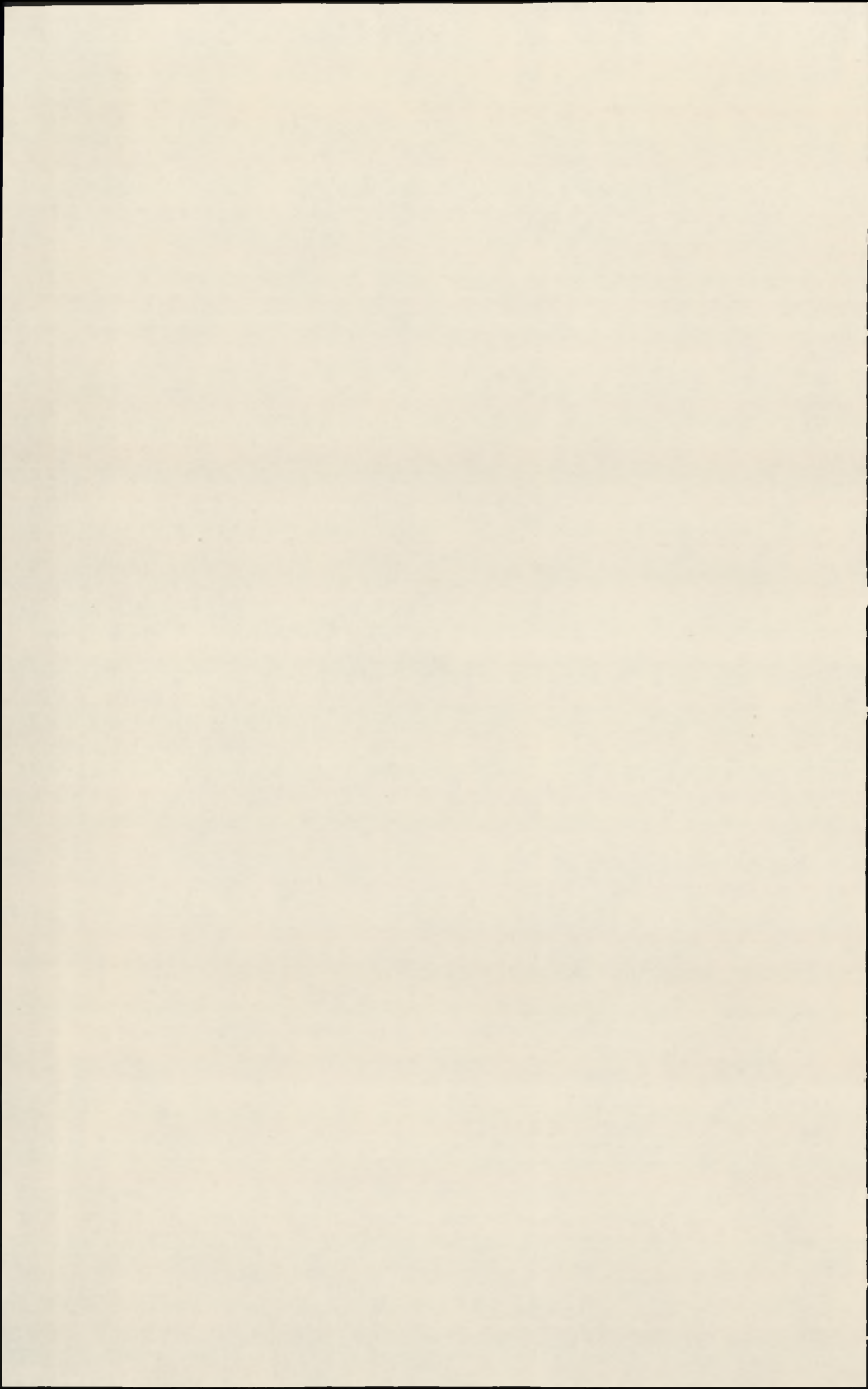
2. "*Extortion.*" 18 U. S. C. § 1952. *United States v. Nardello*, p. 286.

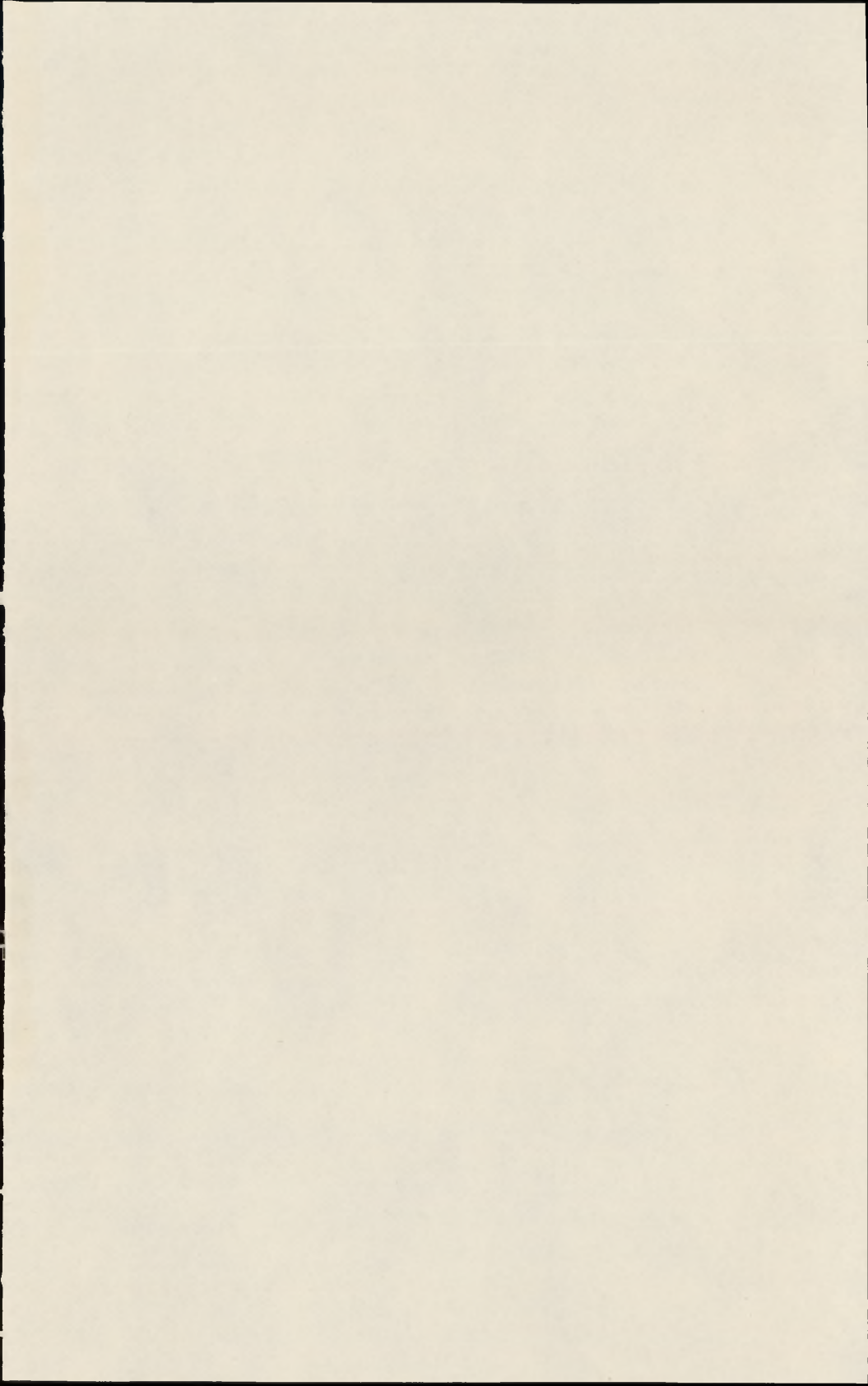
3. "*Purchase and sale of any security.*" *Securities Exchange Act*, § 10 (b), 15 U. S. C. § 78j (b). *SEC v. National Securities, Inc.*, p. 453.

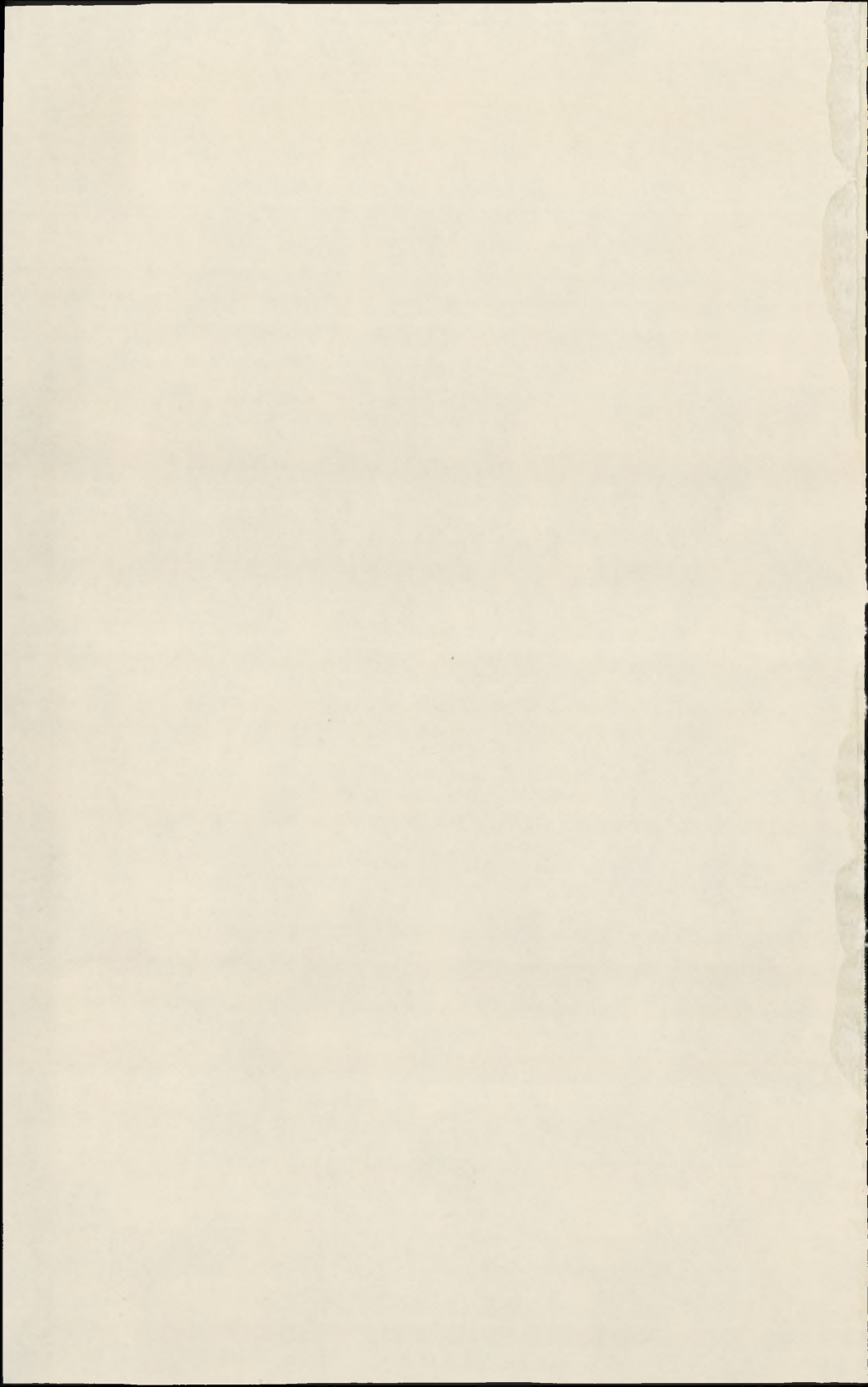
WRITE-IN VOTES. See **Jurisdiction**, 3; **Procedure**, 10, 12-13; **Three-Judge Courts**; **Voting Rights Act of 1965**, 1-3.

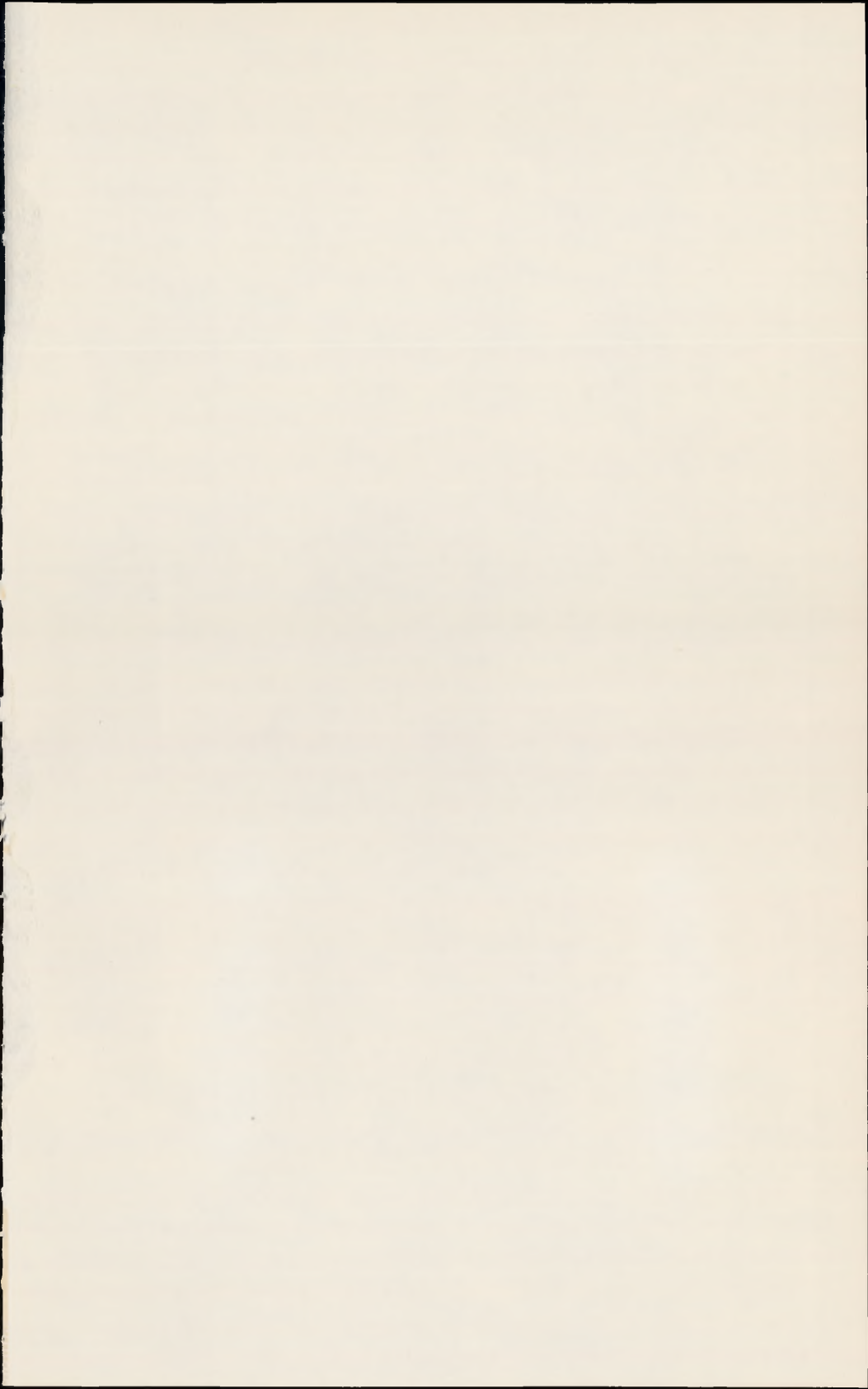


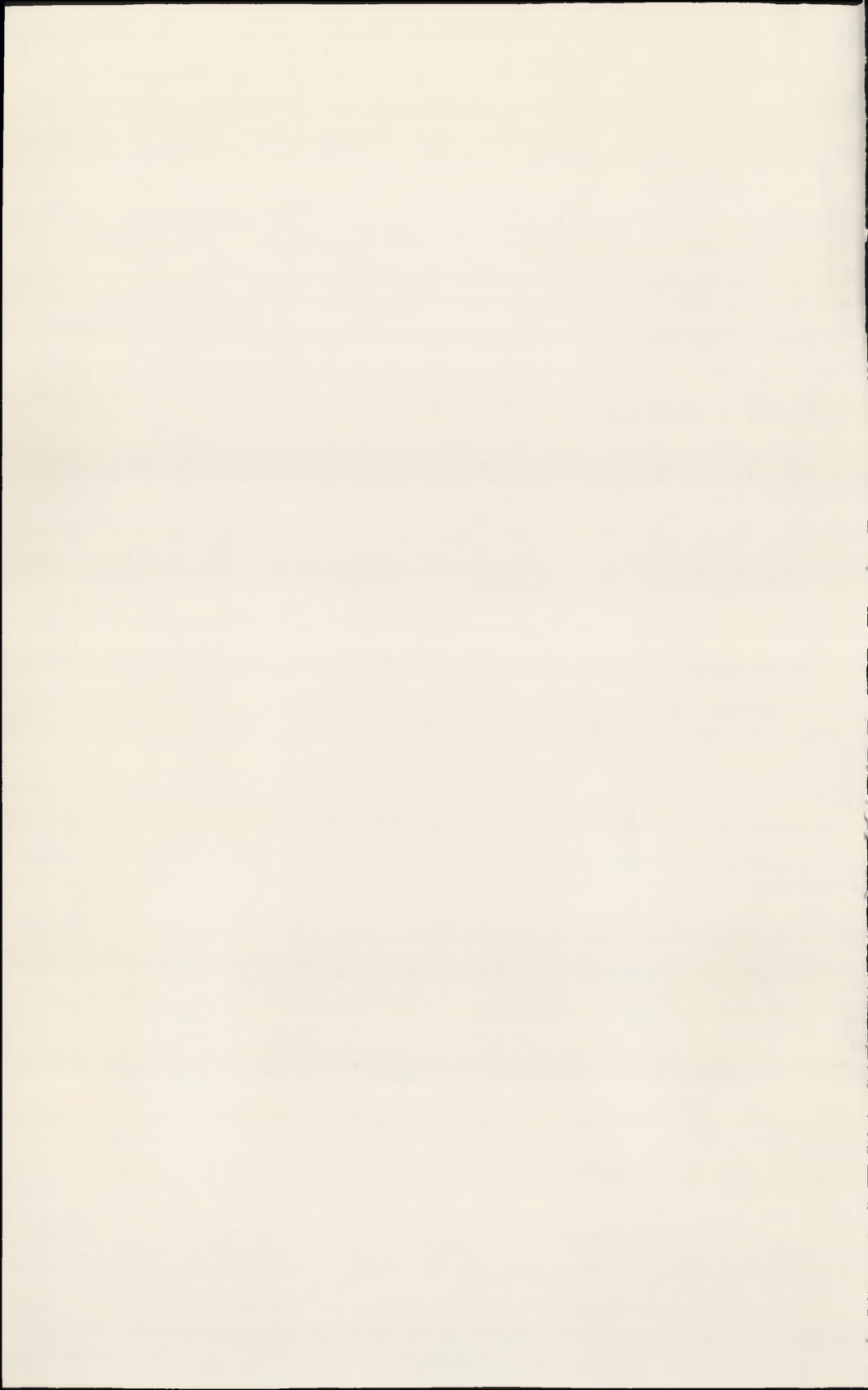


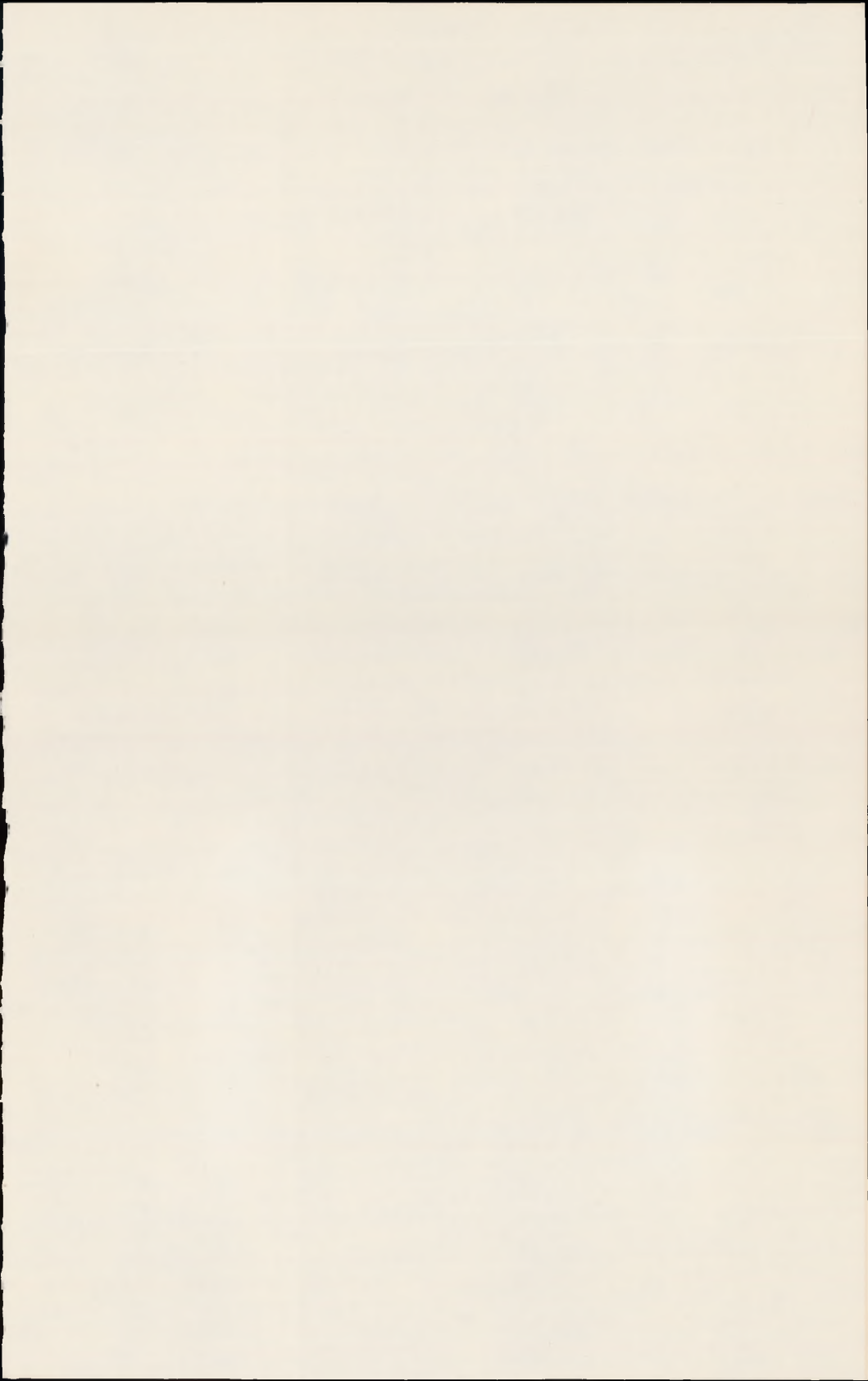


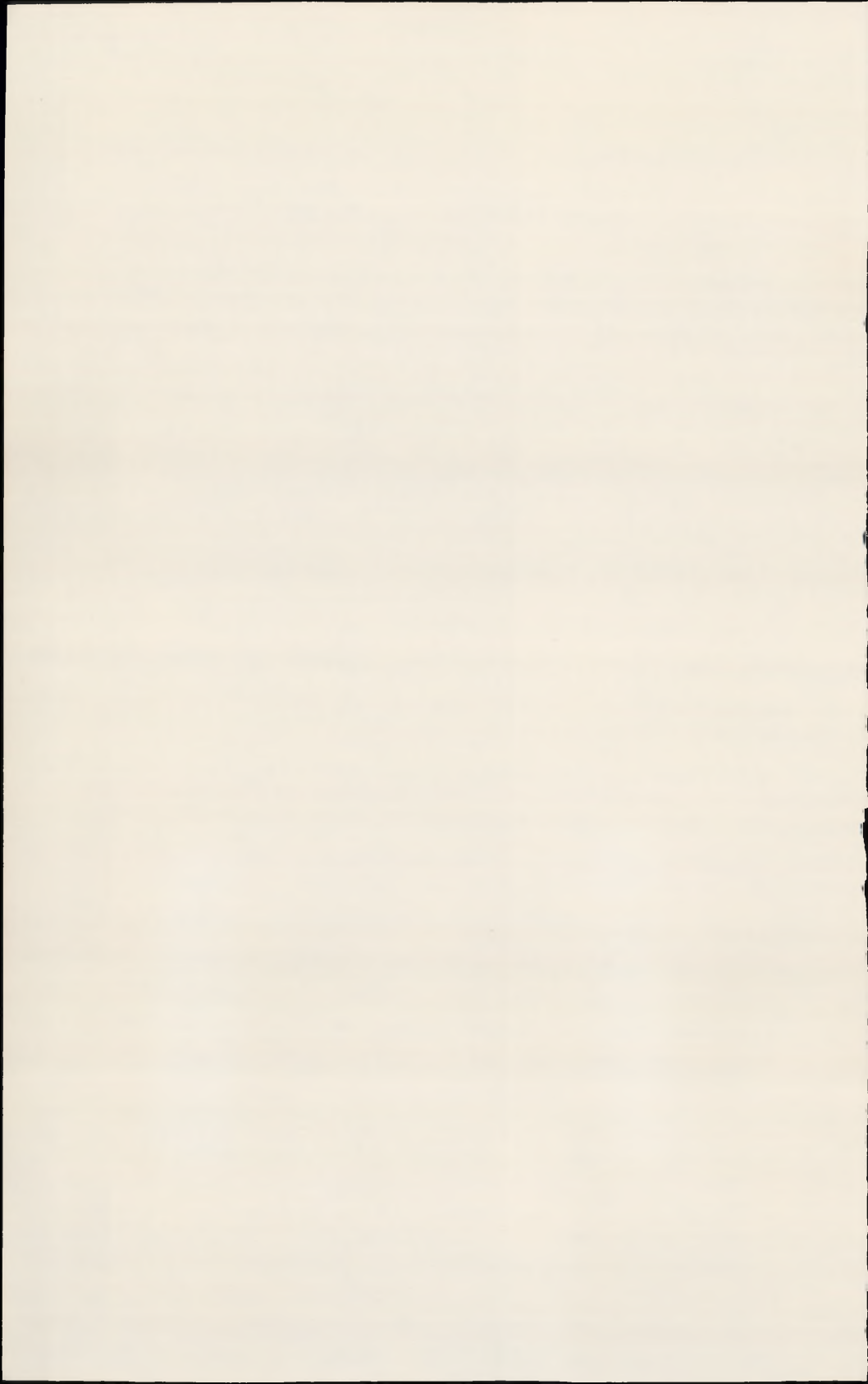


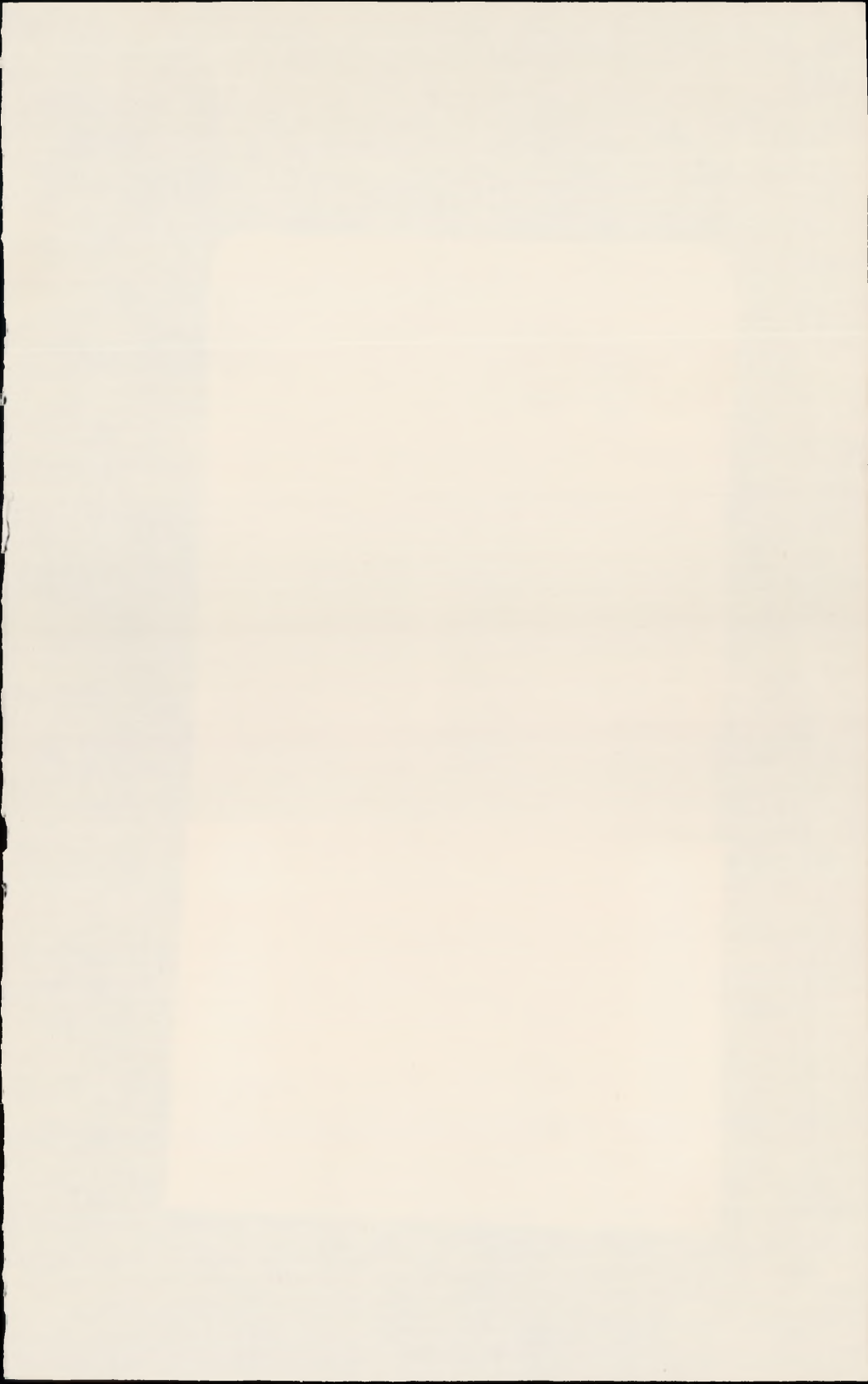












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