

INDEX—DIGEST

- Accident**
See *Insurance*
- Actions**
See *Debt, Ejectment, Injunctions, Legal History, Replevin, Trespass, Unincorporated Associations*
- Administrative Law**
See also *Mandamus*
Enjoining execution of administrative orders: number of judges required in federal practice 107
French Administrative Law 597-627
—: French and Anglo-American systems distinguished 597
—: judicial control over administrative ordinances 600
—: recourse for excess of power 602
—: the doctrine of *actes de gouvernement* 606
—: grounds of annulment of administrative acts 609
—: persons qualified to attack the legality of administrative acts 610
—: the doctrine of parallel recourse and the counsel of state as judges of facts 611
—: effects of annulment of administrative acts 613
—: responsibility of the State for acts of agents 616
—: distinction between faults of service and personal faults 620
—: liability of the State for personal faults of its agents 622
—: concluding observations 625
Immunity from suit
—: federal; statutory waiver as to administration of railroads 564
—: of administrative officer performing ministerial duty involving breach of plaintiff's contract with government 323
—: state; waived by private statute giving action against officer 432
Judicial review of decision by Secretary of Labor 446
- Admiralty**
See also *Charter Parties*
Collisions in territorial waters and the conflict of laws 867
Constitutionality of the Ship Mortgage Act 646
Extension of jurisdiction of Workmen's Compensation Acts to stevedores unconstitutional 790
New Code for the Carriage of Goods by Sea 133-140
—: history of carrier's liability 133
—: Harter Act 134
—: The Hague Rules 138
- Possession sufficient to maintain trespass against subsequent salvor 786
Relative Priority of Maritime Liens 841-846
—: development of modern law 841
—: inverse order and benefits conferred theories contrasted 843
Requirement of security from libellant where cross libel is filed 669
Salvage: cargo owner cannot collect damages from salvaged vessel 876
- Adverse Possession**
See also *Ejectment*
Balance of convenience doctrine 660
Disseisin and Adverse Possession 1-13, 141-158, 285-301
—: re-entry 2-4
—: tacking 4-13
—: claim of title 141-158
—: disclaimer 285-290
—: nature of estate gained 290-298
—: inchoate title 298-301
Fixtures: right of disseisor to those installed by him 100
- Agency**
Bank's liability for unauthorized payment of check to agent of drawer 433
Disaffirmance by infant of agent's contract 790
Money loaned under mistake as to authority of agent 664
Responsibility of husband for injuries caused by wife's driving family automobile 780
- Aliens**
See also *International Law*
Admission to the United States: judicial review of reversal by Secretary of Labor of decision of board of inquiry 446
On jury, ground for new trial 215
Statute of limitations as affecting alien enemy's right to sue under Workmen's Compensation Act 565
- Animal**
Trespass to chattel by domestic animal 217
- Annuity**
See *Income Taxation*
- Arbitration and Award**
Agreement to arbitrate in foreign jurisdiction 658
Arbitration contracts 90
- Assault and Battery**
Jurisdiction of equity to protect from 117
- Assignments**
Priority among assignees of a chose in action 767

- Attorney and Client**
 Attorney's duty to collect judgment 432
 Confidential communications; waiver of privilege by client 782
- Bailments**
 Innkeeper's statutory liability for loss of guest's goods 657
- Bankruptcy**
 See also *Courts*
 Compositions: original indebtedness not revived by nonpayment of composition notes 105
 Rescission on grounds of fraud amounting to preference 888
 Subrogation of surety in sales free from liens 202
- Banks and Banking**
 See also *Constitutional Law*
 Bank collections and par clearance 752
 Branch banking by national banks, state prohibition of 781
 Collecting bank's liability to payee after unauthorized indorsement 790
 Confidential relationships between banker and customer 859
 General deposit for a specific purpose 888
 Liability of bank for unauthorized payment of check to drawer's agent 433
 Lien of bank on deposits of negotiable paper 876
 Overpayment on deposit for a specific purpose: mitigation of damages 780
 Payment on certificate of deposit to alternate payee after death of depositor 93
- Benefit Societies**
 See *Insurance*
- Bigamy**
 See *Husband and Wife, Marriage and Divorce*
- Bills and Notes**
 See also *Banks and Banking, Injunctions*
 Bank's lien on deposits of negotiable paper 876
 Collecting bank's liability to payee after unauthorized indorsement 790
 Descriptions in documents tendered under letters of credit 651
 Liability of bank for unauthorized payment of check to drawer's agent 433
 Partial negotiability of irregular instruments 302
 Transmission of money and sale of credit 177
 Unstamped paper not irregular 669
 Value in the transfer of negotiable instruments 628
- Bills of Lading**
 See also *Carriers*
 Open bill: liability of a carrier for redelivery to the shipper not named as consignor 890
- Transfer of order bills after delivery of goods 93
- Boundaries**
 See *Ejectment, Injunctions*
- Breach of Promise**
 See *Contracts, Marriage and Divorce*
- Cancellation and Reformation of Instruments**
 Adequacy of legal remedy 556
 Unilateral mistake of fact 325
- Carriers**
 See also *Admiralty*
 Dependent services: grant of exclusive privilege 202
 Duty of a carrier in transporting employees of another 423
 Limitation of action in a bill of lading 790
 Open bill of lading: liability of carrier for redelivery to shipper not named as consignor 890
 Privilege of street railway to discontinue service 565
 Recapture of earnings provision of Transportation Act of 1920 held constitutional 669
 Transfer of order bills of lading after delivery of goods 93
 Valuation of leased railroad property
 —: classification of leased property 272
 —: proper course in valuation of such property 274
 —: present practice 279
 —: necessity and practicability of change 282
- Charter Parties**
 Liability for demurrage where delay caused by refusal of government to issue license 552
- Chattel Mortgages**
 Blanket clause as covering previous note to third party purchased by mortgagee 323
- Checks**
 See *Bills and Notes*
- Choses in Action**
 See *Assignments, Personal Property, Trusts*
- Citizens**
 See *Nationality*
- Clayton Act**
 See *Contempt*
- Community Property**
 Wife's interest in community property 541
- Composition with Creditors**
 See *Bankruptcy*
- Conflict of Laws**
 See also *Interpleader*
 Collisions in territorial waters 867
 Extra-territorial effect of the divorce *a mensa et thoro* and of statutory prohibitions on remarriage 426

- Garnishment of enemy property: situs of money due on insurance policies 877
- Injunction against foreign suit under full faith and credit clause 95
- Jurisdiction to enforce agreement to arbitrate in foreign jurisdiction 658
- Logical and Legal Bases of the Conflict of Laws 457-488
- : methods of law formulation 457
 - : empiricism 457
 - : theoretical method 459
 - : jurisdiction in the conflict of laws 460
 - : what is a legal act? 460
 - : where does a legal act take effect? 462
 - : extent of power of the courts 463
 - : proper tests of jurisdiction 466
 - : courts enforce only domestic rights 468
 - : "enforcement of foreign law" 468
 - : *renvoi* theory 469
 - : analysis of *Milliken v. Pratt* 471
 - : different results reached under contending theories 473
 - : conflict of laws; problems should be stated in terms of domestic rights 478
 - : *obligatio* theory 479
 - : conclusions 484
 - : true limitations of judicial power 484
 - : contrast between judicial languages and judicial action 485
- Procedure and substance in state courts enforcing federal statutory rights 308
- Recognition of foreign probate decrees
- : foreign probate decrees 103
 - : marriages by proxy abroad 777
- Territoriality, Public Policy, and the Conflict of Laws 736-751
- : theoretical and positive schools of writers on the Conflict of Laws 736
 - : exclusive sovereignty of nations 737
 - : real estate 738
 - : chattels 738
 - : persons 739
 - : extra-territorial powers of nations 740
 - : real estate 740
 - : chattels 741
 - : persons 741
 - : "territoriality" theory 743
 - : "public policy" theory 746
 - : *a posteriori* view of Conflict of Laws phenomena 748
- Consideration
- Preexisting legal duty as consideration 78
- Constitutional Law
- See also *Contempt, Damages, Income Taxation, Interpleader, Interstate Commerce, Minimum Wage, Police Power, Rate Regulation, Taxation, Workmen's Compensation*
 - Alien juror ground for new trial 215
 - Attorney-General's power to issue subpoenas 96
 - Conclusiveness of state decisions in federal courts 855
 - Declaratory judgment statutes 105
 - Deportation Act as an *ex post facto* law 791
 - Effect of state statutes on equity jurisdiction in the federal courts 193
 - Exemption from taxation under housing emergency laws 94
 - Extension of jurisdiction of Workmen's Compensation Acts to stevedores unconstitutional 790
 - Federalist in the Supreme Court 728-735
 - : background of the Federalist 728
 - : references to the Supreme Court reports 729
 - : The Federalist in the future 734
 - Full faith and credit clause in relation to injunction against foreign suits 95
 - Graduated inheritance tax 103
 - Grain futures as interstate commerce 105
 - Legislative power to
 - : determine extent of drainage district 106
 - : enable state courts to fix wages 196
 - : limit executive's constitutional power to appoint 435
 - Mob-domination in state court and federal relief 82
 - New trial on question of damages only 886
 - Penalty clause for failure to comply with Workmen's Compensation Commission's award 657
 - Recapture of earnings provision of Transportation Act of 1920 held constitutional 669
 - Retroactive Income Taxation 35-48
 - : scope of Sixteenth Amendment 35
 - : evolution of income into capital 39
 - : status of accumulated income 45
 - Service of process on foreign corporations 547
 - Ship Mortgage Act 646
 - Standard bread loaf legislation 847
 - State prohibition of branch banking by national banks 781
 - State sales taxation and the original package doctrine 321
 - State statutes limiting export of natural resources 185
 - State taxation of foreign corporations engaged in interstate commerce 406
 - Statute prohibiting teaching of foreign language as excess of police power 215
 - Suspension from office during impeachment trial 791

Contracts

See also *Arbitration, Charter Parties, Infants, Mortgages, Sales, Specific Performance*

Adoption of promoters' contracts by corporation by acceptance of benefits 203

Agreement

—: not to enter county of plaintiff valid 446

—: to agree 97

—: to arbitrate in foreign jurisdiction 658

Annulment of marriage for fraud 209

Anticipatory breach as affected by plaintiff's subsequent defective attempts to perform 659

Appointment of receiver as breach 108

Arbitration contracts 90

Breach by plaintiff following defendant's breach due to inability to perform as a bar to recovery 101

Breach of government contract by administrative body in performance of ministerial duty 323

Damages

—: computation of, for breach when foreign exchange is fluctuating 564

—: discharge by subsequent employer in mitigation of, for breach of contract of employment 670

—: for breach of contract to make a will 214

—: recoverable by vendee in installment land contract after termination by his own default 435

Donee beneficiary allowed to acquire immunity from suit 106

Implied warranty of fitness upon hiring a machine for a particular use 792

Options: first privilege to purchase 782

Performance of express conditions precedent rendered impossible by other party 106

Preexisting legal duty as consideration 78

Sum certain in the action of debt 85

Conversion

See *Torts, Trover*

Corporations

See also *Trusts, Unincorporated Associations*

Acceptance of benefits by corporation as adoption of promoters' contracts 203

Foreign corporations

—: service of process on 547

—: state taxation of where engaged in interstate commerce 406

Injunction to prevent sale of assets for inadequate consideration; suit by minority against majority stockholders 436

Should the Doctrine of Ultra Vires be Discarded? 49-69

—: English law 49

—: American law 50

—: where theory of special powers prevails 50

—: law where theory of general powers prevails 55

—: grounds 57

—: incapacity 58

—: illegality 59

—: notice 61

—: public policy 63

—: interest of creditors 65

—: rights of stockholders 65

—: estoppel 66

—: judicial legislation 67

—: conclusion 68

Stockholder's Suit—Corporate and Individual Grievances 580-596

—: derivative nature of the suit 580

—: representative character of the suit 583

—: nature of a business company as it appears to the stockholder 584

—: philosophy underlying the suit 587

—: corporate death 593

Contempt

Constructive contempt in the federal courts 536

"Employees" within section 22 of the Clayton Act; constitutionality of provision for jury trial 791

Violation of injunction 215

Courts

See also *Constitutional Law, Contempt, Interpleader*

Administration of Justice in England 1906 v. 1923 838-840

Jurisdiction of Bankruptcy Court in summary proceeding 889

Mob-domination of state courts and federal review by habeas corpus 82

Number of judges in federal practice required to enjoin execution of administrative orders 107

Power of state courts to enforce federal statutes 636

Procedure and substance in state courts enforcing federal statutory rights 308

State statutes on equity jurisdiction in the federal courts 193

Covenants

Covenant not to quarry in residential district as covenant running with the land 447

Criminal Conversation

See *Husband and Wife*

Criminal Law

See also *Criminal Procedure, Evidence, Extradition, Legal History*

Entrapment by sheriff to commit crime 555

False pretenses distinguished from larceny by trick 446

Malice aforethought in murder 528

- Presumption of coercion by husband in criminal prosecution of wife 670
 Relegation of trial of facts to inferior court by court of original jurisdiction 447
 Robbery: forcible retaking of money lost at gambling 792
 Solicitation, orator urging acts of violence as 98
- Criminal Procedure**
 New trial, alien juror ground for 215
 Power of state courts to enforce federal statutes 636
- Damages**
 Amount recoverable by vendee in an installment contract terminated by his own default 435
 Apportionment of damages by jury between joint wrongdoers 213
 Constitutionality of statute providing for new trials on questions of damages only 886
 Determination when foreign exchange is fluctuating 564
 Discharge by subsequent employer in mitigation of damages of contract of employment 670
 Exemplary damages in malicious prosecution 204
 Foreclosure of mortgage for amount of debt rather than penal bond where former exceeds latter 324
 Jurisdiction of equity to award 437
 Limitation of damages for breach of contract to make a will 214
 Measure of
 —: for non-acceptance, under sales contract 443
 —: for committing sane person to hospital for insane 891
 Mitigation of, upon overpayment on deposit for a specific purpose 780
- Debt**
 Sum certain in the action of debt 85
- Declaratory Judgments**
 See *Constitutional Law*
- Defamation**
 See *Libel and Slander*
- Deposits**
 See *Banks and Banking*
- Descent and Distribution**
 Effect of bigamous marriage on statutory right of inheritance 878
 Right of a life tenant to share in limitation over to testator's heirs at law 891
- Disseisin**
 See *Adverse Possession*
- Divorce**
 See *Marriage and Divorce*
- Easements and Licenses**
 Interference by third parties with the privilege of a licensee 642
 Revocability after expenditures by licensee 560
- Ejectment**
 Balance of convenience when lessor was wrongfully disseised by lessee latter made valuable improvements 660
 Equitable relief against, based on mutual mistake as to boundary 211
- Employers' Liability Act**
 See *Workmen's Compensation*
- Equity**
 See *Cancellation and Reformation of Instruments, Interpleader, Specific Performance*
 Effect of state statutes on equity jurisdiction in federal courts 193
 Effect of tenant holding over under emergency rent laws upon executory contract for sale of land 564
 Ejectment, equitable relief against 211
 Jurisdiction to award damages 437
 Jurisdiction to Protect Personal Rights 115-132
 —: in general 115
 —: assault and battery 117
 —: defamation 118
 —: right of privacy 122
 —: protection of family relations 126
 —: protection of rights of members of voluntary associations 127
 —: miscellaneous cases 129
 Literary property 888
- Evidence**
 Admissibility of:
 —: evidence of trade usage 172
 —: relevant prejudicial handwriting 205
 —: trail of bloodhounds 216
 Ancient documents as an exception to the hearsay rule 412
 Compulsory physical examination of defendant in breach of promise action 444
 Confessions distinguished from admissions; trustworthiness when induced by promises or threats 783
Corpus delicti: proof of, after extrajudicial confession 446
 Hearsay rule
 —: admissibility of baptismal record to evidence date of birth 564
 —: spontaneous declarations 889
 Procedure and substance in state courts enforcing federal statutory rights 308
 Use of psychological tests to determine the credibility of witnesses 771
 Waiver by client of privilege as to communication of attorney 782
- Executors and Administrators**
 Income accruing during administration of estate 671
 Reimbursement for expense of unsuccessfully litigating a will contest 437
- Extradition**
 Fugitives from justice; necessity for physical presence at time of commission of crime 784

- Federal Courts**
See *Courts*
- Fixtures**
Disseisor's right in fixtures installed by him 100
- Foreign Law**
See *Administrative Law, Conflict of Laws, International Law*
- Fraud**
See also *Contracts, Legal Ethics, Marriage and Divorce*
Annulment of marriage for fraud 209
- Future Interests**
See *Vested, Contingent and Future Interests*
- Gaming**
Transfer of title upon payment of losses in connection with robbery 792
- Garnishment**
Enemy property; *situs* of money due on insurance policies 877
- Habeas Corpus**
Mob-domination of state courts and federal review by habeas corpus 82
- Harter Act**
See *Admiralty, Carriers*
- Hearsay**
See *Evidence*
- Husband and Wife**
See also *Agency, International Law, Marriage and Divorce*
Action for personal tort by wife against husband 315
Annulment of marriage for fraud 209
Bigamous marriage: effect on statutory right of inheritance 878
Criminal conversation: action by wife 107
Estates by entireties in personal property 438
Presumption of coercion by husband in criminal prosecution of wife 670
Wife's interest in community property 541
- Impeachment**
See *Constitutional Law*
- Income Taxation**
Income Tax Liability of Annuities and Similar Periodical Payments 229-247
—: in general 229
—: commercial annuity contracts 235
—: non-commercial annuity transactions 238
—: terminable rights to the income of property held in trust 243
—: terminable charges on property, created by will 246
—: conclusion 247
Retroactive Income Taxation 35-48
—: scope of Sixteenth Amendment 35
—: evolution of income into capital 39
—: status of accumulated income 45
- Industrial Courts and Legislation**
Constitutionality of wage-fixing provisions in Kansas Industrial Court Act 196
- Infants**
See also *Master and Servant, Workmen's Compensation*
Disaffirmance of agent's contract by 790
Power to disaffirm partnership contract and recover contribution 558
- Inheritance Taxation**
Graduated inheritance tax, constitutionality of 103
Income accruing during administration of estate 671
- Injunctions**
Against action of ejectment, on ground of mutual mistake as to boundary 211
Balance of convenience in cases of trespass to land 205
Constitutionality of injunction against foreign suit 95
Injury to crops 107
Number of judges required in federal practice to enjoin execution of administrative orders 107
To abate a nuisance; overhanging structure 557
To prevent
—: breach of employers contract by union members at behest of union 440
—: negotiation of promissory notes illegally obtained 553
—: sale of assets for inadequate consideration; suit by minority against majority stockholders 436
Trade secrets learned by fair means 439
- Innkeepers**
Statutory limitation of liability for loss of guest's goods 657
- Insurance**
Death in battle as death by accident 206
Execution of insured as a defense 889
Payment of premiums with stolen funds; beneficiary's right 207
Powers not available to creditors of insured
—: to change beneficiary 325
—: to surrender policy 325
Remainderman's interest in policy issued to life tenant 189
Situs of money due on policies 877
- International Law**
See also *Aliens, Naturalization*
Armed merchant vessels 439
Eighteenth Amendment as a violation of International Law 72
Foreign Sovereign
—: taxation of property of 208
—: waiver of immunity by 418
German-American Mixed Claims Commission 850

- New Married Women's Citizenship Law 159-171
 —: historical background 159
 —: foreign and Roman law as to citizenship of married women 161
 —: marriage of alien woman to American citizen 162
 —: marriage of American woman to alien 165
 —: international complications 167
 Sale of German-owned patents under the Trading with the Enemy Act as amended 760
 Statute of limitations as affecting alien enemies' right to sue under Workmen's Compensation Act 565
- Interpleader**
 Applicant denying liability cannot interplead 879
 Interstate Interpleader 685-727
 —: introductory remarks 685
 —: decisions in the British Empire 687
 —: jurisdiction to grant interpleader against non-residents 687
 —: should notice be served? 688
 —: may the non-resident be enjoined from suing the holder in domestic courts 691
 —: does the interpleader decree bar a foreign suit? 693
 —: the proceeding not *in rem* 694
 —: influence of the Constitution 696
 —: problem when the *res* is a chattel 697
 —: when *res* is debt does personal jurisdiction over debtor confer jurisdiction *in rem* 702
 —: situation when stakeholder pays fund into court 710
 —: power of state courts to bind non-residents by interpleader 711
 —: does state interpleader decree bar suit in another state? 711
 —: does state interpleader decree bar suit in the same state? 715
 —: will notice of interpleader to a non-resident claimant be issued 718
 —: various remedies 718
 —: bi-state interpleader proposed 725
- Interstate Commerce**
 Grain Futures Act 105
 State sales taxation and the original package doctrine 321
 State taxation of foreign corporations engaged in interstate commerce 406
- Intoxicating Liquors**
 Eighteenth Amendment as a violation of International Law 72
 Power of state courts to enforce federal statutes 636
- Joint Wrongdoers**
 Apportionment of damages between, by jury 213
- Judgments**
 Declaratory Judgment statutes 105
 Inconsistency between cause of action and relief demanded; effect of answer upon prayer for judgment 881
Res adjudicata: conclusiveness of finding of fact in prior bankruptcy proceeding 889
- Jurisdiction**
 Mob-domination of state courts and federal review by habeas corpus 82
- Jurisprudence**
 See *Legal Analysis and Terminology*
 Administration of Justice in England 1906 v. 1923 838
- Jury**
 Alien juror ground for new trial 215
 Apportionment of damages between joint wrongdoers 213
- Kansas Industrial Court**
 See *Industrial Courts and Legislation*
- Labor**
 See *Injunctions, Trade Unions*
- Landlord and Tenant**
 Emergency rent law: effect of tenant holding over upon executory contract for sale of land 564
 Jointly liable to licensee for injuries from known, concealed defect 662
 Perpetual leases 268
- Law School**
 Law School 1923-1924 71
- Legal Analysis**
 Logical interchangeability of alternative and hypothetical pleadings 379
- Legal Analysis and Terminology**
 Rights and duties 501-527
 —: in general 501
 —: inherent rights 505
 —: moral rights and duties 505
 —: equitable rights 506
 —: rights vary with the community 507
 —: property rights 509
 —: future and conditional rights 511
 —: absolute duties 514
 —: varieties of societal sanctions 517
 —: in criminal law 517
 —: in international law 519
 —: necessity of affirmative action 519
 —: is "international law" a proper term? 523
 —: breach of duty consists of conduct, not of its consequences 524
 —: duty to use care 524
- Legal Ethics**
 Cramming bar applicants as unprofessional conduct 879
 Misrepresentation to the court ground for disbarment 558

Legal History

First British Courts in Canada	571-580
—: organization and development	571
—: early civil cases	574
—: early criminal cases	577
Liability of carriers of goods by sea	133
Malice aforethought	528
Origins of the Action of Trespass	799-816
—: comparison with appeal of felony	799
—: need for action for damages	802
—: compromises in civil and criminal actions	803
—: development of such actions in the royal courts	806
—: assise of novel disseisin	807
—: influence of Roman Law	811
Sum certain in the action of debt	85
Tenure in the United States	248-271
—: the signs of tenure at the present day	248
—: analysis of the concept of tenure	251
—: tenure in English law	253
—: prior to 1290	253
—: after 1290	255
—: royal grants in the New World	256
—: decay of tenure in the United States	259
—: by statute	260
—: in the absence of statute	263
—: present day tenure	263
—: between state and owner	263
—: between grantor and grantee	265
—: perpetual leases	268
—: summary	270
Libel and Slander	
Injurious falsehood unactionable in absence of malice	788
Jurisdiction of equity to protect from	118
Power of municipality to sue for	108
Privilege of publication to moral uplift society by member thereof	108
Limitation of Actions	
See <i>Bills of Lading, Carriers</i>	
Malicious Prosecution	
Award of excessive exemplary damages	204
Mandamus	
Reinstatement after illegal dismissal	99
Relegation of trial of facts to inferior court by court of original jurisdiction	447
Maritime Law	
See <i>Admiralty</i>	
Marriage and Divorce	
Adultery of petitioner no bar to divorce	890
Annulment for misrepresentation of citizenship	793
Annulment for fraud	209

Extra-territorial effect of the divorce <i>a mensa et thoro</i> and of statutory prohibitions on remarriage	426
Recognition of marriages by proxy abroad	777

Master and Servant

Constitutionality of wage-fixing by state courts	196
Injury to infant illegally employed under Workmen's Compensation Act	671

Minimum Wage

Economic Aspect of Minimum Wage Legislation	489-500
—: economic theories of wage	489
—: Wages Fund theory	490
—: Productivity theory	491
—: Marginal Productivity theory	491
—: effect of legal theories on wage	494
—: Minimum Wage decision	494
—: deductive logic of majority	494
—: interpretation of fifth amendment	495
—: possibility and desirability of economic and legal coöperation	498

Mistake

Equitable relief based on mutual mistake against ejection proceedings	211
---	-----

Mortgages

See also <i>Admiralty, Chattel Mortgages, Constitutional Law</i>	
Defenses available to grantee assuming an invalid mortgage	210
Foreclosure where amount of debt exceeds penal bond	324
Oral agreement to execute accompanied by deposit of title deeds	785

Municipal Corporations

Power to sue for libel	108
State regulation of contracts between municipalities and public utilities	211
Statutory limitation on expenditures, exceeded by employment of emergency police	99
Tort immunity of respecting negligence of police officer	216

Nationality

See <i>International Law, Naturalization</i>	
--	--

Naturalization

Cancellation of naturalization certificate by change of domicile	552
--	-----

Negligence

See also <i>Pleading</i>	
As affecting statutory limitation of innkeepers' liability for loss of guests' goods	657
Duty to anticipate capricious act of child	880
Immunity of municipal corporation respecting police officer's negligence	216

- Injury to a person assisting another in danger 671
 Landlord and tenant jointly liable to licensee for injuries from known, concealed defect 662
- Negotiable Instruments**
 See *Bills and Notes*
- Nuisance**
 See *Injunctions, Torts*
- Options**
 First privilege to purchase 782
- Parent and Child**
 Actions for personal tort by child against parent 315
 Partial emancipation as against father's creditors 663
- Partnership**
 See also *Unincorporated Associations*
 Compensation to executrix of deceased partner upon liquidation by surviving partners 216
 Power of infant to disaffirm and recover contribution 558
 Purchase of reversion of partnership lease by one partner 885
 Right of executrix of deceased partner to compensation on liquidation by surviving partner 216
- Patents**
 See also *International Law*
 Abandonment of right to patent by delay after filing invention 441
- Personal Property**
 See also *Sales*
 Delivery upon sale of going concern when in the possession of third parties 787
 Estates by entireties in 438
 Gift of chose in action by unsealed writing to bailee 662
- Persons**
 See *Husband and Wife, Infants, Marriage and Divorce, Parent and Child*
 Actions for personal tort by wife against husband and child against parent 315
- Photographs**
 See *Right of Privacy*
- Pleading**
 See also *Unincorporated Associations*
 Alternative and Hypothetical Pleading 365-382
 —: alternative pleadings 365
 —: as affected by the objection of uncertainty 365
 —: as regards the opposing party 365
 —: as regards the pleader 367
 —: recent tendency 369
 —: as to parties 369
 —: as to subject matter 372
 —: to regard as defect of form 375
 —: inconsistency in 376
 —: hypothetical pleading 377
 —: at common law 377
 —: logical interchangeability of hypothetical with alternative pleadings 379
 Balance of convenience doctrine; under what forms of action applied 660
 Code Cause of Action 817-837
 —: delusive exactness of the codes 817
 —: "cause of action" as used in the code 820
 —: various definitions of cause of action 823
 —: operative facts as the cause in action 827
 —: some applications of the suggested test 832
 Counterclaims under modern codes 862
 Negligence generally alleged good as against demurrer 559
 New trial on question of damages only 886
 Prayer for judgment; inconsistency between cause of action and relief demanded: effect of answer 881
- Police Power**
 Housing emergency laws 94
 Limitation of height of buildings 554
 Resale price regulation of theater tickets 434
 Standard bread loaf legislation 847
 State limitation of export of natural resources 185
 State prohibition of
 —: branch banking by national banks constitutional 781
 —: teaching of foreign language unconstitutional 215
- Possession**
 Is sufficient to maintain trespass against subsequent salvor 786
- Practice**
 See also *Courts, Evidence, Interpleader, Pleading, Process, Statutes*
 Admiralty: requirement of security from libellant where cross libel is filed 669
 Federal practice: number of judges required to enjoin administrative order 107
 New trial, alien juror ground for 215
- Probate**
 See *Descent and Distribution, Executors and Administrators, Wills*
- Process**
 See also *Unincorporated Associations*
 Service of process on foreign corporations 547
- Profits**
 Sale of standing timber: when title passes 882
- Prohibition**
 See *Intoxicating Liquors*

- Property**
See *Personal Property, Real Property*
- Public Service Law**
See also *Carriers, Rate Regulation*
Duty of a carrier transporting employees of another 423
Privilege of street railway to discontinue service 565
State regulation of contracts between municipalities and public utilities 211
- Public Utilities**
See *Public Service Law*
- Quasi-Contracts**
Breach of contract by plaintiff following defendant's breach due to inability to perform as a bar to recovery 101
Money loaned under mistake as to authority of agent 664
Payment to innocent third party creditor of forger 561
- Railways**
See *Carriers*
- Rate Regulation**
Valuation of Leased Railroad Property 272-284
—: classification of leased property 272
—: property course in valuation of such property 274
—: present practice 279
—: necessity and practicability of change 282
- Real Property**
See also *Actions, Adverse Possession, Covenants, Descent and Distribution, Easements and Licenses, Ejectment, Fixtures, Injunctions, Landlord and Tenant, Trespass, Vested, Contingent, and Future Interests*
Tenure in the United States 248-272
—: the signs of tenure at the present day 248
—: analysis of the concept of tenure 251
—: tenure in English law 253
—: prior to 1290 253
—: after 1290 255
—: royal grants in the New World 256
—: decay of tenure in the United States 259
—: by statute 260
—: in the absence of statute 263
—: present day tenure 263
—: between owner and state 263
—: between grantor and grantee 265
—: perpetual leases 268
—: summary 270
- Receivers**
Appointment of, as breach of executory contract 108
- Replevin**
Accidental destruction of property replevied; statutory bond 890
- Res Adjudicata**
Conclusiveness of finding of fact in prior proceeding in bankruptcy 889
- Right of Privacy**
Jurisdiction of equity to protect 122
- Roman Law**
Interpolations in the Digest 343-365
—: sources of 343
—: nature of 344
—: tests for discovery of 345
—: poor grammar 346
—: poor logic 347
—: scale of doctrinal changes 349
—: examples 349
—: modern students of interpolations and their works 354
—: Ebrard 354
—: Steiner 355
—: Vassali 356
—: Albertario 357
—: Beseler 360
- Sales**
See also *Bills of Lading, Constitutional Law, Damages, Statute of Frauds*
Effect of mere specification upon contract to sell unascertained goods 330
Express Warranties in Sales of Goods 14-34
—: nature of warranty and of action for breach 14
—: form of warranty; words necessary 17
—: consideration: time of warranty 17
—: oral or written warranty: parole evidence rule 19
—: "affirmation of fact" 19
—: is descriptive matter an express warranty? 21
—: express warranty and other transactions distinguished 22
—: warranty may consist of a promise 22
—: "relating to the goods" 23
—: natural tendency to induce purchase: intent 24
—: purchase of goods in reliance on warranty 28
—: inspection or opportunity for inspection: reliance 30
—: defect visible: reliance 30
—: affirmations of value 32
—: puffs and opinions 33
Going concern: delivery of chattels in the possession of third parties 787
Implied warranty
—: effect of trade usage 883
—: in sale by sample 217
—: upon hiring a machine for a particular use 792
Open bill of lading: liability of a carrier for redelivery to the shipper not named as consignor 890
Standing timber: when title passes 882
Waiver of inspection by diversion to subvendee 442

- Salvage
See *Admiralty, Possession*
- Slander
See *Libel and Slander*
- Soldiers
See *Wills*
- Sovereignty
Foreign Sovereign
—: tax on property of 208
—: waiver of immunity by 418
- Specific Performance
Anticipatory breach by vendee no bar to later action for specific performance 665
- Statute of Frauds
Acceptance of goods by agent of the buyer 561
Oral agreement to execute a mortgage accompanied by deposit of title deeds 785
Written promise to sign note as surety 883
- Statute of Limitations
See *Adverse Possession, Aliens, International Law, Workmen's Compensation*
- Statutes
See also *Innkeepers*
Effect of state statutes on equity jurisdiction in the federal courts 193
Limiting export of natural resources 185
Power of state courts to enforce federal statutes 636
Prohibiting teaching of foreign language 215
"Survivor" under wrongful death act 212
- Stocks and Stockholders
See *Corporations, Injunctions*
- Suretyship and Guaranty
Failure of creditor to record deed of trust as a release of surety 102
Statute of Frauds: written promise to sign note 883
Subrogation in bankruptcy sales free from liens 202
- Taxation
See also *Income Taxation, Inheritance Taxation*
Constitutionality of exemption under housing emergency laws 94
Federal Income Tax: bequest to executor in lieu of compensation not income 448
Foreign sovereign: immunity of 208
Retroactive Income Taxation 35-48
—: scope of Sixteenth Amendment 35
—: evolution of income into capital 39
—: status of accumulated income 45
Severance of lumber tax a privilege tax 448
State sales taxation and the original package doctrine 321
- State taxation of foreign corporations engaged in interstate commerce 406
- Tenure
See *Real Property*
- Timber
See *Profits*
- Torts
See *Damages, Libel and Slander, Malicious Prosecution, Unfair Competition*
Action for personal tort by wife against husband and child against parent 315
Committing of sane person to hospital for insane by physician 891
Duty of occupier of land to abate private nuisance caused by third person 448
Immunity of municipal corporation respecting negligence of police officer 216
Injury to a person assisting another in danger 671
Injury to chattel by domestic animal 217
Joint tort-feasors: apportionment of damages among 213
Interpretation of wrongful death act 212
Liability of landlord and tenant to licensee for injury to licensee caused by concealed defect 662
Libel: no recovery for injurious falsehood in absence of malice 788
Presumption of survival in case of death in common disaster 212
Release for consideration by injured person as bar to wrongful death action 665
Responsibility of husband for injuries caused by wife's driving family automobile 780
- Trade Unions
See also *Unincorporated Associations*
Remedies for wrongful expulsion 784
- Trespass
See *Legal History*
Balance of convenience test in action for injunction to prevent 205
By domestic animal to chattel 217
Injunctions to restrain injury to crops 107
Overhanging structure as a continuing trespass 552
Possession sufficient to maintain trespass against subsequent salvor 786
Power to redeem real property as sufficient to maintain 881
- Trover
Conversion of grain in elevator 884
- Trusts
See also *Assignments*
Apportionment of corporate earnings between life tenant and remainderman under a trust estate 774

- Determination: necessity of conveyance by trustee to vest legal title 331
- Constructive trusts: purchase of reversion of partnership lease by one partner 885
- Exercise of discretionary power by successors of testamentary trustees 668
- General deposit for specific purpose 888
- Resulting trusts: rights of heirs of cestui against purchasers from trustee 788
- Revocation by death of trustee's power of attorney to collect chose in action for benefit of trust 666
- Voluntary declaration of trust of personality: effect of non-delivery and failure to communicate 789
- Ultra Vires**
See *Corporations*
- Unfair Competition**
See also *Injunctions*
- Refusal to deal with persons trading with a competitor 667
- Reissue of old photoplays under new titles 885
- Use of similar personal names 562
- Unincorporated Associations**
See also *Corporations, Trade Unions*
- Unincorporated Associations as Parties to Actions 383-406
- : common law rules 383
- : joinder by name of all members 384
- : chancery's representative actions 387
- : nature of the defect of non-joinder 388
- : "legal entity" theory 390
- : sales 391
- : deeds 301
- : testamentary dispositions 393
- : historical origin and development 394
- : criticism 396
- : problems involved in permitting suit without joinder 398
- : analogy to corporation 399
- : service of process 400
- : analogy to agency of partnership 401
- : extent of association responsibility 404
- Unions**
See *Injunctions, Trade Unions*
- Valuation**
See *Rate Regulation*
- Verdicts**
- Ineffectiveness of apportionment of verdict between defendants by jury 213
- New trial on question of damages only 886
- Vested, Contingent and Future Interests**
See also *Trusts*
- Construction of grant of fee upon a fee and a provision relating to death with descendants 661
- Life tenant's right to share in a limitation over to testator's heirs at law 891
- Voluntary Association**
See also *Unincorporated Associations*
- Jurisdiction of equity to protect rights of members 127
- Privilege of publication of libel to moral uplift society by members 108
- Wages**
See *Master and Servant*
- Warranty**
See *Contracts, Sales*
- Wills**
See also *Descent and Distribution, Executors and Administrators, Inheritance Taxation, Vested, Contingent, and Future Interests*
- Damages for breach of contract to make a will, measure of 214
- Exercise of discretionary power by testamentary trustees 668
- Holographic wills 887
- Interpretation of gift of remainder to life tenant 217
- Life tenant's right to share in limitation over to testator's heirs at law 891
- Recognition of foreign probate decrees 103
- Rhetorical unity required for validity of matter on new sheets 793
- Soldiers' nuncupative will: requirement as to witnesses 332
- Waiver of statutory prohibition of charitable bequests by taking under will 444
- Witnesses**
- Requirement for soldier's nuncupative will 332
- Use of psychological tests to determine credibility of 771
- Workmen's Compensation**
- Constitutionality of penalty for failure to comply with commission's award 657
- Employers' Liability Act: death while repairing property used in intrastate and interstate commerce 447
- Extension of jurisdiction of state acts to stevedores unconstitutional 790
- Injury on way to work 563
- Injury to infant illegally employed 671
- Statute of limitations as affecting alien enemies' right to sue under Workmen's Compensation Act 565