INDEX—DIGEST

Administration of Estates
See Conflict of Laws

Admiralty
Responsibility of the United States on maritime claims arising out of the operation of government-owned vessels, 1189-1196; Shipping Act, 1190; Suits in Admiralty, 1191; exclusiveness of remedy, 1191; nature of the remedy, 1193; rules of venue, 1194; Public Vessels Act, 1195
Maritime liens, waiver of 573

Advertising
See Trade Regulation

Agency
See Brokers
Electrodes of remedies by party dealing with agent of undisclosed principal, 265-271: orientation of problem, 266; where party believes agent is principal, 267; he should be able to recover from both agent and principal, 268; where party does not know who is agent's principal, 269; early election properly required, 270
Powers coupled with an interest, 110-117: effect of grantor's death upon the power, 111; importance of the "interest" of the agent in the thing, 112; other factors stressed, 112; where the "interest" is given for security, 113; assignment of receivables for security, 114; protection of creditors, of assignor, 114
Responsibility for the torts of an independent contractor 861-873

Aliens
See International Law

Anti-Trust Law
See Arbitration and Award
Interpretation of Section 7 of Clayton Act, 1042-1050: acquisition of assets not prohibited, 1043; "rule of reason" now applied, 1045; history of "rule" under Sherman Law, 1046; not hitherto applied under Clayton Act, 1047; no authority for present application, 1048; hazards of rule, 1048; result of application of rule to Section 7, 1049; change in anti-trust attitude of Supreme Court, 1050
Patents, validity of cross license agreements under the Sherman Act 290

Sufficiency of proof of injury necessary to support a claim for damages, 1035-1042: the elements essential to a recovery under Section 7 of the Sherman Act, 1036; damages based on "speculation and conjecture" are not recoverable, 1037; the background and development of this rule, 1037; the complexity of industry as it affects the showing of a causal relation between a restraint and an injury to a plaintiff, 1040; the instant decision as representing a change in economic philosophy, 1041

ApPEAL and Error
See Pleading and Practice

Admissibility of dying declaration, where similar statement is in evidence as res gestae 124
Connecticut practice, special interrogatories 574
Reduction of excessive verdicts on appeal 123

Arbitration and Award
See Landlord and Tenant
Compulsory commercial arbitration and the Sherman Act, 834-889: increased use of compulsory devices in commercial arbitration, 834; control of credit to compel arbitration held violation of Sherman Act, 835; other methods of compulsion, 837
Ex parte proceedings under sales contract providing for arbitration of future disputes 575
German conflict of laws relating to, see Conflict of Laws

Assignment
Requirement of delivery as applied to gifts of choses in action, 837-840: Restatement view, 837; early law, 839; doctrine of Ward v. Turner, 842; gifts inter vivos of choses in action, 844; summary of English law, 851; American cases, 852; gift of receipt to property, 855; criticism of Restatement doctrine, 857; suggested codification of the law, 859

Attachment
Recovery of attached property by giving bond 291

Attorney and Client
See Interpleader, Municipal Corporations
Contempt, liability for false statements on behalf of client 1057
Withdrawal, measure of attorney's compensation after justifiable withdrawal from case 276

Automobiles
See Torts
Non-registration of car as bar to recovery for damages 743

Aviation
Aviation law and the Constitution, 1113-1129; federal legislation and states' rights, 1113; constitutionality of the Air Traffic Rules, 1115; opinions of pilots, 1118; "separate-air-domain" theory of constitutionality, 1121; applicability of doctrine of unconstitutional conditions, 1123; validity of state regulation, 1124; danger of upholding a private ownership of air-space, 1127

Bankruptcy
See Conflict of Laws
Business failures project—a problem in methodology, 1013-1024; significance of the study, 1013; its development, 1014; the bankruptcy "clinics," 1015; data from other sources, 1017; objectives, 1018; uses and limitations of cross-examination and questionnaire method, 1020

Banks and Banking
Bank collections, 468-488: reforms of Federal Reserve system, 469; par controversy, 471; direct forwarding provision, 472; presentment by mail, 474; drawer as agent, 475; destruction of check, 478; insolvency of drawer, 481; recourse in case of non-payment, 485
Constructive trusts and bank collections, 980-1012: origins of doctrine of tracing, 980; tracing in deposit cases, 981; collecting bank as simple debtor, 985; proceeds of collection as trust funds, 991; necessity of identification of trust funds, 992; media of collection, cash, 998; checks drawn on collecting bank, 1003; clearings, 1004; other commercial paper, 1008; presumption of honesty, 1109
Deposits, joint tenancy in two name deposits 421
Deposits, privilege of bank to set off unmatured claims against 900
Deposits, responsibility of bank for accepting draft in payment of check deposited for collection 577
Deposits, right of depositor to preferred claim 420
Equitable assignment of deposit for a specific purpose 744
Insolvency, extent of preferential claim 576
Right to set-off at pre-war rate of exchange against bank of enemy state 1204
Stipulations relieving banks from responsibility for failure to obey stop-payment orders, 542-549: responsibility two-fold, 543; stipulations relieving may be against public policy, 544; this objection met, 546; objection of lack of consideration, 547; practical factors favor allowing stipulations, 549

Bills and Notes
See Corporations
Forged indorsement, recovery by drawee of payments to holder of check bearing 901
German conflict of laws relating to, see Conflict of Laws
Negotiable Instruments Law, § 57, rights of holder in due course of draft drawn by corporation which has failed to comply with conditions of doing business within state 276
Negotiability, discount provisions on time instruments as affecting 1205
Negotiability, executory agreement on face of note as defeating 1059
Presentment, failure of holder to present for payment note payable at specified bank 277

Blasphemy
See Religion

Brokers
Agreement to waive right to notice of sale of margin stock 1206
Authority of "customers' man" to receive notice revoking power of discretionary trading, 1174-1184; broker held not charged with receipt of such notice, 1174; nature of "discretionary" accounts, 1177; responsibility for intermediary in insurance and mortgage-loan transactions, 1179; underlying considerations, 1181; advisability of protecting broker, 1183

Building and Loan Associations
Voting rights of borrowing shareholders, 271-275; corporate control, 271; financing of loans, 272; right to notice of meetings under general corporation statute, 273; status of borrowers, 273; judicial attitude toward corporate services, 274

Burden of Proof
See Conflict of Laws, Pleading and Practice
<table>
<thead>
<tr>
<th>Business Associations</th>
<th>Business trust, necessary parties plaintiff in suit by</th>
<th>915</th>
</tr>
</thead>
<tbody>
<tr>
<td>Charitable Institutions</td>
<td>See Taxation</td>
<td></td>
</tr>
<tr>
<td>Comparative Law</td>
<td>See Legal Education, Procedure</td>
<td></td>
</tr>
<tr>
<td>Conditional Sales</td>
<td>Right of vendor who has disaffirmed on default of vendee to collect note given as down payment, 124</td>
<td></td>
</tr>
<tr>
<td>Conflict of Laws</td>
<td>See Courts, Marriage and Divorce, Pleading and Practice, Taxation, Wills</td>
<td></td>
</tr>
<tr>
<td>The conflict of laws of Germany, 804-836: history and sources, 804; nationality, 805; domicil, 807; renvoi, 812; the qualification of legal transactions, 814; public policy, 815; jurisdiction of courts, 816; general forum, 816; special fora, 817; forum at defendant’s residence, 817; forum at business place or branch establishment, 818; forum based upon ownership of property or presence of object of suit, 818; exclusive forum at situs of immovable property, 820; optional forum at situs of immovable property, 820; membership forum, 821; forum for administration of property, 821; forum for actions relating to inheritance, 821; forum for obligations, 822; contracts in general, 822; bills and notes, 823; contracts made at a fair, 823; torts, 824; concurrent fora, 825; forum by agreement, 825; limitations thereon, 826; pendency of foreign suit, 827; foreign judgments, 827; foreign arbitral awards, 832; application of foreign law, 835; procedure, 836</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conflict of laws relating to what debts are barred by a discharge Bankruptcy Act, 555; effect of local discharge on foreign debts, history, 560; under the National Bankruptcy Act, 555; Effect of a foreign discharge on local debts, 567; summary, 571</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contributory negligence, lex loci delict applied as to burden of proof</td>
<td>902</td>
<td></td>
</tr>
<tr>
<td>Exterritorial recognition of injunctions against suit</td>
<td>719-727</td>
<td></td>
</tr>
<tr>
<td>Inheritance, what law determines when dividends accrue as income of testamentary trust, 125</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jurisdiction over persons brought into a state by force or fraud, 889-899: persons not actually within state, 890; bases for jurisdiction, 890; practical justification, 894; Restatement, proposed change of § 83, 895; force situation, 896; fraud, 895; fraud in procuring power to confess judgment, 898</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Limitation of actions, what law governs</td>
<td>422</td>
<td></td>
</tr>
<tr>
<td>What law governs the validity and administration of trusts of personal property, 100-110: validity of trust of movables determined by law of testator’s domicil, 101; New York rule distinguishing, 103; validity of trusts created by settlement or deed inter vivos determined by law of state where movables are located at time of creation of trust, 104; New York cases rejecting this rule, 105; law governing the administration of the trust, 107; Restatement view as to testamentary trusts, 109; as to trusts inter vivos, 109; Professor Cook’s view, 110</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constitutional Law</td>
<td>See Aviation, Indians, Municipal Corporations, Public Service Law, Radio, Religion, Zoning</td>
<td></td>
</tr>
<tr>
<td>Accord and satisfaction, creditor’s notice to debtor to stop payment of check if acceptance in part payment unsatisfactory</td>
<td>1203</td>
<td></td>
</tr>
<tr>
<td>Affectation with public interest, 1099-1112: diverse application of the doctrine of “affected with a public interest,” 1099; origin of the term, 1099; adoption by the Supreme Court, 1095; development, 1097; modern problems of trade regulation, 1105; possible tests of price-fixing, 1110</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Delegation to judicial bodies of power to supervise the organization of public corporations, 413-419: relation to doctrine of separation of powers, 414; discretion which may be given to a judicial body concerning the incorporation of public benefit districts, 414; decreasing importance of separation of powers principle, 418</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Discriminatory legislation, statute making political affiliation prerequisite to holding office</td>
<td>578</td>
<td></td>
</tr>
<tr>
<td>Due process of law, necessity for return receipt in serving process on non-resident motorists</td>
<td>126</td>
<td></td>
</tr>
<tr>
<td>Due process, failure of appellate justices to read record</td>
<td>278</td>
<td></td>
</tr>
<tr>
<td>Due process, regulation of rates or prices, power of government to enforce wartime contract to accept agreed profit</td>
<td>422</td>
<td></td>
</tr>
<tr>
<td>Due process, statute requiring third party wrongdoer to reimburse employer for payments to state workmen’s compensation fund</td>
<td>280</td>
<td></td>
</tr>
<tr>
<td>Topic</td>
<td>Page</td>
<td></td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------</td>
<td></td>
</tr>
<tr>
<td>Equal protection of the laws, privilege of using public market</td>
<td>1208</td>
<td></td>
</tr>
<tr>
<td>restricted to producers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Exercise of jurisdiction by state court as burden on interstate</td>
<td>397</td>
<td></td>
</tr>
<tr>
<td>commerce</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal taxation of municipal bonds</td>
<td>758</td>
<td></td>
</tr>
<tr>
<td>Fifteenth Amendment, right of negroes to vote in Democratic</td>
<td>423</td>
<td></td>
</tr>
<tr>
<td>primaries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Full faith and credit clause, recognition of injunctions against</td>
<td>720</td>
<td></td>
</tr>
<tr>
<td>suit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Governor’s power of removal, implied statutory restriction of</td>
<td>1060</td>
<td></td>
</tr>
<tr>
<td>Habeas corpus, restraint necessary for writ to issue</td>
<td>429</td>
<td></td>
</tr>
<tr>
<td>Interstate commerce, utility franchise tax measured by gross receipts as burden on</td>
<td>750</td>
<td></td>
</tr>
<tr>
<td>Legislative powers, federal taxation of state bank</td>
<td>279</td>
<td></td>
</tr>
<tr>
<td>Privileges and immunities clause, discretionary refusal to entertain suit by non-resident under</td>
<td>722</td>
<td></td>
</tr>
<tr>
<td>Privileges and immunities clause, refusal by state court to exercise jurisdiction as violation of</td>
<td>390</td>
<td></td>
</tr>
<tr>
<td>The use of the “public interest” concept in price-fixing cases,</td>
<td>256-</td>
<td></td>
</tr>
<tr>
<td>264: the illusory nature of the phrase, 256; chart of the Supreme</td>
<td>258;</td>
<td></td>
</tr>
<tr>
<td>Court decisions, 258; the fear of legislative prerogative, 260;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>theories advanced as controlling the application of the phrase,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>261; the difficulty of prediction as to future cases, 263</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Validity of statute licensing charitable collection agencies,</td>
<td>745</td>
<td></td>
</tr>
<tr>
<td>exemptions as affecting</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contracts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>See Assignment, Corporations, Mines and Minerals, Names, Torts,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vendor and Purchaser</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acceptance by telegraph of mailed offer</td>
<td>424</td>
<td></td>
</tr>
<tr>
<td>Agreements not to defend, 727-735: confessing judgment not included,</td>
<td>728;</td>
<td></td>
</tr>
<tr>
<td>what defenses cannot be waived in advance, 729; waiver of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>statutory protection, 731; conflict between interests of public</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and those of contracting parties, 733; agreement to waive all</td>
<td></td>
<td></td>
</tr>
<tr>
<td>defenses invalid, 734</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consideration, promise to purchase all requirements of contemplated business</td>
<td>251</td>
<td></td>
</tr>
<tr>
<td>Contracts for the benefit of third persons in the Federal Courts,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>601-615: rule one of substantive law, 602; cases in the Supreme</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Court, 603; decisions of the circuit courts, 609; is the third</td>
<td></td>
<td></td>
</tr>
<tr>
<td>party’s right legal or equitable, 613; beneficiaries’ right in</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Admiralty, 615</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Covenants not to compete, partial enforcement of</td>
<td>1208</td>
<td></td>
</tr>
<tr>
<td>German conflict of laws, rules relating to, see Conflict of Laws</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Implied promises, promise to purchase all requirements of business</td>
<td>379</td>
<td></td>
</tr>
<tr>
<td>construed to include promise to continue in business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Specific performance, right of assignee of vendee to</td>
<td>913</td>
<td></td>
</tr>
<tr>
<td>Third party beneficiary, right of promise to substantial damages</td>
<td>1061</td>
<td></td>
</tr>
<tr>
<td>Corporations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>See Building and Loan Associations, Taxation, Trusts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assessments, levy on full-paid shares</td>
<td>580</td>
<td></td>
</tr>
<tr>
<td>Contracts, enforcement by foreign corporation doing business in</td>
<td>276</td>
<td></td>
</tr>
<tr>
<td>state before complying with specified requirements</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contract to purchase own shares, payment out of surplus</td>
<td>902</td>
<td></td>
</tr>
<tr>
<td>Directors, duty of disclosure on purchasing shares from shareholder</td>
<td>582</td>
<td></td>
</tr>
<tr>
<td>Dissolution on petition of minority shareholders</td>
<td>425</td>
<td></td>
</tr>
<tr>
<td>Full payment of shares, change in by-laws as defense to suit for</td>
<td></td>
<td></td>
</tr>
<tr>
<td>payment of agreed price under post-incorporation subscription</td>
<td></td>
<td></td>
</tr>
<tr>
<td>contract</td>
<td>427</td>
<td></td>
</tr>
<tr>
<td>Illegal creation of shares ‘in return for notes, 706-719: analysis of the problem, 707; persons interested in shares being paid for in cash, 708; when notes are “money paid,” 710; is a note “property,” 712; when are shares “issued,” 713; should the constitutional provision be enforced, 718</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Insulation from liability through subsidiary corporations, 193-218:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>tort liability, 195, indicia of assimilation between parent and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>subsidiary, 196, fraud as destroying insulation, 209; contract</td>
<td></td>
<td></td>
</tr>
<tr>
<td>liability, indicia of assimilation between parent and subsidiary,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>210</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Liability for refusal to convert stock of non-record holder</td>
<td>1209</td>
<td></td>
</tr>
<tr>
<td>Liability of security holders for unpaid subscriptions upon</td>
<td>746</td>
<td></td>
</tr>
<tr>
<td>insolvency</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-compliance with conditions of doing business within state,</td>
<td>904</td>
<td></td>
</tr>
<tr>
<td>effect on power to sue</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-cumulative preferred shares, claim to dividends earned but</td>
<td>581</td>
<td></td>
</tr>
<tr>
<td>undeclared</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pre-emptive rights, shares created for merger</td>
<td>905</td>
<td></td>
</tr>
<tr>
<td>Revocation of declaration of subscription rights, 1163-1173: pro-</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
posal of "rights" as an offer, 1165; irrevocability of an offer of "rights" from time of publication, 1166; irrevocability resulting from subsequent acts of reliance, 1172
Subjection of foreign corporation to suit within state where doing business 400
Torts of subsidiary, extent of assimilation required to hold parent for 1211
Ultra vires, construction of statute prohibiting discounting by non-banking corporation 127
Costs
Taxation of where defendant has judgment on counterclaim but plaintiff prevails in main cause of action 583
Courts
See Pleading and Practice
Exercise of jurisdiction over foreign causes of action based on Federal Employers' Liability Acts, 388-401: refusal of state courts to exercise jurisdiction, 389; foreign character of action as justification for refusal, 391; refusal as means of controlling imported litigation, 395; results of such imported litigation, 398; discretionary exercise of jurisdiction as means of control, 400
Injunctions against suit, extraterritorial recognition of 719-727
Criminal Law
Irregular organization of grand jury as ground for reversal on plea in abatement 1063
Mental element in assault with intent to commit manslaughter 428
Immigration Act, illegal importation of aliens under 905
Instructions to jury as to effect of statutory presumption of intent to defraud 747
Damages
See Anti-Trust Law, International Law, Mines and Minerals
Domestic
German rules, see Conflict of Laws
Divorce
See Evidence
Education
See Religion
Eminent Domain
Compensation to owners of abutting land on abandonment of highway 128
Excess condemnation for purpose of raising funds 128
Power to condemn for right of way, effect of waiver upon 1212
Value of condemned property, admissibility of sale price of neighboring property to prove 748
Employers' Liability
See Courts
Action for death by executor, statute of limitations as bar to 1213
Responsibility for injury to maritime worker through foreman's wilful misconduct 133
Evidence
See Appeal and Error, Eminent Domain, Religious Qualifications, Religion
Admissibility of policeman's report of statements of bystanders under New York statute 1214
Borderland of hearsay, 489-504: conduct to show belief as hearsay, 490; problem discussed in English case, 492; American cases, 494; not hearsay if generalized, 496; arguments of text writers, 498; division of problem, 502; rigidity should give way to discretion depending on trustworthiness, 504
Divorce proceedings, admissibility of illegitimacy in 1054
Hearsay, extra-judicial identification 423
Impeachment of witnesses, proof of prior threats to show bias 129
Opinion, admissibility of statements to physician as basis for his opinion 282
Statutory presumption of intent to defraud, charge to jury as to effect of 747
Executors and Administrators
See Suretyship and Guaranty
Power to continue business of decedent 759
Future Interests
See Real Property, Schools and School Districts
Alienation of possibility of reverter 910
Future interests in chattels personal, 771-803: nature of a gift over after a life interest in a chattel personal, 771; criticism of Gray's theory as to, 773; comparison of land with chattels, 774; doubtful significance of American slave cases, 777; use of trust concept, 779; applicability of law of estates in land to future interests in chattels personal, 779; discussion of "estates in land," 779; classification of future interests, 781; no fee tail in chattels, 781; life estates, 782; reversion, 783; remains, 784; executory limitations, 785; right of entry for condition broken, 786; conditional sales, liens and pledges, 787; alienability, 787; applicability of doctrines of
waiver, 787; rule against perpetuities, 788; remedies of future interest holder, 788; rule in Shelley’s case, 789; destructibility of contingent remainders, 789; acceleration of future interests, 790; rights of innocent purchaser for value from life tenant, 790; difference between vested and contingent interests, 798; statutes making real property law applicable to personalty, 801; summary, 802

Gifts over on death without issue, 332-373: historical reasons for indefinite failure of issue rule, 332; expressions which made failure of issue definite, 335; American statutes, 336; Virginia statute, 337; New York statute. 338; American law apart from statute, 341; Alabama, 347; Connecticut, 348; Georgia, 349; Illinois, 351; Indiana, 352; Iowa, 353; Kentucky, 354; Maryland, 355; Missouri, 358; New Jersey, 359; New York, 361; North Carolina, 362; Pennsylvania, 364; Rhode Island, 368; South Carolina, 369; Tennessee, 371; Vermont, 372; Wisconsin, 372; summary, 373

Limitations over, devise over on death without issue 583

Gifts
See Assignment

Habeas Corpus
Restraint necessary for writ to issue 429

Highways
Governmental responsibility for defective highways, 550-559; doctrine of governmental immunity, 550; cities, 550; quasi-municipal corporations, 551; statutory responsibility of, 554; extent of, 555; responsibility of states, 556; statutes dealing with, 557

History of Law
Cases in new Curia Regis Rolls affecting old rules in English legal history, 505-513: attainder brought against a grand assise, 505; assise of novel disseisin when one of the original parties to the action had died, 507; award of damages in action of novel disseisin, 508; Glanvill’s writ as the writ of entry ad terminum qui praeteruit, 509

Income Tax
Deduction of interest in computing net income, 1025-1035; excess of credit price over cash price in credit sales, 1027; “dividend” payments on corporate securities, 1030

Indians
Indian problem and the law, 307-331: administration of justice among Indians, 308; criminal justice, 308; division of authority confusing, 311; Courts of Indian Offences, 312; civil justice, 314; domestic relations, 315; classification of tribes, 318; Indian property, 319; tribal lands not held in fee, 320; a political question, 321; claims against the government, 323; individual property allotments, 325; wills, 326; government power arbitrary, 327; and demoralizing, 328; administrative desiderata, 330; law to be subordinated to education, 331

Infants
See Master and Servant

Inheritance
See Conflict of Laws

Injunctions
See Labor Law, Mines and Minerals

Exterritorial recognition of injunctions against suit, 719-727: power to enjoin foreign suit, 719; obligatory recognition, 720; discretionary recognition, 721; privilege to refuse to entertain second suit, 722; foreign statute forbidding suit, 723; disregard of foreign injunction, 723; cases dismissing suit, 724; discretionary entertainment of suit by nonresident, 725; proposed legislation, 725; voluntary recognition, 726

Power of state to maintain action to enjoin carrying on of usurious loan business 590

Insurance
See Schools and School Districts

Breach of condition by insured as defense in suit by injured person against liability insurer 131

Defenses, applicant’s misstatement of a material fact 283

Effect of incontestability clause upon provision for limited liability in case of suicide, 1050-1056: conditions distinguished from excepted risks, 1051; “not a risk assumed” clause, 1053; limited liability clause, 1054; recent type incontestable clause, 1055

Facility clause, part payment in full satisfaction under 1065

Measure of recovery by sub-lessee for loss of rents 1330

Reformation of policy, laches as bar to 970

Rights of insured, responsibility of insurer for negligent failure to settle 284
INDEX—DIGEST

Waiver of other defenses by denial of responsibility on stated grounds 906

International Law
Measure of damages, 52-75: state responsibility for damages caused to alien, 54; theories as to state responsibility, 55; punitive damages, 61; indirect damages, 66
Recovery of foreign assets of nationalized Russian corporations, 1130-1162: analysis of problem, 1130; can the nationalized corporation sue in foreign courts, 1135; American decisions, 1136; English decisions, 1139; French decisions, 1142; German decisions, 1144; Swiss decisions, 1145; rights of directors, 1147; rights of shareholders, 1151; rights of the Soviet government, 1153; conclusions, 1161
War, enforcement in American courts of retroactive French nullification of German contract rights 285

Interpleader
Allowance of attorney’s fees to complainant 286

Judgments
German conflicts of laws relating to, see Conflict of Laws
Res judicata as to those not parties to proceeding 751

Jurisprudence
Intermittent sovereign, 514-531: sovereignty inherent in concept of state, 515; Austin theory of law as command, 516; selection of certain commands, 518; predominance of certain commands, 520; these issue intermittently, 522; sovereign in United States gives constitutional commands, 523; gradations in this sovereignty, 525; revolution highest act of sovereignty, 526; sovereign and government distinguished, 527; utility of concept of sovereignty, 529; not absolute, 530

Jury
See Criminal Law, Pleading and Practice
Calling of jury, effect of a juror’s dissent 1218

Labor Law
Injunctions, secondary strikes, “primary purpose” to injure as illegal 914
Labor and the courts, 682-705: use of injunction not alone oppressive, 683; conspiracy, 684; criminal conspiracy abused, 685; civil conspiracy likewise, 686; restraint of trade, 688; use of Clayton Act, 689; inducing breach of contract, 691; lack of justification subjects to liability, 692; particular measures utilized in labor disputes, 695; strikes to unionize a shop essential to collective bargaining, 695; legality of boycotting still undetermined, 699; picketing must be peaceful, 701; blacklisting lawful only for employer, 703; need for certainty, 704
Resort to injunctions by labor, 374-387: first injunction case, 375; injunction against public officials, 377; injunctions against blacklisting, 378; grounds for refusing injunctions to labor, 376; appendix of cases of injunctions against by or on behalf of labor, 380

Landlord and Tenant
Appraisal as condition precedent to election by lessor under option to renew lease or purchase building 132
Eviction, what acts are sufficient to constitute constructive eviction 284
Holding over, what constitutes, to create new term 287

Legal Education
The case method in Canada and the possibilities of its adaptation to the Civil Law, 1-21: the American case method and its medieval models, 2; why not adopted in civil law countries, 3; a new case method in Canada, 4; its characteristic features, 5; desirability of uniform laws in the different provinces, 8; possibility of adaptation of case method to civil law countries, 8; role of stare decisis in civil law, 11; French case law v American case law, 14; case method in Holland, 15; in France, 16; in Portugal, 17; growth of institutes of comparative law, 18; subjects fitted for case method study, 19; casebooks available to the institutes of comparative law, 19; comparative method applied to law sales, 20

Libel and Slander
Privileged communications, privilege of government clerk to report another to superior officer 238

Malicious Prosecution
Favorable termination of prior action, entry of nolle prosequi as 269

Marriage and Divorce
See Real Property, Workmen’s Compensation
Alimony, foreign decree as bar to suit for 587
Effect of annulment of second marriage on first husband's duty to pay alimony 133

Master and Servant
See Workmen's Compensation

Child Labor Act, employment in violation of as negligence per se 908

Torts of coal and iron police, liability of mine operators for 1214

Mines and Minerals
Right of surface owner to restrain mining, security against damage by mineral owner as affecting 753

Damages for breach of contract to drill oil well 431

Mortgages
See Subrogation

Third party beneficiary, right of mortgagee to recover as, non-assumption of debt by prior owner as affecting 746

Municipal Corporations
See Highways, Schools and School Districts, Zoning

Constitutional debt limits, application of to profit-producing enterprises 1216

Municipal home rule in New York, 92-100: causes and objects of home rule, 93; local versus state concern, 94; prior to the New York Act of 1924, 94; subsequent to that Act, 96; desirability of placing the determination of the scope of home rule on the courts, 99

Power of a board or commission to bind a municipality for attorney's fees 134

Negligence
See Master and Servant, Torts

Patents
See Anti-Trust Law

Patentability, protection of function of a machine 1066

“Process” and “manufacture” claims 753

Personal Property
See Conflict of Laws

Pledges, right of repledgee of goods pledged to warehouseman to claim on a parity with warehouse receipt holders upon insolvency of pledgee 432

Pleading and Practice
See Attachments, Business Trusts

Amended complaints, running of statute of limitations where amendment changes from statutory to common law proceeding 586

Amendment as new cause of action, statute of limitations as bar 1067

Effect of unnecessary affirmative pleading upon the burden of proof, 117-122: various rules for determining the burden, 117; effect of affirmatively pleading facts which could be shown under a general denial, 118; majority view refusing to impose burden on such pleading, 119; Connecticut cut view, 120; Missouri cases, 121; effect of affirmative pleading on right to open or close the argument, 122

Election of remedies in agency, see Agency

English appellate procedure, 76-91: English system of courts, 76; Petty Session and Quarter Session, 76; County courts, 76; Supreme Court of Judicative, 77; House of Lords, 78; Rule Making Committee, 79; administrative control, 80; trial practice, 80; judge's notes of the evidence, 80; jurisdiction of the court of appeal, 81; general, 81; further evidence on appeal, 83; when an appeal lies, 84; mechanics of appeal, 86; notice of motion, 87; entry of the appeal, 88; filing document on appeal, 88; judge's notes on appeal, 89; stenographic notes of the judge's summing up, 89; cross-appeals, 90; stay of execution, 90; security for costs, 90

Irregular organization of grand jury as ground for reversal on plea in abatement 1063

Joint tort-feasors, power of defendant to bring in on motion 909

New trial, conduct between parties and jurors as ground for 755

Pendency of foreign suit on same cause of action as basis for stay or abatement, 1196-1202: existing American rule, 1196; English origin and present practice, 1197; successive actions by same plaintiff, 1199; cross actions, 1200; counterclaim and independent action by same party, 1201

Pledges
See Personal Property

Public Service Law

Conspiratory rates and modern finance, 151-192: when 8% overall rate guaranteed, 151; review of Supreme Court cases, 153; Southwestern Telephone case, 153; McCardle case, 156; Bluefield case, 159; financial set-up to be considered, 160; Wilcox v. Consolidated Gas, 162; Galveston Electric case, 164; Lincoln Gas Co. case, 164; low interest return to be considered, 165; Newton v. Consolidated Gas, 166; investor to determine fair return, 169; problems raised
INDEX—DIGEST

Pacific G. & E. case, 171; 7% held fair, 171; proof by financial experts, 172; factors determining fair rate, 177; technique of proof applied to modern finance, 178; long term investment, 179; holding companies, 182; effect of low rates, 184; valuation of patents, 185; Appendix: analysis of other rate cases, 187

Determination of working capital in railroad and public utilities valuations, 927-956: definition of capital, 928; definition of working capital, 929; review of court cases, 931; state commission methods, 937; interstate commerce commission method, 938; elements involved in the Field method, 948; need for scientifically accurate method, 956

Judicial interpretation of public utility franchises, 957-979: Los Angeles Ry. case, 957; charter as a contract, 950; construing charter in relation to statutes and constitutions, 952; regulation by local ordinance, 955; state commissions and local franchises, 958; franchise not as contract but as evidence of reasonable rate, 977

Power of state commission to order equal bus accommodations for negroes 1207

Radio
Federal control of radio broadcasting, 245-256: Act of 1912, 247; Act of 1927, 248; government ownership of ether, 250; regulation under commerce clause, 251; property rights in ether, 252; compensation to stations taken off the air, 255

Real Property
See Future Interests, Landlord and Tenant, Schools and School Districts, Taxation

Conveyances, interpretation of "so long as" in conveyance of base fee 135

Covenants running with the land, requirement that both benefit and burden be appurtenant 911

Division into horizontal strata of the landscape above the surface, 616-658: space distinguished from substance occupying it, 617; common law freeholds in rooms, 619; effect of destruction of building, 619; ownership in Inns of Court, 620; American freeholds in rooms, 622; adverse possession of rooms, 625; stratification of landscape recognized, 627; space in a passageway, 630; ownership of second story, 631; sale of apartments in co-operative buildings, 635; civil law hostility to stratification, 638; Germany, 638; Scotland, 638; France, 645; stratification of easements, 649; sales of air rights, 651; recognition of ownership of space, 656

Estate by the entirety, effect of absolute divorce on 912

Incumbrance, piped stream as 1088

Power of creditor-beneficiary to sue at law on covenant running with the land 1217

Torrens system, impeachment of title for forgery 292

Receivers
Appointment without notice to adverse party 756

Religion
Denial of equal rights to religious minorities and non-believers in the United States, 659-681: Christianity as part of law, 660; religious proscriptions, 663; state constitutions, 664; Federal Constitution, 655; religious qualifications for witnesses, 665; liberalization of rule, 663; restrictions on right to attest documents, 670; official oaths founded on Christian belief, 671; religious sanctification of marriage, 673; compulsory Sunday observance, 674; blasphemy laws favor orthodoxy, 676; sectarianism in schools, 678; Bible reading, 678

Renvoi
German rule as to, see Conflict of Laws

Rule Against Perpetuities
See Future Interests

Sales
See Conditional Sales, Usury

Schools and School Districts
Power of school board to retain buildings erected on land held subject to reverter 135

Power of school district to insure in mutual company 430

Soldiers and Sailors
Jurisdiction in court martial 1062

Statute of Frauds
Contracts in consideration of marriage, sufficiency of memorandum executed after marriage 293

Statute of Limitations
See Pleading and Practice, Trusts

Applicability to causes of action antedating the statute 757

Subrogation
Mortgages, payment of just claim not otherwise enforceable as condition precedent to quieting title 434
Sunday Laws
See Religion

Suretyship and Guaranty
Right of surety on bond of defaulting fiduciary to contribution from co-fiduciary 749

Taxation
See Constitutional Law, Income Tax
Capital stock taxes and taxes on shares, 401-407: imposition of both held double taxation, 401; nature of these taxes, 402; application of doctrine of double taxation to these cases, 405; to these taxes in other situations, 407
Corporations, “doing business” within meaning of capital stock tax 435
Estate tax, deduction from value of estate of claim under ante-nuptial contract, widow having elected to take under will 436
Estate tax, interest held by decedent as tenant by the entirety, subject to 136
Exemptions, degree of ownership necessary for exemption of land held by charitable institution 137
Recovery of taxes, effect of filing of claim in abatement on recovery of payments made after expiration of limitation period 588
Succession tax, applicability to irrevocable trust created before enactment of tax statute 588
Where property may be taxed, tax on intangible trust property at domicile of beneficiary when trustee is non-resident 589

Torts
See Corporations, Highways, Master and Servant, Pleading and Practice
Family car doctrine applied to non-owner 1058
Independent contractor, responsibility for torts of, 861-873: development in England, 863; in United States, 865; “negligence” of general employer, 866; “non-delegable duty,” 867; work “inherently dangerous,” 868; allocation of loss, 872
Inducing breach of contract to pay wages 294
Mahooney v. Beatman: a study in proximate cause, 532-542: analysis of facts, 533; irrationality of depending on causal factor, 535; limitation of defendant’s and plaintiff’s duties in question, 536; formulation of legal theory, 539; real factors back of theory, 540; questions not properly for jury, 542

Railroads, strict responsibility of, for damage caused by fires originating on railroad land 433
The unforeseeable consequences of a negligent act, 449-467: recent New York case compared with English decisions, 449; Patzig v. Long Island R. R., 449; Smith v. London & South Western Ry., 453; treatment of subject by legal authors, 456; Boven, 456; Street, 456; Bohlen, 457; Pollock, 458; Jeremiah Smith, 459; Beale, 461; Green, 461; Levitt, 462; McLaughlin, 462; Edgerton, 463; the case of In re Polemis analyzed, 464; criticism of English doctrine of liability for unforeseeable results of negligent acts, 467

Trade Marks and Trade Names
See Trade Regulation

Trade Regulation
See Anti-Trust Law
Advertising, false and misleading, 22-51: legal remedies for evil, 22; civil actions available to purchaser, 23; deceit, 23; breach of warranty, 25; these actions against a remote advertiser, 26; criminal sanctions, 28; obtaining money by false pretences, 28; use of mails to defraud, 28; postal censorship, 30; Printer’s Ink statute, 31; civil suit by competitor, 34; injury hard to prove, 35; diversion of trade, 36; injunction where diversion threatened, 41; Federal Trade Commission, 42; Better Business Bureaus and newspaper and periodical censorship, 45; moral suasion, 45; censorship by periodicals, 47; unclean hands, 49; misrepresenter loses trademark protection, 49; conclusion, 51
Affectation with public interest, see Constitutional Law
Restrictions on privilege of advertising replacement parts for device manufactured by competitor, 1184-1189: lack of standards for applying deception - of - ordinary - purchaser rule, 1185; psychological tests, 1188; character of evidence needed, 1188

Trial
See Procedure

Trusts
See Agency, Banks and Banking, Conflict of Laws, Taxation, Wills
INDEX—DIGEST

Charitable trusts, scholarship and tuition loan fund as 437
Corporate dividends from sale of land at profit, allocation of between life tenant and remainderman 1071
Cy pres doctrine as applied to educational bequests 1219
Declaration of trust after conveyance to corporation in which settler was sole shareholder 1069
Resulting trust, fraudulent purpose of grantor as ground for refusal to declare 758
Statute of limitations, repudiation by trustee 1070
Trusts of realty containing provisions for disposition after settlor's death, validity of 438

Usury
See Injunctions
Credit sales at a price in excess of the cash sale price as a violation of the usury laws, 408-413; interest and usury, 408; credit sales, 410; failure of usury laws, 412

Vendor and Purchaser
Executory contract to buy land, effect of condemnation on 916

Wills and Administration
See Executors and Administrators
Distribution of realty, adjustment of local statutory ratios to compensate for different foreign ratios 760
Power of life tenant to make gift of inherited estate 1072
Power to probate document already probated in another state 916
Precatory trust, words of request as creating a 1072
Time from which interest on legacy begins to run 590

Witnesses
See Evidence
Right of expert witness to extra compensation 761

Workmen's Compensation
See Constitutional Law
"Dependents," right of children in state institutions to receive compensation as 137
Employee, working partner as 1074
Right of common-law wife 917

Zoning
Retroactive zoning ordinances, 735-742: statutes, 735; background of nuisance regulation, 737; deprivation of property interests and its effect on constitutionality of ordinances, 739; police power and eminent domain, 740
Unconstitutionality of zoning ordinance based on land value depreciation 1220