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3. *Pre-emption doctrine—Unfair labor practice—Jurisdiction of NLRB.*—Although the NLRB has held that a union's breach of the duty of fair representation is an unfair labor practice, it does not follow that the broad pre-emption doctrine of *San Diego Building Trades Council v. Garmon*, 359 U. S. 236, is applicable thereto. *Vaca v. Sipes*, p. 171.

4. *Supreme Court—Harmless-error rule—Denial of constitutional right.*—The Supreme Court has jurisdiction to formulate a harmless-error rule that will protect a defendant's federal right under the Fifth and Fourteenth Amendments to be free from state penalties for not testifying in his criminal trial. *Chapman v. California*, p. 18.

- JURY TRIAL.** See Admiralty, 2; Jurisdiction, 1; Procedure, 4; Rules.
- LABOR.** See also Damages; Jurisdiction, 2; National Labor Relations Act, 1-3.
1. *Union's duty of representation—Breach of duty—Federal law applies.*—Since the union's duty, as exclusive agent, fairly to represent all members of a designated unit is based on federal statutes, federal law governs the employee's cause of action for breach of that duty. *Vaca v. Sipes*, p. 171.
2. *Union's duty of representation—Settling grievances—Arbitration.*—A union breaches its duty of fair representation when its conduct toward a member of the designated unit is arbitrary, discriminatory or in bad faith, but it does not breach that duty merely because it settles a grievance short of arbitration. *Vaca v. Sipes*, p. 171.
- LABOR MANAGEMENT RELATIONS ACT.** See Damages; Jurisdiction, 3; Labor, 1-2.
- LANDLORDS.** See Public Housing.
- LANHAM ACT.** See Trademarks.
- LAWYERS.** See Appeals, 2; Constitutional Law, II, 2; III, 1, 3.
- LEASES.** See Public Housing.
- LEGISLATURES.** See Constitutional Law, III, 2.
- LIABILITY.** See Arrests, 1; Interpleader, 1-2; Judges; Jurisdiction, 2; Police Officers.
- LICENSE FEES.** See Interstate Commerce; Procedure, 5.
- LIQUID BLEACH.** See Antitrust Acts, 1-2.
- LONGSHOREMEN.** See Admiralty, 1.
- LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT.** See Admiralty, 1.
- LOUISIANA.** See Admiralty, 1.
- MAGAZINES.** See Constitutional Law, V; Obscene Publications.
- MAIL-ORDER HOUSES.** See Constitutional Law, I; Taxes, 3.
- MALAPPORTIONMENT.** See Constitutional Law, III, 2.
- MANDATES.** See Divestiture; Federal Rules of Civil Procedure; Intervention; Settlements.
- MARITIME INJURIES.** See Admiralty, 2.
- MARYLAND.** See Constitutional Law, II, 3; Evidence; Procedure, 2.

- MASS TORTS.** See *Interpleader*, 1-2; *Jurisdiction*, 2.
- MEALS.** See *Taxes*, 1.
- MEDICAL EXAMINATION.** See *Damages*; *Jurisdiction*, 3; *Labor*, 1-2.
- MERGERS.** See *Antitrust Acts*, 1-2; *Bank Merger Act of 1966*; *Federal Rules of Civil Procedure*; *Interstate Commerce Commission*; *Intervention*; *Judicial Review*, 1; *Procedure*, 3; *Railroad Mergers*, 1-3; *Settlements*; *Stockholders*.
- MILITARY PERSONNEL.** See *Taxes*, 1.
- MINISTERS.** See *Arrests*, 1; *Judges*; *Police Officers*.
- MISSISSIPPI.** See *Arrests*, 1; *Judges*; *Police Officers*.
- MISSOURI.** See *Constitutional Law*, III, 1; *Railroad Mergers*, 1; *Stockholders*.
- MOTIONS.** See *Constitutional Law*, VII; *Procedure*, 6.
- MOTOR CARRIERS.** See *Interstate Commerce*; *Procedure*, 5.
- MUNICIPAL ORDINANCES.** See *Interstate Commerce*; *Procedure*, 5.
- MURDER.** See *Confessions*; *Constitutional Law*, II, 1, 3; VI; *Jurisdiction*, 4; *Procedure*, 1-2.
- NARCOTICS.** See *Arrests*, 2; *Constitutional Law*, IV; *Informers*.
- NATIONAL LABOR RELATIONS ACT.**

1. *Collective bargaining agreements—Work preservation—Primary and secondary objectives.*—Section 8 (b) (4) (B) of the Act was enacted, not to prohibit primary agreements and primary action directed to work preservation, but to prohibit “secondary” objectives, *i. e.*, the exertion of pressure on a neutral employer. *Woodwork Manufacturers v. NLRB*, p. 612.

2. *Primary and secondary activity—Employees of same employer—Work preservation.*—Since collective activity by employees of the primary employer was involved, the purpose of which was to affect its labor policies, the conduct of members of one local union in support of their fellow employees, members of a different local at another of the employer’s plants, was not secondary and thus not violative of § 8 (b) (4) (B) of the Act. *Houston Contractors Assn. v. NLRB*, p. 664.

3. *Work preservation—Employer and employees.*—Section 8 (e) of the Act does not reach employees’ primary activity and does not prohibit agreements made to pressure their employer to preserve for themselves work traditionally done by them. *Woodwork Manufacturers v. NLRB*, p. 612.

- NATIONAL LABOR RELATIONS BOARD.** See Damages; Jurisdiction, 3; Labor, 1-2.
- NATURAL GAS.** See Divestiture; Federal Power Commission, 1-2; Federal Rules of Civil Procedure; Intervention; Settlements; Taxes, 2.
- NEGLIGENCE.** See Admiralty, 1-2; Jurisdiction, 1; Procedure, 4; Rules.
- NEGROES.** See Arrests, 1; Judges; Police Officers.
- NEW HAVEN RAILROAD.** See Judicial Review, 2; Railroad Mergers, 2-3.
- NEW TRIAL.** See Jurisdiction, 1; Procedure, 4; Rules.
- NOLLE PROSEQUI.** See Constitutional Law, VII; Procedure, 6.
- NORTH CAROLINA.** See Constitutional Law, VII; Procedure, 6.
- OBSCENE PUBLICATIONS.** See also Constitutional Law, V.
Constitutional law—Freedom of the press.—These cases, involving the sale and distribution of allegedly obscene publications, can be and are decided on their common constitutional basis that the distribution of the publications is protected by the First and Fourteenth Amendments from governmental suppression. *Redrup v. New York*, p. 767.
- ORDERS.** See Federal Trade Commission.
- PAINT STAINS.** See Constitutional Law, II, 1.
- PARTIES.** See Divestiture; Federal Rules of Civil Procedure; Intervention; Settlements.
- PAUPERS.** See Constitutional Law, III, 1, 3.
- PENNSYLVANIA-NEW YORK CENTRAL MERGER.** See Judicial Review, 2; Railroad Mergers, 2-3.
- PERMANENT DUTY POST.** See Taxes, 1.
- PHILADELPHIA.** See Bank Merger Act of 1966; Judicial Review, 1; Procedure, 3.
- PHYSICAL EVIDENCE.** See Constitutional Law, II, 1.
- PIES.** See Robinson-Patman Act.
- PIPELINES.** See Divestiture; Federal Power Commission, 1-2; Federal Rules of Civil Procedure; Intervention; Settlements; Taxes, 2.
- PLEADINGS.** See Bank Merger Act of 1966; Judicial Review, 1; Procedure, 3.

POLICE OFFICERS. See also **Arrests**, 1; **Informers**; **Judges**.

False arrest—Good faith and probable cause.—The defense of good faith and probable cause which is available to police officers in a common-law action for false arrest and imprisonment is also available in an action under 42 U. S. C. § 1983. *Pierson v. Ray*, p. 547.

POLICE REPORTS. See **Constitutional Law**, II, 3; **Evidence**; **Procedure**, 2.

POOR PERSONS. See **Constitutional Law**, III, 1, 3.

POPULATION VARIANCES. See **Constitutional Law**, III, 2.

POST-CONVICTION PROCEDURE. See **Constitutional Law**, II, 3; **Evidence**; **Procedure**, 2.

POTENTIAL COMPETITOR. See **Antitrust Acts**, 1-2.

POVERTY. See **Constitutional Law**, III, 1, 3.

PREDATORY INTENT. See **Robinson-Patman Act**.

PRE-EMPTION. See **Damages**; **Jurisdiction**, 3; **Labor**, 1-2.

PREMACHINED DOORS. See **National Labor Relations Act**, 1, 3.

PREMATURITY. See **Interstate Commerce**; **Procedure**, 5.

PRETRIAL HEARING. See **Arrests**, 2; **Informers**.

PRICES. See **Robinson-Patman Act**.

PRIMARY AND SECONDARY ACTIVITY. See **National Labor Relations Act**, 1-3.

PRISONERS. See **Appeals**, 1.

PRIVILEGE. See **Arrests**, 2; **Informers**.

PROBABLE CAUSE. See **Appeals**, 1; **Arrests**, 2; **Informers**; **Judges**; **Police Officers**.

PROCEDURE. See also **Admiralty**, 1-2; **Appeals**, 1-2; **Bank Merger Act of 1966**; **Confessions**; **Constitutional Law**, II, 2-3; III, 1; VI-VII; **Divestiture**; **Evidence**; **Federal Rules of Civil Procedure**; **Interpleader**, 1-2; **Interstate Commerce**; **Intervention**; **Judicial Review**, 1; **Jurisdiction**, 1-2, 4; **Public Housing**; **Rules**; **Settlements**.

1. *Criminal law—Harmless-error rule.*—Before a constitutional error can be held to be harmless the court must be able to declare its belief that it was harmless beyond a reasonable doubt. *Chapman v. California*, p. 18.

PROCEDURE—Continued.

2. *Criminal law—State prosecutor's duty of disclosure—Rape trial.*—The judgment of the Maryland Court of Appeals, reversing the Montgomery County Circuit Court's order for a new trial, is vacated and the case is remanded for further proceedings. *Giles v. Maryland*, p. 66.

3. *Defect in pleading—Challenge to bank merger—Antitrust laws.*—Since an action challenging a bank merger lies under the antitrust laws, the Government's failure to base its actions on the Bank Merger Act of 1966 does not constitute a defect in pleading. *United States v. First City Nat. Bank*, p. 361.

4. *New trial—Fed. Rule Civ. Proc. 50 (d)—Rehearing.*—Rule 50 (d) provides a plaintiff-appellee with adequate opportunity to present his grounds for a new trial in the event his verdict is set aside on appeal, and, in addition, he may bring his grounds for a new trial to the trial court's attention when the defendant first makes a motion for judgment *n. o. v.*, or he may seek rehearing from the court of appeals after his judgment has been reversed. *Neely v. Eby Construction Co.*, p. 317.

5. *Prematurity—Compliance with municipal ordinance.*—Petitioner's action is not premature. Though it obtained licenses from Chicago to operate its inter-terminal transfer service, it has continued to operate only by paying the license fees into court and the city has demanded that petitioner fully comply with the ordinance or be subjected to penalties. *Railroad Transfer Service v. Chicago*, p. 351.

6. *Speedy trial—Prosecution's nolle prosequi motion.*—By indefinitely postponing the prosecution of a pending indictment, North Carolina's criminal procedure of permitting prosecutor to enter *nolle prosequi* "with leave," clearly denied petitioner the right to a speedy trial guaranteed by the Sixth and Fourteenth Amendments. *Klopper v. North Carolina*, p. 213.

7. *State courts—Colorado's sentencing of sex offenders—Due process.*—The invocation of Colorado's statute for sentencing of sex offenders, which entails the making of a new charge leading to criminal punishment, requires, under the Due Process Clause, that petitioner be present with counsel, have an opportunity to be heard, be confronted with witnesses against him, have the right to cross-examine and to offer evidence of his own, and that there be findings adequate to make meaningful any appeal that is allowed. *Specht v. Patterson*, p. 605.

PRODUCT BOYCOTTS. See **National Labor Relations Act**, 1, 3.

PRODUCT-EXTENSION MERGERS. See **Antitrust Acts**, 1-2.

PROSECUTORS. See **Constitutional Law**, II, 3; VI; **Evidence**; **Jurisdiction**, 4; **Procedure**, 1-2.

PROTECTIVE CONDITIONS. See **Interstate Commerce Commission**; **Railroad Mergers**, 3.

PROXIMATE CAUSE. See **Jurisdiction**, 1; **Procedure**, 4; **Rules**.

PUBLICATIONS. See **Constitutional Law**, V; **Obscene Publications**.

PUBLIC HOUSING.

Eviction of tenant—Procedure—Directive to local housing authorities.—Since this case, which involves a summary eviction of a tenant from a public housing project, would assume a different posture if the procedure in a directive to local housing authorities requiring that tenants be given reasons for eviction and an opportunity to reply or explain were followed, the judgment is vacated and the case remanded. *Thorpe v. Housing Authority*, p. 670.

PUNISHMENT. See **Constitutional Law**, II, 2; **Procedure**, 7.

RACIAL INTEGRATION. See **Arrests**, 1; **Judges**; **Police Officers**.

RAILROAD MERGERS. See also **Interstate Commerce Commission**; **Judicial Review**, 2; **Stockholders**.

1. *Application of state law—Class voting.*—In a proposed consolidation of the Missouri Pacific with a subsidiary railroad, Missouri law applies and requires the application of the provisions of the MoPac's corporate charter, which in turn requires a majority assent of the stockholders on a separate class-vote basis. *Levin v. Mississippi River Corp.*, p. 162.

2. *Challenge by bondholder—Further consideration by ICC—Judicial review.*—Review by this Court of dismissal of complaint by New Haven railroad bondholder challenging ICC's Penn-Central merger order held inappropriate pending outcome of ICC's further consideration of that order, see *Baltimore & Ohio R. Co. v. United States*, ante, p. 372, and New Haven railroad inclusion proceedings. *Oscar Gruss & Son v. United States*, p. 776.

3. *Interstate Commerce Commission—Protected railroads—Consummation of merger.*—In light of its findings as to the necessity for interim protection for the three small "protected railroads," the ICC erred in withdrawing all of the protective conditions save the traffic ones and in permitting immediate consummation of the merger of the largest and third largest railroads in the Northeast without determining the ultimate fate of the three protected roads. *Baltimore & O. R. Co. v. United States*, p. 372.

- RAILROADS.** See *Interstate Commerce*; *Procedure*, 5.
- RAPE.** See *Constitutional Law*, II, 3; *Evidence*; *Procedure*, 2.
- RATE BASE.** See *Federal Power Commission*, 1-2; *Taxes*, 2.
- RATE OF EXCHANGE.** See *Trading with the Enemy Act*.
- REAPPORTIONMENT.** See *Constitutional Law*, III, 2.
- RECORDS.** See *Appeals*, 2.
- REGULATED COMPANIES.** See *Federal Power Commission*, 1-2; *Taxes*, 2.
- REHEARING.** See *Jurisdiction*, 1; *Procedure*, 4; *Rules*.
- REMEDIES.** See *Trademarks*.
- REPRESENTATION.** See *Damages*; *Jurisdiction*, 3; *Labor*, 1-2.
- RESTRAINT OF TRADE.** See *Robinson-Patman Act*.
- RETAIL SALES.** See *Constitutional Law*, I; *Taxes*, 3.
- REVIEW.** See *Appeals*, 2.
- RIGHT OF INTERVENTION.** See *Divestiture*; *Federal Rules of Civil Procedure*; *Intervention*; *Settlements*.
- RIGHT TO COUNSEL.** See *Appeals*, 2; *Constitutional Law*, II, 2; III, 3.

ROBINSON-PATMAN ACT.

Price competition—Injury to competition—Predatory intent.—Section 2 (a) of the Clayton Act, as amended by the Robinson-Patman Act, does not forbid price competition but it does provide that sellers may not sell goods to different purchasers at different prices if the result may be to injure competition in either the sellers' or the buyers' market unless such discriminations are justified as permitted by the Act; and the existence of predatory intent bears on the likelihood of injury to competition. *Utah Pie Co. v. Continental Baking*, p. 685.

RULES. See also *Divestiture*; *Federal Rules of Civil Procedure*; *Intervention*; *Jurisdiction*, 1; *Procedure*, 4; *Settlements*.

New trial—Verdict set aside on appeal—Fed. Rule Civ. Proc. 50 (d).—Rule 50 (d) provides a plaintiff-appellee with adequate opportunity to present his grounds for a new trial in the event his verdict is set aside on appeal, and, in addition, he may bring his grounds for a new trial to the trial court's attention when the defendant first makes a motion for judgment *n. o. v.*, or he may seek rehearing from the court of appeals after his judgment has been reversed. *Neely v. Eby Construction Co.*, p. 317.

- SEAMEN.** See Admiralty, 2.
- SEARCH AND SEIZURE.** See Arrests, 2; Constitutional Law, IV; Informers.
- SECONDARY BOYCOTTS.** See National Labor Relations Act, 1-3.
- SEGREGATION.** See Arrests, 1; Judges; Police Officers.
- SELF-INCRIMINATION.** See Constitutional Law, VI; Jurisdiction, 4; Procedure, 1.
- SENTENCING.** See Constitutional Law, II, 2; Procedure, 7.
- SETTLEMENTS.** See also Divestiture; Federal Rules of Civil Procedure; Intervention.
Attorney General—Supreme Court's mandate.—Though the Attorney General has the right to settle litigation, such "settlement" cannot circumscribe the execution of the Supreme Court's mandate. *Cascade Nat. Gas v. El Paso Nat. Gas*, p. 129.
- SEVENTH AMENDMENT.** See Jurisdiction, 1; Procedure, 4; Rules.
- SEX OFFENDERS.** See Constitutional Law, II, 2; Procedure, 7.
- SHARES OF STOCK.** See Railroad Mergers, 1; Stockholders.
- SHERMAN ACT.** See Robinson-Patman Act.
- SHIPPING.** See Admiralty, 1-2.
- SHORTS.** See Constitutional Law, II, 1.
- SIXTH AMENDMENT.** See Appeals, 2; Arrests, 2; Constitutional Law, III, 3; VII; Informers; Procedure, 6.
- SPEEDY TRIAL.** See Constitutional Law, VII; Procedure, 6.
- STATE LEGISLATURES.** See Constitutional Law, III, 2.
- STATE PRISONERS.** See Appeals, 1.
- STATE PROCEDURE.** See Constitutional Law, VII; Procedure, 6.
- STATE STATUTES.** See Arrests, 1; Judges; Police Officers.
- STATE TAXES.** See Constitutional Law, I; Taxes, 3.
- STATUTE OF LIMITATIONS.** See Constitutional Law, VII; Government Contracts; Procedure, 6; Trading with the Enemy Act.
- STATUTORY REMEDIES.** See Trademarks.
- STAYS.** See Bank Merger Act of 1966; Judicial Review, 1; Procedure, 3.

STEVEDORES. See **Admiralty**, 1.

STOCKHOLDERS. See also **Railroad Mergers**, 1.

Class voting—Proposed railroad merger—Application of state law.—In a proposed consolidation of the Missouri Pacific with a subsidiary railroad, Missouri law applies and requires the application of the provisions of the MoPac's corporate charter, which in turn requires a majority assent of the stockholders on a separate class-vote basis. *Levin v. Mississippi River Corp.*, p. 162.

SUITS. See **Government Contracts**; **Interpleader**, 1-2; **Jurisdiction**, 2.

SUPPRESSION OF EVIDENCE. See **Constitutional Law**, II, 3; **Evidence**; **Procedure**, 2.

SUPREME COURT. See **Constitutional Law**, VI; **Divestiture**; **Federal Rules of Civil Procedure**; **Intervention**; **Jurisdiction**, 4; **Procedure**, 1; **Settlements**.

TAXES. See also **Constitutional Law**, I; **Federal Power Commission**, 1-2.

1. *Deductions for traveling expenses—Military officers—Permanent duty post.*—Expenditures for meals by military officer at permanent duty post to which his dependents were prohibited from accompanying him do not constitute deductible "traveling expenses . . . [incurred] while away from home" within the meaning of 26 U. S. C. § 162 (a) (2). *Commissioner v. Stidger*, p. 287.

2. *Federal Power Commission—Consolidated tax returns—Allocation of taxes.*—The FPC formula, which allocates tax liability based upon consolidated tax returns among the group members which are regulated, regardless of whether they are regulated by it or by state or local authorities, is neither unjust, unreasonable nor a frustration of the tax laws. *FPC v. United Gas Pipe Line Co.*, p. 237.

3. *State use taxes—Collection by mail-order houses—Commerce Clause.*—The Commerce Clause prohibits a State from imposing the duty of use tax collection and payment upon a seller whose only connection with customers in the State is by common carrier or by mail. *Nat. Bellas Hess v. Dept. of Revenue*, p. 753.

TAXICAB COMPANIES. See **Interstate Commerce**; **Procedure**, 5.

TENANTS. See **Public Housing**.

TESTIMONIAL PRIVILEGE. See **Arrests**, 2; **Informers**.

TEXAS. See **Confessions**; **Constitutional Law**, III, 2.

TOLLING. See **Trading with the Enemy Act**.

TORT CLAIMS. See **Interpleader**, 1-2; **Jurisdiction**, 2.

TRADEMARKS.

Infringement—Lanham Act—Attorney's fees.—Attorney's fees are not recoverable under the Lanham Act, as the meticulous statutory provisions set forth in § 35 are exclusive of any other monetary remedies for violation of the trademark rights protected by the Act. *Fleischmann Corp. v. Maier Brewing*, p. 714.

TRADING WITH THE ENEMY ACT.

Distribution of vested assets—Creditors' claims—Statute of limitations.—Since the statutory scheme of § 34 of the Act, which was modeled on the Bankruptcy Act, was intended to provide a fair and equitable distribution of vested enemy assets to American citizens and residents, the limitations period was tolled during the pendency of a timely suit challenging the rate of exchange ruling by the Attorney General and petitioners' right to bring their suit was not foreclosed. *Honda v. Clark*, p. 484.

TRANSCRIPTS. See **Appeals**, 2.

TRANSPORTATION. See **Interstate Commerce**; **Interstate Commerce Commission**; **Judicial Review**, 2; **Procedure**, 5; **Railroad Mergers**, 1-3.

TRAVELING EXPENSES. See **Taxes**, 1.

TREBLE-DAMAGE SUITS. See **Robinson-Patman Act**.

TRESPASS. See **Constitutional Law**, VII; **Procedure**, 6.

TRIAL. See **Constitutional Law**, II, 3; VI-VII; **Evidence**; **Jurisdiction**, 1; **Procedure**, 1-2, 6; **Rules**.

TUCKER ACT. See **Government Contracts**.

UNCONSTITUTIONALITY. See **Arrests**, 1; **Judges**; **Police Officers**.

UNDERWEAR. See **Constitutional Law**, II, 1.

UNFAIR LABOR PRACTICES. See **Damages**; **Jurisdiction**, 3; **Labor**, 1-2; **National Labor Relations Act**, 1-3.

UNIONS. See **Damages**; **Jurisdiction**, 3; **Labor**, 1-2; **National Labor Relations Act**, 1-3.

UNSEAWORTHINESS. See **Admiralty**, 1-2.

USE TAXES. See **Constitutional Law**, I; **Taxes**, 3.

VERDICTS. See **Jurisdiction**, 1; **Procedure**, 4; **Rules**.

VESTED PROPERTY. See **Trading with the Enemy Act**.

VOLUNTARINESS. See **Confessions.**

VOTERS. See **Constitutional Law, III, 2.**

VOTING. See **Railroad Mergers, 1; Stockholders.**

WAITING ROOM. See **Arrests, 1; Judges; Police Officers.**

WAIVERS. See **Constitutional Law, III, 1.**

WARRANTS. See **Arrests, 2; Constitutional Law, IV; Informers.**

WITNESSES. See **Constitutional Law, II, 3; Evidence; Procedure, 2.**

WORDS.

1. "*After the right of action first accrues.*"—28 U. S. C. § 2401 (a).
Crown Coat Front Co. v. U. S., p. 503.

2. "*Home.*"—Internal Revenue Code of 1954, § 162 (a) (2), 26
U. S. C. § 162 (a) (2). *Commissioner v. Stidger*, p. 287.

WORK PRESERVATION. See **National Labor Relations Act, 1-3.**

WRONGFUL DEATH. See **Jurisdiction, 1; Procedure, 4; Rules.**

WRONGFUL DISCHARGE. See **Damages; Jurisdiction, 3; Labor, 1-2.**

WUNDERLICH ACT. See **Government Contracts.**

YEN CERTIFICATES. See **Trading with the Enemy Act.**

YOKOHAMA SPECIE BANK. See **Trading with the Enemy Act.**















