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I. Due Process.

Confessions—Totality of circumstances.—In view of "totality of circumstances" and the absence of any "break in the stream of events" insulating the final events "from the effect of all that went before," the trial judge erred in holding the third confession, given the day after two excluded confessions, and the partial re-enactment of the murder, to be voluntary. *Darwin v. Connecticut*, p. 346.

II. Equal Protection of the Laws.

1. *Action for wrongful death—Parent of illegitimate child.*—Louisiana wrongful death statute as construed to bar recovery for damages to parent of an illegitimate child while allowing such recovery to the parent of a legitimate child violates the Equal Protection Clause of the Fourteenth Amendment, there being no rational basis for the distinction. *Glonn v. American Guarantee Co.*, p. 73.

CONSTITUTIONAL LAW—Continued.

2. *Action for wrongful death of mother—Illegitimate children.*—Louisiana statute as construed to deny right of recovery by illegitimate children creates an invidious discrimination contravening the Equal Protection Clause of the Fourteenth Amendment, since legitimacy or illegitimacy of birth has no relation to the nature of the wrong allegedly inflicted on the mother. *Levy v. Louisiana*, p. 68.

3. *Dual school system—"Freedom-of-choice" plan.*—The "freedom-of-choice" plan here is not acceptable; it has not dismantled the dual school system, it offers no real promise of achieving a unitary, nonracial system, and it has operated simply to burden students and their parents with a responsibility which *Brown v. Board of Education*, 349 U. S. 294, placed squarely on the School Board. *Green v. County School Board*, p. 430; *Raney v. Board of Education*, p. 443.

4. *Dual school system—"Free-transfer" plan.*—The "free-transfer" plan does not meet the Jackson, Tennessee, Board's "affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch." *Monroe v. Board of Commissioners*, p. 450.

III. First Amendment.

1. *Burning draft cards—Limitations on freedom of speech.*—When "speech" and "nonspeech" elements are combined in the same course of conduct, a sufficiently important governmental interest in regulating the nonspeech element can justify incidental limitations on First Amendment freedoms. *United States v. O'Brien*, p. 367.

2. *Peaceful picketing—Shopping center property.*—Peaceful picketing carried on in a location open generally to the public is, absent other factors involving the purpose or the manner of the picketing, protected by the First Amendment. *Food Employees v. Logan Plaza*, p. 308.

IV. Freedom of Speech and Press.

1. *False statements by teacher—Cause for dismissal.*—Teacher's false statements concerned issues then currently the subject of public attention and were neither shown nor could be presumed to have interfered with his teaching duties or the schools' general operation. The statements were thus entitled to the same protection as if they had been made by a member of the general public, and, absent proof that those false statements were knowingly or recklessly made, did not justify the Board of Education in dismissing appellant from public employment. *Pickering v. Board of Education*, p. 563.

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2. *Public comment by teacher—Cause for dismissal.*—“[T]he theory that public employment which may be denied altogether may be subjected to any conditions, regardless of how unreasonable, has been uniformly rejected.” The teacher’s interest as a citizen in making public comment must be balanced against the State’s interest in promoting the efficiency of its employees’ public services. *Pickering v. Board of Education*, p. 563.

3. *Sale of magazines—Vagueness.*—Former § 484-i of the New York Penal Law, which prohibited the sale of magazines “which would appeal to the lust of persons under the age of eighteen years or to their curiosity as to sex or to the anatomical differences between the sexes,” is unconstitutionally vague and it is no answer to say that it was adopted for the salutary purpose of protecting children. *Rabeck v. New York*, p. 462.

V. Search and Seizure.

1. *Consent to search.*—A search cannot be justified as lawful on the basis of consent when that “consent” has been given only after the official conducting the search has asserted that he possesses a warrant; there is no consent under such circumstances. *Bumper v. North Carolina*, p. 543.

2. *Reasonable and probable cause—Search of automobile.*—Evidence was insufficient to justify the conclusion that officers before they began their warrantless search of the car had “reasonable or probable cause” to believe that they would find an instrumentality of a crime or evidence pertaining to a crime. Petitioners’ claim must be sustained that the gun was illegally seized and evidence concerning it should not have been admitted. *Dyke v. Taylor Implement Co.*, p. 216.

VI. Self-Incrimination.

Interrogation of prisoner—Procedural safeguards.—Tax investigations, which frequently lead to criminal prosecution, are not immune from the requirements of *Miranda v. United States*, 384 U. S. 456, of warnings of the right to be silent and right to counsel to be given to person in custody, whether or not such custody is in connection with the case under investigation. *Mathis v. United States*, p. 1.

VII. Sixth Amendment.

1. *Confrontation Clause—Confession of codefendant.*—Because of the substantial risk that the jury, despite instructions to the contrary, looked to the incriminating extrajudicial statements in determining petitioner’s guilt, admission of codefendant’s confession in joint trial violated petitioner’s right of cross-examination secured

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by the Confrontation Clause of the Sixth Amendment. *Delli Paoli v. United States*, 352 U. S. 232, overruled. *Bruton v. United States*, p. 123.

2. *Jurors opposed to capital punishment—Impartial jury.*—Petitioner has adduced no evidence to support his claim that a jury from which those who are opposed to capital punishment or have conscientious scruples against imposing the death penalty are excluded for cause is necessarily "prosecution prone," warranting reversal of his conviction for denial of his Sixth and Fourteenth Amendment rights to an impartial jury. *Bumper v. North Carolina*, p. 543.

3. *Jurors opposed to capital punishment—Questions of guilt and punishment.*—Neither on the basis of the record nor as a matter of judicial notice can it be concluded that the exclusion of jurors opposed to capital punishment results in an unrepresentative jury on the issue of guilt or substantially increases the risk of conviction; but it is self-evident that, in its distinct role as arbiter of the punishment to be imposed, this jury fell woefully short of that impartiality to which a defendant is entitled under the Sixth and Fourteenth Amendments. *Witherspoon v. Illinois*, p. 510.

4. *Trial by jury.*—Since trial by jury in criminal cases is fundamental to the American scheme of justice, the Fourteenth Amendment guarantees a right of jury trial in all criminal cases which, were they tried in a federal court, would come within the Sixth Amendment's guarantee of trial by jury. *Duncan v. Louisiana*, p. 145.

5. *Trial by jury—Criminal contempt.*—Criminal contempt is a crime in every essential respect; serious criminal contempts are so nearly like other serious crimes that they are subject to the Constitution's jury trial provisions and only petty contempts may be tried without honoring demands for trial by jury. *Bloom v. Illinois*, p. 194.

6. *Trial by jury—Petty offense.*—In light of the maximum sentence which Tennessee statutes allowed, the criminal contempt for which petitioners were convicted was a "petty offense," to which the federal constitutional right of a jury trial does not extend. *Dyke v. Taylor Implement Co.*, p. 216.

7. *Trial by jury—Serious contempts.*—When the legislature has not expressed a judgment as to the seriousness of an offense by fixing a maximum penalty, the best evidence as to the seriousness of the offense is the penalty imposed. Accordingly, petitioner, sentenced to a two-year prison term, was constitutionally entitled to a jury trial. *Bloom v. Illinois*, p. 194.

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8. *Trial by jury—Serious crimes.*—The penalty authorized for a particular crime is of major relevance in determining whether it is a serious one subject to the mandates of the Sixth Amendment, and it is sufficient here, without defining the boundaries between petty offenses and serious crimes, to hold that a crime punishable by two years in prison is a serious crime and that appellant was entitled to a jury trial. *Duncan v. Louisiana*, p. 145.

CONTEMPT. See also **Constitutional Law**, VII, 5-7; **Sentences**, 2.

1. *Sixth Amendment—Trial by jury—Petty offense.*—In light of the maximum sentence which Tennessee statutes allowed, the criminal contempt for which petitioners were convicted was a "petty offense," to which the federal constitutional right of a jury trial does not extend. *Dyke v. Taylor Implement Co.*, p. 216.

2. *Trial by jury—Serious criminal contempts.*—Criminal contempt is a crime in every essential respect; serious criminal contempts are so nearly like other serious crimes that they are subject to the Constitution's jury trial provisions and only petty contempts may be tried without honoring demands for trial by jury. *Bloom v. Illinois*, p. 194.

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FEDERAL OFFICERS. See Arrest; Search and Seizure.

FEDERAL POWER COMMISSION.

1. *Administrative discretion—Prices of natural gas—Zone of reasonableness.*—The FPC did not abuse its discretion in giving some weight to guideline and temporary prices, since those prices give some indication of cost trends; it properly discounted prices which were out of line, prices which may have included higher-than-normal allowance for risk, prices in settlement orders, and intrastate prices. The prices it established were within the zone of reasonableness within which it has rate-setting discretion. *FPC v. Sunray DX Oil Co.*, p. 9.

2. *Pipeline proceedings—Public need—Abuse of discretion.*—The FPC did not abuse its discretion in deciding that the question whether the gas to be sold is actually needed by the public can be better dealt with in pipeline rather than producer proceedings, as much of the pertinent data is in the pipelines' possession and pipeline proceedings provide an adequate forum in which to confront aspects of the need issue. *FPC v. Sunray DX Oil Co.*, p. 9.

3. *Refunds—Temporary certificates—In-line prices.*—In the exercise of its power to condition permanent certificates under § 7 (e) of the Natural Gas Act, the FPC may require producers to refund amounts collected under outstanding, unconditioned temporary certificates in excess of the finally established in-line price. *FPC v. Sunray DX Oil Co.*, p. 9.

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Consecutive sentences—Challenge to sentence not yet served.—Prisoner serving consecutive sentences is "in custody" under any of them for purposes of 28 U. S. C. § 2241 (c) (3) and may in federal habeas corpus proceedings thereunder challenge the constitutionality of a sentence scheduled for future service. *McNally v. Hill*, 293 U. S. 131, overruled. *Peyton v. Rowe*, p. 54.

HARMLESS ERROR. See Constitutional Law, VII, 2; Evidence; Juries, 1.

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INDIANS.

1. *Fishing rights—Treaty of Medicine Creek—Conservation measures.*—The State of Washington may in the interest of conservation regulate fishing by Indians "in common with" fishing by others, as set forth in the Treaty of Medicine Creek. *Puyallup Tribe v. Dept. of Game*, p. 392.

2. *Hunting and fishing rights—Treaty of Wolf River—Menominee Termination Act of 1954.*—The language in the Treaty of Wolf River "to be held as Indian lands are held" includes the right to fish and hunt, and the Menominee Tribe's hunting and fishing rights under the Treaty survived the Termination Act of 1954. *Menominee Tribe v. United States*, p. 404.

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INTERNAL REVENUE CODE.

1. *Corporate distribution—Rights offering to stockholders—Dividend.*—When a corporation sells corporate property to stockholders or their assignees at less than its fair value, thus diminishing the corporation's net worth, it is engaging in a "distribution of property," and such a sale results in a dividend to stockholders unless some specific exception applies. *Commissioner v. Gordon*, p. 83.

2. *Distribution of subsidiary's stock—Controlling interest—Divestiture.*—Distribution of 57% of wholly owned subsidiary's stock by rights offering to stockholders does not come within the exception to § 355, as the distribution did not transfer "all" the subsidiary's shares nor did it transfer "control" (defined in § 368 (c) as 80%). For an initial transfer of less than a controlling interest to be treated

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as merely the first step in the divestiture of control it must be clearly identifiable as such and there must be a binding commitment to take the later steps, which was not the situation here. *Commissioner v. Gordon*, p. 83.

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1. *Jurors opposed to capital punishment—Impartial jury.*—Petitioner has adduced no evidence to support his claim that a jury from which those who are opposed to capital punishment or have conscientious scruples against imposing the death penalty are excluded for cause is necessarily "prosecution prone," warranting reversal of his conviction for denial of his Sixth and Fourteenth Amendment rights to an impartial jury. *Bumper v. North Carolina*, p. 543.

2. *Jurors opposed to capital punishment—Questions of guilt and punishment.*—Neither on the basis of the record nor as a matter of judicial notice can it be concluded that the exclusion of jurors opposed to capital punishment results in an unrepresentative jury on the issue of guilt or substantially increases the risk of conviction; but it is self-evident that, in its distinct role as arbiter of the punishment to be imposed, this jury fell woefully short of that impartiality to which a defendant is entitled under the Sixth and Fourteenth Amendments. *Witherspoon v. Illinois*, p. 510.

JURISDICTION. See also **Mootness; Procedure, 1.**

Federal habeas corpus—Expiration of sentence—Mootness.—Because of the “disabilities or burdens [which] may flow from” petitioner’s conviction, he has “a substantial stake in the judgment of conviction which survives the satisfaction of the sentence imposed on him,” and under the federal habeas corpus statutory scheme, once federal jurisdiction has attached in the District Court, it is not defeated by petitioner’s release before completion of the proceedings on the application. *Carafas v. LaVallee*, p. 234.

JURY TRIAL. See **Constitutional Law, VII, 4-8; Contempt, 1-2; Sentences, 2-3; Trial by Jury.**

JUST AND REASONABLE RATES. See **Federal Power Commission, 1-3.**

JUVENILE COURTS. See **Juvenile Delinquents; Procedure, 6.**

JUVENILE DELINQUENTS. See also **Procedure, 6.**

Procedure—Subsequent Supreme Court opinion—Remand for reconsideration.—Since the Ohio courts have not had the opportunity to assess the impact of *In re Gault*, 387 U. S. 1, on juvenile petitioner’s constitutional claims, the judgment is vacated and remanded for reconsideration in light of *Gault*. Upon remand the court may also consider the impact, if any, on petitioner’s questions concerning the intervening Juvenile Court order requiring him to face trial in the adult courts. *In re Whittington*, p. 341.

KUWAIT OIL. See **Federal Rules of Civil Procedure; Procedure, 7-8.**

LABOR. See also **Antitrust Acts, 3; Bankruptcy Act, 1; Constitutional Law, III, 2; Labor-Management Reporting and Disclosure Act, 1-3; National Labor Relations Act; Picketing; Trespass; Union Elections.**

1. *Musicians unions and orchestra leaders—Labor dispute—Sherman Act.*—Musicians unions’ involvement of orchestra leaders in the promulgation and enforcement of the unions’ challenged regulations and bylaws does not create a combination or conspiracy in violation of the Sherman Act but falls within the exemption of the Norris-LaGuardia Act since the orchestra leaders were a “labor” group and parties to a “labor dispute.” *Federation of Musicians v. Carroll*, p. 99.

2. *Orchestra leaders—Parties to a labor dispute—Norris-LaGuardia Act.*—The District Court correctly stated the criterion for determining that orchestra leaders were a “labor” group and parties to a “labor dispute” as the “presence of a job or wage competition or some other economic relationship affecting legitimate

LABOR—Continued.

union interests between the union members and the independent contractors. If such a relationship existed the independent contractors were a 'labor' group and party to a labor dispute under the Norris-LaGuardia Act." *Federation of Musicians v. Carroll*, p. 99.

LABOR DISPUTES. See **Antitrust Acts**, 3; **Constitutional Law**, III, 2; **Contempt**, 1; **Labor**, 1-2.

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT. See also **National Labor Relations Act**; **Union Elections**.

1. *Union members' grievances—Hearing procedures.*—Though § 101 (a) (4) of the Act authorizes union hearing procedures for processing members' grievances, provided those procedures do not consume more than four months, a court or agency may consider whether a particular procedure is "reasonable" and entertain the complaint even though those procedures have not been exhausted. *NLRB v. Marine Workers*, p. 418.

2. *Union's bylaws—Union elections—Qualifications for candidates.*—The union's bylaw which limited eligibility for major elective offices to union members who hold or have previously held elective office, measured against the Act's requirement of "free and democratic" union elections, is not a "reasonable qualification" within the meaning of § 401 (e) of the Act. *Wirtz v. Hotel Employees*, p. 492.

3. *Violation of § 401—Affecting the outcome of the union election.*—A proved violation of § 401 of the Act establishes a prima facie case that the outcome may have been affected and may be met by evidence supporting a finding to the contrary. The factors the District Court relied on were pure conjecture and none of those factors is tangible evidence against the reasonable possibility that the wholesale exclusion of members as candidates did affect the outcome of the election. *Wirtz v. Hotel Employees*, p. 492.

LEADER'S FEE. See **Antitrust Acts**, 3; **Labor**, 1-2.

LEGITIMACY. See **Constitutional Law**, II, 1-2.

LESSER INCLUDED OFFENSES. See **Constitutional Law**, III, 1; **Universal Military Training and Service Act**.

LETTERS TO NEWSPAPERS. See **Constitutional Law**, IV, 1-2.

LOUISIANA. See **Constitutional Law**, II, 1-2; VII, 4, 8; **Sentences**, 3; **Trial by Jury**.

MAGAZINES. See **Constitutional Law**, IV, 3.

MARKET DOMINATION. See **Antitrust Acts**, 1-2.

MAXIMUM PRICES. See **Federal Power Commission**, 1-3.

MENOMINEE TERMINATION ACT OF 1954. See **Indians**, 2.

MEXICO. See **Arrest; Search and Seizure.**

MINIMUM EMPLOYMENT QUOTAS. See **Antitrust Acts**, 3;
Labor, 1-2.

MINIMUM WAGES. See **Antitrust Acts**, 3; **Labor**, 1-2.

MINORS. See **Constitutional Law**, IV, 3.

MISDEMEANORS. See **Constitutional Law**, VII, 4, 8; **Sentences**,
3; **Trial by Jury; Vagrancy.**

MODIFICATION OF DECREE. See **Antitrust Acts**, 1-2.

MONOPOLY. See **Antitrust Acts**, 1-2.

MOOTNESS. See also **Jurisdiction; Procedure**, 1.

Expiration of criminal sentence—Appeals—Federal habeas corpus.—Because of the “disabilities or burdens [which] may flow from” petitioner’s conviction, he has “a substantial stake in the judgment of conviction which survives the satisfaction of the sentence imposed on him,” and under the federal habeas corpus statutory scheme, once federal jurisdiction has attached in the District Court, it is not defeated by petitioner’s release before completion of the proceedings on the application. *Carafas v. LaVallee*, p. 234.

MORALS. See **Constitutional Law**, IV, 3.

MOTHER AND CHILD. See **Constitutional Law**, II, 1-2.

MOTIONS FOR SUMMARY JUDGMENT. See **Federal Rules of Civil Procedure; Procedure**, 7-8.

MURDER. See **Confessions; Constitutional Law**, I; VII, 3;
Juries, 2; **Juvenile Delinquents; Procedure**, 6.

MUSICIANS UNIONS. See **Antitrust Acts**, 3; **Labor**, 1-2.

NARCOTICS. See **Arrest; Search and Seizure.**

NATIONAL LABOR RELATIONS ACT. See also **Labor-Management Reporting and Disclosure Act**, 1.

Protected activity—Union member’s grievance—Expulsion from union.—Union member’s charge that he was discriminated against because he had engaged in “protected activity” constituted a sufficient allegation of impairment of § 7 rights; and where a grievance does not concern an internal union matter, but touches part of the public domain covered by the Act, failure to resort to intra-union grievance procedure before filing unfair labor practice complaint with the NLRB is not ground for expulsion from the union. *NLRB v. Marine Workers*, p. 418.

NATURAL GAS ACT. See **Federal Power Commission**, 1-3.

- NEGLIGENCE.** See *Bankruptcy Act*, 2.
- NEGROES.** See *Constitutional Law*, II, 3-4; *School Desegregation*, 1-3.
- NEW KENT COUNTY.** See *Constitutional Law*, II, 3; *School Desegregation*, 3.
- NEW MEXICO.** See *Procedure*, 5.
- NEWSPAPERS.** See *Constitutional Law*, IV, 1-2.
- NEW YORK.** See *Constitutional Law*, IV, 3; *Jurisdiction*; *Mootness*; *Procedure*, 1.
- NISQUALLY RIVER.** See *Indians*, 1.
- NONPOSSESSION REGULATION.** See *Constitutional Law*, III, 1; *Universal Military Training and Service Act*.
- NORRIS-LaGUARDIA ACT.** See *Antitrust Acts*, 3; *Labor*, 1-2.
- NORTH CAROLINA.** See *Constitutional Law*, V, 1; VII, 2; *Evidence*; *Juries*, 1.
- NOTICE.** See *Arrest*; *Search and Seizure*.
- NOVEL QUESTION.** See *Procedure*, 5.
- OBSCENITY.** See *Constitutional Law*, IV, 3.
- OHIO.** See *Juvenile Delinquents*; *Procedure*, 6.
- OIL COMPANIES.** See *Federal Rules of Civil Procedure*; *Procedure*, 7-8.
- ORCHESTRA LEADERS.** See *Antitrust Acts*, 3; *Labor*, 1-2.
- PARCEL PICKUP AREAS.** See *Constitutional Law*, III, 2; *Picketing*; *Trespass*.
- PARENT AND CHILD.** See *Constitutional Law*, II, 1-2.
- PARKING AREAS.** See *Constitutional Law*, III, 2; *Picketing*; *Trespass*.
- PENALTIES.** See *Constitutional Law*, VII, 5, 7; *Contempt*, 2; *Sentences*, 2.
- PERIODICALS.** See *Constitutional Law*, IV, 3.
- PERMANENT CERTIFICATES.** See *Federal Power Commission*, 1-3.
- PETTY CONTEMPTS.** See *Constitutional Law*, VII, 5-7; *Contempt*, 1-2; *Sentences*, 2.
- PETTY OFFENSES.** See *Constitutional Law*, VII, 6; *Contempt*, 1; *Trial by Jury*.

PICKETING. See also **Constitutional Law**, III, 2; **Trespass**.

Shopping center property—First Amendment.—Peaceful picketing carried on in a location open generally to the public is, absent other factors involving the purpose or the manner of the picketing, protected by the First Amendment. *Food Employees v. Logan Plaza*, p. 308.

PIPELINES. See **Federal Power Commission**, 1-3.

POLICE INTERROGATION. See **Confessions**; **Constitutional Law**, I.

POLICY STATEMENT. See **Federal Power Commission**, 1-3.

POSTAL ROBBERY. See **Constitutional Law**, VII, 1; **Procedure**, 3.

PREMATURITY. See **Habeas Corpus**; **Sentences**, 1.

PRETRIAL DISCOVERY. See **Federal Rules of Civil Procedure**; **Procedure**, 7-8.

PRICE-FIXING. See **Antitrust Acts**, 3; **Labor**, 1-2.

PRICES. See **Federal Power Commission**, 1-3.

PRIORITIES. See **Bankruptcy Act**, 2.

PRISONERS. See **Constitutional Law**, VI; **Habeas Corpus**; **Jurisdiction**; **Mootness**; **Procedure**, 1-2; **Sentences**, 1.

PRIVATE ANTITRUST SUITS. See **Federal Rules of Civil Procedure**; **Procedure**, 7-8.

PROBABLE CAUSE. See **Constitutional Law**, VII, 6; **Contempt**, 1.

PROBATION. See **Vagrancy**.

PROCEDURE. See also **Constitutional Law**, II, 1-2; VI; VII, 1, 4-5, 7; **Contempt**, 2; **Federal Rules of Civil Procedure**; **Habeas Corpus**; **Jurisdiction**; **Juvenile Delinquents**; **Labor-Management Reporting and Disclosure Act**, 1; **Mootness**; **National Labor Relations Act**; **Sentences**, 1-2; **Trial by Jury**.

1. *Appeals—Certificate of probable cause.*—Where a certificate of probable cause has been granted, the court of appeals must allow an appeal *in forma pauperis* (assuming a requisite showing of poverty), and must consider the appeal on its merits, and must include in its order enough to demonstrate the basis for its action, as this Court held in *Nowakowski v. Maroney*, 386 U. S. 542, which, though decided after the Court of Appeals' dismissal of petitioner's appeal, governs this case which had not been concluded at the time of that decision. *Carafas v. LaVallee*, p. 234.

PROCEDURE—Continued.

2. *Appeals—Certificate of probable cause—Summary procedure.*—When an appeal possesses sufficient merit to warrant a certificate of probable cause, appellant must be afforded adequate opportunity to address the merits, and if a summary procedure is adopted he must be informed, by rule or otherwise, that his opportunity will or may be limited. *Garrison v. Patterson*, p. 464.

3. *Confession of codefendant—Joint trial—Instructions to jury.*—Because of the substantial risk that the jury, despite instructions to the contrary, looked to the incriminating extrajudicial statements in determining petitioner's guilt, admission of codefendant's confession in joint trial violated petitioner's right of cross-examination secured by the Confrontation Clause of the Sixth Amendment. *Delli Paoli v. United States*, 352 U. S. 232, overruled. *Bruton v. United States*, p. 123.

4. *District courts—Three-judge courts—Appeals.*—Where the district judge in whose court the case was originally filed adopts as his own a three-judge court's determination that the claim was not one to be heard by a three-judge court and that the relief sought was not warranted, an appeal lies to the Court of Appeals and not to this Court, and therefore the judgment is vacated and remanded to permit entry of a fresh decree from which a timely appeal may be taken to the Court of Appeals. *Wilson v. City of Port Lavaca*, p. 352.

5. *Diversity suit—Court of Appeals' refusal to stay its action—State law issue.*—The Court of Appeals erred in refusing to stay its action in this diversity case, as the crucial state law issue involved is of vital concern, is truly novel, will have to be resolved eventually in the New Mexico courts, and a declaratory judgment action is actually pending there. *Kaiser Steel Corp. v. W. S. Ranch Co.*, p. 593.

6. *Juvenile delinquent—Subsequent Supreme Court opinion—Remand for reconsideration.*—Since the Ohio courts have not had the opportunity to assess the impact of *In re Gault*, 387 U. S. 1, on juvenile petitioner's constitutional claims, the judgment is vacated and remanded for reconsideration in light of *Gault*. Upon remand the court may also consider the impact, if any, on petitioner's questions concerning the intervening Juvenile Court order requiring him to face trial in the adult courts. *In re Whittington*, p. 341.

7. *Motion for summary judgment—Extended private antitrust action—Genuine issue for trial.*—On the facts shown summary judgment was correctly awarded to respondent in this extended private antitrust action, since petitioner was unable to show sufficient material facts to raise genuine issue for trial of his case against

PROCEDURE—Continued.

respondent. Petitioner's position that Cities' failure to deal with him (the one fact he has shown) is sufficiently probative of conspiracy to withstand summary judgment cannot be supported where no interest of Cities was shown to parallel the interests of the other defendants. *First Nat. Bank v. Cities Service*, p. 253.

8. *Motion for summary judgment—Petitioner's access to information.*—Trial judge's orders in this extended private antitrust suit for treble damages prior to the rendition of summary judgment were proper and did not place unfair limits on petitioner's access to relevant information, as petitioner's allegations of respondent Cities' links to the conspiracy were refuted, petitioner was permitted to take depositions from Cities officials, petitioner admitted that Cities was in a different position from the other defendants, and the period to which petitioner's documentary requests pertain is one largely related to activities outside the period covered by this phase of the lawsuit. *First Nat. Bank v. Cities Service*, p. 253.

PRODUCERS. See **Federal Power Commission**, 1-3.

PROMPT ADJUDICATION. See **Habeas Corpus**; **Sentences**, 1.

PROPERTY RIGHTS. See **Constitutional Law**, III, 2; **Picketing**; **Trespass**.

PUBLICATIONS. See **Constitutional Law**, IV, 1-3.

PUBLIC EMPLOYMENT. See **Constitutional Law**, IV, 1-2.

PUBLIC NEED. See **Federal Power Commission**, 1-3.

PUBLIC PROPERTY. See **Constitutional Law**, III, 2; **Picketing**; **Trespass**.

PUBLIC SCHOOLS. See **Constitutional Law**, II, 3-4; **School Desegregation**, 1-3.

PUBLIC USE. See **Procedure**, 5.

PUNISHMENT. See **Constitutional Law**, VII, 2-3; **Evidence**; **Juries**, 1-2.

PUPIL PLACEMENT LAW. See **Constitutional Law**, II, 4; **School Desegregation**, 2.

PUYALLUP RIVER. See **Indians**, 1.

QUALIFICATIONS FOR OFFICE. See **Labor-Management Reporting and Disclosure Act**, 2-3; **Union Elections**.

RACIAL DISCRIMINATION. See **Constitutional Law**, II, 3-4; **School Desegregation**, 1-3.

RATES. See **Federal Power Commission**, 1-3.

- REASONABLE RATES.** See Federal Power Commission, 1-3.
- RECEIVERS.** See Bankruptcy Act, 2.
- RECKLESS DRIVING.** See Constitutional Law, VII, 6; Contempt, 1.
- RE-ENACTMENT OF CRIME.** See Confessions; Constitutional Law, I.
- REFUNDS.** See Federal Power Commission, 3.
- REGISTRATION CERTIFICATES.** See Constitutional Law, III, 1; Universal Military Training and Service Act.
- RELIEF.** See Antitrust Acts, 1-2; Procedure, 4.
- RELIGIOUS SCRUPLES.** See Constitutional Law, VII, 2-3; Juries, 1-2.
- REMAND.** See Juvenile Delinquents; Procedure, 6.
- RESERVATION LANDS.** See Indians, 2.
- RESPONDEAT SUPERIOR.** See Bankruptcy Act, 2.
- RIFLES.** See Constitutional Law, VII, 6; Contempt, 1.
- RIGHT OF CONFRONTATION.** See Constitutional Law, VII, 1; Procedure, 3.
- RIGHTS OFFERINGS.** See Internal Revenue Code, 1-2.
- RIGHT TO BE SILENT.** See Constitutional Law, VI.
- RIGHT TO COUNSEL.** See Constitutional Law, VI.
- RIGHT TO JURY TRIAL.** See Constitutional Law, VII, 4-8; Contempt, 1-2; Sentences, 2-3; Trial by Jury.
- RULES OF CIVIL PROCEDURE.** See Federal Rules of Civil Procedure; Procedure, 7-8.
- SALARIES.** See Bankruptcy Act, 1.
- SALE OF RIGHTS.** See Internal Revenue Code, 1-2.
- SALES.** See Federal Power Commission, 1-3.
- SALMON FISHING.** See Indians, 1.
- SCHOOL BOARDS.** See Constitutional Law, II, 3-4; School Desegregation, 1-3.
- SCHOOL DESEGREGATION.** See also Constitutional Law, II, 3-4.

1. "*Freedom-of-choice*" plan—*Responsibility of District Court.*—The District Court's dismissal of the complaint was an improper exercise of discretion and inconsistent with its responsibility under

SCHOOL DESEGREGATION—Continued.

Brown v. Board of Education, 349 U. S. 294, to retain jurisdiction "to insure (1) that a constitutionally acceptable plan is adopted, and (2) that it is operated in a constitutionally permissible fashion so that the goal of a desegregated, nonracially operated school system is rapidly and finally achieved." *Raney v. Board of Education*, p. 443.

2. *"Free-transfer" plan—School Board's responsibility.*—Since it has not been shown that the "free-transfer" plan will further rather than delay conversion to a unitary, nonracial system, it is unacceptable, and the Board must formulate a new plan which promises realistically to convert promptly to a unitary, nondiscriminatory school system. *Monroe v. Board of Commissioners*, p. 450.

3. *Plan of desegregation—School Board's burden—District Court's obligation.*—Burden is on School Board to provide a plan that promises realistically to work *now*, and a plan that at this late date fails to provide meaningful assurance of prompt and effective disestablishment of a dual system is intolerable. The District Court's obligation is to assess the effectiveness of the plan and to retain jurisdiction until it is clear that state-imposed segregation has been completely removed. *Green v. County School Board*, p. 430.

SCHOOLS. See **Constitutional Law**, II, 3-4; **School Desegregation**, 1-3.

SCRUPLES. See **Constitutional Law**, VII, 2-3; **Evidence**; **Juries**, 1-2.

SEARCH AND SEIZURE. See also **Arrest**; **Constitutional Law**, V, 1-2; VII, 2; **Contempt**, 1; **Evidence**; **Juries**, 1.

Warrantless search—Unannounced intrusion—Opening unlocked door.—Validity of entry of federal officer to effect warrantless arrest "must be tested by criteria identical to those embodied in" 18 U. S. C. § 3109, which is a codification of the common-law rule of announcement and basically proscribes an unannounced intrusion into a dwelling, including opening a closed but unlocked door. *Sabbath v. United States*, p. 585.

SECRETARY OF LABOR. See **Labor-Management Reporting and Disclosure Act**, 2-3; **Union Elections**.

SEGREGATION. See **Constitutional Law**, II, 3-4; **School Desegregation**, 1-3.

SELECTIVE SERVICE REGISTRATION CERTIFICATES.
See **Constitutional Law**, III, 1; **Universal Military Training and Service Act**.

SELF-INCRIMINATION. See **Constitutional Law**, VI.

SENTENCES. See also **Constitutional Law**, VII, 4-5, 7-8; **Contempt**, 2; **Habeas Corpus**; **Jurisdiction**; **Mootness**; **Procedure**, 1; **Trial by Jury**.

1. *Consecutive sentences—Constitutional challenge—Habeas corpus.*—Prisoner serving consecutive sentences is "in custody" under any of them for purposes of 28 U. S. C. § 2241 (c) (3) and may in federal habeas corpus proceedings thereunder challenge the constitutionality of a sentence scheduled for future service. *McNally v. Hill*, 293 U. S. 131, overruled. *Peyton v. Rowe*, p. 54.

2. *Trial by jury—Relevance of sentence—Criminal contempt.*—When the legislature has not expressed a judgment as to the seriousness of an offense by fixing a maximum penalty, the best evidence as to the seriousness of the offense is the penalty imposed. Accordingly, petitioner, sentenced to a two-year prison term, was constitutionally entitled to a jury trial. *Bloom v. Illinois*, p. 194.

3. *Trial by jury—Serious crimes—Relevance of sentence.*—The penalty authorized for a particular crime is of major relevance in determining whether it is a serious one subject to the mandates of the Sixth Amendment, and it is sufficient here, without defining the boundaries between petty offenses and serious crimes, to hold that a crime punishable by two years in prison is a serious crime and that appellant was entitled to a jury trial. *Duncan v. Louisiana*, p. 145.

SERIOUS CRIMES. See **Constitutional Law**, VII, 4, 8; **Sentences**, 3; **Trial by Jury**.

SET NETS. See **Indians**, 1.

SEX MATERIAL. See **Constitutional Law**, IV, 3.

SHERMAN ACT. See **Antitrust Acts**, 1-3; **Labor**, 1-2.

SHOE MACHINERY. See **Antitrust Acts**, 1-2.

SHOPPING CENTERS. See **Constitutional Law**, III, 2; **Picketing**; **Trespass**.

SIDEMEN. See **Antitrust Acts**, 3; **Labor**, 1-2.

SIMPLE BATTERY. See **Constitutional Law**, VII, 4, 8; **Sentences**, 3; **Trial by Jury**.

SIXTH AMENDMENT. See **Constitutional Law**, VII; **Contempt**, 1-2; **Evidence**; **Juries**, 1-2; **Procedure**, 3; **Sentences**, 2-3; **Trial by Jury**.

SPINOFFS. See **Internal Revenue Code**, 1-2.

STATEMENTS. See **Confessions**; **Constitutional Law**, I; VI; VII, 1; **Procedure**, 3.

STATE PRISONERS. See Jurisdiction; Mootness; Procedure, 1.

STAYS. See Procedure, 5.

STOCKHOLDERS. See Internal Revenue Code, 1-2.

SUBLEADERS. See Antitrust Acts, 3; Labor, 1-2.

SUMMARY JUDGMENT. See Federal Rules of Civil Procedure; Procedure, 7-8.

SUMMARY PROCEDURE. See Procedure, 2.

SUPERMARKETS. See Constitutional Law, III, 2; Picketing; Trespass.

SURVIVING CHILD. See Constitutional Law, II, 2.

TAXES. See Internal Revenue Code, 1-2.

TAX INVESTIGATIONS. See Constitutional Law, VI.

TEACHERS. See Constitutional Law, IV, 1-2.

TEMPORARY CERTIFICATES. See Federal Power Commission, 1-3.

TENNESSEE. See Constitutional Law, II, 4; V, 2; VII, 6; Contempt, 1; School Desegregation, 2.

TERMINATION ACT OF 1954. See Indians, 2.

THREE-JUDGE COURTS. See Procedure, 4.

TORT CLAIMS. See Bankruptcy Act, 2.

TREATY OF MEDICINE CREEK. See Indians, 1.

TREATY OF WOLF RIVER. See Indians, 2.

TREBLE DAMAGES. See Federal Rules of Civil Procedure; Procedure, 7-8.

TRESPASS. See also Constitutional Law, III, 2; Picketing; Procedure, 5.

Picketing—Shopping center property—First Amendment.—Since the shopping center serves as the community business block “and is freely accessible and open to the people in the area and those passing through,” the State may not delegate the power, through the use of trespass laws, wholly to exclude those members of the public wishing to exercise their First Amendment rights on the premises in a manner and for a purpose generally consonant with the use to which the property is actually put. *Food Employees v. Logan Plaza*, p. 308.

TRIAL. See Juvenile Delinquents; Procedure, 6.

TRIAL BY JURY. See also **Constitutional Law**, VII, 2-8; **Contempt**, 1-2; **Evidence**; **Juries**, 1-2; **Sentences**, 2-3.

Sixth Amendment—Applicable in state criminal trials.—Since trial by jury in criminal cases is fundamental to the American scheme of justice, the Fourteenth Amendment guarantees a right of jury trial in all criminal cases which, were they tried in a federal court, would come within the Sixth Amendment's guarantee of trial by jury. *Duncan v. Louisiana*, p. 145.

TRIBAL LANDS. See **Indians**, 2.

TRUSTEES. See **Bankruptcy Act**, 2.

UNANNOUNCED INTRUSION. See **Arrest**; **Search and Seizure**.

UNFAIR LABOR PRACTICE. See **Labor-Management Reporting and Disclosure Act**, 1; **National Labor Relations Act**.

UNION BYLAWS. See **Labor-Management Reporting and Disclosure Act**, 2-3; **Union Elections**.

UNION ELECTIONS. See also **Labor-Management Reporting and Disclosure Act**, 2-3.

Qualifications for candidates—Union's bylaws—Labor-Management Reporting and Disclosure Act.—The union's bylaw, which limited eligibility for major elective offices to union members who hold or have previously held elective office, measured against the Act's requirement of "free and democratic" union elections, is not a "reasonable qualification" within the meaning of § 401 (e) of the Act. *Wirtz v. Hotel Employees*, p. 492.

UNIONS. See **Antitrust Acts**, 3; **Constitutional Law**, III, 2; **Labor**, 1-2; **Labor-Management Reporting and Disclosure Act**, 1-3; **National Labor Relations Act**; **Picketing**; **Trespass**.

UNIVERSAL MILITARY TRAINING AND SERVICE ACT.
See also **Constitutional Law**, III, 1.

Burning draft cards—First Amendment.—A governmental regulation is sufficiently justified if it is within the constitutional power of the government (here the right to raise and support armies) and furthers an important governmental interest unrelated to the suppression of free expression, and if the incidental restriction on alleged First Amendment freedom is no greater than is essential to that interest. The 1965 Amendment to 50 U. S. C. App. § 462 (b) (3), which plainly does not abridge free speech on its face, meets these requirements, and is constitutional as applied. *United States v. O'Brien*, p. 367.

UNLOCKED DOORS. See **Arrest**; **Search and Seizure**.

VAGRANCY.

"Wandering or strolling"—Lack of evidence—Florida vagrancy law.—Fact that appellant was out long after curfew hour of his probation may be held to establish the no "lawful purpose or object" ingredient of Florida vagrancy statute, but judgment cannot stand since there was no evidence establishing the "wandering or strolling" ingredient. *Johnson v. Florida*, p. 596.

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

VENIREMEN. See **Constitutional Law**, VII, 2-3; **Evidence**; **Juries**, 1-2.

VIRGINIA. See **Constitutional Law**, II, 3; **School Desegregation**, 3.

VOLUNTARINESS. See **Confessions**; **Constitutional Law**, I.

WAGES. See **Antitrust Acts**, 3; **Bankruptcy Act**, 1; **Labor**, 1-2.

WANDERING OR STROLLING. See **Vagrancy**.

WARNINGS. See **Constitutional Law**, VI.

WARRANTLESS SEARCH. See **Arrest**; **Constitutional Law**, V, 1-2; **Contempt**, 1; **Search and Seizure**.

WARRANTS. See **Constitutional Law**, V, 1; VII, 2; **Evidence**; **Juries**, 1.

WASHINGTON. See **Indians**, 1.

WATER RIGHTS. See **Procedure**, 5.

WISCONSIN. See **Indians**, 2.

WORDS.

"In custody."—28 U. S. C. § 2241 (c) (3). *Peyton v. Rowe*, p. 54.

WORKABLE COMPETITION. See **Antitrust Acts**, 1-2.

WORKMEN. See **Bankruptcy Act**, 1.

WRONGFUL DEATH. See **Constitutional Law**, II, 1-2.

















