

## I N D E X

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**ABUSE OF DISCRETION.** See **Attorneys' Fees**, 2; **Labor-Management Reporting and Disclosure Act**.

**ACCESS TO MEDIA.** See **Constitutional Law**, V; **Federal Communications Act**.

**ACQUISITIONS OF LAND.** See **Federal-State Relations**, 1; **Public Lands**.

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**ADMINISTRATIVE PROCEDURE.** See also **Administrative Procedure Act**; **Constitutional Law**, V; **Evidence**, 1-2; **Federal Communications Act**; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Injunctions**, 1-2; **Interstate Commerce Commission**; **Judicial Review**, 1-2; **Jurisdiction**, 1-2; **National Environmental Policy Act**; **National Labor Relations Act**, 1-2; **Procedure**, 3-4; **Standing to Sue**.

1. *Food and Drug Administration—Federal Food, Drug, and Cosmetic Act—Summary judgment procedure.*—The 1962 Amendments to the Act and the regulations issued thereunder, which express well-established principles of scientific investigation, in their reduction of the “substantial evidence” standard to detailed guidelines for the protection of the public, make the FDA’s so-called administrative summary-judgment procedure appropriate. *Weinberger v. Hynson, Westcott & Dunning*, p. 609.

2. *Food and Drug Administration—Hearings—Evidence.*—FDA’s procedure, whereby it will not provide a formal hearing when it is apparent at the threshold that the applicant has not tendered any evidence which *on its face* meets the statutory standards as particularized by the regulations, is valid. *Weinberger v. Hynson, Westcott & Dunning*, p. 609.

3. *Food and Drug Administration—“New drug.”*—FDA has jurisdiction in an administrative proceeding to determine whether a drug product is a “new drug” within the meaning of § 201 (p) of the Federal Food, Drug, and Cosmetic Act. *CIBA Corp. v. Weinberger*, p. 640.

4. *Food and Drug Administration—New drug applications—Judicial review.*—While an FDA order denying a new drug application

**ADMINISTRATIVE PROCEDURE**—Continued.

and withdrawing one is reviewable by the Court of Appeals under § 505 (h) of the Federal Food, Drug, and Cosmetic Act, an order declaring a “new drug” status under § 201 (p) is reviewable under the Administrative Procedure Act by the District Court. *Weinberger v. Bentex Pharmaceuticals, Inc.*, p. 645.

5. *Food and Drug Administration—New drugs—Administrative finality.*—The reach of scientific inquiry under both § 505 (d) and § 201 (p) of the Act is the same, and it is implicit in the regulatory scheme that FDA has jurisdiction to decide with administrative finality, subject to judicial review, the “new drug” status of individual drugs or classes of drugs. *Weinberger v. Bentex Pharmaceuticals, Inc.*, p. 645.

6. *Food and Drug Administration—New drugs—Grandfather clause.*—The “new drug” and “grandfather” issues are peculiarly suited to initial determination by FDA with its specialized competence and expertise. *Weinberger v. Bentex Pharmaceuticals, Inc.*, p. 645.

7. *National Labor Relations Board—Unfair labor practice—Disciplinary fines.*—Adjudication by NLRB under § 8 (b) (1) (A) of the National Labor Relations Act of an unfair labor practice allegedly committed by a union does not include authority to determine whether the amount of a disciplinary fine levied by the union against a member is reasonable, the issue being one of internal union affairs over which the NLRB exercises no jurisdiction. *NLRB v. Boeing Co.*, p. 67.

**ADMINISTRATIVE PROCEDURE ACT.** See also **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Injunctions**, 1-2; **Jurisdiction**, 1-2; **National Environmental Policy Act**; **Procedure**, 3-4; **Standing to Sue**.

*Standing to sue—Persons aggrieved.*—Appellees’ pleadings sufficiently alleged that they were “adversely affected” or “aggrieved” within the meaning of § 10 of the Act to withstand a motion to dismiss on the ground of lack of standing to sue. Standing is not confined to those who show economic harm, as “[a]esthetic and environmental well-being, like economic well-being, are important ingredients of the quality of life in our society.” *United States v. SCRAP*, p. 669.

**ADMINISTRATIVE SUMMARY JUDGMENT.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.

- ADVERSARY HEARINGS.** See Jurisdiction, 5-6.
- AESTHETIC HARM.** See Administrative Procedure Act; Injunctions, 1-2; Jurisdiction, 2; National Environmental Policy Act; Standing to Sue.
- AGENCY APPROVAL.** See Administrative Procedure, 1-6; Evidence, 1-2; Federal Food, Drug, and Cosmetic Act, 1-6; Judicial Review, 1-2; Jurisdiction, 1; Procedure, 3-4.
- AGGRIEVED PERSONS.** See Administrative Procedure Act; Injunctions, 1-2; Jurisdiction, 2; National Environmental Policy Act; Standing to Sue.
- ALABAMA.** See Constitutional Law, II, 2.
- ALCOHOLIC BEVERAGES.** See Constitutional Law, X; Taxes, 4.
- ALIBI EVIDENCE.** See Constitutional Law, II, 1; Procedure, 1.
- ALLOTMENTS TO INDIANS.** See Indians, 1.
- ANTIWAR VIEWS.** See Constitutional Law, V; Federal Communications Act.
- APPEALS.** See Administrative Procedure, 3; Constitutional Law, II, 5; IV, 1; Federal Food, Drug, and Cosmetic Act, 6; Jurisdiction, 7; Procedure, 3.
- APPORTIONMENT PLANS.** See Constitutional Law, III, 1-7; Jurisdiction, 7.
- APPROVALS.** See Administrative Procedure, 1-6; Evidence, 1-2; Federal Food, Drug, and Cosmetic Act, 1-6; Judicial Review, 1-2; Jurisdiction, 1; Procedure, 3-4.
- ARKANSAS.** See Constitutional Law, II, 7; Probation.
- ARRESTS.** See Constitutional Law, II, 7; VI, 2; Probation; Search and Seizure, 2.
- ASSAULT.** See Indians, 2; Jurisdiction, 3; Procedure, 6.
- ASSAULT WITH INTENT TO COMMIT SERIOUS BODILY INJURY.** See Indians, 2; Jurisdiction, 3; Procedure, 6.
- ASSISTANCE OF COUNSEL.** See Courts-Martial; Habeas Corpus.
- ATTORNEY GENERAL OF WISCONSIN.** See Jurisdiction, 5-6.
- ATTORNEYS.** See Courts-Martial; Habeas Corpus.
- ATTORNEYS' FEES.** See also Emergency School Aid Act of 1972; Labor-Management Reporting and Disclosure Act.
1. *Emergency School Aid Act of 1972—Successful litigants—Desegregation of Memphis schools.*—Since Court of Appeals' denial of

**ATTORNEYS' FEES**—Continued.

costs and attorneys' fees under § 718 of the Act to petitioners, who were successful in litigation aimed at desegregation of Memphis public schools, was without stated reasons, this Court cannot determine whether the proper standard was correctly applied. *Northcross v. Memphis Board of Education*, p. 427.

2. *Reinstatement of union member—Equitable powers of trial court—Labor-Management Reporting and Disclosure Act.*—Respondent's suit under § 102 vindicated not only his own rights of free speech guaranteed by the statute but furthered the interests of the union and its members as well. As a result, the award of attorneys' fees under these circumstances comported with the trial court's inherent equitable power of making such an award whenever "overriding considerations indicate the need for such recovery." *Hall v. Cole*, p. 1.

**AUTOMOBILE ACCIDENTS.** See **Constitutional Law**, II, 7; **Probation**.

**AUTOMOBILE SEARCHES.** See **Constitutional Law**, VI, 1; **Search and Seizure**, 1.

**BARS.** See **Jurisdiction**, 5-6.

**BILL OF COMPLAINT.** See **Jurisdiction**, 4.

**BIOFLAVONOID PRODUCTS.** See **Federal Food, Drug, and Cosmetic Act**, 1, 4-5.

**BONA FIDE RESIDENCE.** See **Constitutional Law**, II, 6.

**"BORROWING" STATE LAW.** See **Federal-State Relations**, 1; **Public Lands**.

**BOUNDARIES OF ELECTION DISTRICTS.** See **Constitutional Law**, III, 1-3.

**BROADCASTING.** See **Constitutional Law**, V; **Federal Communications Act**.

**BUCK ACT.** See **Constitutional Law**, X; **Taxes**, 4.

**BURDEN OF PROOF.** See **Administrative Procedure**, 1-6; **Constitutional Law**, VI, 1; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3; **Search and Seizure**, 1.

**BUSINESS EXECUTIVES' MOVE FOR VIETNAM PEACE.** See **Constitutional Law**, V; **Federal Communications Act**.

**BYLAWS.** See **National Labor Relations Act**, 1; **Unions**.

- CALIFORNIA.** See Constitutional Law, I; IX; Copyrights, 1-3; Indians, 1; Jurisdiction, 4.
- CAPITAL CONTRIBUTIONS.** See Internal Revenue Code, 1; Taxes, 2.
- CAPTIVE AUDIENCES.** See Constitutional Law, V; Federal Communications Act.
- CARRIERS.** See Injunctions, 1-2; Interstate Commerce Commission; Judicial Review, 2; National Environmental Policy Act; Procedure, 4; Standing to Sue.
- CHARGES FOR GRAIN INSPECTIONS.** See Interstate Commerce Commission; Judicial Review, 2; Procedure, 4.
- CHARGES TO JURY.** See Constitutional Law, IV, 2; Evidence, 3-5; Indians, 2; Internal Revenue Code, 2; Jurisdiction, 3; Procedure, 6; Taxes, 1.
- CHECKS.** See Constitutional Law, II, 3; Evidence, 4-5.
- CHILDREN.** See Constitutional Law, VIII; Immunity, 1-3.
- CHOICE OF LAW.** See Federal-State Relations, 1; Public Lands.
- CITIES.** See Jurisdiction, 5-6.
- CITRUS BIOFLAVONOIDS.** See Federal Food, Drug, and Cosmetic Act, 1, 4-5.
- CIVIL RIGHTS ACTIONS.** See Jurisdiction, 5-6.
- CLASS ACTIONS.** See Courts-Martial; Habeas Corpus.
- CLEARANCE OF NEW DRUGS.** See Administrative Procedure, 1-6; Evidence, 1-2; Federal Food, Drug, and Cosmetic Act, 1-6; Judicial Review, 1; Jurisdiction, 1; Procedure, 3.
- COLLATERAL ATTACK.** See Constitutional Law, II, 4; IV, 1; Procedure, 5.
- COLLEGE STUDENTS.** See Constitutional Law, II, 6.
- COMMERCE.** See Administrative Procedure, 1-6; Evidence, 1-2; Federal Food, Drug, and Cosmetic Act, 1-6; Judicial Review, 1; Jurisdiction, 1; Procedure, 3.
- COMMISSIONER OF FOOD AND DRUGS.** See Administrative Procedure, 1-6; Evidence, 1-2; Federal Food, Drug, and Cosmetic Act, 1-6; Judicial Review, 1; Jurisdiction, 1; Procedure, 3.
- COMMITTEES OF CONGRESS.** See Constitutional Law, VIII, 1-2; Immunity, 1-3.

- COMMON CARRIERS.** See Injunctions, 1-2; Interstate Commerce Commission; Judicial Review, 2; National Environmental Policy Act; Procedure, 4; Standing to Sue.
- COMMON-LAW INFERENCES.** See Constitutional Law, II, 3; Evidence, 4-5.
- COMMUNICATIONS ACT.** See Constitutional Law, V; Federal Communications Act.
- COMPENSATION WHILE ON JURY DUTY.** See Constitutional Law, II, 2.
- CONCURRENT JURISDICTION.** See Constitutional Law, X; Taxes, 4.
- CONDEMNATION.** See Federal-State Relations, 1; Public Lands.
- CONFINEMENT.** See Courts-Martial; Habeas Corpus.
- CONFLICT OF LAWS.** See Federal-State Relations, 1; Public Lands.
- CONGRESSIONAL APPORTIONMENT.** See Constitutional Law, III, 1-7; Jurisdiction, 7.
- CONGRESSIONAL COMMITTEES.** See Constitutional Law, VIII, 1-2; Immunity, 1-3.
- CONGRESSIONAL DISTRICTING.** See Constitutional Law, III, 1-3.
- CONGRESSIONAL REPORTS.** See Constitutional Law, VIII, 1-2; Immunity, 1-3.
- CONNECTICUT.** See Constitutional Law, II, 6.
- CONSENTED SEARCHES.** See Constitutional Law, VI, 1; Search and Seizure, 1.
- CONSTITUTIONAL LAW.** See also Copyrights, 1-3; Evidence, 3-5; Federal Communications Act; Immunity, 1-3; Jurisdiction, 5-7; Probation; Procedure, 1-2, 5, 7; Search and Seizure, 1-2; Taxes, 4.

**I. Copyright Clause.**

*Federal-state relations—California's protection of recordings.*—Article I, § 8, cl. 8, of the Constitution does not expressly or by inference vest all power to grant copyright protection exclusively in the Federal Government. Unless Congress determines that the national interest requires federal protection or freedom from restraint as to a particular category of "Writings," state protection of that category is not precluded. *Goldstein v. California*, p. 546.

**CONSTITUTIONAL LAW**—Continued.**II. Due Process.**

1. *Alibi evidence—Reciprocal discovery—Fundamental fairness.*—Reciprocal discovery is required by fundamental fairness and it is insufficient that although statute does not require it, State might grant reciprocal discovery in a given case. In absence of fair notice that petitioner will have opportunity to discover State's rebuttal witnesses, petitioner cannot, consistently with due process requirements, be required to reveal his alibi defense. *Wardius v. Oregon*, p. 470.

2. *Deprivation of property—Compensation while on jury duty.*—Alabama statute that provides that employee excused for jury duty "shall be entitled to his usual compensation . . . less the fee or compensation he received for serving" as a juror, does not deprive employer of property in violation of the Due Process Clause of the Fourteenth Amendment. *Dean v. Gadsden Times Publishing Co.*, p. 543.

3. *Evidence—Statutory inference.*—If statutory inference submitted to jury as sufficient to support conviction satisfies the reasonable-doubt standard (*i. e.*, the evidence necessary to invoke the inference is sufficient for rational juror to find the inferred fact beyond a reasonable doubt) as well as the more-likely-than-not standard, then it clearly accords with due process. *Barnes v. United States*, p. 837.

4. *Increased sentence on retrial—Knowledge of jury.*—Rendition of higher sentence by jury on retrial does not violate the Double Jeopardy Clause, and does not offend the Due Process Clause as long as the jury is not informed of the prior sentence and the second sentence is not otherwise shown to be product of vindictiveness. Nor does the possibility of higher sentence impermissibly "chill" exercise of criminal defendant's right to challenge his first conviction by direct appeal or collateral attack. *Chaffin v. Stynchcombe*, p. 17.

5. *Increased sentence on retrial—Retroactivity.*—The "prophylactic" due process limitations established by *North Carolina v. Pearce*, 395 U. S. 711, to guard against the possibility of vindictiveness in cases where judge imposes more severe sentence after a new trial, are not retroactively applicable to resentencing proceedings that, like the one involved here, occurred prior to the date of the *Pearce* decision. *Michigan v. Payne*, p. 47.

6. *Irrebuttable statutory presumptions—Nonresident tuition rates.*—Due Process Clause of Fourteenth Amendment does not permit Connecticut to deny an individual the opportunity to present evidence that he is a bona fide resident entitled to in-state rates, on

**CONSTITUTIONAL LAW**—Continued.

basis of a permanent and irrebuttable presumption of nonresidence, when that presumption is not necessarily true in fact, and when State has reasonable alternative means of making the crucial determination. *Vlandis v. Kline*, p. 441.

7. *Probation conditions—Traffic citation.*—Issuance of traffic citation was not an “arrest” under either Missouri or Arkansas law, and finding that petitioner violated his probation conditions was so totally devoid of evidentiary support as to violate due process. Even were it clear that respondent judge held Missouri law to be that traffic citation is equivalent to arrest, such an unforeseeable holding, retroactively applied, would also deprive petitioner of due process. *Douglas v. Buder*, p. 430.

**III. Equal Protection of the Laws.**

1. *District boundaries—Political incumbents.*—Though the drawing of district boundaries in a way that minimizes the number of contests between present incumbents does not of itself establish invidiousness, it is not necessary to decide whether such state interest will justify the deviations in S. B. 1, since Plan B serves this purpose as well with less population variance. *White v. Weiser*, p. 783.

2. *Population variances—Congressional reapportionment.*—Population variances do invidiously devalue the individual’s vote at some point or level in size, and this is especially noticeable in congressional districts with their substantial population. Plan B, to a greater extent than Plan C, while eliminating population variances, adhered to the districting preferences of the state legislature, which has “primary jurisdiction” over legislative reapportionment. *White v. Weiser*, p. 783.

3. *Population variances—District lines.*—Although the percentage deviations in S. B. 1 are smaller than those invalidated in *Kirkpatrick v. Preisler*, 394 U. S. 526, and *Wells v. Rockefeller*, 394 U. S. 542, they were not “unavoidable” and the districts were not as mathematically equal as reasonably possible. The argument that variances are justified if they necessarily result from the State’s attempt to avoid fragmenting political subdivisions by drawing district lines along existing political subdivision lines is not legally acceptable. *White v. Weiser*, p. 783.

4. *State legislative apportionment—Deviations in population.*—State reapportionment statutes are not subject to the stricter standards applicable to congressional reapportionment under Art. I, § 2, and the District Court erred in concluding that this case, where the

**CONSTITUTIONAL LAW**—Continued.

total maximum variation between House districts was 9.9%, but the average deviation from the ideal was 1.82%, involved invidious discrimination in violation of the Equal Protection Clause. *White v. Regester*, p. 755.

5. *State legislative apportionment—Minor deviations.*—Minor deviations from mathematical equality among state legislative districts do not make out a prima facie case of invidious discrimination under the Equal Protection Clause of the Fourteenth Amendment, and in this case, where the House districts deviated on the average of 1.9% and the maximum deviation was 7.83%, a prima facie case was not made out. *Gaffney v. Cummings*, p. 735.

6. *State legislative apportionment—Political fairness.*—A “political fairness principle” that achieves a rough approximation of the statewide political strengths of the two major parties does not violate the Equal Protection Clause. *Gaffney v. Cummings*, p. 735.

7. *Texas legislative apportionment—Political discrimination.*—District Court’s order requiring disestablishment of the multimember districts in Dallas and Bexar Counties was warranted in light of history of political discrimination against Negroes and Mexican-Americans residing, respectively, in those counties and the residual effects of such discrimination upon those groups. *White v. Regester*, p. 755.

**IV. Fifth Amendment.**

1. *Double jeopardy—Increased sentence on retrial—Due process.*—Rendition of higher sentence by jury on retrial does not violate the Double Jeopardy Clause, and does not offend the Due Process Clause as long as the jury is not informed of the prior sentence and the second sentence is not otherwise shown to be product of vindictiveness. Nor does the possibility of higher sentence impermissibly “chill” exercise of criminal defendant’s right to challenge his first conviction by direct appeal or collateral attack. *Chaffin v. Stynchcombe*, p. 17.

2. *Self-incrimination—Pressure to testify—Massing of evidence.*—Although the introduction of any evidence, direct or circumstantial, tending to implicate defendant in the alleged crime increases the pressure on him to testify, the mere massing of evidence against him cannot be regarded as a violation of his privilege against self-incrimination. *Barnes v. United States*, p. 837.

**V. First Amendment.**

*Radio broadcasters—Paid editorial advertisements.*—Neither the Communications Act nor the First Amendment requires broadcasters to accept paid editorial advertisements. *Columbia Broadcasting v. Democratic Comm.*, p. 94.

**CONSTITUTIONAL LAW**—Continued.**VI. Fourth Amendment.**

1. *Search and seizure—Consented search—Knowledge of right to withhold consent.*—When subject of search is not in custody and State would justify search on basis of consent, Fourth and Fourteenth Amendments require that it demonstrate that consent was in fact voluntary; voluntariness is to be determined from the totality of surrounding circumstances. While knowledge of right to refuse consent is a factor to be taken into account, State need not prove that one giving permission to search knew that he had right to withhold consent. *Schneckloth v. Bustamonte*, p. 218.

2. *Search and seizure—Station-house detention—Probable cause—Fingernail scrapings.*—In view of station-house detention upon probable cause in murder case, the very limited intrusion, by taking scrapings from respondent's fingernails, undertaken to preserve highly evanescent evidence was not violative of the Fourth and Fourteenth Amendments. *Cupp v. Murphy*, p. 291.

**VII. Sixth Amendment.**

*Denial of speedy trial—Remedy.*—In light of policies underlying the right to a speedy trial, dismissal of the charges must remain, as noted in *Barker v. Wingo*, 407 U. S. 514, 522, "the only possible remedy" for deprivation of the constitutional right. *Strunk v. United States*, p. 434.

**VIII. Speech or Debate Clause.**

1. *Legislative report—Congressional staff.*—Congressional committee members, members of their staff, consultant, and investigator are absolutely immune under the Speech or Debate Clause insofar as they engaged in legislative acts of compiling report, referring it to the House, or voting for its publication. *Doe v. McMillan*, p. 306.

2. *Public distribution of congressional reports—Authorization from Congress.*—Clause does not afford absolute immunity from private suit to persons who, with authorization from Congress, perform function of publicly distributing materials that allegedly infringe upon the rights of individuals. Court of Appeals erred in holding that respondents who (except for committee members and personnel) were charged with public distribution were protected by the Clause. *Doe v. McMillan*, p. 306.

**IX. Supremacy Clause.**

*Record piracy—California's protection of recordings.*—California statute protecting recordings from piracy does not violate the Supremacy Clause by conflicting with federal copyright law. *Goldstein v. California*, p. 546.

**CONSTITUTIONAL LAW**—Continued.**X. Twenty-first Amendment.**

*Exclusive federal jurisdiction—State tax on liquor.*—The Twenty-first Amendment does not empower Mississippi to tax or otherwise regulate importation of distilled spirits into a territory over which the United States exercises exclusive jurisdiction, regardless of whether some of the liquor may have been consumed off base. *United States v. Mississippi Tax Comm'n*, p. 363.

**CONSTITUTIONS.** See **National Labor Relations Act**, 1; **Unions**.

**CONSULTANTS.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.

**CONTRACTORS.** See **Federal Tort Claims Act**, 1-3.

**CONTRIBUTIONS TO CAPITAL.** See **Internal Revenue Code**, 1; **Taxes**, 2.

**CONTROVERSIAL QUESTIONS.** See **Constitutional Law**, V; **Federal Communications Act**.

**CONTROVERSY BETWEEN STATES.** See **Jurisdiction**, 4.

**CONVEYANCES TO UNITED STATES.** See **Federal-State Relations**, 1; **Public Lands**.

**COPYING RECORDINGS.** See **Constitutional Law**, I; IX; **Copyrights**, 1-3.

**COPYRIGHTS.** See also **Constitutional Law**, I; IX.

1. *Copyright Clause—Federal-state relations—California's protection of recordings.*—Article I, § 8, cl. 8, of the Constitution does not expressly or by inference vest all power to grant copyright protection exclusively in the Federal Government. Unless Congress determines that the national interest requires federal protection or freedom from restraint as to a particular category of "Writings," state protection of that category is not precluded. *Goldstein v. California*, p. 546.

2. *Federal-state relations—Federal protection of recordings—California action against piracy.*—Although federal copyright statutes were amended in 1971 to allow federal protection of recordings, such protection was not intended to alter legal relationships governing recordings "fixed" prior to February 15, 1972. Until and unless Congress takes further action with respect to recordings "fixed" prior to that date, California remains free to proscribe acts of record or tape piracy such as those involved here. *Goldstein v. California*, p. 546.

**COPYRIGHTS**—Continued.

3. *Supremacy Clause—California's protection of recordings—Record piracy.*—California statute protecting recordings from piracy does not violate the Supremacy Clause by conflicting with federal copyright law. *Goldstein v. California*, p. 546.

**COSTS.** See **Attorneys' Fees**, 1; **Emergency School Aid Act of 1972**.

**COUNSEL.** See **Courts-Martial**; **Habeas Corpus**.

**COUNSEL FEES.** See **Attorneys' Fees**, 1; **Emergency School Aid Act of 1972**; **Labor-Management Reporting and Disclosure Act**.

**COUNTY JAILS.** See **Federal Tort Claims Act**, 1-3.

**COUNTY LINES.** See **Constitutional Law**, III, 1-3.

**COURT ENFORCEMENT OF FINES.** See **Administrative Procedure**, 7; **National Labor Relations Act**, 2; **Unions**.

**COURTS-MARTIAL.** See also **Habeas Corpus**.

*Assistance of counsel—Release from confinement.*—Motion to vacate Court of Appeals' stay of District Court's order in habeas corpus proceeding denied, the Solicitor General having represented that movants have been released and no uncounseled persons summarily court-martialed are in military confinement in Central District of California. *Henry v. Warner* (DOUGLAS, J., in chambers), p. 1201.

**COURTS OF APPEALS.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.

**CRIMINAL LAW.** See **Constitutional Law**, I; II, 1, 5; IV, 1; VI, 1-2; VII; IX; **Copyrights**, 1-3; **Evidence**, 3-5; **Indians**, 2; **Internal Revenue Code**, 2; **Jurisdiction**, 3; **Procedure**, 1-2, 5-7; **Search and Seizure**, 1-2; **Taxes**, 1.

**CROSSING PICKET LINES.** See **Administrative Procedure**, 7; **National Labor Relations Act**, 2; **Unions**.

**DECLARATORY JUDGMENTS.** See **Administrative Procedure**, 3; **Federal Food, Drug, and Cosmetic Act**, 6; **Procedure**, 3.

**DECLARATORY RULINGS.** See **Constitutional Law**, V; **Federal Communications Act**.

**DEDUCTIONS FOR DEPRECIATION.** See **Internal Revenue Code**, 1; **Taxes**, 2.

**DEEDS.** See **Federal-State Relations**, 1; **Public Lands**.

**DEFENSES.** See **Constitutional Law**, II, 1; **Procedure**, 1.

- DELAYS.** See Constitutional Law, VII; Procedure, 2.
- DEMOCRATIC NATIONAL COMMITTEE.** See Constitutional Law, V; Federal Communications Act.
- DENIAL OF COSTS AND FEES.** See Attorneys' Fees, 1; Emergency School Aid Act of 1972.
- DENIAL OF SPEEDY TRIAL.** See Constitutional Law, VII; Procedure, 2.
- DEPARTMENT OF THE INTERIOR.** See Indians, 1.
- DEPRECIATION DEDUCTIONS.** See Internal Revenue Code, 1; Taxes, 2.
- DEPRIVATION OF PROPERTY.** See Constitutional Law, II, 2.
- DEPUTY MARSHALS.** See Federal Tort Claims Act, 1-3.
- DEROGATORY REPORTS.** See Constitutional Law, VIII, 1-2; Immunity, 1-3.
- DESEGREGATION.** See Attorneys' Fees, 1; Emergency School Aid Act of 1972.
- DESTRUCTIBLE EVIDENCE.** See Constitutional Law, VI, 2; Search and Seizure, 2.
- DETENTION OF SUSPECT.** See Constitutional Law, VI, 2; Search and Seizure, 2.
- DEVIATIONS IN POPULATION.** See Constitutional Law, III, 1-3, 5-6; Jurisdiction, 7.
- DISCIPLINARY FINES.** See Administrative Procedure, 7; National Labor Relations Act, 2; Unions.
- DISCOVERY.** See Constitutional Law, II, 1; Procedure, 1.
- DISCRETION.** See Attorneys' Fees, 2; Constitutional Law, V; Federal Communications Act; Labor-Management Reporting and Disclosure Act.
- DISCRIMINATION.** See Constitutional Law, III, 4-7; Jurisdiction, 7.
- DISMISSAL OF CHARGES.** See Constitutional Law, VII; Procedure, 2.
- DISTILLED SPIRITS.** See Constitutional Law, X; Taxes, 4.
- DISTRIBUTION OF REPORTS.** See Constitutional Law, VIII, 1-2; Immunity, 1-3.

- DISTRICT COURTS.** See **Administrative Procedure**, 1-6; **Administrative Procedure Act**; **Attorneys' Fees**, 2; **Constitutional Law**, X; **Courts-Martial**; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Habeas Corpus**; **Injunctions**, 1-2; **Interstate Commerce Commission**; **Judicial Review**, 1; **Jurisdiction**, 1; **Labor-Management Reporting and Disclosure Act**; **National Environmental Policy Act**; **Procedure**, 3; **Standing to Sue**; **Taxes**, 4.
- DISTRICTING.** See **Constitutional Law**, III, 4-7; **Jurisdiction**, 7.
- DISTRICT OF COLUMBIA.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.
- DIVERSION OF WATER.** See **Jurisdiction**, 4.
- DOUBLE JEOPARDY.** See **Constitutional Law**, II, 5; IV, 1; **Procedure**, 5, 7.
- DRUG PRODUCTS.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- DUE PROCESS.** See **Constitutional Law**, II, 1-7; **Evidence**, 3-5; **Jurisdiction**, 5-6; **Probation**; **Procedure**, 1, 5-7.
- ECONOMIC HARM.** See **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Standing to Sue**.
- EDITORIAL ADVERTISEMENTS.** See **Constitutional Law**, V; **Federal Communications Act**.
- EFFECTIVE NEW DRUG APPLICATIONS.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- EFFICACY OF NEW DRUGS.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- ELECTION DISTRICTS.** See **Constitutional Law**, III, 1-7; **Jurisdiction**, 7.
- EMERGENCY RATE INCREASES.** See **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Standing to Sue**.
- EMERGENCY SCHOOL AID ACT OF 1972.** See also **Attorneys' Fees**, 1.

*Successful litigants—Desegregation of Memphis schools—Denial of costs and attorneys' fees.*—Since Court of Appeals' denial of costs and

**EMERGENCY SCHOOL AID ACT OF 1972**—Continued.

attorneys' fees under § 718 of the Act to petitioners, who were successful in litigation aimed at desegregation of Memphis public schools, was without stated reasons, this Court cannot determine whether the proper standard was correctly applied. *Northcross v. Memphis Board of Education*, p. 427.

**EMPLOYEES.** See **Administrative Procedure**, 7; **National Labor Relations Act**, 2; **Unions**.

**EMPLOYEES OF SCHOOL SYSTEM.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.

**EMPLOYEES OF THE GOVERNMENT.** See **Federal Tort Claims Act**, 1-3.

**EMPLOYER AND EMPLOYEES.** See **Constitutional Law**, II, 2.

**ENFORCEMENT OF FINES.** See **Administrative Procedure**, 7; **National Labor Relations Act**, 2; **Unions**.

**ENVIRONMENTAL DEFENSE FUND.** See **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Standing to Sue**.

**ENVIRONMENTAL GROUPS.** See **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Standing to Sue**.

**EQUAL PROTECTION OF THE LAWS.** See **Constitutional Law**, III, 1-7; **Jurisdiction**, 7.

**EQUITABLE RELIEF.** See **Jurisdiction**, 5-6.

**EQUITY.** See **Attorneys' Fees**, 2; **Labor-Management Reporting and Disclosure Act**.

**ESTATES OF INDIANS.** See **Federal-State Relations**, 2; **Indians**, 3; **Taxes**, 3.

**ESTATE TAXES.** See **Federal-State Relations**, 2; **Indians**, 3; **Taxes**, 3.

**ETHNIC GROUPS.** See **Constitutional Law**, III, 4, 7; **Jurisdiction**, 7.

**EVALUATION OF NEW DRUGS.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.

**EVANESCENT EVIDENCE.** See **Constitutional Law**, VI, 2; **Search and Seizure**, 2.

**EVIDENCE.** See also **Administrative Procedure**, 1-6; **Constitutional Law**, II, 1, 6-7; VI, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Probation; Procedure**, 1; **Search and Seizure**, 2.

1. *Federal Food, Drug, and Cosmetic Act—Substantial evidence—Hearings.*—Although a drug can be “generally recognized” by experts as effective for intended use within the meaning of the Act only when that expert consensus is founded upon “substantial evidence,” any ruling on Lutrexin’s new drug status is premature, and must await the outcome of the hearing on whether Hynson submitted “substantial evidence.” *Weinberger v. Hynson, Westcott & Dunning*, p. 609.

2. *Federal Food, Drug and Cosmetic Act—Substantial evidence—Threshold burden.*—In No. 72-394, the Court of Appeals’ holding that Hynson was entitled to a hearing on whether its submission of evidence satisfied its threshold burden of providing “substantial evidence” is affirmed. *Weinberger v. Hynson, Westcott & Dunning*, p. 609.

3. *Massing of evidence—Privilege against self-incrimination.*—Although the introduction of any evidence, direct or circumstantial, tending to implicate defendant in the alleged crime increases the pressure on him to testify, the mere massing of evidence against him cannot be regarded as a violation of his privilege against self-incrimination. *Barnes v. United States*, p. 837.

4. *Possession of stolen checks—Common-law inference—Reasonable-doubt standard.*—Here, where evidence established that petitioner possessed recently stolen Treasury checks payable to persons he did not know and it provided no plausible explanation for such possession consistent with innocence, the traditional common-law inference satisfies the reasonable-doubt standard, the most stringent standard applied by the Court in judging permissive criminal-law inferences, and, therefore, comports with due process. *Barnes v. United States*, p. 837.

5. *Statutory inference—Reasonable-doubt standard—More-likely-than-not standard.*—If statutory inference submitted to jury as sufficient to support conviction satisfies the reasonable-doubt standard (*i. e.*, the evidence necessary to invoke the inference is sufficient for rational juror to find the inferred fact beyond a reasonable doubt) as well as the more-likely-than-not standard, then it clearly accords with due process. *Barnes v. United States*, p. 837.

- EXCLUSIVE JURISDICTION.** See *Administrative Procedure Act*; *Constitutional Law*, X; *Injunctions*, 1-2; *Jurisdiction*, 2; *National Environmental Policy Act*; *Standing to Sue*; *Taxes*, 4.
- EXEMPTIONS.** See *Administrative Procedure*, 1-6; *Evidence*, 1-2; *Federal Food, Drug, and Cosmetic Act*, 1-6; *Judicial Review*, 1; *Jurisdiction*, 1; *Procedure*, 3.
- EXHAUSTION OF REMEDIES.** See *Administrative Procedure*, 1-6; *Evidence*, 1-2; *Federal Food, Drug, and Cosmetic Act*, 1-6; *Jurisdiction*, 1.
- EXPERT PANELS.** See *Administrative Procedure*, 1-6; *Evidence*, 1-2; *Federal Food, Drug, and Cosmetic Act*, 1-6; *Judicial Review*, 1; *Jurisdiction*, 1; *Procedure*, 3.
- EXPULSION FROM UNION.** See *Attorneys' Fees*, 2; *Labor-Management Reporting and Disclosure Act*.
- FAIRNESS.** See *Constitutional Law*, II, 1; *Procedure*, 1.
- FAIRNESS DOCTRINE.** See *Constitutional Law*, V; *Federal Communications Act*.
- FEDERAL AGENCIES.** See *Federal Tort Claims Act*, 1-3.
- FEDERAL "COMMON LAW."** See *Federal-State Relations*, 1; *Public Lands*.
- FEDERAL COMMUNICATIONS ACT.** See also *Constitutional Law*, V.  
*Radio broadcasters—Public issues—Paid editorial advertisements.*—Neither the Act nor the First Amendment requires broadcasters to accept paid editorial advertisements. *Columbia Broadcasting v. Democratic Comm.*, p. 94.
- FEDERAL COMMUNICATIONS COMMISSION.** See *Constitutional Law*, V; *Federal Communications Act*.
- FEDERAL COURTS.** See *Federal-State Relations*, 1; *Public Lands*.
- FEDERAL FOOD, DRUG, AND COSMETIC ACT.** See also *Administrative Procedure*, 1-6; *Evidence*, 1-2; *Judicial Review*, 1; *Jurisdiction*, 1; *Procedure*, 3.  
1. *Exemptions—"Grandfather" clause—New drug applications (NDA's).*—The congressional purpose was to exempt only those drugs that had never been subject to the new drug regulation, and therefore any drug for which an NDA had once been effective does not fall

**FEDERAL FOOD, DRUG, AND COSMETIC ACT**—Continued.

within the exempt category. *USV Pharmaceutical Corp. v. Weinberger*, p. 655.

2. *Food and Drug Administration—New drugs—Scientific inquiry.*—The reach of scientific inquiry under both § 505 (d) and § 201 (p) of the Act is the same, and it is implicit in the regulatory scheme that the FDA has jurisdiction to decide with administrative finality, subject to judicial review, the “new drug” status of individual drugs or classes of drugs. *Weinberger v. Bentex Pharmaceuticals, Inc.*, p. 645.

3. *Grandfather provisions—New drug applications.*—Lutrexin is not exempt under the “grandfather” provisions of the 1962 Amendments to the Act, as held by the FDA and the Court of Appeals, and their construction accords with the legislative history which suggests that the exemption is afforded only for drugs that never had been subject to new drug regulation. *Weinberger v. Hynson, Westcott & Dunning*, p. 609.

4. *“Me-too” drugs—Effective new drug applications.*—“Any drug” is used in § 107 (c) (4) in the generic sense, which means that the “me-too’s” whether the products of the same or of different manufacturers “covered” by an “effective” NDA are not exempt from the efficacy requirement of § 201 (p). *USV Pharmaceutical Corp. v. Weinberger*, p. 655.

5. *Prescription drugs—Efficacy requirements.*—Prescription drugs on the market are subject to the 1962 efficacy requirements, for if the 1962 amendments are to be comprehensively meaningful, § 107 (c) (4) cannot be read so as to provide a loophole to permit the marketing of drugs previously subject to new drug regulation without demonstrating by the new statutory standards that they have the claimed efficacy. *USV Pharmaceutical Corp. v. Weinberger*, p. 655.

6. *Sanctions—Not a dual administrative-judicial system.*—While the Act provides FDA with sanctions, such as civil injunction proceedings, criminal penalties, and *in rem* seizure and condemnation, to enforce the prohibition against sale in commerce of any article in violation of § 505, the Act does not create a dual system, one administrative and the other judicial. *CIBA Corp. v. Weinberger*, p. 640.

**FEDERAL INCOME TAXES.** See *Internal Revenue Code*, 1-2; *Taxes*, 1-2.

**FEDERAL INSTRUMENTALITIES.** See *Constitutional Law*, X; *Taxes*, 4.

**FEDERAL PRISONERS.** See *Federal Tort Claims Act*, 1-3.

**FEDERAL REGULATORY PROGRAMS.** See **Federal-State Relations**, 1; **Public Lands**.

**FEDERAL RULES OF CRIMINAL PROCEDURE.** See **Indians**, 2; **Jurisdiction**, 3; **Procedure**, 6.

**FEDERAL-STATE RELATIONS.** See also **Constitutional Law**, I; IX; X; **Copyrights**, 1-3; **Indians**, 1, 3; **Public Lands**; **Taxes**, 4.

1. *Federal lands—Mineral reservations—Subsequent Louisiana statute.*—Under settled principles governing the choice of law by federal courts, Louisiana's Act 315 of 1940 does not apply to the mineral reservations agreed to by the parties in 1937 and 1939. As it is clear that Act 315 does not apply here, it is not necessary to choose between "borrowing" some residual state rule of interpretation or formulating an independent federal "common law" rule; neither rule is the law of Louisiana, yet either rule resolves this dispute in the Government's favor. *United States v. Little Lake Misere Land Co.*, p. 580.

2. *Oklahoma estate tax—United States as trustee—Reliance on Supreme Court decision.*—United States did not breach its fiduciary duty as trustee of Indian property by paying Oklahoma estate tax assessed against estate of deceased, a restricted Osage Indian, in reliance on *West v. Oklahoma*, 334 U. S. 717, which had upheld the validity of tax as applied to the same kind of estate. *United States v. Mason*, p. 391.

#### **FEDERAL TORT CLAIMS ACT.**

1. *Federal prisoner—Confinement in county jail—Suicide.*—Court of Appeals correctly concluded that the deputy marshal had no authority to control the activities of the sheriff's employees and that the county jail was a "contractor," not a "Federal agency," within the meaning of the Act; and the statutory authorization for housing federal prisoners in state facilities clearly contemplated that day-to-day operation of the contractor's facilities was to be in the contractor's, not the Government's, hands. *Logue v. United States*, p. 521.

2. *Federal prisoner in county jail—Sheriff's employees—Acting on behalf of federal agency.*—Petitioners' alternative contention that even though sheriff's employees might not be "employees" of a federal agency, they might nonetheless be "acting on behalf of a federal agency in an official capacity" and thus "employee[s] of the Government" within the meaning of the Act, is not consistent with the legislative purposes of the Act. *Logue v. United States*, p. 521.

3. *Federal prisoner in county jail—Suicide—Negligence of federal deputy marshal.*—Court of Appeals, not having given consideration

**FEDERAL TORT CLAIMS ACT**—Continued.

to the question of the deputy marshal's negligence apart from the other issues, should address itself to that question on remand. *Logue v. United States*, p. 521.

**FEE TITLES.** See **Federal-State Relations**, 1; **Public Lands**.

**FELONIES.** See **Internal Revenue Code**, 2; **Taxes**, 1.

**FIDUCIARY DUTY.** See **Federal-State Relations**, 2; **Indians**, 3; **Taxes**, 3.

**FIFTH AMENDMENT.** See **Constitutional Law**, IV, 1-2; **Evidence**, 3-5.

**FINES.** See **Administrative Procedure**, 7; **National Labor Relations Act**, 2; **Unions**.

**FINGERNAIL SCRAPINGS.** See **Constitutional Law**, VI, 2; **Search and Seizure**, 2.

**FIRST AMENDMENT.** See **Attorneys' Fees**, 2; **Constitutional Law**, V; **Federal Communications Act**; **Labor-Management Reporting and Disclosure Act**.

**FISHING RIGHTS.** See **Indians**, 1.

**FOOD AND DRUG ADMINISTRATION.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.

**FORFEITURE PROCEEDINGS.** See **Indians**, 1.

**FORGING AND UTTERING.** See **Constitutional Law**, IV, 2; **Evidence**, 3-5.

**FOURTEENTH AMENDMENT.** See **Constitutional Law**, II, 1, 5, 7; III, 1-3, 5-6; IV, 1; VI, 1-2; **Jurisdiction**, 5-6; **Probation**; **Procedure**, 1, 5, 7; **Search and Seizure**, 1.

**FOURTH AMENDMENT.** See **Constitutional Law**, VI, 1-2; **Search and Seizure**, 1-2.

**FRAUDULENT RETURNS.** See **Internal Revenue Code**, 2; **Taxes**, 1.

**FREEDOM OF SPEECH.** See **Attorneys' Fees**, 2; **Constitutional Law**, V; **Federal Communications Act**; **Labor-Management Reporting and Disclosure Act**.

**FREIGHT RATE INCREASES.** See **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Standing to Sue**.

**FREIGHT RATES.** See **Interstate Commerce Commission**; **Judicial Review**, 2; **Procedure**, 4

- FRUIT SKIN EXTRACTS.** See **Federal Food, Drug, and Cosmetic Act**, 1, 4-5.
- FUNDAMENTAL FAIRNESS.** See **Constitutional Law**, II, 1; **Procedure**, 1.
- GAME WARDENS.** See **Indians**, 1.
- GENERIC DRUGS.** See **Federal Food, Drug, and Cosmetic Act**, 1, 4-5.
- GEORGIA.** See **Constitutional Law**, IV, 1; **Procedure**, 5.
- GILL NETS.** See **Indians**, 1.
- GOVERNMENT AGENTS.** See **Federal Tort Claims Act**, 1-3.
- GOVERNMENT CONTRACTORS.** See **Federal Tort Claims Act**, 1-3.
- GOVERNMENT LAND OWNERSHIP.** See **Federal-State Relations**, 1; **Public Lands**.
- GOVERNMENT OFFICIALS.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.
- GOVERNMENT PRINTING OFFICE.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.
- GOVERNMENT SUBSIDIES.** See **Internal Revenue Code**, 1; **Taxes**, 2.
- GRAIN INSPECTIONS.** See **Interstate Commerce Commission**; **Judicial Review**, 2; **Procedure**, 4.
- GRANDFATHER CLAUSES.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- GREATER SENTENCES.** See **Constitutional Law**, II, 5; IV, 1; **Procedure**, 5, 7.
- GUIDELINES.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- HABEAS CORPUS.** See also **Constitutional Law**, IV, 1; **Courts-Martial**; **Procedure**, 5.

*Class actions—Unnamed class members outside District—World-wide basis.*—Question of District Court's authority to grant habeas corpus relief for unnamed class members outside District and/or on worldwide basis is so novel that relief should be granted only after full argument. *Henry v. Warner* (DOUGLAS, J., in chambers), p. 1201.

**HARM TO ENVIRONMENT.** See **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Standing to Sue**.

**HEARINGS.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.

**HEMATOLOGIC DISORDERS.** See **Federal Food, Drug, and Cosmetic Act**, 1, 4-5.

**HIGHER SENTENCES.** See **Constitutional Law**, II, 5; IV, 1; **Procedure**, 5, 7.

**HIGHWAY-RAILROAD INTERSECTIONS.** See **Internal Revenue Code**, 1; **Taxes**, 2.

**HOOPA VALLEY RESERVATION.** See **Indians**, 1.

**HOUSE OF REPRESENTATIVES.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.

**HOUSING OF FEDERAL PRISONERS.** See **Federal Tort Claims Act**, 1-3.

**IMMUNITY.** See also **Constitutional Law**, VIII, 1-2.

1. *Public officials—Distribution of congressional report—Legislative functions.*—Public Printer and Superintendent of Documents are protected by doctrine of official immunity enunciated in *Barr v. Matteo*, 360 U. S. 564, for publishing and distributing the report only to the extent that they served legitimate legislative functions in doing so, and the Court of Appeals erred in holding that their immunity extended beyond that limit. *Doe v. McMillan*, p. 306.

2. *Speech or Debate Clause—Legislative report—Congressional staff.*—Congressional committee members, members of their staff, consultant, and investigator are absolutely immune under the Speech or Debate Clause insofar as they engaged in legislative acts of compiling report, referring it to the House, or voting for its publication. *Doe v. McMillan*, p. 306.

3. *Speech or Debate Clause—Public distribution of congressional reports.*—Clause does not afford absolute immunity from private suit to persons who, with authorization from Congress, perform function of publicly distributing materials that allegedly infringe upon the rights of individuals. Court of Appeals erred in holding that respondents who (except for committee members and personnel) were charged with public distribution were protected by the Clause. *Doe v. McMillan*, p. 306.

**IMPORTATION OF LIQUOR.** See **Constitutional Law, X; Taxes, 4.**

**IMPREScriptIBILITY.** See **Federal-State Relations, 1; Public Lands.**

**IMPROVEMENTS TO HIGHWAY SYSTEM.** See **Internal Revenue Code, 1; Taxes, 2.**

**INCOME TAXES.** See **Internal Revenue Code, 1-2; Taxes, 1-2.**

**INCREASED RATES.** See **Administrative Procedure Act; Injunctions, 1-2; Jurisdiction, 2; National Environmental Policy Act; Standing to Sue.**

**INCREASED SENTENCES.** See **Constitutional Law, II, 5; IV, 1; Procedure, 5, 7.**

**INCUMBENTS.** See **Constitutional Law, III, 1-3.**

**INDIAN COUNTRY.** See **Indians, 1.**

**INDIAN RESERVATIONS.** See **Indians, 1-2; Jurisdiction, 3; Procedure, 6.**

**INDIANS.** See also **Federal-State Relations, 2; Jurisdiction, 3; Procedure, 6; Taxes, 3.**

1. *Fishing rights—Termination of reservation—Klamath River Reservation.*—The Klamath River Reservation was not terminated by the Act of June 17, 1892, and the land within the reservation boundaries is still Indian country, within the meaning of 18 U. S. C. § 1151. *Mattz v. Arnett*, p. 481.

2. *Major Crimes Act of 1885—Lesser included offenses—Jury instructions.*—An Indian prosecuted in federal court under the Act is entitled to a jury instruction on lesser included offenses, if the facts warrant. Such an instruction would not expand the reach of the Act or permit the Government to infringe the residual jurisdiction of the Indian tribes by bringing in federal courts prosecutions not authorized by statute. *Keeble v. United States*, p. 205.

3. *Oklahoma estate tax—Payment by United States as trustee—Reliance on Supreme Court decision.*—United States did not breach its fiduciary duty as trustee of Indian property by paying Oklahoma estate tax assessed against estate of deceased, a restricted Osage Indian, in reliance on *West v. Oklahoma*, 334 U. S. 717, which had upheld the validity of tax as applied to the same kind of estate. *United States v. Mason*, p. 391.

**INFERENCES.** See **Constitutional Law, II, 3; Evidence, 3-5.**

**INJUNCTIONS.** See also **Administrative Procedure**, 2; **Administrative Procedure Act**; **Constitutional Law**, III, 4, 7; **Federal Food, Drug, and Cosmetic Act**, 6; **Interstate Commerce Commission**; **Judicial Review**, 2; **Jurisdiction**, 2, 7; **National Environmental Policy Act**; **Procedure**, 3-4; **Standing to Sue**.

1. *Jurisdiction—Interstate Commerce Commission—Suspension of rates.*—*Arrow Transportation Co. v. Southern R. Co.*, 372 U. S. 658, held that Congress in § 15 (7) of the Interstate Commerce Act had vested exclusive jurisdiction in the ICC to suspend rates pending its final decision on their lawfulness and had deliberately extinguished judicial power to grant such relief; and the factual distinctions between the instant case and *Arrow Transportation* are inconsequential. *United States v. SCRAP*, p. 669.

2. *National Environmental Policy Act—Noncompliance by ICC—Repeal by implication.*—Alleged noncompliance by ICC with the Act did not give the District Court authority to grant the injunction, as the Act was not intended to repeal by implication any other statute, and the policies identified in *Arrow Transportation Co. v. Southern R. Co.*, 372 U. S. 658, as the basis for § 15 (7) of the Interstate Commerce Act would be substantially undermined if the courts were found to have suspension powers simply because of non-compliance with NEPA. *United States v. SCRAP*, p. 669.

**INSPECTION OF GRAIN.** See **Interstate Commerce Commission**; **Judicial Review**, 2; **Procedure**, 4.

**IN-STATE TUITION RATES.** See **Constitutional Law**, II, 6.

**INSTRUCTIONS TO JURY.** See **Constitutional Law**, IV, 2; **Evidence**, 3-5; **Indians**, 2; **Internal Revenue Code**, 2; **Jurisdiction**, 3; **Procedure**, 6; **Taxes**, 1.

**INTERESTS OF UNION MEMBERS.** See **Attorneys' Fees**, 2; **Labor-Management Reporting and Disclosure Act**.

**INTERIOR DEPARTMENT.** See **Indians**, 1.

**INTERNAL REVENUE CODE.** See also **Taxes**, 1-2.

1. *Depreciation of Government's cost in assets—Highway-railroad improvements—Income taxes.*—Governmental subsidies did not constitute contributions to respondent's capital within meaning of § 113 (a) (8) of Internal Revenue Code of 1939; the assets in question have a zero basis; and respondent cannot claim a depreciation deduction with respect thereto. *United States v. Chicago, B. & Q. R. Co.*, p. 401.

2. *"Willfully"—Lesser included offenses—Income taxes.*—Word "willfully" has same meaning in 26 U. S. C. §§ 7206 (1) and 7207,

**INTERNAL REVENUE CODE**—Continued.

connoting voluntary, intentional violation of known legal duty, and the distinction between the statutes is found in the additional misconduct that is essential to the violation of the felony provision; hence, the District Court properly refused the requested lesser-included-offense instruction based on respondent's erroneous contention that word "willfully" in misdemeanor statute implied less scienter than same word in felony statute. *United States v. Bishop*, p. 346.

**INTERNAL UNION AFFAIRS.** See **Administrative Procedure**, 7; **National Labor Relations Act**, 2; **Unions**.

**INTERSECTIONS.** See **Internal Revenue Code**, 1; **Taxes**, 2.

**INTERSTATE COMMERCE ACT.** See **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Standing to Sue**.

**INTERSTATE COMMERCE COMMISSION.** See also **Administrative Procedure Act**; **Injunctions**, 1-2; **Judicial Review**, 2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Procedure**, 4; **Standing to Sue**.

*Approval of separate charges for inspection of grain in transit—Judicial review.*—District Court's action suspending separate in-transit charges for grain inspection approved by the ICC, and remanding the case to the ICC, is affirmed as to the remand and reversed as to the injunction suspending the proposed charges. *Atchison, T. & S. F. R. Co. v. Wichita Bd. of Trade*, p. 800.

**INTERVENTION.** See **Jurisdiction**, 5-6.

**IN-TRANSIT CHARGES.** See **Interstate Commerce Commission**; **Judicial Review**, 2; **Procedure**, 4.

**INVASION OF PRIVACY.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.

**INVESTIGATORS.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.

**INVIDIOUS DISCRIMINATION.** See **Constitutional Law**, III, 4-7; **Jurisdiction**, 7.

**IRREBUTTABLE PRESUMPTIONS.** See **Constitutional Law**, II, 6.

**IRRIGATION WATER.** See **Jurisdiction**, 4.

**JOURNALISTIC DISCRETION.** See **Constitutional Law**, V; **Federal Communications Act**.

**JUDGES.** See **Constitutional Law**, II, 5, 7; **Probation**; **Procedure**, 7.

**JUDGMENTS OF CONDEMNATION.** See **Federal-State Relations**, 1; **Public Lands**.

**JUDICIAL POWER.** See **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Standing to Sue**.

**JUDICIAL REVIEW.** See also **Administrative Procedure**, 1-6; **Constitutional Law**, III, 4, 7; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Interstate Commerce Commission**; **Jurisdiction**, 1, 7; **Procedure**, 3-4.

1. *Federal Food, Drug, and Cosmetic Act—New drug applications—Food and Drug Administration.*—While an FDA order denying a new drug application and withdrawing one is reviewable by the Court of Appeals under § 505 (h) of the Act, an order declaring a “new drug” status under § 201 (p) is reviewable under the Administrative Procedure Act by the District Court. *Weinberger v. Bentex Pharmaceuticals, Inc.*, p. 645.

2. *ICC approval of charges—Injunctions—Remand.*—District Court’s action suspending separate in-transit charges for grain inspection approved by the ICC, and remanding the case to the ICC, is affirmed as to the remand and reversed as to the injunction suspending the proposed charges. *Atchison, T. & S. F. R. Co. v. Wichita Bd. of Trade*, p. 800.

**JURIES.** See **Constitutional Law**, IV, 1; **Procedure**, 5.

**JURISDICTION.** See also **Administrative Procedure**, 1-7; **Administrative Procedure Act**; **Attorneys’ Fees**, 2; **Constitutional Law**, III, 4, 7; X; **Courts-Martial**; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Habeas Corpus**; **Indians**, 1-2; **Injunctions**, 1-2; **Interstate Commerce Commission**; **Judicial Review**, 1-2; **Labor-Management Reporting and Disclosure Act**; **National Environmental Policy Act**; **National Labor Relations Act**, 2; **Procedure**, 3-4, 6; **Standing to Sue**; **Taxes**, 4; **Unions**.

1. *Food and Drug Administration—Primary jurisdiction—Judicial review.*—The heart of the statutory procedure is the grant of primary jurisdiction to FDA, subject to judicial review when administrative procedures are exhausted. *Weinberger v. Hynson, Westcott & Dunning*, p. 609.

2. *Injunctions—Interstate Commerce Commission—Suspension of rates.*—*Arrow Transportation Co. v. Southern R. Co.*, 372 U. S. 658,

**JURISDICTION**—Continued.

held that Congress in § 15 (7) of the Interstate Commerce Act had vested exclusive jurisdiction in the ICC to suspend rates pending its final decision on their lawfulness and had deliberately extinguished judicial power to grant such relief; and the factual distinctions between the instant case and *Arrow Transportation* are inconsequential. *United States v. SCRAP*, p. 669.

3. *Major Crimes Act of 1885—Indian tribes—Lesser included offenses.*—An Indian prosecuted in federal court under the Act is entitled to a jury instruction on lesser included offenses, if the facts warrant. Such an instruction would not expand the reach of the Act or permit the Government to infringe the residual jurisdiction of the Indian tribes by bringing in federal courts prosecutions not authorized by statute. *Keeble v. United States*, p. 205.

4. *Original jurisdiction—Exclusive jurisdiction—Dispute between United States and two States.*—Motion to file bill of complaint is denied, without prejudice to refileing it if posture of litigation should change in manner that presents more substantial basis for exercise of original jurisdiction. There being no dispute between California and Nevada, the dispute is between the United States and two States, over which the Court has original but not exclusive jurisdiction under 28 U. S. C. § 1251 (b) (2). This Court seeks to exercise original jurisdiction sparingly, especially where plaintiff has another adequate forum in which to settle his claim. *United States v. Nevada*, p. 534.

5. *Suit against cities—Equitable relief—City not a “person.”*—A city is not a “person” under 42 U. S. C. § 1983 where equitable relief is sought, any more than it is where damages are sought, and the District Court erred in concluding that it had jurisdiction over the complaints under 28 U. S. C. § 1343 since only the two municipalities were named as defendants. *City of Kenosha v. Bruno*, p. 507.

6. *Suit against cities—Intervention by State Attorney General—28 U. S. C. § 1331.*—In this action seeking declaratory and injunctive relief against two cities for refusal to renew liquor licenses, the District Court on remand should consider the jurisdictional questions presented by State Attorney General’s intervention and the availability of 28 U. S. C. § 1331 jurisdiction, as well as decisions of this Court in *Board of Regents v. Roth*, 408 U. S. 464, and *Perry v. Sindermann*, 408 U. S. 593, which are germane to the due process issue, and *California v. LaRue*, 409 U. S. 109, dealing with broad state authority over liquor distribution. *City of Kenosha v. Bruno*, p. 507.

**JURISDICTION**—Continued.

7. *Supreme Court—Appeal from injunction order—Texas legislative apportionment.*—This Court has jurisdiction under 28 U. S. C. § 1253 to consider the appeal from the injunction order applicable to Bexar County and Dallas County districting, since the three-judge court had been properly convened, and this Court can review the declaratory part of the judgment below. *White v. Register*, p. 755.

**JURY DUTY.** See **Constitutional Law**, II, 2.

**JURY INSTRUCTIONS.** See **Constitutional Law**, IV, 2; **Evidence**, 3-5; **Indians**, 2; **Internal Revenue Code**, 2; **Jurisdiction**, 3; **Procedure**, 6; **Taxes**, 1.

**KENOSHA, WISCONSIN.** See **Jurisdiction**, 5-6.

**KLAMATH RIVER RESERVATION.** See **Indians**, 1.

**KNOWLEDGE OF JURY.** See **Constitutional Law**, IV, 1; **Procedure**, 5.

**KNOWLEDGE OF RIGHT.** See **Constitutional Law**, VI, 1; **Search and Seizure**, 1.

**KNOWLEDGE THAT CHECKS WERE STOLEN.** See **Constitutional Law**, IV, 2; **Evidence**, 3-5.

**LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT.**  
See also **Attorneys' Fees**, 2.

*Reinstatement of union member—Legal fees—Equitable powers of trial court.*—Respondent's suit under § 102 vindicated not only his own rights of free speech guaranteed by the statute but furthered the interests of the union and its members as well. As a result, the award of attorneys' fees under these circumstances comported with the trial court's inherent equitable power of making such an award whenever "overriding considerations indicate the need for such recovery." *Hall v. Cole*, p. 1.

**LABOR UNIONS.** See **Administrative Procedure**, 7; **Attorneys' Fees**, 2; **Labor-Management Reporting and Disclosure Act**; **National Labor Relations Act**, 2; **Unions**.

**LAND ACQUISITIONS.** See **Federal-State Relations**, 1; **Public Lands**.

**LANDRUM-GRIFFIN ACT.** See **Attorneys' Fees**, 2; **Labor-Management Reporting and Disclosure Act**.

**LAWYERS' FEES.** See **Attorneys' Fees**, 1; **Emergency School Aid Act of 1972**; **Labor-Management Reporting and Disclosure Act**.

- LEGAL FEES.** See Attorneys' Fees; Emergency School Aid Act of 1972; Labor-Management Reporting and Disclosure Act.
- LEGISLATIVE APPORTIONMENT.** See Constitutional Law, III, 1-7; Jurisdiction, 7.
- LEGISLATIVE EMPLOYEES.** See Constitutional Law, VIII, 1-2; Immunity, 1-3.
- LESSER INCLUDED OFFENSES.** See Indians, 2; Internal Revenue Code, 2; Jurisdiction, 3; Procedure, 6; Taxes, 1.
- LEVEL OF WATER.** See Jurisdiction, 4.
- LICENSEES.** See Constitutional Law, V; Federal Communications Act.
- LICENSES.** See Jurisdiction, 5-6.
- LINE-HAUL RATES.** See Interstate Commerce Commission; Judicial Review, 2; Procedure, 4.
- LIQUOR LICENSES.** See Jurisdiction, 5-6.
- LIQUOR PURCHASES.** See Constitutional Law, X; Taxes, 4.
- LITIGATION EXPENSES.** See Attorneys' Fees, 1; Emergency School Aid Act of 1972.
- LOUISIANA.** See Federal-State Relations, 1; Public Lands.
- LUTREXIN.** See Administrative Procedure, 1-2; Evidence, 1-2; Federal Food, Drug, and Cosmetic Act, 3; Jurisdiction, 1.
- MAIL THEFT.** See Constitutional Law, IV, 2; Evidence, 3-5.
- MAINTENANCE-OF-MEMBERSHIP CLAUSES.** See Administrative Procedure, 7; National Labor Relations Act, 2; Unions.
- MAJOR CRIMES ACT OF 1885.** See Indians, 2; Jurisdiction, 3; Procedure, 6.
- MAJOR POLITICAL PARTIES.** See Constitutional Law, III, 5-6.
- MALICIOUS VILIFICATION.** See Attorneys' Fees, 2; Labor-Management Reporting and Disclosure Act.
- MANSLAUGHTER.** See Constitutional Law, II, 7; Probation.
- MARKETING OF DRUGS.** See Administrative Procedure, 1-6; Evidence, 1-2; Federal Food, Drug, and Cosmetic Act, 1-6; Judicial Review, 1; Jurisdiction, 1; Procedure, 3.
- MARKUPS ON LIQUOR.** See Constitutional Law, X; Taxes, 4.
- MARRIED STUDENTS.** See Constitutional Law, II, 6.

- MARSHALS.** See **Federal Tort Claims Act**, 1-3.
- MASSING OF EVIDENCE.** See **Constitutional Law**, IV, 2; **Evidence**, 3-5.
- MATHEMATICAL EQUALITY.** See **Constitutional Law**, III, 1-7; **Jurisdiction**, 7.
- MEMBERSHIP IN UNION.** See **Administrative Procedure**, 7; **Attorneys' Fees**, 2; **Labor-Management Reporting and Disclosure Act**; **National Labor Relations Act**, 2; **Unions**.
- MEMPHIS.** See **Attorneys' Fees**, 1; **Emergency School Aid Act of 1972**.
- METABOLIC DISORDERS.** See **Federal Food, Drug, and Cosmetic Act**, 1, 4-5.
- 'ME-TOO' DRUGS.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- MEXICAN-AMERICANS.** See **Constitutional Law**, III, 4, 7; **Jurisdiction**, 7.
- MICHIGAN.** See **Constitutional Law**, II, 5; **Procedure**, 7.
- MIGRATORY BIRD CONSERVATION ACT.** See **Federal-State Relations**, 1; **Public Lands**.
- MILITARY BASES.** See **Constitutional Law**, X; **Taxes**, 4.
- MILITARY TRIALS.** See **Courts-Martial**; **Habeas Corpus**.
- MINERAL RIGHTS.** See **Federal-State Relations**, 1; **Public Lands**.
- MINOR DEVIATIONS.** See **Constitutional Law**, III, 5-6.
- MISDEMEANORS.** See **Internal Revenue Code**, 2; **Taxes**, 1.
- MISSISSIPPI.** See **Constitutional Law**, X; **Taxes**, 4.
- MISSOURI.** See **Constitutional Law**, II, 7; **Probation**.
- MORE-LIKELY-THAN-NOT STANDARD.** See **Constitutional Law**, IV, 2; **Evidence**, 3-5.
- MOTION TO FILE BILL OF COMPLAINT.** See **Jurisdiction**, 4.
- MOTION TO VACATE STAY.** See **Courts-Martial**; **Habeas Corpus**.
- MULTIMEMBER DISTRICTS.** See **Constitutional Law**, III, 4, 7; **Jurisdiction**, 7.
- MUNICIPALITIES.** See **Jurisdiction**, 5-6.
- MURDER.** See **Constitutional Law**, VI, 2; **Search and Seizure**, 2.

**NATIONAL ACADEMY OF SCIENCES.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.

**NATIONAL ENVIRONMENTAL POLICY ACT.** See also **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **Standing to Sue**.

*Noncompliance by Interstate Commerce Commission—Injunctions—Repeal by implication.*—Alleged noncompliance by ICC with the Act did not give the District Court authority to grant the injunction, as the Act was not intended to repeal by implication any other statute, and the policies identified in *Arrow Transportation Co. v. Southern R. Co.*, 372 U. S. 658, as the basis for § 15 (7) of the Interstate Commerce Act would be substantially undermined if the courts were found to have suspension powers simply because of non-compliance with NEPA. *United States v. SCRAP*, p. 669.

**NATIONAL LABOR RELATIONS ACT.** See also **Administrative Procedure**, 7; **Unions**.

1. *Unfair labor practice—Court enforcement of fines—Resignations from union.*—Where the Union's constitution and bylaws are silent on subject of voluntary resignation from the Union, Union committed an unfair labor practice when it sought court enforcement of fines imposed for strikebreaking activities by employees who had resigned from the Union, even though Union constitution expressly prohibited members from strikebreaking. *Machinists & Aerospace Workers v. NLRB*, p. 84.

2. *Unfair labor practice—Disciplinary fines—Reasonableness.*—Adjudication by NLRB under § 8 (b)(1)(A) of the Act of an unfair labor practice allegedly committed by a union does not include authority to determine whether the amount of a disciplinary fine levied by the union against a member is reasonable, the issue being one of internal union affairs over which the NLRB exercises no jurisdiction. *NLRB v. Boeing Co.*, p. 67.

**NATIONAL LABOR RELATIONS BOARD.** See **Administrative Procedure**, 7; **National Labor Relations Act**, 2; **Unions**.

**NATIONAL RESEARCH COUNCIL.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.

**NATIONAL TRANSPORTATION POLICY.** See **Interstate Commerce Commission**; **Judicial Review**, 2; **Procedure**, 4

**NATURAL RESOURCES.** See **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Standing to Sue**.

- NEGLIGENCE.** See **Federal Tort Claims Act**, 1-3.
- NEGROES.** See **Constitutional Law**, III, 4, 7; **Jurisdiction**, 7.
- NEVADA.** See **Jurisdiction**, 4.
- NEW DRUG APPLICATIONS.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- NEW DRUGS.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- NEWSPAPER EMPLOYEES.** See **Constitutional Law**, II, 2.
- NONRESIDENTS.** See **Constitutional Law**, II, 6.
- NONSHAREHOLDERS.** See **Internal Revenue Code**, 1; **Taxes**, 2.
- NOTICE.** See **Administrative Procedure Act**; **Constitutional Law**, II, 1; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Procedure**, 1; **Standing to Sue**.
- NOTICE AND HEARING.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- NOVEL QUESTIONS.** See **Courts-Martial**; **Habeas Corpus**.
- NUDE DANCING.** See **Jurisdiction**, 5-6.
- OBJECTIONABLE MATERIALS.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.
- OBLIGATIONS OF BROADCASTERS.** See **Constitutional Law**, V; **Federal Communications Act**.
- OFFENSES.** See **Indians**, 2; **Jurisdiction**, 3; **Procedure**, 6.
- OFFICERS' CLUB.** See **Constitutional Law**, X; **Taxes**, 4.
- OFFICIAL IMMUNITY.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.
- OKLAHOMA.** See **Federal-State Relations**, 2; **Indians**, 3; **Taxes**, 3.
- OREGON.** See **Constitutional Law**, II, 1; **Procedure**, 1.
- ORIGINAL JURISDICTION.** See **Jurisdiction**, 4.
- OSAGE ALLOTMENT ACT.** See **Federal-State Relations**, 2; **Indians**, 3; **Taxes**, 3.
- OUT-OF-STATE TUITION RATES.** See **Constitutional Law**, II, 6.
- OVERPAYMENTS.** See **Internal Revenue Code**, 1; **Taxes**, 2.

- OWNERSHIP OF LAND.** See Federal-State Relations, 1; Public Lands.
- PAID EDITORIAL ADVERTISEMENTS.** See Constitutional Law, V; Federal Communications Act.
- PAIUTE INDIANS.** See Jurisdiction, 4.
- PARENTS.** See Constitutional Law, VIII, 1-2; Immunity, 1-3.
- PAYMENT OF ESTATE TAXES.** See Federal-State Relations, 2; Indians, 3; Taxes, 3.
- PENALTIES.** See Administrative Procedure, 7; National Labor Relations Act, 2; Unions.
- PENTYLENETETRAZOL DRUGS.** See Administrative Procedure, 4-6; Federal Food, Drug, and Cosmetic Act, 2; Judicial Review, 1.
- "PERSONS."** See Jurisdiction, 5-6.
- PERSONS AGGRIEVED.** See Administrative Procedure Act; Injunctions, 1-2; Jurisdiction, 2; National Environmental Policy Act; Standing to Sue.
- PHARMACEUTICALS.** See Administrative Procedure, 1-6; Evidence, 1-2; Federal Food, Drug, and Cosmetic Act, 1-6; Judicial Review, 1; Jurisdiction, 1; Procedure, 3.
- PHONOGRAPH RECORDS.** See Constitutional Law, I; IX; Copyrights, 1-3.
- PICKET LINES.** See Administrative Procedure, 7; National Labor Relations Act, 2; Unions.
- PIRACY OF RECORDS AND TAPES.** See Constitutional Law, I; IX; Copyrights, 1-3.
- PLANS OF REAPPORTIONMENT.** See Constitutional Law, III, 1-7; Jurisdiction, 7.
- PLEADINGS.** See Administrative Procedure Act; Injunctions, 1-2; Jurisdiction, 2; National Environmental Policy Act; Standing to Sue.
- POLICE STATIONS.** See Constitutional Law, VI, 2; Search and Seizure, 2.
- POLITICAL DISCRIMINATION.** See Constitutional Law, III, 4, 7; Jurisdiction, 7.
- POLITICAL-FAIRNESS PRINCIPLE.** See Constitutional Law, III, 5-6.
- POLITICAL INCUMBENTS.** See Constitutional Law, III, 1-3.

- POLITICAL SUBDIVISIONS.** See **Constitutional Law**, III, 1-3.
- POPULATION DEVIATIONS.** See **Constitutional Law**, III, 1-7; **Jurisdiction**, 7.
- POSSESSION OF STOLEN CHECKS.** See **Constitutional Law**, IV, 2; **Evidence**, 3-5.
- POST EXCHANGES.** See **Constitutional Law**, X; **Taxes**, 4.
- PRE-EMPTION.** See **Constitutional Law**, I; IX; **Copyrights**, 1-3.
- PREMARKETING CLEARANCES.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- PRESCRIPTION.** See **Federal-State Relations**, 1; **Public Lands**.
- PRESCRIPTION DRUGS.** See **Administrative Procedure**, 3; **Federal Food, Drug, and Cosmetic Act**, 6; **Procedure**, 3.
- PRESUMPTIONS.** See **Constitutional Law**, II, 6; IV, 2; **Evidence**, 3-5.
- PRIMARY JURISDICTION.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Interstate Commerce Commission**; **Judicial Review**, 1-2; **Jurisdiction**, 1; **Procedure**, 3-4.
- "PRIMARY JURISDICTION" OVER APPORTIONMENT.** See **Constitutional Law**, III, 1-3.
- PRIOR WATER RIGHTS.** See **Jurisdiction**, 4.
- PRISONERS.** See **Federal Tort Claims Act**, 1-3.
- PRIVACY.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.
- PRIVILEGE.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.
- PRIVILEGE AGAINST SELF-INCRIMINATION.** See **Constitutional Law**, IV, 2; **Evidence**, 3-5.
- PROBABLE CAUSE.** See **Constitutional Law**, VI, 2; **Search and Seizure**, 2.
- PROBATION.** See also **Constitutional Law**, II, 7.

*Revocation of probation—Traffic citation—Due process.*—Issuance of traffic citation was not an "arrest" under either Missouri or Arkansas law, and finding that petitioner violated his probation conditions was so totally devoid of evidentiary support as to violate due process. Even were it clear that respondent judge held Missouri law to be that traffic citation is equivalent to arrest, such an unforeseeable holding, retroactively applied, would also deprive petitioner of due process. *Douglas v. Buder*, p. 430.

**PROCEDURAL DUE PROCESS.** See *Jurisdiction*, 5-6.

**PROCEDURE.** See also *Administrative Procedure*, 1-6; *Administrative Procedure Act*; *Constitutional Law*, II, 1, 5-6; IV, 1; VI, 1-2; VII; X; *Courts-Martial*; *Evidence*, 1-2; *Federal Food, Drug, and Cosmetic Act*, 1-6; *Habeas Corpus*; *Indians*, 2; *Injunctions*, 1-2; *Interstate Commerce Commission*; *Judicial Review*, 1-2; *Jurisdiction*, 1-3; *National Environmental Policy Act*; *Search and Seizure*, 1; *Standing to Sue*; *Taxes*, 4.

1. *Alibi defense—Reciprocal discovery—Due process.*—Reciprocal discovery is required by fundamental fairness and it is insufficient that although statute does not require it, State might grant reciprocal discovery in a given case. In absence of fair notice that petitioner will have opportunity to discover State's rebuttal witnesses, petitioner cannot, consistently with due process requirements, be required to reveal his alibi defense. *Wardius v. Oregon*, p. 470.

2. *Denial of speedy trial—Dismissal of the charges.*—In light of policies underlying the right to a speedy trial, dismissal of the charges must remain, as noted in *Barker v. Wingo*, 407 U. S. 514, 522, "the only possible remedy" for deprivation of the constitutional right. *Strunk v. United States*, p. 434.

3. *Federal Food, Drug, and Cosmetic Act—Administrative hearing—Appeal.*—Where petitioner had an opportunity to litigate the "new drug" issue before the FDA and to raise the issue on appeal to a court of appeals, it may not relitigate the issue in another proceeding. *CIBA Corp. v. Weinberger*, p. 640.

4. *ICC approval of charges—Judicial review—Injunctions.*—District Court's action suspending separate in-transit charges for grain inspection approved by the ICC, and remanding the case to the ICC, is affirmed as to the remand and reversed as to the injunction suspending the proposed charges. *Atchison, T. & S. F. R. Co. v. Wichita Bd. of Trade*, p. 800.

5. *Increased sentence on retrial—Double jeopardy—Due process—Knowledge of jury.*—Rendition of higher sentence by jury on retrial does not violate the Double Jeopardy Clause, and does not offend the Due Process Clause as long as the jury is not informed of the prior sentence and the second sentence is not otherwise shown to be product of vindictiveness. Nor does the possibility of higher sentence impermissibly "chill" exercise of criminal defendant's right to challenge his first conviction by direct appeal or collateral attack. *Chaffin v. Stynchcombe*, p. 17.

6. *Lesser included offenses—Major Crimes Act of 1885—Indians.*—An Indian prosecuted in federal court under the Act is entitled to a jury instruction on lesser included offenses, if the facts warrant. Such

**PROCEDURE**—Continued.

an instruction would not expand the reach of the Act or permit the Government to infringe the residual jurisdiction of the Indian tribes by bringing in federal court prosecutions not authorized by statute. *Keeble v. United States*, p. 205.

7. *Retroactivity—Increased sentence on retrial—Due process.*—The “prophylactic” due process limitations established by *North Carolina v. Pearce*, 395 U. S. 711, to guard against the possibility of vindictiveness in cases where judge imposes more severe sentence after a new trial, are not retroactively applicable to resentencing proceedings that, like the one involved here, occurred prior to the date of the *Pearce* decision. *Michigan v. Payne*, p. 47.

**PROOF.** See **Constitutional Law**, VI, 1; **Search and Seizure**, 1.

**PROPERTY LAW.** See **Federal-State Relations**, 1; **Public Lands**.

**PROSPECTIVITY.** See **Constitutional Law**, II, 5; **Procedure**, 7.

**PROTECTION OF COPYRIGHTS.** See **Constitutional Law**, I; IX; **Copyrights**, 1-3.

**PROTECTION OF RECORDINGS.** See **Constitutional Law**, I; IX; **Copyrights**, 1-3.

**PROXIMATE CAUSE.** See **Federal Tort Claims Act**, 1-3.

**PUBLICATION OF REPORTS.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.

**PUBLIC DISTRIBUTION OF REPORTS.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.

**PUBLIC ISSUES.** See **Constitutional Law**, V; **Federal Communications Act**.

**PUBLIC LANDS.** See also **Federal-State Relations**, 1.

*Acquisition by deed and condemnation—Mineral reservations—Subsequent Louisiana statute.*—Under settled principles governing the choice of law by federal courts, Louisiana’s Act 315 of 1940 does not apply to mineral reservations agreed to by the parties in 1937 and 1939. To permit state legislation to abrogate explicit terms of prior federal land acquisition would seriously impair federal statutory programs and the certainty and finality indispensable to land acquisitions. *United States v. Little Lake Misere Land Co.*, p. 580.

**PUBLIC PRINTER.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.

**PUBLIC SAFETY EXPENDITURES.** See **Internal Revenue Code**, 1; **Taxes**, 2.

- PUBLIC SCHOOLS.** See Attorneys' Fees, 1; Constitutional Law, VIII, 1-2; Emergency School Aid Act of 1972; Immunity, 1-3.
- PUBLIC TRUSTEES.** See Constitutional Law, V; Federal Communications Act.
- PUPILS.** See Constitutional Law, VIII, 1-2; Immunity, 1-3.
- PURCHASES OF LAND.** See Federal-State Relations, 1; Public Lands.
- PURCHASES OF LIQUOR.** See Constitutional Law, X; Taxes, 4.
- PYRAMID LAKE.** See Jurisdiction, 4.
- RACIAL GROUPS.** See Constitutional Law, III, 4, 7; Jurisdiction, 7.
- RACINE, WISCONSIN.** See Jurisdiction, 5-6.
- RADIO BROADCASTING.** See Constitutional Law, V; Federal Communications Act.
- RAILROAD-HIGHWAY INTERSECTIONS.** See Internal Revenue Code, 1; Taxes, 2.
- RAILROADS.** See Administrative Procedure Act; Injunctions, 1-2; Internal Revenue Code, 1; Interstate Commerce Commission; Judicial Review, 2; Jurisdiction, 2; National Environmental Policy Act; Procedure, 4; Standing to Sue; Taxes, 2.
- RATE CHANGES.** See Interstate Commerce Commission; Judicial Review, 2; Procedure, 4.
- RATE INCREASES.** See Administrative Procedure Act; Injunctions, 1-2; Jurisdiction, 2; National Environmental Policy Act; Standing to Sue.
- RATIONAL CONNECTION.** See Constitutional Law, IV, 2; Evidence, 3-5.
- REAL PROPERTY.** See Federal-State Relations, 1; Public Lands.
- REAPPORTIONMENT.** See Constitutional Law, III, 1-7; Jurisdiction, 7.
- REASONABLE-DOUBT STANDARD.** See Constitutional Law, IV, 2; Evidence, 3-5.
- REASONABLENESS OF FINES.** See Administrative Procedure, 7; National Labor Relations Act, 2; Unions.
- REBUTTAL WITNESSES.** See Constitutional Law, II, 1; Procedure, 1.

- RECIPROCAL DISCOVERY.** See **Constitutional Law**, II, 1; **Procedure**, 1.
- RECLAMATION PROJECTS.** See **Jurisdiction**, 4.
- RECONVICTIONS.** See **Constitutional Law**, II, 5; IV, 1; **Procedure**, 5-7.
- RECORD PIRACY.** See **Constitutional Law**, I; IX; **Copyrights**, 1-3.
- RECREATIONAL HARM.** See **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Standing to Sue**.
- RECYCLABLE MATERIALS.** See **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Standing to Sue**.
- REDISTRICTING.** See **Constitutional Law**, III, 1-7; **Jurisdiction**, 7.
- REDUCTION OF SENTENCE.** See **Constitutional Law**, VII; **Procedure**, 2.
- REFUND SUITS.** See **Internal Revenue Code**, 1; **Taxes**, 2.
- REFUSING PAID EDITORIAL ADVERTISEMENTS.** See **Constitutional Law**, V; **Federal Communications Act**.
- REGULATION OF DRUG PRODUCTS.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- REGULATIONS.** See **Constitutional Law**, X; **Federal Communications Act**; **Taxes**, 4.
- REINSTATEMENT OF UNION MEMBER.** See **Attorneys' Fees**, 2; **Labor-Management Reporting and Disclosure Act**.
- RELEASE FROM CONFINEMENT.** See **Courts-Martial**; **Habeas Corpus**.
- RELIANCE ON SUPREME COURT DECISIONS.** See **Federal-State Relations**, 2; **Indians**, 3; **Taxes**, 3.
- RELIEF.** See **Administrative Procedure**, 3; **Courts-Martial**; **Federal Food, Drug, and Cosmetic Act**, 6; **Habeas Corpus**; **Jurisdiction**, 5-6; **Procedure**, 3.
- REMANDS.** See **Interstate Commerce Commission**; **Judicial Review**, 2; **Procedure**, 4.
- REMEDIES.** See **Constitutional Law**, VII; **Procedure**, 2.
- RENEWAL OF LICENSES.** See **Jurisdiction**, 5-6.

- REPEALS BY IMPLICATION.** See Administrative Procedure Act; Injunctions, 1-2; Jurisdiction, 2; National Environmental Policy Act; Standing to Sue.
- REPORTS.** See Constitutional Law, VIII, 1-2; Immunity, 1-3.
- RESENTENCES.** See Constitutional Law, II, 5; IV, 1; Procedure, 5, 7.
- RESERVATION INDIANS.** See Indians, 1-2; Jurisdiction, 3; Procedure, 6.
- RESERVATIONS IN DEEDS.** See Federal-State Relations, 1; Public Lands.
- RESERVATIONS OF MINERAL RIGHTS.** See Federal-State Relations, 1; Public Lands.
- RESIDENCE.** See Constitutional Law, II, 6.
- RESIGNATION FROM UNION.** See Administrative Procedure, 7; National Labor Relations Act, 2; Unions.
- RETAIL LIQUOR ESTABLISHMENTS.** See Jurisdiction, 5-6.
- RETRIALS.** See Constitutional Law, II, 5; IV, 1; Procedure, 5, 7.
- RETROACTIVITY.** See Constitutional Law, II, 5, 7; Federal-State Relations, 1; Probation; Procedure, 7; Public Lands.
- REVOCAION OF PROBATION.** See Constitutional Law, II, 7; Probation.
- RIGHT OF ACCESS TO MEDIA.** See Constitutional Law, V; Federal Communications Act.
- RIGHT TO COUNSEL.** See Courts-Martial; Habeas Corpus.
- RIGHT TO WITHHOLD CONSENT.** See Constitutional Law, VI, 1; Search and Seizure, 1.
- RITONIC CAPSULES.** See Administrative Procedure, 3; Federal Food, Drug, and Cosmetic Act, 6; Procedure, 3.
- RULES OF CRIMINAL PROCEDURE.** See Indians, 2; Jurisdiction, 3; Procedure, 6.
- SAFETY OF DRUGS.** See Administrative Procedure, 1-6; Evidence, 1-2; Federal Food, Drug, and Cosmetic Act, 1-6; Judicial Review, 1; Jurisdiction, 1; Procedure, 3.
- SALE OF LIQUOR.** See Constitutional Law, X; Taxes, 4.
- SALES TAXES.** See Constitutional Law, X; Taxes, 4.

- SAMPLES FROM FINGERNAILS.** See **Constitutional Law**, VI, 2; **Search and Seizure**, 2.
- SCHOOLCHILDREN.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.
- SCHOOL EMPLOYEES.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.
- SCHOOLS.** See **Attorneys' Fees**, 1; **Constitutional Law**, VIII, 1-2; **Emergency School Aid Act of 1972**; **Immunity**, 1-3.
- SCIENTER.** See **Internal Revenue Code**, 2; **Taxes**, 1.
- SCIENTIFIC INVESTIGATIONS.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- SCRAPINGS FROM FINGERNAILS.** See **Constitutional Law**, VI, 2; **Search and Seizure**, 2.
- SCRAP MATERIALS.** See **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Standing to Sue**.
- SEARCH AND SEIZURE.** See also **Constitutional Law**, VI, 1-2.
1. *Consented search—Knowledge of right to withhold consent.*—When subject of search is not in custody and State would justify search on basis of consent, Fourth and Fourteenth Amendments require that it demonstrate that consent was in fact voluntary; voluntariness is to be determined from the totality of surrounding circumstances. While knowledge of right to refuse consent is a factor to be taken into account, State need not prove that one giving permission to search knew that he had right to withhold consent. *Schneckloth v. Bustamonte*, p. 218.
2. *Station-house detention—Probable cause—Fingernail scrapings.*—In view of station-house detention upon probable cause in murder case, the very limited intrusion, by taking scrapings from respondent's fingernails, undertaken to preserve highly evanescent evidence was not violative of the Fourth and Fourteenth Amendments. *Cupp v. Murphy*, p. 291.
- SEARCH OF AUTOMOBILES.** See **Constitutional Law**, VI, 1; **Search and Seizure**, 1.
- SELECTIVE RATE INCREASES.** See **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Standing to Sue**.
- SELF-INCRIMINATION.** See **Constitutional Law**, IV, 2; **Evidence**, 3-5.

- SENTENCES.** See **Constitutional Law**, II, 5; IV, 1; VII; **Procedure**, 2, 5, 7.
- SERVING AS JUROR.** See **Constitutional Law**, II, 2.
- SERVITUDES.** See **Federal-State Relations**, 1; **Public Lands**.
- SHERIFF'S EMPLOYEES.** See **Federal Tort Claims Act**, 1-3.
- SHIP'S STORES.** See **Constitutional Law**, X; **Taxes**, 4.
- SINGLE-MEMBER DISTRICTS.** See **Constitutional Law**, III, 4, 7; **Jurisdiction**, 7.
- SIXTH AMENDMENT.** See **Constitutional Law**, VII; **Procedure**, 2.
- SPEECH OR DEBATE CLAUSE.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.
- SPEEDY TRIALS.** See **Constitutional Law**, VII; **Procedure**, 2.
- SPOT ANNOUNCEMENTS.** See **Constitutional Law**, V; **Federal Communications Act**.
- STAFF MEMBERS.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.
- STANDARDS.** See **Administrative Procedure**, 1-6; **Attorneys' Fees**, 1; **Constitutional Law**, III, 4, 7; **Emergency School Aid Act of 1972**; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1, 7; **Procedure**, 3.
- STANDING TO SUE.** See also **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**.
- Persons aggrieved—Administrative Procedure Act.*—Appellees' pleadings sufficiently alleged that they were "adversely affected" or "aggrieved" within the meaning of § 10 of the Act to withstand a motion to dismiss on the ground of lack of standing to sue. Standing is not confined to those who show economic harm, as "[a]esthetic and environmental well-being, like economic well-being, are important ingredients of the quality of life in our society." *United States v. SCRAP*, p. 669.
- STATE ATTORNEY GENERAL.** See **Jurisdiction**, 5-6.
- STATE ESTATE TAXES.** See **Federal-State Relations**, 2; **Indians**, 3; **Taxes**, 3.
- STATE LEGISLATIVE APPORTIONMENT.** See **Constitutional Law**, III, 1-7; **Jurisdiction**, 7.

- STATE PROTECTION OF RECORDINGS.** See **Constitutional Law**, I; IX; **Copyrights**, 1-3.
- STATE TAX COMMISSION.** See **Constitutional Law**, X; **Taxes**, 4.
- STATE UNIVERSITIES.** See **Constitutional Law**, II, 6.
- STATION-HOUSE DETENTION.** See **Constitutional Law**, VI, 2; **Search and Seizure**, 2.
- STATUTORY INFERENCES.** See **Constitutional Law**, IV, 2; **Evidence**, 3-5.
- STATUTORY PRESUMPTIONS.** See **Constitutional Law**, II, 6.
- STATUTORY STANDARDS.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- STAY.** See **Courts-Martial**; **Habeas Corpus**.
- STOLEN CHECKS.** See **Constitutional Law**, IV, 2; **Evidence**, 3-5.
- STRENGTH OF POLITICAL PARTIES.** See **Constitutional Law**, III, 5-6.
- STRIKEBREAKERS.** See **Administrative Procedure**, 7; **National Labor Relations Act**, 2; **Unions**.
- STRIKES.** See **Administrative Procedure**, 7; **National Labor Relations Act**, 2; **Unions**.
- STUDENTS.** See **Constitutional Law**, II, 6; VIII, 1-2; **Immunity**, 1-3.
- SUBSIDIES.** See **Internal Revenue Code**, 1; **Taxes**, 2.
- SUBSTANTIAL EQUALITY OF POPULATION.** See **Constitutional Law**, III, 5-6.
- SUBSTANTIAL EVIDENCE.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- SUCCESSFUL LITIGANTS.** See **Attorneys' Fees**, 1-2; **Emergency School Aid Act of 1972**; **Labor-Management Reporting and Disclosure Act**.
- SUICIDES.** See **Federal Tort Claims Act**, 1-3.
- SUITS TO QUIET TITLE.** See **Federal-State Relations**, 1; **Public Lands**.
- SUMMARY COURTS-MARTIAL.** See **Courts-Martial**; **Habeas Corpus**.

- SUMMARY-JUDGMENT PROCEDURE.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- SUPERINTENDENT OF DOCUMENTS.** See **Constitutional Law**, VIII, 1-2; **Immunity**, 1-3.
- SUPREMACY CLAUSE.** See **Constitutional Law**, I; IX; X; **Copyrights**, 1-3; **Taxes**, 4.
- SUPREME COURT.** See **Constitutional Law**, III, 4, 7; **Jurisdiction**, 4, 7.
- SUPREME COURT DECISIONS.** See **Federal-State Relations**, 2; **Indians**, 3; **Taxes**, 3.
- SURCHARGES.** See **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Standing to Sue**.
- SURVEILLANCE OF PRISONERS.** See **Federal Tort Claims Act**, 1-3.
- SUSPECTS.** See **Constitutional Law**, VI, 2; **Search and Seizure**, 2.
- SUSPENDED SENTENCES.** See **Constitutional Law**, II, 7; **Probation**.
- SUSPENSION OF CHARGES.** See **Interstate Commerce Commission**; **Judicial Review**, 2, **Procedure**, 4.
- SUSPENSION OF RATE INCREASES.** See **Administrative Procedure Act**; **Injunctions**, 1-2; **Jurisdiction**, 2; **National Environmental Policy Act**; **Standing to Sue**.
- SUSPENSIONS.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- TAPE PIRACY.** See **Constitutional Law**, I; IX; **Copyrights**, 1-3.
- TAXES.** See also **Constitutional Law**, X; **Federal-State Relations**, 2; **Indians**, 3; **Internal Revenue Code**, 1-2.

1. *Federal income tax returns—Lesser included offense*—“Willfully.”—Word “willfully” has same meaning in 26 U. S. C. §§ 7206 (1) and 7207, connoting voluntary, intentional violation of known legal duty, and the distinction between the statutes is found in the additional misconduct that is essential to the violation of the felony provision; hence, the District Court properly refused the requested lesser-included-offense instruction based on respondent’s erroneous

**TAXES**—Continued.

contention that word "willfully" in misdemeanor statute implied less scienter than same word in felony statute. *United States v. Bishop*, p. 346.

2. *Income taxes—Depreciation of Government's cost in assets—Highway-railroad improvements.*—Governmental subsidies did not constitute contributions to respondent's capital within meaning of § 113 (a) (8) of Internal Revenue Code of 1939; the assets in question have a zero basis; and respondent cannot claim a depreciation deduction with respect thereto. *United States v. Chicago, B. & Q. R. Co.*, p. 401.

3. *Oklahoma estate tax—Payment by United States as trustee—Reliance on Supreme Court decision.*—United States did not breach its fiduciary duty as trustee of Indian property by paying Oklahoma estate tax assessed against estate of deceased, a restricted Osage Indian, in reliance on *West v. Oklahoma*, 334 U. S. 717, which had upheld the validity of tax as applied to the same kind of estate. *United States v. Mason*, p. 391.

4. *Sales tax—State markup on liquor—Exclusive federal jurisdiction.*—Whether the markup can be viewed as sales tax to whose imposition in the context of two exclusive-jurisdiction bases the United States has consented under the Buck Act, and whether, in any event, the markup unconstitutionally taxes federal instrumentalities, and violates the Supremacy Clause as conflicting with federal procurement regulations and policy, are issues that the District Court did not reach and should consider initially on remand. *United States v. Mississippi Tax Comm'n*, p. 363.

**TAX RETURNS.** See **Internal Revenue Code**, 2; **Taxes**, 1.

**TELECOMMUNICATIONS.** See **Constitutional Law**, V; **Federal Communications Act**.

**TENNESSEE.** See **Attorneys' Fees**, 1; **Emergency School Aid Act of 1972**.

**TERMINATION OF INDIAN RESERVATIONS.** See **Indians**, 1.

**TEXAS.** See **Constitutional Law**, III, 1-4, 7; **Jurisdiction**, 7.

**THREE-JUDGE COURTS.** See **Constitutional Law**, III, 4, 7; **Jurisdiction**, 7.

**TITLE TO LAND.** See **Federal-State Relations**, 1; **Public Lands**.

**TORT CLAIMS.** See **Federal Tort Claims Act**, 1-3.

**TOTALITY OF CIRCUMSTANCES.** See **Constitutional Law**, VI, 1; **Search and Seizure**, 1.

- TRAFFIC CITATIONS.** See Constitutional Law, II, 7; Probation.
- TRAFFIC VIOLATIONS.** See Constitutional Law, VI, 1; Search and Seizure, 1.
- TRANSPORTATION.** See Interstate Commerce Commission; Judicial Review, 2; Procedure, 4.
- TREASURY CHECKS.** See Constitutional Law, IV, 2; Evidence, 3-5.
- TRIALS.** See Constitutional Law, VII; Procedure, 2.
- TRUCK DRIVERS.** See Constitutional Law, II, 7; Probation.
- TRUCKEE RIVER.** See Jurisdiction, 4.
- TRUSTEE OF INDIAN PROPERTY.** See Federal-State Relations, 2; Indians, 3; Taxes, 3.
- TUITION RATES.** See Constitutional Law, II, 6.
- TWENTY-FIRST AMENDMENT.** See Constitutional Law, X; Taxes, 4.
- UNCOUNSELED MILITARY PERSONNEL.** See Courts-Martial; Habeas Corpus.
- UNEXPLAINED POSSESSION OF STOLEN PROPERTY.** See Constitutional Law, IV, 2; Evidence, 3-5.
- UNFAIR LABOR PRACTICES.** See Administrative Procedure, 7; National Labor Relations Act, 2; Unions.
- UNFORESEEABLE HOLDINGS.** See Constitutional Law, II, 7; Probation.
- UNION BYLAWS.** See National Labor Relations Act, 1; Unions.
- UNION CONSTITUTIONS.** See National Labor Relations Act, 1; Unions.
- UNIONS.** See also Administrative Procedure, 7; Attorneys' Fees, 2; Labor-Management Reporting and Disclosure Act; National Labor Relations Act, 1-2.

*Strikebreaking—Court enforcement of fines—Unfair labor practice.*—Where the Union's constitution and bylaws are silent on subject of voluntary resignation from the Union, Union committed an unfair labor practice when it sought court enforcement of fines imposed for strikebreaking activities by employees who had resigned from the Union, even though Union constitution expressly prohibited members from strikebreaking. *Machinists & Aerospace Workers v. NLRB*, p. 84.

- UNITED STATES MARSHALS.** See **Federal Tort Claims Act**, 1-3.
- UNITED STATES TREASURY CHECKS.** See **Constitutional Law**, IV, 2; **Evidence**, 3-5.
- UNIVERSITY STUDENTS.** See **Constitutional Law**, II, 6.
- UNNAMED MEMBERS OF CLASS.** See **Courts-Martial**; **Habeas Corpus**.
- UPSTREAM WATER USE.** See **Jurisdiction**, 4.
- VILIFICATION OF UNION MANAGEMENT.** See **Attorneys' Fees**, 2; **Labor-Management Reporting and Disclosure Act**.
- VINDICTIVENESS.** See **Constitutional Law**, II, 5; IV, 1; **Procedure**, 5, 7.
- VIOLATION OF PROBATION.** See **Constitutional Law**, II, 7; **Probation**.
- VOLUNTARINESS.** See **Constitutional Law**, VI, 1; **Search and Seizure**, 1.
- VOLUNTARY CONSENT.** See **Constitutional Law**, VI, 1; **Search and Seizure**, 1.
- VOLUNTARY VISIT TO POLICE STATION.** See **Constitutional Law**, VI, 2; **Search and Seizure**, 2.
- WARRANTLESS SEARCHES.** See **Constitutional Law**, VI, 2; **Search and Seizure**, 2.
- WATER RIGHTS.** See **Jurisdiction**, 4.
- WHISKEY.** See **Constitutional Law**, X; **Taxes**, 4.
- WHOLESALE MARKUPS.** See **Constitutional Law**, X; **Taxes**, 4.
- WILDLIFE REFUGES.** See **Federal-State Relations**, 1; **Public Lands**.
- "WILLFULLY."** See **Internal Revenue Code**, 2; **Taxes**, 1.
- WISCONSIN.** See **Jurisdiction**, 5-6.
- WITHDRAWAL OF APPROVAL.** See **Administrative Procedure**, 1-6; **Evidence**, 1-2; **Federal Food, Drug, and Cosmetic Act**, 1-6; **Judicial Review**, 1; **Jurisdiction**, 1; **Procedure**, 3.
- WITNESSES.** See **Constitutional Law**, II, 1; **Procedure**, 1.

**WORDS.**

1. "*Indian country.*" 18 U. S. C. § 1151. *Mattz v. Arnett*, p. 481.
2. "*Person.*" 42 U. S. C. § 1983. *City of Kenosha v. Bruno*, p. 507.
3. "*Willfully.*" 26 U. S. C. §§ 7206, 7207. *United States v. Bishop*, p. 346.

**WORKERS.** See **Administrative Procedure**, 7; **National Labor Relations Act**, 2; **Unions**.

**WORLDWIDE CLASS.** See **Courts-Martial**; **Habeas Corpus**.

**"WRITINGS."** See **Constitutional Law**, I, IX; **Copyrights**, 1-3.

**YUROK INDIANS.** See **Indians**, 1.

















