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I. Commerce Clause.

1. *Obscenity—Importation of contraband.*—Congress, which has broad powers under the Commerce Clause to prohibit importation into this country of contraband, may constitutionally proscribe the importation of obscene matter, notwithstanding that the material is for the importer's private, personal use and possession. United States v. 12 200-ft. Reels Film, p. 123.

2. *Obscenity—Privacy.*—Congress has the power to prevent obscene material, which is not protected by the First Amendment, from entering the stream of commerce. The zone of privacy that *Stanley* v. *Georgia,* 394 U. S. 557, protected does not extend beyond the home. United States v. Orito, p. 139.

II. Due Process.

1. *Food Stamp Act—Tax deductions.*—Tax deduction taken for benefit of parent in a prior year is not a rational measure of need of a different household with which the child of the tax-deducting parent lives, and the administration of the Act allows no hearing to show that the tax deduction is irrelevant to the need of the household. Section 5 (b) of the Act therefore violates due process. U. S. Dept. of Agriculture v. Murry, p. 508.

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2. *Food Stamp Act—Unrelated persons.*—The legislative classification here involved, excluding households whose members are not "all related to each other," cannot be sustained, the classification being clearly irrelevant to stated purposes of the Act and not rationally furthering any other legitimate governmental interest. In practical operation, the Act excluded not those who are "likely to abuse the program" but, rather, only those who so desperately need aid that they cannot even afford to alter their living arrangements so as to retain their eligibility. U. S. Dept. of Agriculture v. Moreno, p. 528.

III. Equal Protection of the Laws.

1. *Admission to the bar—Aliens.*—Connecticut's exclusion of aliens from practice of law violates the Equal Protection Clause of the Fourteenth Amendment. Classifications based on alienage, being inherently suspect, are subject to close judicial scrutiny, and here the State through appellee bar committee has not met burden of showing the classification to have been necessary to vindicate State's undoubted interest in maintaining high professional standards. In re Griffiths, p. 717.

2. *Establishment Clause—Aid to sectarian schools.*—Pennsylvania's Parent Reimbursement Act for Nonpublic Education is not severable, but even if it were clearly severable, valid aid to nonpublic, nonsectarian schools can provide no basis for sustaining aid to sectarian schools. The Equal Protection Clause cannot be relied upon to sustain a program violative of the Establishment Clause. Sloan v. Lemon, p. 825.

3. *Mississippi textbook loan program—Private schools.*—Private schools have the right to exist and to operate, but the State is not required by the Equal Protection Clause to provide assistance to private schools equal to that it provides to public schools without regard to whether private schools discriminate on racial grounds. Norwood v. Harrison, p. 455.

4. *Mississippi textbook loan program—Tangible school assistance.*—Free textbooks, like tuition grants directed to students in private schools, are a form of tangible financial assistance benefiting schools themselves, and the State's constitutional obligation requires it to avoid not only operating old dual system of racially segregated schools but also providing tangible aid to schools that practice racial or other invidious discrimination. Norwood v. Harrison, p. 455.

5. *New York Civil Service Law—Citizenship.*—Section 53 of the Law violates the Equal Protection Clause of the Fourteenth Amendment since, in the context of New York's statutory civil service scheme, it sweeps indiscriminately and is not narrowly limited to the

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accomplishment of substantial state interests. The "special public interest" doctrine has no applicability to this case. Sugarman v. Dougall, p. 634.

IV. First Amendment.

1. *Commercial advertising—Freedom of expression.*—The advertisements here, which did not implicate the newspaper's freedom of expression or its financial viability, were "purely commercial advertising," which is not protected by the First Amendment. Pittsburgh Press Co. v. Human Rel. Comm'n, p. 376.

2. *Commercial speech—Employment discrimination.*—Petitioner's argument against maintaining the *Valentine* v. *Chrestensen*, 316 U. S. 52, distinction between commercial and other speech is unpersuasive in the context of a case like this, where the regulation of the want ads was incidental to and coextensive with the regulation of employment discrimination. Pittsburgh Press Co. v. Human Rel. Comm'n, p. 376.

3. *Establishment Clause—Aid to nonpublic schools—Legislative purpose.*—The propriety of legislature's purpose may not immunize from further scrutiny a law that either has a primary effect that advances religion, or that fosters excessive Church-State entanglement. Committee for Public Education v. Nyquist, p. 756.

4. *Establishment Clause—Entanglement with religion.*—Because the challenged sections of New York law have the impermissible effect of advancing religion, it is not necessary to consider whether such aid would yield an entanglement with religion. But it should be noted that assistance of the sort involved here carries grave potential for entanglement in the broader sense of continuing and expanding political strife over aid to religion. Committee for Public Education v. Nyquist, p. 756.

5. *Establishment Clause—Maintenance and repair of nonpublic schools.*—Maintenance and repair provisions of New York statute violate the Establishment Clause because their inevitable effect is to subsidize and advance the religious mission of sectarian schools. This section does not properly guarantee the secularity of state aid by limiting the percentage of assistance to 50% of comparable aid to public schools. Such statistical assurances fail to provide an adequate guarantee that aid will not be utilized to advance the religious activities of sectarian schools. Committee for Public Education v. Nyquist, p. 756.

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6. *Establishment Clause—Mississippi textbook loan program.*—Assistance carefully limited so as to avoid prohibitions of the "effect" and "entanglement" tests may be confined to the secular functions of sectarian schools and does not substantially promote religious mission of those schools in violation of the Establishment Clause. In this case, however, legitimate educational function of private discriminatory schools cannot be isolated from their alleged discriminatory practices; discriminatory treatment exerts pervasive influence on entire educational process. Establishment Clause permits greater degree of state assistance to sectarian schools than may be given to private schools which engage in discriminatory practices. Norwood v. Harrison, p. 455.

7. *Establishment Clause—New York's plan to reimburse nonpublic schools.*—New York's statute constitutes an impermissible aid to religion contravening the Establishment Clause, since no attempt is made and no means are available to assure that internally prepared tests, which are "an integral part of the teaching process," are free of religious instruction and avoid inculcating students in the religious precepts of the sponsoring church. Levitt v. Committee for Public Education, p. 472.

8. *Establishment Clause—New York's plan to reimburse private schools.*—The inquiry is not whether the State should be permitted to pay for any "mandated" activity, but whether the challenged state aid has the primary purpose or effect of advancing religion or religious education or whether it leads to excessive entanglement by the State in the affairs of religious institutions. Levitt v. Committee for Public Education, p. 472.

9. *Establishment Clause—Reimbursement of nonpublic school tuition.*—There is no constitutionally significant difference between Pennsylvania's tuition grant scheme, with its intended consequence of preserving and supporting religion-oriented institutions, and New York's tuition reimbursement program held violative of the Establishment Clause in *Committee for Public Education* v. *Nyquist, ante,* p. 756. Sloan v. Lemon, p. 825.

10. *Establishment Clause—Reimbursing private schools for "secular" services.*—The Act provides only for a single per-pupil allotment for a variety of services, some secular and some potentially religious, and the courts cannot properly reduce that allotment to correspond to the actual costs of performing reimbursable secular services, as that is a legislative and not a judicial function. Levitt v. Committee for Public Education, p. 472.

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11. *Establishment Clause—South Carolina Educational Facilities Act.*—The Act, as construed by the South Carolina Supreme Court, does not, under guidelines of *Lemon* v. *Kurtzman,* 403 U. S. 602, 612–613, violate the Establishment Clause. The purpose of the Act is secular, the benefits of the statute being available to all institutions of higher learning in the State, whether or not they have a religious affiliation. The Act does not have the primary effect of advancing or inhibiting religion. The college involved has no significant sectarian orientation and the project must be confined to a secular purpose, with the lease agreement, enforced by inspection provisions, forbidding religious use. Hunt v. McNair, p. 734.

12. *Establishment Clause—South Carolina Educational Facilities Act—Entanglement with religion.*—The Act does not foster an excessive entanglement with religion. The record here does not show that religion so permeates the college that inspection by the Educational Facilities Authority to insure that the project is not used for religious purposes would necessarily lead to such entanglement. Authority's power to participate in certain management decisions also does not have that effect, in view of narrow construction by State Supreme Court, limiting such power to insuring that college's fees suffice to meet bond payments. Absent default, lease agreement would leave full responsibility with college regarding fees and general operations. Hunt v. McNair, p. 734.

13. *Establishment Clause—Tax benefits to parents of nonpublic school students.*—System of providing income tax benefits to parents of children attending New York's nonpublic schools violates the Establishment Clause because, like tuition reimbursement program, it is not sufficiently restricted to assure that it will not have the impermissible effect of advancing the sectarian activities of religious schools. Committee for Public Education v. Nyquist, p. 756.

14. *Establishment Clause—Tuition reimbursement grants.*—Tuition reimbursement grants, if given directly to sectarian schools, would violate the Establishment Clause, and the fact that they are delivered to parents rather than the schools does not compel a contrary result, as the effect of the aid is unmistakably to provide financial support for nonpublic, sectarian institutions. The State must maintain an attitude of "neutrality," neither "advancing" nor "inhibiting" religion, and it cannot, by designing a program to promote the free exercise of religion, erode the limitations of the Establishment Clause. Committee for Public Education v. Nyquist, p. 756.

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15. *Freedom of speech—Obscenity.*—Obscene material is not speech entitled to First Amendment protection. Paris Adult Theatre I v. Slaton, p. 49.

16. *Freedom of the press—Obscenity.*—Merely because it has no pictorial content, obscene material in book form is not entitled to First Amendment protection. A State may control commerce in such a book, even distribution to consenting adults, to avoid the deleterious consequences it can reasonably conclude (conclusive proof is not required) result from the continuing circulation of obscene literature. Kaplan v. California, p. 115.

17. *Obscene films—Prior restraint.*—The seizure by the sheriff, without the authority of a constitutionally sufficient warrant, was unreasonable under Fourth and Fourteenth Amendment standards. Seizure is not unreasonable simply because it would have been easy to secure a warrant, but rather because prior restraint of right of expression, whether by books or films, calls for higher hurdle of reasonableness. This case does not present an exigent circumstance in which police action must be "now or never" to preserve evidence of crime, and where it may be reasonable to permit action without prior judicial approval. Roaden v. Kentucky, p. 496.

18. *Obscene films—Safeguards.*—Where film is seized for bona fide purpose of preserving it as evidence in criminal proceeding, and it is seized pursuant to warrant issued after a determination of probable cause by a neutral magistrate, and following seizure a prompt judicial determination of obscenity issue is available, the seizure is constitutionally permissible. On showing to trial court that other copies of film are not available for exhibition, court should permit seized film to be copied so that exhibition can be continued pending judicial resolution of obscenity issue in an adversary proceeding. Otherwise, film must be returned. With such safeguards, a preseizure adversary hearing is not mandated by the First Amendment. Heller v. New York, p. 483.

19. *Obscene material—State regulation.*—Obscene material is not protected by the First Amendment. *Roth* v. *United States,* 354 U. S. 476, reaffirmed. A work may be subject to state regulation where that work, taken as a whole, appeals to the prurient interest in sex; portrays, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and, taken as a whole, does not have serious literary, artistic, political, or scientific value. Miller v. California, p. 15.

20. *Want ads—Sex discrimination.*—The Pittsburgh ordinance as construed to forbid newspapers to carry sex-designated advertising

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columns for non-exempt job opportunities does not violate petitioner's First Amendment rights. Pittsburgh Press Co. v. Human Rel. Comm'n, p. 376.

V. Fourth Amendment.

1. *Search and seizure—Automobile searches—Probable cause.*—Warrantless search of petitioner's automobile made without probable cause or consent, violated the Fourth Amendment. The search cannot be justified on basis of any special rules applicable to automobile searches, as probable cause was lacking; nor can it be justified by analogy with administrative inspections, as officers had no warrant or reason to believe that petitioner crossed the border, or committed an offense. The search was not a border search or the functional equivalent thereof. Almeida-Sanchez v. United States, p. 266.

2. *Search and seizure—Automobile searches—Reasonableness.*—The warrantless search of Ford did not violate Fourth Amendment as made applicable to States by the Fourteenth. The search was not unreasonable since police had exercised form of custody of the car, which constituted a hazard on the highway, and the disposition of which by respondent was precluded by his intoxicated and later comatose condition; and the revolver search was standard police procedure to protect public from a weapon's possibly falling into improper hands. Cady v. Dombrowski, p. 433.

3. *Search and seizure—Obscene films—Reasonableness.*—The seizure by the sheriff, without the authority of a constitutionally sufficient warrant, was unreasonable under Fourth and Fourteenth Amendment standards. Seizure is not unreasonable simply because it would have been easy to secure a warrant, but rather because prior restraint of right of expression, whether by books or films, calls for higher hurdle of reasonableness. This case does not present an exigent circumstance in which police action must be "now or never" to preserve evidence of crime, and where it may be reasonable to permit action without prior judicial approval. Roaden v. Kentucky, p. 496.

4. *Search and seizure—Warrant—Automobile search.*—Seizure of sock and floor mat from the Dodge was not invalid, since the Dodge, the item "particularly described," was subject of proper search warrant. It is not constitutionally significant that sock and mat were not listed in the warrant's return, which (contrary to the assumption of the Court of Appeals) was not filed prior to the search, and the warrant was thus validly outstanding at the time the articles were discovered. Cady v. Dombrowski, p. 433.

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VI. Seventh Amendment.

Size of juries—Federal court rules.—Local federal court rule providing that a jury for the trial of civil cases shall consist of six persons comports with the Seventh Amendment requirement and the coextensive statutory requirement of 28 U. S. C. § 2072 that the right of trial by jury be preserved in suits at common law, and is not inconsistent with Fed. Rule Civ. Proc. 48 that deals only with parties' stipulations regarding jury size. Colgrove v. Battin, p. 149.

VII. Sixth Amendment.

Assistance of counsel—Post-indictment photographic display.—Sixth Amendment does not grant accused the right to have counsel present when Government conducts post-indictment photographic display, containing a picture of the accused, for purpose of allowing witness to attempt an identification of the offender. Pretrial event constitutes "critical stage" when accused requires aid in coping with legal problems or help in meeting his adversary. Since accused is not present at time of photographic display, and, as here, asserts no right to be present, there is no possibility that he might be misled by lack of familiarity with law or overpowered by his professional adversary. United States v. Ash, p. 300.

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COURT RULES. See **Constitutional Law,** VI; **Juries.**

COURTS-MARTIAL. See also **Procedure,** 1.

Service-connected offenses—Retroactivity.—Denial of habeas corpus to petitioner in No. 71–6314, who was convicted of rape by court-martial, on ground that *O'Callahan* v. *Parker,* 395 U. S. 258, was not retroactive, is affirmed. Judgment in No. 71–1398, holding that *O'Callahan* was to be applied retroactively to serviceman who

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was convicted by court-martial on charges of unauthorized absence from duty station and theft of an automobile from a civilian, is reversed. Gosa v. Mayden, p. 665.

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1. *Obscenity—Books—Expert testimony.*—When, as in this case, material is itself placed in evidence, "expert" state testimony as to its allegedly obscene nature, or other ancillary evidence of obscenity, is not constitutionally required. Kaplan v. California, p. 115.

2. *Obscenity—Films—Expert evidence.*—It was not error not to require expert affirmative evidence of the films' obscenity, since the films (which were the best evidence of what they depicted) were themselves placed in evidence. Paris Adult Theatre I v. Slaton, p. 49.

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FEDERAL-STATE RELATIONS. See also **Constitutional Law,** III, 5; **Government Employees,** 3–4; **Pre-emption; Social Security Act.**

1. *Pre-emption—Social Security Act—New York Work Rules.*—Where coordinate state and federal efforts exist within a complementary administrative framework in the pursuit of common purposes, as here, the case for federal pre-emption is not persuasive. New York Dept. of Social Services v. Dublino, p. 405.

2. *Social Security Act—Pre-emption—New York Work Rules.*—The Work Incentive provisions of the Act do not pre-empt the Work

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Rules of the New York State Welfare Law. Affirmative evidence exists to establish Congress' intention not to terminate all state work programs and foreclose future state cooperative programs. New York Dept. of Social Services v. Dublino, p. 405.

FEDERAL WORK INCENTIVE PROGRAM. See **Federal-State Relations,** 1–2; **Pre-emption; Social Security Act.**

FEES. See **Constitutional Law,** IV, 11–12.

FIFTH AMENDMENT. See **Constitutional Law,** II, 2; **Courts-Martial; Food Stamp Act,** 1; **Procedure,** 1.

FILMS. See **Constitutional Law,** IV, 17–18; V, 3; **Evidence,** 2; **Obscenity,** 3–5, 12, 16.

"FINAL RESTRAINT." See **Constitutional Law,** IV, 17–18; V, 3; **Obscenity,** 4–5.

FINANCIAL AID TO NONPUBLIC SCHOOLS. See **Constitutional Law,** III, 2–4; IV, 3–14.

FINANCING TRANSACTIONS. See **Constitutional Law,** IV, 11–12.

FIRST AMENDMENT. See **Constitutional Law,** IV, 1–20; **Evidence,** 1–2; **Obscenity,** 7; **Procedure,** 3; **Relief.**

FOOD STAMP ACT. See also **Constitutional Law,** II, 1–2.

1. *Low-income households—Unrelated persons—Due process.*—The legislative classification here involved, excluding households whose members are not "all related to each other," cannot be sustained, the classification being clearly irrelevant to stated purposes of the Act and not rationally furthering any other legitimate governmental interest. In practical operation, Act excludes not those who are "likely to abuse the program" but, rather, only those who so desperately need aid that they cannot even afford to alter their living arrangements so as to retain their eligibility. U. S. Dept. of Agriculture v. Moreno, p. 528.

2. *Needy households—Tax deductions—Due process.*—Tax deduction taken for benefit of parent in a prior year is not a rational measure of need of a different household with which the child of the tax-deducting parent lives, and the administration of the Act allows no hearing to show that the tax deduction is irrelevant to the need of the household. Section 5 (b) of the Act therefore violates due process. U. S. Dept. of Agriculture v. Murry, p. 508.

FORFEITURE ACTIONS. See **Constitutional Law,** IV, 17–18; V, 3; **Obscenity,** 4–5.

FOURTEENTH AMENDMENT. See **Constitutional Law**, III, 1–5; IV, 1–14, 17; V, 2–4; **Government Employees**, 3–4; **Obscenity**, 5; **Procedure**, 3; **Relief.**

FOURTH AMENDMENT. See **Constitutional Law**, IV, 17; V, 1–4; **Obscenity**, 5.

FREEDOM OF ASSEMBLY. See **Justiciability**; **National Guard.**

FREEDOM OF EXPRESSION. See **Constitutional Law**, IV, 1–2, 15–20; V, 3; **Obscenity**, 4–7.

FREEDOM OF SPEECH. See **Constitutional Law**, IV, 1–2, 15–20; V, 3; **Evidence**, 1–2; **Justiciability**; **National Guard**; **Obscenity**, 2, 6–7.

FREEDOM OF THE PRESS. See **Constitutional Law**, IV, 1–2, 16, 20; **Evidence**, 1; **Obscenity**, 6, 11.

FREE TEXTBOOKS. See **Constitutional Law**, III, 3–4; IV, 6; **Relief.**

GEORGIA. See **Constitutional Law**, IV, 15; **Evidence**, 2; **Obscenity**, 3, 8, 12, 16.

GOVERNMENT EMPLOYEES. See also **Constitutional Law**, III, 5.

1. *Hatch Act—Political activities of federal employees.*—Holding of *Public Workers* v. *Mitchell*, 330 U. S. 75, that federal employees can be prevented from holding party office, working at the polls, and acting as party paymaster for other party workers is reaffirmed. Congress can also constitutionally forbid federal employees from engaging in plainly identifiable acts of political management and political campaigning. CSC v. Letter Carriers, p. 548.

2. *Hatch Act—Political activities of federal employees—Civil Service Commission regulations.*—It is the Civil Service Commission's regulations regarding political activity, the legitimate descendants of the 1940 restatement adopted by the Congress, and, in most respects, the reflection of longstanding interpretations of the statute by the agency charged with its interpretation and enforcement, and the statute itself, that are the bases for rejecting the claim that the Act is unconstitutionally vague and overbroad. CSC v. Letter Carriers, p. 548.

3. *New York Civil Service Law—Citizenship.*—Section 53 of the Law violates the Equal Protection Clause of the Fourteenth Amendment since, in the context of New York's statutory civil service scheme, it sweeps indiscriminately and is not narrowly limited to the accomplishment of substantial state interests. The "special pub-

GOVERNMENT EMPLOYEES—Continued.

lic interest" doctrine has no applicability to this case. Sugarman v. Dougall, p. 634.

4. *New York Civil Service Law—Qualifications—Citizenship.*—While the State has an interest in defining its political community, and a corresponding interest in establishing the qualifications for persons holding state elective or important nonelective executive, legislative, and judicial positions, the broad citizenship requirement established by § 53 of the Law cannot be justified on this basis. Sugarman v. Dougall, p. 634.

5. *State of Oklahoma employees—Political activities.*—Section 818 of the Oklahoma merit system Act is not unconstitutional on its face, The statute, which gives adequate warning of what activities it proscribes and sets forth explicit standards for those who must apply it, is not impermissibly vague. Broadrick v. Oklahoma, p. 601.

6. *State of Oklahoma employees—Political activities—Overbreadth.*—Although appellants contend that the statute reaches activities that are constitutionally protected as well as those that are not, it is clearly constitutional as applied to conduct with which they are charged and because it is not substantially overbroad they cannot challenge statute on ground that it might be applied unconstitutionally to others, in situations not before the Court. Appellants' conduct falls squarely within the proscriptions of § 818 of the state merit system Act, which deals with activities the State has ample power to regulate, and the operation of the statute has been administratively confined to clearly partisan political activity. Broadrick v. Oklahoma, p. 601.

GUIDELINES. See **Constitutional Law,** IV, 18–19; V, 3; **Obscenity,** 4–5, 7, 10, 13–15, 17.

HARD-CORE PORNOGRAPHY. See **Constitutional Law,** I, 1–2; IV, 15–16, 19; **Evidence,** 1–2; **Obscenity,** 1–3, 6–7, 9, 14, 17.

HATCH ACT. See **Government Employees,** 1–2.

HEARINGS. See **Constitutional Law,** II, 1; IV, 18; **Food Stamp Act,** 2; **Obscenity,** 4.

"HELP-WANTED" ADVERTISEMENTS. See **Constitutional Law,** IV, 1–2, 20.

HIGHER EDUCATION FACILITIES. See **Constitutional Law,** IV, 11–12.

HISPANOS. See **School Desegregation,** 2.

HOUSEHOLDS. See **Constitutional Law**, II, 1–2; **Food Stamp Act**, 1–2.

HUMAN RESOURCES ADMINISTRATION. See **Constitutional Law**, III, 5; **Government Employees**, 3–4.

IDENTIFICATION OF ACCUSED. See **Constitutional Law**, VII.

IMMIGRATION AND NATIONALITY ACT. See **Constitutional Law**, III, 5; V, 1; **Government Employees**, 3–4.

IMMIGRATION AND NATURALIZATION. See **Constitutional Law**, III, 5; **Government Employees**, 3–4.

IMPORTATION OF OBSCENE MATTER. See **Constitutional Law**, I, 1–2; **Obscenity**, 1, 9.

INCOME TAXES. See **Constitutional Law**, II, 1; IV, 13; **Food Stamp Act**, 2; **Taxes.**

INCOME TAX RELIEF. See **Constitutional Law**, IV, 13.

INDICTMENT BY GRAND JURY. See **Courts-Martial; Procedure**, 1.

INJUNCTIONS. See **Constitutional Law**, III, 3–4; IV, 6; **Justiciability; National Guard; Relief.**

INSPECTION OF EDUCATIONAL FACILITIES. See **Constitutional Law**, IV, 11.

INTERNAL REVENUE CODE. See **Taxes.**

INTERSTATE COMMERCE. See **Constitutional Law**, I, 2; **Obscenity**, 1.

INTERVENTION. See **Appeals; Procedure**, 2, 4; **Voting Rights Act of 1965.**

INVALIDITY OF STATUTE. See **Government Employees**, 1–2.

IRRATIONAL CLASSIFICATIONS. See **Constitutional Law**, II, 2; **Food Stamp Act**, 1.

JUDGES. See **Constitutional Law**, IV, 18; **Obscenity**, 4.

JUDICIAL DETERMINATION OF OBSCENITY. See **Constitutional Law**, IV, 18; **Obscenity**, 4, 11.

JUDICIAL FUNCTIONS. See **Constitutional Law**, IV, 18.

JUDICIAL REVIEW. See **Constitutional Law**, IV, 3–4, 6, 10; **Relief.**

JUDICIAL SURVEILLANCE. See **Justiciability; National Guard.**

JURIES. See also **Constitutional Law,** VI; **Obscenity,** 10.

Seventh Amendment—Six-man juries—Federal court rules.—Local federal court rule providing that a jury for the trial of civil cases shall consist of six persons comports with the Seventh Amendment requirement and the coextensive statutory requirement of 28 U. S. C. § 2072 that the right of trial by jury be preserved in suits at common law, and is not inconsistent with Fed. Rule Civ. Proc. 48 that deals only with parties' stipulations regarding jury size. Colgrove v. Battin, p. 149.

JURISDICTION. See **Courts-Martial; Procedure,** 1.

JURY TRIALS. See **Courts-Martial; Procedure,** 1.

JUSTICIABILITY. See also **National Guard.**

Kent State University—Civil disorders—Suit to restrain use of National Guard.—No justiciable controversy is presented in this case, as the relief sought by respondents, requiring initial judicial review and continuing judicial surveillance over the training, weaponry, and standing orders of the National Guard, embraces critical areas of responsibility vested by the Constitution in the Legislative and Executive Branches. Gilligan v. Morgan, p. 1.

KENT STATE UNIVERSITY. See **Justiciability; National Guard.**

KENTUCKY. See **Constitutional Law,** IV, 17; V, 3; **Obscenity,** 5.

LACKING IN LITERARY VALUE. See **Constitutional Law,** IV, 19; **Obscenity,** 7, 14.

LAWYERS. See **Constitutional Law,** III, 1; VII.

LEASE-BACK ARRANGEMENTS. See **Constitutional Law,** IV, 11–12.

LEGISLATIVE FINDINGS. See **Constitutional Law,** IV, 3, 16.

LEGISLATIVE FUNCTIONS. See **Constitutional Law,** IV, 7–8, 10.

LEGISLATIVE PURPOSES. See **Constitutional Law,** IV, 3.

LEGITIMATE GOVERNMENTAL INTERESTS. See **Constitutional Law,** II, 2; **Food Stamp Act,** 1.

LIVING ARRANGEMENTS. See **Constitutional Law,** II, 1–2; **Food Stamp Act,** 1–2.

LOW-INCOME HOUSEHOLDS. See **Constitutional Law,** II, 2; **Food Stamp Act,** 1.

MAGAZINES. See **Obscenity**, 11; **Procedure**, 3.

MAINTENANCE AND REPAIR OF NONPUBLIC SCHOOLS. See **Constitutional Law**, IV, 5.

"MANDATED" SERVICES. See **Constitutional Law**, IV, 8, 10.

MARIHUANA. See **Constitutional Law**, V, 1.

MEMBERS OF HOUSEHOLD. See **Constitutional Law**, II, 2; **Food Stamp Act**, 1.

MERIT SYSTEMS. See **Government Employees**, 3–6.

MEXICANS. See **Constitutional Law**, V, 1.

MILITARY TRIBUNALS. See **Courts-Martial**; **Procedure**, 1.

MILITIA. See **Justiciability**; **National Guard.**

MISSISSIPPI. See **Constitutional Law**, III, 3–4; IV, 6; **Relief.**

MONTANA. See **Constitutional Law**, VI; **Juries.**

MOOTNESS. See **Justiciability**; **National Guard.**

MOTION PICTURE FILMS. See **Constitutional Law**, I, 1; IV, 17–18; V, 3; **Evidence**, 2; **Obscenity**, 3–5, 12, 16.

MOTION TO INTERVENE. See **Appeals**; **Procedure**, 2, 4; **Voting Rights Act of 1965.**

MUNICIPAL BONDS. See **Constitutional Law**, IV, 11–12.

MUNICIPAL ORDINANCES. See **Constitutional Law**, IV, 1, 2, 20.

MURDER. See **Constitutional Law**, V, 2, 4.

NATIONAL GUARD. See also **Justiciability.**

Kent State University students—Suit to restrain use of Guard.—No justiciable controversy is presented in this case, as the relief sought by respondents, requiring initial judicial review and continuing judicial surveillance over the training, weaponry, and standing orders of the National Guard, embraces critical areas of responsibility vested by the Constitution in the Legislative and Executive Branches. Gilligan v. Morgan, p. 1.

NATIONAL STANDARD. See **Constitutional Law**, IV, 16, 19; **Obscenity**, 6–7, 10, 13.

NEEDY HOUSEHOLDS. See **Constitutional Law**, II, 1–2; **Food Stamp Act**, 1–2.

NEGROES. See **School Desegregation**, 2.

NEIGHBORHOOD SCHOOL POLICY. See **School Desegregation**, 1.

NEUTRALITY. See **Constitutional Law**, IV, 3–5, 7–8, 10, 13–14.

NEUTRAL SERVICES. See **Constitutional Law**, IV, 7–8, 10.

NEWSPAPERS. See **Constitutional Law**, IV, 1–2, 20.

NEW YORK. See **Appeals**; **Constitutional Law**, III, 5; IV, 3–5, 7–8, 10, 13–14, 18; **Government Employees**, 3–4; **Obscenity**, 4, 15; **Procedure**, 2, 4; **Voting Rights Act of 1965.**

NEW YORK EDUCATION LAW. See **Constitutional Law**, IV, 3–5, 7–8, 10, 14.

NEW YORK TAX LAW. See **Constitutional Law**, IV, 13.

NEW YORK WORK RULES. See **Federal-State Relations**, 1–2; **Pre-emption**; **Social Security Act.**

NONCITIZENS. See **Constitutional Law**, III, 1, 5; V, 1; **Government Employees**, 3–4.

NONIDEOLOGICAL SERVICES. See **Constitutional Law**, IV, 7–8, 10.

NONNEEDY HOUSEHOLDS. See **Constitutional Law**, II, 1–2; **Food Stamp Act**, 1–2.

NONPUBLIC SCHOOLS. See **Constitutional Law**, III, 2–4; IV, 3–14; **Relief.**

NONPUBLIC TRANSPORTATION. See **Constitutional Law**, I, 2; **Obscenity**, 1.

NONSECTARIAN SCHOOLS. See **Constitutional Law**, III, 2; IV, 9.

NONSECTARIAN USE. See **Constitutional Law**, IV, 11–12.

NONSERVICE-CONNECTED OFFENSES. See **Courts-Martial**; **Procedure**, 1.

OBSCENITY. See also **Constitutional Law**, I, 1–2; IV, 15–20; V, 3; **Evidence**, 1–2; **Procedure**, 3.

1. *Commerce—Congressional power—Privacy.*—Congress has the power to prevent obscene material, which is not protected by the First Amendment, from entering the stream of commerce. The zone of privacy that *Stanley* v. *Georgia*, 394 U. S. 557, protected does not extend beyond the home. United States v. Orito, p. 139.

2. *Evidence—Expert testimony.*—When, as in this case, material is itself placed in evidence, "expert" state testimony as to its alleg-

OBSCENITY—Continued.

edly obscene nature, or other ancillary evidence of obscenity, is not constitutionally required. Kaplan v. California, p. 115.

3. *Films—Expert evidence.*—It was not error to fail to require expert affirmative evidence of the films' obscenity, since the films (which were the best evidence of what they depicted) were themselves placed in evidence. Paris Adult Theatre I v. Slaton, p. 49.

4. *Films—Seizure pursuant to warrant—Preservation of evidence.*—Where film is seized for bona fide purpose of preserving it as evidence in criminal proceeding, and it is seized pursuant to warrant issued after a determination of probable cause by a neutral magistrate, and following seizure a prompt judicial determination of obscenity issue is available, the seizure is constitutionally permissible. On showing to trial court that other copies of film are not available for exhibition, court should permit seized film to be copied so that exhibition can be continued pending judicial resolution of obscenity issue in an adversary proceeding. Otherwise, film must be returned. With such safeguards, a preseizure adversary hearing is not mandated by the First Amendment. Heller v. New York, p. 483.

5. *Films—Warrantless seizure—Prior restraint.*—The seizure by the sheriff, without the authority of a constitutionally sufficient warrant, was unreasonable under Fourth and Fourteenth Amendment standards. Seizure is not unreasonable simply because it would have been easy to secure a warrant, but rather because prior restraint of right of expression, whether by books or films, calls for higher hurdle of reasonableness. This case does not present an exigent circumstance in which police action must be "now or never" to preserve evidence of crime, and where it may be reasonable to permit action without prior judicial approval. Roaden v. Kentucky, p. 496.

6. *First Amendment—No pictorial content.*—Merely because it has no pictorial content, obscene material in book form is not entitled to First Amendment protection. A State may control commerce in such a book, even distribution to consenting adults, to avoid the deleterious consequences it can reasonably conclude (conclusive proof is not required) result from the continuing circulation of obscene literature. Kaplan v. California, p. 115.

7. *First Amendment—State regulation.*—Obscene material is not protected by the First Amendment. *Roth* v. *United States,* 354 U. S. 476, reaffirmed. A work may be subject to state regulation where that work, taken as a whole, appeals to the prurient interest in sex; portrays, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and, taken as a whole, does

OBSCENITY—Continued.

not have serious literary, artistic, political, or scientific value. Miller v. California, p. 15.

8. *Georgia civil procedure—Standards.*—The Georgia civil procedure followed here (assuming use of a constitutionally acceptable standard for determining the issue of obscenity *vel non*) comported with the standards of *Teitel Film Corp.* v. *Cusack,* 390 U. S. 139; *Freedman* v. *Maryland,* 380 U. S. 51; and *Kingsley Books, Inc.* v. *Brown,* 354 U. S. 436. Paris Adult Theatre I v. Slaton, p. 49.

9. *Importation of contraband—Commerce Clause—Personal use.*—Congress, which has broad powers under the Commerce Clause to prohibit importation into this country of contraband, may constitutionally proscribe the importation of obscene matter, notwithstanding that the material is for the importer's private, personal use and possession. United States v. 12 200-ft. Reels Film, p. 123.

10. *Juries—Community standard—National standard.*—The jury may measure the essentially factual issues of prurient appeal and patent offensiveness by the standard that prevails in the forum community, and need not employ a "national standard." Miller v. California, p. 15.

11. *Magazines—Obscenity adjudication—Remand.*—Judgment of Supreme Court of Virginia, affirming trial court's order adjudging certain magazines obscene and restraining their sale, is vacated and remanded for further proceedings consistent with *Miller* v. *California, ante,* p. 15; *Paris Adult Theatre I* v. *Slaton, ante,* p. 49; and *Heller* v. *New York, ante,* p. 483. Alexander v. Virginia, p. 836.

12. *Public exhibition—Privacy.*—Exhibition of obscene material in places of public accommodation is not protected by any constitutional doctrine of privacy. A commercial theater cannot be equated with a private home; nor is there here a privacy right arising from a special relationship, such as marriage. Nor can the privacy of the home be equated with a "zone" of "privacy" that follows a consumer of obscene materials wherever he goes. Paris Adult Theatre I v. Slaton, p. 49.

13. *Standards—State community standard.*—Appraisal of the nature of the book by the "contemporary community standards of the State of California" was an adequate basis for establishing whether the book here involved was obscene. Kaplan v. California, p. 115.

14. *State regulation—Guidelines.*—Basic guidelines for the trier of fact must be: (a) whether "the average person, applying contemporary community standards" would find that the work, taken as a whole, appeals to the prurient interest; (b) whether the work depicts or describes, in a patently offensive way, sexual conduct spe-

OBSCENITY—Continued.

cifically defined by applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. If state obscenity law is thus limited, First Amendment values are adequately protected by ultimate independent appellate review of constitutional claims when necessary. Miller v. California, p. 15.

15. *State regulation—Guidelines.*—Case is remanded to afford state courts an opportunity to reconsider petitioner's substantive challenges in light of *Miller* v. *California, ante,* p. 15, and *Paris Adult Theatre I* v. *Slaton, ante,* p. 49, which establish guidelines for lawful state regulation of obscene material. Heller v. New York, p. 483.

16. *State regulation—Public exhibition—"Adult" theaters.*—States have a legitimate interest in regulating commerce in obscene material and its exhibition in places of public accommodation, including "adult" theaters. There is a proper state concern with safeguarding against crime and other arguably ill effects of obscenity by prohibiting the public or commercial exhibition of obscene material. Though conclusive proof is lacking, States may reasonably determine that a nexus does or might exist between antisocial behavior and obscene material, just as States have acted on unprovable assumptions in other areas of public control. Paris Adult Theatre I v. Slaton, p. 49.

17. *"Utterly without redeeming social value"—Constitutional standard.*—The test of *"utterly* without redeeming social value" articulated in *Memoirs* v. *Massachusetts,* 383 U. S. 413, is rejected as a constitutional standard. Miller v. California, p. 15.

OHIO. See **Justiciability; National Guard.**

OKLAHOMA. See **Government Employees,** 5–6.

ORDINANCES. See **Constitutional Law,** IV, 1–2, 20.

ORDINARY AND NECESSARY EXPENSES. See **Taxes.**

OVERBREADTH. See **Constitutional Law,** III, 5; IV, 19; **Government Employees,** 3–4, 6; **Obscenity,** 7.

PARENT REIMBURSEMENT ACT FOR NONPUBLIC EDUCATION. See **Constitutional Law,** III, 2; IV, 9.

PARENTS AND CHILDREN. See **Constitutional Law,** II, 1; **Food Stamp Act,** 2.

PARENTS OF NONPUBLIC SCHOOL STUDENTS. See **Constitutional Law,** III, 2–4; IV, 3–5, 9–10, 13–14.

PARTISAN ACTIVITIES. See **Government Employees,** 1–2, 5–6.

PARTY ACTIVITIES. See **Government Employees,** 1–2, 5–6.

PATENT OFFENSIVENESS. See **Constitutional Law**, I, 1–2; IV, 15–16, 19; **Obscenity**, 1–3, 6–7, 9, 14, 17.

PATTERN OF TRAINING. See **Justiciability**; **National Guard.**

PENDLETON ACT. See **Government Employees**, 1–2.

PENNSYLVANIA. See **Constitutional Law**, III, 2; IV, 9.

"PERSONAL" EXPENSES. See **Taxes.**

PHOTOGRAPHIC DISPLAYS. See **Constitutional Law**, VII.

PHOTOGRAPHS. See **Constitutional Law**, IV, 16; **Obscenity**, 2–3, 6.

PICTORIAL CONTENT. See **Constitutional Law**, IV, 16; **Evidence**, 1–2; **Obscenity**, 2–3, 6.

PILOTS. See **Taxes.**

PITTSBURGH PRESS. See **Constitutional Law**, IV, 1–2, 20.

POLICE OFFICERS. See **Constitutional Law**, V, 2, 4.

POLITICAL CAMPAIGNS. See **Government Employees**, 1–2, 5–6.

POLITICAL MANAGEMENT. See **Government Employees**, 1.

POLITICAL STRIFE. See **Constitutional Law**, IV, 4.

PORNOGRAPHY. See **Constitutional Law**, I, 1–2; IV, 15–16, 19; **Evidence**, 1–2; **Obscenity**, 1–3, 6–7, 9, 14, 17.

POST-INDICTMENT PHOTOGRAPHIC DISPLAYS. See **Constitutional Law**, VII.

PRACTICE OF LAW. See **Constitutional Law**, III, 1.

PRE-EMPTION. See also **Federal-State Relations**, 1–2; **Social Security Act.**

Social Security Act—Work Incentive Program—New York Work Rules.—The Work Incentive provisions of the Act do not pre-empt the Work Rules of the New York Social Welfare Law. Where coordinate state and federal efforts exist within a complementary administrative framework in the pursuit of common purposes, as here, the case for federal pre-emption is not persuasive. New York Dept. of Social Services v. Dublino, p. 405.

PRESENCE OF ACCUSED. See **Constitutional Law**, VII.

PRESERVATION OF EVIDENCE. See **Constitutional Law**, IV, 18; **Obscenity**, 4.

PRESUMPTIONS. See **Constitutional Law**, II, 2; **Food Stamp Act**, 1.

PRIOR JUDICIAL APPROVAL. See **Constitutional Law,** IV, 17–18; V, 3; **Obscenity,** 4–5.

PRIOR RESTRAINT. See **Constitutional Law,** IV, 17; V, 3; **Obscenity,** 5.

PRIVACY. See **Constitutional Law,** I, 1–2; **Evidence,** 1–2; **Obscenity,** 1–3, 9, 12.

PRIVATE SCHOOLS. See **Constitutional Law,** III, 2–4; IV, 3–14; **Relief.**

PRIVATE USE. See **Constitutional Law,** I, 1–2; **Obscenity,** 1, 9.

PROBABLE CAUSE. See **Constitutional Law,** V, 1.

PROCEDURE. See also **Appeals; Constitutional Law,** IV, 6–7, 12, 14, 18; **Courts-Martial; Juries; Justiciability; National Guard; Obscenity,** 4, 8, 11; **Relief; Voting Rights Act of 1965.**

1. *Courts-martial — Service-connected offenses — Retroactivity.*— Denial of habeas corpus to petitioner in No. 71–6314, who was convicted of rape by court-martial, on ground that *O'Callahan* v. *Parker,* 395 U. S. 258, was not retroactive, is affirmed. Judgment in No. 71–1398, holding that *O'Callahan* was to be applied retroactively to serviceman who was convicted by court-martial on charges of unauthorized absence from duty station and theft of an automobile from a civilian, is reversed. Gosa v. Mayden, p. 665.

2. *Motion to intervene—Untimeliness—Discretion of District Court.*—The motion to intervene was untimely, and in the light of that fact and all the other circumstances of this case, the District Court did not abuse its discretion in denying the motion. NAACP v. New York, p. 345.

3. *Obscenity trial—Civil action—Trial by jury.*—Judgment of Supreme Court of Virginia, affirming trial court's order adjudging certain magazines obscene and restraining their sale, is vacated and remanded for further proceedings consistent with *Miller* v. *California, ante,* p. 15; *Paris Adult Theatre I* v. *Slaton, ante,* p. 49; and *Heller* v. *New York, ante,* p. 483. Trial by jury is not constitutionally required in this civil action pursuant to Va. Code Ann. § 18.1–236.3. Alexander v. Virginia, p. 836.

4. *Voting Rights Act of 1965—Appeals—Unsuccessful intervenors.*—The words "any appeal" in § 4 (a) of the Act encompass an appeal by a would-be, but unsuccessful, intervenor, and appellants' appeal properly lies to this Court. NAACP v. New York, p. 345.

PROFESSIONAL STANDARDS. See **Constitutional Law,** III, 1.

PROMPT JUDICIAL DETERMINATION. See **Constitutional Law**, IV, 18; **Obscenity**, 4.

PROOF. See **Constitutional Law**, IV, 18–19; **Evidence**, 1–2; **Obscenity**, 4, 10, 13–14, 17.

PROSPECTIVITY. See **Courts-Martial; Procedure**, 1.

PUBLIC ASSISTANCE RECIPIENTS. See **Federal-State Relations**, 1–2; **Pre-emption**; **Social Security Act.**

PUBLIC EMPLOYEES. See **Constitutional Law**, III, 5; **Government Employees**, 1–6.

PUBLIC SCHOOLS. See **Constitutional Law**, III, 3; IV, 5; **Relief**; **School Desegregation**, 1–3.

PUBLIC TRANSPORTATION. See **Constitutional Law**, I, 2; **Obscenity**, 1.

QUALIFICATIONS. See **Constitutional Law**, III, 1, 5; **Government Employees**, 3–4.

QUALIFICATIONS FOR VOTING. See **Appeals; Procedure**, 2, 4; **Voting Rights Act of 1965.**

RACIAL DISCRIMINATION. See **Constitutional Law**, III, 3–4; IV, 6; **Relief.**

RACIAL SEGREGATION. See **School Desegregation**, 1–3.

RAPE. See **Courts-Martial; Procedure**, 1.

REASONABLE DISTANCES. See **Constitutional Law**, V, 1.

REASONABLENESS. See **Constitutional Law**, IV, 16–17; V, 2–3; **Obscenity**, 5–6.

RECORDKEEPING. See **Constitutional Law**, IV, 7–8.

REGULATIONS. See **Constitutional Law**, V, 1; **Government Employees**, 1–2.

REIMBURSEMENT OF TUITION EXPENSES. See **Constitutional Law**, IV, 3, 9, 14.

REIMBURSING PRIVATE SCHOOLS. See **Constitutional Law**, IV, 7–8, 10.

RELIEF. See also **Constitutional Law**, III, 3–4; IV, 6; **Justiciability**; **National Guard**; **School Desegregation**, 2.

Private schools—Mississippi textbook loan program—Certification procedure.—Proper injunctive relief can be granted without implying that all private schools alleged to be receiving textbook aid have

RELIEF—Continued.

restrictive admission policies. District Court can direct appellees to submit for approval a certification procedure whereby schools may apply for textbooks on behalf of pupils, affirmatively declaring admission policies and practices, and stating number of their racially and religiously identifiable minority students and other relevant data. Certification of eligibility will be subject to judicial review. Norwood v. Harrison, p. 455.

RELIGIOUS-AFFILIATED COLLEGES. See **Constitutional Law,** IV, 11–12.

RELIGIOUS INSTRUCTIONS. See **Constitutional Law,** III, 2; IV, 3–5, 7–8, 10, 13.

RELIGIOUS SCHOOLS. See **Constitutional Law,** III, 2; IV, 3–5, 9.

REMANDS. See **Obscenity,** 11, 15; **Procedure,** 3.

RESIDENT ALIENS. See **Constitutional Law,** III, 1, 5; **Government Employees,** 3–4.

RES JUDICATA. See **Courts-Martial; Procedure,** 1.

RESTRAINT OF EXPRESSION. See **Constitutional Law,** IV, 17; V, 3; **Obscenity,** 5.

RETROACTIVITY. See **Courts-Martial; Procedure,** 1.

RETURN OF WARRANT. See **Constitutional Law,** V, 2, 4.

REVENUE BONDS. See **Constitutional Law,** IV, 11–12.

REVOLVERS. See **Constitutional Law,** V, 2, 4.

RIGHT TO COUNSEL. See **Constitutional Law,** VII.

RIGHT TO VOTE. See **Appeals; Procedure,** 2, 4; **Voting Rights Act of 1965.**

RULES OF CIVIL PROCEDURE. See **Constitutional Law,** VI; **Juries.**

SCHOOL BOARDS. See **School Desegregation,** 1, 3.

SCHOOL DESEGREGATION. See also **Constitutional Law,** III, 3–4; IV, 6.

1. *Policy of intentional segregation—Burden of proof.*—Where, as here, policy of intentional segregation has been proved with respect to a significant portion of the school system, burden is on school authorities (regardless of claims that their "neighborhood school policy" was racially neutral) to prove that their actions as to other segregated schools in the system were not likewise motivated by a

SCHOOL DESEGREGATION—Continued.
segregative intent. Keyes v. School District No. 1, Denver, Colo., p. 189.

2. *Segregated schools—Educational inequities—Negroes and Hispanos.*—District Court, for purposes of defining a "segregated" core city school, erred in not placing Negroes and Hispanos in the same category since both groups suffer the same educational inequities when compared with the treatment afforded Anglo students. Keyes v. School District No. 1, Denver, Colo., p. 189.

3. *Segregation of core city schools—Deliberate policy.*—Courts below did not apply correct legal standard in dealing with petitioners' contention that respondent School Board had the policy of deliberately segregating the core city schools. Proof that school authorities have pursued an intentional segregative policy in a substantial portion of school district will support a finding by trial court of the existence of dual system, absent a showing that the district is divided into clearly unrelated units. Keyes v. School District No. 1, Denver, Colo., p. 189.

SCHOOLS. See **Constitutional Law,** III, 2–4; IV, 3–14; **School Desegregation,** 1–3.

SCHOOL TEXTBOOKS. See **Constitutional Law,** III, 3–4; IV, 6; **Relief.**

SEARCH AND SEIZURE. See **Constitutional Law,** V, 1–4.

SEARCH WARRANTS. See **Constitutional Law,** V, 2, 4.

SECRETARY OF AGRICULTURE. See **Constitutional Law,** II, 1–2; **Food Stamp Act,** 1–2.

SECTARIAN COLLEGES. See **Constitutional Law,** IV, 11–12.

SECTARIAN SCHOOLS. See **Constitutional Law,** III, 2; IV, 3–5, 7–10, 13–14.

SECULAR PURPOSES. See **Constitutional Law,** IV, 11–12.

SECULAR SERVICES. See **Constitutional Law,** IV, 10.

SEGREGATED SCHOOLS. See **Constitutional Law,** III, 3–4; IV, 6; **Relief; School Desegregation,** 1–3.

SEIZURE OF FILMS. See **Constitutional Law,** IV, 17–18; V, 3; **Obscenity,** 4–5.

SERVICE-CONNECTED OFFENSES. See **Courts-Martial; Procedure,** 1.

SERVICEMEN. See **Courts-Martial; Procedure,** 1.

SERVICES OF PRIVATE SCHOOLS. See **Constitutional Law,** IV, 8, 10.

SEVENTH AMENDMENT. See **Constitutional Law,** VI; **Juries.**

SEVERABILITY OF STATUTE. See **Constitutional Law,** III, 2.

SEX-DESIGNATED WANT AD COLUMNS. See **Constitutional Law,** IV, 1–2, 20.

SEX DISCRIMINATION. See **Constitutional Law,** IV, 1–2, 20.

SEXUALLY EXPLICIT MATERIAL. See **Constitutional Law,** IV, 19; **Obscenity,** 7, 14.

SHERIFFS. See **Constitutional Law,** IV, 17; V, 3; **Obscenity,** 5.

SIX-MAN JURIES. See **Constitutional Law,** VI; **Juries.**

SIXTH AMENDMENT. See **Constitutional Law,** VII; **Courts-Martial; Procedure,** 1.

SIZE OF JURIES. See **Constitutional Law,** VI; **Juries.**

SOCIAL SECURITY ACT. See also **Federal-State Relations,** 1–2; **Pre-emption.**

Work Incentive Program—New York Work Rules—Pre-emption.— The Work Incentive (WIN) provisions of the Act do not pre-empt New York Work Rules of the New York Social Welfare Law. There is no substantial evidence that Congress intended, either expressly or impliedly, to pre-empt state work programs. More is required than the apparent comprehensiveness of the WIN legislation to show the "clear manifestation of [congressional] intention" that must exist before a federal statute is held "to supersede the exercise" of state action. New York Dept. of Social Services v. Dublino, p. 405.

SOCIAL VALUE. See **Constitutional Law,** IV, 19; **Obscenity,** 7, 14.

SOCIAL WELFARE LAW. See **Federal-State Relations,** 1–2; **Pre-emption; Social Security Act.**

SOUTH CAROLINA. See **Constitutional Law,** IV, 11–12.

"SPECIAL PUBLIC INTEREST" DOCTRINE. See **Constitutional Law,** III, 5; **Government Employees,** 3–4.

STAMP PROGRAMS. See **Constitutional Law,** II, 1–2; **Food Stamp Act,** 1–2.

STANDARDS. See **Constitutional Law,** IV, 19; **Evidence,** 1–2; **Obscenity,** 2–3, 7, 10, 13–14.

STATE CIVIL SERVICE. See **Constitutional Law**, III, 5; **Government Employees**, 3–6.

STATE COMMUNITY STANDARDS. See **Constitutional Law**, IV, 16, 19; **Evidence**, 1–2; **Obscenity**, 10, 13.

STATE EMPLOYEES. See **Government Employees**, 3–6.

STATE PERSONNEL BOARD. See **Government Employees**, 5–6.

STATE TAX RELIEF. See **Constitutional Law**, IV, 13.

STATE TEXTBOOK LOAN PROGRAM. See **Constitutional Law**, III, 3–4; IV, 6; **Relief.**

STATE UNIVERSITIES. See **Justiciability**; **National Guard.**

STATE WORK PROGRAMS. See **Federal-State Relations**, 1–2; **Pre-emption**; **Social Security Act.**

STIPULATIONS. See **Constitutional Law**, VI; **Juries.**

STUDENTS. See **Constitutional Law**, III, 3–4; IV, 6; **Justiciability**; **National Guard**; **Relief.**

SUBSTANTIAL STATE INTERESTS. See **Constitutional Law**, III, 5; **Government Employees**, 3–4.

SUMMARY JUDGMENTS. See **Appeals**; **Procedure**, 2, 4; **Voting Rights Act of 1965.**

SUPERVISORY RELIEF. See **Justiciability**; **National Guard.**

SUPPORTING RELIGION-ORIENTED SCHOOLS. See **Constitutional Law**, III, 2; IV, 3–5, 9, 13–14.

SUPREMACY CLAUSE. See **Constitutional Law**, III, 5; **Government Employees**, 3–4.

SUPREME COURT. See **Appeals**; **Procedure**, 2, 4; **Voting Rights Act of 1965.**

SUSPECT CLASSIFICATIONS. See **Constitutional Law**, III, 1.

TAX DEDUCTIONS. See **Constitutional Law**, II, 1; **Food Stamp Act**, 2; **Taxes.**

TAXES.

Income taxes—Deduction of business expenses—Commuting expenses.—Airline pilot taxpayer is not entitled under § 262 of the Internal Revenue Code to an exclusion from "personal" expenses for the costs of commuting by car from his home to his place of employment because by happenstance he must carry incidentals of his occupation with him. Fausner v. Commissioner, p. 838.

TAX-EXEMPT BONDS. See **Constitutional Law**, IV, 11–12.

TAX RELIEF. See **Constitutional Law**, IV, 3–4, 13.

TEACHER-PREPARED TESTS. See **Constitutional Law**, IV, 7.

TESTS OR DEVICES. See **Appeals**; **Constitutional Law**, IV, 7; **Procedure**, 2, 4; **Voting Rights Act of 1965.**

TEXTBOOKS. See **Constitutional Law**, III, 3–4; IV, 6; **Relief.**

THEATERS. See **Constitutional Law**, IV, 15, 17–18; V, 3; **Obscenity**, 4–5, 8, 12, 16.

THOUGHT CONTROL. See **Constitutional Law**, IV, 15, 17, 19; V, 3; **Evidence**, 1–2; **Obscenity**, 8.

TIMELINESS. See **Appeals**; **Procedure**, 2, 4; **Voting Rights Act of 1965.**

TRAINING OF NATIONAL GUARD. See **Justiciability**; **National Guard.**

TRANSPORTING INCIDENTALS OF OCCUPATION. See **Taxes.**

TRANSPORTING OBSCENE MATERIAL. See **Constitutional Law**, I, 1–2; **Obscenity**, 1, 9.

TRIAL BY JURY. See **Constitutional Law**, VI; **Courts-Martial**; **Juries**; **Obscenity**, 10; **Procedure**, 1, 3.

TRIAL IN VICINAGE. See **Courts-Martial**; **Procedure**, 1.

TUITION EXPENSES. See **Constitutional Law**, IV, 9.

TUITION-REIMBURSEMENT PLANS. See **Constitutional Law**, IV, 3, 9, 14.

UNITED STATES CITIZENS. See **Constitutional Law**, III, 1, 5; **Government Employees**, 3–4.

UNIVERSITY STUDENTS. See **Justiciability**; **National Guard.**

UNPROVABLE ASSUMPTIONS. See **Constitutional Law**, IV, 16; **Evidence**, 1–2; **Obscenity**, 2–3, 6.

UNRELATED PERSONS. See **Constitutional Law**, II, 2; **Food Stamp Act**, 1.

UNSUCCESSFUL INTERVENORS. See **Appeals**; **Procedure**, 2, 4; **Voting Rights Act of 1965.**

UNTIMELINESS. See **Appeals**; **Procedure**, 2, 4; **Voting Rights Act of 1965.**

UNWILLING RECIPIENTS. See **Constitutional Law**, IV, 19; **Obscenity**, 7, 10, 14.

"USE OF FORCE" RULES. See **Justiciability; National Guard.**

UTTERLY WITHOUT REDEEMING SOCIAL VALUE. See **Constitutional Law,** IV, 16, 19; **Evidence,** 1–2; **Obscenity,** 2–3, 6, 14, 17.

VAGUENESS. See **Government Employees,** 5–6.

VICINAGE. See **Courts-Martial; Procedure,** 1.

VIRGINIA. See **Obscenity,** 11; **Procedure,** 3.

VOTING RIGHTS ACT OF 1965. See also **Appeals; Procedure,** 2, 4.

Appeals—Unsuccessful intervenors.—The words "any appeal" in § 4 (a) of the Act encompass an appeal by a would-be, but unsuccessful, intervenor, and appellants' appeal properly lies to this Court. NAACP v. New York, p. 345.

WANT ADS. See **Constitutional Law,** IV, 1–2, 20.

WARRANTLESS SEARCHES. See **Constitutional Law,** V, 1–4.

WARRANTLESS SEIZURES. See **Constitutional Law,** V, 1–4; **Obscenity,** 5.

WARRANTS. See **Constitutional Law,** V, 1–4; **Obscenity,** 5.

WARTIME OFFENSES. See **Courts-Martial; Procedure,** 1.

WEAPONS. See **Constitutional Law,** V, 2, 4.

WELFARE. See **Federal-State Relations,** 1–2; **Pre-emption; Social Security Act.**

WISCONSIN. See **Constitutional Law,** V, 2, 4.

WITNESSES. See **Constitutional Law,** VII.

WORK INCENTIVE PROGRAM. See **Federal-State Relations,** 1–2; **Pre-emption; Social Security Act.**

WORK PERMITS. See **Constitutional Law,** V, 1.

WORK PROGRAMS. See **Federal-State Relations,** 1–2; **Pre-emption; Social Security Act.**

WOULD-BE INTERVENORS. See **Appeals; Procedure,** 2, 4; **Voting Rights Act of 1965.**

ZONE OF PRIVACY. See **Constitutional Law,** I, 1–2; **Obscenity,** 1, 9, 12.

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