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**APPOINTMENT OF COUNSEL.**

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- CASE OR CONTROVERSY.** See Constitutional Law, I; VIII, 2; Injunctions, 2; Justiciability, 1-4; Procedure, 2.
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- CHARGE TO JURY.** See Constitutional Law, III, 5.
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- CHILDBEARING.** See Constitutional Law, III, 6-8.
- CHINESE STUDENTS.** See Civil Rights Act of 1964, 2.
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**CITIZENS.** See **Civil Rights Act of 1964**; **Equal Employment Opportunity Commission**.

**CITIZENSHIP.** See **Naturalization**.

**CITY OFFICES.** See **Abstention**; **Constitutional Law**, VI, 4.

**CIVIL RIGHTS.** See **Civil Rights Act of 1964**, 1-2; **Constitutional Law**, I, 1-4; III, 6-8; **Equal Employment Opportunity Commission**; **Injunctions**, 2; **Justiciability**, 1-4; **Procedure**, 2.

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1. *Employment discrimination—National origin—Legislative history.*—In light of the legislative history of § 703 of Title VII of Act making it an unlawful employment practice to refuse to hire an individual because of his race, color, religion, sex, or national origin, and the longstanding practice of requiring federal employees to be United States citizens, it is clear that Congress did not intend term "national origin" to embrace citizenship requirements. *Espinoza v. Farah Mfg. Co.*, p. 86.

2. *Schools—Students of Chinese ancestry—English language instruction.*—Failure of San Francisco school system to provide English language instruction to approximately 1,800 students of Chinese ancestry who do not speak English or to provide them with other adequate instructional procedures denies them a meaningful opportunity to participate in public educational program and thus violates § 601 of Civil Rights Act of 1964, which bans discrimination based "on the ground of race, color, or national origin," in "any program or activity receiving federal financial assistance," and implementing regulations of Department of Health, Education, and Welfare. *Lau v. Nichols*, p. 563.

**CLASS ACTIONS.** See also **Appeals**, 1-3; **Constitutional Law**, I, 1-4; **Jurisdiction**, 1; **Justiciability**, 1-4.

1. *Suspension of limitations period—Timely intervention.*—Commencement of class action suspends applicable statute of limitations as to all asserted members of class who would have been parties had requirement of Fed. Rule Civ. Proc. 23 (a) (1) been met, and here where petitioners, who were purported members of class, made timely motions to intervene after District Court had found suit inappropriate for class action status, institution of original class suit tolled limitations statute for petitioners. *American Pipe & Construction Co. v. Utah*, p. 538.

2. *Suspension of limitations period—Timely intervention.*—Commencement of class action suspended running of limitations period

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only during pendency of motion to strip suit of its class action character. Since class action was filed with 11 days yet to run in period as tolled by § 5 (b) of Clayton Act, intervenors had 11 days after entry of order denying them participation in class suit in which to move to file their intervention motion. Their filing only 8 days after entry of such order was thus timely. *American Pipe & Construction Co. v. Utah*, p. 538.

**CLASSIFICATIONS.** See **Selective Service Regulations.**

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**CONSTITUTIONAL LAW.** See also Abstention; Federal-State Relations, 1-4, 6; Judicial Review, 3; Jurisdiction, 5; Narcotic Addict Rehabilitation Act of 1966, 1-4.

**I. Case or Controversy.**

1. *Civil rights action—Insufficient allegations.*—The complaint in civil rights action against magistrate and judge alleging illegal bond-setting, sentencing, and jury-fee practices in criminal cases fails to satisfy the threshold requirement of Art. III of the Constitution that those who seek to invoke the power of federal courts must allege an actual case or controversy, where none of the named plaintiffs is identified as having himself suffered any injury in the manner specified, the claim alleging injury is in only the most general terms, and there are no allegations that any relevant state criminal statute is unconstitutional on its face or as applied or that plaintiffs have been or will be improperly charged with violating criminal law. *O'Shea v. Littleton*, p. 488.

2. *Class action—Named plaintiffs.*—If none of named plaintiffs purporting to represent a class meets case-or-controversy requirement, none may seek relief on behalf of himself or any other member of class. *O'Shea v. Littleton*, p. 488.

3. *Prosecution for violation of valid laws.*—Case-or-controversy requirement is not satisfied by general assertions or inferences that in course of their activities respondents will be prosecuted for violating valid criminal laws. *O'Shea v. Littleton*, p. 488.

4. *Remote threat of injury.*—Where it can only be speculated whether respondents will be arrested for violating an ordinance or state statute, particularly in absence of allegations that unconstitutional criminal statutes are being employed to deter constitutionally protected conduct, and respondents have not pointed to any imminent prosecutions contemplated against them so that they do not claim any constitutional right to engage in conduct proscribed by therefore presumably permissible state laws, or that it is otherwise their intention to so conduct themselves, the threat of injury from the alleged course of conduct they attack is too remote to satisfy case-or-

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controversy requirement and permit adjudication by federal court. *O'Shea v. Littleton*, p. 488.

**II. Commerce Clause.**

*Profit-sharing plan—State wage relief law—Burden on interstate commerce.*—Even though petitioner broker-dealer's profit-sharing plan is open to all eligible employees in United States, and respondent account executive's employment and petitioner's business are interstate, the application of California wage relief law would not unduly burden interstate commerce. *Merrill Lynch, Pierce, Fenner & Smith, v. Ware*, p. 117.

**III. Due Process.**

1. *Conviction—No evidence of crucial element of offense.*—An independent examination of trial court record pursuant to Supreme Court Rule 40 (1)(d)(2) discloses that evidence is completely lacking that appellant, who had been convicted of "wilfully" contributing to delinquency of a minor, personally sold 14-year-old girl button inscribed "Copulation Not Masturbation" or that he was aware of sale or present in store at the time, a fatal void in State's case that was not filled by appellant's concession at trial that he "controlled the premises" at the time. A conviction based on a record completely lacking any relevant evidence as to a crucial element of offense charged violates due process. *Vachon v. New Hampshire*, p. 478.

2. *Equal protection—Narcotic Addict Rehabilitation Act of 1966—Two-prior-felony exclusion.*—Title II of NARA does not deny due process or equal protection by excluding from rehabilitative commitment, in lieu of penal incarceration, addicts with two or more prior felony convictions, since Congress could rationally assume that an addict with a multiple-felony record is likely to benefit less from rehabilitative treatment, present a possible impediment to successful treatment of others, and be a greater threat to society upon release, because of that record. *Marshall v. United States*, p. 417.

3. *Florida criminal statute—Oral and anal sexual activity—Vagueness—Prospective ruling.*—Florida statutory provision proscribing "the abominable and detestable crime against nature, either with mankind or beast . . .," in light of State Supreme Court's long-standing construction as applying to copulation per os and per anum, held not unconstitutionally vague; and that court's later ruling after appellees' convictions for those offenses had become final holding statute void for vagueness as applied to oral and anal sexual activity

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did not require reversal of appellees' convictions since subsequent ruling was prospective only and at time appellees committed acts they were on clear notice that their conduct was criminal under statute as then construed. *Wainwright v. Stone*, p. 21.

4. *Fourteenth Amendment—Pharmacy permit statute.*—North Dakota statutory requirements for permitting operation of pharmacy do not violate Due Process Clause of Fourteenth Amendment. In enacting challenged legislation State was well within its authority "to legislate against what [it] found to be injurious practices in [its] internal commercial and business affairs," and this Court will not substitute its own judgment for what State feels is reasonably necessary to protect interests of public. *North Dakota Pharmacy Bd. v. Snyder's Stores*, p. 156.

5. *Fourteenth Amendment—"Presumption of truthfulness" instruction.*—A "presumption of truthfulness" instruction given to jury at an Oregon criminal trial cannot be considered in isolation and when viewed, as it must be, in context of overall charge, in which trial court twice gave explicit instructions affirming presumption of innocence and declaring State's obligation to prove guilt beyond a reasonable doubt, did not so infect entire trial that resulting conviction violated requirements of Due Process Clause of Fourteenth Amendment, challenged instruction neither having shifted burden of proof to defendant nor negated presumption of innocence accorded under state law. *Cupp v. Naughten*, p. 141.

6. *Mandatory maternity leave—Teachers—Conclusive presumption.*—The mandatory termination provisions of Cleveland, Ohio, and Chesterfield County, Virginia, School Boards' rules requiring pregnant teachers to take maternity leave four (Chesterfield County) and five (Cleveland) months before expected childbirth, violate Due Process Clause of Fourteenth Amendment. The arbitrary cutoff dates (which obviously come at different times of school year for different teachers) have no valid relationship to State's interest in preserving continuity of instruction, as long as teacher is required to give substantial advance notice that she is pregnant. The challenged provisions are violative of due process since they create a conclusive presumption that every teacher who is four or five months pregnant is physically incapable of continuing her duties, whereas any such teacher's ability to continue past a fixed pregnancy period is an individual matter; and the school boards' administrative convenience alone cannot suffice to validate the arbitrary rules. *Cleveland Board of Education v. LaFleur*, p. 632.

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7. *Mandatory maternity leave—Teachers—Return to work.*—Chesterfield County, Virginia, School Board return rule guaranteeing re-employment of teacher after mandatory maternity leave no later than first day of school year after date she is declared re-eligible, which rule is free of any unnecessary presumption, comports with due process requirements. *Cleveland Board of Education v. LaFleur*, p. 632.

8. *Mandatory maternity leave—Teachers—Return to work—Irrebuttable presumption.*—Provision of Cleveland, Ohio, School board rule making teacher ineligible to return to work after mandatory maternity leave until next regular semester after child is three months old, violates due process, being both arbitrary and irrational. It creates an irrebuttable presumption that mother (whose good health must be medically certified) is not fit to resume work, and it is not germane to maintaining continuity of instruction, as precise point a child will reach relevant age will occur at a different time throughout school year for each teacher. *Cleveland Board of Education v. LaFleur*, p. 632.

**IV. Equal Protection of the Laws.**

*Absentee voting—Incarcerated misdemeanants or pretrial detainees.*—Provisions of New York election laws, which allow absentee registration and voting to persons with, *inter alia*, physical disability, as construed by New York Court of Appeals not to include appellants, who are incarcerated in jail in county of their residence as convicted misdemeanants or pretrial detainees, but which provisions raise no question of disenfranchisement of persons convicted of criminal conduct and permit incarcerated persons to register and vote by absentee means if confined in a county where they are not residents, violate the Equal Protection Clause of the Fourteenth Amendment, as they arbitrarily discriminate between categories of qualified voters. *O'Brien v. Skinner*, p. 524.

**V. Fifth Amendment.**

1. *Compelled testimony—Loss of public contract.*—State could not compel testimony that had not been immunized, and waiver sought by State, under threat of loss of contracts, would have been no less compelled than a direct request for testimony without resort to waiver device. There is no constitutional distinction in terms of compulsion between threat of job loss in those cases and threat of contract loss to a contractor. *Lefkowitz v. Turley*, p. 70.

2. *Self-incrimination—Public contractors—Grand jury.*—The Fifth Amendment privilege against self-incrimination is not inapplicable

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simply because issue arises in context of official inquiries into job performance of public contractor. Ordinary rule is that privilege is available to witnesses called before grand jury as these appellees were, and State's legitimate interest in maintaining integrity of its civil service and of its transactions with independent contractors, like other state concerns, cannot override requirements of Fifth Amendment. *Lefkowitz v. Turley*, p. 70.

**VI. First Amendment.**

1. *Freedom of speech—Abusive language—Vagueness—Overbreadth.*—Ohio Supreme Court erred in finding no constitutional infirmity in lower court's holding that city ordinance punishing abuse of another by using menacing, insulting, slanderous, or profane language might constitutionally reach appellant's use of "fighting words," where ordinance, as construed by Ohio courts, is facially unconstitutional because it may be applied not only to punish unprotected but also protected speech. Even though a law may be valid as applied to conduct charged against particular defendant, he may raise its vagueness or unconstitutional overbreadth as applied to others, and, if law is found deficient in one of these respects, it may not be applied to him either, absent satisfactory limiting construction. *Plummer v. City of Columbus*, p. 2.

2. *Freedom of speech—Disorderly conduct.*—Cincinnati's disorderly conduct ordinance operated to deprive petitioner of his constitutionally protected freedom of speech, where it appeared that he was arrested and convicted merely because he verbally and negatively protested arresting officer's treatment of him, and there was no use of abusive language or fighting words. *Norwell v. City of Cincinnati*, p. 14.

3. *Freedom of Speech—Indiana disorderly conduct statute—Antiwar demonstration.*—Appellant's language, "We'll take the fucking street later (or again)," uttered in loud statement during antiwar demonstration on college campus, did not fall within any of "narrowly limited classes of speech" that States may punish without violating First and Fourteenth Amendments, and since evidence showed that words he used were not directed to any person or group and there was no evidence that they were intended and likely to produce *imminent* disorder, application of statute to appellant violated his rights of free speech. *Hess v. Indiana*, p. 105.

4. *Illinois Election Code—Right of political association—Primaries.*—Section 7-43 (d) of Code, which prohibits a person from voting in primary election of a political party if he has voted within preceding 23 months, unconstitutionally infringes upon right of free

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political association protected by First and Fourteenth Amendments by "locking" voter in his pre-existing party affiliation for substantial period of time following his participation in any primary election, and State's legitimate interest in preventing party "raiding" cannot justify substantial restraint of 23-month rule. *Kusper v. Pontikes*, p. 51.

5. *Loyalty oath—Political parties.*—The loyalty oath requirement of the Indiana statute for political parties seeking a place on the ballot violates the First and Fourteenth Amendments. *Communist Party of Indiana v. Whitcomb*, p. 441.

6. *Place on ballot—Violent overthrow—Abstract doctrine.*—For purposes of determining whether to grant a place on the ballot, a group advocating violent overthrow as abstract doctrine need not be regarded as necessarily advocating unlawful action. *Communist Party of Indiana v. Whitcomb*, p. 441.

7. *State prohibition of advocacy of force—Access to ballot—Political parties and candidates—Voting.*—The principle that the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to produce such action, applies to state regulation burdening access to the ballot, rights of association in the political party of one's choice, casting an effective ballot, and in running for office, which are interests as substantial as those in other areas that this Court has protected against statutory schemes contrary to the First and Fourteenth Amendments. *Communist Party of Indiana v. Whitcomb*, p. 441.

**VII. Fourth Amendment.**

1. *Custodial arrest—Full search without warrant.*—In the case of a lawful custodial arrest a full search of the person is not only an exception to the warrant requirement of the Fourth Amendment, but is also a "reasonable" search under that Amendment. *United States v. Robinson*, p. 218.

2. *Custodial arrest—Justification for search incident to arrest.*—A custodial arrest of a suspect based on probable cause is a reasonable intrusion under Fourth Amendment and a search incident to the arrest requires no additional justification, such as the probability in a particular arrest situation that weapons or evidence would in fact be found upon the suspect's person; and whether or not there was present one of the reasons supporting the authority for a search of the person incident to a lawful arrest need not be litigated in each case. *United States v. Robinson*, p. 218.

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3. *Custodial arrest—Search—No fear of suspect.*—Since the custodial arrest here gave rise to the authority to search, it is immaterial that arresting officer did not fear respondent or suspect that he was armed. *United States v. Robinson*, p. 218.

4. *Custodial arrest—Search incident to arrest—No fear of suspect.*—The full search of the person of the suspect made incident to a lawful custodial arrest did not violate Fourth and Fourteenth Amendments, and it is of no constitutional significance that, contrary to situation in *United States v. Robinson*, *ante*, p. 218, police regulations did not require that petitioner be taken into custody or establish conditions under which a full-scale body search should be conducted, nor, as in *Robinson*, is it relevant that the arresting officer had no subjective fear of petitioner or suspect that he was armed, since it is the fact of custodial arrest which gives rise to the authority to search. *Gustafson v. Florida*, p. 260.

5. *Exclusionary rule—Deterrent on police misconduct.*—The exclusionary rule, under which evidence obtained in violation of Fourth Amendment or fruits of such evidence cannot be used in a criminal proceeding against the victim of the illegal search and seizure, is a judicially created remedy designed to safeguard Fourth Amendment rights generally through its deterrent effect on future unlawful police conduct, rather than a personal constitutional right of the party aggrieved. *United States v. Calandra*, p. 338.

6. *Exclusionary rule—Scope of application.*—Despite its broad deterrent purpose, the exclusionary rule does not proscribe the use of illegally seized evidence in all proceedings or against all persons, and its application has been restricted to those areas where its remedial objectives are thought most efficaciously served. *United States v. Calandra*, p. 338.

7. *Grand jury questions—Illegally obtained evidence.*—Grand jury questions based on evidence obtained from an unlawful search and seizure involve no independent governmental invasion of privacy, but rather the usual abridgment thereof common to all grand jury questioning. Such questions are only a derivative use of the product of a past unlawful search and seizure and work no new Fourth Amendment wrong. *United States v. Calandra*, p. 338.

8. *Grand jury witness.*—A witness summoned to appear and testify before a grand jury may not refuse to answer questions on ground that they are based on evidence obtained from an unlawful search and seizure. *United States v. Calandra*, p. 338.

9. *Grand jury witness—Exclusionary rule.*—Allowing a grand jury witness to invoke the exclusionary rule would unduly interfere with

**CONSTITUTIONAL LAW**—Continued.

the effective and expeditious discharge of the grand jury's duties, and extending the rule to grand jury proceedings would achieve only a speculative and minimal advance in deterring police misconduct at the expense of substantially impeding the grand jury's role. *United States v. Calandra*, p. 338.

10. *Search incident to arrest—Frisk—Standards.*—A search incident to a valid arrest is not limited to a frisk of suspect's outer clothing and removal of such weapons as arresting officer may, as a result of such frisk, reasonably believe suspect has in his possession, and absence of probable fruits or further evidence of particular crime for which arrest is made does not narrow standards applicable to such a search. *United States v. Robinson*, p. 218.

**VIII. Sixth Amendment.**

1. *Presence at trial—Waiver of right.*—Petitioner effectively waived his right to be present at his criminal trial by voluntarily absenting himself therefrom through failure to return to courtroom after morning session of first day of trial, and Court of Appeals properly applied Fed. Rule Crim. Proc. 43 and affirmed conviction, it being unnecessary to show that petitioner knew or had been expressly warned by trial court not only that he had right to be present but also that trial would continue in his absence and thereby effectively foreclose his right to testify and to confront personally witnesses against him. *Taylor v. United States*, p. 17.

2. *Right to counsel—Retroactivity.*—Persons convicted prior to decision in *Argersinger v. Hamlin*, 407 U. S. 25, are entitled to constitutional rule enunciated in that case that, absent knowing and intelligent waiver, indigent accused may not be imprisoned for any offense, whether classified as petty, misdemeanor, or felony, if he was denied assistance of counsel, if they allege and prove a bona fide, existing case or controversy sufficient to invoke jurisdiction of a federal court. *Berry v. City of Cincinnati*, p. 29.

3. *Speedy trial—Prejudice—Reasons for delay—Parole—Rehabilitation.*—Where petitioner was tried for murder in Arizona almost three years after he was charged and 28 months after he first demanded that Arizona either extradite him from California, where he was serving prison term, or drop detainer against him, Arizona Supreme Court, in affirming denial of petitioner's pretrial habeas corpus application, erred in ruling that showing of prejudice to defense at trial was essential to establish federal speedy trial claim. In addition to possible prejudice, court must weigh reasons for delay in bringing incarcerated defendant to trial, and should also consider

**CONSTITUTIONAL LAW**—Continued.

possible impact pending charges might have on defendant's prospects for parole and meaningful rehabilitation. *Moore v. Arizona*, p. 25.

**CONSTRUCTION OF STATUTES.** See *Rail Passenger Service Act of 1970*.

**CONTINUITY OF INSTRUCTION.** See *Constitutional Law*, III, 6-8.

**CONTRACTORS.** See *Constitutional Law*, V, 1-2.

**CONTRACTS OF EMPLOYMENT.** See *Constitutional Law*, II; *Federal-State Relations*, 1-4, 6.

**CONTRACTUAL DUTY NOT TO STRIKE.** See *Injunctions*, 1; *Labor*, 1-2; *Labor Management Relations Act*.

**CONTRIBUTING TO DELINQUENCY.** See *Constitutional Law*, III, 1.

**CONVICTED MISDEMEANANTS.** See *Constitutional Law*, IV.

**COPULATION PER ANUM OR PER OS.** See *Constitutional Law*, III, 3.

**COSTS OF PRINTING PETITIONS FOR CERTIORARI.** See *Rules of Supreme Court*.

**COUNSEL.** See *Appointment of Counsel*; *Constitutional Law*, VIII, 2.

**COUNTY JAILS.** See *Constitutional Law*, IV.

**CREDIT CARDS.** See *Criminal Law*.

**CRIME AGAINST NATURE.** See *Constitutional Law*, III, 3.

**CRIMINAL LAW.** See also *Appointment of Counsel*; *Constitutional Law*, I, 1-4; III, 1-3, 5; IV, 1-3; VII, 1-10; VIII, 1-3; *Grand Juries*, 1-3; *Injunctions*, 2; *Justiciability*, 1-3; *Narcotic Addict Rehabilitation Act of 1966*, 1-4; *Procedure*, 3.

*Mail fraud—Credit card—Motels.*—Motel operators' mailings of sales slips to Louisville bank resulting from respondent's use of one Meredith's credit card were not sufficiently closely related to respondent's scheme to bring his conduct within 18 U. S. C. § 1341. Though mailings were to be directed to adjusting accounts between respondent's victims (motels, Louisville bank, and Meredith), they were not for purpose of executing scheme embraced by statute since that scheme had already reached fruition when respondent checked out of motel and did not depend on which of his victims ultimately bore loss. *United States v. Maze*, p. 395.

- CRUCIAL ELEMENTS OF OFFENSE.** See Constitutional Law, III, 1.
- CRYSTALLIZING OBJECTION TO WAR.** See Selective Service Regulations.
- CUSTODIAL ARRESTS.** See Constitutional Law, VII, 1-4, 10.
- CUSTODIAL WORKERS.** See Fair Labor Standards Act, 1-2.
- DAMAGES.** See Admiralty, 1-3; Jurisdiction, 1.
- DANGEROUS WEAPONS.** See Constitutional Law, VII, 1-4, 10.
- DEATH.** See Admiralty, 1-2.
- DEFENSE DEPARTMENT.** See Stays, 1-3.
- DEMOCRATIC PRIMARY.** See Abstention; Constitutional Law, VI, 4.
- DEMONSTRATIONS.** See Constitutional Law, VI, 3.
- DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.**  
See Civil Rights Act of 1964, 2.
- DEPENDENTS.** See Admiralty, 1-2.
- DETAINER.** See Constitutional Law, VIII, 3.
- DETERRING POLICE MISCONDUCT.** See Constitutional Law, VII, 5-9; Grand Juries, 1-3.
- DISARMING SUSPECTS.** See Constitutional Law, VII, 1-4, 10.
- DISCHARGE OF EMPLOYEES.** See Judicial Review, 3.
- DISCONTINUANCE OF PASSENGER TRAINS.** See Rail Passenger Service Act of 1970.
- DISCRETION.** See Appeals, 1.
- DISCRIMINATION.** See Civil Rights Act of 1964, 1-2; Constitutional Law, IV; Equal Employment Opportunity Commission; Indians.
- DISMISSAL OF APPEAL.** See Appointment of Counsel.
- DISMISSALS FROM SUIT.** See Jurisdiction, 1.
- DISORDERLY CONDUCT.** See Constitutional Law, VI, 2-3.
- DISTRICT COURTS.** See Appeals, 3; Habeas Corpus; Jurisdiction, 1; Rail Passenger Service Act of 1970.
- DISTRICT OF COLUMBIA.** See Constitutional Law, VII, 1-3, 10; Habeas Corpus.
- DIVERSITY CLASS ACTIONS.** See Jurisdiction, 1.

- DIVERSITY JURISDICTION.** See Jurisdiction, 1.
- DOLLAR-VOLUME LIMITATION.** See Fair Labor Standards Act, 1-2.
- DOUBLE LIABILITY.** See Admiralty, 1-2.
- DRAFT BOARDS.** See Selective Service Regulations.
- DRIVER-SALESMEN.** See National Labor Relations Board, 1-5.
- DRIVERS' LICENSES.** See Constitutional Law, VII, 1-4, 10.
- DRUG ADDICTS.** See Constitutional Law, III, 2; Narcotic Addict Rehabilitation Act of 1966, 1-4.
- DRUGS.** See Constitutional Law, III, 2; VII, 1-4, 10; Narcotic Addict Rehabilitation Act of 1966, 1-4.
- DRUGSTORES.** See Constitutional Law, III, 4; Jurisdiction, 5.
- DUE PROCESS.** See Constitutional Law, III; Judicial Review, 3; Jurisdiction, 5; Narcotic Addict Rehabilitation Act of 1966, 1-4.
- DUTY TO ARBITRATE.** See Labor, 1-3; Labor Management Relations Act.
- EDUCATIONAL PROGRAMS.** See Civil Rights Act of 1964, 2.
- ELECTIONS.** See Abstention; Constitutional Law, IV; VI, 4-7; National Labor Relations Act.
- ELEMENTS OF DAMAGES.** See Admiralty, 1-2.
- ELEMENTS OF OFFENSE.** See Constitutional Law, III, 1.
- EMPLOYEES.** See Rail Passenger Service Act of 1970.
- EMPLOYER-EMPLOYEE DISPUTES.** See Constitutional Law, II; Federal-State Relations, 1-4, 6.
- EMPLOYERS AND EMPLOYEES.** See Civil Rights Act of 1964, 1; Equal Employment Opportunity Commission; Fair Labor Standards Act, 1-2; Injunctions, 1; Judicial Review, 3; Labor, 1-3; Labor Management Relations Act.
- EMPLOYMENT PRACTICES.** See Civil Rights Act of 1964, 1; Equal Employment Opportunity Commission.
- ENGLISH LANGUAGE INSTRUCTION.** See Civil Rights Act of 1964, 2.
- ENTERPRISE.** See Fair Labor Standards Act, 1-2.
- ENVIRONMENTAL LAW.** See Jurisdiction, 1.

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.** See also **Civil Rights Act of 1964.**

*Guideline—Employment discrimination—Citizenship.*—EEOC guideline providing that a lawful alien resident may not be discriminated against on basis of citizenship, though perhaps significant in a wide range of other situations, does not apply to respondent's refusal to hire Mexican citizen, a Texas resident, or support premise that discrimination on basis of citizenship is tantamount to discrimination on basis of national origin, since there is no showing that respondent (96% of whose San Antonio division employees are Mexican-Americans) discriminated against persons of Mexican origin. *Espinoza v. Farah Mfg. Co.*, p. 86.

**EQUAL-FOOTING DOCTRINE.** See **Accretion**, 1-3; **Federal-State Relations**, 5; **Riparian Rights**, 1-4.

**EQUAL PROTECTION OF THE LAWS.** See **Constitutional Law**, III, 2; IV; **Judicial Review**, 3; **Narcotic Addict Rehabilitation Act of 1966**, 1-4.

**EQUITABLE RELIEF.** See **Injunctions**, 2.

**EQUITY.** See **Injunctions**, 2.

**EROSION.** See **Accretion**, 1-3; **Federal-State Relations**, 5; **Riparian Rights**, 1-4.

**ESTOPPEL.** See **Naturalization**.

**EVIDENCE.** See **Constitutional Law**, III, 1, 5; VII, 1-10; **Grand Juries**, 1-3.

**EXCLUSIONARY RULE.** See **Constitutional Law**, VII, 5-9; **Grand Juries**, 1-3.

**EXCLUSIVE REMEDIES FOR BREACHES OF AMTRAK ACT.** See **Rail Passenger Service Act of 1970.**

**EXHAUSTION OF REMEDIES.** See **Judicial Review**, 3.

**EXTRADITION.** See **Constitutional Law**, VIII, 3.

**FACIAL UNCONSTITUTIONALITY.** See **Constitutional Law**, VI, 1.

**FAIR LABOR STANDARDS ACT.**

1. *Manager of apartment complexes—“Employer” under Act.*—Petitioner partnership, whose managerial responsibilities at each of a number of apartment complexes give it substantial control of terms and conditions of work of employees at those buildings, is an “employer” under expansive definition of term in § 3 (d) of Act. *Falk v. Brennan*, p. 190.

**FAIR LABOR STANDARDS ACT**—Continued.

2. *Manager of apartment complexes*—“*Enterprise*” under Act—*Dollar-volume limitation*.—Petitioner partnership as manager of apartment complexes sells only its professional management services, and gross rentals it collects as part of those services do not represent sales attributable to its enterprise. The partnership’s commissions are therefore relevant measure of its gross sales made or business done for purposes of dollar-volume limitation in § 3 (s) (1) of Act. Thus, though partnership is an “enterprise” under § 3 (r), Act does not apply to partnership as its commissions are below § 3 (s) (1) limitation. *Falk v. Brennan*, p. 190.

**FAIR RENTAL VALUE.** See *Jurisdiction*, 2-4.

**FALSIFICATION OF RECORDS.** See *Injunctions*, 1; *Labor*, 1; *Labor Management Relations Act*.

**FEDERAL COMMON LAW.** See *Accretion*, 1-3; *Federal-State Relations*, 5; *Riparian Rights*, 1-4.

**FEDERAL DISTRICT COURTS.** See *Jurisdiction*, 1.

**FEDERALLY FINANCED EDUCATIONAL PROGRAMS.** See *Civil Rights Act of 1964*, 2.

**FEDERAL PROBATIONARY EMPLOYEES.** See *Judicial Review*, 3.

**FEDERAL-QUESTION JURISDICTION.** See *Jurisdiction*, 1-4.

**FEDERAL QUESTIONS.** See *Procedure*, 3.

**FEDERAL RULES OF CIVIL PROCEDURE.** See *Appeals*, 3; *Class Actions*, 1-2; *Judicial Review*, 2; *Jurisdiction*, 1; *National Labor Relations Board*, 4; *Statute of Limitations*, 1-3.

**FEDERAL RULES OF CRIMINAL PROCEDURE.** See *Constitutional Law*, VIII, 1.

**FEDERAL SECURITIES POLICY.** See *Constitutional Law*, II; *Federal-State Relations*, 1-4, 6.

**FEDERAL-STATE RELATIONS.** See also *Accretion*, 1-3; *Admiralty*, 1-2; *Civil Rights Act of 1964*, 2; *Constitutional Law*, II; *Injunctions*, 2; *Judicial Review*, 2; *Jurisdiction*, 3; *Procedure*, 3; *Stays*, 4.

1. “*Applicable state laws*”—§ 6 (c) of *Securities Exchange Act—Arbitration—Validation of profit-sharing plan forfeiture clause*.—The “applicable state laws” referred to in § 6 (c) of Act, which subjects exchange rules to a requirement of consistency with Act, “and the applicable laws of the State in which it is located,” are not in this

**FEDERAL-STATE RELATIONS**—Continued.

instance, merely because New York Stock Exchange is in New York City, the laws of New York so as to require California court to apply New York law compelling arbitration of this dispute and validating forfeiture clause of profit-sharing plan, since § 6 (c) has no independent existence creating some sort of spurious uniformity of application for all States but merely requires that any exchange rule adopted outside Act's context comport with laws of State in which exchange is located. *Merrill Lynch, Pierce, Fenner & Smith v. Ware*, p. 117.

2. *N. Y. Stock Exchange Rule—Securities Exchange Act—Exchange housekeeping—Wage claims—Need for uniform regulation.*—Rule 347 (b) cannot be categorized as part of a need for uniform national regulation, there being no revelation in Act or in any SEC regulation that nationwide uniformity of an exchange's housekeeping affairs is necessary, and it not being shown that national uniformity in area of wage claims is vital to federal securities policy. *Merrill Lynch, Pierce, Fenner & Smith v. Ware*, p. 117.

3. *N. Y. Stock Exchange Rule—Securities Exchange Act—Pre-emption of state law—Arbitration—Employer-employee disputes.*—Rule 347 (b) does not fall under the Exchange's mandate to protect the investing public and to insure just and equitable trade practices set forth in §§ 6 (d) and 19 (b) of Act, so as to require pre-emption of contrary state law by such rule, there being nothing in Act or any SEC rule or regulation specifying arbitration as a favored means of resolving employer-employee disputes, and it being clear that Rule 347 (b) would not be subject to SEC's modification or review under § 19 (b). *Merrill Lynch, Pierce, Fenner & Smith v. Ware*, p. 117.

4. *N. Y. Stock Exchange Rules—Pre-emption—Wage relief under state law.*—Rules 345 (a)(1) and 347 (b), promulgated as self-regulatory measures pursuant to § 6 of Securities Exchange Act of 1934, and respondent's pledge to abide by those rules, do not preempt avenues of wage relief otherwise available to respondent under California law. *Merrill Lynch, Pierce, Fenner & Smith v. Ware*, p. 117.

5. *Ownership of abandoned riverbed—Federal law governance.*—Ownership of land previously submerged by movement of Colorado River but later abandoned by river as result of federal rechanneling project is governed by federal law. Issue is not what rights State has accorded private owners in lands that State holds as sovereign but how far State's sovereign right extends under equal-footing doctrine and federal Submerged Lands Act, *i. e.*, whether State retains title to lands formerly beneath the Colorado or whether title

**FEDERAL-STATE RELATIONS**—Continued.

thereto is defeasible by withdrawal of those waters. *Bonelli Cattle Co. v. Arizona*, p. 313.

6. *Protection of wage earners—State policy—Noninterference with federal regulation—Securities Exchange Act.*—Where California has manifested a strong statutory policy of protecting its wage earners from what it regards as undesirable economic pressure affecting the employment relationship, that policy should prevail absent any interference with federal regulatory scheme; in this case there is not only no such interference, but Act's structure manifests a congressional intent that state policies in this area should operate vigorously. *Merrill Lynch, Pierce, Fenner & Smith v. Ware*, p. 117.

**FELONIES.** See **Constitutional Law**, III, 2; VIII, 2; **Narcotic Addict Rehabilitation Act of 1966**, 1-4.

**FEMALE TEACHERS.** See **Constitutional Law**, III, 6-8.

**FIFTH ACT OF BANKRUPTCY.** See **Appeals**, 2.

**FIFTH AMENDMENT.** See **Constitutional Law**, III, 2; V; VII, 5-9; **Grand Juries**, 1-3; **Narcotic Addict Rehabilitation Act of 1966**, 1-4.

**FIGHTING WORDS.** See **Constitutional Law**, VI, 1-3.

**FILIPINOS.** See **Naturalization**.

**FINAL JUDGMENTS.** See **Jurisdiction**, 5.

**FIRST AMENDMENT.** See **Constitutional Law**, VI.

**FISHING RIGHTS.** See **Indians; Procedure**, 3.

**FLORIDA.** See **Constitutional Law**, III, 3.

**FOREMEN.** See **Injunctions**, 1; **Labor**, 1; **Labor Management Relations Act**.

**FORFEITURE CLAUSES.** See **Constitutional Law**, II; **Federal-State Relations**, 1-4, 6.

**FORFEITURE OF BENEFITS.** See **Federal-State Relations**, 1-4, 6.

**FOURTEENTH AMENDMENT.** See **Constitutional Law**, III, 4-8; IV; V, 1-2; VI, 3-5; VII, 4; **Judicial Review**, 3; **Jurisdiction**, 5.

**FOURTH AMENDMENT.** See **Constitutional Law**, VII; **Grand Juries**, 1-3.

**FRAUD.** See **Criminal Law**.

- FREEDOM OF ASSOCIATION.** See **Constitutional Law**, VI, 4, 5-7.
- FREEDOM OF SPEECH.** See **Constitutional Law**, VI, 1-3, 5-7.
- FREEDOM OF THE PRESS.** See **Constitutional Law**, VI, 5-7.
- FRISKING SUSPECTS.** See **Constitutional Law**, VII, 1-4, 10.
- FRUITS OF ILLEGALLY SEIZED EVIDENCE.** See **Constitutional Law**, VII, 5-9; **Grand Juries**, 1-3.
- FULL-CUSTODY ARRESTS.** See **Constitutional Law**, VII, 1-4, 10.
- FULL-SCALE BODY SEARCHES.** See **Constitutional Law**, VII, 1-4, 10.
- FUNERAL EXPENSES.** See **Admiralty**, 1-2.
- FUTURE WAGES.** See **Admiralty**, 1-2.
- GAMBLING.** See **Constitutional Law**, VII, 5-9; **Grand Juries**, 1-3.
- GERMANY.** See **Habeas Corpus**.
- GRAND JURIES.** See also **Constitutional Law**, V, 1-2.
1. *Witness—Exclusionary rule—Interference with grand jury.*—Allowing a grand jury witness to invoke the exclusionary rule would unduly interfere with the effective and expeditious discharge of the grand jury's duties, and extending the rule to grand jury proceedings would achieve only a speculative and minimal advance in deterring police misconduct at the expense of substantially impeding the grand jury's role. *United States v. Calandra*, p. 338.
  2. *Witness—Fourth Amendment.*—A witness summoned to appear and testify before a grand jury may not refuse to answer questions on ground that they are based on evidence obtained from an unlawful search and seizure. *United States v. Calandra*, p. 338.
  3. *Witness—Questions—Fourth Amendment.*—Grand jury questions based on evidence obtained from an unlawful search and seizure involve no independent governmental invasion of privacy, but rather the usual abridgment thereof common to all grand jury questioning. Such questions are only a derivative use of the product of a past unlawful search and seizure and work no new Fourth Amendment wrong. *United States v. Calandra*, p. 338.
- GRAND JURY WITNESSES.** See **Constitutional Law**, VII, 5-9; **Grand Juries**, 1-3.
- GROSS COMMISSIONS.** See **Fair Labor Standards Act**, 1-2.
- GROSS RENTALS OR SALES.** See **Fair Labor Standards Act**, 1-2.

**GUIDELINES.** See **Equal Employment Opportunity Commission.**

**HABEAS CORPUS.** See also **Appointment of Counsel; Constitutional Law, VIII, 3.**

*Serviceman abroad—Unlawful retention—Transfer of case.*—Habeas corpus application by serviceman stationed in Germany, alleging that he is being unlawfully retained in Army, is transferred to District Court for District of Columbia pursuant to 28 U. S. C. § 2241 (b), since, although respondent commanding officer is also in Germany, others in chain of command, as well as other named respondents—Chief of Personnel Action and Secretary of Army—are in District of Columbia. Ex parte Hayes (DOUGLAS, J., in chambers), p. 1327.

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT.** See **Civil Rights Act of 1964, 2; Stays, 4.**

**HEARINGS.** See **Judicial Review, 3.**

**HEROIN.** See **Constitutional Law, VII, 1-3, 10.**

**HOUSEKEEPING AFFAIRS OF STOCK EXCHANGE.** See **Constitutional Law, II; Federal-State Relations, 1-4, 6.**

**ILLEGAL BOND PRACTICES.** See **Constitutional Law, I, 1-4; Injunctions, 2; Justiciability, 1-4.**

**ILLEGAL JURY-FEE PRACTICES.** See **Constitutional Law, I, 1-4; Injunctions, 2; Justiciability, 1-4.**

**ILLEGALLY SEIZED EVIDENCE.** See **Constitutional Law, VII, 1-10; Grand Juries, 1-3.**

**ILLEGAL SEARCHES AND SEIZURES.** See **Constitutional Law, VII, 1-10; Grand Juries, 1-3.**

**ILLEGAL SENTENCING PRACTICES.** See **Constitutional Law, I, 1-4; Injunctions, 2; Justiciability, 1-4.**

**ILLINOIS.** See **Abstention; Constitutional Law, I, 1-4; VI, 4; Injunctions, 2; Justiciability, 1-4; Procedure, 2; Stays, 4.**

**IMMINENT DISORDER.** See **Constitutional Law, VI, 3.**

**IMMINENT LAWLESS ACTION.** See **Constitutional Law, VI, 3, 5-7.**

**IMMUNITY FROM PROSECUTION.** See **Constitutional Law, V, 1-2.**

**INCARCERATION.** See **Constitutional Law, IV.**

**INCITING LAWLESS ACTION.** See **Constitutional Law, VI, 3, 5-7.**

**INDEPENDENT CONTRACTORS.** See **National Labor Relations Board**, 1-5.

**INDEPENDENT EXAMINATION OF RECORD.** See **Constitutional Law**, III, 1.

**INDIANA.** See **Constitutional Law**, VI, 3, 5-7.

**INDIANA UNIVERSITY.** See **Constitutional Law**, VI, 3.

**INDIAN RESERVATIONS.** See **Jurisdiction**, 2-4; **Procedure**, 3.

**INDIANS.** See also **Jurisdiction**, 2-4; **Procedure**, 3.

*Netfishing rights—Discrimination.*—Commercial net fishing by Puyallup Indians, for which Indians have treaty protection, forecloses bar against net fishing of steelhead trout imposed by Washington State Game Department's regulation, which discriminates against Puyallups, and as long as steelhead fishing is permitted, regulation must achieve accommodation between Puyallups' netfishing rights and rights of sports fishermen. *Washington Game Dept. v. Puyallup Tribe*, p. 44.

**INDIAN TITLE.** See **Jurisdiction**, 2-4.

**INDIAN TREATIES.** See **Indians**; **Jurisdiction**, 2-4.

**INDIGENTS.** See **Appointment of Counsel**; **Constitutional Law**, VIII, 2.

**IN FORMA PAUPERIS PROCEEDINGS.** See **Rules of Supreme Court**.

**INITIATION FEES.** See **National Labor Relations Act**.

**INJUNCTIONS.** See also **Appeals**, 3; **Labor**, 1-3; **Labor Management Relations Act**; **National Labor Relations Board**, 1-5; **Procedure**, 2; **Stays**, 1-3.

1. *Breach of no-strike obligation—Irreparable harm—No safety issue—Pending arbitration.*—The circumstances of this case satisfy traditional equitable considerations controlling the availability of injunctive relief, the District Court having found that union's continued breach of its no-strike obligation would irreparably harm petitioner, and having eliminated any safety issue by suspending foremen who falsified coal mine airflow records pending a final arbitral decision on dispute involving alleged safety hazard created by retention of foremen. *Gateway Coal Co. v. Mine Workers*, p. 368.

2. *No basis for equitable relief—Federal court's intrusion into state criminal proceedings—No irreparable injury—Adequate legal remedies.*—Even if the complaint in civil rights action against magistrate and judge alleging illegal bond-setting, sentencing, and jury-fee practices in criminal cases were considered to present an existing case or

**INJUNCTIONS**—Continued.

controversy, no adequate basis for equitable relief has been stated where injunctive relief sought by respondents would constitute a major continuing intrusion of equitable power of federal courts into daily conduct of state criminal proceedings, and would sharply conflict with recognized principles of equitable restraint, and respondents also failed to establish basic requisites of issuance of equitable relief—likelihood of substantial and immediate irreparable injury, and inadequacy of remedies at law—in view of conjectural nature of threatened injury to which respondents are allegedly subjected, and where there are available other procedures, both state and federal, which could provide relief. *O'Shea v. Littleton*, p. 488.

**INMATE VOTING.** See **Constitutional Law**, IV.

**IN-SERVICE DETERMINATIONS.** See **Selective Service Regulations**.

**INSTRUCTIONS TO JURY.** See **Constitutional Law**, III, 5.

**INSULTING LANGUAGE.** See **Constitutional Law**, VI, 1.

**INTERCITY RAIL PASSENGER SERVICE.** See **Rail Passenger Service Act of 1970**.

**INTERSTATE COMMERCE.** See **Constitutional Law**, II; **Federal-State Relations**, 1-4, 6.

**INTERVENTION.** See **Appeals**, 1; **Class Actions**, 1-2; **Statute of Limitations**, 1-3.

**INVOLUNTARY COMMITMENT OF MENTAL PATIENTS.** See **Appeals**, 3.

**IRREBUTTABLE PRESUMPTIONS.** See **Constitutional Law**, III, 6-8.

**IRREPARABLE INJURY.** See **Injunctions**, 1-2; **Labor Management Relations Act**.

**JAILS.** See **Constitutional Law**, IV.

**JOB PERFORMANCE.** See **Constitutional Law**, V, 1-2.

**JOINT AND SEVERAL LIABILITY.** See **National Labor Relations Board**, 1-5.

**JUDGES.** See **Constitutional Law**, I, 1-4; **Injunctions**, 2; **Justiciability**, 1-4.

**JUDGMENTS.** See **Appeals**, 4; **Jurisdiction**, 5; **Stays**, 4.

**JUDICIAL ENFORCEMENT.** See **Judicial Review**, 2; **National Labor Relations Act**; **National Labor Relations Board**, 4.

**JUDICIAL REVIEW.** See also **Appeals**, 3; **National Labor Relations Act**; **National Labor Relations Board**, 1-5; **Stays**, 4.

1. *Commodities Exchange Commission—Adjudication—Commodity Exchange Act violations—Exchange's failure to enforce own rules.*—The Commission, whose administrative functions appear to encompass adjudication of charges against petitioner of violating Sherman Act and Commodity Exchange Act and failure to enforce its own rules, should pass on those charges in first instance. *Chicago Mercantile Exchange v. Deaktor*, p. 113.

2. *Court of Appeals—NLRB—Standard of review.*—Court of Appeals did not err in determining that, on record as a whole, substantial evidence supported NLRB's finding that one petitioner purchased business of other petitioner with knowledge of unfair labor practice litigation, since it cannot be said on basis of record that Court of Appeals "misapprehended or grossly misapplied" standard of review. *Golden State Bottling Co. v. NLRB*, p. 168.

3. *Unemployment Compensation for Federal Employees Program—Denial of benefits—Hearing—Administrative procedures.*—Any decision upon claims of appellant former federal probationary employees, whom State denied benefits under UCFE Program, that Program denied them hearing on basis for their removal from federal service in deprivation of due process and equal protection, would be premature in view of fact that record does not disclose that state agency, in notifying appellants of adverse determinations, informed them, as it was required to do by applicable regulation, of their "right to additional information or reconsideration and correction" of findings by employing agencies; or that appellants invoked available procedure entitling them to request their agencies "to reconsider and correct" those findings. District Court's dismissal of suit as to both federal and state defendants is therefore vacated with directions that court determine whether appellants should be permitted to invoke applicable administrative procedures. *Christian v. New York Department of Labor*, p. 614.

**JUDICIAL TOLLING OF STATUTE OF LIMITATIONS.** See **Class Actions**, 1-2; **Statute of Limitations**, 1-3.

**JURIES.** See **Constitutional Law**, III, 5.

**JURISDICTION.** See also **Appeals**, 3; **Constitutional Law**, III, 4; VIII, 2; **Habeas Corpus**; **Procedure**, 1; **Rail Passenger Service Act of 1970**.

1. *Class action—Jurisdictional amount—Lake pollution.*—Multiple plaintiffs with separate and distinct claims must each satisfy jurisdictional amount for suits in federal courts, and in this diversity

**JURISDICTION**—Continued.

class action under Fed. Rule Civ. Proc. 23 (b) (3) by owners of lake-shore property charging respondent with polluting lake, where only named plaintiffs but not unnamed plaintiffs could show damages in jurisdictional amount, a class action is not maintainable. Each plaintiff in a Rule 23 (b) (3) class action must satisfy jurisdictional amount and any plaintiff who does not must be dismissed from case. *Zahn v. International Paper Co.*, p. 291.

2. *Federal question—Indians' action for rental value of land—New York—Indian disputes.*—The conclusion that action by Indian Nations against New York counties for fair rental value of certain land arises under laws of United States comports with language and legislative history of 25 U. S. C. § 233 granting to New York civil jurisdiction over disputes between Indians or between Indians and others. *Oneida Indian Nation v. County of Oneida*, p. 661.

3. *Federal question—Indians' action for rental value of land—Treaties—Nonintercourse Act.*—Complaint in petitioners' action for fair rental value for a specified period of certain land in New York that Oneidas had ceded to State in 1795, alleging, *inter alia*, that Oneidas had owned and occupied land from time immemorial to time of American Revolution; that in 1780's and 1790's various treaties with United States had confirmed their right to possession of land until purchased by United States; that in 1790 treaties had been implemented by Nonintercourse Act forbidding conveyance of Indian lands without United States' consent; and that 1795 cession was without such consent and hence ineffective to terminate Oneidas' right to possession under treaties and applicable federal statutes, states a controversy arising under Constitution, laws, or treaties of United States sufficient to invoke jurisdiction of District Court under 28 U. S. C. §§ 1331 and 1362. *Oneida Indian Nation v. County of Oneida*, p. 661.

4. *Federal question—Indians' action for rental value of land—Well-pleaded complaint rule.*—In sustaining District Court's jurisdiction over Indian Nations' action for fair rental value of certain land, well-pleaded complaint rule of *Taylor v. Anderson*, 234 U. S. 74, is not disturbed, since here right to possession itself is claimed to arise under federal law in first instance, and allegedly aboriginal title of an Indian tribe guaranteed by treaty and protected by statute has never been extinguished. *Oneida Indian Nation v. County of Oneida*, p. 661.

5. *Supreme Court—"Final" state court judgment—Unconstitutionality of pharmacy-permits statute.*—This Court does not lack jurisdiction to review State Supreme Court's judgment holding un-

**JURISDICTION**—Continued.

constitutional a state statute under which respondent had been denied pharmacy permit for failure to meet statutory requirement that it be corporation, majority stock of which is owned by registered pharmacists, which judgment is "final" within meaning of 28 U. S. C. § 1257, for it is not apparent how petitioner Board would be able to preserve constitutional issue now ready for adjudication without defying State Supreme Court. *North Dakota Pharmacy Bd. v. Snyder's Stores*, p. 156.

**JURISDICTIONAL AMOUNT.** See **Jurisdiction**, 1.

**JURY-FEE PRACTICES.** See **Constitutional Law**, I, 1-4; **Injunctions**, 2; **Justiciability**, 1-4.

**JUSTICIABILITY.**

1. *Case or controversy—Civil rights action—Insufficient allegations.*—The complaint in civil rights action against magistrate and judge alleging illegal bond-setting, sentencing, and jury-fee practices in criminal cases fails to satisfy threshold requirement of Art. III of Constitution that those who seek to invoke power of federal courts must allege an actual case or controversy, where none of named plaintiffs is identified as having himself suffered any injury in the manner specified, claim alleging injury is in only most general terms, and there are no allegations that any relevant state criminal statute is unconstitutional on its face or as applied or that plaintiffs have been or will be improperly charged with violating criminal law. *O'Shea v. Littleton*, p. 488.

2. *Case or controversy—Class action.*—If none of named plaintiffs purporting to represent a class meets case-or-controversy requirement, none may seek relief on behalf of himself or any other member of class. *O'Shea v. Littleton*, p. 488.

3. *Case or controversy—Prosecution for violation of valid laws.*—Case-or-controversy requirement is not satisfied by general assertions or inferences that in course of their activities respondents will be prosecuted for violating valid criminal laws. *O'Shea v. Littleton*, p. 488.

4. *Case or controversy—Remote threat of injury.*—Where it can only be speculated whether respondents will be arrested for violating an ordinance or state statute, particularly in absence of allegations that unconstitutional criminal statutes are being employed to deter constitutionally protected conduct, and respondents have not pointed to any imminent prosecutions contemplated against them so that they do not claim any constitutional right to engage in conduct proscribed by therefore presumably permissible state laws, or that it is otherwise

**JUSTICIABILITY**—Continued.

their intention to so conduct themselves, the threat of injury from the alleged course of conduct they attack is too remote to satisfy case-or-controversy requirement and permit adjudication by federal court. *O'Shea v. Littleton*, p. 488.

**LABOR.** See also **Fair Labor Standards Act**, 1-2; **Injunctions**, 1; **Judicial Review**, 2; **Labor Management Relations Act**; **National Labor Relations Act**; **National Labor Relations Board**, 1-5.

1. *Arbitration—Collective-bargaining agreement—Coal mine—Local trouble—Safety hazard.*—The arbitration clause of a collective-bargaining agreement between a coal mine operator and union covering, *inter alia*, "any local trouble of any kind aris[ing] at the mine" is sufficiently broad to encompass dispute involving alleged safety hazard created by retention of foremen who falsified records as to airflow in coal mine, the foremen's continued presence in mine being plainly a local issue. On its face such contractual language admits of only one interpretation: that the agreement required the union to submit this dispute to arbitration for resolution by an impartial umpire. *Gateway Coal Co. v. Mine Workers*, p. 368.

2. *Arbitration—Duty to arbitrate—No-strike obligation—Injunction.*—The duty to arbitrate imposed by the collective-bargaining agreement gave rise to an implied no-strike obligation supporting issuance of an injunction against a work stoppage, since in the absence of an explicit expression negating any implied no-strike obligation the agreement to arbitrate and the duty not to strike should be construed as having coterminous application. *Gateway Coal Co. v. Mine Workers*, p. 368.

3. *Arbitration—Presumption of arbitrability—Safety disputes.*—The "presumption of arbitrability" (an order to arbitrate particular grievance should not be denied unless it may be said with positive assurance that arbitration clause is not susceptible of an interpretation that covers asserted dispute, and doubts should be resolved in favor of coverage) applies to safety disputes. *Gateway Coal Co. v. Mine Workers*, p. 368.

**LABOR ELECTIONS.** See **National Labor Relations Act**.

**LABOR MANAGEMENT RELATIONS ACT.** See also **Injunctions**, 1; **Labor**, 1-3.

*Dangerous work conditions—Employees' quitting—No-strike obligation.*—On facts, § 502 of LMRA providing that quitting of labor by employees in good faith because of abnormally dangerous conditions for work shall not be deemed a strike, did not deprive District Court

**LABOR MANAGEMENT RELATIONS ACT**—Continued.

of authority to enforce no-strike obligation, suspension of foremen for falsifying airflow records in coal mine pending a final arbitral decision on dispute involving alleged safety hazard created by retention of foremen having eliminated any safety issue. *Gateway Coal Co. v. Mine Workers*, p. 368.

**LABOR UNIONS.** See *Injunctions*, 1; *Labor*, 1-3; *Labor Management Relations Act*; *National Labor Relations Act*; *Rail Passenger Service Act of 1970*.

**LAKE CHAMPLAIN.** See *Jurisdiction*, 1.

**LANGUAGE SKILLS.** See *Civil Rights Act of 1964*, 2.

**LEGISLATIVE HISTORY.** See *Rail Passenger Service Act of 1970*.

**LEGITIMATE STATE INTERESTS.** See *Constitutional Law*, III, 6; VI, 4.

**LIMITATION OF ACTIONS.** See *Appeals*, 1; *Class Actions*, 1-2; *Naturalization*; *Procedure*, 1; *Statute of Limitations*, 1-3.

**LINGUISTIC DEFICIENCIES.** See *Civil Rights Act of 1964*, 2.

**LIQUIDATORS.** See *Appeals*, 2.

**LOANSHARKING.** See *Constitutional Law*, VII, 5-9; *Grand Juries*, 1-3.

**LOCAL ISSUES.** See *Labor*, 1-3; *Labor Management Relations Act*.

**"LOCKING IN" OF VOTERS.** See *Constitutional Law*, VI, 4.

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

**LOSS OF FUTURE WAGES.** See *Admiralty*, 1-2.

**LOSS OF SERVICES.** See *Admiralty*, 1-2.

**LOSS OF SOCIETY.** See *Admiralty*, 1-2.

**LOSS OF SUPPORT.** See *Admiralty*, 1-2.

**LOYALTY OATHS.** See *Constitutional Law*, VI, 5-7.

**MAGISTRATES.** See *Constitutional Law*, I, 1-4; *Injunctions*, 2; *Justiciability*, 1-4.

**MAIL FRAUD STATUTE.** See *Criminal Law*.

**MAINTENANCE PERSONNEL.** See *Fair Labor Standards Act*, 1-2.

**MANAGEMENT SERVICES.** See *Fair Labor Standards Act*, 1-2.

- MANDATES.** See *Stays*, 4.
- MANDATORY MATERNITY LEAVE RULES.** See *Constitutional Law*, III, 6-8.
- MARIHUANA.** See *Constitutional Law*, VII, 4.
- MARITIME INJURIES.** See *Admiralty*, 1-2.
- MARITIME WRONGFUL-DEATH ACTIONS.** See *Admiralty*, 1-2.
- MASTURBATION.** See *Constitutional Law*, III, 1.
- MATERNITY LEAVE.** See *Constitutional Law*, III, 6-8.
- MATTER IN CONTROVERSY.** See *Jurisdiction*, 1.
- MENACING LANGUAGE.** See *Constitutional Law*, VI, 1.
- MENTAL PATIENTS.** See *Appeals*, 3.
- MERCANTILE EXCHANGES.** See *Judicial Review*, 1.
- MEXICAN-AMERICANS.** See *Civil Rights Act of 1964*, 1; *Equal Employment Opportunity Commission*.
- MEXICAN CITIZENS.** See *Civil Rights Act of 1964*, 1; *Equal Employment Opportunity Commission*.
- MILITARY ACTIVITIES.** See *Stays*, 1-3.
- MINERAL RIGHTS.** See *Procedure*, 1.
- MINERS.** See *Injunctions*, 1; *Labor*, 1-3; *Labor Management Relations Act*.
- MINES.** See *Injunctions*, 1; *Labor*, 1-3; *Labor Management Relations Act*.
- MINIMUM WAGES.** See *Fair Labor Standards Act*, 1-2.
- MINORITY GROUPS.** See *Civil Rights Act of 1964*, 2.
- MISDEMEANANTS.** See *Constitutional Law*, IV.
- MISDEMEANORS.** See *Constitutional Law*, VIII, 2.
- MOBILE VOTER REGISTRATION.** See *Constitutional Law*, IV.
- MOOTNESS.** See *Appeals*, 2; *Procedure*, 2.
- MOTELS.** See *Criminal Law*.
- MULTIPLE OFFENDERS.** See *Constitutional Law*, III, 2; *Narcotic Addict Rehabilitation Act of 1966*, 1-4.
- MULTIPLE PLAINTIFFS.** See *Jurisdiction*, 1.
- NAMED PLAINTIFFS.** See *Jurisdiction*, 1.

**NARCOTIC ADDICT REHABILITATION ACT OF 1966.** See also **Constitutional Law, III, 2.**

1. *Congress' latitude—Experimental program.*—Congress should have a wide latitude in formulating an experimental program like NARA, involving as it does medical and scientific uncertainties. *Marshall v. United States*, p. 417.

2. *Two-prior-felony exclusion—Exploitation—Risk.*—In excluding multiple offenders from NARA Congress could safeguard that experimental program from possible improper exploitation and also avoid a possible unacceptable risk to society represented by a reduced level of deterrence. *Marshall v. United States*, p. 417.

3. *Two-prior-felony exclusion—Interference with program.*—Congress could reasonably assume that because of the nature of addiction treatment the multiple-felony offender would less likely benefit from and might interfere with a rehabilitation program under NARA. *Marshall v. United States*, p. 417.

4. *Two-prior-felony exclusion—Scope.*—In adopting the two-prior-felony exclusion Congress sought to exclude from NARA treatment (1) those less likely to be rehabilitated thereby and (2) those with a "history of serious crimes." *Marshall v. United States*, p. 417.

**NARCOTIC ADDICTS.** See **Constitutional Law, III, 2; VII, 1-4, 10; Narcotic Addict Rehabilitation Act of 1966, 1-4.**

**NATIONAL BITUMINOUS COAL WAGE AGREEMENT OF 1968.** See **Injunctions, 1; Labor, 1-3; Labor Management Relations Act.**

**NATIONALITY ACT OF 1940.** See **Naturalization.**

**NATIONAL LABOR POLICIES.** See **National Labor Relations Board, 1-5.**

**NATIONAL LABOR RELATIONS ACT.** See also **Judicial Review, 2; National Labor Relations Board, 1-5.**

*Waiver of union initiation fees—Certification election—Right not to join union—Choice of bargaining representative.*—A labor union's offer to waive initiation fees for all employees who sign union authorization cards before a certification election under Act interferes with employees' right to refrain from union activities guaranteed by § 7 of Act; does not comport with principle of "fair and free choice of bargaining representatives by employees" that is inherent in § 9 (c) (1)(A); and is ground for denying enforcement of an order against employer to bargain with union after it wins election. *NLRB v. Savair Manufacturing Co.*, p. 270.

**NATIONAL LABOR RELATIONS BOARD.** See also **Judicial Review, 2; National Labor Relations Act.**

1. *Backpay—Predecessor and successor employers—Joint and several liability.*—NLRB did not err in ordering both firms jointly or severally to pay driver-salesman a specified sum of backpay, since an offending predecessor-employer should at least be required to make dischargee whole for any loss of pay suffered by reason of discharge until such time as he secures substantially equivalent employment, since joint and several liability will more fully insure that employee is fully recompensed by protecting him against, *e. g.*, successor's insolvency, and since possibility that successor will unjustifiably delay reinstatement to predecessor's prejudice can be met by a protective provision in contract of sale. *Golden State Bottling Co. v. NLRB*, p. 168.

2. *Backpay—Putative earnings as independent contractor.*—Fact that driver-salesman, but for his discharge as an ordinary employee would, under petitioner employer's policy, have become a distributor about a year later and as an independent contractor would have been excluded from National Labor Relations Act coverage, did not preclude NLRB from including in gross backpay computation dischargee's putative earnings as a distributor, since a reinstatement and backpay order is aimed at restoring status quo that would have obtained but for employer's unfair labor practice. *Golden State Bottling Co. v. NLRB*, p. 168.

3. *Discretion—Conflicting interests—Bona fide successor, the public, and employee—Equitable balance—National labor policies.*—NLRB properly exercised its discretion in issuing order against petitioner successor employer by striking an equitable balance among conflicting legitimate interests of bona fide successor, public, and affected employee for purposes of effectuating national labor policies of avoiding labor strife, preventing a deterrent effect on exercise of rights guaranteed employees by § 7 of NLRA, and protecting victimized employee, such policies being achieved at a relatively minimal cost to bona fide successor. *Golden State Bottling Co. v. NLRB*, p. 168.

4. *Fed. Rule Civ. Proc. 65 (d)—Injunction—Judicial review—Bona fide successor—Unfair labor practice.*—Fed. Rule Civ. Proc. 65 (d), which provides that injunctions and restraining orders shall be binding only upon parties to action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of order, does not bar judicial enforcement of NLRB order running to petitioner successor employer, since a bona fide successor, acquiring, with knowledge that wrong remains unremedied, employing enterprise

**NATIONAL LABOR RELATIONS BOARD**—Continued.

which was locus of unfair labor practice, may be considered in privity with its predecessor for purposes of Rule 65 (d). *Golden State Bottling Co. v. NLRB*, p. 168.

5. *Reinstatement and backpay order—Bona fide successor—Remedial powers.*—Issuance of a reinstatement and backpay order against a bona fide successor that did not itself commit unfair labor practice does not exceed NLRB's remedial powers under § 10 (c) of National Labor Relations Act, since such powers include broad discretion to fashion and issue such an order in order to achieve ends and effectuate policies of Act. *Golden State Bottling Co. v. NLRB*, p. 168.

“**NATIONAL ORIGIN.**” See **Civil Rights Act of 1964**, 1; **Equal Employment Opportunity Commission**.

**NATIONAL-ORIGIN MINORITY GROUPS.** See **Civil Rights Act of 1964**, 2.

**NATURALIZATION.**

*Noncitizens in Armed Forces—Late application—Failure to publicize rights—Estoppel.*—Neither failure to publicize rights to naturalization afforded by Nationality Act of 1940 to noncitizens who served in United States Armed Forces during World War II nor failure to have authorized naturalization representative stationed in Philippine Islands during time such rights were available, estopped Government from relying on fact that deadline for filing naturalization applications such as respondent Filipino's had expired more than 20 years earlier. *INS v. Hibi*, p. 5.

**NAVIGABLE RIVERS.** See **Accretion**, 1-3; **Federal-State Relations**, 5; **Riparian Rights**, 1-4.

**NET FISHING.** See **Indians**.

**NEW YORK.** See **Constitutional Law**, IV; V, 1-2; **Jurisdiction**, 2-4.

**NEW YORK STOCK EXCHANGE.** See **Appeals**, 2; **Constitutional Law**, II; **Federal-State Relations**, 1-4, 6.

**NON-ENGLISH SPEAKING STUDENTS.** See **Civil Rights Act of 1964**, 2.

**NONINTERCOURSE ACT.** See **Jurisdiction**, 2-4.

**NO-STRIKE OBLIGATION.** See **Injunctions**, 1; **Labor**, 1-3; **Labor Management Relations Act**.

**NOTICE OF APPEAL.** See **Appeals**, 4.

- OHIO.** See Constitutional Law, III, 6, 8; VI, 1-2.
- OPERATORS' PERMITS.** See Constitutional Law, VII, 1-4, 10.
- ORAL SEXUAL ACTIVITY.** See Constitutional Law, III, 3.
- ORDER GRANTING INJUNCTION.** See Appeals, 3.
- OREGON.** See Constitutional Law, III, 5.
- OVERBREADTH.** See Constitutional Law, VI, 1.
- OVERTHROW OF GOVERNMENT.** See Constitutional Law, VI, 5-7.
- PAROLE.** See Constitutional Law, VIII, 3.
- PARTIES.** See Class Actions, 1-2; Statute of Limitations, 1-3.
- PARTNERSHIPS.** See Fair Labor Standards Act, 1-2.
- PARTY AFFILIATIONS.** See Abstention; Constitutional Law, VI, 4.
- PASSENGER TRAIN DISCONTINUANCES.** See Rail Passenger Service Act of 1970.
- PATDOWNS.** See Constitutional Law, VII, 1-4, 10.
- PENAL INSTITUTIONS.** See Constitutional Law, IV.
- PERMITS FOR PHARMACY.** See Constitutional Law, III, 4; Jurisdiction, 5.
- PERSONAL INJURIES.** See Admiralty, 1-2.
- PETITIONS FOR CERTIORARI.** See Rules of Supreme Court.
- PETTY OFFENSES.** See Constitutional Law, III, 2.
- PHARMACISTS.** See Constitutional Law, III, 4; Jurisdiction, 5.
- PHARMACY PERMITS.** See Constitutional Law, III, 4; Jurisdiction, 5.
- PHILIPPINE ISLANDS.** See Naturalization.
- PHYSICAL DISABILITY TO TEACH.** See Constitutional Law, III, 6-8.
- PHYSICAL DISABILITY TO VOTE.** See Constitutional Law, IV.
- PLEADINGS.** See Constitutional Law, I, 1-4; Injunctions, 2; Justiciability, 1-4; Jurisdiction, 2-4; Procedure, 2.
- PLENARY JUDICIAL REVIEW.** See Appeals, 3.
- POLICE DEPARTMENT PROCEDURES.** See Constitutional Law, VII, 1-4, 10.

- POLICE MISCONDUCT.** See **Constitutional Law**, VII, 5-9; **Grand Juries**, 1-3.
- POLICE OFFICERS.** See **Constitutional Law**, VI, 2; VII, 1-4, 10.
- POLITICAL PARTIES.** See **Abstention**; **Constitutional Law**, VI, 4-7.
- POLLUTION.** See **Jurisdiction**, 1.
- POSSESSORY ACTIONS.** See **Jurisdiction**, 2-4.
- POSSESSORY RIGHTS.** See **Jurisdiction**, 2-4.
- POSTAL SERVICE.** See **Criminal Law**.
- PRE-EMPTION.** See **Constitutional Law**, II; **Federal-State Relations**, 1-4, 6.
- PREGNANT TEACHERS.** See **Constitutional Law**, III, 6-8.
- PRESENCE AT TRIAL.** See **Constitutional Law**, VIII, 1.
- PRESUMPTION OF ARBITRABILITY.** See **Labor**, 1-3; **Labor Management Relations Act**.
- “PRESUMPTION OF TRUTHFULNESS” INSTRUCTION.** See **Constitutional Law**, III, 5.
- PRESUMPTIONS.** See **Constitutional Law**, III, 5-8.
- PRETRIAL DETAINEES.** See **Constitutional Law**, IV.
- PRIMARY ELECTIONS.** See **Abstention**; **Constitutional Law**, III, 4.
- PRINTING PETITIONS FOR CERTIORARI.** See **Rules of Supreme Court**.
- PRISONERS.** See **Constitutional Law**, IV; VIII, 3.
- PRISONS.** See **Constitutional Law**, IV.
- PRIVATE CAUSES OF ACTION.** See **Rail Passenger Service Act of 1970**.
- PROBABLE CAUSE.** See **Constitutional Law**, VII, 1-4, 10.
- PROBATIONARY EMPLOYEES.** See **Judicial Review**, 3.
- PROCEDURE.** See also **Abstention**; **Judicial Review**, 1, 3; **Jurisdiction**, 1; **Selective Service Regulations**; **Stays**, 1-4.
1. *Advisory Opinion—Remand—State ground for denying claim.*—Where it appears that running of limitations period might have been trial court’s independent ground for denying appellants’ mineral rights claim, so that any decision of this Court on whether tax-sale notice provisions of state law meet federal due process requirements

**PROCEDURE**—Continued.

would be advisory and beyond Court's jurisdiction, court below should consider whether appellants preserved right to challenge trial court's determination that statute of limitations bars their claim, and whether under state law it does so irrespective of constitutional adequacy of tax-sale notice provisions. *Paschall v. Christie-Stewart, Inc.*, p. 100.

2. *Civil rights action—Successor state's attorney—Lack of controversy—Remand—Mootness—Amendment of complaint.*—Where, on record, respondents, who brought civil rights action charging petitioner's predecessor as State's Attorney with racial discrimination, have never charged petitioner with anything and do not presently seek to enjoin him from doing anything, so that there may no longer be a controversy between respondents and any Alexander County State's Attorney concerning injunctive relief to be applied *in futuro*, case is vacated and remanded to Court of Appeals for a determination, in first instance, of whether former dispute is now moot and whether respondents will want to, and should be permitted to, amend their complaint to include claims for relief against petitioner. *Spomer v. Littleton*, p. 514.

3. *State courts—Offenses—Necessity for determining federal question.*—State courts should have determined where petitioner's alleged offenses occurred with respect to boundaries of present or former Indian reservation since if they occurred outside those boundaries State Supreme Court unnecessarily reached federal question in deciding that reservation as such had ceased to exist. *Satiacum v. Washington*, p. 1.

**PROFANE LANGUAGE.** See **Constitutional Law**, VI, 1.

**PROFESSIONAL MANAGEMENT SERVICES.** See **Fair Labor Standards Act**, 1-2.

**PROFIT-SHARING PLANS.** See **Constitutional Law**, II; **Federal-State Relations**, 1-4, 6.

**PROPERTY RIGHTS.** See **Accretion**, 1-3; **Federal-State Relations**, 5; **Riparian Rights**, 1-4.

**PROSPECTIVITY.** See **Constitutional Law**, III, 3; **Stays**, 4.

**PUBLIC CONTRACTS.** See **Constitutional Law**, V, 1-2.

**PUBLIC SCHOOLS.** See **Civil Rights Act of 1964**, 2; **Constitutional Law**, III, 6-8.

**PUBLIC SCHOOL TEACHERS.** See **Constitutional Law**, III, 6-8.

- PURCHASER OF BUSINESS.** See **Judicial Review**, 2; **National Labor Relations Board**, 1-5.
- PUTATIVE EARNINGS.** See **National Labor Relations Board**, 1-5.
- PUYALLUP RESERVATION.** See **Procedure**, 3.
- QUASI-JUDICIAL IMMUNITY FROM SUIT.** See **Procedure**, 2.
- RACIAL DISCRIMINATION.** See **Constitutional Law**, I, 1-4; **Injunctions**, 2; **Justiciability**, 1-4; **Procedure**, 2.
- “RAIDING” OF POLITICAL PARTY.** See **Constitutional Law**, VI, 4.
- RAIL PASSENGER SERVICE ACT OF 1970.**  
*Exclusive remedies for breaches—Attorney General—Labor agreements—No private cause of action.*—Section 307 (a) of Act—which confers jurisdiction on federal district courts to grant equitable relief on petition of Attorney General or, in a case involving a labor agreement, on petition of any affected employee, including authorized employee representatives, if Amtrak or any railroad acts inconsistently with Act or fails to discharge its responsibilities thereunder—in light of its express language, and legislative history of that provision and of Act as a whole, provides the exclusive remedies for breaches of any duties or obligations imposed by Act, and no additional private cause of action to enforce compliance with Act can properly be inferred. *Nat'l RR. Passenger Corp. v. Passengers Assn.*, p. 453.
- RAILROADS.** See **Rail Passenger Service Act of 1970**.
- REAL ESTATE MANAGEMENT SERVICES.** See **Fair Labor Standards Act**, 1-2.
- REAL PROPERTY.** See **Accretion**, 1-3; **Federal-State Relations**, 5; **Riparian Rights**, 1-4.
- REASONABLE SEARCHES.** See **Constitutional Law**, VII, 1-4, 10.
- RECHANNELING PROJECTS.** See **Accretion**, 1-3; **Federal-State Relations**, 5; **Riparian Rights**, 1-4.
- REFUSAL TO TESTIFY.** See **Constitutional Law**, V, 1-2.
- REGISTERED PHARMACISTS.** See **Constitutional Law**, III, 4; **Jurisdiction**, 5.
- REGISTERED REPRESENTATIVES.** See **Constitutional Law**, II; **Federal-State Relations**, 1-4, 6.
- REGISTRATION TO VOTE.** See **Constitutional Law**, IV.

- REGULATIONS.** See **Civil Rights Act of 1964**, 2; **Judicial Review**, 3.
- REHABILITATION.** See **Constitutional Law**, III, 2; VIII, 3; **Narcotic Addict Rehabilitation Act of 1966**, 1-4.
- REHABILITATIVE COMMITMENT.** See **Constitutional Law**, III, 2; **Narcotic Addict Rehabilitation Act of 1966**, 1-4.
- REINSTATEMENT.** See **Judicial Review**, 2; **National Labor Relations Board**, 1-5.
- REMAND.** See **Appeals**, 2; **Appointment of Counsel; Procedure**, 1-2.
- RENTALS.** See **Fair Labor Standards Act**, 1-2.
- RENTAL VALUE.** See **Jurisdiction**, 2-4.
- REOPENING CLASSIFICATIONS.** See **Selective Service Regulations**.
- REPUBLICAN PRIMARY.** See **Abstention; Constitutional Law**, VI, 4.
- RESERVATION LANDS.** See **Jurisdiction**, 2-4.
- RES JUDICATA.** See **Admiralty**, 1-2.
- RESTORATION OF JUDGMENT.** See **Appeals**, 4.
- RESTRAINING ORDERS.** See **National Labor Relations Board**, 1-5.
- RESTRAINTS OF TRADE.** See **Constitutional Law**, II; **Federal-State Relations**, 1-4, 6.
- RESTRAINTS ON COMPETITION.** See **Constitutional Law**, II; **Federal-State Relations**, 1-4, 6.
- RETENTION IN ARMED FORCES.** See **Habeas Corpus**.
- RETROACTIVITY.** See **Constitutional Law**, VIII, 2; **Stays**, 4.
- RIGHT OF ASSOCIATION.** See **Constitutional Law**, VI, 4-7.
- RIGHT OF OCCUPANCY.** See **Jurisdiction**, 2-4.
- RIGHT TO BEAR CHILDREN.** See **Constitutional Law**, III, 6-8.
- RIGHT TO COUNSEL.** See **Constitutional Law**, VIII, 2.
- RIGHT TO POSSESSION.** See **Jurisdiction**, 2-4.
- RIGHT TO REFRAIN FROM UNION MEMBERSHIP.** See **National Labor Relations Act**.
- RIPARIAN LANDS.** See **Accretion**, 1-3; **Federal-State Relations**, 5; **Riparian Rights**, 1-4.

**RIPARIAN RIGHTS.**

1. *Abandoned riverbed—Ownership—Federal law governance.*—Ownership of land previously submerged by movement of Colorado River but later abandoned by river as result of federal rechanneling project is governed by federal law. Issue is not what rights State has accorded private owners in lands that State holds as sovereign but how far State's sovereign right extends under equal-footing doctrine and federal Submerged Lands Act, *i. e.*, whether State retains title to lands formerly beneath the Colorado or whether title thereto is defeasible by withdrawal of those waters. *Bonelli Cattle Co. v. Arizona*, p. 313.

2. *Abandoned riverbed—State's claim—Equal-footing doctrine.*—Equal-footing doctrine does not support State's claim to land previously submerged by movement of Colorado River but later abandoned by river as result of federal rechanneling project, since when water receded from disputed land, there was no longer a public purpose to be served by State, as sovereign, holding title thereto. *Bonelli Cattle Co. v. Arizona*, p. 313.

3. *Abandoned riverbed—State's claim—Submerged Lands Act.*—Submerged Lands Act, which did not abrogate federal law of accretion, does not support State's claim to land previously submerged by movement of Colorado River but later abandoned by river as result of federal rechanneling project, since that Act does not extend to States any interest in beds of navigable rivers beyond those afforded by equal-footing doctrine. *Bonelli Cattle Co. v. Arizona*, p. 313.

4. *Abandoned riverbed—Title in riparian owner—Accretion and avulsion doctrines.*—Title to land previously submerged by movement of Colorado River but later abandoned by river as result of federal rechanneling project, under applicable federal common law, is vested in petitioner as riparian landowner and not in State as owner of riverbed. Analysis of interests of State and petitioner, in light of rationales for federal common-law doctrines of accretion and avulsion, compels conclusion that, as between State, as owner of riverbed, and petitioner, as riparian owner, surfacing of subject land should be treated as an accretion; hence title to disputed land should be vested in petitioner. Doctrine of avulsion does not apply because of limited interests of State in subject property. *Bonelli Cattle Co. v. Arizona*, p. 313.

**RIVERBEDS.** See **Accretion**, 1-3; **Federal-State Relations**, 5; **Riparian Rights**, 1-4.

**RULES OF CHICAGO MERCANTILE EXCHANGE.** See **Judicial Review**, 1.

**RULES OF CIVIL PROCEDURE.** See Appeals, 3; Class Actions, 1-2; Judicial Review, 2; Jurisdiction, 1; National Labor Relations Board, 4; Statute of Limitations, 1-3.

**RULES OF CRIMINAL PROCEDURE.** See Constitutional Law, VIII, 1.

**RULES OF NEW YORK STOCK EXCHANGE.** See Constitutional Law, II; Federal-State Relations, 1-4, 6.

**RULES OF SUPREME COURT.** See also Constitutional Law, III, 1; Procedure, 2.

*Petition for certiorari—Dispensing with printing—Rules 39, 53.*—Motion to dispense with printing petition for certiorari as required by this Court's Rule 39, which motion is supported by only generalized allegations of inability to afford payment of costs of printing (as that term is defined in Rule) but that does not comply with Rule 53 governing *in forma pauperis* proceedings, is disfavored, the Court not being disposed to waive functional standards established by Rule 39. *Snider v. All State Administrators*, p. 685.

**SAFETY DISPUTES.** See Injunctions, 1; Labor, 1-3; Labor Management Relations Act.

**SAFETY HAZARDS.** See Injunctions, 1; Labor, 1-3; Labor Management Relations Act.

**SALES.** See Constitutional Law, III, 1; Fair Labor Standards Act, 1-2.

**SALES SLIPS.** See Criminal Law.

**SAN FRANCISCO.** See Civil Rights Act of 1964, 2.

**SCHEMES TO DEFRAUD.** See Criminal Law.

**SCHOOLS.** See Civil Rights Act of 1964, 2; Constitutional Law, III, 6-8.

**SEARCHES AND SEIZURES.** See Constitutional Law, VII, 1-10; Grand Juries, 1-3.

**SEARCHES INCIDENT TO ARREST.** See Constitutional Law, VII, 1-4, 10.

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

**SECRETARY OF LABOR.** See Fair Labor Standards Act, 1-2; Judicial Review, 3.

**SECURITIES BROKERS.** See Appeals, 1; Constitutional Law, II; Federal-State Relations, 1-4, 6.

**SECURITIES EXCHANGE ACT OF 1934.** See Constitutional Law, II; Federal-State Relations, 1-4, 6.

**SECURITIES REGULATION.** See **Constitutional Law, II; Federal-State Relations, 1-4, 6.**

**SELECTIVE SERVICE REGULATIONS.**

*Conscientious objector—Refusal to reopen classification—In-service review.*—A local draft board's mere refusal to reopen a registrant's classification following claim for conscientious objector status made after issuance of order to report for induction and based on assertion that registrant's conscientious objection to war in any form had crystallized after issuance of order to report, cannot signify more than recognition of lack of power to reopen, and cannot be read as "denial" of claim on merits and thus a bar to in-service review, no matter what board's apparent motivations in refusing to reopen may have been, and notwithstanding expressed or unexpressed indication of board's view of claim. *Musser v. United States*, p. 31.

**SELF-INCRIMINATION.** See **Constitutional Law, V, 1-2.**

**SELF-REGULATION OF STOCK EXCHANGES.** See **Constitutional Law, II; Federal-State Relations, 1-4, 6.**

**SENTENCING PRACTICES.** See **Constitutional Law, I, 1-4; Injunctions, 2; Justiciability, 1-4.**

**SEPARATE AND DISTINCT CLAIMS.** See **Jurisdiction, 1.**

**SERVICEMEN.** See **Habeas Corpus.**

**SEX CRIMES.** See **Constitutional Law, III, 3.**

**SHERMAN ACT.** See **Appeals, 1; Class Actions, 1; Statute of Limitations, 1-3.**

**SIXTH AMENDMENT.** See **Constitutional Law, VIII.**

**SLANDEROUS LANGUAGE.** See **Constitutional Law, VI, 1.**

**SODOMY.** See **Constitutional Law, III, 3.**

**SOFT DRINK BUSINESS.** See **Judicial Review, 2; National Labor Relations Board, 1-5.**

**SPEEDY TRIAL.** See **Constitutional Law, VIII, 3.**

**SPORTS FISHERMEN.** See **Indians.**

**STANDING TO SUE.** See **Rail Passenger Service Act of 1970.**

**STATE AGENCIES.** See **Appeals, 1; Class Actions, 1-2; Judicial Review, 3; Statute of Limitations, 1-3.**

**STATE CONTRACTS.** See **Constitutional Law, V, 1-2.**

**STATE COURTS.** See **Procedure, 3.**

**STATE CRIMINAL TRIALS.** See **Constitutional Law, VIII, 3.**

**STATE PRISONERS.** See **Constitutional Law**, VIII, 3.

**STATE'S ATTORNEYS.** See **Procedure**, 2.

**STATES' RIGHTS.** See **Accretion**, 1-3; **Federal-State Relations**, 5; **Riparian Rights**, 1-4.

**STATUTE OF LIMITATIONS.** See also **Procedure**, 1.

1. *Class action—Suspension of statute—Timely intervention.*—Commencement of class action suspends applicable statute of limitations as to all asserted members of class who would have been parties had requirement of Fed. Rule Civ. Proc. 23 (a) (1) been met, and here where petitioners, who were purported members of class, made timely motions to intervene after District Court had found suit inappropriate for class action status, institution of original class suit tolled limitations statute for petitioners. *American Pipe & Construction Co. v. Utah*, p. 538.

2. *Class action—Suspension of statute—Timely intervention.*—Commencement of class action suspended running of limitations period only during pendency of motion to strip suit of its class action character. Since class action was filed with 11 days yet to run in period as tolled by § 5 (b) of Clayton Act, intervenors had 11 days after entry of order denying them participation in class suit in which to move to file their intervention motion. Their filing only 8 days after entry of such order was thus timely. *American Pipe & Construction Co. v. Utah*, p. 538.

3. *Judicial tolling—Substantive right—Antitrust acts.*—A judicial tolling of statute of limitations does not abridge or modify a substantive right afforded by antitrust acts; mere fact that a federal statute providing for substantive liability also sets a time limitation upon institution of suit does not restrict power of federal courts to hold that statute of limitations is tolled under certain circumstances not inconsistent with legislative purpose. *American Pipe & Construction Co. v. Utah*, p. 538.

**STATUTORY CONSTRUCTION.** See **Rail Passenger Service Act of 1970**.

## **STAYS.**

1. *Bombing of Cambodia—Injunction.*—Application to vacate stay of Court of Appeals' order staying District Court's permanent injunction prohibiting respondent Defense Department officials from "participating in any way in military activities in or over Cambodia or releasing any bombs which may fall in Cambodia," is denied, as MR. JUSTICE MARSHALL cannot say, in light of complexity and importance of issues posed, that Court of Appeals abused its dis-

**STAYS**—Continued.

cretion. Highly controversial constitutional question involving other two branches of Government should follow regular appellate procedures on accelerated schedule suggested by Court of Appeals. *Holtzman v. Schlesinger* (MARSHALL, J., in chambers), p. 1304.

2. *Bombing of Cambodia—Injunction*.—Application for stay of District Court's order enjoining Defense Department officials from "participating in any way in military activities in or over Cambodia or releasing any bombs which may fall in Cambodia," the only order extant in this litigation in view of MR. JUSTICE DOUGLAS' order vacating Court of Appeals' stay of District Court order, *ante*, p. 1316, granted by MR. JUSTICE MARSHALL, pending further order of this Court. *Schlesinger v. Holtzman* (MARSHALL, J., in chambers), p. 1321.

3. *Bombing of Cambodia—Injunction—Vacation of stay*.—Application to vacate Court of Appeals' order staying District Court's permanent injunction prohibiting respondent Defense Department officials from "participating in any way in military activities in or over Cambodia or releasing any bombs which may fall in Cambodia," denied by MR. JUSTICE MARSHALL, *ante*, p. 1304, is granted, as MR. JUSTICE DOUGLAS believes merits of controversy are substantial and that denial of application would catapult American airmen and Cambodian peasants into death zone. Case is treated as capital case, and stay entered by Court of Appeals is vacated and order of District Court is reinstated. *Holtzman v. Schlesinger* (DOUGLAS, J., in chambers), p. 1316.

4. *State welfare payments—Inconsistency with HEW regulations*.—Application for stay of mandate and judgment, holding certain procedures of Illinois Department of Public Aid inconsistent with Department of Health, Education, and Welfare regulations, pending this Court's action on writ of certiorari granted June 11, 1973, denied as to those portions of judgment that apply prospectively only and granted as to paragraphs 5 and 6 thereof. If paragraph 5, directing that lump sum payments be made retroactively to welfare applicants, is not stayed, petitioners would likely be unable to recover funds paid out, but respondent recipients would be able, if they prevail, to collect all back payments found to be due. District Judge thought paragraph 6 could be complied with in period of 15 days, and given length of time already consumed by appellate review in this case, addition of two weeks following this Court's decision is not of controlling significance in deciding application for stay. *Edelman v. Jordan* (REHNQUIST, J., in chambers), p. 1301.

**STEELHEAD TROUT.** See **Indians**.

- STOCK EXCHANGES.** See **Constitutional Law, II; Federal-State Relations, 1-4, 6.**
- STOCK OWNERSHIP OF PHARMACY.** See **Constitutional Law, III, 4; Jurisdiction, 5.**
- STORES.** See **Constitutional Law, III, 1, 4.**
- STRIKES.** See **Injunctions, 1; Labor, 1-3; Labor Management Relations Act.**
- STUDENTS OF CHINESE ANCESTRY.** See **Civil Rights Act of 1964, 2.**
- SUBMERGED LANDS ACT.** See **Accretion, 1-3; Federal-State Relations, 5; Riparian Rights, 1-4.**
- SUBSTANTIVE RIGHTS.** See **Class Actions, 1-2; Statute of Limitations, 3.**
- SUBSTITUTION OF PARTIES.** See **Procedure, 2.**
- SUCCESSORS.** See **Judicial Review, 2; National Labor Relations Board, 1-5.**
- SUPPRESSION OF EVIDENCE.** See **Constitutional Law, VII, 5-9; Grand Juries, 1-3.**
- SUPREMACY CLAUSE.** See **Constitutional Law, II; Federal-State Relations, 1-4, 6.**
- SUPREME COURT.** See also **Appeals, 3; Constitutional Law, III, 1; Jurisdiction, 5; Rules of Supreme Court.**
1. Presentation of Solicitor General, p. vii.
  2. Tribute to MR. JUSTICE DOUGLAS, p. ix.
  3. Presentation of Attorney General, p. xi.
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- THREAT OF CONTRACT LOSS.** See Constitutional Law, V, 1-2.
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- TOLLING OF STATUTE OF LIMITATIONS.** See Class Actions, 1-2; Statute of Limitations, 1-3.
- TRAFFIC OFFENSES.** See Constitutional Law, VII, 1-4, 10.
- TRAIN DISCONTINUANCES.** See Rail Passenger Service Act of 1970.
- TRANSFER OF CASES.** See Habeas Corpus.
- TREATIES WITH INDIANS.** See Indians; Jurisdiction, 2-4.
- TREBLE-DAMAGES SUITS.** See Appeals, 1; Class Actions, 1-2; Statute of Limitations, 1-3.
- TRIAL DELAYS.** See Constitutional Law, VIII, 3.
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- TWO-PRIOR-FELONY EXCLUSION.** See Constitutional Law, III, 2; Narcotic Addict Rehabilitation Act of 1966, 1-4.
- UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES PROGRAM.** See Judicial Review, 3.
- UNFAIR LABOR PRACTICES.** See Judicial Review, 2; National Labor Relations Act; National Labor Relations Board, 1-5.
- UNION ELECTIONS.** See National Labor Relations Act.
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- UNLAWFUL EMPLOYMENT PRACTICES.** See Civil Rights Act of 1964; Equal Employment Opportunity Commission.
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- WAIVER OF RIGHT TO BE AT TRIAL.** See *Constitutional Law*, VIII, 1.
- WAIVER OF UNION INITIATION FEES.** See *National Labor Relations Act*.
- WARRANTLESS SEARCHES.** See *Constitutional Law*, VII, 1-4, 10.
- WARRANTS.** See *Constitutional Law*, VII, 5-9; *Grand Juries*, 1-3.
- WASHINGTON.** See *Indians*.
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- WATERS.** See *Accretion*, 1-3; *Federal-State Relations*, 5; *Riparian Rights*, 1-4.
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- WORDS AND PHRASES.**
1. "*Applicable state laws.*" § 6 (c), Securities Exchange Act of 1934, 15 U. S. C. § 78f (c). *Merrill Lynch, Pierce, Fenner & Smith v. Ware*, p. 117.

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2. "*Employer.*" § 3 (d), Fair Labor Standards Act, 29 U. S. C. § 203 (d). Falk v. Brennan, p. 190.

3. "*Enterprise.*" § 3 (r), Fair Labor Standards Act, 29 U. S. C. § 203 (r). Falk v. Brennan, p. 190.

4. "*Final judgment.*" 28 U. S. C. § 1257. North Dakota Pharmacy Bd. v. Snyder's Stores, p. 156.

5. "*National origin.*" § 703, Civil Rights Act of 1964, 42 U. S. C. § 2000e-2 (a)(1). Espinoza v. Farah Mfg. Co., p. 86.

6. "*Order granting . . . injunction.*" 28 U. S. C. § 1253. Schmidt v. Lessard, p. 473.

7. "*Specific in terms,*" "*describe in reasonable detail.*" Fed. Rule Civ. Proc. 65 (d). Schmidt v. Lessard, p. 473.

**WORK STOPPAGES.** See **Injunctions**, 1; **Labor**, 1-3; **Labor Management Relations Act**.

**WORLD WAR II.** See **Naturalization**.

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