

I N D E X

ABSTENTION. See also **Constitutional Law, VI.**

Refusal to abstain—Constitutionality of prisoner mail censorship.—District Court did not err in refusing to abstain from deciding constitutionality of California prisoner mail censorship regulations. *Procunier v. Martinez*, p. 396.

ACCESS TO COURTS. See **Constitutional Law, II, 1; VI.**

ACTIONS FOR DAMAGES. See **Constitutional Law, III.**

ACTIONS FOR TAX REFUNDS. See **Internal Revenue Code, 8, 10.**

ACTIONS TO RECOVER POSSESSION OF REAL PROPERTY.
See **Constitutional Law, VIII.**

ADJUDICATION. See **National Labor Relations Board.**

ADMINISTRATIVE PROCEDURE. See **National Labor Relations Board.**

ADMISSIBILITY OF EVIDENCE. See **Omnibus Crime Control and Safe Streets Act of 1968.**

ADMISSIONS POLICIES. See **Constitutional Law, I, 3.**

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC).
See **Federal-State Relations, 1.**

AIR POLLUTION. See **Constitutional Law, VII, 4.**

AIR QUALITY STANDARDS. See **Constitutional Law, VII, 4.**

ANCILLARY JURISDICTION. See **Injunctions.**

ANTI-INJUNCTION ACT. See **Constitutional Law, II, 8; Internal Revenue Code, 1-8, 10.**

APPEALS. See also **Constitutional Law, II, 7; Education Amendments of 1972.**

1. *Appellate court—Law to be applied.*—An appellate court must apply law in effect at time it renders its decision, unless such application would work a manifest injustice or there is statutory direction or legislative history to contrary. *Bradley v. Richmond School Board*, p. 696.

APPEALS—Continued.

2. *Three-Judge Court Act*—*Puerto Rican statutes as "State statute[s]."*—Statutes of Puerto Rico are "State statute[s]" for purposes of Three-Judge Court Act, and hence a three-judge court was properly convened under that Act in suit challenging constitutionality of Puerto Rican statutes providing for forfeiture, without prior notice or hearing, of vessels used for unlawful purposes, and direct appeal to this Court was proper under 28 U. S. C. § 1253. *Calero-Toledo v. Pearson Yacht Leasing Co.*, p. 663.

APPELLATE COURTS. See **Appeals**, 1.

ARBITRARINESS. See **Constitutional Law**, II, 1; IV, 1.

ASSISTANT ATTORNEY GENERAL. See **Omnibus Crime Control and Safe Streets Act of 1968**.

ATTORNEY-CLIENT INTERVIEWS. See **Constitutional Law**, II, 1.

ATTORNEY GENERAL. See **Omnibus Crime Control and Safe Streets Act of 1968**.

ATTORNEY GENERAL'S EXECUTIVE ASSISTANT. See **Omnibus Crime Control and Safe Streets Act of 1968**.

ATTORNEYS' FEES. See **Appeals**, 1; **Education Amendments of 1972**.

AUTHORIZATION OF WIRETAP APPLICATIONS. See **Omnibus Crime Control and Safe Streets Act of 1968**.

AWARD OF ATTORNEYS' FEES. See **Appeals**, 1; **Education Amendments of 1972**.

BANK ACCOUNTS. See **Constitutional Law**, II, 2; V; VII, 1-3; **Pleading**; **Procedure**, 1-3; **Standing to Sue**.

BANK RECORDS. See **Constitutional Law**, II, 2; V; VII, 1; **Pleading**; **Procedure**, 1.

BANK REPORTS. See **Constitutional Law**, VII, 2-3; **Pleading**; **Procedure**, 3; **Standing to Sue**.

BANKRUPTCY.

Priorities to funds—Packers and Stockyards Act—State law.—Where respondents sold cattle to Texas meat packer who was adjudged bankrupt before checks given in payment for cattle were paid, nothing in either specific sections of Act relating to packers or in general sections of Act applying to all persons subject to Act,

BANKRUPTCY—Continued.

nor in implementing regulations, *ex propria vigore* overrides Texas Business and Commercial Code in determining respective rights of respondents, trustee in bankruptcy, and corporation holding perfected lien on bankrupt's inventory, to funds held by trustee as proceeds from sale of meat of cattle slaughtered and packaged by bankrupt or establishes a special priority in bankruptcy. However, course of conduct mandated by Act or regulations might be relevant or even dispositive under state law in determining priorities to funds in question, and hence to extent that respondents in appealing to Court of Appeals challenged District Court's determination to contrary, such determination will be open for adjudication on remand. *Mahon v. Stowers*, p. 100.

BANK SECRECY ACT OF 1970. See Constitutional Law, II, 2; V; VII, 1-3; Pleading; Procedure, 1-3; Standing to Sue.

BARGAINING REPRESENTATIVES. See National Labor Relations Act, 2; National Labor Relations Board.

BUYERS. See Constitutional Law, II, 5; National Labor Relations Act, 2; National Labor Relations Board.

CASE OR CONTROVERSY. See Constitutional Law, I; Declaratory Judgments; Mootness.

CATTLE. See Bankruptcy.

CENSORSHIP OF PRISONER MAIL. See Abstention; Constitutional Law, VI.

CERTIFICATION PROCEDURE. See Procedure, 4.

CHARITABLE DEDUCTIONS. See Constitutional Law, II, 8; Internal Revenue Code, 1-8, 10.

CHIMNEYS. See Constitutional Law, VII, 4.

CIVIL RIGHTS. See Appeals, 1; Constitutional Law, III; Education Act Amendments of 1972; Executive Immunity; Injunctions; Mootness, 3; Procedure, 5.

CIVIL RIGHTS ACT OF 1871. See Constitutional Law, III; Executive Immunity.

CIVIL SERVICE COMMISSION. See Constitutional Law, II, 3.

CLOSING ARGUMENTS. See Constitutional Law, II, 6.

COLLECTIVE BARGAINING. See Constitutional Law, I, 1; Declaratory Judgments; National Labor Relations Act; National Labor Relations Board.

COLORADO. See **Constitutional Law**, VII, 4; **Federal-State Relations**, 1.

COMMON-LAW RIGHTS. See **Constitutional Law**, VIII.

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT. See **Searches and Seizures**.

CONSTITUTIONAL LAW. See also **Abstention**; **Appeals**, 2; **Executive Immunity**; **Injunctions**; **Internal Revenue Code**, 1-8, 10; **Pleading**; **Procedure**, 1-3, 5-6; **Standing to Sue**.

I. Case or Controversy.

1. *Declaratory judgment—Validity of strikers' benefits.*—To extent that *declaratory* relief was sought in petitioner struck employers' suit for injunctive and declaratory relief against striking workers' eligibility for state welfare benefits, the case-or-controversy requirement of Art. III, § 2, and Declaratory Judgment Act is completely satisfied, since even though case for an injunction dissolved when strike ended before case was tried, petitioners and respondent state officials may still retain sufficient interests and injury to justify declaratory relief. *Super Tire Engineering Co. v. McCorkle*, p. 115.

2. *Mootness—Constitutionality of land-use ordinance.*—Fact that named tenant appellees have vacated house, appellee owners of which were cited for violating ordinance restricting land use to one-family dwellings, does not moot appellees' case challenging constitutionality of ordinance, as ordinance continues to affect value of property. *Village of Belle Terre v. Boraas*, p. 1.

3. *Mootness—Constitutionality of state law school's admissions policy.*—Because petitioner, who after being denied admission to state-operated law school brought suit for injunctive relief, claiming that school's admissions policy racially discriminated against him in violation of Equal Protection Clause of Fourteenth Amendment, was, as a result of a stay of judgment against him, admitted and thus will complete law school at end of term for which he has registered regardless of any decision this Court might reach on merits, the Court cannot, consistently with limitations of Art. III of Constitution, consider substantive constitutional issues, and case is moot. *DeFunis v. Odegaard*, p. 312.

II. Due Process.

1. *Ban against prisoner attorney-client interviews—Law students or legal paraprofessionals—Access to courts.*—California ban against prisoner attorney-client interviews conducted by law students or legal paraprofessionals, which was not limited to prospective interviewers who posed some colorable threat to security or to those

CONSTITUTIONAL LAW—Continued.

inmates thought to be especially dangerous and which created an arbitrary distinction between law students employed by attorneys and those associated with law school programs (against whom ban did not operate), constituted an unjustifiable restriction on inmates' right of access to courts. *Procnier v. Martinez*, p. 396.

2. *Bank Secrecy Act of 1970—Recordkeeping requirements.*—Recordkeeping requirements of Title I of Act, which are a proper exercise of Congress' power to deal with problem of crime in interstate and foreign commerce, do not deprive bank plaintiffs of due process of law. *California Bankers Assn. v. Shultz*, p. 21.

3. *Dismissal of nonprobationary Government employee.*—Judgment holding that Lloyd-La Follette Act and attendant regulations denied due process to appellee nonprobationary Civil Service employee, who was dismissed for allegedly making recklessly false and defamatory statements about fellow employees, because they failed to provide for a trial type preremoval hearing before an impartial official and were unconstitutionally vague because they failed to furnish sufficiently precise guidelines as to what kind of speech might be made basis for removal action, reversed and remanded. *Arnett v. Kennedy*, p. 134.

4. *Forfeiture—Innocent party's property.*—Statutory forfeiture schemes are not rendered unconstitutional because of their applicability to property interests of innocents, and here Puerto Rican statutes, which provide for forfeiture of vessels used for unlawful purposes and which further punitive and deterrent purposes, were validly applied to appellee's yacht, which it had leased and which was seized without prior notice to appellee or lessees and without a prior adversary hearing after marihuana was discovered aboard her. *Calero-Toledo v. Pearson Yacht Leasing Co.*, p. 663.

5. *Louisiana sequestration procedure—Constitutional accommodation.*—Louisiana sequestration procedure is not invalid, either on its face or as applied, and considering procedure as a whole, it effects a constitutional accommodation of respective interests of buyer and seller by providing for judicial control of process from beginning to end, thus minimizing risk of creditor's wrongful interim possession, by protecting debtor's interest in every way except to allow him initial possession, and by putting property in possession of party who is able to furnish protection against loss or damage pending trial on merits. *Mitchell v. W. T. Grant Co.*, p. 600.

6. *Murder trial—Prosecutor's remark—Disapproving instruction—No prejudice.*—In circumstances of this case, where prosecutor's ambiguous remark in his summation (respondent and his counsel

CONSTITUTIONAL LAW—Continued.

“hope that you find him not guilty. I quite frankly think that they hope that you find him guilty of something a little less than first degree murder”) in the course of an extended trial was followed by the trial court’s specific disapproving instructions, no prejudice amounting to a denial of constitutional due process was shown. *Donnelly v. DeChristoforo*, p. 637.

7. *Seizure of vessels—Notice and hearing.*—This case, challenging constitutionality of Puerto Rican statutes providing for forfeiture, without prior notice or hearing, of vessels used for unlawful purposes, presents an “extraordinary” situation in which postponement of notice and hearing until after seizure did not deny due process, since (1) seizure under statutes serves significant governmental purposes by permitting Puerto Rico to assert *in rem* jurisdiction over property in forfeiture proceedings, thereby fostering public interest in preventing continued illicit use of property and in enforcing criminal sanctions; (2) pre-seizure notice and hearing might frustrate interests served by statutes, property often being of sort, as here, that could be removed from jurisdiction, destroyed, or concealed, if advance notice were given; and (3) unlike situation in *Fuentes v. Shevin*, 407 U. S. 67, seizure is not initiated by self-interested private parties but by government officials. *Calero-Toledo v. Pearson Yacht Leasing Co.*, p. 663.

8. *Suit to prevent revocation of tax-exempt status—Denial of relief.*—Denying, under standards of *Enochs v. Williams Packing & Navigation Co.*, 370 U. S. 1, injunctive relief to petitioner private university against revocation of its tax-exempt status, will not, because of alleged irreparable injury pending resort to alternative remedies, deny petitioner due process of law, since this is not a case where an aggrieved party has no access at all to judicial review. Review procedures that are available are constitutionally adequate, even though involving serious delay. *Bob Jones University v. Simon*, p. 725.

III. Eleventh Amendment.

Damages action against state officials—Deprivation of federal right.—The Eleventh Amendment does not in some circumstances bar an action for damages against a state official charged with depriving a person of a federal right under color of state law, and District Court acted prematurely and hence erroneously in dismissing for lack of jurisdiction complaints by petitioner personal representatives of estates of students who were killed on state university campus, charging various state officials with having caused State National Guard to perform illegal acts resulting in students’ deaths, without

CONSTITUTIONAL LAW—Continued.

affording petitioners any opportunity by subsequent proof to establish their claims. *Scheuer v. Rhodes*, p. 232.

IV. Equal Protection of the Laws.

1. *Land-use legislation—Restriction to one-family dwellings.*—Economic and social legislation with respect to which legislature has drawn lines in exercise of its discretion, will be upheld if it is "reasonable, not arbitrary" and bears "a rational relationship to a [permissible] state objective," and ordinance restricting land use to one-family dwellings and defining "family" to mean one or more persons related by blood, adoption, or marriage or not more than two unrelated persons, living and cooking together as a single housekeeping unit—which ordinance is not aimed at transients and involves no procedural disparity inflicted on some but not on others or deprivation of any "fundamental" right—meets that constitutional standard and must be upheld as valid land-use legislation addressed to family needs. *Village of Belle Terre v. Boraas*, p. 1.

2. *State tax law—Widow's property tax exemption.*—A state tax law is not arbitrary although it "discriminate[s] in favor of a certain class . . . if the discrimination is founded upon a reasonable distinction, or difference in state policy," and a Florida statute granting widows, but not widowers, an annual \$500 property tax exemption is well within those limits. *Kahn v. Shevin*, p. 351.

3. *Widow's property tax exemption.*—Florida statute granting widows, but not widowers, an annual \$500 property tax exemption, is reasonably designed to further state policy of cushioning financial impact of spousal loss upon sex for whom that loss imposes a disproportionately heavy burden. *Kahn v. Shevin*, p. 351.

V. Fifth Amendment.

Bank Secrecy Act of 1970—Recordkeeping requirements.—Record-keeping provisions of Title I of Act do not violate Fifth Amendment rights of either bank or depositor plaintiffs, since bank plaintiffs, being corporations, have no constitutional privilege against compulsory self-incrimination, and since a depositor plaintiff incriminated by evidence produced by third party sustains no violation of his own Fifth Amendment rights. *California Bankers Assn. v. Shultz*, p. 21.

VI. First Amendment.

1. *Prisoner mail censorship—Justification criteria—Invalidation.*—Censorship of prisoners' direct personal correspondence involves incidental restrictions on right to free speech of both prisoners and

CONSTITUTIONAL LAW—Continued.

their correspondents and is justified if following criteria are met: (1) it must further one or more of important and substantial governmental interests of security, order, and rehabilitation of inmates, and (2) it must be no greater than is necessary to further legitimate governmental interest involved. Under this standard invalidation of California prisoner mail censorship regulations by District Court was correct. *Procunier v. Martinez*, p. 396.

2. *Prisoner mail censorship—Procedural safeguards.*—Decision to censor or withhold delivery of a particular prisoner letter must be accompanied by minimum procedural safeguards against arbitrariness or error, and requirements specified by District Court (notification to inmate of rejection of correspondence and allowance to author to protest decision and secure review by prison official other than original censor) were not unduly burdensome. *Procunier v. Martinez*, p. 396.

VII. Fourth Amendment.

1. *Bank Secrecy Act of 1970—Recordkeeping requirements.*—Recordkeeping provisions of Title I of Act do not violate Fourth Amendment rights of either bank or depositor plaintiffs, mere maintenance by bank of records without any requirement that they be disclosed to Government (which can secure access only by existing legal process) constituting no illegal search and seizure. *California Bankers Assn. v. Shultz*, p. 21.

2. *Bank Secrecy Act of 1970—Reporting requirements—Foreign transactions.*—Reporting requirements of Title II of Act applicable to foreign financial dealings, which single out transactions with greatest potential for avoiding enforcement of federal laws and which involve substantial sums, do not abridge plaintiffs' Fourth Amendment rights and are well within Congress' powers to legislate with respect to foreign commerce. *California Bankers Assn. v. Shultz*, p. 21.

3. *Bank Secrecy Act of 1970—Reporting requirements—Regulations—Domestic transactions.*—Regulations under Act for reporting by financial institutions of domestic financial transactions, are reasonable and abridge no Fourth Amendment rights of such institutions, which are themselves parties to transactions involved, since neither "incorporated nor unincorporated associations [have] an unqualified right to conduct their affairs in secret." *California Bankers Assn. v. Shultz*, p. 21.

4. *Searches—Sights seen in "open fields"—Opacity test.*—Fourth Amendment, made applicable to States by Fourteenth, does not

CONSTITUTIONAL LAW—Continued.

extend to sights seen in "the open fields," such as here where state health inspector entered respondent's outdoor premises in daylight without its knowledge or consent and without a warrant, to make an opacity test of smoke being emitted from respondent's chimneys, and did not enter respondent's plant or offices but had sighted what anyone who was near plant could see in sky. *Air Pollution Variance Bd. v. Western Alfalfa*, p. 861.

VIII. Seventh Amendment.

Possessory action—Jury trial—District of Columbia.—Since right to recover possession of real property was a right ascertained and protected at common law, Seventh Amendment of Constitution entitles either party to demand jury trial in an action to recover possession of real property in Superior Court for District of Columbia under § 16-1501 of District of Columbia Code. *Pernell v. Southall Realty*, p. 363.

CONSTRUCTION OF STATUTES. See **Appeals; Federal-State Relations, 1; Internal Revenue Code; Omnibus Crime Control and Safe Streets Act of 1968; Searches and Seizures.**

CONSUMER PROTECTION. See **Constitutional Law, II, 5.**

CONTRIBUTIONS. See **Constitutional Law, II, 8; Internal Revenue Code, 1-8, 10.**

CONTROLLED SUBSTANCES ACT. See **Searches and Seizures.**

CONTROLLING STATE LAW. See **Procedure, 4.**

CORPORATIONS. See **Procedure, 4.**

COURT ORDERS FOR WIRETAPS. See **Omnibus Crime Control and Safe Streets Act of 1968.**

CREDITORS. See **Constitutional Law, II, 5.**

CRIMINAL LAW. See **Constitutional Law, II, 6; Omnibus Crime Control and Safe Streets Act of 1968; Searches and Seizures.**

DAMAGES ACTIONS. See **Constitutional Law, III; Executive Immunity.**

DEBTORS. See **Constitutional Law, II, 5.**

DECLARATORY JUDGMENTS.

Case or controversy—Validity of strikers' benefits.—To extent that *declaratory* relief was sought in petitioner struck employers' suit for injunctive and declaratory relief against striking workers' eligibility for state welfare benefits, the case-or-controversy require-

DECLARATORY JUDGMENTS—Continued.

ment of Art. III, § 2, and Declaratory Judgment Act is completely satisfied, since even though case for an injunction dissolved when strike ended before case was tried, petitioners and respondent state officials may still retain sufficient interests and injury to justify declaratory relief. *Super Tire Engineering Co. v. McCorkle*, p. 115.

DEDUCTIONS FOR EXPERIMENTAL EXPENDITURES. See *Internal Revenue Code*, 9.

DEPOSITORS. See *Constitutional Law*, II, 2; V; VII, 1-3; *Pleading*; *Procedure*, 1-3; *Standing to Sue*.

DERIVATIVE EVIDENCE. See *Omnibus Crime Control and Safe Streets Act of 1968*.

DESEGREGATION PLANS. See *Appeals*, 1; *Education Amendments of 1972*.

DIRECT APPEALS. See *Appeals*, 2.

DISCHARGE FOR "CAUSE." See *Constitutional Law*, II, 3.

DISCHARGE OF EMPLOYEES. See *National Labor Relations Act*, 1.

DISCOVERIES. See *Federal-State Relations*, 2; *Trade Secrets*.

DISCRIMINATION. See *Appeals*, 1; *Constitutional Law*, I, 3; II, 8; IV, 2-3; *Education Amendments of 1972*; *Internal Revenue Code*, 1, 3, 6.

DISMISSAL FROM EMPLOYMENT. See *Constitutional Law*, II, 3.

DISTRICT COURTS. See *Injunctions*; *Procedure*, 5.

DISTRICT OF COLUMBIA. See *Constitutional Law*, VIII; *Searches and Seizures*.

DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970. See *Constitutional Law*, VIII.

DISTRICT OF COLUMBIA SUPERIOR COURT. See *Constitutional Law*, VIII.

DIVERSITY SUITS. See *Procedure*, 4.

DOCTRINE OF EXECUTIVE IMMUNITY. See *Executive Immunity*.

DOUBT AS TO LOCAL LAW. See *Procedure*, 4.

DRUGS. See *Searches and Seizures*.

DUE PROCESS. See *Appeals*, 2; *Constitutional Law*, II; *Procedure*, 6.

ECONOMIC LEGISLATION. See **Constitutional Law**, IV, 1.

ECONOMIC STRIKES. See **Constitutional Law**, I, 1; **Declaratory Judgments**.

EDUCATION AMENDMENTS OF 1972. See also **Appeals**, 1.

1. *School desegregation case—Prevailing party—Attorney's fee—Discretion to award.*—Court of Appeals erred in concluding that § 718 of Amendments granting a federal court authority to award prevailing party a reasonable attorney's fee upon entry of final order in school desegregation case, was inapplicable to petitioners' request for fees because there was no final order pending unresolved on appeal, since language of § 718 is not to be read to mean that fee award must be made simultaneously with entry of desegregation order, and district court must have discretion in school desegregation case to award fees and costs incident to final disposition of interim matters. *Bradley v. Richmond School Board*, p. 696.

2. *School desegregation case—Prevailing party—Attorney's fee—Retroactive application.*—Section 718 of Amendments, granting a federal court authority to award prevailing party a reasonable attorney's fee upon entry of final order in school desegregation case, can be applied to attorneys' services that were rendered before that provision was enacted, in situation like one here involved where propriety of fee award was pending resolution on appeal when statute became law. *Bradley v. Richmond School Board*, p. 696.

ELECTRONIC SURVEILLANCE. See **Omnibus Crime Control and Safe Streets Act of 1968**.

ELEVENTH AMENDMENT. See **Constitutional Law**, III.

ELIGIBILITY FOR AFDC ASSISTANCE. See **Federal-State Relations**, 1.

EMPLOYER AND EMPLOYEES. See **Constitutional Law**, II, 3; **Declaratory Judgments**; **National Labor Relations Act**; **National Labor Relations Board**.

ENCAPSULATION OF SYNTHETIC CRYSTALS. See **Federal-State Relations**, 2; **Trade Secrets**.

EQUAL PROTECTION OF THE LAWS. See **Constitutional Law**, I, 3; IV.

EQUITY. See **Constitutional Law**, II, 8; **Injunctions**; **Internal Revenue Code**, 1-8, 10.

EVIDENCE. See **Omnibus Crime Control and Safe Streets Act of 1968**; **Searches and Seizures**.

EVIDENTIARY HEARINGS. See **Constitutional Law**, II, 3.

EXECUTIVE ASSISTANT TO ATTORNEY GENERAL. See **Omnibus Crime Control and Safe Streets Act of 1968.**

EXECUTIVE IMMUNITY. See also **Constitutional Law, III.**

State officers—Qualified immunity.—The immunity of officers of executive branch of a state government for their acts is not absolute but qualified and of varying degree, depending upon scope of discretion and responsibilities of particular office and circumstances existing at time challenged action was taken. *Scheuer v. Rhodes*, p. 232.

EXEMPTIONS FROM TAXATION. See **Constitutional Law, II, 8; Internal Revenue Code, 1-8, 10.**

EX PARTE APPLICATIONS. See **Constitutional Law, II, 5.**

FAIR TRIALS. See **Constitutional Law, II, 6.**

FAMILIES. See **Constitutional Law, I, 2; IV, 1.**

FARMWORKERS. See **Injunctions; Mootness, 3; Procedure, 5.**

FEDERAL DECLARATORY JUDGMENT ACT. See **Constitutional Law, I, 1; Declaratory Judgments.**

FEDERAL DRUG ENFORCEMENT. See **Searches and Seizures.**

FEDERAL EMPLOYEES. See **Constitutional Law, II, 3.**

FEDERAL-STATE RELATIONS. See also **Abstention; Bankruptcy; Constitutional Law, I, 1; III; Declaratory Judgments; Injunctions; National Labor Relations Act, 1; Procedure, 4.**

1. *Colorado Aid-to-Families-with-Dependent-Children regulation—Work-related expenses—Conflict with Social Security Act.*—Colorado regulation providing for standardized work-related expense allowance conflicts with § 402 (a) (7) of Social Security Act requiring state agencies in administering AFDC program to “take into consideration . . . any expenses reasonably attributable to the earning of . . . income,” and is therefore invalid. *Shea v. Vialpando*, p. 251.

2. *State trade secret law—Federal patent laws—No pre-emption.*—Ohio’s trade secret law is not pre-empted by federal patent laws. States are not forbidden to protect kinds of intellectual property that may make up subject matter of trade secrets; just as States may exercise regulatory power over writings, so may they regulate with respect to discoveries, only limitation being that regulation in area of patents and copyrights must not conflict with operation of federal laws in this area. *Kewanee Oil Co. v. Bicon Corp.*, p. 470.

FIFTH AMENDMENT. See **Constitutional Law, V.**

FINANCIAL INFORMATION. See **Constitutional Law, II, 2; V; VII, 1-3; Pleading; Procedure, 1-3; Standing to Sue.**

- FIRST AMENDMENT.** See Constitutional Law, VI; Injunctions; Pleading; Procedure, 1.
- FIXED WORK-EXPENSE ALLOWANCE.** See Federal-State Relations, 2.
- FLORIDA.** See Constitutional Law, IV, 2-3; Procedure, 4.
- FOREIGN BANKS.** See Constitutional Law, II, 2; V; VII, 1-3; Pleading; Procedure, 3.
- FOREIGN COMMERCE.** See Constitutional Law, II, 2; V; VII, 1-3; Pleading; Procedure, 3.
- FORFEITURE OF VESSELS.** See Appeals, 2; Constitutional Law, II, 4, 7.
- FOURTEENTH AMENDMENT.** See Constitutional Law, I, 3; II, 5; IV, 2-3; VI; VII, 4; Injunctions; Procedure, 6.
- FOURTH AMENDMENT.** See Constitutional Law, VII; Standing to Sue.
- FREEDOM OF ASSOCIATION.** See Constitutional Law, IV, 1; Pleading; Procedure, 1.
- FREEDOM OF SPEECH.** See Constitutional Law, II, 3; VI; Procedure, 1.
- GOVERNMENTAL INTERESTS.** See Constitutional Law, VI, 1.
- GOVERNMENT EMPLOYEES.** See Constitutional Law, II, 3.
- HEALTH INSPECTORS.** See Constitutional Law, VII, 4.
- HEARINGS.** See Appeals, 2; Constitutional Law, II, 4-5, 7; Procedure, 6.
- IMMUNITY.** See Constitutional Law, III; Executive Immunity.
- IMPROPER REMARKS BY PROSECUTOR.** See Constitutional Law, II, 6.
- INCINERATORS.** See Internal Revenue Code, 9.
- INCOME TAXES.** See Constitutional Law, II, 8; Internal Revenue Code.
- "IN CONNECTION WITH" TRADE OR BUSINESS.** See Internal Revenue Code, 9.
- INJUNCTIONS.** See also Constitutional Law, II, 8; Internal Revenue Code, 1-8, 10; Mootness, 3; Procedure, 5.
- Court's equitable powers—Police intimidation.*—In civil rights action attacking constitutionality of certain Texas statutes and alleg-

INJUNCTIONS—Continued.

ing that appellants and other law enforcement officers conspired to deprive appellees of their First and Fourteenth Amendment rights in their attempt to unionize farmworkers, portion of three-judge District Court's decree enjoining police intimidation of appellees was an appropriate exercise of court's equitable powers, since court could properly consider question of police harassment under concededly constitutional statutes and grant relief in exercise of jurisdiction ancillary to that conferred by constitutional attack on statutes that plainly required three-judge court. *Allee v. Medrano*, p. 802.

INMATE CORRESPONDENCE. See **Abstention; Constitutional Law**, VI.

IN REM JURISDICTION. See **Constitutional Law**, II, 7.

INSIDER INFORMATION. See **Procedure**, 4.

INSTALLMENT SALES. See **Constitutional Law**, II, 5.

INSTRUCTIONS TO JURY. See **Constitutional Law**, II, 6.

INTERCEPTED COMMUNICATIONS. See **Omnibus Crime Control and Safe Streets Act of 1968**.

INTERNAL REVENUE CODE. See also **Constitutional Law**, II, 8.

1. *Anti-Injunction Act—Failure to meet standards for exception.*—Petitioner private university in suit to prevent revocation of its tax-exempt status has not met standards of *Enochs v. Williams Packing & Navigation Co.*, 370 U. S. 1, with respect to granting of pre-enforcement injunction against tax assessment or collection despite § 7421 (a) of Code, since its contentions are sufficiently debatable to foreclose any notion that "under no circumstances could the Government ultimately prevail." *Bob Jones University v. Simon*, p. 725.

2. *Anti-Injunction Act—Injunction against third person's taxes.*—That respondent nonprofit corporation, whose tax-exempt status had been revoked by Internal Revenue Service, was not seeking, in action for injunctive relief requiring reinstatement of such status, to enjoin assessment or collection of its own taxes is irrelevant, for § 7421 (a) of Code bars a suit to enjoin the assessment or collection of anyone's taxes. *Commissioner v. "Americans United" Inc.*, p. 752.

3. *Anti-Injunction Act—Judicially created exceptions.*—Petitioner's contention that § 7421 (a) of Code is subject to judicially created exceptions other than test of *Enochs v. Williams Packing & Navigation Co.*, 370 U. S. 1, is without merit. That decision constitutes an all-encompassing reading of § 7421 (a), and it rejected contention,

INTERNAL REVENUE CODE—Continued.

relied upon by petitioner, that irreparable injury alone is sufficient to lift statutory bar. *Bob Jones University v. Simon*, p. 725.

4. *Anti-Injunction Act—“Purpose” of action for reinstatement of tax-exempt status.*—Under any reasonable construction of statutory term “purpose,” as used in § 7421 (a) of Code prohibiting suits for “purpose” of restraining assessment or collection of any tax, objective of action by respondent nonprofit corporation seeking reinstatement of tax-exempt status was to restrain assessment and collection of taxes from respondent’s contributors, purpose being to restore advance assurance that donations to respondent would qualify as charitable deductions for respondent’s donors. *Commissioner v. “Americans United” Inc.*, p. 752.

5. *Anti-Injunction Act—Suit for declaratory judgment and reinstatement of tax-exempt status.*—Action by respondent nonprofit corporation, whose tax-exempt status had been revoked by Internal Revenue Service for violation of lobbying proscriptions of §§ 501 (c)(3) and 170 of Code, seeking declaratory judgment that IRS’ administration of such proscriptions was erroneous or unconstitutional and injunctive relief requiring reinstatement of its § 501 (c)(3) tax-exempt status, is barred by § 7421 (a) of Code prohibiting suits “for the purpose of restraining the assessment or collection of any tax.” *Commissioner v. “Americans United” Inc.*, p. 752.

6. *Anti-Injunction Act—Suit to prevent revocation of tax-exempt status.*—Petitioner private university’s suit to prevent Internal Revenue Service’s revocation of petitioner’s tax-exempt status was one “for the purpose of restraining the assessment or collection of any tax” within meaning of § 7421 (a) of Code, which provides that no suit for such purpose shall be maintained in any court, since petitioner’s allegation that revocation would subject it to “substantial” income tax liability demonstrates that primary purpose of suit is to prevent IRS from assessing and collecting income taxes. But even if no income tax liability resulted, suit would still be one to restrain assessment and collection of federal social security and unemployment taxes, as well as to restrain collection of taxes from petitioner’s donors. *Bob Jones University v. Simon*, p. 725.

7. *Anti-Injunction Act—Taxpayer’s constitutional claim.*—Constitutional nature of a taxpayer’s claim, as distinct from its probability of success, is of no consequence under § 7421 (a) of Code prohibiting suits for purposes of restraining assessment or collection of any tax. *Commissioner v. “Americans United” Inc.*, p. 752.

8. *Anti-Injunction Act—Tax refund action—Tax-exempt status—Irreparable injury.*—An action for refund of unemployment taxes,

INTERNAL REVENUE CODE—Continued.

even if successful, will not lead to recovery of contributions lost in interim between withdrawal of ruling letter assuring respondent nonprofit corporation of tax-exempt status under § 501 (c) (3) of Code and final adjudication of entitlement to such status. This is, however, merely a form of irreparable injury, which in itself is insufficient to avoid bar of § 7421 (a) of Code prohibiting suits for purpose of restraining assessment or collection of any tax. *Commissioner v. "Americans United" Inc.*, p. 752.

9. *Deduction for experimental expenditures*—"In connection with trade or business.—It was error to disallow petitioner, who had advanced part of capital in partnership formed in 1966 to develop special-purpose incinerator and had become limited partner, deduction on his individual income tax return for 1966 for his pro rata share of partnership's operating loss, since such deduction was "in connection" with petitioner's trade or business within meaning of § 174 (a) (1) of Code providing for a deduction for "experimental expenditures which are paid or incurred by [the taxpayer] during the taxable year in connection with his trade or business as expenses which are not chargeable to capital account," and since disallowance was contrary to broad legislative objective of Congress when it enacted § 174 to provide an economic incentive, especially for small and growing businesses, to engage in search for new products and new inventions. *Snow v. Commissioner*, p. 500.

10. *Tax refund action—Legality of tax-exempt status withdrawal*.—An action for refund of unemployment taxes will afford respondent nonprofit corporation a full opportunity to litigate legality of Internal Revenue Service's withdrawal of its ruling letter assuring respondent of tax-exempt status under § 501 (c) (3) of Code, since respondent's liability for such taxes hinges on precisely same legal issue as does its eligibility for tax-deductible contributions under § 170 of Code, *i. e.*, its entitlement to § 501 (c) (3) status. *Commissioner v. "Americans United" Inc.*, p. 752.

INTERNAL REVENUE SERVICE. See *Constitutional Law*, II, 2; *Internal Revenue Code*, 1-8, 10.

IRREPARABLE INJURIES. See *Constitutional Law*, II, 8; *Injunctions*; *Internal Revenue Code*, 3, 8.

JURISDICTION. See *Injunctions*.

JURY INSTRUCTIONS. See *Constitutional Law*, II, 6.

JURY TRIALS. See *Constitutional Law*, VIII.

- JUSTICIABILITY.** See Constitutional Law, I; Declaratory Judgments; Injunctions; Mootness.
- KENT STATE UNIVERSITY.** See Constitutional Law, III; Executive Immunity.
- LABOR.** See Constitutional Law, I, 1; Declaratory Judgments; Injunctions; Mootness, 3; National Labor Relations Act; National Labor Relations Board; Procedure, 5.
- LABOR MANAGEMENT RELATIONS ACT.** See Constitutional Law, I, 1; Declaratory Judgments.
- LABOR UNIONS.** See Injunctions; Mootness, 3; National Labor Relations Act; National Labor Relations Board; Procedure, 5.
- LANDLORD AND TENANT.** See Constitutional Law, VIII.
- LAND-USE RESTRICTIONS.** See Constitutional Law, I, 2; IV, 1.
- LAW SCHOOLS.** See Constitutional Law, I, 3; Mootness, 2.
- LAW STUDENTS.** See Constitutional Law, I, 3; II, 1; Mootness, 2.
- LEASED VESSELS.** See Appeals, 2; Constitutional Law, II, 4, 7.
- LEGAL PARAPROFESSIONALS.** See Constitutional Law, II, 1.
- LIENS.** See Constitutional Law, II, 5.
- LIMITED PARTNERS.** See Internal Revenue Code, 9.
- LLOYD-LA FOLLETTE ACT.** See Constitutional Law, II, 3.
- LOBBYING.** See Internal Revenue Code, 5.
- LOUISIANA.** See Constitutional Law, II, 5.
- MAIL CENSORSHIP.** See Abstention; Constitutional Law, VI.
- MANAGERIAL EMPLOYEES.** See National Labor Relations Act, 2; National Labor Relations Board.
- MARIHUANA.** See Appeals, 2; Constitutional Law, II, 4, 7.
- MEAT PACKERS.** See Bankruptcy.
- MEXICAN-AMERICAN FARMWORKERS.** See Injunctions; Mootness, 3; Procedure, 5.
- MISAPPROPRIATION OF TRADE SECRETS.** See Federal-State Relations, 2; Trade Secrets.
- MISIDENTIFICATION OF OFFICER AUTHORIZING WIRE-TAP APPLICATION.** See Omnibus Crime Control and Safe Streets Act of 1968, 6.

MOOTNESS. See also **Constitutional Law, I, 1; Declaratory Judgments; Procedure, 5.**

1. *Constitutionality of land-use ordinance—One-family dwelling restriction.*—Fact that named tenant appellees have vacated house, appellee owners of which were cited for violating ordinance restricting land use to one-family dwellings, does not moot appellees' case challenging constitutionality of ordinance, as ordinance continues to affect value of property. *Village of Belle Terre v. Boraas*, p. 1.

2. *Constitutionality of state law school's admissions policy—Equal protection of the laws.*—Because petitioner, who after being denied admission to state-operated law school brought suit for injunctive relief, claiming that school's admissions policy racially discriminated against him in violation of Equal Protection Clause of Fourteenth Amendment, was, as a result of a stay of judgment against him, admitted and thus will complete law school at end of term for which he has registered regardless of any decision this Court might reach on merits, the Court cannot, consistently with limitations of Art. III of Constitution, consider substantive constitutional issues, and case is moot. *DeFunis v. Odegaard*, p. 312.

3. *Injunction against picketing—End of strike—Mootness.*—State court injunction against appellees, proscribing picketing on or near property of one of major employers in area, did not moot controversy involving appellants' and other law enforcement officers' harassment of appellees' attempt to unionize farmworkers and persuade them to join strike, since it was appellants' and other officers' conduct that ended strike, not the injunction. Nor has case become moot because appellees abandoned their unionization efforts as result of harassment, for appellee union still is a live organization with a continuing goal of unionizing farmworkers. *Allee v. Medrano*, p. 802.

MORTGAGES. See **Constitutional Law, II, 5.**

MURDER. See **Constitutional Law, II, 6.**

NARCOTICS. See **Appeals, 2; Constitutional Law, II, 4, 7; Omnibus Crime Control and Safe Streets Act of 1968; Searches and Seizures.**

NATIONAL GUARD. See **Constitutional Law, III; Executive Immunity.**

NATIONAL LABOR RELATIONS ACT. See also **National Labor Relations Board.**

1. *Discharge of supervisors for union membership—Bar to enforcement of state right-to-work law.*—The second clause of § 14 (a) of

NATIONAL LABOR RELATIONS ACT—Continued.

NLRA ("no employer . . . shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either national or local, relating to collective bargaining") applies to any law requiring an employer to accord to supervisors like petitioners, who because of their union membership were discharged as meat department managers in respondent's stores and who are "the front line of management," the "anomalous status of employees," and enforcement of North Carolina's Right-to-Work law would thus flout national policy against compulsion upon employers from either federal or state authorities to treat supervisors as employees. *Beasley v. Food Fair of North Carolina*, p. 653.

2. *Exclusion of "managerial employees"—Congressional intent.*—Congress intended to exclude from protections of NLRA all employees properly classified as "managerial," not just those in positions susceptible to conflicts of interest in labor relations. This is unmistakably indicated by National Labor Relations Board's early decisions, purpose and legislative history of Taft-Hartley amendments to NLRA in 1947, NLRB's subsequent construction of Act for more than two decades, and decisions of courts of appeals. *NLRB v. Bell Aerospace Co.*, p. 267.

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

Adjudication vis-à-vis rulemaking—Buyers as "managerial employees."—NLRB is not required to proceed by rulemaking, rather than by adjudication, in determining whether buyers or some types of buyers are "managerial employees" for purposes of collective bargaining under National Labor Relations Act. *NLRB v. Bell Aerospace Co.*, p. 267.

NEGOTIABLE INSTRUMENTS. See **Constitutional Law**, II, 2; V; VII, 1-3.

NEGROES. See **Appeals**, 1; **Education Amendments of 1972**.

NEW JERSEY. See **Constitutional Law**, I, 1; **Declaratory Judgments**.

NEW YORK. See **Constitutional Law**, I, 2; IV, 1; **Procedure**, 4.

NIGHTTIME SEARCHES. See **Searches and Seizures**.

NONPROBATIONARY FEDERAL EMPLOYEES. See **Constitutional Law**, II, 3.

NONPROFIT CORPORATIONS. See **Internal Revenue Code**, 2, 4-5, 7-8, 10.

- NORTH CAROLINA.** See **National Labor Relations Act**, 1.
- NOTICE.** See **Appeals**, 2; **Constitutional Law**, II, 4-5, 7; **Procedure**, 6.
- OFFICE OF ECONOMIC OPPORTUNITY.** See **Constitutional Law**, II, 3.
- OHIO.** See **Constitutional Law**, III; **Executive Immunity**.
- OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.**

1. *Title III—Improperly authorized wiretap application—Suppression of evidence.*—Primary or derivative evidence secured by wire interceptions pursuant to a court order issued in response to an application which was, in fact, not authorized by Attorney General or a specially designated Assistant Attorney General must be suppressed under 18 U. S. C. § 2515 upon a motion properly made under 18 U. S. C. § 2518 (10) (a), and hence evidence obtained from interceptions pursuant to initial court order issued in response to an application purportedly authorized by a specially designated Assistant Attorney General but in fact authorized by Attorney General's Executive Assistant, was properly suppressed. *United States v. Giordano*, p. 505.

2. *Title III—Intercepted communications—Inadmissibility.*—Communications intercepted pursuant to District Court's extension order were inadmissible, since they were evidence derived from communications invalidly intercepted pursuant to initial order which was issued in response to application purportedly authorized by specially designated Assistant Attorney General but in fact authorized by Attorney General's Executive Assistant. *United States v. Giordano*, p. 505.

3. *Title III—Interception order—Facial sufficiency.*—Interception order was not "insufficient on its face" within meaning of 18 U. S. C. § 2518 (10) (a) (ii), which provides that contents of intercepted communications, or evidence derived therefrom, may be suppressed on ground that interception order was "insufficient on its face," since order clearly identified "on its face" Assistant Attorney General as person authorizing application, he being a person who under 18 U. S. C. § 2516 (1) could properly give such approval if specially designated to do so as order recited, notwithstanding this was subsequently shown to be incorrect. *United States v. Chavez*, p. 562.

4. *Title III—Unlawful interceptions—Suppression of evidence.*—Under 18 U. S. C. § 2518 (10) (a) (i), which provides that contents of intercepted communications, or evidence derived therefrom, may be suppressed on ground that communication was "unlawfully inter-

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968—Continued.

cepted," words "unlawfully intercepted" are not limited to constitutional violations, but statute was intended to require suppression where there is a failure to satisfy any of those statutory requirements that directly and substantially implement congressional intention to limit use of intercept procedures to those situations clearly calling for employment of this extraordinary investigative device. *United States v. Giordano*, p. 505.

5. *Title III—Wiretap application—Improper authorization—Suppression of evidence.*—Because application for interception order on respondent Fernandez' phone was authorized by Attorney General's Executive Assistant, rather than by Attorney General or any specially designated Assistant Attorney General, on whom alone 18 U. S. C. § 2516 (1) confers such power, evidence secured under that order was properly suppressed. *United States v. Chavez*, p. 562.

6. *Title III—Wiretap application—Misidentification of authorizing officer—Suppression of evidence.*—Misidentifying Assistant Attorney General as official authorizing wiretap of respondent Chavez, when Attorney General himself actually gave approval, was in no sense omission of a requirement that must be satisfied if wiretapping or electronic surveillance is to be lawful under Title III, and hence does not require suppression of wiretap evidence. *United States v. Chavez*, p. 562.

7. *Title III—Wiretap applications—Authorization.*—Congress, under 18 U. S. C. § 2516 (1), did not intend power to authorize wiretap applications to be exercised by any individuals other than Attorney General or an Assistant Attorney General specially designated by him, notwithstanding 28 U. S. C. § 510, which authorizes Attorney General to delegate any of his functions to any other officer, employee, or agency of Justice Department. *United States v. Giordano*, p. 505.

ONE-FAMILY DWELLINGS. See **Constitutional Law**, I, 2; IV, 1.

OPACITY TESTS. See **Constitutional Law**, VII, 4.

"**OPEN FIELDS.**" See **Constitutional Law**, VII, 4.

OPPORTUNITY TO BE HEARD. See **Appeals**, 2; **Constitutional Law**, II, 4-5, 7; **Procedure**, 6.

OVERBREADTH. See **Constitutional Law**, II, 3.

PACKERS AND STOCKYARDS ACT. See **Bankruptcy**.

PARTNERSHIPS. See **Internal Revenue Code**, 9.

- PATENTS.** See **Federal-State Relations**, 2; **Trade Secrets**.
- PENAL INSTITUTIONS.** See **Abstention**; **Constitutional Law**, II, 1; VI.
- PERMISSIBLE STATE OBJECTIVE.** See **Constitutional Law**, IV, 1.
- PERSONAL PROPERTY.** See **Constitutional Law**, II, 5.
- PLEADING.**
Speculative and hypothetical contentions—Constitutionality—Bank Secrecy Act of 1970.—American Civil Liberty Union's contentions that Act's reporting requirements with respect to foreign and domestic transactions invade its First Amendment associational interests are too speculative and hypothetical to warrant consideration, in view of fact that ACLU alleged only that it maintains accounts at San Francisco bank but not that it regularly engages in abnormally large domestic currency transactions, transports or receives monetary instruments from foreign commercial channels, or maintains foreign bank accounts. *California Bankers Assn. v. Shultz*, p. 21.
- PLEASURE YACHTS.** See **Appeals**, 2; **Constitutional Law**, II, 4, 7.
- POLICE MISCONDUCT.** See **Injunctions**; **Mootness**, 3; **Procedure**, 5.
- POLLUTION.** See **Constitutional Law**, VII, 4.
- POSSESSORY ACTIONS.** See **Constitutional Law**, VIII.
- PRE-EMPTION.** See **Federal-State Relations**, 2; **Trade Secrets**.
- PREJUDICIAL ERROR.** See **Constitutional Law**, II, 6.
- PRESEIZURE NOTICE AND HEARING.** See **Appeals**, 2; **Constitutional Law**, II, 4, 7.
- PRIMARY EVIDENCE.** See **Omnibus Crime Control and Safe Streets Act of 1968**, 1.
- PRIOR HEARINGS.** See **Appeals**, 2; **Constitutional Law**, II, 4-5, 7; **Procedure**, 6.
- PRIORITIES IN BANKRUPTCY.** See **Bankruptcy**.
- PRIOR NOTICE.** See **Appeals**, 2; **Constitutional Law**, II, 4-5, 7; **Procedure**, 6.
- PRISONER MAIL CENSORSHIP.** See **Abstention**; **Constitutional Law**, VI.
- PRIVACY.** See **Constitutional Law**, IV, 1.

PRIVATE ATTORNEYS GENERAL. See **Appeals**, 1; **Education Amendments of 1972**.

PRIVATE UNIVERSITIES. See **Constitutional Law**, II, 8; **Internal Revenue Code**, 1, 3, 6.

PRIVILEGE AGAINST SELF-INCRIMINATION. See **Constitutional Law**, V.

PROCEDURAL DUE PROCESS. See **Constitutional Law**, II, 3.

PROCEDURE. See also **Injunctions**.

1. *Bank Secrecy Act of 1970—American Civil Liberties Union—Premature constitutional claim.*—ACLU's claim that recordkeeping requirements of Title I of Act violate its members' First Amendment rights since challenged provisions could possibly be used to identify its members and contributors, is premature, Government having sought no such disclosure here. *California Bankers Assn. v. Shultz*, p. 21.

2. *Bank Secrecy Act of 1970—Bank plaintiffs—Vicarious constitutional claims.*—Bank plaintiffs cannot vicariously assert Fifth Amendment claims on behalf of their depositors under circumstances present here, since depositors cannot assert those claims themselves at this time. *California Bankers Assn. v. Shultz*, p. 21.

3. *Bank Secrecy Act of 1970—Depositor plaintiffs—Premature constitutional claim.*—Depositor plaintiffs who are parties in this litigation are premature in challenging Act's foreign and domestic reporting provisions under Fifth Amendment, since they merely allege that they intend to engage in foreign currency transactions with foreign banks and do not allege that any of the information required by Secretary of Treasury will tend to incriminate them, and since there is no allegation that any depositor engaged in a \$10,000 domestic transaction with a bank that the latter was required to report and no allegation that any bank report would contain information incriminating any depositor. *California Bankers Assn. v. Shultz*, p. 21.

4. *Certification procedure—Doubt as to local law—Florida.*—While resort to an available certification procedure, such as is available in Florida, is not obligatory where there is doubt as to local law, and its use in a given case is discretionary, resort to such procedure seems particularly appropriate here in shareholders' derivative diversity suits brought in federal court in New York, alleging that president of Florida corporation as fiduciary, with others, used inside information about projected corporate earnings for profit and hence

PROCEDURE—Continued.

was liable to corporation for unlawful profits, in view of novelty of question, unsettled state of Florida law, and fact that when federal judges in New York attempt to predict uncertain Florida law, they act as "outsiders" not exposed to local law. Hence, case is remanded to Court of Appeals to reconsider whether controlling issue of state law should be certified to Florida Supreme Court. *Lehman Brothers v. Schein*, p. 386.

5. *Modification of decree—Remand—Unconstitutional state statutes.*—In civil rights action attacking constitutionality of certain Texas statutes, portion of District Court's decree holding five of such statutes unconstitutional with accompanying injunctive relief, must be modified, because where three of the statutes have been repealed and replaced by more narrowly drawn provisions since District Court's decision and there are no pending prosecutions under them, judgment relating to these statutes will have become moot. Since it cannot be definitely determined from District Court's opinion or record whether there are pending prosecutions or even whether District Court intended to enjoin them if there were, case is remanded for further findings. Case is also remanded for determination as to whether there are pending prosecutions under two remaining statutes, and for further findings and reconsideration in light of *Steffel v. Thompson*, 415 U. S. 452. *Allee v. Medrano*, p. 802.

6. *Workmen's compensation benefits—Reinstatement—State law—Federal constitutional question.*—If, as indicated in briefs and oral arguments in this Court, state law permits a claimant whose workmen's compensation benefits have been suspended to have them reinstated by state trial courts, which act in a purely ministerial capacity, pending a full administrative hearing before State Industrial Commission on merits of his claim, it was probably unnecessary for District Court to address question whether Due Process Clause of Fourteenth Amendment prevented State from permitting suspension of benefits as result of claimed change in condition without notice to claimant and prior adversary hearing. Accordingly, case must be remanded to District Court for reconsideration. *Dillard v. Virginia Industrial Comm'n*, p. 783.

PROPERTY RIGHTS. See **Constitutional Law**, II, 5.

PROPERTY TAX EXEMPTIONS. See **Constitutional Law**, IV, 2-3.

PROSECUTOR'S IMPROPER REMARKS. See **Constitutional Law**, II, 6.

- PUBLIC ASSISTANCE.** See Constitutional Law, I, 1; Declaratory Judgments.
- PUERTO RICO.** See Appeals, 2; Constitutional Law, II, 4, 7.
- RACIAL DISCRIMINATION.** See Appeals, 1; Constitutional Law, 1, 3; II, 8; Education Amendments of 1972; Internal Revenue Code, 1, 3, 6.
- RATIONAL RELATIONSHIP.** See Constitutional Law, IV, 1.
- REAL PROPERTY.** See Constitutional Law, VIII.
- REASONABLENESS.** See Constitutional Law, IV, 1.
- RECORDKEEPING BY BANKS.** See Constitutional Law, II, 2; V; VII, 1; Pleading; Procedure, 1.
- RECOVERY OF POSSESSION OF REAL PROPERTY.** See Constitutional Law, VIII.
- REFUND ACTIONS.** See Internal Revenue Code, 8, 10.
- REINSTATEMENT OF WORKMEN'S COMPENSATION BENEFITS.** See Procedure, 6.
- REMAND.** See Bankruptcy; Procedure, 4-5.
- REMEDIES AT LAW.** See Injunctions.
- REMOVAL OF NONPROBATIONARY FEDERAL EMPLOYEES.** See Constitutional Law, II, 3.
- REPORTING BY BANKS.** See Constitutional Law, VII, 2-3; Pleading; Procedure, 3; Standing to Sue.
- RESTRICTIONS ON LAND USE.** See Constitutional Law, I, 2; IV, 1.
- RETROACTIVITY.** See Appeals, 1; Education Amendments of 1972.
- RIGHT OF ACCESS TO COURTS.** See Constitutional Law, II, 1.
- RIGHT OF ASSOCIATION.** See Constitutional Law, IV, 1; Pleading; Procedure, 1.
- RIGHT OF PRIVACY.** See Constitutional Law, IV, 1.
- RIGHT OF TRAVEL.** See Constitutional Law, IV, 1.
- RIGHT TO JURY TRIAL.** See Constitutional Law, VIII.
- RIGHT-TO-WORK LAWS.** See National Labor Relations Act, 1.
- RINGELMANN TEST.** See Constitutional Law, VII, 4.
- RULEMAKING.** See National Labor Relations Board.

RULING LETTERS. See **Constitutional Law**, II, 8; **Internal Revenue Code**, 1-8, 10.

SCHOOL DESEGREGATION. See **Appeals**, 1; **Education Amendments of 1972**.

SEARCHES AND SEIZURES. See also **Constitutional Law**, VII; **Standing to Sue**.

1. *Narcotics offense—Nighttime search—Warrant—Required showing.*—Title 21 U. S. C. § 879 (a), as was true of its predecessor statute, requires no special showing for a nighttime search, other than a showing, such as was made here, that contraband is likely to be on property or person to be searched at that time. *Gooding v. United States*, p. 430.

2. *Narcotics offense—Warrant for nighttime search—Standards for issuance—Federal legislation.*—Title 21 U. S. C. § 879 (a), which relates only to searches for “controlled substances” and provides that a warrant may be served “at any time of the day or night” as long as issuing authority is satisfied that probable cause exists to believe that there are grounds for warrant “and for its service at such time,” and which is part of a comprehensive federal scheme for control of drug abuse, applies, rather than local District of Columbia laws, to case wherein petitioner, charged with illegal possession of drugs, moved to suppress physical evidence seized in his apartment in nighttime by D. C. police officers pursuant to Federal Magistrate’s search warrant. *Gooding v. United States*, p. 430.

SEARCH WARRANTS. See **Searches and Seizures**.

SECRETARY OF THE TREASURY. See **Constitutional Law**, II, 2; V; VII, 1-3; **Procedure**, 1-3.

SEIZURE OF VESSELS. See **Appeals**, 2; **Constitutional Law**, II, 4, 7.

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

SELLERS. See **Constitutional Law**, II, 5.

SEQUESTRATION OF PROPERTY. See **Constitutional Law**, II, 5.

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

SEX DISCRIMINATION. See **Constitutional Law**, IV, 2-3.

SHAREHOLDERS’ DERIVATIVE SUITS. See **Procedure**, 4.

SIGHTS SEEN IN “OPEN FIELDS.” See **Constitutional Law**, VII, 4.

- SINGLE HOUSEKEEPING UNITS.** See Constitutional Law, I, 2; IV, 1.
- SMOKE EMISSIONS.** See Constitutional Law, VII, 4.
- SOCIAL LEGISLATION.** See Constitutional Law, IV, 1.
- SOCIAL SECURITY ACT.** See Constitutional Law, I, 1; Declaratory Judgments; Federal-State Relations, 2.
- SOCIAL SECURITY TAXES.** See Constitutional Law, II, 8; Internal Revenue Code, 6.
- SPECIALLY DESIGNATED ASSISTANT ATTORNEY GENERAL.** See Omnibus Crime Control and Safe Streets Act of 1968.
- STANDARDIZED WORK-EXPENSE ALLOWANCE.** See Federal-State Relations, 1.
- STANDARDS OF REVIEW.** See Constitutional Law, VI.
- STANDING TO SUE.**
Bank depositors—Bank Secrecy Act of 1970—Constitutionality of domestic reporting regulations.—Depositor plaintiffs, who do not allege engaging in type of \$10,000 domestic currency transaction requiring reporting, lack standing to challenge domestic reporting regulations under Act. It is therefore unnecessary to consider contentions made by bank and depositor plaintiffs that regulations are constitutionally defective because they do not require financial institutions to notify customer that a report will be filed concerning domestic currency transaction. *California Bankers Assn. v. Shultz*, p. 21.
- STATE LAW SCHOOLS.** See Constitutional Law, I, 3; Mootness, 2.
- STATE OFFICIALS.** See Constitutional Law, III; Executive Immunity.
- STATES.** See Constitutional Law, III; Executive Immunity.
- STATE STATUTES.** See Appeals, 2; Constitutional Law, II, 4, 7.
- STATE UNIVERSITIES.** See Constitutional Law, I, 3; III; Executive Immunity.
- STATE WELFARE PROGRAMS.** See Constitutional Law, I, 1; Declaratory Judgments.
- STATUTORY CONSTRUCTION.** See Appeals; Federal-State Relations, 1; Internal Revenue Code; Omnibus Crime Control and Safe Streets Act of 1968; Searches and Seizures.

STRIKERS' BENEFITS. See **Constitutional Law**, I, 1; **Declaratory Judgments**.

STRIKES. See **Constitutional Law**, I, 1; **Declaratory Judgments**; **Injunctions**; **Mootness**, 3; **Procedure**, 5.

SUMMATIONS. See **Constitutional Law**, II, 6.

SUPERVISORS. See **National Labor Relations Act**, 1.

SUPPRESSION OF EVIDENCE. See **Omnibus Crime Control and Safe Streets Act of 1968**; **Searches and Seizures**.

SUPREME COURT. See also **Appeals**, 2.

1. **Tribute to Mr. Justice Douglas**, p. III.

2. **Amendments to Federal Rules of Criminal Procedure**, p. 1001.

SUSPENSION OF WORKMEN'S COMPENSATION BENEFITS.
See **Procedure**, 6.

SYNTHETIC CRYSTALS. See **Federal-State Relations**, 2; **Trade Secrets**.

TAFT-HARTLEY ACT. See **National Labor Relations Act**.

TAX-DEDUCTIBLE CONTRIBUTIONS. See **Constitutional Law**, II, 8; **Internal Revenue Code**, 1-8, 10.

TAX DEDUCTIONS FOR EXPERIMENTAL EXPENDITURES.
See **Internal Revenue Code**, 9.

TAXES. See **Constitutional Law**, II, 8; IV, 2-3; **Internal Revenue Code**.

TAX EXEMPTIONS. See **Constitutional Law**, II, 8; IV, 2-3; **Internal Revenue Code**, 1-8, 10.

TEXAS. See **Injunctions**; **Mootness**, 3; **Procedure**, 5.

TEXAS BUSINESS AND COMMERCIAL CODE. See **Bankruptcy**.

THREE-JUDGE COURT ACT. See **Appeals**, 2.

THREE-JUDGE COURTS. See **Appeals**, 2; **Injunctions**.

TRADE SECRETS.

State trade secret law—Federal patent laws—No pre-emption.— Ohio's trade secret law is not pre-empted by federal patent laws. States are not forbidden to protect kinds of intellectual property that may make up subject matter of trade secrets; just as States may exercise regulatory power over writings, so may they regulate with respect to discoveries, only limitation being that regulation in

TRADE SECRETS—Continued.

area of patents and copyrights must not conflict with operation of federal laws in this area. *Kewanee Oil Co. v. Biron Corp.*, p. 470.

TRANSPORTATION EXPENSES. See **Federal-State Relations**, 1.

TRANSPORTATION OF CURRENCY. See **Constitutional Law**, VII, 2-3; **Pleading; Procedure**, 3.

TRAVEL. See **Constitutional Law**, IV, 1.

TREASURY REGULATIONS. See **Constitutional Law**, II, 2; V; VII, 1-3; **Standing to Sue**.

TRIALS. See **Constitutional Law**, II, 6; VIII.

TRIAL-TYPE HEARINGS. See **Constitutional Law**, II, 3.

UNEMPLOYMENT TAXES. See **Internal Revenue Code**, 6, 8, 10.

UNFAIR LABOR PRACTICES. See **National Labor Relations Act; National Labor Relations Board**.

UNIFORM COMMERCIAL CODE. See **Bankruptcy**.

UNIFORM WORK-EXPENSE ALLOWANCE. See **Federal-State Relations**, 1.

UNIONS. See **Injunctions; Mootness**, 3; **National Labor Relations Act; National Labor Relations Board; Procedure**, 5.

UNITARY SCHOOL SYSTEMS. See **Appeals**, 1; **Education Amendments of 1972**.

UNIVERSITIES. See **Constitutional Law**, I, 3; II, 8; III; **Executive Immunity; Internal Revenue Code**, 1, 3, 6; **Mootness**, 2.

UNIVERSITY OF WASHINGTON LAW SCHOOL. See **Constitutional Law**, I, 3; **Mootness**, 2.

UNLAWFUL INTERCEPTIONS. See **Omnibus Crime Control and Safe Streets Act of 1968**.

UNLAWFUL PROFITS. See **Procedure**, 4.

VAGUENESS. See **Constitutional Law**, II, 3; VI.

VENDORS' LIENS. See **Constitutional Law**, II, 5.

VESSELS. See **Appeals**, 2; **Constitutional Law**, II, 4, 7.

WASHINGTON. See **Constitutional Law**, I, 3; **Mootness**, 2.

WIDOWS OR WIDOWERS. See **Constitutional Law**, IV, 2-3.

WIRETAP APPLICATIONS. See **Omnibus Crime Control and Safe Streets Act of 1968**.

WORDS AND PHRASES.

1. "*In connection with [taxpayer's] trade or business.*" § 174 (a)(1), Internal Revenue Code of 1954, 26 U. S. C. § 174 (a)(1). *Snow v. Commissioner*, p. 500.

2. "*Insufficient on its face.*" 18 U. S. C. §§ 2518 (10)(a)(ii). *United States v. Chavez*, p. 562.

3. "*Purpose.*" § 7421 (a), Internal Revenue Code of 1954, 26 U. S. C. § 7421 (a). *Commissioner v. "Americans United" Inc.*, p. 752.

4. "*State statute.*" Three-Judge Court Act, 28 U. S. C. § 2281. *Calero-Toledo v. Pearson Yacht Leasing Co.*, p. 663.

5. "*Suit for the purpose of restraining the assessment or collection of any tax.*" § 7421 (a), Internal Revenue Code of 1954, 26 U. S. C. § 7421 (a). *Bob Jones University v. Simon*, p. 725.

6. "*Unlawfully intercepted.*" 18 U. S. C. § 2518 (10)(a)(i). *United States v. Giordano*, p. 505.

WORKMEN'S COMPENSATION. See **Procedure**, 6.

WORK-RELATED EXPENSES. See **Federal-State Relations**, 1.

YACHTS. See **Appeals**, 2; **Constitutional Law**, II, 4, 7.

ZONING. See **Constitutional Law**, I, 2; IV, 1.



















