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expressions of choice given full value, without dilution or distortion by fraudulent balloting. Anderson v. United States, p. 211.

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II. Due Process.

1. *Arts. 133 and 134, Uniform Code of Military Justice—Lack of vagueness.*—Articles 133 (punishing "conduct unbecoming an officer and gentleman") and 134 (punishing "all disorders and neglects to the prejudice of good order and discipline in the armed forces") are not unconstitutionally vague under Due Process Clause of Fifth Amendment. Parker v. Levy, p. 733.

2. *Convicted indigent defendant—Right to counsel on discretionary review.*—Due Process Clause of Fourteenth Amendment does not require North Carolina to provide convicted indigent defendant with counsel on his discretionary appeal to State Supreme Court or on his petition for certiorari in this Court. Ross v. Moffitt, p. 600.

3. *Excessive tax.*—Fact that a tax is so excessive as to render a business unprofitable or even threaten its existence furnishes no ground for holding tax unconstitutional, and judiciary should not infer from such fact, alone, a legislative attempt to exercise a forbidden power in form of a seeming tax. Pittsburgh v. Alco Parking Corp., p. 369.

4. *Felony indictment following misdemeanor conviction.*—Indictment in North Carolina on felony charge covering same conduct as misdemeanor for which respondent was previously convicted, contravened Due Process Clause of Fourteenth Amendment, since person convicted of misdemeanor in North Carolina is entitled to pursue his right under state law to trial *de novo* without apprehension that State will retaliate by substituting more serious charge for original one and thus subject him to significantly increased potential period of incarceration. Blackledge v. Perry, p. 21.

5. *Fifth Amendment—Equal protection of the laws—Illegitimate children—Social Security Act—Disability insurance.*—Title 42

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U. S. C. § 416 (h) (3) (B), as part of statutory scheme whereby illegitimate children unable to meet certain conditions (right to inherit, illegitimacy resulting solely from formal defects in parents' marriage, legitimation under state law) can qualify for disability insurance benefits only if disabled wage-earner parent contributed to child's support or lived with him prior to parent's disability, contravenes Due Process Clause of Fifth Amendment and equal protection of laws guaranteed thereby. Jimenez v. Weinberger, p. 628.

6. *Gross receipts tax on parking lots.*—Ordinance imposing increased 20% tax on gross receipts from parking or storing automobiles at nonresidential parking places, is not unconstitutional, and city was constitutionally entitled to put automobile parker to choice of using other transportation or paying increased tax. Pittsburgh v. Alco Parking Corp., p. 369.

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III. Equal Protection of the Laws.

1. *Convicted indigent defendant—Right to counsel on discretionary review.*—Equal Protection Clause of Fourteenth Amendment does not require North Carolina to provide free counsel for convicted indigent defendants seeking discretionary appeals to State Supreme Court or petition for certiorari in this Court. Ross v. Moffitt, p. 600.

2. *Disability insurance—Exclusion of normal pregnancy.*—California's decision not to insure under its disability insurance program

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3. *Exclusive use of city recreational facilities—Private segregated schools.*—City's policies of allocating recreational facilities to segregated private schools operated directly to contravene an outstanding school desegregation order, and any arrangement, implemented by state officials at any level, that significantly tends to perpetuate a dual school system, in whatever manner, is constitutionally impermissible. Gilmore v. City of Montgomery, p. 556.

4. *Indigent defendant—State's recoupment of legal defense fees paid.*—Oregon recoupment scheme requiring convicted defendants who are indigent at time of criminal proceedings against them but who subsequently acquire financial means to do so, to repay costs of their legal defense, does not violate Equal Protection Clause of Fourteenth Amendment, since statute retains all exemptions accorded to other judgment debtors, in addition to opportunity to show that recovery of legal defense costs will impose "manifest hardship." Fuller v. Oregon, p. 40.

IV. Fifth Amendment.

1. *Privilege against self-incrimination.*—Police conduct in this case, though failing to afford respondent full measure of procedural safeguards later set forth in *Miranda* v. *Arizona,* 384 U. S. 436, did not deprive respondent of his privilege against self-incrimination since record clearly shows that respondent's statements during police interrogation were not involuntary or result of potential legal sanctions. Michigan v. Tucker, p. 433.

2. *Privilege against self-incrimination—Member of dissolved law partnership.*—Fifth Amendment privilege against self-incrimination is not available to member of dissolved law partnership who had been subpoenaed by grand jury to produce partnership's financial books and records, since partnership, though small, had an institutional identity and petitioner held records in a representative, not a personal, capacity. Privilege is "limited to its historic function of protecting only the natural individual from compulsory incrimination through his own testimony or personal records." Bellis v. United States, p. 85.

V. First Amendment.

1. *Freedom of speech—Arts. 133 and 134 of Uniform Code of Military Justice—Lack of overbreadth.*—Articles 133 (punishing "conduct unbecoming an officer and gentleman") and 134 (punishing

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"all disorders and neglects to the prejudice of good order and discipline in the armed forces") are not facially invalid because of overbreadth. Parker v. Levy, p. 733.

2. *Freedom of speech—Prison inmates—State prohibition against news media interviews.*—In light of alternative channels of communication that are open to prison inmate appellees (mail, visitation rights, communication with press or public through visitors), regulation of California Department of Corrections prohibiting press and other news media interviews with specific individual inmates, does not constitute a violation of their rights of free speech. Pell v. Procunier, p. 817.

3. *Freedom of speech—Prison inmates—State prohibition against news media interviews.*—A prison inmate retains those First Amendment rights that are not inconsistent with his status as prisoner or with legitimate penological objectives of corrections system, and here restrictions on inmates' free speech rights in regulation of California Department of Corrections prohibiting press and other news media interviews with specific individual inmates must be balanced against State's legitimate interest in confining prisoners to deter crime, to protect society by quarantining criminal offenders for a period of time during which rehabilitative procedures can be applied, and to maintain internal security of penal institutions. Pell v. Procunier, p. 817.

4. *Freedom of the press—Federal prohibition against interviews with prisoners.*—Policy statement of Federal Bureau of Prisons prohibiting personal interviews between newsmen and individually designated inmates of federal medium security and maximum security prisons does not abridge freedom of press that First Amendment guarantees, since "it does not deny the press access to sources of information available to members of the general public," but is merely a particularized application of general rule that nobody may enter prison and designate an inmate whom he would like to visit, unless prospective visitor is a lawyer, clergyman, relative, or friend of that inmate. Saxbe v. Washington Post Co., p. 843.

5. *Freedom of the press—State prohibition against interviews with prisoners.*—Rights of media appellants under First and Fourteenth Amendments are not infringed by regulation of California Department of Corrections prohibiting press and other news media interviews with specific individual prison inmates, which regulation does not deny press access to information available to general public. Newsmen, under California policy, are free to visit both maximum security and minimum security sections of California penal

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institutions and to speak with inmates whom they may encounter, and (unlike members of general public) are also free to interview inmates selected at random. "[T]he First Amendment does not guarantee the press a constitutional right of special access to information not available to the public generally." Pell v. Procunier, p. 817.

VI. Fourth Amendment.

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VII. Imports and Exports.

Warehoused goods awaiting exportation—Nonimmunity from state ad valorem tax.—Cash registers and other machines built to foreign buyers' specifications, which were warehoused in Ohio awaiting shipment abroad, title, possession, and control remaining in respondent manufacturer, were not immune from state ad valorem tax, since prospect of eventual exportation, however certain, did not start process of exportation and move machines into export stream, without which immunity from local taxation conferred by Import-Export Clause of Constitution was not available. Kosydar v. National Cash Register Co., p. 62.

VIII. Sixth Amendment.

Right to counsel—Indigent defendant—State's recoupment of legal defense fees paid.—Oregon recoupment law requiring convicted defendants who are indigent at time of criminal prosecution against them but who subsequently acquire financial means to do so, to repay costs of their legal defense, does not infringe upon defendant's right to counsel since knowledge that he may ultimately have to repay costs of legal services does not affect his ability to obtain such services. Challenged statute is thus not similar to provision that "chill[s] the assertion of constitutional rights by penalizing those who choose to exercise them." Fuller v. Oregon, p. 40.

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2. *Action for corporate mismanagement—Standing to maintain action against vendor of all or substantially all of stock.*—Equitable principles that a stockholder, who has purchased all or substantially all shares of a corporation from a vendor at a fair price, may not seek to have corporation recover against that vendor for prior corporate mismanagement, and that corporate entity may be disregarded if equity so demands, preclude respondent railroad and its subsidiary from maintaining action for corporate mismanagement of railroad under either federal antitrust and securities laws or state law against petitioner and its subsidiary, which, after acquiring 98.3% of railroad's stock, had sold it to another corporation. Latter corporation, having so purchased stock and alleging no fraud, has no standing in equity to maintain action, and, as principal beneficiary of any recovery and itself estopped from complaining of petitioners' alleged wrongs, cannot avoid command of equity through guise of proceeding in name of respondent corporations which it owns and controls. Bangor Punta Operations v. Bangor & A. R. Co., p. 703.

3. *Action for corporate mismanagement—Unjust enrichment—Windfall recovery.*—In action by respondent railroad and its subsidiary for corporate mismanagement of railroad under federal anti-

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trust and securities laws and state law against petitioner and its subsidiary, which, after acquiring 98.3% of railroad's stock, had sold it to another corporation, Court of Appeals' assumption that any recovery would necessarily benefit public is unwarranted and also overlooks fact that latter corporation, actual beneficiary of any recovery, would be unjustly enriched since it has sustained no injury. Neither federal antitrust and securities laws nor applicable state laws contemplate a windfall recovery by such corporation in these circumstances. Bangor Punta Operations v. Bangor & A. R. Co., p. 703.

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1. *Male and female employees—Base-wage difference—Night shift differential.*—Petitioner employer violated Act by paying higher base wage to male night shift inspectors than it paid to female inspectors performing same tasks on day shift, where higher wage was paid in addition to separate night shift differential paid to all employees for night work. Petitioner did not cure violation by permitting women to work as night shift inspectors, since violation could not have been cured except by equalizing base wages of female day inspectors with higher rates paid night inspectors. Nor was violation cured when petitioner equalized day and night inspector wage rates, since "red circle" rate (higher rate paid employees hired prior to certain date when working as night shift inspectors) perpetuated discrimination. Corning Glass Works v. Brennan, p. 188.

2. *Working conditions—Physical surroundings.*—Statutory term "working conditions" within meaning of 29 U. S. C. § 206 (d)(1)—which provides that in order to establish violation of Act, it must be shown that employer pays different wages to employees of opposite sexes "for equal work on jobs the performance of which requires equal skill, effort and responsibility, and which are performed under similar working conditions"—as is clear from Act's legislative history,

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encompasses only physical surroundings and hazards and not time of day worked. Corning Glass Works v. Brennan, p. 188.

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ESTABLISHMENT CLAUSE. See **Appeals,** 4.

EVIDENCE. See also **Conspiracies; Constitutional Law,** I; IV, 1; **Judicial Review,** 2–4.

1. *Evidence derived from police interrogation—Admissibility.*—Evidence derived from police interrogation—incriminating testimony of witness discovered by police as result of accused's statements—was admissible. Police's failure, prior to *Miranda* v. *Arizona,* 384 U. S. 436, to advise respondent of his right to appointed counsel under all circumstances of this case involved no bad faith and would not justify recourse to exclusionary rule which is aimed at deterring willful or negligent deprivation of accused's rights. Failure to advise respondent of his right to appointed counsel had no bearing upon reliability of witness' testimony, which was subjected to normal testing process of an adversary trial. Michigan v. Tucker, p. 433.

2. *Out-of-court statements—Admissibility—Prosecution for conspiracy to cast fictitious votes.*—Out-of-court statements made by two of petitioners at election contest hearing were admissible, under basic principles of law of evidence and conspiracy, at petitioners' trial for conspiracy to cast fictitious votes for federal, state, and local candidates in West Virginia primary election in violation of 18 U. S. C. § 241, to prove that the two petitioners had perjured themselves at the election contest hearing, regardless of whether or not § 241 encompasses conspiracies to cast fraudulent votes in state and local elections. Statements were not hearsay, since they were not offered in evidence to prove truth of matter asserted; hence their admissibility was governed by rule that acts of one alleged conspirator can be admitted into evidence against other conspirators, if relevant to prove existence of conspiracy, even though they may have occurred after conspiracy ended. Anderson v. United States, p. 211.

EXCESSIVE TAXES. See **Constitutional Law,** II, 3, 6, 8.

EXCESS ORGANIZATIONAL COSTS. See **Judicial Review,** 7.

EXCHANGES OF SECURITIES. See **Internal Revenue Code,** 4.

EXCLUSIONARY RULE. See **Constitutional Law,** IV, 1; **Evidence,** 1.

"EXCLUSIVE USE" OF RECREATIONAL FACILITIES. See **Civil Rights; Constitutional Law,** III, 3.

EXECUTIVE ORDERS. See **Indian Reorganization Act of 1934.**

EXEMPTIONS FROM DIRECT RATE REGULATION. See **Federal Power Commission,** 3–4.

EXEMPTIONS OF DEBTORS. See **Constitutional Law,** III, 4.

EXPORTS AND IMPORTS. See **Constitutional Law,** VII.

FACE-TO-FACE PRESS-INMATE INTERVIEWS. See **Constitutional Law,** V, 2–5.

FACIAL INVALIDITY. See **Constitutional Law,** II, 1; V, 1.

FAILURE TO REPORT FOR INDUCTION. See **Post-conviction Relief.**

FAIR AND EQUITABLE PLAN. See **Bankruptcy Act,** 3.

FAIR LABOR STANDARDS ACT. See **Equal Pay Act of 1963.**

FALSE VOTES. See **Conspiracies; Evidence,** 2.

FEDERAL-AID-TO-EDUCATION PROGRAMS. See **Appeals,** 4; **Elementary and Secondary Education Act of 1965; Procedure.**

FEDERAL BUREAU OF PRISONS. See **Constitutional Law,** V, 4.

FEDERAL EMPLOYMENT. See **Constitutional Law,** II, 7; **Indian Reorganization Act of 1934.**

FEDERAL HOUSING PROJECTS. See **Miller Act,** 1, 3.

FEDERAL POWER COMMISSION. See also **Judicial Review,** 1–6.

1. *Authority to adopt superseding order—Effect of affirmance of superseded order.*—FPC had statutory authority to adopt 1971 order establishing new area natural gas rate structure superseding 1968 order, notwithstanding Court of Appeals' affirmance of 1968 order. Mobil Oil Corp. v. FPC, p. 283.

2. *Natural Gas Act—"Just and reasonable" rates—Market prices.*—FPC lacks authority to rely exclusively on market prices as final measure of "just and reasonable" rates mandated by Act; moreover, FPC order exempting small producers from direct rate regulation made no finding as to actual impact market price increases would have on consumer gas expenditures. FPC v. Texaco Inc., p. 380.

3. *Small natural gas producers—Order exempting from direct rate regulation—Ambiguity.*—It is not clear from wording of FPC's Order No. 428, which exempted existing and future natural gas sales

FEDERAL POWER COMMISSION—Continued.

by "small producers" from direct rate regulation, that it satisfies statutory requirement that sale price for gas sold in interstate commerce be just and reasonable; at least, order is too ambiguous to satisfy standard of clarity that an administrative order must exhibit, and implication that reasonableness of small producers' rates would be judged by assertion that FPC "would consider all relevant factors" in determining whether proposed rates comported with "public convenience and necessity," is insufficient to sustain order. FPC v. Texaco Inc., p. 380.

4. *Small natural gas producers—Rates—Indirect regulation.*—Scheme for regulating small natural gas producer rates indirectly did not exceed FPC's statutory authority. FPC v. Texaco Inc., p. 380.

FEDERAL PRISONERS. See **Constitutional Law**, V, 5; **Post-conviction Relief.**

FEDERAL RULES OF CIVIL PROCEDURE. See also **Appeals**, 3.

1. *Class action—Cost of notice.*—Plaintiff in class action under Fed. Rule Civ. Proc. 23 must bear cost of notice to members of his class, and it was improper for District Court, after finding in preliminary hearing on merits that plaintiff was "more than likely" to prevail at trial, to impose part of cost on defendants. There is nothing in either language or history of Rule 23 that gives court any authority to conduct preliminary inquiry into merits of suit in order to determine whether it may be maintained as class action, and, indeed, such a procedure contravenes Rule by allowing representative plaintiff to secure benefits of class action without first satisfying requirements of Rule. Where, as here, relationship between parties is truly adversary, plaintiff must pay for cost of notice as part of ordinary burden of financing his own suit. Eisen v. Carlisle & Jacquelin, p. 156.

2. *Class action—Noncompliance with notice requirement.*—District Court's resolution of notice problems in class action under Fed. Rule Civ. Proc. 23 by proposing a notification scheme providing for individual notice to only a limited number of prospective class members and notice by publication to remainder, failed to comply with notice requirement of Rule 23 (c)(2). Express language and intent of Rule 23 (c)(2) leave no doubt that individual notice must be sent to all class members who can be identified through reasonable effort. Here there was nothing to show that individual notice could not be mailed to each of two and a quarter million class members whose names and addresses were easily ascertainable, and for these class

FEDERAL RULES OF CIVIL PROCEDURE—Continued.
members individual notice was clearly "best notice practicable" within meaning of Rule 23 (c)(2). Eisen v. Carlisle & Jacquelin, p. 156.

FEDERAL-STATE RELATIONS. See **Appeals**, 4; **Constitutional Law**, VII; **Elementary and Secondary Education Act of 1965**; **Jurisdiction**; **Miller Act**, 1–2; **National Labor Relations Board**; **Procedure.**

FEES. See **Constitutional Law**, III, 4; VIII.

FELONIES. See **Constitutional Law**, II, 4; **Habeas Corpus.**

FEMALE EMPLOYEES. See **Equal Pay Act of 1963**, 1.

FICTITIOUS VOTES. See **Conspiracies**; **Evidence**, 2.

FIFTH AMENDMENT. See **Constitutional Law**, II, 7; IV; **Evidence**, 1.

FINAL DECISIONS. See **Appeals**, 3.

FINANCIAL RECORDS. See **Constitutional Law**, IV, 2.

FIRE INSURANCE. See **Internal Revenue Code**, 1, 3.

FIRST AMENDMENT. See **Appeals**, 4; **Constitutional Law**, II, 1; V.

FLORIDA. See **Appeals**, 2; **Injunctions**; **Jurisdiction**; **National Labor Relations Board.**

FOREIGN SHIPMENTS. See **Constitutional Law**, VII.

FORFEITURES. See **Parole**, 1.

FORUM-SELECTION CLAUSES. See **United States Arbitration Act**, 2–3.

FOURTEENTH AMENDMENT. See **Civil Rights**; **Constitutional Law**, I; II, 2–4, 6, 8; III; IV, 1; V, 2–3, 5; VI; VIII; **Evidence**, 1; **Habeas Corpus.**

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

FRAUDULENT BALLOTING. See **Conspiracies**; **Evidence**, 2.

FREEDOM OF RELIGION. See **Appeals**, 4.

FREEDOM OF SPEECH. See **Constitutional Law**, II, 1; V, 1–3.

FREEDOM OF THE PRESS. See **Constitutional Law**, V, 4–5.

FREIGHT CHARGES. See **Bankruptcy Act**, 3.

GAS PRODUCERS. See **Federal Power Commission**, 1, 3–4; **Judicial Review**, 2, 4–6.

GENERAL ARTICLES OF UNIFORM CODE OF MILITARY JUSTICE. See **Constitutional Law,** II, 1; V, 1.

GENERAL SAVING CLAUSE. See **Parole.**

GOVERNMENT CONTRACTS. See **Miller Act.**

GRAND JURIES. See **Constitutional Law,** IV, 2.

GROSS RECEIPTS TAX. See **Constitutional Law,** II, 6.

GUILTY PLEAS. See **Constitutional Law,** II, 4; **Habeas Corpus.**

HABEAS CORPUS. See also **Constitutional Law,** II, 4.

Guilty plea as bar to constitutional claim.—Since North Carolina, having chosen originally to proceed against respondent on misdemeanor charge in State District Court, was precluded by Due Process Clause of Fourteenth Amendment from even prosecuting respondent in Superior Court for more serious felony charge based on same conduct, respondent's guilty plea to felony charge did not bar him from raising in federal habeas corpus proceeding his claim that felony indictment deprived him of due process. Blackledge v. Perry, p. 21.

HEARSAY. See **Evidence,** 2.

ILLEGITIMATE CHILDREN. See **Constitutional Law,** II, 5.

IMMUNITY FROM TAXATION. See **Constitutional Law,** VII.

IMPORTS AND EXPORTS. See **Constitutional Law,** VII.

IMPOUNDMENT OF AUTOMOBILES. See **Constitutional Law,** VI.

IN BANC COURT OF APPEALS. See **Courts of Appeals.**

INCENTIVE PROGRAMS. See **Federal Power Commission,** 1; **Judicial Review,** 1.

INCOME TAXES. See **Internal Revenue Code,** 1, 4.

INCOME TAX REFUNDS. See **Bankruptcy Act,** 1–2.

INCREASED NATURAL GAS RATES. See **Federal Power Commission,** 1; **Judicial Review,** 1, 4.

INDIAN EMPLOYMENT PREFERENCES. See **Constitutional Law,** II, 7; **Indian Reorganization Act of 1934.**

INDIAN REORGANIZATION ACT OF 1934. See also **Constitutional Law,** II, 7.

Indian employment preference—Effect of Equal Employment Opportunities Act of 1972.—In enacting Equal Employment Opportunities Act of 1972, Congress did not intend to repeal employment

INDIAN REORGANIZATION ACT OF 1934—Continued.
preference for qualified Indians in Bureau of Indian Affairs provided by Indian Reorganization Act of 1934, and District Court erred in holding that it was implicitly repealed by § 11 of 1972 Act proscribing racial discrimination in most federal employment. Morton v. Mancari, p. 535.

INDICTMENTS. See **Constitutional Law,** II, 4; **Habeas Corpus.**

INDIGENTS. See **Constitutional Law,** II, 2; III, 1, 4; VIII.

INDIRECT RATE REGULATION. See **Federal Power Commission,** 3–4.

INDIVIDUAL NOTICE IN CLASS ACTION. See **Appeals,** 3; **Federal Rules of Civil Procedure.**

INDUCTION. See **Post-conviction Relief.**

INJUNCTIONS. See also **Civil Rights,** 1–2; **Constitutional Law,** III, 3.

Three-judge court—Denial of injunction—Propriety.—Three-judge District Court, which entered declaratory judgment holding state abortion statute unconstitutional, properly refused to issue injunction against enforcement of statute, where there was no allegation or proof that State would not acquiesce in declaratory judgment. Poe v. Gerstein, p. 281.

INMATES. See **Constitutional Law,** V, 2–5.

INSTRUCTIONS TO JURY. See **Conspiracies.**

INTEREST DEDUCTIONS. See **Internal Revenue Code,** 4.

INTERNAL REVENUE CODE.

1. *Corporate property—Destruction by fire—Occurrence prior to liquidation—Taxability of gain from fire insurance proceeds.*—When a fire destroys insured corporate property *prior* to corporation's adoption of a complete plan of liquidation, but fire insurance proceeds are received within 12 months after plan's adoption, gain realized from excess of such proceeds over corporate taxpayer's adjusted income tax basis in insured property must be recognized and taxed to corporation, and is not entitled to nonrecognition under § 337 (a) of 1954 Code, which provides, with certain exceptions, for nonrecognition of gain or loss from a corporation's "sale or exchange" of property that takes place during 12-month period following corporation's adoption of a plan for complete liquidation effectuated within that period. Central Tablet Mfg. Co. v. United States, p. 673.

INTERNAL REVENUE CODE—Continued.

2. *Corporate property—Involuntary conversion by fire—Occurrence prior to liquidation—Inapplicability of § 337 (a) of Code.*—Section 337 (a) of 1954 Code was enacted in order to eliminate technical and formalistic determinations as to identity of vendor, as between liquidating corporation and its shareholders, and, therefore, reasons for applying § 337 (a) are not present in situation where involuntary conversion of corporate property by fire takes place prior to adoption of liquidation plan when there is no question as to identity of owner. Central Tablet Mfg. Co. v. United States, p. 673.

3. *Corporate property—Involuntary conversion by fire—Sale or exchange—Occurrence prior to liquidation.*—Involuntary conversion of corporate property by fire, recognized as a "sale or exchange" under § 337 (a) of 1954 Code, takes place when fire occurs prior to adoption of liquidation plan, and not at some post-plan point, such as subsequent settlement of insurance claims or their payment, since fire is single irrevocable event that fixes contractual obligation precipitating transformation of property, over which corporation possesses all incidents of ownership, into a chose in action against insurer. Central Tablet Mfg. Co. v. United States, p. 673.

4. *Corporate taxpayer—Exchange of securities—Debt discount—Deductible interest.*—Respondent corporate taxpayer did not incur amortizable debt discount upon issuance, pursuant to recapitalization plan, of $50 face value 5% sinking fund debentures in exchange for its outstanding unlisted $50 par 5% cumulative preferred shares, and hence was not entitled on its income tax returns to deduct such claimed debt discount under § 163 (a) of Code as interest paid on indebtedness. Alteration in form of retained capital did not give rise to any cost of borrowing to respondent, since cost of capital invested in respondent was same whether represented by preferred or by debentures, and was totally unaffected by market value of preferred shares received in exchange. Commissioner v. Nat. Alfalfa Dehydrating, p. 134.

INTERNATIONAL CHAMBER OF COMMERCE. See **United States Arbitration Act.**

INTERNATIONAL CONTRACTS. See **United States Arbitration Act.**

INTERSTATE CONTESTS. See **Special Masters.**

INTERSTATE SALES OF NATURAL GAS. See **Federal Power Commission; Judicial Review,** 1–6.

INTERVENING CHANGE IN LAW. See **Post-conviction Relief**, 2–3.

INTERVIEWS WITH PRISONERS. See **Constitutional Law**, V, 2–5.

INVESTIGATORS' FEES. See **Constitutional Law**, III, 4; VIII.

INVIDIOUS CLASSIFICATIONS. See **Constitutional Law**, II, 7; III, 2, 4; VIII.

INVOLUNTARY CONVERSION BY FIRE. See **Internal Revenue Code**, 2–3.

INVOLUNTARY RELEASE FROM ACTIVE DUTY. See **Armed Forces.**

JOINT TORTFEASORS. See **Admiralty.**

JOURNALISTS. See **Constitutional Law**, V, 2–5.

JUDGMENT DEBTORS. See **Constitutional Law**, III, 4; VIII.

JUDICIAL REVIEW. See also **Federal Power Commission**, 1.

1. *Court of Appeals—Federal Power Commission—Natural gas rates.*—Court of Appeals did not err in concluding that FPC "acted within the bounds of administrative propriety in abandoning as a pragmatic adjustment" distinction in maximum permissible natural gas rates between casinghead gas and gas-well gas so far as new dedications are concerned, even though casinghead gas was formerly treated as a byproduct of oil and therefore costed and priced lower than gas-well gas. Mobil Oil Corp. v. FPC, p. 283.

2. *Court of Appeals—Federal Power Commission—Natural gas rates—Substantial-evidence standard.*—In arguing that minimum natural gas rates provided by FPC's 1971 order to be paid by producers to pipelines for transportation of liquids and liquefiable hydrocarbons are not supported by substantial evidence, petitioner Mobil Oil Corp. has not met its burden of demonstrating that Court of Appeals misapprehended or grossly misapplied substantial-evidence standard. Mobil Oil Corp. v. FPC, p. 283.

3. *Court of Appeals—Federal Power Commission's moratoria on new natural gas rates—Substantial-evidence standard.*—Court of Appeals' conclusion, contrary to petitioner Mobil Oil Corp.'s contention, that FPC's fixing of moratoria on new natural gas rate filings was supported by required findings of fact and by substantial evidence, did not misapprehend or grossly misapply substantial-evidence standard. Mobil Oil Corp. v. FPC, p. 283.

4. *Court of Appeals—Power to authorize Federal Power Commission to reopen natural gas rate order.*—Under circumstances

JUDICIAL REVIEW—Continued.

where Court of Appeals' affirmance of FPC's 1968 order establishing area natural gas rate structure was not "unqualified" or final, and such order had not been made effective but was stayed until withdrawn in 1971 order, Court of Appeals' action in authorizing FPC to reopen 1968 order did not exceed court's powers under § 19 (b) of Natural Gas Act "to affirm, modify, or set aside [an] order in whole or in part," or constitute an improper exercise of court's equity powers with which it is vested in reviewing FPC orders. Mobil Oil Corp. v. FPC, p. 283.

5. *Federal Power Commission order establishing area natural gas rate structure—Challenges to price levels—Lack of merit.*—Challenges of petitioners—a natural gas producer, New York Public Service Commission, and group of municipally owned gas distributors—to establish price levels for natural gas under FPC's 1971 order are without merit. Mobil Oil Corp. v. FPC, p. 283.

6. *Federal Power Commission order establishing area natural gas rate structure—Claims of discriminatory rates—Lack of merit.*—Claims of all three petitioners—a natural gas producer, New York Public Service Commission, and group of municipally owned gas distributors—with respect to both contingent escalations on flowing gas and refund credits provided for in 1971 FPC order, that even if the 1971 rates are sufficient to satisfy Natural Gas Act's minimum requirements as to amount and, on basis of FPC's chosen methodology, are supported by substantial evidence, they are nevertheless unduly discriminatory and therefore unlawful under §§ 4 and 5 of Act, are without merit. Mobil Oil Corp. v. FPC, p. 283.

7. *National Labor Relations Board cease-and-desist order—Court of Appeals—Power to enlarge.*—Court of Appeals, although properly refusing to resolve inconsistencies in NLRB's decisions in this case and in *Tiidee Products, Inc.*, 194 N. L. R. B. 1234, by accepting Board counsel's rationalizations, erroneously exercised its authority under §§ 10 (e) and (f) of National Labor Relations Act to "make and enter a decree . . . modifying and enforcing as so modified" an NLRB order. It was "incompatible with the orderly function of the process of judicial review" for that court to enlarge NLRB unfair practice cease-and-desist order against employer by requiring employer to reimburse union for litigation expenses and excess organizational costs, without first affording NLRB an opportunity to evaluate this case in light of policy enunciated in *Tiidee* and to decide whether that policy should be applied retroactively. NLRB v. Food Store Employees, p. 1.

JURISDICTION. See also **Appeals,** 2; **National Labor Relations Board.**

1. *State courts—Collective-bargaining disputes.*—State-court jurisdiction over collective-bargaining disputes does not turn upon particular type of relief sought, and therefore is not limited to claims for damages, rather than injunctive relief. William E. Arnold Co. v. Carpenters, p. 12.

2. *Suits under § 301 of Labor Management Relations Act—Effect of National Labor Relations Board's authority.*—When activity in question is arguably both an unfair labor practice prohibited by § 8 of National Labor Relations Act and a breach of a collective-bargaining agreement, NLRB's authority "is not exclusive and does not destroy the jurisdiction of the courts in suits under § 301" of LMRA. Pre-emption doctrine of *San Diego Building Trades Council* v. *Garmon,* 359 U. S. 236, is not relevant to actions within purview of § 301, which may be brought in either state or federal courts. William E. Arnold Co. v. Carpenters, p. 12.

JURISDICTIONAL-DISPUTE STRIKES. See **Jurisdiction; National Labor Relations Board.**

JURISDICTIONAL SALES OF NATURAL GAS. See **Federal Power Commission,** 3–4.

JUST AND REASONABLE NATURAL GAS RATES. See **Federal Power Commission,** 2; **Judicial Review,** 6.

LABOR. See also **Equal Pay Act of 1963; Judicial Review,** 7; **Jurisdiction; National Labor Relations Act; National Labor Relations Board.**

Successor employer—Requirement as to arbitration with union.—Where petitioner, after purchasing assets of restaurant and motor lodge under agreement whereby it expressly did not assume any of sellers' obligations, including those under collective-bargaining agreement, hired 45 employees, but only nine of sellers' 53 former employees and none of former supervisors, petitioner was not required to arbitrate with respondent union, which had collective-bargaining agreements with sellers containing arbitration provisions, since there was plainly no substantial continuity of identity in work force hired by petitioner with that of sellers, and no express or implied assumption of agreement to arbitrate. Petitioner had right not to hire any of sellers' employees, if it so desired, and this right cannot be circumvented by union's asserting its claims in a suit under § 301 of Labor Management Relations Act to compel arbitration rather than in unfair labor practice context. Howard Johnson Co. v. Hotel Employees, p. 249.

LABOR MANAGEMENT RELATIONS ACT. See **Jurisdiction**, 2; **Labor**; **National Labor Relations Board.**

LABOR UNION'S DISCIPLINE OF SUPERVISOR-MEMBERS. See **National Labor Relations Act.**

LAW PARTNERSHIPS. See **Constitutional Law**, IV, 2.

LAWS OF THE UNITED STATES. See **Post-conviction Relief**, 1.

LEGAL DEFENSE FEES. See **Constitutional Law**, III, 4; VIII.

LIQUIDATION PLANS. See **Internal Revenue Code**, 1–3.

LITIGATION EXPENSES. See **Judicial Review**, 7.

LOCAL EDUCATIONAL AGENCIES. See **Appeals**, 4; **Elementary and Secondary Education Act of 1965**; **Procedure.**

LOCAL ELECTIONS. See **Conspiracies**; **Evidence**, 2.

LONGSHOREMEN'S AND HARBOR WORKERS' ACT. See **Admiralty.**

MAINE. See **Corporations.**

MALE EMPLOYEES. See **Equal Pay Act of 1963**, 1.

MANUAL FOR COURTS-MARTIAL. See **Constitutional Law**, II, 1; V, 1.

MARINE CORPS RESERVISTS. See **Armed Forces.**

MARITIME LAW. See **Admiralty.**

MARKET PRICES. See **Federal Power Commission**, 2–4.

MEMBERS OF DISSOLVED LAW PARTNERSHIPS. See **Constitutional Law**, IV, 2.

MILITARY SERVICE. See **Post-conviction Relief.**

MILITARY SOCIETY. See **Constitutional Law**, II, 1; V, 1.

MILLER ACT.

1. *Subcontractor—Relationship with prime contractor.*—Based on substantiality and importance of its relationship with petitioner prime contractor, company, which defaulted on its payments to respondent for plywood called for by company's contract with petitioner to supply exterior plywood for federal housing project in California, was clearly a subcontractor for purposes of Act, considering not just its plywood contract with petitioner but also its contract with petitioner for custom millwork on project. Moreover, company and petitioner had closely interrelated management and

MILLER ACT—Continued.

financial structures, and their relationship on California project was same as on many other similar projects; hence it would have been easy for petitioner to secure itself from loss as result of company's default. F. D. Rich Co. v. United States ex rel. Industrial Lumber Co., p. 116.

2. *Suit under Act—Award of attorneys' fees.*—Attorneys' fees were not properly awarded respondent as prevailing party in its suit under Act against petitioner prime contractor and its surety. Court of Appeals erred in construing Act to require award by reference to "public policy" of State in which suit was brought, since Act provides federal cause of action and there is no evidence of any congressional intent to incorporate state law to govern such an important element of litigation under Act as liability for attorneys' fees. Provision in 40 U. S. C. § 270b (a) that claimants should recover "sums justly due," does not require award of attorneys' fees on asserted ground that without such fee shifting, claimants would not be fully compensated. To hold otherwise would amount to judicial obviation of "American Rule" that attorneys' fees are not ordinarily recoverable in federal litigation in absence of a statute or contract providing therefor, in context of everyday commercial litigation, where policies which underlie limited judicially created departures from rule are inapplicable. F. D. Rich Co. v. United States ex rel. Industrial Lumber Co., p. 116.

3. *Suit under Act—Venue requirements.*—Where contract between subcontractor and respondent for lumber called for by subcontractor's contract with petitioner prime contractor to supply exterior plywood for federal housing project in California was executed in California, all materials thereunder to be delivered to California worksite, and California remained site for performance of original contract despite diversion of one shipment of plywood to South Carolina for another project, venue for respondent's suit under Act on South Carolina as well as California shipments, brought after subcontractor defaulted on payments, properly lay in Eastern District of California, since there was clearly a sufficient nexus for satisfaction of venue requirements of 40 U. S. C. § 270b (b). F. D. Rich Co. v. United States ex rel. Industrial Lumber Co., p. 116.

MINIMUM NATURAL GAS RATES. See **Federal Power Commission,** 1; **Judicial Review,** 2.

MIRANDA WARNINGS. See **Constitutional Law,** IV, 1; **Evidence,** 1.

MISDEMEANORS. See **Constitutional Law,** II, 4; **Habeas Corpus.**

MISSOURI. See **Appeals,** 4; **Elementary and Secondary Education Act of 1965; Procedure.**

MOOTNESS. See also **Constitutional Law,** III, 2.

Disability insurance—Exclusion of pregnancies—Effect of appellate ruling and administrative guidelines.—In action challenging constitutionality of California disability insurance system excluding certain disabilities attributable to pregnancy, appellate ruling and administrative guidelines excluding only normal pregnancies have mooted case as to three appellees who had abnormal pregnancies and whose claims have now been paid. Geduldig v. Aiello, p. 484.

MORATORIA ON NATURAL GAS RATE INCREASES. See **Federal Power Commission,** 1; **Judicial Review,** 3–4.

MOTOR LODGES. See **Labor.**

MOTOR VEHICLES. See **Constitutional Law,** VI.

MULTI-TIERED APPELLATE SYSTEMS. See **Constitutional Law,** II, 2, 4; **Habeas Corpus.**

MUNICIPAL CORPORATIONS. See **Civil Rights; Constitutional Law,** III, 3.

MURDER. See **Constitutional Law,** VI.

NARCOTICS OFFENDERS. See **Parole.**

NATIONAL ENVIRONMENTAL POLICY ACT. See **Stays.**

NATIONAL LABOR RELATIONS ACT. See also **Judicial Review,** 7; **Jurisdiction,** 2; **National Labor Relations Board.**

1. *Purpose of § 8 (b) (1) (B) of Act—Union's discipline of supervisor-members as violation.*—Both language and legislative history of § 8 (b) (1) (B) reflect a clear congressional concern with protecting employers in selection of representatives to engage in two particular and explicitly stated activities, *viz.*, collective bargaining and adjustment of grievances. Therefore, a union's discipline of supervisor-members can violate § 8 (b) (1) (B) only when it may adversely affect supervsors' conduct in performing duties of, and acting in capacity of, grievance adjusters or collective bargainers, in neither of which capacities supervisors involved in these cases were acting when they crossed picket lines to perform rank-and-file work. Florida Power & Light v. Electrical Workers, p. 790.

2. *Unfair labor practice—Union's discipline of supervisor-members.*—A union does not commit an unfair labor practice under § 8

NATIONAL LABOR RELATIONS ACT—Continued.

(b)(1)(B) of Act when it disciplines supervisor-members for crossing a picket line and performing rank-and-file struck work during a lawful economic strike against employer. Florida Power & Light v. Electrical Workers, p. 790.

3. *Union's discipline of supervisor-members—Rank-and-file work during strike—Assurance of supervisors' loyalty to employer.*—Concern that to permit a union to discipline supervisor-members for performing rank-and-file work during an economic strike will deprive employer of those supervisors' full loyalty, is a problem that Congress addressed, not through § 8(b)(1)(B), but through §§ 2(3), 2(11), and 14(a) of Act, which, while permitting supervisors to become union members, assure employer of his supervisors' loyalty by reserving in him rights to refuse to hire union members as supervisors, to discharge supervisors for involvement in unon activities or union membership, and to refuse to engage in collective bargaining with supervisors. Florida Power & Light v. Electrical Workers, p. 790.

NATIONAL LABOR RELATIONS BOARD. See also **Judicial Review,** 7; **Jurisdiction,** 2.

Policy—Conduct arguably both unfair labor practice and contract violation—Jurisdictional dispute—Settlement procedure.—NLRB policy is to refrain from exercising jurisdiction as to conduct which is arguably both an unfair labor practice and a contract violation when, as here, parties have voluntarily established by contract a binding settlement procedure. When particular contract violations also involve an arguable violation of § 8(b)(4)(i)(D) of National Labor Relations Act involving jurisdictional disputes, NLRB has recognized added policy justifications for deferring to contractual dispute mechanism, as indicated by § 10(k) of NLRA, which by its special procedure for NLRB resolution of charges involving jurisdictional disputes "not only tolerates but actually encourages" settlement of such disputes. William E. Arnold Co. v. Carpenters, p. 12.

NATURAL GAS ACT. See **Federal Power Commission; Judicial Review,** 1–6.

NEGROES. See **Civil Rights; Constitutional Law,** III, 3.

NEWS MEDIA. See **Constitutional Law,** V, 2–5.

NEW YORK STOCK EXCHANGE. See **Appeals,** 3; **Federal Rules of Civil Procedure.**

NIGHT SHIFTS. See **Equal Pay Act of 1963.**

NONCOLLISION MARITIME CASES. See **Admiralty.**

NONLEGITIMATED ILLEGITIMATE CHILDREN. See **Constitutional Law**, II, 5.

NONPUBLIC SCHOOLS. See **Appeals**, 4; **Civil Rights**; **Elementary and Secondary Education Act of 1965**; **Procedure.**

NONRECOGNITION OF GAIN FROM SALE OR EXCHANGE. See **Internal Revenue Code**, 1.

NONRESIDENTIAL PARKING PLACES. See **Constitutional Law**, II, 6.

NORMAL PREGNANCIES. See **Constitutional Law**, III, 2; **Mootness.**

NORTH CAROLINA. See **Constitutional Law**, II, 2, 4; III, 1; **Habeas Corpus.**

NO-STRIKE CLAUSES. See **Jurisdiction**, 2; **National Labor Relations Board.**

NOTICE BY PUBLICATION IN CLASS ACTION. See **Appeals**, 3; **Federal Rules of Civil Procedure.**

NOTICE COSTS IN CLASS ACTION. See **Appeals**, 3; **Federal Rules of Civil Procedure.**

NUISANCES. See **Special Masters.**

ODD-LOT TRADERS. See **Appeals**, 3; **Federal Rules of Civil Procedure.**

OFFSTREET PARKING FACILITIES. See **Constitutional Law**, II, 6.

OHIO. See **Constitutional Law**, VII.

ON-THE-PREMISES NONPUBLIC SCHOOL INSTRUCTION. See **Appeals**, 4; **Elementary and Secondary Education Act of 1965**; **Procedure.**

ORIGINAL JURISDICTION. See **Special Masters.**

OUT-OF-COURT STATEMENTS. See **Evidence**, 2.

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

PARKING LOTS. See **Constitutional Law**, II, 6.

PARKS. See **Civil Rights**; **Constitutional Law**, III, 3.

PAROCHIAL SCHOOLS. See **Appeals**, 4; **Elementary and Secondary Education Act of 1965**; **Procedure.**

PAROLE.

1. *Narcotics offender—Parole eligibility—General saving clause.*—Board of Parole is barred by general saving clause, 1 U. S. C. § 109 (which provides that "[t]he repeal of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute . . ."), from considering for parole respondent, who had been sentenced for a narcotics violation and was ineligible for parole under 26 U. S. C. § 7237 (d), which was subsequently repealed by Comprehensive Drug Abuse Prevention and Control Act of 1970, since it is clear that Congress intended ineligibility for parole in § 7237 (d) to be treated as part of offender's "punishment," and therefore prohibition against offender's eligibility for parole under general parole statute, 18 U. S. C. § 4202, is a "penalty, forfeiture, or liability" under saving clause. Warden v. Marrero, p. 653.

2. *Narcotics offender—Parole eligibility—Saving clause of Comprehensive Drug Abuse Prevention and Control Act of 1970.*—Saving clause of Act, which provides that "[p]rosecutions" for narcotics violations before May 1, 1971, shall not be affected by repeals of statutory provisions, bars Board of Parole from considering for parole, under general parole statute, 18 U. S. C. § 4202, respondent, who had been sentenced for narcotics violation before May 1, 1971, and was ineligible for parole under 26 U. S. C. § 7237 (d), which was repealed by 1970 Act, since parole eligibility, as a practical matter, is determined at time of sentencing, and sentencing is a part of concept of "prosecution" saved by § 1103 (a). Warden v. Marrero, p. 653.

PARTNERSHIPS. See **Constitutional Law,** IV, 2.

PENALTIES. See **Parole.**

PERSONAL INJURIES. See **Admiralty.**

PERSONAL PROPERTY TAXES. See **Constitutional Law,** VII.

PICKET LINES. See **National Labor Relations Act.**

PIPELINES. See **Federal Power Commission,** 2–4; **Judicial Review,** 2, 6.

POLICE IMPOUNDMENT OF AUTOMOBILES. See **Constitutional Law,** VI.

POLICY STATEMENT OF FEDERAL BUREAU OF PRISONS. See **Constitutional Law,** V, 4.

POLLUTION. See **Special Masters.**

POST-CONVICTION RELIEF.

1. *Claim grounded "in the laws of the United States."*—Fact that petitioner's claim is grounded "in the laws of the United States" rather than in Constitution does not preclude its assertion in a proceeding under 28 U. S. C. § 2255, particularly since § 2255 permits a federal prisoner to assert a claim that his conviction is "in violation of the Constitution *or laws* of the United States." Davis v. United States, p. 333.

2. *Intervening change in law—Cognizable issue.*—Issue that petitioner raises—that Court of Appeals in another case effected change in law after affirmance of his conviction and that such holding required that his conviction be set aside—is cognizable in a proceeding under 28 U. S. C. § 2255. Davis v. United States, p. 333.

3. *Issue raised in prior appeal—Effect of new law.*—Even though legal issue raised in a prior direct appeal from petitioner's conviction was determined against petitioner, he is not precluded from raising issue in a proceeding under 28 U. S. C. § 2255 "if new law has been made . . . since the trial and appeal." Davis v. United States, p. 333.

PRE-EMPTION. See **Jurisdiction**, 2; **National Labor Relations Board.**

PREFERENCES IN BANKRUPTCY. See **Bankruptcy Act**, 3.

PREFERENCES IN EMPLOYMENT. See **Constitutional Law**, II, 7; **Indian Reorganization Act of 1934.**

PREFERRED STOCK. See **Internal Revenue Code**, 4.

PREGNANCIES. See **Constitutional Law**, III, 2; **Mootness.**

PRIMARY ELECTIONS. See **Conspiracies**; **Evidence**, 2.

PRIME CONTRACTORS. See **Miller Act.**

PRISONER-PRESS INTERVIEWS. See **Constitutional Law**, V, 2–5.

PRISONERS. See **Constitutional Law**, II, 4; V, 2–5; **Habeas Corpus**; **Post-conviction Relief.**

PRIVACY. See **Constitutional Law**, VI.

PRIVATE SCHOOLS. See **Appeals**, 4; **Elementary and Secondary Education Act of 1965**; **Procedure.**

PRIVATE SEGREGATED CLUBS OR ORGANIZATIONS. See **Civil Rights**; **Constitutional Law**, III, 3.

PRIVATE SEGREGATED SCHOOLS. See **Civil Rights**; **Constitutional Law**, III, 3.

PRIVILEGE AGAINST SELF-INCRIMINATION. See **Constitutional Law,** I; IV; **Evidence,** 1.

PROBATION. See **Constitutional Law,** III, 4; VIII.

PROCEDURAL SAFEGUARDS. See **Constitutional Law,** I; IV, 1; **Evidence,** 1.

PROCEDURE. See also **Appeals,** 3–4; **Elementary and Secondary Education Act of 1965; Federal Rules of Civil Procedure; Special Masters.**

Elementary and Secondary Education Act of 1965—Decision as to on-premises nonpublic school remedial instruction—Effect of stage of proceedings.—At this stage of proceedings this Court cannot reach and decide whether Title I of Act requires assignment of publicly employed teachers to provide remedial instruction during regular school hours on premises of private schools attended by Title I eligible students. While Court of Appeals correctly ruled that District Court erred in denying relief where it appeared that petitioner state school officials had failed to comply with Act's comparability requirement, Court of Appeals' opinion is not to be read to effect that petitioners *must* submit and approve plans that employ use of Title I teachers on private school premises during regular school hours. Wheeler v. Barrera, p. 402.

PROCESS OF EXPORTATION. See **Constitutional Law,** VII.

PRODUCERS OF NATURAL GAS. See **Federal Power Commission; Judicial Review,** 1–6.

PROPERTY PASSING TO BANKRUPTCY TRUSTEE. See **Bankruptcy Act,** 1–2.

PUBLICATION NOTICE IN CLASS ACTION. See **Appeals,** 3; **Federal Rules of Civil Procedure.**

PUBLIC INTEREST. See **Federal Power Commission,** 1; **Judicial Review,** 4.

PUBLIC NUISANCES. See **Special Masters.**

PUBLIC PARKING LOTS. See **Constitutional Law,** II, 6.

PUBLIC PARKS. See **Civil Rights; Constitutional Law,** III, 3.

PURCHASERS. See **Labor.**

RACIAL DISCRIMINATION. See **Civil Rights; Constitutional Law,** II, 7; **Indian Reorganization Act of 1934.**

RAILROAD MISMANAGEMENT. See **Corporations.**

RAILROAD REORGANIZATIONS. See **Bankruptcy Act,** 3.

RANK-AND-FILE STRUCK WORK. See **National Labor Relations Act**, 2–3.

RAPE. See **Constitutional Law**, I; IV, 1; **Evidence**, 1.

RATES FOR NATURAL GAS. See **Federal Power Commission**; **Judicial Review**, 1–6.

RATIONAL CLASSIFICATIONS. See **Constitutional Law**, II, 5, 7.

RATIONALITY. See **Constitutional Law**, II, 7.

READJUSTMENT PAY FOR RESERVISTS. See **Armed Forces.**

REAL PARTIES IN INTEREST. See **Corporations**, 2–3.

REASONABLENESS. See **Constitutional Law**, II, 7.

RECAPITALIZATION PLANS. See **Internal Revenue Code**, 4.

RECOUPMENT. See **Constitutional Law**, III, 4; VIII.

RECREATIONAL PROGRAMS. See **Civil Rights**, 2; **Constitutional Law**, III, 3.

REFUND WORKOFF CREDITS. See **Federal Power Commission**, 1; **Judicial Review**, 1–2, 4.

REHEARINGS. See **Courts of Appeals.**

REIMBURSEMENT OF EXCESS ORGANIZATIONAL COSTS. See **Judicial Review**, 7.

REIMBURSEMENT OF LITIGATION EXPENSES. See **Judicial Review**, 7.

REMEDIAL INSTRUCTION. See **Appeals**, 4; **Elementary and Secondary Education Act of 1965**; **Procedure.**

REORGANIZATION OF RAILROADS. See **Bankruptcy Act**, 3.

REPEAL BY IMPLICATION. See **Indian Reorganization Act of 1934.**

RESERVES OF NATURAL GAS. See **Federal Power Commission**, 1; **Judicial Review**, 1–6.

RESERVISTS' READJUSTMENT PAY. See **Armed Forces.**

RESTAURANTS. See **Labor.**

RETIRED CIRCUIT JUDGES. See **Courts of Appeals.**

REVENUE-RAISING MEASURES. See **Constitutional Law**, II, 8.

RIGHT OF PRIVACY. See **Constitutional Law**, VI.

RIGHT TO COUNSEL. See **Constitutional Law**, II, 2; III, 1, 4; IV, 1; VIII; **Evidence**, 1.

RIGHT TO VOTE FOR IN BANC REHEARING. See **Courts of Appeals.**

"ROUNDING" PROVISION. See **Armed Forces.**

RULES OF CIVIL PROCEDURE. See **Appeals**, 3; **Federal Rules of Civil Procedure.**

SALE OR EXCHANGE. See **Internal Revenue Code**, 1, 3.

SALES. See **Labor.**

SALES CONTRACTS. See **United States Arbitration Act**, 1–2.

SAVING CLAUSES. See **Parole.**

SCHOOL DESEGREGATION. See **Civil Rights**; **Constitutional Law**, III, 3.

SCHOOLS. See **Appeals**, 4; **Elementary and Secondary Education Act of 1965**; **Procedure.**

SEARCHES AND SEIZURES. See **Constitutional Law**, VI.

SEARCHES OF AUTOMOBILE'S EXTERIOR. See **Constitutional Law**, VI.

SECURITIES EXCHANGE ACT OF 1934. See **Appeals**, 3; **Corporations**, 2–3; **Federal Rules of Civil Procedure**; **United States Arbitration Act**, 4.

SEGREGATED PRIVATE CLUBS OR ORGANIZATIONS. See **Civil Rights**; **Constitutional Law**, III, 3.

SEGREGATED PRIVATE SCHOOLS. See **Civil Rights**; **Constitutional Law**, III, 3.

SEGREGATED PUBLIC PARKS. See **Civil Rights**; **Constitutional Law**, III, 3.

SEGREGATED RECREATIONAL FACILITIES. See **Civil Rights**; **Constitutional Law**, III, 3.

SELECTIVE SERVICE REGULATIONS. See **Post-conviction Relief.**

SELF-INCRIMINATION. See **Constitutional Law**, I; IV; **Evidence**, 1.

SELLERS. See **Labor.**

SETOFFS. See **Bankruptcy Act**, 3.

SETTLEMENT PROCEDURES. See **National Labor Relations Board.**

SEX DISCRIMINATION. See **Equal Pay Act of 1963,** 1.

SHERMAN ACT. See **Appeals,** 3; **Federal Rules of Civil Procedure.**

SHIPPING. See **Admiralty.**

SIXTH AMENDMENT. See **Constitutional Law,** I; III, 4; IV, 1; VIII; **Evidence,** 1.

SMALL GAS PRODUCERS. See **Federal Power Commission,** 3–4.

SOCIAL SECURITY ACT. See **Constitutional Law,** II, 5.

SOUTHERN LOUISIANA AREA. See **Federal Power Commission,** 1; **Judicial Review,** 1–6.

SPECIAL FORCES. See **Appeals,** 1; **Constitutional Law,** II, 1; V, 1.

SPECIAL MASTERS.

Action between States—Consent decree—Effect of lack of findings or rulings.—On bill of complaint by Vermont charging New York and paper company with polluting Lake Champlain, impeding navigation, and creating public nuisance, this Court will not approve consent decree proposed by Special Master to be entered without further argument or hearing and calling for appointment of another Special Master to police its execution and propose to Court resolution of any future issues. There have been no findings of fact nor rulings either as to equitable apportionment of water involved or as to whether New York and paper company are responsible for public nuisance, and proposed new Special Master's procedure would materially change Court's function in interstate contests so that in supervising execution of decree it would be acting more in arbitral than judicial manner and might be considering proposals having no relation to law or to Court's Art. III function. Vermont v. New York, p. 270.

SPECIAL TEACHING SERVICES. See **Appeals,** 4; **Elementary and Secondary Education Act of 1965; Procedure.**

SPURIOUS CLAIMS. See **Constitutional Law,** II, 5.

STATE ACTION. See **Civil Rights,** 4; **Constitutional Law,** III, 3.

STATE COURTS. See **Jurisdiction; National Labor Relations Board.**

STATE EDUCATIONAL AGENCIES. See **Appeals,** 4; **Elementary and Secondary Education Act of 1965; Procedure.**

STATE ELECTIONS. See **Conspiracies; Evidence,** 2.

STATUTORY CONSTRUCTION. See **Armed Forces; Bankruptcy Act,** 1–2; **Equal Pay Act of 1963,** 2; **Internal Revenue Code,** 1–3; **Miller Act,** 1; **National Labor Relations Act; Parole.**

STAYS. See also **United States Arbitration Act.**

Denial of injunction against construction of dam—Environmental Impact Statement.—Application for stay, pending disposition of appeal by Court of Appeals, of District Court's order denying applicants' motion for a preliminary injunction to halt construction of Warm Springs Dam Project in California on ground that Environmental Impact Statement filed by Army Corps of Engineers concerning project did not adequately deal with alleged seismic and water poisoning problems presented by project and failed to comply with National Environmental Policy Act, is granted, Council on Environmental Quality, in a letter applicants filed with this Court, taking position that EIS is deficient in respects noted. Warm Springs Dam Task Force v. Gribble (DOUGLAS, J., in chambers), p. 1301.

STOCKHOLDERS. See **Corporations.**

STRIKES. See **Jurisdiction; National Labor Relations Act; National Labor Relations Board.**

SUBCONTRACTORS. See **Miller Act,** 1, 3.

SUBPOENAS DUCES TECUM. See **Constitutional Law,** IV, 2.

SUBSTANTIAL-EVIDENCE STANDARD. See **Judicial Review,** 2–3.

SUCCESSOR EMPLOYERS. See **Labor.**

SUPERVISOR-MEMBERS OF UNION. See **National Labor Relations Act.**

SUPPRESSION OF EVIDENCE. See **Constitutional Law,** VI.

SUPREME COURT. See also **Appeals,** 2; **Constitutional Law,** II, 2; III, 1; **Special Masters.**

Assignment of Mr. Justice Clark (retired) to the United States Court of Appeals for the Eighth Circuit, p. 937.

TAX DEDUCTIONS. See **Internal Revenue Code,** 4.

TAXES. See **Constitutional Law,** II, 3, 6, 8; VII; **Internal Revenue Code.**

TAX REFUNDS. See **Bankruptcy Act,** 1–2.

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

TRADEMARKS. See **United States Arbitration Act.**

TRIALS DE NOVO. See **Constitutional Law,** II, 4; **Habeas Corpus.**

TRUSTEES IN BANKRUPTCY. See **Bankruptcy Act,** 1–2.

TWO-TIERED APPELLATE PROCESS. See **Constitutional Law,** II, 4; **Habeas Corpus.**

UNEMPLOYMENT COMPENSATION. See **Constitutional Law,** III, 2; **Mootness.**

UNFAIR COMPETITION. See **Constitutional Law,** II, 8.

UNFAIR LABOR PRACTICES. See **Judicial Review,** 7; **Jurisdiction; Labor; National Labor Relations Act; National Labor Relations Board.**

UNIFORM CODE OF MILITARY JUSTICE. See **Appeals,** 1; **Constitutional Law,** II, 1; V, 1.

UNIONS. See **Judicial Review,** 7; **Jurisdiction; Labor; National Labor Relations Board.**

UNION'S DISCIPLINE OF SUPERVISOR-MEMBERS. See **National Labor Relations Act.**

UNITED STATES ARBITRATION ACT.

1. *International contract—Enforcement of arbitration clause.*—Arbitration clause in international sales contract between respondent American manufacturer and petitioner German citizen is to be respected and enforced by federal courts in accord with explicit provisions of Act that an arbitration agreement, such as is here involved, "shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for revocation of any contract." 9 U. S. C. §§ 1, 2. Scherk v. Alberto-Culver Co., p. 506.

2. *International contract—Enforcement of arbitration clause.*—An agreement to arbitrate before a specified tribunal is, in effect, a specialized kind of forum-selection clause that posits not only situs of suit but also procedure to be used in resolving dispute, and invalidation of arbitration clause in this case, wherein clause was contained in international sales contract between respondent American manufacturer and petitioner German citizen, would not only allow respondent to repudiate its solemn promise but would, as well, reflect a "parochial concept that all disputes must be resolved under our laws and in our courts." Scherk v. Alberto-Culver Co., p. 506.

3. *International contract—Necessity for forum-selection clause.*—Since uncertainty will almost inevitably exist with respect to any contract, such as one in question here, with substantial contacts in

UNITED STATES ARBITRATION ACT—Continued.

two or more countries, each with its own substantive laws and conflict-of-laws rules, a contractual provision specifying in advance forum for litigating disputes and law to be applied is an almost indispensable precondition to achieving orderliness and predictability essential to any international business transaction. Such a provision obviates danger that a contract dispute might be submitted to a forum hostile to interests of one of the parties or unfamiliar with problem area involved. Scherk v. Alberto-Culver Co., p. 506.

4. *International contract—Violations of securities laws.*—In context of an international contract, advantages that a security buyer might possess in having a wide choice of American courts and venue in which to litigate his claims of violations of securities laws, become chimerical, since an opposing party may by speedy resort to a foreign court block or hinder access to American court of buyer's choice. Scherk v. Alberto-Culver Co., p. 506.

UNJUST ENRICHMENT. See **Corporations**, 2–3.

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

VALID GOVERNMENTAL INTERESTS. See **Constitutional Law**, II, 5.

VENUE. See **Miller Act**, 3.

VESSELS. See **Admiralty.**

VIETNAM. See **Appeals**, 1; **Constitutional Law**, II, 1; V, 1.

VINDICTIVENESS AGAINST ACCUSED. See **Constitutional Law**, II, 4; **Habeas Corpus.**

VOTING. See **Conspiracies; Evidence**, 2.

WAGES. See **Equal Pay Act of 1963.**

WAREHOUSED GOODS. See **Constitutional Law**, VII.

WARM SPRINGS DAM PROJECT. See **Stays.**

WARRANTIES. See **United States Arbitration Act.**

WARRANTLESS SEARCHES AND SEIZURES. See **Constitutional Law**, VI.

WATER POLLUTION. See **Special Masters.**

WEST VIRGINIA. See **Conspiracies; Evidence**, 2.

WHEELER-HOWARD ACT. See **Constitutional Law**, II, 7; **Indian Reorganization Act of 1934.**

WINDFALL RECOVERIES. See **Corporations**, 3.

WITNESSES. See **Constitutional Law,** I; IV, 1; **Evidence,** 1.

WORDS AND PHRASES.

1. *"Disposable earnings."* 15 U. S. C. § 1673 (Consumer Credit Protection Act). Kokoszka v. Belford, p. 642.

2. *"Final decision."* 28 U. S. C. § 1291. Eisen v. Carlisle & Jacquelin, p. 156.

3. *"Penalty, forfeiture, or liability."* 1 U. S. C. § 109 (general saving clause). Warden v. Marrero, p. 653.

4. *"Property."* § 70a (5), Bankruptcy Act, 11 U. S. C. § 110 (a)(5). Kokoszka v. Belford, p. 642.

5. *"Prosecutions."* § 1103 (a), Comprehensive Drug Abuse Prevention and Control Act of 1970, note following 21 U. S. C. § 171. Warden v. Marrero, p. 653.

6. *"Sale or exchange."* § 337 (a), Internal Revenue Code of 1954, 26 U. S. C. § 337 (a). Central Tablet Mfg. Co. v. United States, p. 673.

7. *"Subcontractor."* § 270b (a), Miller Act, 40 U. S. C. § 270b (a). F. D. Rich Co. v. United States ex rel. Industrial Lumber Co., p. 116.

8. *"Working conditions."* Equal Pay Act of 1963, 29 U. S. C. § 206 (d)(1). Corning Glass Works v. Brennan, p. 188.

WORKING CONDITIONS. See **Equal Pay Act of 1963,** 2.

YMCA. See **Civil Rights,** 2; **Constitutional Law,** III, 3.