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ANTITRUST ACTS.

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2. *Clayton Act—Bank merger—Geographic market—Considerations.*—On remand of civil antitrust action brought by United States

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under § 7 of Clayton Act challenging proposed merger between two commercial banks in Connecticut, District Court must make a determination as to geographic market in which each of the banks operates and to which bulk of its customers may turn for alternative commercial bank services, and in making that determination it will be aided by following considerations: (i) Government has burden of producing evidence to define localized banking markets; (ii) in satisfying that burden (as District Court correctly held) Government cannot rely only on Standard Metropolitan Statistical Areas; and (iii) town boundaries, although significant, are not controlling. United States v. Connecticut National Bank, p. 656.

3. *Clayton Act—Bank merger—"Line of commerce."*—In a civil antitrust action by United States under § 7 of Clayton Act challenging proposed merger between two commercial banks in Connecticut, District Court erred in holding that appropriate "line of commerce" within meaning of § 7 included both commercial banks and savings banks. United States v. Connecticut National Bank, p. 656.

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5. *Clayton Act—Bank merger—Relevant geographic market.*—In a civil antitrust action by United States under § 7 of Clayton Act challenging proposed merger between two commercial banks in Connecticut, District Court erred in ruling that relevant geographic market is State as a whole. In a potential-competition case like this, relevant geographic market must be defined as localized area in which acquired bank is in significant, direct competition with other banks, albeit not acquiring bank. United States v. Connecticut National Bank, p. 656.

6. *Clayton Act—Bank merger—Relevant product and geographic markets.*—As "a necessary predicate" to deciding whether proposed merger between two commercial banks in State of Washington contravenes Clayton Act, District Court properly found that relevant product market was "business of commercial banking" and

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that relevant geographic market was Spokane metropolitan area. Entire State is not, despite Government's contrary contention, an appropriate "section of the country" within meaning of § 7 of Act, since for purpose of this case appropriate "section of the country" and "relevant geographic market" are same, being area in which acquired firm is an actual, direct competitor, and since moreover Government has not shown that effect of merger on a statewide basis "may be substantially to lessen competition" within meaning of § 7. United States v. Marine Bancorporation, p. 602.

7. *Clayton Act—Bank merger—"Section of the country."*—In civil antitrust action under § 7 of Clayton Act challenging proposed merger of two commercial banks in Connecticut, Government's contention that State as a whole, though not a banking market, is a "section of the country" within meaning of § 7 is without merit. United States v. Connecticut National Bank, p. 656.

8. *Clayton Act—Bank merger—Target bank—Failure of proof as to future expansion.*—In civil antitrust action under § 7 of Clayton Act to challenge proposed merger of two commercial banks in State of Washington, record amply supports District Court's finding that Government "failed to establish . . . that there is any reasonable probability that [target bank] will expand into other banking markets," since at no time in its 70-year history has target bank established branches outside Spokane area, acquired another bank, or received a merger offer other than one at issue here. United States v. Marine Bancorporation, p. 602.

9. *Clayton Act—Bank merger—Violation—Failure of proof.*—In view of legal barriers to entry, notably state-law prohibitions against *de novo* branching, branching from branch office, and multibank holding companies, Government failed to sustain its burden of proof that challenged merger between two commercial banks in State of Washington violates § 7 of Clayton Act by eliminating likelihood that, but for the merger, acquiring bank would enter Spokane *de novo* by means of sponsorship-acquisition or through a foothold acquisition of a small state bank in Spokane area, since it was not shown that either of proposed alternative methods of entry was feasible or offered a substantial likelihood of ultimately producing deconcentration of Spokane market or other significant procompetitive effects. United States v. Marine Bancorporation, p. 602.

10. *Clayton Act—Market extension mergers—Commercial banks—Potential-competition doctrine—Federal and state regulations.*—While geographic market extension mergers by commercial banks must pass muster under potential-competition doctrine, application

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of doctrine to commercial banking must take into account extensive and unique federal and state regulatory restraints on entry into that line of commerce, including controls over number of bank charters to be granted, prior bank regulatory agency approval of opening of branches, and state-law restrictions, such as those in Washington involved in this case, on *de novo* geographic expansion through branching and multibank holding companies. United States v. Marine Bancorporation, p. 602.

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circumstances of this case where it would be inappropriate to subject President to procedure of securing review by resisting order and inappropriate to require that District Court proceed by a traditional contempt citation in order to provide appellate review. United States v. Nixon, p. 683.

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I. Due Process.

1. *Art. 134, Uniform Code of Military Justice—Lack of vagueness.*—This Court will not decide whether District Court had jurisdiction of an action challenging a court-martial conviction under Art. 80 of UCMJ of an attempt to commit an offense under Art. 134, on ground, *inter alia,* that Art. 134 is unconstitutionally vague, since assuming, *arguendo,* that District Court did have jurisdiction, decision in *Parker* v. *Levy,* 417 U. S. 733, requires reversal of Court of Appeals' decision on merits reversing District Court's denial of relief and holding that Art. 134 is unconstitutionally vague. Secretary of the Navy v. Avrech, p. 676.

2. *Obscenity—Federal criminal statute—Notice.*—Title 18 U. S. C. § 1461, making it a crime to mail obscene matter, when "applied according to the proper standards for judging obscenity do[es] not . . . fail to give men in acting adequate notice of what is prohibited." Hamling v. United States, p. 87.

3. *Obscenity—Federal criminal statute—Vagueness.*—Construing 18 U. S. C. § 1461, making it a crime to mail obscene matter, as being limited to sort of "patently offensive representations or description of that specific 'hard core' sexual conduct given as examples in *Miller* v. *California* [413 U. S. 15]," statute is not unconstitutionally vague, it being plain that brochure in question is a form of hard-core pornography well within permissibly proscribed depictions described in *Miller.* Enumeration of specific categories of obscene material in *Miller* did not purport to proscribe, for purposes of § 1461, conduct that had not previously been thought criminal but instead added a "clarifying gloss" to prior construction, making statute's meaning "more definite." Hamling v. United States, p. 87.

4. *Obscenity—Federal criminal statute—Vagueness.*—Rejection in *Miller* v. *California,* 413 U. S. 15, of "social value" formulation of *Memoirs* v. *Massachusetts,* 383 U. S. 413, did not mean that 18 U. S. C. § 1461, making it a crime to mail obscene matter, was unconstitutionally vague at time of petitioners' pre-*Miller* convictions because it did not provide them with sufficient guidance as to proper test of "social value," that formula having been rejected

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not for vagueness reasons but because it departed from obscenity definition of *Roth* v. *United States,* 354 U. S. 476, and entailed a virtually impossible prosecutorial burden. Hamling v. United States, p. 87.

5. *Prison disciplinary proceedings.*—A prisoner is not wholly stripped of constitutional protections, and though prison disciplinary proceedings do not implicate full panoply of rights due a defendant in a criminal prosecution, such proceedings must be governed by a mutual accommodation between institutional needs and generally applicable constitutional requirements. Wolff v. McDonnell, p. 539.

6. *Prison disciplinary proceedings—Loss of good-time credits—Minimal requirements.*—Since prisoners in Nebraska can only lose good-time credits if they are guilty of serious misconduct, procedure for determining whether such misconduct has occurred must observe certain minimal due process requirements (though not full range of procedures mandated in *Morrissey* v. *Brewer,* 408 U. S. 471, and *Gagnon* v. *Scarpelli,* 411 U. S. 778, for parole and probation revocation hearings) consonant with unique institutional environment and therefore involving a more flexible approach reasonably accommodating interests of inmates and needs of institution. Wolff v. McDonnell, p. 539.

7. *Prison disciplinary proceedings—Retroactivity.*—Court of Appeals erred in holding that due process requirements in prison disciplinary proceedings were to be applied retroactively by requiring expunging of prison records of improper misconduct determinations. Wolff v. McDonnell, p. 539.

8. *Summary punishment for contempt—Lack of opportunity to be heard.*—Respondent trial judge's conduct, in proceeding summarily after state criminal trial to punish petitioner counsel for accused for alleged contempt committed during trial without giving him an opportunity to be heard in defense or mitigation before he was finally adjudged guilty and sentence was imposed, does not square with Due Process Clause of Fourteenth Amendment. Reasonable notice of specific charges and opportunity to be heard are essential in view of heightened potential for abuse posed by contempt power. Taylor v. Hayes, p. 488.

II. Equal Protection of the Laws.

1. *Disenfranchisement of felons.*—California, in disenfranchising convicted felons who have completed their sentences and paroles, does not violate Equal Protection Clause of Fourteenth Amendment. Section 1 of Fourteenth Amendment, which contains Equal Protec-

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tion Clause, in dealing with voting rights as it does, could not have been meant to bar outright a form of disenfranchisement that was expressly exempted from less drastic sanction of reduced representation that § 2 imposed for other forms of disenfranchisement. Richardson v. Ramirez, p. 24.

2. *No political ads on city rapid transit system.*—Judgment holding that city's refusal to permit political advertising on its rapid transit system did not violate a candidate's equal protection rights, is affirmed. Lehman v. City of Shaker Heights, p. 298.

III. Executive Privilege.

1. *Presidential communications—Criminal trial—Generalized assertion.*—Although courts will afford utmost deference to Presidential acts in performance of an Art. II function, when a claim of Presidential privilege as to materials subpoenaed for use in a criminal trial is based, as it is here, not on ground that military or diplomatic secrets are implicated, but merely on ground of a generalized interest in confidentiality, President's generalized assertion of privilege must yield to demonstrated, specific need for evidence in a pending criminal trial and fundamental demands of due process of law in fair administration of justice. United States v. Nixon, p. 683.

2. *Presidential communications—Criminal trial—In camera inspection.*—Neither doctrine of separation of powers nor generalized need for confidentiality of high-level communications, without more, can sustain an absolute, unqualified Presidential privilege of immunity from judicial process under all circumstances. Absent a claim of need to protect military, diplomatic, or sensitive national security secrets, confidentiality of Presidential communications is not significantly diminished by producing material for a criminal trial under protected conditions of *in camera* inspection, and any absolute executive privilege under Art. II of Constitution would plainly conflict with function of courts under Constitution. United States v. Nixon, p. 683.

IV. Federal Obscenity Prosecution.

Instruction to jury—National community standards—Propriety.—In federal prosecution for mailing obscene matter occurring prior to *Miller* v. *California,* 413 U. S. 15, instruction to jury on application of national community standards of obscenity was not constitutionally improper, since in rejecting view that First and Fourteenth Amendments require that proscription of obscenity be based on uniform national standards, the Court in *Miller* and companion cases did not require as a constitutional matter substitution of some

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smaller geographical area into same sort of formula; test was stated in terms of understanding of "average person applying contemporary community standards." The Court's holding in *Miller* that California could constitutionally proscribe obscenity in terms of a "statewide" standard did not mean that any such precise geographic area is required as a matter of constitutional law. Reversal is required in pre-*Miller* cases only where there is a probability that excision of references to "nation as a whole" in instruction dealing with community standards would have materially affected deliberations of jury. Hamling v. United States, p. 87.

V. First Amendment.

1. *Freedom of speech—"Improper use" flag statute.*—Washington's "improper use" statute forbidding exhibition of United States flag to which is attached or superimposed figures, symbols, or other extraneous material, as applied to appellant's activity in displaying out of his apartment window a United States flag upside down with a peace symbol taped thereto as a protest against then recent actions in Cambodia and fatal events at Kent State University, impermissibly infringed a form of protected expression. Spence v. Washington, p. 405.

2. *Freedom of speech—No political ads on city rapid transit system.*—Judgment holding that city's refusal to permit political advertising on its rapid transit system did not violate a candidate's free speech rights, is affirmed. Lehman v. City of Shaker Heights, p. 298.

3. *Freedom of speech—Obscenity—Constitutional standards—State obscenity statute—Film's lack of patent offensiveness.*—Film "Carnal Knowledge" is not obscene under constitutional standards announced in *Miller* v. *California*, 413 U. S. 15, and appellant's conviction of violating Georgia obscenity statute for showing film in a theater therefore contravened First and Fourteenth Amendments. Juries do not have unbridled discretion in determining what is "patently offensive" since "no one will be subject to prosecution for the sale or exposure of obscene materials [that do not] depict or describe patently offensive 'hard core' sexual conduct . . . ." This Court's own view of film impels conclusion that film's depiction of sexual conduct is not patently offensive. Camera does not focus on bodies of actors during scenes of "ultimate sexual acts," nor are actors' genitals exhibited during those scenes. Film shows occasional nudity, but nudity alone does not render material obscene under *Miller*'s standards. Jenkins v. Georgia, p. 153.

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4. *Freedom of speech—Obscenity—Federal criminal statute.*—Title 18 U. S. C. § 1461, making it a crime to mail obscene matter, when "applied according to the proper standard for judging obscenity do[es] not offend constitutional safeguards against convictions based upon protected material." Hamling v. United States, p. 87.

5. *Freedom of the press—"Right of reply" statute.*—Florida's "right of reply" statute which grants a political candidate a right to equal space to answer criticism and attacks on his record by a newspaper, and makes it a misdemeanor for newspaper to fail to comply, violates First Amendment's guarantee of a free press. Miami Herald Publishing Co. v. Tornillo, p. 241.

VI. Regulation of Attorney-Prisoner Mail.

State may constitutionally require that mail from an attorney to a prisoner be identified as such and that his name and address appear on communication; and—as a protection against contraband—that authorities may open such mail in inmate's presence. A lawyer desiring to correspond with a prisoner may also be required *first* to identify himself and his client to prison officials to ensure that letters marked "privileged" are actually from members of bar. Wolff v. McDonnell, p. 539.

VII. Sixth Amendment.

Right to jury trial—Contempt.—In case of post-verdict adjudications of various acts of contempt committed during trial, Sixth Amendment requires a jury trial if sentences imposed aggregate more than six months, even though no sentence for more than six months was imposed for any one act of contempt. Codispoti v. Pennsylvania, p. 506.

VIII. State Obscenity Prosecution.

Instruction to jury—Community standards.—There is no constitutional requirement that juries be instructed in state obscenity cases to apply standards of a hypothetical statewide community—*Miller* v. *California,* 413 U. S. 15, approving, but not mandating, such an instruction—and jurors may properly be instructed to apply "community standards," without a specification of "community" by trial court. Jenkins v. Georgia, p. 153.

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1. *Attorney—Final disposition of charges—Substitution of judges.*—Because it appears from record that "marked personal feelings were present on both sides" with respect to respondent trial judge and petitioner counsel for accused during state criminal trial, and that marks of "unseemly conduct [had] left personal stings," another judge should have been substituted for respondent for purpose of finally disposing of contempt charges against petitioner. Taylor v. Hayes, p. 488.

2. *Right to jury trial—Alleged contemnor.*—Though a crime carrying more than a six-month sentence is a serious offense triable by jury, an alleged contemnor is not entitled to a jury trial simply because a strong possibility exists that upon conviction he will face a substantial term of imprisonment regardless of punishment actually imposed. Codispoti v. Pennsylvania, p. 506.

3. *Right to jury trial—Petty offenses.*—Since no more than a six-month sentence was actually imposed, the eight contempts for which petitioner, as counsel for accused during state criminal trial, was adjudged guilty, whether considered singly or collectively, constituted petty offenses and hence trial by jury was not required. It is not improper to permit State, as in this instance, after conviction, to reduce a sentence to six months or less rather than retry contempt with a jury, since "criminal contempt is not a crime of the sort that requires the right to jury trial regardless of the penalty involved." Taylor v. Hayes, p. 488.

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DEFAMATION. See also **Labor.**

1. *Labor disputes—Erroneous instruction to jury.*—In appellee letter carriers' libel actions against appellant union for including appellees in "List of Scabs" published in union's newsletter, trial court's instruction defining malice in common-law terms was erroneous and reflected a misunderstanding of *Linn* v. *Plant Guard Workers,* 383 U. S. 53, which adopted reckless-or-knowing-falsehood test of *New York Times Co.* v. *Sullivan,* 376 U. S. 254. Letter Carriers v. Austin, p. 264.

2. *Labor disputes—Robust debate—Executive Order—Federal employment.*—Federal labor laws favor uninhibited, robust, and wide-open debate in labor disputes. Relevant law here, in appellee letter carriers' libel actions against appellant union for including appellees in "List of Scabs" published in union's newsletter, is Executive Order No. 11491, governing labor relations in federal employment. Basic provisions of Executive Order are like those of National Labor Relations Act, and similarly afford wide latitude for union freedom of speech. Partial pre-emption of *Linn* v. *Plant Guard Workers,* 383 U. S. 53, by which federal law pre-empts state law to extent that State seeks to make actionable defamatory statements in labor disputes published without knowledge of their falsity or reckless disregard of truth, is thus equally applicable here. Letter Carriers v. Austin, p. 264.

3. *Labor disputes—State law as pre-empted by federal law.*—Although *Linn* v. *Plant Guard Workers,* 383 U. S. 53, held that federal labor law does not completely pre-empt application of state laws to libels published during labor disputes, that decision recognized that federal law does pre-empt state law to extent that State seeks to make actionable defamatory statements in labor disputes published without knowledge of their falsity or reckless disregard of truth. Letter Carriers v. Austin, p. 264.

4. *Plaintiff attorney as neither public official nor public figure.*—Petitioner, an attorney who had represented a murder victim's family in civil litigation against policeman convicted of committing murder, was neither a public official nor a public figure for purposes of his libel action against respondent for having published an article in its magazine which falsely stated that petitioner had arranged policeman's "frameup," implied that petitioner had a criminal record, and labeled him a "Communist-fronter." Neither petitioner's past service on certain city committees nor his appear-

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ance as an attorney at coroner's inquest into death of murder victim made him a public official, and his role in policeman's affair did not make him a public figure. Gertz v. Robert Welch, Inc., p. 323.

5. *Private persons—Preclusion of presumed or punitive damages.*—States may not permit recovery of presumed or punitive damages in defamation actions when liability is not based on knowledge of falsity or reckless disregard for truth, and private defamation plaintiff who establishes liability under a less demanding standard than test of *New York Times Co.* v. *Sullivan,* 376 U. S. 254, may recover compensation only for actual injury. Gertz v. Robert Welch, Inc., p. 323.

6. *Private persons—Public issue—Applicability of New York Times standard.*—A publisher or broadcaster of defamatory falsehoods about an individual who is neither a public official nor a public figure may not claim protection of *New York Times Co.* v. *Sullivan,* 376 U. S. 254, against liability for defamation on ground that defamatory statements concern an issue of public or general interest. Gertz v. Robert Welch, Inc., p. 323.

7. *Private persons—State standard of liability.*—So long as they do not impose liability without fault, States may define for themselves appropriate standard of liability for a publisher or broadcaster of defamatory falsehood which injures a private individual and whose substance makes substantial danger to reputation apparent. Gertz v. Robert Welch, Inc., p. 323.

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EQUAL SPACE. See **Appeals**, 2; **Constitutional Law**, V, 5.

EQUITY. See **School Desegregation**, 3–4.

EVIDENCE. See **Antitrust Acts**, 2, 4; **Obscenity**, 1–2, 4.

EVIDENTIARY HEARINGS. See **Habeas Corpus.**

EXCLUSION OF YOUNG FROM JURIES. See **Juries**, 1.

EXECUTIVE BRANCH. See **Justiciability.**

EXECUTIVE ORDERS. See **Defamation**, 2.

EXECUTIVE PRIVILEGE. See **Appeals**, 3; **Constitutional Law**, III; **Federal Rules of Criminal Procedure**; **Justiciability.**

EX-FELONS. See **Constitutional Law**, II, 1; **Mootness.**

FEDERAL BUREAU OF INVESTIGATION. See **Bail.**

FEDERAL EMPLOYEES. See **Defamation**, 1–3; **Labor.**

FEDERAL MAGISTRATES ACT. See **Habeas Corpus**, 2.

FEDERAL RULES OF CRIMINAL PROCEDURE. See also **Appeals**, 3; **Constitutional Law**, III; **Juries**; **Justiciability.**

1. *Denial of motion to quash subpoena—Compliance with Rule 17 (c).*—From this Court's examination of material submitted by Special Prosecutor in support of his motion, following indictment alleging violation of federal statutes by certain staff members of White House and political supporters of President, for subpoena *duces tecum* for production before trial of certain Presidential tape recordings and documents, much of which material is under seal, it

FEDERAL RULES OF CRIMINAL PROCEDURE—Continued.

is clear that District Court's denial of President's motion to quash comported with Rule 17 (c) and that Special Prosecutor has made a sufficient showing to justify a subpoena for production *before* trial. United States v. Nixon, p. 683.

2. *Subpoenaed material—Presidential communications—In camera examination.*—On basis of this Court's examination of record, it cannot be concluded that District Court erred in ordering *in camera* examination of certain Presidential tape recordings and documents produced, pursuant to Rule 17 (c), under subpoena *duces tecum* before criminal trial of certain staff members of White House and political supporters of President, which material shall now forthwith be transmitted to District Court. United States v. Nixon, p. 683.

3. *Subpoenaed material—Presidential communications—In camera examination—Release.*—Since a President's communications encompass a vastly wider range of sensitive material than would be true of an ordinary individual, public interest requires that Presidential confidentiality be afforded greatest protection consistent with fair administration of justice, and District Court has a heavy responsibility to ensure that material involving Presidential conversations irrelevant to or inadmissible in criminal prosecution of certain staff members of White House and political supporters of President, ordered produced before trial under subpoena *duces tecum,* pursuant to Rule 17 (c), be accorded high degree of respect due a President and that such material be returned under seal to its lawful custodian. Until released to Special Prosecutor no *in camera* material is to be released to anyone. United States v. Nixon, p. 683.

FEDERAL-STATE RELATIONS. See **Defamation,** 2–3; **Labor.**

FEDERAL YOUTH CORRECTIONS ACT.

Sentencing as adult—"No benefit" finding.—In sentencing a youth offender as an adult under other applicable penal statutes, § 5010 (d) of Act requires a federal district court to "find" that offender would not benefit from treatment under Act, but does not require that such "finding" be accompanied by supporting reasons. Dorszynski v. United States, p. 424.

FELONIES. See **Constitutional Law,** II, 1; **Mootness.**

FILMS. See **Constitutional Law,** V, 3; VIII; **Obscenity,** 9.

FINAL JUDGMENTS. See **Appeals,** 2.

FINAL ORDERS. See **Appeals,** 3.

FINDINGS. See **Constitutional Law,** I, 5–6; **Federal Youth Corrections Act.**

FIRST AMENDMENT. See **Appeals**, 2; **Constitutional Law**, V; VIII; **Defamation**, 2, 4–7; **Labor.**

FLAG MISUSE. See **Constitutional Law**, V, 1.

FLORIDA. See **Appeals**, 2; **Constitutional Law**, V, 5.

FOURTEENTH AMENDMENT. See **Constitutional Law**, I, 5–8; II; V, 1–3, 5; VI; VIII; **School Desegregation.**

FREEDOM OF SPEECH. See **Constitutional Law**, V, 1–4; **Defamation**; **Labor.**

FREEDOM OF THE PRESS. See **Appeals**, 2; **Constitutional Law**, V, 5; **Defamation**, 4–7.

GENERAL ARTICLES OF UNIFORM CODE OF MILITARY JUSTICE. See **Constitutional Law**, I, 1.

GENERALIZED GRIEVANCES. See **Standing to Sue**, 1–3, 5.

GENERALIZED INTEREST IN CONFIDENTIALITY. See **Constitutional Law**, III.

GEOGRAPHIC MARKET. See **Antitrust Acts**, 2, 5–6, 10.

GOOD-TIME CREDITS. See **Civil Rights Act of 1871**; **Constitutional Law**, I, 5–6.

GOVERNMENTAL COMPULSION. See **Appeals**, 2; **Constitutional Law**, V, 5.

HABEAS CORPUS.

1. *Evidentiary hearings—Necessity that district judge conduct hearings.*—Title 28 U. S. C. § 2243, like its predecessor, Rev. Stat. § 761, requires that district judge personally conduct evidentiary hearings in federal habeas corpus cases. Wingo v. Wedding, p. 461.

2. *Evidentiary hearings—Prohibition against magistrate's conducting hearings—Invalidity of local rule of court.*—It is clear from text and legislative history of Federal Magistrates Act that Congress did not intend to alter requirements of 28 U. S. C. § 2243, and therefore local rule of District Court, insofar as it authorizes full-time magistrate to hold habeas corpus evidentiary hearings, is invalid because it is "inconsistent with the . . . laws of the United States" under § 636 (b) of Act, and because § 636 (b) itself precludes a district judge from assigning a magistrate duty of conducting an evidentiary hearing and limits magistrate's review to proposing, not holding, such a hearing. Wingo v. Wedding, p. 461.

3. *Evidentiary hearings—Prohibition against magistrate's conducting hearings—Invalidity of local rule of court—Electronic record-*

HABEAS CORPUS—Continued.

ing.—Invalidity of local rule of District Court, insofar as it authorizes full-time magistrate to hold habeas corpus evidentiary hearings, is not cured by procedure calling for electronic recording of hearings and, when requested, *de novo* consideration of such recording by district judge. Such procedure does not enable district judge to evaluate credibility by personally hearing and observing witnesses. Wingo v. Wedding, p. 461.

HARD-CORE PORNOGRAPHY. See **Constitutional Law,** I, 3; V, 3–4; **Obscenity,** 4–5, 7, 9.

HEARINGS. See **Constitutional Law,** I, 5–7; **Habeas Corpus.**

IMMUNITY FROM JUDICIAL PROCESS. See **Constitutional Law,** III.

IMPARTIAL TRIBUNALS. See **Constitutional Law,** I, 5–7.

"IMPROPER USE" FLAG STATUTES. See **Constitutional Law,** V, 1.

IN CAMERA INSPECTION. See **Appeals,** 3; **Constitutional Law,** III; **Federal Rules of Criminal Procedure.**

INCOME TAXES. See **Internal Revenue Code.**

INCOMPATIBILITY CLAUSE. See **Standing to Sue,** 1, 6.

INJURY TO REPUTATION. See **Defamation,** 6–7.

INMATE LEGAL ASSISTANCE PROGRAMS. See **Prisoners.**

INMATES. See **Civil Rights Act of 1871; Constitutional Law,** I, 5–7; VI; **Prisoners.**

INSPECTION OF ATTORNEY-PRISONER MAIL. See **Constitutional Law,** VI.

INSTITUTIONAL INTERESTS. See **Constitutional Law,** I, 5–7; VI.

INSTRUCTIONS TO JURY. See **Appeals,** 1; **Constitutional Law,** IV, VIII; **Defamation,** 1; **Obscenity,** 1, 4–6, 9.

INTERDISTRICT SCHOOL DESEGREGATION. See **School Desegregation,** 1, 3–4.

INTERNAL REVENUE CODE.

1. *"Amount paid out" for construction—Nondeductibility—Cost of transportation equipment.*—Considering literal language of § 263 (a) of Code in denying a deduction for "[a]ny amount paid out" for construction or permanent improvement of facilities, and its

INTERNAL REVENUE CODE—Continued.

purpose to reflect basic principle that a capital expenditure may not be deducted from current income, as well as regulations indicating that for purposes of § 263 (a) "amount paid out" equates with "cost incurred," there is no question that cost of respondent taxpayer's transportation equipment used in constructing capital facilities was "paid out" in same manner as other construction-related items, such as supplies, materials, and wages, which taxpayer capitalized. Commissioner v. Idaho Power Co., p. 1.

2. *Equipment depreciation—Construction of capital facilities—Capitalization.*—Equipment depreciation allocable to taxpayer's construction of capital facilities must be capitalized under § 263 (a) (1) of Code. Accepted accounting practice and established tax principles require capitalization of cost of acquiring a capital asset, including cost incurred in a taxpayer's construction of capital facilities. Purpose of depreciation accounting is allocation of expense of using an asset over tax periods benefited by that asset. Commissioner v. Idaho Power Co., p. 1.

INTRA-EXECUTIVE CONFLICTS. See **Justiciability.**

ISSUES OF PUBLIC OR GENERAL INTEREST. See **Defamation,** 6.

JUDGES. See **Constitutional Law,** I, 8; **Contempt,** 1, 3.

JURIES. See also **Constitutional Law,** IV; V, 3; VIII; **Obscenity,** 1, 3.

1. *Federal prosecution—Jury selection—Alleged exclusion of young people.*—Petitioners' argument in federal criminal prosecution that District Court abused its discretion in refusing to grant continuance until a new jury with a presumably greater ratio of young people could be drawn is without merit, it having been almost four years since jury wheel had last been filled, and there having been no showing of a discriminatory exclusion of an identifiable group entitled to a group-based protection. Hamling v. United States, p. 87.

2. *Federal prosecution—Voir dire examination—Sufficiency—Compliance with Fed. Rule Crim. Proc. 24 (a).*—District Court's *voir dire* examination in federal criminal prosecution was sufficient to test qualifications and competency of prospective jurors and complied with Rule 24 (a), and that court did not constitutionally err in not asking certain questions propounded by petitioners. Hamling v. United States, p. 87.

JURISDICTION. See **Appeals,** 3; **Constitutional Law,** I, 1; **Justiciability.**

JURY INSTRUCTIONS. See **Appeals,** 1; **Constitutional Law,** IV; VIII; **Defamation,** 1; **Obscenity,** 1, 4–6, 9.

JURY-SELECTION PROCEDURES. See **Juries.**

JURY TRIALS. See **Constitutional Law,** VII; **Contempt,** 2–3.

JUSTICIABILITY. See also **Constitutional Law,** III; **Standing to Sue,** 1, 3, 5.

Dispute between Special Prosecutor and President—Production of Presidential tapes and documents.—Dispute between Special Prosecutor and President as to whether District Court in criminal prosecutions of certain staff members of White House and political supporters of President lacked jurisdiction to issue subpoena *duces tecum* for certain Presidential tape recordings and documents as to which President claimed executive privilege, because matter was an intrabranch dispute between a subordinate and superior officer of Executive Branch and hence not subject to judicial resolution, presents a justiciable controversy. United States v. Nixon, p. 683.

KENTUCKY. See **Constitutional Law,** I, 8; **Contempt,** 1, 3.

KNOWING FALSEHOODS. See **Defamation,** 2, 5.

LABOR. See also **Defamation,** 1–3.

Labor disputes—Freedom of speech—"Scab."—In appellee letter carriers' libel actions against appellant union for including appellees in "List of Scabs" published in union's newsletter together with pejorative definition of "scab" using words like "traitor," state award did not comport with protection for freedom of speech in labor disputes recognized in *Linn* v. *Plant Guard Workers,* 383 U. S. 53. Use of epithet "scab," which was literally and factually true and is common parlance in labor disputes, was protected under federal law. Publication of pejorative definition was likewise not actionable, since use of words like "traitor" cannot be construed as representations of fact and their use in a figurative sense to manifest union's strong disagreement with views of workers opposing unionization is also protected by federal law. Letter Carriers v. Austin, p. 264.

LABOR DISPUTES. See **Defamation,** 1–3; **Labor.**

LABOR UNIONS. See **Defamation,** 1–3; **Labor.**

LESSENING OF COMPETITION. See **Antitrust Acts,** 6.

LIBEL. See **Defamation; Labor.**

LIBERTY. See **Constitutional Law,** I, 5–7.

LINE OF COMMERCE. See **Antitrust Acts,** 3.

LOCAL RULES OF COURT. See **Habeas Corpus**, 2–3.

LOGICAL NEXUS. See **Standing to Sue**, 4, 6.

LOSS OF GOOD-TIME CREDITS. See **Civil Rights Act of 1871; Constitutional Law**, I, 6.

MAGAZINES. See **Defamation**, 4.

MAGISTRATES. See **Habeas Corpus**, 2–3.

MAILING OBSCENE MATTER. See **Constitutional Law**, I, 2–4; IV; V, 4; **Obscenity**, 1–8.

MALICE. See **Defamation**, 1.

MARKET EXTENSION MERGERS. See **Antitrust Acts**, 8–10.

MERGERS. See **Antitrust Acts.**

METROPOLITAN SCHOOL DESEGREGATION. See **School Desegregation**, 2, 4.

MICHIGAN. See **School Desegregation.**

MILITARY SECRETS. See **Constitutional Law**, III, 2.

MOOTNESS. See also **Constitutional Law**, II, 1.

Disenfranchisement of felons—Effect of case's unusual procedural history.—In view of its unusual procedural history in Supreme Court of California, class action challenging constitutionality of provisions of California Constitution and implementing statutes disenfranchising ex-felons is not moot, even though county officials named as defendants decided not to contest action and told court they would henceforth register to vote ex-felons, including respondents, whose sentences and paroles had expired. Richardson v. Ramirez, p. 24.

MOTION PICTURES. See **Constitutional Law**, V, 3; VIII; **Obscenity**, 9.

MOTIONS TO QUASH SUBPOENAS. See **Appeals**, 3; **Federal Rules of Criminal Procedure**, 1; **Justiciability.**

MOVIE THEATERS. See **Constitutional Law**, V, 3; VIII; **Obscenity**, 9.

MULTIDISTRICT SCHOOL DESEGREGATION. See **School Desegregation**, 1, 3–4.

NATIONAL LABOR RELATIONS ACT. See **Defamation**, 1–3; **Labor.**

NATIONAL STANDARD. See **Constitutional Law**, IV; **Obscenity**, 1–8.

NEBRASKA. See **Civil Rights Act of 1871; Constitutional Law,** I, 5–7; VI; **Prisoners.**

NEGROES. See **School Desegregation.**

NEW HAVEN. See **Antitrust Acts,** 2–3, 5, 7.

NEWSMEN. See **Bail.**

NEWSPAPERS. See **Appeals,** 2; **Constitutional Law,** V, 5.

"NO BENEFIT" FINDINGS. See **Federal Youth Corrections Act.**

NONDEDUCTIBLE CAPITAL EXPENDITURES. See **Internal Revenue Code,** 1.

NOTICE. See **Constitutional Law,** I, 2–6.

NUDITY. See **Constitutional Law,** V, 3; VIII; **Obscenity,** 9.

OBJECTIONS TO JURY INSTRUCTIONS. See **Appeals,** 1.

OBSCENITY. See also **Constitutional Law,** I, 2–4; IV; V, 3–4; VIII.

1. *Advertising brochure—Sufficient evidence—Test.*—Jury's determination that advertising brochure with sexually explicit photographic material related to illustrated version of official report on obscenity, was supported by evidence and was consistent with obscenity formulation of *Memoirs* v. *Massachusetts,* 383 U. S. 413. Hamling v. United States, p. 87.

2. *Mailing obscene matter—Admissibility of evidence—Comparable materials.*—District Court in prosecution for mailing obscene matter did not abuse its discretion in excluding allegedly comparable materials (materials with second-class mailing privileges, or judicially found to have been nonobscene, or available on newsstands), since, *inter alia,* expert testimony had been allowed on relevant community standards; and similar materials or judicial determinations with respect thereto do not necessarily prove nonobscenity of materials accused is charged with circulating; and with respect to whether proferred evidence is cumulative, clearly relevant, or confusing, trial court has considerable latitude. Hamling v. United States, p. 87.

3. *Mailing obscene matter—Inconsistency in verdicts—Separability.*—In federal prosecution for mailing an obscene illustrated version of an official report on obscenity and an advertising brochure relating to such illustrated report, inability of jury to reach verdict on counts charging distribution of illustrated report had no relevance to its finding that brochure was obscene, consistency in verdicts not being required, and brochure being separable from illustrated report. Hamling v. United States, p. 87.

OBSCENITY—Continued.

4. *Mailing obscene matter—Jury instruction as to pandering.*—Since evidence of pandering can be relevant in determining obscenity, as long as proper constitutional definition of obscenity is applied, it was not improper for District Court in prosecution for mailing obscene advertising brochure to instruct jury in connection with test of *Memoirs* v. *Massachusetts*, 383 U. S. 413, that it could also consider whether brochure had been pandered by looking to manner of its distribution and editorial content. Hamling v. United States, p. 87.

5. *Mailing obscene matter—Jury instruction on prurient appeal.*—In prosecution for mailing obscene advertising brochure, District Court's instruction that in deciding whether predominant appeal of brochure was to a prurient interest in sex jury could consider whether some portions appealed to a specifically defined deviant group as well as to average person was not erroneous, since in measuring prurient appeal, jury (which was instructed that it must find that material as a whole appealed generally to a prurient interest in sex) may consider material's prurient appeal to clearly defined deviant sexual groups. Hamling v. United States, p. 87.

6. *Mailing obscene matter—Jury instructions on scienter.*—District Court in prosecution for mailing obscene matter did not err in its instructions to jury on scienter, including its instruction that "[petitioners'] belief as to the obscenity or nonobscenity of the materials is irrelevant," it being constitutionally sufficient that prosecution show that a defendant had knowledge of contents of materials that he distributes, and that he knew character and nature of materials. Hamling v. United States, p. 87.

7. *Mailing obscene matter—Pre-Miller conduct—Effect of applicability of Miller standards.*—Standards established in *Miller* v. *California*, 413 U. S. 15, and companion cases do not, as applied to petitioners' pre-*Miller* conduct, require a reversal of their convictions for mailing obscene matter. Defendants like petitioners, who were convicted prior to decisions in *Miller* cases but whose convictions were on direct appeal at that time, should receive any benefit available to them from those decisions. Hamling v. United States, p. 87.

8. *Mailing obscene matter—Sufficiency of indictment.*—Indictment under 18 U. S. C. § 1461 for mailing obscene matter was sufficiently definite. Language of § 1461 was not "too vague to support conviction for crime," and indictment gave petitioners adequate notice of charges against them, since at time petitioners were indicted statutory term "obscene," a legal term of art and not a generic ex-

OBSCENITY—Continued.

pression, had a definite legal meaning. Hamling v. United States, p. 87.

9. *Motion picture—Pre-Miller conduct—Effect of applicability of Miller standards.*—Appellant, whose conviction of violating Georgia obscenity statute for showing obscene film in a theater was on appeal at time of announcement of *Miller* v. *California,* 413 U. S. 15, is entitled to any benefit available thereunder. Jenkins v. Georgia, p. 153.

OHIO. See **Constitutional Law,** II, 2; V, 2.

OPPORTUNITY TO BE HEARD. See **Constitutional Law,** I, 8.

OUTLYING SCHOOL DISTRICTS. See **School Desegregation,** 4.

PATENT OFFENSIVENESS. See **Constitutional Law,** I, 3; V, 3; **Obscenity,** 8–9.

PEACE SYMBOL. See **Constitutional Law,** V, 1.

PERSONAL RECOGNIZANCE. See **Bail.**

PETTY OFFENSES. See **Contempt,** 3.

PHOTOGRAPHS. See **Constitutional Law,** I, 3; **Obscenity,** 1, 3.

POLITICAL ADVERTISING. See **Constitutional Law,** II, 2; V, 2.

POLITICAL CANDIDATES. See **Appeals,** 2; **Constitutional Law,** II, 2; V, 2, 5.

PORNOGRAPHY. See **Constitutional Law,** I, 3; V, 3; **Obscenity.**

POTENTIAL-COMPETITION DOCTRINE. See **Antitrust Acts,** 4, 10.

PRE-EMPTION. See **Defamation,** 2–3.

PRESIDENT. See **Appeals,** 3; **Constitutional Law,** III; **Federal Rules of Criminal Procedure; Justiciability.**

PRESIDENTIAL PRIVILEGE. See **Appeals,** 3; **Constitutional Law,** III; **Federal Rules of Criminal Procedure,** 3; **Justiciability.**

PRESS CRITICISM OF POLITICAL CANDIDATES. See **Appeals,** 2; **Constitutional Law,** V, 5.

PRESUMED DAMAGES. See **Defamation,** 5.

PRIOR NOTICE. See **Constitutional Law,** I, 5–6.

PRISON DISCIPLINARY PROCEEDINGS. See **Civil Rights Act of 1871; Constitutional Law,** I, 5–7.

PRISONERS. See also **Civil Rights Act of 1871; Constitutional Law,** I, 5–7; VI; **Habeas Corpus,** 1.

Legal assistance—Civil rights actions.—District Court, as Court of Appeals suggested, is to assess adequacy of legal assistance available for preparation of prisoners' civil rights actions, applying standard of *Johnson* v. *Avery,* 393 U. S. 483, 490, that "unless and until the State provides some reasonable alternative to assist inmates in the preparation of petitions for postconviction relief, inmates could not be barred from furnishing assistance to each other." Wolff v. McDonnell, p. 539.

PRIVATE INDIVIDUALS. See **Defamation,** 5–7.

PRIVATELY OWNED AMERICAN FLAGS. See **Constitutional Law,** V, 1.

PROCEDURAL DUE PROCESS. See **Constitutional Law,** I, 5–6, 8.

PROCEDURE. See **Appeals,** 1, 3; **Federal Rules of Criminal Procedure; Juries.**

PRODUCT MARKET. See **Antitrust Acts,** 6.

PROTECTED EXPRESSION. See **Constitutional Law,** V, 1, 3–4.

PRURIENT APPEALS. See **Constitutional Law,** V, 3–4; **Obscenity,** 4–5.

PUBLIC EXPENDITURES. See **Standing to Sue,** 2–4.

PUBLIC FIGURES. See **Defamation,** 4.

PUBLIC FUNDS. See **Standing to Sue,** 2–4.

PUBLIC ISSUES. See **Defamation,** 6.

PUBLIC OFFICIALS. See **Defamation,** 4.

PUBLIC SCHOOLS. See **School Desegregation.**

PUBLIC TRANSIT ADVERTISING. See **Constitutional Law,** II, 2; V, 2.

PUBLISHERS. See **Defamation,** 4, 6–7.

PUNITIVE DAMAGES. See **Defamation,** 5.

QUASHING OF SUBPOENAS. See **Appeals,** 3; **Federal Rules of Criminal Procedure,** 1; **Justiciability.**

RACIAL DISCRIMINATION. See **School Desegregation.**

RACIAL RATIOS. See **School Desegregation,** 2.

RECKLESS-OR-KNOWING-FALSEHOOD TEST. See **Defamation,** 1–3, 5.

RECOGNIZANCE. See **Bail.**

REDUCTION OF SENTENCE. See **Contempt,** 3.

REGISTRATION TO VOTE. See **Constitutional Law,** II, 1; **Mootness.**

RELEVANT GEOGRAPHIC MARKET. See **Antitrust Acts,** 2, 5–7.

RELEVANT PRODUCT MARKET. See **Antitrust Acts,** 6.

REMEDIES. See **School Desegregation,** 1, 3–4.

REPORT OF THE COMMISSION ON OBSCENITY AND PORNOGRAPHY. See **Constitutional Law,** I, 3; **Obscenity,** 1, 3.

RESERVIST MEMBERS OF CONGRESS. See **Standing to Sue,** 1, 6.

RESTORATION OF GOOD-TIME CREDITS. See **Civil Rights Act of 1871; Constitutional Law,** I, 5–6.

RETROACTIVITY. See **Constitutional Law,** I, 7.

REVOCATION OF GOOD-TIME CREDITS. See **Civil Rights Act of 1871; Constitutional Law,** I, 5–6.

RIGHT OF CONFRONTATION. See **Constitutional Law,** I, 5–6.

"RIGHT OF REPLY" STATUTES. See **Appeals,** 2; **Constitutional Law,** V, 5.

RIGHT TO COUNSEL. See **Constitutional Law,** I, 5–6; VII; **Prisoners.**

RIGHT TO CROSS-EXAMINATION. See **Constitutional Law,** I, 5–6.

RIGHT TO EQUAL SPACE. See **Appeals,** 2; **Constitutional Law,** V, 5.

RIGHT TO JURY TRIAL. See **Constitutional Law,** VII; **Contempt,** 2–3.

RIGHT TO LIBERTY. See **Constitutional Law,** I, 5–6.

RIGHT TO PRESENT EVIDENCE. See **Constitutional Law,** I, 5–6.

ROBUST DEBATE. See **Defamation,** 2.

RULES OF CRIMINAL PROCEDURE. See **Appeals,** 3; **Constitutional Law,** III; **Federal Rules of Criminal Procedure; Juries.**

"SCABS." See **Defamation,** 1–2; **Labor.**

SCHOOL BUSING. See **School Desegregation.**

SCHOOL DESEGREGATION.

1. *Interdistrict segregation—Consolidation or cross-district remedy—Necessary showing.*—Before boundaries of separate and autonomous school districts may be set aside by consolidating separate units for remedial purposes or by imposing a cross-district remedy, it must be first shown that there has been a constitutional violation within one district that produces a significant segregative effect in another district; *i. e.,* specifically, it must be shown that racially discriminatory acts of state or local school districts, or of a single school district have been a substantial cause of interdistrict segregation. Milliken v. Bradley, p. 717.

2. *Metropolitan area plan—Erroneous standard.*—District Court, in desegregating Detroit schools, erred in using as a standard declared objective of a metropolitan area plan which, upon implementation, would leave "no school, grade, or classroom . . . substantially disproportionate to the overall pupil racial composition" of metropolitan area as a whole. Clear import of *Swann* v. *Board of Education,* 402 U. S. 1, is that desegregation, in sense of dismantling a dual school system, does not require any particular racial balance. Milliken v. Bradley, p. 717.

3. *School district lines—Interdistrict relief.*—While boundary lines may be bridged in circumstances where there has been a constitutional violation calling for interdistrict relief in desegregating schools, school district lines may not be casually ignored or treated as a mere administrative convenience; substantial local control of public education in this country is a deeply rooted tradition. Milliken v. Bradley, p. 717.

4. *Single-district de jure violations—Propriety of multidistrict, areawide remedy.*—Relief ordered by District Court and affirmed by Court of Appeals, consisting of desegregation plan encompassing 53 of 85 outlying suburban school districts plus Detroit, was based upon erroneous standards and was unsupported by record evidence that acts of outlying districts had any impact on discrimination found to exist in Detroit schools. A federal court may not impose a multidistrict, areawide remedy for single-district *de jure* school segregation violations where there is no finding that other included school districts have failed to operate unitary school systems or have committed acts that effected segregation within other districts, no claim or finding that school district boundary lines were established with purpose of fostering racial segregation, and no meaningful opportunity for included neighboring school districts to present evidence or be heard on propriety of a multidistrict remedy or on question

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of constitutional violations by those districts. Milliken v. Bradley, p. 717.

SCHOOL DISTRICTS. See **School Desegregation.**

SECTION OF THE COUNTRY. See **Antitrust Acts,** 7.

SELECTION OF JURIES. See **Juries.**

SENTENCES. See **Constitutional Law,** I, 8; **Contempt,** 2–3; **Federal Youth Corrections Act.**

SEPARATION OF POWERS. See **Constitutional Law,** III; **Justiciability.**

SEXUAL CONDUCT. See **Constitutional Law,** V, 3; VIII; **Obscenity,** 9.

SEXUALLY EXPLICIT MATERIAL. See **Constitutional Law,** I, 3; V, 3; **Obscenity.**

SIXTH AMENDMENT. See **Constitutional Law,** VII; **Contempt,** 2–3.

SLANDER. See **Defamation.**

SPECIAL PROSECUTOR. See **Appeals,** 3; **Constitutional Law,** III; **Federal Rules of Criminal Procedure; Justiciability.**

SPOKANE. See **Antitrust Acts,** 1, 4, 6, 8–10.

STANDING TO SUE.

1. *Citizens—Challenge to constitutionality of Reserve membership of Members of Congress—Generalized interest.*—In class action by respondents (an association of present and former members of Armed Forces Reserve opposing United States involvement in Vietnam, and five association members) challenging Reserve membership of Members of Congress as violating Incompatibility Clause of Art. I, § 6, cl. 2, of Constitution, respondents had no standing to sue as citizens, since claimed nonobservance of Incompatibility Clause which they assert deprives citizens of faithful discharge of legislative duties of Reservist Members of Congress implicates only generalized interest of all citizens in constitutional governance and is thus merely an abstract injury rather than concrete injury that is essential to Art. III's "case or controversy" requirement. Schlesinger v. Reservists to Stop the War, p. 208.

2. *Federal taxpayer—Challenge to constitutionality of Central Intelligence Agency Act.*—Respondent federal taxpayer lacks standing to maintain suit alleging that CIA Act violated Art. I, § 9, cl. 7, of

STANDING TO SUE—Continued.

Constitution insofar as that clause requires a regular statement and account of public funds. United States v. Richardson, p. 166.

3. *Federal taxpayer—Challenge to constitutionality of Central Intelligence Agency Act—Generalized grievance.*—Respondent federal taxpayer's claim, in action challenging constitutionality of CIA Act, that without detailed information on CIA's expenditures he cannot properly follow legislative or executive action and thereby fulfill his obligations as a voter is a generalized grievance insufficient under *Frothingham* v. *Mellon,* 262 U. S. 447, or *Flast* v. *Cohen,* 392 U. S. 83, to show that "he has sustained or is immediately in danger of sustaining a direct injury as the result" of such action. United States v. Richardson, p. 166.

4. *Federal taxpayer—Challenge to constitutionality of Central Intelligence Agency Act—Lack of logical nexus.*—Respondent's challenge that CIA Act violated Art. I, § 9, cl. 7, of Constitution, not being addressed to taxing or spending power but to statutes regulating accounting and reporting procedures, provides no "logical nexus" between his status as "taxpayer" and asserted failure of Congress to require more detailed reports of expenditures of CIA. United States v. Richardson, p. 166.

5. *Federal taxpayer—Generalized grievances.—Flast* v. *Cohen,* 392 U. S. 83, which stressed need for meeting requirements of Art. III, did not "undermine the salutary principle . . . established by *Frothingham* [v. *Mellon,* 262 U. S. 447] . . . that a taxpayer may not 'employ a federal court as a forum in which to air his generalized grievances about the conduct of government or the allocation of power in the Federal System.'" United States v. Richardson, p. 166.

6. *Federal taxpayers—Challenge to constitutionality of Reserve membership of Members of Congress—Logical nexus.*—In class action by respondents (an association of present and former members of Armed Forces Reserve opposing United States involvement in Vietnam, and five association members) challenging Reserve membership of Members of Congress as violating Incompatibility Clause of Art. I, § 6, cl. 2, of Constitution, respondents lacked standing to sue as taxpayers, since they failed to establish required "logical nexus between the [taxpayer] status asserted and the claim sought to be adjudicated." Schlesinger v. Reservists to Stop the War, p. 208.

STATEMENT AND ACCOUNT CLAUSE. See **Standing to Sue,** 2–5.

STATE PRISONERS. See **Civil Rights Act of 1871; Constitutional Law,** I, 5–7; VI; **Habeas Corpus; Prisoners.**

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3. Assignment of Mr. Justice Clark (retired) to the United States District Court for the Southern District of New York, p. 955.

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TAXES. See **Internal Revenue Code.**

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1. *"Amount paid out."* § 263 (a)(1), Internal Revenue Code of 1954, 26 U. S. C. § 263 (a)(1). Commissioner v. Idaho Power Co., p. 1.

2. *"Final judgment."* 28 U. S. C. § 1257. Miami Herald Publishing Co. v. Tornillo, p. 241.

3. *"Final order."* 28 U. S. C. § 1291. United States v. Nixon, p. 683.

4. *"In."* 28 U. S. C. § 1254. United States v. Nixon, p. 683.

5. *"Line of commerce."* § 7, Clayton Act, 15 U. S. C. § 18. United States v. Connecticut National Bank, p. 656.

6. *"Section of the country."* § 7, Clayton Act, 15 U. S. C. § 18. United States v. Marine Bancorporation, p. 602; United States v. Connecticut National Bank, p. 656.

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