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2. *Measure of forfeitures—Subcontractor.*—A correct application of language of Act (which provides that Government may recover from a person who presents a false claim or causes a false claim to be presented to it a forfeiture of \$2,000) requires that focus in each case be upon specific conduct of person from whom Government seeks to collect forfeiture. Thus, here subcontractor committed three acts that caused prime contractor to submit false claims to Government—three separately invoiced shipments of falsely branded electron tubes to prime contractor—and hence is liable for three \$2,000 forfeitures representing those three shipments. *United States v. Bornstein*, p. 303.

FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969.

1. *Penalties—Necessity for findings of fact.*—Language of § 109 (a)(3) of Act requiring Secretary of Interior to assess a civil monetary penalty against a coal mine operator for each violation of mandatory health and safety standards prescribed by Act and other provisions, especially when read in light of its legislative history, requires Secretary to make formal findings of fact as a predicate for

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a penalty assessment order only when mine operator exercises his statutory right to request an administrative hearing on factual issues relating to penalty. *National Coal Operators' Assn. v. Kleppe*, p. 388.

2. *Penalties—Necessity for findings of fact.*—Section 109(a) (3) of Act requiring Secretary of Interior to assess a civil monetary penalty against a coal mine operator for each violation of mandatory health and safety standards prescribed by Act and other provisions, does not compel Secretary to support each penalty assessment order with express findings of fact concerning violation and amount of penalty, absent a request by mine operator for an administrative hearing. *Kleppe v. Delta Mining, Inc.*, p. 403.

3. *Pro forma penalty assessment orders—De novo review of amount of penalty.*—It is not significant that orders for proposed assessment of penalties under Act contained merely *pro forma* recitations that six factors specified in § 109 (a)(1) of Act to be considered in determining amount of penalty had been considered, or that Secretary of Interior's final orders did not mention such factors but merely set forth his finding that a violation did in fact occur. Although express findings are generally required for judicial review of an administrative determination based on a substantial-evidence test, here coal mine operators can contest amount of penalty without a hearing by refusing to pay it, thus invoking right to a *de novo* trial in district court; moreover, when an operator is informed as to details of a violation, § 105's administrative procedures come into play and appellate review is available. *Kleppe v. Delta Mining, Inc.*, p. 403.

4. *Protest against penalty—Amount of penalty—De novo review.*—A protest against a penalty assessment for violations of Act, as opposed to a request for an administrative hearing, does not necessarily trigger an administrative review, but amount of penalty is subject to *de novo* review in district court whether or not a hearing was held. *Kleppe v. Delta Mining, Inc.*, p. 403.

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2. *Local police matters—Federal-court intrusion.*—In class actions under 42 U. S. C. § 1983 against petitioners (Mayor of Philadelphia, Police Commissioner, and others) alleging a pervasive pattern of illegal and unconstitutional police mistreatment of minority citizens in particular and Philadelphia residents in general, District Court's judgment directing petitioners to draft for court's approval "a comprehensive program for dealing adequately with civilian complaints" to be formulated in accordance with court's "guidelines" containing detailed suggestions for revising police manuals and procedural rules for dealing with citizens and for changing procedures for handling complaints, constitutes an unwarranted federal judicial intrusion into petitioners' discretionary authority to perform their official functions as prescribed by state and local law, and by validating type of litigation and granting type of relief involved here, lower courts have exceeded their authority under § 1983. *Rizzo v. Goode*, p. 362.

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2. *Jeopardy termination—Deficiency—Assessment and collection procedures—Anti-Injunction Act.*—Based on plain language of statutory provisions at issue, their place in legislative scheme, and their legislative history, income tax owing, but not reported, at time of a jeopardy termination under § 6851 of Code is a deficiency whose assessment and collection are subject to procedures of § 6861 *et seq.*, and hence because District Director in each case failed to comply with these requirements, taxpayers' suits for injunctive relief were not barred by Anti-Injunction Act. *Laing v. United States*, p. 161.

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2. *Court of Appeals—Federal Power Commission—Natural gas curtailment plan.*—An actual natural gas shortage is a necessary predicate to FPC's assertion of authority under its transportation jurisdiction to approve curtailment of gas already contracted for, and Court of Appeals could properly conclude that FPC would have abused its discretion had it approved curtailment plans absent evidence whereby it "could have reasonably believed" shortage to exist, and that "substantial evidence" in record is necessary to support any such finding. *FPC v. Transcontinental Pipe Line Corp.*, p. 326.

3. *Court of Appeals—Federal Power Commission—Natural gas curtailment plan—Order directing gas shortage investigation.*—In action for review of FPC order rejecting proposed interim natural gas curtailment plan, Court of Appeals exceeded its reviewing authority in ordering gas shortage investigation, since § 19 (b) of Natural Gas Act providing for judicial review of FPC decisions contemplates a mode of review that considers only agency's decision and evidence on which it is based and not some new record initially made by reviewing court. If new evidence is needed, case must be remanded so that agency can decide in its discretion how best to develop needed data and how its prior decision should be modified in light thereof. *FPC v. Transcontinental Gas Pipe Line Corp.*, p. 326.

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1. *Improper remand to state court—Remedy.*—Where District Court, to which diversity action had been removed, refused to adjudicate case and remanded it to state court on grounds not authorized by removal statutes, mandamus was proper remedy to compel District Court to entertain remanded action. *Thermtron Products, Inc. v. Hermansdorfer*, p. 336.

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2. *Review of remand to state court.*—Title 28 U. S. C. § 1447 (d) imposing a general bar against review of an order remanding a removed case to state court, when construed as it must be in conjunction with § 1447 (c) providing for remand on ground that case was removed “improvidently and without jurisdiction,” does not bar appellate review by mandamus of a remand order made on grounds not specified in § 1447 (c), there being no indication either in language or legislative history of provision that Congress intended to extend bar against review to reach remand orders not based on statutory grounds. *Thermtron Products, Inc. v. Hermansdorfer*, p. 336.

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MONETARY PENALTIES. See **Federal Coal Mine Health and Safety Act of 1969.**

MOOTNESS.

Parole eligibility—Constitutional claim.—Where respondent was paroled after Court of Appeals upheld his claim in his action against petitioner parole board members that he was constitutionally entitled to certain procedural rights in connection with petitioners' consideration of his eligibility for parole, case is moot and does not present an issue “capable of repetition, yet evading review,” since action is not a class action and there is no demonstrated probability that respondent will again be subjected to parole system. *Weinstein v. Bradford*, p. 147.

MOTOR CARRIERS. See **Carriers.**

MURDER. See **Constitutional Law, VI, 1; Federal-State Relations, 1.**

NARCOTICS. See **Controlled Substances Act.**

NATURAL GAS ACT. See **Certiorari; Judicial Review, 2-3.**

NATURAL GAS SHORTAGES. See **Certiorari; Judicial Review, 2-3.**

NEBRASKA. See **Stays, 1-2; Supreme Court, 12.**

NEGLIGENCE OF MOTOR CARRIERS. See **Carriers.**

- NEWS COVERAGE OF CRIMINAL PROCEEDINGS.** See *Stays*, 1-2; *Supreme Court*, 12.
- NEW YORK PUBLIC HEALTH LAW.** See *Stays*, 7.
- NONDISCRIMINATORY AD VALOREM PROPERTY TAXES.**
See *Constitutional Law*, V.
- NONDISCRIMINATORY EMPLOYMENT PRACTICES.** See *Stays*, 4.
- NOTICE OF TAX DEFICIENCY.** See *Internal Revenue Code*.
- NUCLEAR POWERED GENERATING PLANTS.** See *Judicial Review*, 1.
- PAROLE.** See *Mootness*.
- PATIENTS' IDENTITIES.** See *Stays*, 7.
- PAYMENT OF WAGES.** See *Seamen*.
- PENALTIES.** See *Federal Coal Mine Health and Safety Act of 1969*; *Seamen*.
- PERSONAL INJURY ACTIONS.** See *Conflict of Laws*.
- PERSONAL STAKE IN OUTCOME.** See *Constitutional Law*, I.
- PHILADELPHIA.** See *Constitutional Law*, I; *Federal-State Relations*, 2.
- PHYSICIANS.** See *Controlled Substances Act*.
- POLICE INTERROGATIONS.** See *Constitutional Law*, III.
- POLICE MISCONDUCT.** See *Constitutional Law*, I; *Federal-State Relations*, 2.
- "POPULATION CENTER DISTANCE."** See *Judicial Review*, 1.
- POSSESSION OF STOLEN MAIL.** See *Constitutional Law*, IV, 1, 3.
- POSTAL OFFICERS.** See *Constitutional Law*, IV, 1, 3.
- PREGNANT WOMEN.** See *Constitutional Law*, II, 3.
- PRESCRIPTION DRUGS.** See *Stays*, 7.
- PRESUMPTIONS.** See *Constitutional Law*, II, 3.
- PRETERMINATION HEARINGS.** See *Abstention*.
- PRIORITY OF DEBTS.** See *United States*.
- PRIOR RESTRAINTS ON MEDIA REPORTING.** See *Stays*, 1-2; *Supreme Court*, 12.

- PRIVILEGE AGAINST SELF-INCRIMINATION.** See **Constitutional Law, III.**
- PRIVILEGED INFORMATION.** See **Stays, 4.**
- PROBABLE CAUSE FOR ARREST.** See **Constitutional Law, IV, 1, 3.**
- PROBABLE CAUSE TO SEARCH AUTOMOBILE.** See **Constitutional Law, IV, 2.**
- PROCEDURE.** See also **Abstention; Conflict of Laws.**
Petitioner's death—Dismissal of certiorari.—Petitioner's death pending review by certiorari requires dismissal of petition. *Dove v. United States*, p. 325.
- PROCEDURES FOR TAX ASSESSMENT AND COLLECTION.**
See **Internal Revenue Code.**
- PROPERTY TAXES.** See **Constitutional Law, V.**
- PUBLIC EMPLOYEES.** See **Abstention.**
- PURCHASES OF FIREARMS.** See **Gun Control Act of 1968.**
- PURCHASES OF SECURITIES.** See **Securities Exchange Act of 1934.**
- RADIO KITS.** See **False Claims Act.**
- RECEIPT OF FIREARMS.** See **Gun Control Act of 1968.**
- REFERENCES TO MAGISTRATE.** See **Federal Magistrates Act.**
- REFUSAL OR NEGLECT TO PAY WAGES.** See **Seamen.**
- REFUSAL TO OBEY SUBPOENA.** See **Appeals.**
- REFUSAL TO TESTIFY BEFORE GRAND JURY.** See **Criminal Law, 2.**
- REGISTERED PHYSICIANS.** See **Controlled Substances Act.**
- REGULATIONS OF INTERSTATE COMMERCE COMMISSION.**
See **Carriers.**
- REMAND TO STATE COURT.** See **Mandamus; Removal.**
- REMOVAL.** See also **Mandamus.**
Remand to state court—Unauthorized grounds.—District Court, to which diversity action had been removed, exceeded its authority in remanding action to state court on grounds (heavy federal docket) not permitted by 28 U. S. C. § 1447(c), which provides for remand on ground that case was removed "improvidently and without jurisdiction." *Thermtron Products, Inc. v. Hermansdorfer*, p. 336.

- RESTRICTING NEWS COVERAGE OF CRIMINAL PROCEEDINGS.** See *Stays*, 1-2; *Supreme Court*, 12.
- REVENUES FROM IMPOSTS AND DUTIES ON IMPORTS.** See *Constitutional Law*, V.
- RIGHT TO CUT OFF POLICE INTERROGATIONS.** See *Constitutional Law*, III.
- RIGHT TO JURY TRIAL.** See *Constitutional Law*, VI, 1.
- RIGHT TO PRETERMINATION HEARING.** See *Abstention*.
- RIGHT TO SILENCE.** See *Constitutional Law*, III.
- RIGHT TO SPEEDY TRIAL.** See *Constitutional Law*, VI, 2.
- RULES OF CIVIL PROCEDURE.** See *Federal Magistrates Act*.
- RULES OF CRIMINAL PROCEDURE.** See *Stays*, 3.
- SAFETY REGULATIONS OF INTERSTATE COMMERCE COMMISSION.** See *Carriers*.
- SALES OF FIREARMS.** See *Gun Control Act of 1968*.
- SALES OF SECURITIES.** See *Securities Exchange Act of 1934*.
- SAWED-OFF SHOTGUNS.** See *Constitutional Law*, II, 1; *Criminal Law*, 1.
- SCHOOLS.** See *Stays*, 5-6.
- SEAMEN.**
- Discharged seaman—Foreign port—Airline ticket to United States as payment of wages due.*—Where, after a seaman was discharged for misconduct from petitioner's ship while it was docked in South Vietnam, petitioner purchased for him an airline ticket to the United States, being precluded by South Vietnamese currency regulations and other complications from paying him his wages due in American currency, transaction resulting in seaman's receipt of airline ticket purchased with money owed to him as wages constituted a payment of wages. Therefore there was no refusal or neglect to make payment, and hence no liability, under 46 U. S. C. § 596, which requires master or owner of a vessel making foreign voyages to pay a discharged seaman his wages within four days after discharge, and, upon refusal or neglect to make such payment without sufficient cause, to pay seaman a sum equal to two days' pay for every day during which payment is delayed. *American Foreign S. S. Co. v. Matise*, p. 150.
- SEARCHES AND SEIZURES.** See *Constitutional Law*, IV, 1-2.

SECRETARY OF HEALTH, EDUCATION, AND WELFARE.

See **Federal Magistrates Act.**

SECRETARY OF THE INTERIOR. See **Federal Coal Mine Health and Safety Act of 1969.****SECURITIES EXCHANGE ACT OF 1934.**

Insider transactions—Recovery of profits—Beneficial owner “at the time of” purchase.—By virtue of exemptive provision of § 16 (b) of Act that § 16 (b) (which enables a corporation to recover for itself profits realized by an officer, director, or beneficial owner of more than 10% of its shares from a purchase and sale of its stock within a six-month period) shall not be construed to cover any transaction where beneficial owner was not such both “at the time of” purchase and sale of securities involved, a beneficial owner is accountable under § 16 (b) in a purchase-sale sequence such as was involved here only if he was such an owner “before the purchase.” Thus fact that respondent was not a beneficial owner before purchase removed transaction from operation of § 16 (b). *Foremost-McKesson v. Provident Securities*, p. 232.

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

SHORT-SWING SECURITIES TRANSACTIONS. See **Securities Exchange Act of 1934.**

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

SOCIAL SECURITY BENEFITS. See **Federal Magistrates Act.**

SOUTH VIETNAM. See **Seamen.**

SPEEDY TRIAL. See **Constitutional Law, VI, 2.**

STANDING TO SUE. See **Constitutional Law, I.**

STATE EMPLOYEES. See **Abstention.**

STATE PROSECUTORS. See **Stays, 3.**

STATE TAXATION. See **Constitutional Law, V.**

STAYS. See also **Supreme Court, 12.**

1. *Criminal proceedings—Order restricting news coverage.*—Action by MR. JUSTICE BLACKMUN, as Circuit Justice, on application by Nebraska news media for stay of a state-court order restricting news coverage of alleged murders and criminal proceedings in prosecution thereof deferred pending prompt decision on application by Nebraska Supreme Court, which had “continued” matter until it was known whether MR. JUSTICE BLACKMUN would act. *Nebraska Press Assn. v. Stuart* (BLACKMUN, J., in chambers), p. 1319.

STAYS—Continued.

2. *Criminal proceedings—Order restricting news coverage.*—Reapplication by news media for stay of a state-court order restricting news coverage of alleged murders and criminal proceedings in prosecution thereof, is granted as to portions of such order (a) incorporating media's voluntary guidelines for reporting such news, (b) prohibiting reporting details of crimes, of victims' identities, and of pathologist's testimony at open preliminary hearing, and (c) restricting reporting of limitations on publicity imposed by order, but only to extent publicity itself is now permitted. Stay is not granted as to restraints on publication prior to trial of certain facts that strongly implicate an accused, such as confession, and stay granted here does not affect those portions of order governing taking of photographs and other media activity in courthouse; nor does it bar trial judge from restricting what parties and officers of court may say to any media representative. *Nebraska Press Assn. v. Stuart* (BLACKMUN, J., in chambers), p. 1327.

3. *Federal grand jury records—Turnover order to state prosecutor.*—Application for stay of District Court's order that files and records of federal grand jury that indicted applicants be turned over to a state prosecutor contemplating state prosecution of applicants, is granted pending appeal. *Smith v. United States* (DOUGLAS, J., in chambers), p. 1303.

4. *Government contractors—Employment practices—Affirmative-action programs—Order requiring disclosure—No irreparable injury.*—Even though there is a substantial question whether information on file with General Services Administration reporting on Government contractors' affirmative-action programs to ensure non-discriminatory employment practices, is privileged by virtue of § 709 (e) of Civil Rights Act of 1964, application for stay of District Court's order requiring GSA to disclose such information must be denied because applicant has failed to show that irreparable injury that allegedly would result from disclosure is imminent. *Chamber of Commerce v. Legal Aid Society* (DOUGLAS, J., in chambers), p. 1309.

5. *Improper dismissal of teachers—State judgment.*—Application for stay of Wisconsin Supreme Court judgment, holding on due process grounds that a school board may not properly dismiss teachers employed by it, denied, where it is not clear whether that judgment rested upon Fourteenth Amendment alone or also upon Wisconsin Constitution, and whether judgment was "final" for purposes of 28 U. S. C. § 1257. *Hortonville Joint School Dist. v. Hortonville Ed. Assn.* (REHNQUIST, J., in chambers), p. 1301.

STAYS—Continued.

6. *Injunction against "fundamental school."*—Application to stay, pending disposition of appeal by Court of Appeals, District Court's order enjoining applicant school board members' creation of a "fundamental school," is granted, where certiorari has been granted in applicant's related petition presenting issue whether District Court still had control over unitary school system which has been in compliance with that court's desegregation decree for four years. *Pasadena Board of Education v. Spangler* (REHNQUIST, J., in chambers), p. 1335.

7. *Law requiring disclosure of patients' identities*—*Judgment invalidating law—No irreparable injury.*—Application for stay of a three-judge District Court's judgment declaring unconstitutional provisions of New York Public Health Law requiring names and addresses of patients receiving certain prescription drugs to be reported to applicant Commissioner of Health, and enjoining enforcement of those provisions and acceptance of incoming prescriptions disclosing patients' identities, is denied, no showing having been made that applicant would suffer irreparable injury as a result of denial of a stay. *Whalen v. Roe* (MARSHALL, J., in chambers), p. 1313.

STOLEN MAIL. See **Constitutional Law**, IV, 1, 3.

STRICT CONSTRUCTION OF CRIMINAL STATUTES. See **Controlled Substances Act.**

SUBCONTRACTS. See **False Claims Act.**

SUFFICIENT WARNING OF CRIMINAL OFFENSE. See **Constitutional Law**, II, 1, 4.

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1. Retirement of Mr. JUSTICE DOUGLAS, p. VII.
2. Appointment of Mr. JUSTICE STEVENS, p. XI.
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9. Assignment of Mr. Justice Clark (retired) to the United States Court of Appeals for the Eighth Circuit, p. 992.

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11. Assignments of Mr. Justice Clark (retired) to the United States Court of Appeals for the Second Circuit, p. 1026.

12. *Circuit Justice—Jurisdiction—State-court restraint of press.*—A Circuit Justice has jurisdiction to act upon a State's highest court's decision that an apparently unconstitutional restraint of press imposed by a trial court's order should remain in effect pending its review thereof, Circuit Justice having deferred action on an application for a stay of such order pending State's highest court's prompt decision thereon, and a reasonable time in which to review such restraint having passed. *Nebraska Press Assn. v. Stuart* (BLACKMUN, J., in chambers), p. 1327.

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TAXES. See **Constitutional Law, V;** **Internal Revenue Code.**

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TENNESSEE. See **Constitutional Law, II, 4.**

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Government contracts—Default—Insolvent debtor—Priority of "debts due to the United States."—Obligations of an insolvent debtor arising from default in performance of Government contracts, occurring before an assignment for benefit of creditors, are entitled to

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statutory priority accorded "debts due to the United States" under 31 U. S. C. § 191, even though obligations were unliquidated in amount at time of assignment. *United States v. Moore*, p. 77.

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1. "*Additional duties.*" 28 U. S. C. § 636 (b) (Federal Magistrates Act). *Mathews v. Weber*, p. 261.

2. "*Debts due to the United States.*" 31 U. S. C. § 191. *United States v. Moore*, p. 77.

3. "*Deficiency.*" § 6211 (a), Internal Revenue Code of 1954, 26 U. S. C. § 6211 (a). *Laing v. United States*, p. 161.

4. "*Firearms capable of being concealed on the person.*" 18 U. S. C. § 1715. *United States v. Powell*, p. 87.

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1. "Wages and Fees" in U. S. C. § 1011. See Patent Rights
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