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CIVIL RIGHTS ACT OF 1964.

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disability benefits plan is less than all inclusive. Petitioner's plan is no more than an insurance package covering some risks but excluding others and there has been no showing that selection of included risks creates a gender-based discriminatory effect. *General Electric Co. v. Gilbert*, p. 125.

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3. *Filing of charge with Equal Employment Opportunity Commission—Limitations period—Effect of grievance procedures.*—Existence and utilization of grievance procedures under collective-bargaining agreement does not toll running of limitations period for filing unlawful-firing charge with EEOC that would otherwise begin on date of firing, Title VII remedies being independent of other pre-existing remedies available to an aggrieved employee. *Electrical Workers v. Robbins & Myers, Inc.*, p. 229.

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II. Due Process.

1. *Fifth Amendment—Equal protection of the laws—Social Security Act—Divorced woman's benefits.*—Statutory classification of § 202 (b) (1) of Social Security Act whereby a married woman under 62 whose husband retires or becomes disabled is granted monthly benefits under Act if she has a minor or other dependent child in her care, but a divorced woman under 62 whose ex-husband retires or becomes disabled does not receive such benefits, does not violate Due Process Clause of Fifth Amendment. *Mathews v. De Castro*, p. 181.

2. *Parole violation—Right to parole revocation hearing.*—Petitioner federal parolee, who is imprisoned for federal crimes committed while on parole and clearly constituting parole violations, is not constitutionally entitled to an immediate parole revocation hearing, where a parole violator warrant was issued and lodged with institution of his confinement as a "detainer" but was not executed. *Moody v. Daggett*, p. 78.

3. *Protected right or liberty—Prescription drugs—Patient identification requirement.*—Neither immediate nor threatened impact of requirement of New York statute that identification of patients obtaining prescription drugs be recorded in centralized state health department computer file on either reputation or independence of patients for whom most dangerous legitimate drugs are medically indicated suffices to constitute an invasion of any right or liberty protected by Fourteenth Amendment. *Whalen v. Roe*, p. 589.

4. *Right to fair trial—Accused's pretrial right to names of undercover agents or other prosecution witnesses.*—Due Process Clause of Fourteenth

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Amendment does not require that prosecution reveal before trial names of undercover agents or other witnesses who will testify unfavorably to defense. That petitioner undercover agent, who was prosecution witness at respondent's state criminal trial, not only concealed his identity but represented to respondent before trial that he would not be a prosecution witness did not deny respondent a right to a fair trial. Misrepresentation was not deliberate, and there is no constitutional difference between surprise testimony of an informer who is not suspected and therefore is not asked about testifying for prosecution and informer who, like petitioner, is asked by defendant but denies that he will testify. *Weatherford v. Bursey*, p. 545.

III. Eighth Amendment.

Cruel and unusual punishment—Inadequate medical care for prisoner.—Deliberate indifference by prison personnel to a prisoner's serious illness or injury constitutes cruel and unusual punishment contravening Eighth Amendment. Here, however, respondent state inmate's claims against petitioner physician and corrections department medical director for inadequate treatment of a back injury do not suggest such indifference, allegations revealing that such physician and other medical personnel saw respondent on 17 occasions during a 3-month span and treated his injury and other problems. Failure to perform an X-ray or to use additional diagnostic techniques does not constitute cruel and unusual punishment but is at most medical malpractice cognizable in state courts. *Estelle v. Gamble*, p. 97.

IV. Eleventh Amendment.

Immunity from suit—School board.—Since under Ohio law "State" does not include "political subdivisions" (a category including school districts) and record shows that a local school board in Ohio like petitioner is more like a county or city than it is an arm of State, petitioner is not immune from suit under Eleventh Amendment. *Mt. Healthy City Board of Ed. v. Doyle*, p. 274.

V. Equal Protection of the Laws.

1. *Food stamp recipients' income—Disallowance of deduction for transportation expenses.*—Federal and state regulations that disallow a deduction for transportation expenses in connection with a job training program for purposes of computing income of food stamp recipients do not deny equal protection or due process. *Knebel v. Hein*, p. 288.

2. *Prohibition against sale of beer—Gender-based differential—Invidious discrimination.*—Gender-based differential in Oklahoma statutory scheme prohibiting sale of 3.2% beer to males under age of 21 and to females under age of 18, constitutes invidious discrimination against males 18-20

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years of age in violation of Equal Protection Clause of Fourteenth Amendment. Appellees' statistics (most relevant of which show only that .18% of females and 2% of males in 18-20-year-old age group were arrested for driving under influence of liquor) do not warrant conclusion that sex represents an accurate proxy for regulation of drinking and driving. *Craig v. Boren*, p. 190.

3. *Racially discriminatory intent or purpose—Burden of proof—Denial of rezoning for housing project.*—Proof of racially discriminatory intent or purpose is required to show a violation of Equal Protection Clause of Fourteenth Amendment, and respondents failed to carry their burden of proving that such an intent or purpose was motivating factor in petitioner village's denial of rezoning necessary for respondent developer to build racially integrated low- and moderate-income housing project. *Arlington Heights v. Metropolitan Housing Corp.*, p. 252.

VI. Fifth Amendment.

1. *Double jeopardy—Bench trial—Finding of guilt—Dismissal of indictment—Government appeal.*—Double jeopardy does not bar Government's appeal from District Court's dismissal of indictment occurring after that court's general finding of guilt in a bench trial. *United States v. Kopp*, p. 121.

2. *Double jeopardy—Bench trial—Finding of guilt—Subsequent suppression of evidence—Government appeal.*—District Court's general finding of guilt in a bench trial is for double jeopardy purposes same as a jury verdict of guilty. Government is therefore entitled, pursuant to Criminal Appeals Act, to appeal District Court's subsequent order suppressing certain evidence on reconsideration of respondent's pretrial motion, which was originally denied, since success on that appeal would result in reinstatement of District Court's general finding of guilt, rather than in further factual proceedings relating to guilt or innocence. *United States v. Morrison*, p. 1.

3. *Double jeopardy—Bench trial—Finding of guilt—Subsequent suppression of evidence—Government appeal.*—After District Court had found respondent guilty at a bench trial, double jeopardy does not bar Government's appeal from District Court's order suppressing certain evidence, entered upon reconsideration of respondent's motion to suppress, which was originally denied. *United States v. Rose*, p. 5.

4. *Double jeopardy—Hung jury—Mistrial—Dismissal of indictment—Government appeal.*—Where District Court, because of a hung jury, declared a mistrial on indictment against respondents, Double Jeopardy Clause of Fifth Amendment does not bar a retrial, and hence Government is entitled under Criminal Appeals Act to appeal from District Court's

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subsequent dismissal of indictment on respondents' motion, since dismissal was prior to a trial that Government had a right to prosecute and respondents were required to defend. *United States v. Sanford*, p. 14.

VII. First Amendment.

1. *Freedom of speech—Prior restraint—Labor negotiations—School board and teachers' union—Open board meeting—Curtailing nonunion teachers from speaking.*—Where a nonunion teacher, over union objection, addressed at open meeting of appellant Board of Education, one topic (union's demand for a "fair share" clause) of pending labor negotiations between Board and union, and it does not appear that teacher, although his views were not consistent with those of union, sought to bargain or offered to enter into any bargain with Board or that he was authorized by any other teachers to enter into any agreement on their behalf, circumstances do not present such danger to labor-management relations as to justify appellee Wisconsin Employment Relations Commission, on union's complaint, ordering Board to immediately cease and desist from permitting any employees but union officials to appear and speak at Board meetings on matters subject to collective bargaining. *Madison Sch. Dist. v. Wisconsin Emp. Rel. Comm'n*, p. 167.

2. *Freedom of speech—Prior restraint—Teachers' expressions to school board.*—Appellee Wisconsin Employment Relations Commission's order that appellant Board of Education immediately cease and desist from permitting any employees but union officials to appear and speak at open Board meetings on matters subject to collective bargaining, being designed to govern speech and conduct in future and not merely to punish past conduct, is an improper prior restraint on teachers' expressions to Board on matters involving operation of schools. *Madison Sch. Dist. v. Wisconsin Emp. Rel. Comm'n*, p. 167.

3. *Freedom of speech—Refusal to rehire teacher.*—Respondent teacher's claims that petitioner school board's refusal to rehire him violated his rights under First and Fourteenth Amendment are not defeated because he did not have tenure. *Mt. Healthy City Board of Ed. v. Doyle*, p. 274.

4. *Freedom of speech—Teacher's protected conduct—Refusal to rehire—Remedy.*—That conduct protected by First and Fourteenth Amendments played substantial part in decision not to rehire respondent teacher does not necessarily amount to a constitutional violation justifying remedial action. Proper test is one that protects against invasion of constitutional rights without commanding undesirable consequences not necessary to assurance of those rights. Since respondent here satisfied burden of showing that his conduct was constitutionally protected and was a motivating factor in petitioner school board's decision not to rehire him, District Court

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should have gone on to determine whether petitioner had shown by a preponderance of evidence that it would have reached same decision even in absence of protected conduct. *Mt. Healthy City Board of Ed. v. Doyle*, p. 274.

VIII. Fourth Amendment.

1. *Search and seizure—Warrantless entry into business premises—Seizures to satisfy tax assessments.*—Internal Revenue agents' warrantless entry into privacy of petitioner corporation's office to seize property in satisfaction of jeopardy income-tax assessments against taxpayer for whom petitioner was alter ego, violated Fourth Amendment, since "except in certain carefully defined classes of cases, a search of private property without proper consent is 'unreasonable' unless it has been authorized by a valid search warrant." Business premises are protected by Fourth Amendment, and corporations have Fourth Amendment rights. *G. M. Leasing Corp. v. United States*, p. 338.

2. *Search and seizure—Warrantless seizures of automobiles to satisfy tax assessment.*—Internal Revenue agents' warrantless seizures of petitioner corporation's automobiles in partial satisfaction of jeopardy income-tax assessments against taxpayer for whom petitioner was alter ego, involved no invasion of privacy and were not unconstitutional, where seizures occurred in public streets, parking lots, or other open areas. *G. M. Leasing Corp. v. United States*, p. 338.

3. *Search warrants—Justice of peace—Fees for issuance.*—A justice of peace's issuance of a search warrant to search appellant's house, pursuant to Georgia statutory scheme whereby a justice of peace, who is not salaried, is paid a prescribed fee for *issuance* of each warrant but receives nothing for his *denial* of a warrant, effects a violation of protections afforded appellant by Fourth and Fourteenth Amendments. *Connally v. Georgia*, p. 245.

IX. Police Powers.

Prescription drugs—Patient identification requirement.—Requirement of New York statute that identification of patients obtaining prescription drugs be recorded in centralized state health department computer file, is a reasonable exercise of State's broad police powers, and District Court's finding that necessity for requirement had not been proved is not a sufficient reason for holding statute unconstitutional. *Whalen v. Roe*, p. 589.

X. Self-incrimination.

Confession—Lack of custody—Necessity for Miranda warnings.—Where respondent in response to police officer's request voluntarily came to a police station for questioning about a burglary and was immediately

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informed that he was not under arrest, and at close of a half-hour interview left station without hindrance, respondent was not in custody "or otherwise deprived of his freedom of action in any significant way," so as to require that his confession to burglary obtained during such interview be suppressed at his state criminal trial because he was not given *Miranda* warnings prior to being questioned. *Oregon v. Mathiason*, p. 492.

XI. Sixth Amendment.

Right to counsel—Effect of undercover agent's pretrial meetings with accused's counsel.—Fact that petitioner undercover agent, who was arrested with respondent for a state criminal offense and subsequently was a prosecution witness at respondent's trial, participated in two pretrial meetings with respondent and respondent's counsel did not deprive respondent of his right to counsel under Sixth Amendment, which does not establish a *per se* rule forbidding an undercover agent to meet with a defendant's counsel. As long as information possessed by petitioner about two meetings remained uncommunicated to his superiors or to prosecution, he posed no threat to respondent's Sixth Amendment rights. *Weatherford v. Bursey*, p. 545.

XII. Supremacy Clause.

County tax on federal employees' possessory interests in Government-owned housing.—Tax imposed by appellee California counties on possessory interests of appellant United States Forest Service employees in housing located in National Forests within counties and owned and supplied to appellants by Forest Service as part of their compensation, is not barred by Supremacy Clause as a state tax on Federal Government or federal property. *United States v. County of Fresno*, p. 452.

XIII. Twenty-first Amendment.

Prohibition against sale of beer—Gender-based differential—Equal protection of the laws.—Operation of Twenty-first Amendment, which prohibits transportation or importation into any State for delivery or use therein of intoxicating liquors, in violation of laws thereof, does not alter application of equal protection standards that otherwise govern case challenging, on equal protection grounds, Oklahoma statutory scheme prohibiting sale of 3.2% beer to males under age of 21 and to females under age of 18. Court has never recognized that application of that Amendment can defeat an otherwise established claim under Equal Protection Clause of Fourteenth Amendment, principles of which cannot be rendered inapplicable here by reliance upon statistically measured but loose-fitting generalities concerning drinking tendencies of aggregate groups. *Craig v. Boren*, p. 190.

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2. *Willful filing of false income tax returns—Jury instructions on willfulness.*—At respondents' trial on a charge of willfully filing false income tax returns in violation of § 7206 (1) of Internal Revenue Code, District Court adequately instructed jury on willfulness in accordance with standard that willfulness in context of § 7206 and related statutes simply means a voluntary, intentional violation of a known legal duty, and hence an additional instruction on good faith was unnecessary. *United States v. Pomponio*, p. 10.
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employees from substandard earnings by fixing floor under wages on Government projects, is not "frustrated" by clause in collective-bargaining agreement between petitioner general contractor, who subcontracted certain carpentry work on Government project, and a carpenters' union, requiring petitioner to pay contributions to certain trust funds with respect to hours of carpentry work performed by employees of nonsignatory subcontractor. Such objective is clearly not "frustrated" when contractual arrangements between employers and their employees result in higher compensation and benefits than floor established by Act. *Walsh v. Schlecht*, p. 401.

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- EVIDENCE.**

1. *Confession—Admissibility—Voluntariness.*—Respondent's confession to a crime was not *per se* inadmissible at his criminal trial as being involuntary merely because it was made as a result of an agreed-upon but unexecuted plea bargain that did not call for such a confession. Where confession does not appear to have been result of "any direct or implied

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promises" or any coercion on prosecution's part, it was not involuntary. *Hutto v. Ross*, p. 28.

2. *Finding of guilt—Hearsay evidence—Harmless error.*—It was error for trial judge in a bench trial to rely upon wrongfully admitted hearsay evidence in finding petitioner guilty of a federal narcotics offense, but where judge did not find petitioner guilty on this evidence alone, case is remanded to Court of Appeals to determine whether wrongful admission of hearsay evidence was harmless error, and if not, whether petitioner waived objection to it. *Moore v. United States*, p. 20.

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FALSE INCOME TAX RETURNS. See *Criminal Law*, 2.

FEDERAL COMMON LAW. See *Federal-State Relations*, 2.

FEDERAL GOVERNMENT'S IMMUNITY FROM STATE TAXATION. See *Constitutional Law*, XII.

FEDERAL LAW AS GOVERNING CONSTRUCTION OF COLLECTIVE-BARGAINING AGREEMENTS. See *Federal-State Relations*, 1.

FEDERAL PAROLEES. See *Constitutional Law*, II, 2.

FEDERAL-QUESTION JURISDICTION. See *Jurisdiction*.

FEDERAL RULES OF APPELLATE PROCEDURE. See *Appeals*, 2.

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

Antitrust action—Treble damages—Judgment notwithstanding verdict.—Petitioner bowling equipment manufacturer and bowling center operator, in action against it by respondent bowling center operators for treble damages under Clayton Act, is entitled under Rule 50 (b) to judgment on

FEDERAL RULES OF CIVIL PROCEDURE—Continued.

damages claim notwithstanding verdict, since respondents' case was based solely on their novel theory, rejected herein, of damages ascribable to profits they would have received had competing bowling centers, which were acquired by petitioner when they defaulted in payments for bowling equipment, been closed, and since respondents have not shown any reason to require a new trial. *Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc.*, p. 477.

FEDERAL-STATE RELATIONS. See also **Constitutional Law**, I; **XII**; **Food Stamp Act of 1964**; **Stays**, 8.

1. *Collective-bargaining agreement—Subcontractor's clause—Federal rather than state law as governing meaning.*—Federal rather than state law principles of contract construction apply in determining meaning of subcontractor's clause in collective-bargaining agreement between petitioner general contractor and a carpenters' union, since such clause is a provision of a collective-bargaining agreement and application of federal law is necessary to avoid "possibility that individual contract terms might have different meanings under state and federal law." *Walsh v. Schlecht*, p. 401.

2. *Disputed ownership of riverbed lands—State against private corporation—State law, and not federal common law, as governing.*—Dispute between State of Oregon and Oregon corporation over ownership of land underlying Willamette River, which is navigable but not an interstate boundary, should be decided solely as a matter of Oregon law and not by federal common law, since application of federal common law is required neither by equal-footing doctrine nor by any other principle of federal law. *Oregon ex rel. State Land Board v. Corvallis Sand & Gravel Co.*, p. 363.

3. *State-law question—Absence of controlling state decision—Certification to state court.*—Question whether Massachusetts law authorizes Massachusetts Attorney General to appeal from Federal District Court's judgment against certain state officers he represented in that court notwithstanding their expressed opposition to appeal, is certified to Massachusetts Supreme Judicial Court in absence of any clearly controlling decision on question by that court. *Massachusetts v. Feeney*, p. 66.

4. *Tax Injunction Act—Bar to injunctive relief against state sales tax assessment.*—Tax Injunction Act, 28 U. S. C. § 1341, which prohibits federal district courts from enjoining assessment, levy, or collection of state taxes where "a plain, speedy and efficient remedy may be had in the courts of such State," bars appellee Vermont furniture store's suit in Federal District Court for injunctive relief against allegedly unconstitutional assessment of New York sales taxes on appellee's sales to New York customers, since New York provides a "plain, speedy and efficient" means for redress of appellee's constitutional claims while preserving right to challenge amount of taxes due. *Tully v. Griffin, Inc.*, p. 68.

- FEEES FOR ISSUANCE OF SEARCH WARRANTS.** See Constitutional Law, VIII, 3.
- FIFTH AMENDMENT.** See Constitutional Law, II, 1; VI.
- FINALITY OF JUDGMENT.** See Stays, 1.
- FINANCING OF REAL ESTATE DEVELOPMENTS.** See Antitrust Acts, 1.
- FINDINGS OF GUILT.** See Constitutional Law, VI, 1-3; Evidence, 2.
- FIRING OF EMPLOYEES.** See Civil Rights Act of 1964, 3.
- FIRST AMENDMENT.** See Constitutional Law, VII; Jurisdiction.
- FISHING RIGHTS.** See States.
- FLOOD PREVENTION AND CONTROL DISTRICTS.** See Procedure, 1.
- FOOD STAMP ACT OF 1964.** See also Constitutional Law, V, 1.
Food stamp recipients' income—Disallowance of deduction for transportation expenses.—Federal and state regulations that disallow a deduction for transportation expenses in connection with a job training program for purposes of computing income of food stamp recipients do not conflict with Act. *Knebel v. Hein*, p. 288.
- FOURTEENTH AMENDMENT.** See Constitutional Law, II, 3, 4; V; VII, 3, 4; VIII, 3; XI; XIII; Jurisdiction; Mootness; Procedure, 2; Standing to Sue.
- FOURTH AMENDMENT.** See Constitutional Law, VIII.
- FREEDOM OF SPEECH.** See Constitutional Law, VII.
- FREEDOM OF THE PRESS.** See Stays, 7.
- GAMBLING OFFENSES.** See Omnibus Crime Control and Safe Streets Act of 1968.
- GAS LEASES.** See Stays, 9.
- GENDER-BASED DISCRIMINATION.** See Civil Rights Act of 1964, 1; Constitutional Law, V, 2; XIII; Mootness; Procedure, 4; Standing to Sue, 1.
- GENERAL CONTRACTORS.** See Davis-Bacon Act; Federal-State Relations, 1; Labor Management Relations Act.
- GEORGIA.** See Constitutional Law, VIII, 3.
- GOVERNMENT APPEALS.** See Appeals, 2; Constitutional Law, VI.
- GOVERNMENT PROJECTS.** See Davis-Bacon Act.
- GRIEVANCE PROCEDURES.** See Civil Rights Act of 1964, 3.

- HARMLESS ERROR.** See Evidence, 2.
- HEARSAY EVIDENCE.** See Evidence, 2.
- HOUSING PROJECTS.** See Constitutional Law, V, 3; Standing to Sue, 2.
- HUNG JURY.** See Constitutional Law, VI, 4.
- IDAHO.** See States.
- IDENTIFICATION OF PATIENTS OBTAINING PRESCRIPTION DRUGS.** See Constitutional Law, II, 3; IX; Physicians.
- IDENTIFICATION REQUIREMENTS FOR WIRETAPS.** See Omnibus Crime Control and Safe Streets Act of 1968, 1-3.
- ILLEGAL GAMBLING.** See Omnibus Crime Control and Safe Streets Act of 1968.
- IMMIGRANT VISAS.** See Aliens.
- IMMIGRATION JUDGES.** See Aliens.
- IMMUNITY OF FEDERAL GOVERNMENT FROM STATE TAXATION.** See Constitutional Law, XII.
- IMMUNITY OF SCHOOL BOARDS FROM SUIT.** See Constitutional Law, IV.
- IMPARTIAL JURIES.** See Criminal Law, 1.
- IMPROPER RELIANCE ON PRIOR DECISION.** See Procedure, 1.
- IMPROVIDENT GRANT OF CERTIORARI.** See Certiorari.
- INCOME TAX DEDUCTIONS.** See Internal Revenue Code.
- INCOME TAXES.** See Constitutional Law, VIII, 1, 2; Criminal Law, 2; Internal Revenue Code.
- INCOME UNDER FOOD STAMP ACT OF 1964.** See Constitutional Law, V, 1; Food Stamp Act of 1964.
- INDEPENDENT CANDIDATES.** See Injunctions, 2.
- INDICTMENTS.** See Appeals, 2; Constitutional Law, VI, 4.
- "INFORMED CONSENT" REQUIREMENTS FOR ABORTIONS.** See Abortions.
- INFORMERS.** See Constitutional Law, II, 4.
- INJUNCTIONS.** See also Abortions; Federal-State Relations, 4; Mootness; Stays, 3, 9.
1. *Communist Party Presidential candidate—Name on ballot.*—Application for an injunction ordering that names of Communist Party candidates

INJUNCTIONS—Continued.

for President and Vice President be placed on ballot in Connecticut for November 2, 1976, election, is denied. Question of constitutionality of allegedly unduly burdensome filing procedures prescribed by Connecticut statute for access to ballot is too novel and uncertain to warrant single Justice's acting unilaterally. Moreover, applicants delayed unnecessarily in commencing suit attacking statute, and respondent state officials claim that an injunction at this time would have a chaotic and disruptive effect upon electoral process. *Fishman v. Schaffer* (MARSHALL, J., in chambers), p. 1325.

2. *Independent Presidential candidate—Name on ballot.*—Application for an injunction ordering that applicant McCarthy's name be placed on 1976 general election ballot in Texas as an independent candidate for President is granted, where District Court properly determined that Texas Election Code provision precluding candidates from gaining access to ballot as independents was unconstitutional, but denied requested relief on mistaken assumption that a lengthy signature-gathering process was only means of demonstrating requisite community support. *McCarthy v. Briscoe* (POWELL, J., in chambers), p. 1317.

INJURY IN FACT. See **Standing to Sue**, 1.

IN-STATE SALES OF SECURITIES. See **Constitutional Law**, I.

INSTRUCTIONS TO JURY. See **Criminal Law**, 2.

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

INTERFERENCE WITH RIGHT TO PRACTICE MEDICINE. See **Physicians**.

INTERNAL REVENUE CODE. See also **Constitutional Law**, VIII, 1, 2; **Criminal Law**, 2.

1. *Income tax deductions—Corporate employer's delivery of promissory notes to trustees of employees' profit-sharing trust.*—Petitioner accrual-basis corporate taxpayer, by delivering fully secured promissory demand notes to trustees of its qualified employees' profit-sharing trust, is not entitled to income tax deductions therefor under § 404 (a) of 1954 Code, which allows a deduction for contributions "paid" by an employer to a profit-sharing plan in taxable year "when paid," and further allows deduction if contribution was a "payment . . . made" within a specified grace period following end of employer's taxable year. *Don E. Williams Co. v. Commissioner*, p. 569.

2. *Loss carryover—"Absorption" by capital gains as well as ordinary income.*—In carrying back a net operating loss under § 172 of Code to a

INTERNAL REVENUE CODE—Continued.

year in which taxpayer had both ordinary income and capital gains and employed alternative tax computation method of § 1201 (a), loss deduction available for carryover to a succeeding year is amount by which loss exceeds taxpayer's "taxable income"—ordinary income plus capital gains for prior year—loss carryover being "absorbed" by capital gains as well as ordinary income. *United States v. Foster Lumber Co.*, p. 32.

3. *Loss carryover—Offset to taxable income—Capital gains.*—Absent any specific provision in Code excluding capital gains from "taxable income," Code's definitions of "taxable income" and gross income in §§ 63 (a) and 61 (a) require that both capital gains and ordinary income must be included in taxable income that § 172 directs must be offset by loss deduction before any loss excess can be found available for transfer forward to succeeding taxable year, and if Congress had intended to permit a loss deduction to offset only ordinary income when § 1201 (a) is used to compute tax, it could easily have said so. *United States v. Foster Lumber Co.*, p. 32.

INTERSTATE COMMERCE. See **Constitutional Law**, I.

INTERVENING DECISIONS OR LEGISLATION. See **Certiorari**, 1.

INTOXICATING LIQUORS. See **Constitutional Law**, V, 2; XIII;
Mootness; Standing to Sue, 1.

INVASIONS OF PRIVACY. See **Constitutional Law**, II, 3.

INVENTORY NOTICES OF WIRETAPS. See **Omnibus Crime Control and Safe Streets Act of 1968**, 4.

INVIDIOUS DISCRIMINATION. See **Constitutional Law**, V, 2.

INVOLUNTARY CONFESSIONS. See **Evidence**, 1.

IRREPARABLE HARM. See **Stays**, 5.

JEOPARDY TAX ASSESSMENTS. See **Constitutional Law**, VIII, 2.

JOB TRAINING PROGRAMS. See **Constitutional Law**, V, 1; **Food Stamp Act of 1964**.

JONES ACT. See **Appeals**, 1.

JUDGES.

Circuit Justice—Designation of circuit judge to act in other circuit—Transfer of appeal.—Application to Circuit Justice for a certificate of necessity under 28 U. S. C. § 291 (a) requesting that CHIEF JUSTICE designate judges from other circuits to sit in applicants' appeal to Court of Appeals for Second Circuit or for transfer of appeal to another court of appeals, because of alleged disqualification of all Second Circuit Judges, is denied. *Meeropol v. Nizer* (MARSHALL, J., in chambers), p. 1337.

JUDGMENTS. See Procedure, 3, 4.

JUDGMENTS NOTWITHSTANDING VERDICT. See Federal Rules of Civil Procedure.

JUDICIAL AUTHORIZATION OF WIRETAPS. See Omnibus Crime Control and Safe Streets Act of 1968, 1, 4.

JURIES. See Criminal Law, 1.

JURISDICTION. See also Stays, 3, 4; Voting Rights Act of 1965.

1. *Federal-question jurisdiction—Teacher's action for reinstatement and damages—Amount in controversy.*—Respondent teacher's complaint in his action against petitioner school board for reinstatement and damages, claiming that petitioner's refusal to rehire him violated his rights under First and Fourteenth Amendments, sufficiently pleaded jurisdiction under 28 U. S. C. § 1331. Though amount in controversy thereunder must exceed \$10,000, even if District Court had chosen to award only compensatory damages, it was far from a "legal certainty" at time of suit that respondent would not have been entitled to more than that amount. *Mt. Healthy City Board of Ed. v. Doyle*, p. 274.

2. *Jurisdictional issue—Belated contention—Failure to preserve issue.*—In respondent teacher's action against petitioner school board for reinstatement and damages, claiming that petitioner's refusal to rehire him violated his rights under First and Fourteenth Amendments, petitioner in not raising an additional jurisdictional issue concerning 42 U. S. C. § 1983 until after this Court had granted certiorari and after petitioner had filed its reply brief, failed to preserve issue whether complaint stated a claim upon which relief could be granted against it. Because question involved is not of jurisdictional sort that Court raises on its own motion, it is assumed without deciding that respondent could sue under 28 U. S. C. § 1331 without regard to limitations imposed by § 1983. *Mt. Healthy City Board of Ed. v. Doyle*, p. 274.

JURY INSTRUCTIONS. See Criminal Law, 2.

JUS TERTII STANDING. See Standing to Sue, 1.

JUSTICES OF THE PEACE. See Constitutional Law, VIII, 3.

LABOR. See Davis-Bacon Act; Federal-State Relations, 1; Labor Management Relations Act; Labor-Management Reporting and Disclosure Act of 1959; National Labor Relations Act.

LABOR MANAGEMENT RELATIONS ACT. See also Davis-Bacon Act; Federal-State Relations, 1.

Collective-bargaining agreement—Subcontractor's clause—Contributions to trust funds.—Subcontractor's clause in collective-bargaining agreement between petitioner general contractor and carpenters' union, as construed

LABOR MANAGEMENT RELATIONS ACT—Continued.

by Oregon Supreme Court to require petitioner to make contributions to trust funds for employees measured by hours worked by his subcontractor's employees, benefits being payable only to carpenters employed by petitioner or other signatory employers, does not violate § 302 (a) (1) of Act prohibiting agreements of employers to pay money to any representative of their employees. But clause is authorized by §§ 302 (c) (5) and (6) exempting from this proscription agreements to pay money to trust funds jointly created and administered by trustees representing employer associations and a labor union for purpose of providing medical or hospital care, pensions, or pooled vacations for employees of signatory employers, or to defray costs of apprenticeship or other training programs. *Walsh v. Schlecht*, p. 401.

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959.

Union constitution—Meeting-attendance requirement for holding union office.—Provision of petitioner labor unions' constitution limiting eligibility for local union office to members who have attended at least one-half of local's regular meetings for three years previous to election of officers, violates § 401 (e) of Act, which provides that every union member in good standing shall be eligible to be a candidate and to hold office, subject to "reasonable qualifications." *Steelworkers v. Usery*, p. 305.

LABOR UNIONS. See **Constitutional Law**, VII, 1, 2; **Labor-Management Reporting and Disclosure Act of 1959**; **National Labor Relations Act**, 2.

LACHES. See **Stays**, 3.

LACK OF PROPERLY PRESENTED FEDERAL QUESTION. See **Appeals**, 1.

LANDRUM-GRIFFIN ACT. See **Labor-Management Reporting and Disclosure Act of 1959**.

LAW GOVERNING MEANING OF COLLECTIVE-BARGAINING AGREEMENT. See **Federal-State Relations**, 1.

LAW GOVERNING OWNERSHIP OF RIVERBED LANDS. See **Federal-State Relations**, 2.

LEGAL INCIDENCE OF STATE TAXES. See **Constitutional Law**, XII.

LESSENING OF COMPETITION. See **Antitrust Acts**, 1.

LIBERTY RIGHTS. See **Constitutional Law**, II, 2, 3.

LIFTING BAR OF STATUTE OF LIMITATIONS. See **Limitation of Actions.**

LIMITATION OF ACTIONS. See also **Civil Rights Act of 1964**, 2, 3.

Lifting bar—Restoration of lost remedy—Constitutionality.—Lifting bar of a statute of limitations so as to restore a remedy lost through mere lapse of time is not *per se* unconstitutional. *Electrical Workers v. Robbins & Myers, Inc.*, p. 229.

LIMITATION PERIOD FOR APPEALS. See **Appeals**, 2.

LIMITATIONS UPON ELIGIBILITY FOR UNION OFFICE. See **Labor-Management Reporting and Disclosure Act of 1959.**

LOSS CARRYBACKS OR CARRYOVERS. See **Internal Revenue Code**, 2, 3.

LOSS OF LIBERTY. See **Constitutional Law**, II, 2.

LOUISIANA. See **Abortions.**

LOW- AND MODERATE-INCOME HOUSING. See **Constitutional Law**, V, 3; **Standing to Sue**, 2.

MANDATES. See **Procedure**, 3, 4.

MASSACHUSETTS. See **Federal-State Relations**, 3.

MEDICAL TREATMENT OF PRISONERS. See **Constitutional Law**, III.

MEETING-ATTENDANCE REQUIREMENTS FOR HOLDING UNION OFFICE. See **Labor-Management Reporting and Disclosure Act of 1959.**

MERGERS. See **Antitrust Acts**, 1.

MID-ATLANTIC OUTER CONTINENTAL SHELF. See **Stays**, 9.

MIRANDA WARNINGS. See **Constitutional Law**, X.

MISSISSIPPI. See **Voting Rights Act of 1965.**

MISTRIAL. See **Constitutional Law**, VI, 4.

MONOPOLIES. See **Antitrust Acts**, 1.

MOOTNESS.

Prohibition against sale of beer—Relief against gender-based age differential—Appellant's becoming 21.—Since only declaratory and injunctive relief was sought against enforcement of allegedly discriminatory Oklahoma statutory scheme prohibiting sale of 3.2% beer to males under age of 21 and to females under age of 18, controversy has been mooted as to appellant male who became 21 after this Court had noted probable jurisdiction. *Craig v. Boren*, p. 190.

MOTIONS FOR LEAVE TO FILE ORIGINAL COMPLAINT. See States.

MOTIONS TO RECALL MANDATE. See Procedure, 3.

MURDER. See Criminal Law, 1.

NARCOTICS. See Constitutional Law, II, 3; IX; Physicians.

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969. See Stays, 9.

NATIONAL FORESTS. See Constitutional Law, XII.

NATIONAL LABOR RELATIONS ACT.

1. *Poultry truck drivers as "employees" under Act.*—Truck drivers employed by petitioner operators of poultry business to deliver feed from petitioners' feed-mill for petitioners' chicks supplied to independent farms under contract, are "employees" within coverage of Act, not agricultural laborers. Drivers' status is determined by character of work that they perform for their employer, which work is not incidental to any of their employers' agricultural activities, feed-mill operation being nonagricultural and storage and use of feed on independent farms being agricultural activity performed by independent farmers not by petitioners. *Bayside Enterprises, Inc. v. NLRB*, p. 298.

2. *Unfair labor practice—Union's refusal to install climate control units at construction site—Secondary activity.*—Respondent union's refusal to install at construction site climate control units, which under subcontract job specifications were piped at factory, on ground that collective-bargaining agreement between respondent and subcontractor provided that pipe threading and cutting were to be performed at jobsite, was secondary activity prohibited by § 8 (b) (4) (B), rather than primary activity beyond reach of that provision. Existence of a work-preservation agreement is not an adequate defense to a § 8 (b) (4) (B) unfair labor practice charge. *NLRB v. Pipefitters*, p. 507.

NECESSITY FOR STAY. See Stays, 1.

NEGROES. See Civil Rights Act of 1964, 2; Constitutional Law, V, 3; Standing to Sue, 2.

NET OPERATING LOSS CARRYBACKS OR CARRYOVERS. See Internal Revenue Code, 2, 3.

NEWS MEDIA. See Stays, 7.

NEWSPAPER EDITORS AND REPORTERS. See Stays, 2.

NEW YORK. See Constitutional Law, 1; Federal-State Relations, 4.

NEW YORK STATE CONTROLLED SUBSTANCES ACT OF 1972. See Constitutional Law, II, 3; IX; Physicians.

- NONCOMPLIANCE WITH MANDATE.** See Procedure, 4.
- NOTENURED POLICE OFFICERS.** See Procedure, 2.
- OCCUPATIONAL SAFETY AND HEALTH ACT.** See Stays, 6.
- OHIO.** See Procedure, 1.
- OIL AND GAS INTERESTS IN LAND.** See Appeals, 1.
- OIL LEASES.** See Stays, 9.
- OIL TANKERS.** See Stays, 8.
- OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.**

1. *Wiretap application—Failure to comply with identification requirement as warranting suppression of evidence.*—Although Government was required under 18 U. S. C. § 2518 (1) (b) (iv) to identify certain respondents (who were subsequently charged with federal gambling offenses) in wiretap application, failure to do so under circumstances did not warrant suppression under § 2518 (10) (a) (i) requiring suppression of evidence derived from wiretap if “the communication was unlawfully intercepted,” since identification in an intercept application of all those likely to be overheard in incriminating conversations does not play a “substantive role” with respect to judicial authorization of intercept orders and hence does not impose a limitation on use of intercept procedures. *United States v. Donovan*, p. 413.

2. *Wiretap application—Failure to comply with identification requirement as warranting suppression of evidence.*—Suppression of evidence derived from wiretap was not justified under 18 U. S. C. § 2518 (10) (a) (i), which requires suppression of such evidence if “the communication was unlawfully intercepted,” with respect to certain respondents charged with federal gambling offenses simply because Government inadvertently omitted their names from comprehensive list of all identifiable persons whose conversations had been overheard. *United States v. Donovan*, p. 413.

3. *Wiretap application—Identification requirement.*—Title 18 U. S. C. § 2518 (1) (b) (iv), which is part of Title III of Act and which requires Government to include in its wiretap applications “the identity of the person, if known, committing the offense, and whose conversations are to be intercepted,” is not satisfied when wiretap application identifies only “principal target” (usually individual whose phone is monitored) of interception, but Government is required to name *all* individuals who it has probable cause to believe are engaged in criminal activity under investigation and whose conversations it expects will be intercepted over target telephone. Neither language nor structure of Title III nor its legislative history supports interpretation that Congress intended to remove from identification requirement those suspects whose intercepted communications

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968—

Continued.

originated on a telephone other than that listed in wiretap application. *United States v. Donovan*, p. 413.

4. *Wiretap application—Requirement as to inventory notice.*—Under 18 U. S. C. § 2518 (8) (d), requiring judge to whom a wiretap application is made to cause to be served on persons named in wiretap order or application an inventory, which must give notice of entry of order or application, state disposition of application, and indicate whether communications were intercepted, and further providing that judge may order similar notice to other parties to intercepted communications if he concludes that such action is in interest of justice, Government has a statutory responsibility to inform issuing judge of identities of persons whose conversations were overheard in course of interception, thus enabling him to decide whether they should be served with notice of interception. *United States v. Donovan*, p. 413.

OPEN MEETINGS OF SCHOOL BOARDS. See **Constitutional Law**, VII, 1, 2.

OPERATING LOSS CARRYBACKS OR CARRYOVERS. See **Internal Revenue Code**, 2, 3.

ORDERS DISMISSING INDICTMENTS. See **Appeals**, 2.

ORDERS OF COMMITMENT FOR CONTEMPT. See **Stays**, 2.

OREGON. See **Federal-State Relations**, 2; **States**.

ORIGINAL ACTIONS. See **States**.

OUT-OF-STATE SALES OF SECURITIES. See **Constitutional Law**, I.

OVERSTAY OF TOURIST VISA. See **Aliens**.

OWNERSHIP OF RIVERBED LANDS. See **Federal-State Relations**, 2.

PARENT'S OBLIGATION OF CHILD SUPPORT. See **Procedure**, 4.

PAROLE REVOCATION HEARINGS. See **Constitutional Law**, II, 2.

PAROLE VIOLATOR WARRANTS. See **Constitutional Law**, II, 2.

PATIENT IDENTIFICATION REQUIREMENTS. See **Constitutional Law**, II, 3; IX; **Physicians**.

PERMANENT RESIDENT ALIENS. See **Aliens**.

PHYSICIANS. See also **Constitutional Law**, II, 3; IX.

Prescription drugs—Patient identification requirement—Interference with practice.—Appellee doctors' contention that New York statute requiring

PHYSICIANS—Continued.

that identification of patients obtaining prescription drugs be recorded in centralized state health department computer file impairs their right to practice medicine free from unwarranted state interference is without merit, whether it refers to statute's impact on their own procedures, which is no different from impact of prior statute, or refers to patients' concern about disclosure that Court has rejected. *Whalen v. Roe*, p. 589.

"PLAIN, SPEEDY AND EFFICIENT" REMEDY. See **Federal-State Relations**, 4.

PLEA BARGAINING. See **Evidence**, 1.

POLICE OFFICERS. See **Procedure**, 2.

POLICE POWERS. See **Constitutional Law**, IX.

POSSESSORY INTEREST TAXES. See **Constitutional Law**, XII.

POULTRY TRUCK DRIVERS. See **National Labor Relations Act**, 1.

PRE-EMPTION. See **Stays**, 8.

PREFABRICATED HOUSES. See **Antitrust Acts**, 1.

PREGNANCY-RELATED DISABILITIES. See **Civil Rights Act of 1964**, 1.

PRELIMINARY INJUNCTIONS. See **Stays**, 9.

PRESCRIPTION DRUGS. See **Constitutional Law**, II, 3; IX; **Physicians**.

PRESIDENTIAL ELECTIONS. See **Injunctions**.

"PRINCIPAL TARGET" OF WIRETAPS. See **Omnibus Crime Control and Safe Streets Act of 1968**, 3.

PRIOR RESTRAINTS. See **Constitutional Law**, VII, 1, 2.

PRISONERS. See **Constitutional Law**, III.

PRIVACY RIGHTS. See **Constitutional Law**, II, 3.

PROCEDURE. See also **Evidence**; **Federal Rules of Civil Procedure**; **Federal-State Relations**, 2; **Jurisdiction**, 1.

1. *Constitutional challenges to state statute—Trial court's improper reliance on prior decision.*—Where District Court rejected all of appellants' challenges to constitutionality of an Ohio statute establishing procedures for organization and governance of conservancy districts (political subdivisions of State invested with power to carry out flood prevention and control measures), on sole ground that such challenges were foreclosed by *Orr v. Allen*, 248 U. S. 35, but none of issues presented was raised or

PROCEDURE—Continued.

passed upon in *Orr*, District Court's judgment is reversed and case is remanded for a full consideration of such issues. *Concerned Citizens v. Pine Creek District*, p. 651.

2. *Constitutional claim—Effect of failure to raise essential question.*—Respondent's claim under Due Process Clause of Fourteenth Amendment that before being dismissed from his nontenured position as city policeman he was entitled to a hearing due to stigmatizing effect of certain information in his personnel file about a suicide attempt while he was a police trainee, is defeated by failure of respondent or courts below to raise a question about substantial accuracy of report of suicide attempt. Only if employer is alleged to have created and disseminated a false and defamatory impression about employee in connection with his termination, or a trial court so finds, is such a hearing required. *Codd v. Velger*, p. 624.

3. *Motion to recall mandate—Leave to file Fed. Rule Civ. Proc. 60 (b) motion.*—On motion to recall Supreme Court mandate affirming a District Court judgment against movant, and for leave to file a motion under Fed. Rule Civ. Proc. 60 (b), motion to recall is denied because District Court may take appropriate action on Rule 60 (b) motion without leave of this Court. *Standard Oil Co. of Cal. v. United States*, p. 17.

4. *Noncompliance with mandate—Vacation of judgment and remand.*—Where Utah Supreme Court did not comply with this Court's mandate in *Stanton v. Stanton*, 421 U. S. 7, that it resolve how Utah was to eliminate discrimination between genders in Utah statute, which establishes 21 as age of majority for males, and 18 as age for females, as applied to a parent's obligation of child support, but instead held that statute was constitutional as applied to females without considering discrimination, that court's judgment is vacated and case is again remanded for further proceedings. *Stanton v. Stanton*, p. 501.

PROFIT-SHARING TRUSTS. See **Internal Revenue Code**, 1.

PROHIBITION AGAINST SALE OF BEER. See **Constitutional Law**, V, 2; XIII; **Mootness**; **Standing to Sue**, 1.

PROMISSORY DEMAND NOTES. See **Internal Revenue Code**, 1.

PROPERTY RIGHTS. See **Appeals**, 1; **Federal-State Relations**, 2.

PROPERTY TAXES. See **Constitutional Law**, XII.

PUBLIC MEETINGS OF SCHOOL BOARDS. See **Constitutional Law**, VII, 1, 2.

RACIAL DISCRIMINATION. See **Civil Rights Act of 1964**, 2; **Constitutional Law**, V, 3; **Standing to Sue**, 2.

REAL ESTATE DEVELOPMENTS. See **Antitrust Acts**, 1.

- REAL PROPERTY RIGHTS.** See Appeals, 1; Federal-State Relations, 2.
- REAL PROPERTY TAXES.** See Constitutional Law, XII.
- “REASONABLE QUALIFICATIONS” ON HOLDING UNION OFFICE.** See Labor-Management Reporting and Disclosure Act of 1959.
- RECALL OF MANDATES.** See Procedure, 3.
- REDEMPTION OF PROPERTY.** See Appeals, 1.
- REDISTRICTING PLANS.** See Voting Rights Act of 1965.
- REFUSAL TO DISCLOSE NEWS SOURCES.** See Stays, 2.
- REFUSAL TO REHIRE TEACHER.** See Constitutional Law, VII, 3, 4; Jurisdiction.
- REGULATION OF DRINKING.** See Constitutional Law, V, 2; XIII; Mootness; Standing to Sue, 1.
- REGULATION OF OIL TANKERS.** See Stays, 8.
- RELIEF FROM JUDGMENTS.** See Procedure, 3, 4.
- REMAND TO STATE COURT.** See Procedure, 4; Stays, 4.
- REMITTITURS.** See Appeals, 3.
- REMOVAL OF CAUSES.** See Stays, 4.
- REPORTERS.** See Stays, 2.
- RESTORATION OF LOST REMEDY.** See Limitation of Actions.
- REZONING.** See Constitutional Law, V, 3; Standing to Sue, 2.
- RIGHT TO COUNSEL.** See Constitutional Law, XI.
- RIGHT TO FAIR TRIAL.** See Constitutional Law, II, 4; XI.
- RIGHT TO HEARING ON DISMISSAL FROM EMPLOYMENT.** See Procedure, 2.
- RIGHT TO LIBERTY.** See Constitutional Law, II, 2, 3.
- RIGHT TO PAROLE REVOCATION HEARING.** See Constitutional Law, II, 2.
- RIGHT TO PRACTICE MEDICINE.** See Physicians.
- RIGHT TO PRIVACY.** See Constitutional Law, II, 3.
- RIGHT TO REDEEM PROPERTY.** See Appeals, 1.
- RIPARIAN RIGHTS.** See Federal-State Relations, 2.
- RIVERBEDS.** See Federal-State Relations, 2.

- RIVERS.** See *States*.
- RULES OF APPELLATE PROCEDURE.** See *Appeals*, 2.
- RULES OF CIVIL PROCEDURE.** See *Federal Rules of Civil Procedure*, 2.
- RUNNING OF LIMITATIONS PERIOD.** See *Civil Rights Act of 1964*, 2, 3.
- SALE OF BEER.** See *Constitutional Law*, V, 2; XIII; *Mootness*; *Standing to Sue*.
- SALES OF SECURITIES.** See *Constitutional Law*, I.
- SALES TAXES.** See *Federal-State Relations*, 4.
- SCHOOL BOARDS.** See *Constitutional Law*, IV; VII; *Jurisdiction*.
- SCRUPLES AGAINST DEATH PENALTY.** See *Criminal Law*, 1.
- SEALED BIDS FOR OIL AND GAS LEASES.** See *Stays*, 9.
- SEAMEN.** See *Appeals*, 1.
- SEARCHES AND SEIZURES.** See *Constitutional Law*, VIII; *Stays*, 6.
- SEARCH WARRANTS.** See *Constitutional Law*, VIII, 3.
- SECONDARY BOYCOTTS.** See *National Labor Relations Act*, 2.
- SECRETARY OF THE INTERIOR.** See *Stays*, 9.
- SECURITIES TRANSACTIONS.** See *Constitutional Law*, I.
- SELF-INCRIMINATION.** See *Constitutional Law*, X.
- SENTENCES.** See *Criminal Law*, 1.
- SEX DISCRIMINATION.** See *Civil Rights Act of 1964*, 1; *Constitutional Law*, V, 2; XIII; *Mootness*; *Procedure*, 4; *Standing to Sue*, 1.
- SHERMAN ACT.** See *Antitrust Acts*, 2.
- SIXTH AMENDMENT.** See *Constitutional Law*, XI.
- SOCIAL SECURITY ACT.** See *Constitutional Law*, II, 1.
- STANDING TO SUE.**

1. *Prohibition against sale of beer—Relief against gender-based differential—Vendor.*—Appellant licensed vendor of 3.2% beer has standing to make equal protection challenge to enforcement of Oklahoma statutory scheme prohibiting sale of 3.2% beer to males under age of 21 and to females under age of 18. *Craig v. Boren*, p. 190.

2. *Real estate developer—Prospective resident—Action challenging denial of rezoning for housing project.*—Respondent nonprofit developer, which had contracted to purchase tract within petitioner village to build racially

STANDING TO SUE—Continued.

integrated low- and moderate-income housing, and at least one individual minority respondent, who allegedly would qualify for housing, have standing to bring action alleging that village's denial of rezoning necessary for housing project was racially discriminatory and violated Equal Protection Clause of Fourteenth Amendment and Fair Housing Act of 1968. *Arlington Heights v. Metropolitan Housing Corp.*, p. 252.

STATE LAW AS GOVERNING OWNERSHIP OF RIVERBED LANDS. See **Federal-State Relations**, 2.

STATE PRISONERS. See **Constitutional Law**, III.

STATE REGULATION OF OIL TANKERS. See **Stays**, 8.

STATES.

Fishing rights—Original complaint.—Without determining whether bill of complaint states a claim upon which relief can be granted, Idaho's motion for leave to file bill is granted to extent that complaint prays that Court declare Idaho entitled as against Oregon and Washington to an equitable portion of upriver anadromous fishery of Columbia River Basin and that Court determine such portion on evidence, and award costs and incidental relief, but is denied in all other respects. *Idaho ex rel. Andrus v. Oregon*, p. 163.

STATE SALES TAXES. See **Federal-State Relations**, 4.

STATE'S POLICE POWERS. See **Constitutional Law**, IX.

STATE TRANSFER TAXES ON SECURITIES TRANSACTIONS.
See **Constitutional Law**, I.

STATE USE OR PROPERTY TAXES. See **Constitutional Law**, XII.

STATUTES OF LIMITATION. See **Civil Rights Act of 1964**, 2, 3;
Limitation of Actions.

STATUTORY CLASSIFICATIONS. See **Constitutional Law**, II, 1.

STAYS.

1. *Absence of compelling necessity.*—Application for bail pending certiorari or for stay of Arizona Supreme Court's mandate is denied absent any showing of compelling necessity for a stay, and where it is doubtful if applicant's petition for certiorari will be granted and there is a question as to finality of Arizona Supreme Court's judgment sought to be reviewed. *Bateman v. Arizona* (REHNQUIST, J., in chambers), p. 1302.

2. *Commitment for contempt—Newspaper editors and reporters—Refusal to disclose news source.*—Application for stay, pending disposition of petition for certiorari, of California court orders of commitment against applicant newspaper editors and reporters entered pursuant to contempt

STAYS—Continued.

judgments for refusing to disclose sources for certain news articles, and for a temporary stay until this Court acts on such request for a stay, is denied where applicants have twice unsuccessfully sought review in this Court on similar grounds. *Gruner v. Superior Court* (REHNQUIST, J., in chambers), p. 1314.

3. *Denial of injunctive relief—Supreme Court—Lack of jurisdiction.*—Application for a partial stay of a three-judge District Court's order and judgment denying injunctive relief to applicants on ground of laches is denied, since a direct appeal to this Court does not lie under 28 U. S. C. § 1253 and hence Court is without jurisdiction to grant requested relief. *McCarthy v. Briscoe* (POWELL, J., in chambers), p. 1316.

4. *District Court—Remand to state court.*—Application for stay of District Court's order pursuant to 28 U. S. C. § 1447 (c) remanding an alleged diversity class action to state court on ground that District Court had no jurisdiction of action, is denied, since appellate review of a remand order based on § 1447 (c), whether erroneous or not, is barred by § 1447 (d). *Volvo Corp. v. Schwarzer* (REHNQUIST, J., in chambers), p. 1331.

5. *Executions—Irreparable harm—Mootness.*—Application for stay of mandate is granted pending disposition of a petition for rehearing, since, if executions were carried out before that petition could be acted on, petitioners would be irreparably harmed and cases would be moot, and since granting of stay will not prejudice respondent States' interests. *Gregg v. Georgia* (POWELL, J., in chambers), p. 1301.

6. *Injunction against searches under Occupational Safety and Health Act.*—Application by Secretary of Labor for stay of a three-judge District Court's injunction against further searches pursuant to § 8 (a) of OSHA, which allows warrantless entry and inspection of work places for OSHA violations, is granted, pending timely filing of an appeal and disposition thereof by this Court, insofar as it affects persons other than respondent. Act, being presumptively constitutional, should remain in effect pending this Court's final decision on merits. *Marshall v. Barlow's, Inc.* (REHNQUIST, J., in chambers), p. 1347.

7. *Injunction granting news media access to jail.*—Application by a county sheriff for stay of District Court's injunction granting personnel of respondent television-radio station and other news media representatives access to county jail, is granted pending applicant's timely filing of a petition for certiorari and disposition thereof by this Court. Issue to be raised in petition as to whether doctrine of *Pell v. Procunier*, 417 U. S. 817, and *Saxbe v. Washington Post Co.*, 417 U. S. 843, that press is entitled to no greater access to a jail than public applies to this case is of sufficient

STAYS—Continued.

importance to surmount threshold barrier confronting stay applications, *viz.*, reasonable likelihood that petition for certiorari will be granted. *Houchins v. KQED, Inc.* (REHNQUIST, J., in chambers), p. 1341.

8. *State regulation of oil tankers—Pre-emption—Reference to full Court.*—Application for stay of District Court's order enjoining enforcement of Washington State statute regulating oil tankers on ground that it was pre-empted by federal statutes, is referred to full Court because of sufficient complexity of issues involved and uncertainty as to their resolution, but in meantime stay issued by District Court itself and due to expire shortly is continued until further order of this Court. *Evans v. Atlantic Richfield Co.* (REHNQUIST, J., in chambers), p. 1334.

9. *Vacation of stay—Absence of "exceptional circumstances"—Injunction against oil and gas leases.*—Application to vacate Court of Appeals' stay of District Court's order preliminarily enjoining Secretary of the Interior from opening sealed bids for oil and gas leases of submerged lands under Mid-Atlantic Outer Continental Shelf on ground that environmental impact statement required by National Environmental Policy Act of 1969 before leasing program could go forward was materially deficient, is denied absent "exceptional circumstances" warranting Circuit Justice's vacating a stay. *New York v. Kleppe* (MARSHALL, J., in chambers), p. 1307.

STIGMATIZATION OF EMPLOYEES. See Procedure, 2.

STOCK EXCHANGES. See Constitutional Law, I.

SUBCONTRACTORS' CLAUSES. See Davis-Bacon Act; Federal-State Relations, 1; Labor Management Relations Act.

SUBCONTRACTS. See National Labor Relations Act, 2.

SUBMERGED LANDS. See Stays, 9.

SUPPRESSION OF CONFESSION AS EVIDENCE. See Constitutional Law, X.

SUPPRESSION OF WIRETAP EVIDENCE. See Omnibus Crime Control and Safe Streets Act of 1968, 1, 2.

SUPREMACY CLAUSE. See Constitutional Law, XII.

SUPREME COURT. See also Procedure, 3, 4; Stays, 3.

1. Assignment of Mr. Justice Clark (retired) to the United States Court of Appeals for the Third Circuit, p. 875.

2. Assignments of Mr. Justice Clark (retired) to the United States Court of Appeals for the Second Circuit, p. 908.

3. Assignment of Mr. Justice Clark (retired) to the United States Court of Appeals for the Fourth Circuit, p. 934.

SUPREME COURT—Continued.

4. Assignment of Mr. Justice Clark (retired) to the United States Court of Appeals for the Eighth Circuit, p. 934.

5. Assignments of Mr. Justice Clark (retired) to the United States Court of Appeals for the Ninth Circuit, pp. 988, 1079.

6. Assignment of Mr. Justice Clark (retired) to the United States Court of Appeals for the District of Columbia Circuit, p. 1055.

7. Assignment of Mr. Justice Clark (retired) to the United States Court of Appeals for the Seventh Circuit, p. 1055.

TAXABLE INCOME. See **Internal Revenue Code.**

TAX ASSESSMENTS AND LEVIES. See **Constitutional Law**, VIII, 1, 2.

TAXES. See **Constitutional Law** I; VIII, 1, 2; **Criminal Law**, 2; **Federal-State Relations**, 4; **Internal Revenue Code.**

TAX INJUNCTION ACT. See **Federal-State Relations**, 4.

TAX SALES. See **Appeals**, 1.

TEACHERS. See **Constitutional Law**, VII; **Jurisdiction**, 1, 2.

TELEPHONE WIRETAPS. See **Omnibus Crime Control and Safe Streets Act of 1968.**

TEXAS. See **Injunctions**, 2.

THIRD-PARTY STANDING. See **Standing to Sue**, 1.

THREE-JUDGE COURTS. See **Stays**, 3.

3.2% BEER. See **Constitutional Law**, V, 2; XIII; **Mootness**; **Standing to Sue**, 1.

TIMELINESS OF APPEALS. See **Appeals**, 2.

TOLLING OF LIMITATION PERIOD. See **Civil Rights Act of 1964**, 2, 3.

TOURIST VISAS. See **Aliens.**

TRANSFER OF APPEALS. See **Judges.**

TRANSFER TAXES ON SECURITIES TRANSACTIONS. See **Constitutional Law**, I.

TRANSPORTATION EXPENSES AS DEDUCTIBLE FROM FOOD STAMP RECIPIENTS' INCOME. See **Constitutional Law**, V, 1; **Food Stamp Act of 1964.**

- TREBLE DAMAGES.** See Antitrust Acts 1; Federal Rules of Civil Procedure.
- TRIAL COURT'S IMPROPER RELIANCE ON PRIOR DECISION.** See Procedure, 1.
- TRIALS.** See Criminal Law, 2.
- TRUCK DRIVERS.** See National Labor Relations Act, 1.
- TRUST FUNDS FOR EMPLOYEES.** See Davis-Bacon Act; Labor Management Relations Act.
- TWENTY-FIRST AMENDMENT.** See Constitutional Law, XIII.
- TYING ARRANGEMENTS.** See Antitrust Acts, 1.
- UNDERCOVER AGENTS' MEETING WITH ACCUSED'S COUNSEL.** See Constitutional Law, XI.
- UNFAIR LABOR PRACTICES.** See Constitutional Law, VII, 1; National Labor Relations Act.
- UNIONS.** See Constitutional Law, VII, 1, 2; Labor-Management Reporting and Disclosure Act of 1959; National Labor Relations Act, 2.
- UNITED STATES FOREST SERVICE.** See Constitutional Law, XII.
- UNLAWFUL EMPLOYMENT PRACTICES.** See Civil Rights Act of 1964.
- UNLAWFUL INTERCEPTION OF CONVERSATIONS.** See Omnibus Crime Control and Safe Streets Act of 1968.
- UNTENURED TEACHERS.** See Constitutional Law, VI, 3; Jurisdiction.
- USE TAXES.** See Constitutional Law, XII.
- UTAH.** See Procedure, 4.
- VACATION OF INJUNCTIONS.** See Abortions.
- VACATION OF JUDGMENTS.** See Procedure, 4.
- VACATION OF STAY.** See Stays, 9.
- VENDORS OF BEER.** See Standing to Sue, 1.
- VOLUNTARINESS OF CONFESSIONS.** See Evidence, 1.
- VOTING RIGHTS ACT OF 1965.**

Scope of local district court's inquiry—"Coverage" questions.—A local district court's inquiry in an action under § 5 of Act claiming that new voting procedures of a State or political subdivision thereof fail to comply with § 5 procedures, is limited to determining whether a voting requirement

VOTING RIGHTS ACT OF 1965—Continued.

is covered by § 5 but has not been subjected to required federal scrutiny. Hence, here District Court for Southern District of Mississippi, in an action by Attorney General under § 5 challenging redistricting plan submitted to him by a Mississippi county and to which he had objected, erred in deciding that such plan was unconstitutional and that a new plan submitted to Attorney General as ordered by court but not approved by him was constitutional, and court should have determined only whether county could be enjoined from holding elections under a new plan because it had not been cleared under § 5. *United States v. Board of Supervisors*, p. 642.

WARRANTLESS ENTRY AND INSPECTION OF WORK PLACES.

See *Stays*, 6.

WARRANTLESS SEARCHES AND SEIZURES. See *Constitutional Law*, VIII, 1, 2.

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

WASHINGTON. See *States*; *Stays*, 8.

WATER RIGHTS. See *States*.

WEST VIRGINIA. See *Appeals*, 1.

WILLAMETTE RIVER. See *Federal-State Relations*, 2.

WILLFUL FILING OF FALSE INCOME TAX RETURNS. See *Criminal Law*, 2.

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

WISCONSIN. See *Constitutional Law*, VII, 1, 2.

WIVES' SOCIAL SECURITY BENEFITS. See *Constitutional Law*, II, 1.

WORDS AND PHRASES.

1. "*Employee.*" § 2 (3), National Labor Relations Act, 29 U. S. C. § 152 (3). *Bayside Enterprises, Inc. v. NLRB*, p. 298.

2. "*Paid.*" § 404 (a), Internal Revenue Code of 1954, 26 U. S. C. § 404 (a). *Don E. Williams Co. v. Commissioner*, p. 569.

3. "*Payment.*" § 404 (a), Internal Revenue Code of 1954, 26 U. S. C. § 404 (a). *Don E. Williams Co. v. Commissioner*, p. 569.

4. "*Reasonable qualifications.*" § 401 (e), Labor-Management Reporting and Disclosure Act of 1959, 29 U. S. C. § 481 (e). *Steelworkers v. Usery*, p. 305.

- WORK-PRESERVATION AGREEMENTS.** See National Labor Relations Act, 2.
- WORK STOPPAGES.** See National Labor Relations Act, 2.
- WRONGFUL ADMISSION OF HEARSAY EVIDENCE.** See Evidence, 2.
- ZONING.** See Constitutional Law, V, 3; Standing to Sue, 2.

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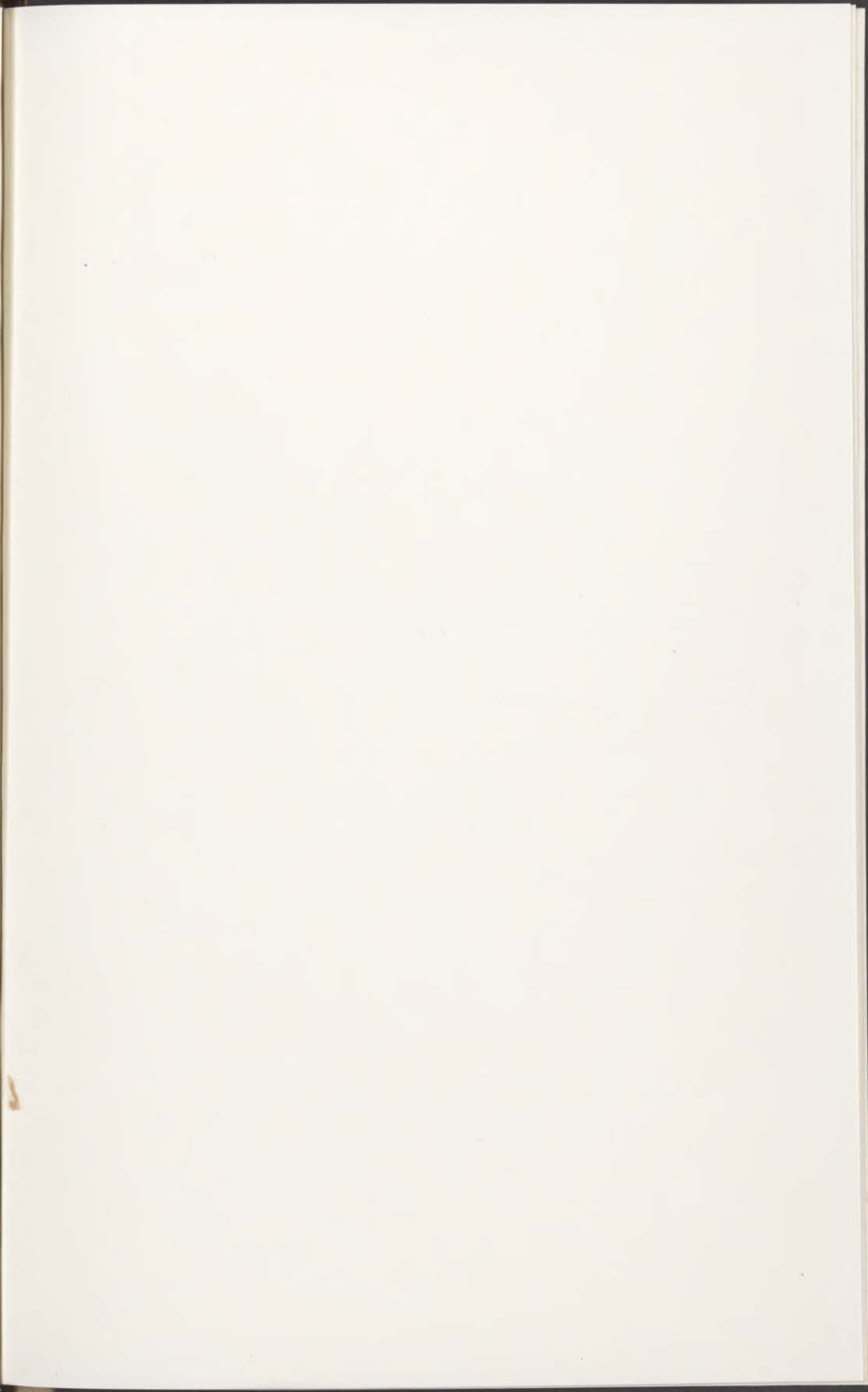
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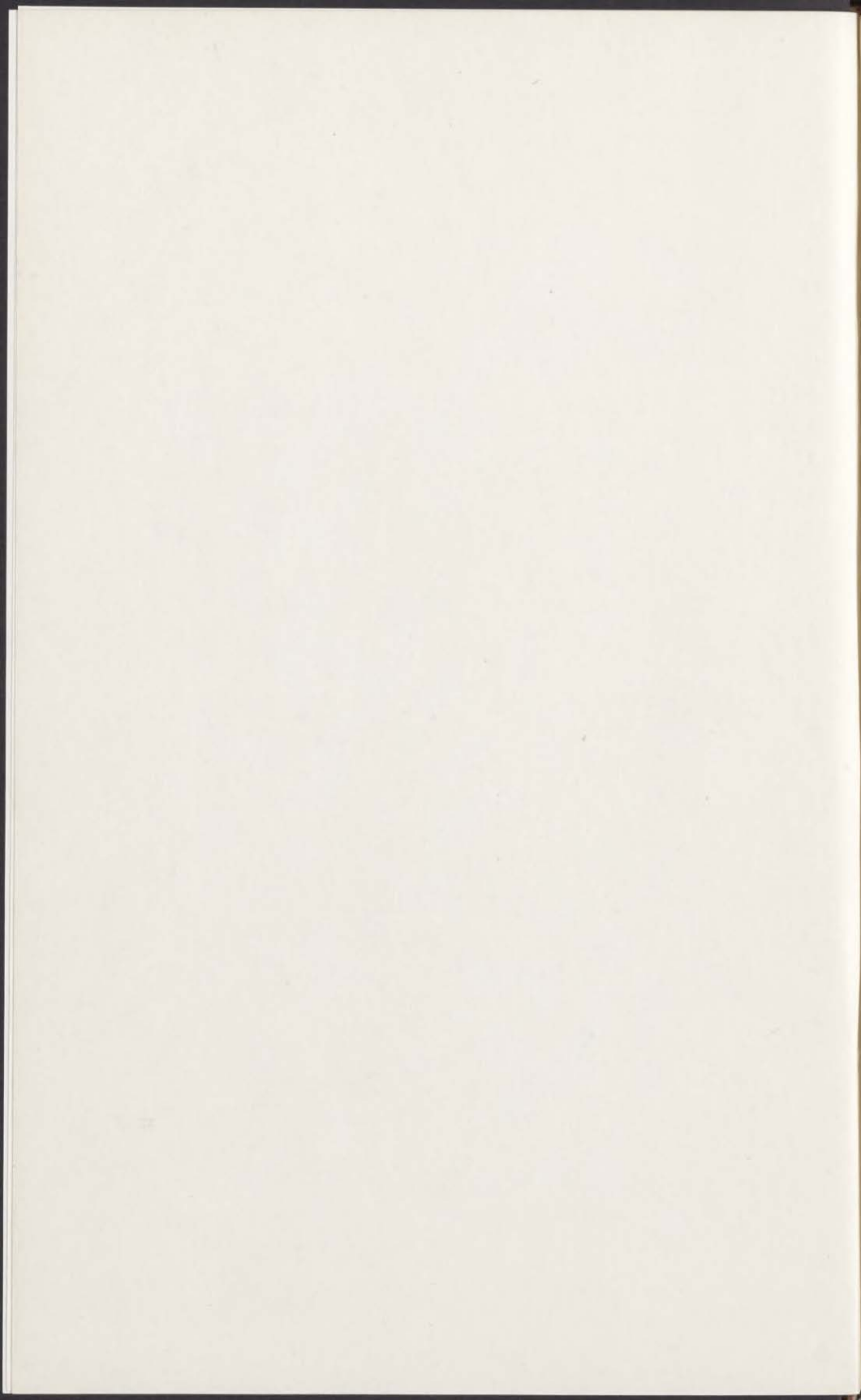
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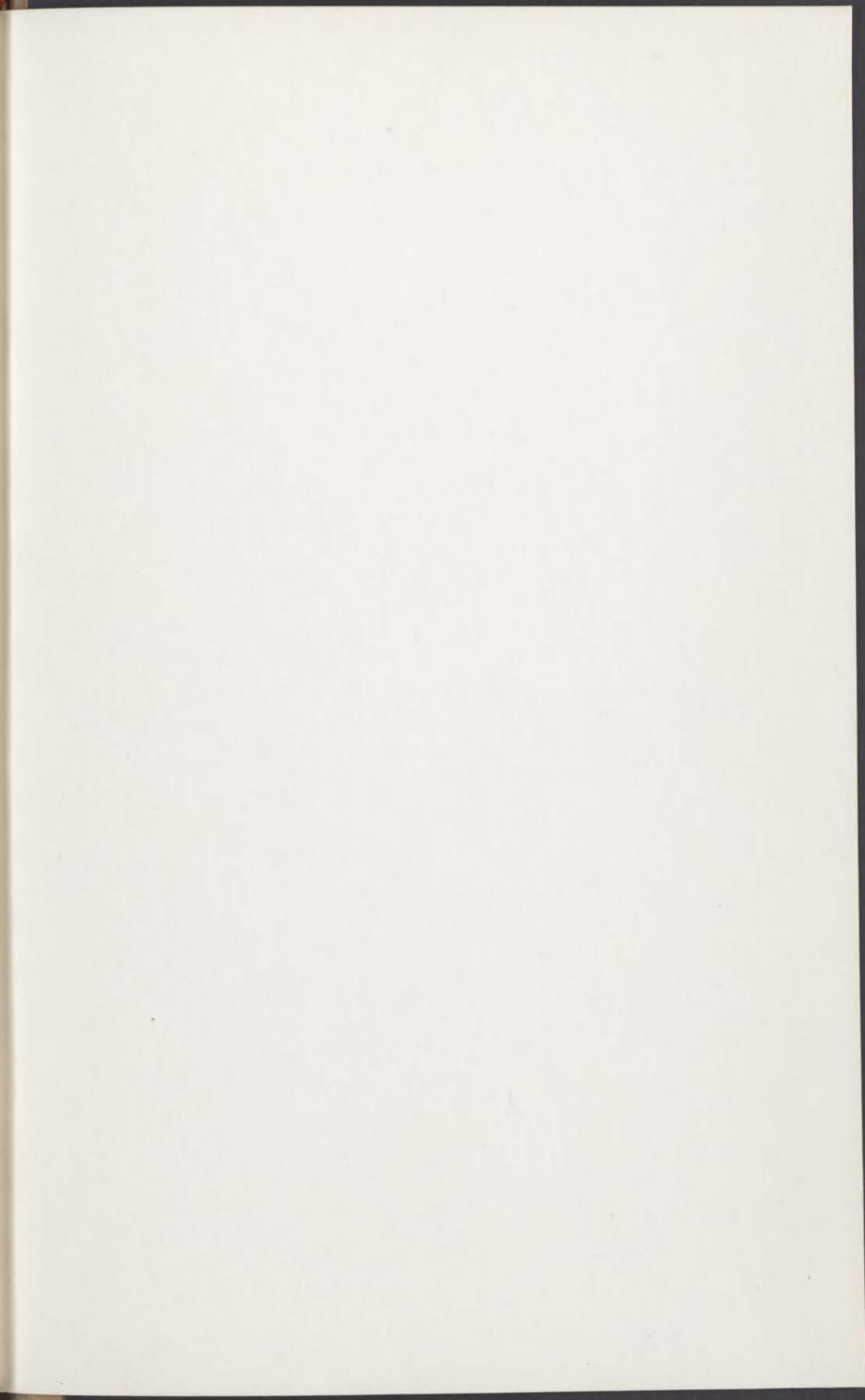
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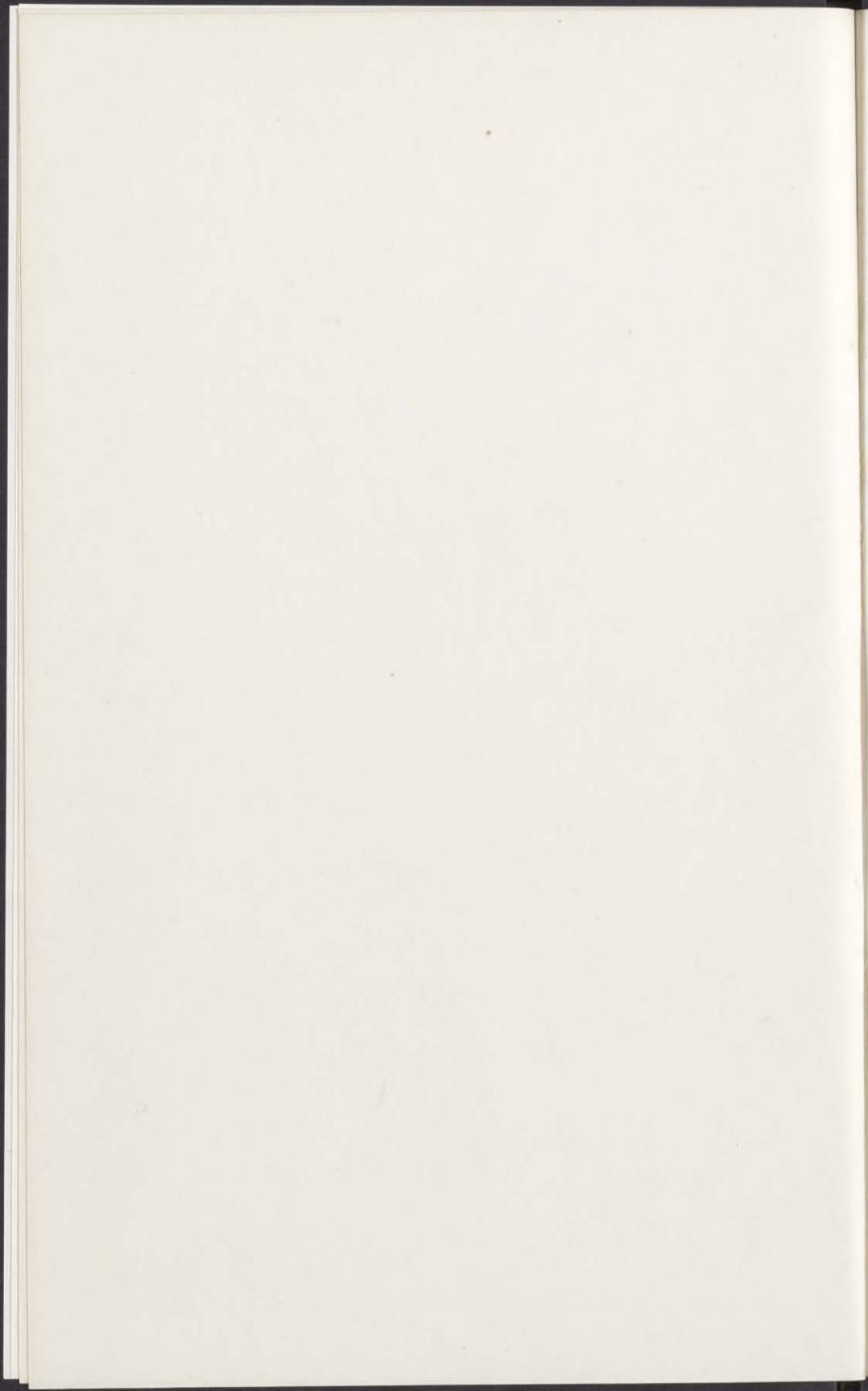


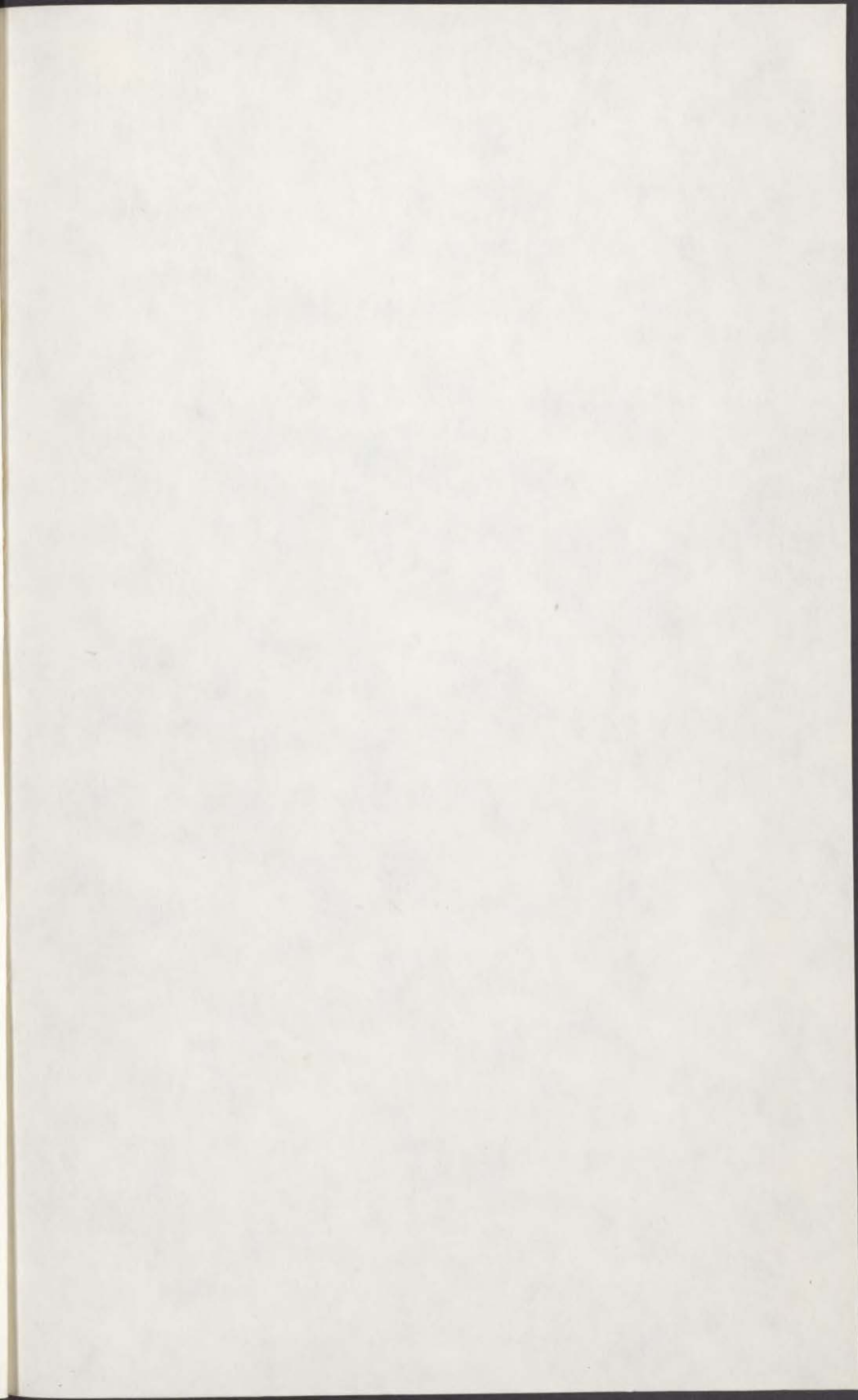














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