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2. *Fifth Amendment—Exclusion from Act distributing federal funds to Indians.*—Exclusion of Kansas Delawares from distribution under Act providing for distribution of federal funds only to Cherokee and Absentee Delawares pursuant to an award by Indian Claims Commission to redress breach by United States of an 1854 treaty with Delaware Tribe, does not offend Due Process Clause of Fifth Amendment, since on record such exclusion was "tied rationally to the fulfillment of Congress' unique obligation toward the Indians." *Delaware Tribal Business Comm. v. Weeks*, p. 73.

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4. *Grand jury discrimination.*—Based on all facts that bear on issue of discrimination in selection of county grand jury that indicted respondent Mexican-American, such as statistical disparities (county population was 79% Mexican-American, but, over an 11-year period, only 39% of those summoned for grand jury service were Mexican-American), method of jury selection, and any other relevant testimony as to manner in which selection process was implemented, proof offered by respondent was sufficient to demonstrate a prima facie case of intentional discrimination in grand jury selection, and State failed to rebut such presumption by competent evidence. *Castaneda v. Partida*, p. 482.

5. *Illegitimate children—Inheritance only from mothers.*—Section 12 of Illinois Probate Code, which allows illegitimate children to inherit by intestate succession only from their mothers (though under Illinois law legitimate children may inherit by intestate succession from both their mothers and fathers), violates Equal Protection Clause of Fourteenth Amendment. *Trimble v. Gordon*, p. 762.

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7. *Old-age benefits under Social Security Act—Retroactivity of amendment eliminating sex distinction.*—Failure to make retroactive 1972 amendment to Social Security Act eliminating distinction whereby female wage earners were given more favorable treatment than male wage earners with respect to computing old-age benefits, does not constitute discrimination on basis of date of birth. Congress may replace one constitutional

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8. *Old-age benefits under Social Security Act—Sex discrimination.*—Statutory scheme of Social Security Act itself, and legislative history of former § 215 (b) (3) of Act whereby female wage earners were given more favorable treatment than male wage earners with respect to computing old-age benefits, demonstrate that statute was deliberately enacted to “redres[s] our society’s longstanding disparate treatment of women,” and was not “the accidental byproduct of a traditional way of thinking about women.” Statute operated directly to compensate women for past economic discrimination by allowing them to eliminate additional low-earning years from calculation of their retirement benefits, and in no way penalized women wage earners. *Califano v. Webster*, p. 313.

9. *Separate voter approval requirements for county charter.*—Challenged New York constitutional and statutory provisions, whereby a proposed county charter submitted by referendum to voters for approval is adopted only if a majority of both voting city and voting noncity dwellers approve, do not violate Equal Protection Clause of Fourteenth Amendment. *Lockport v. Citizens for Community Action*, p. 259.

VI. Fifth Amendment.

Double jeopardy—Acquittal under Fed. Rule Crim. Proc. 29 (c)—Appellate review and retrial.—Double Jeopardy Clause bars appellate review and retrial following judgment of acquittal entered by District Court under Fed. Rule Crim. Proc. 29 (c), which provides that “a motion for judgment of acquittal may be made . . . within seven days after the jury is discharged [and] the court may enter judgment of acquittal. . . .” *United States v. Martin Linen Supply Co.*, p. 564.

VII. First Amendment.

1. *Freedom of speech—Requiring display of state motto on license plates.*—State may not constitutionally require an individual to participate in dissemination of an ideological message by displaying it on his private property in a manner and for express purpose that it be observed and read by public. New Hampshire’s statute requiring noncommercial motor vehicles to bear license plates embossed with state motto, “Live Free or Die,” by forcing an individual, as part of his daily life—indeed constantly while his automobile is in public view—to be an instrument for advocating public adherence to an ideological point of view he finds unacceptable, “invades the sphere of intellect and spirit which it is the purpose of the First Amendment . . . to reserve from all official control.” *Wooley v. Maynard*, p. 705.

CONSTITUTIONAL LAW—Continued.

2. *Freedom of the press—Injunction against publishing juvenile delinquent's name or photograph.*—A state court's pretrial order enjoining news media, which had been allowed without objection to be present at 11-year-old boy's detention hearing, from publishing boy's name or photograph in connection with pending juvenile proceeding charging him with delinquency by second-degree murder, abridges freedom of press in violation of First and Fourteenth Amendments. *Oklahoma Publishing Co. v. District Court*, p. 308.

VIII. Seventh Amendment.

Right to jury trial—Violations of Occupational Safety and Health Act of 1970.—Seventh Amendment does not prevent Congress from assigning to an administrative agency task of adjudicating violations of OSHA. When Congress creates new statutory "public rights," it may assign their adjudication to an administrative agency with which a jury trial would be incompatible, without violating Seventh Amendment's injunction that jury trial is to be "preserved" in suits at common law. *Atlas Roofing Co. v. Occupational Safety & Health Review Comm'n*, p. 442.

IX. Sixth Amendment.

1. *Right to counsel.*—Where, after respondent had been arrested, arraigned, and committed to jail, police officer obtained incriminating statements from him during automobile trip back to city in which alleged crime had been committed, despite his lawyers' advice not to make any statements and police officers' agreement not to question him during trip, respondent was deprived of his constitutional right to assistance of counsel. *Brewer v. Williams*, p. 387.

2. *Waiver of right to counsel.*—Circumstances of record provide, when viewed in light of respondent's assertions of his right to counsel, no reasonable basis for finding that respondent waived his right to assistance of counsel, record falling far short of sustaining State's burden to prove "an intentional relinquishment or abandonment of a known right or privilege." *Brewer v. Williams*, p. 387.

X. Suspension Clause.

Privilege of writ of habeas corpus—District of Columbia Code.—Section 23-110 (g) of D. C. Code Ann. (which provides that an application for a writ of habeas corpus on behalf of a prisoner authorized to apply for collateral relief by motion in District of Columbia Superior Court pursuant to statute "shall not be entertained by the Superior Court or by a Federal or State court if it appears that the applicant has failed to make a motion for relief under this section or that the Superior Court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention") does not suspend privi-

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lege of writ of habeas corpus in violation of Art. I, § 9, cl. 2, of Constitution. *Swain v. Pressley*, p. 372.

CONTEMPT. See **Federal-State Relations**, 2; **Standing to Sue**.

CONTESTS FOR CORPORATE CONTROL. See **Securities Exchange Act of 1934**, 1, 5, 6.

CORPORAL PUNISHMENT. See **Constitutional Law**, III, 1; IV.

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COUNTY CHARTERS. See **Constitutional Law**, V, 9.

COUNTY VOTING DISTRICTS. See **Voting Rights Act of 1965**.

COURTS OF APPEALS. See **Federal Water Pollution Control Act**.

CRIMINAL LAW. See **Constitutional Law**, III, 2, 3; V, 4, 6; VI; VII, 2; IX.

CRUEL AND UNUSUAL PUNISHMENTS. See **Constitutional Law**, IV.

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DISCLOSURE OF PRESENTENCE REPORTS. See **Constitutional Law**, III, 2.

DISCRIMINATION. See **Constitutional Law**, V, 3, 4, 6-9; **Federal-State Relations**, 3; **Procedure**; **Voting Rights Act of 1965**.

DISOBEDIENCE OF SUBPOENAS. See **Federal-State Relations**, 2; **Standing to Sue**.

- DISPARATE TREATMENT OF WOMEN.** See Constitutional Law, V, 7, 8.
- DISTRIBUTION OF FEDERAL FUNDS TO INDIANS.** See Constitutional Law, V, 2; Justiciability.
- DISTRICT COURTS.** See Administrative Procedure Act; Federal-State Relations, 1; Habeas Corpus, 1; Jurisdiction; Removal.
- DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970.** See Constitutional Law, X; Habeas Corpus, 1.
- DISTRICT OF COLUMBIA SUPERIOR COURT.** See Habeas Corpus, 1.
- DIVERSITY ACTIONS.** See Removal.
- DOUBLE JEOPARDY.** See Constitutional Law, VI.
- DUE PROCESS.** See Constitutional Law, III; V, 2, 3.
- DUTY TO ARBITRATE LABOR DISPUTE.** See Labor.
- ECONOMIC DISCRIMINATION.** See Constitutional Law, V, 7, 8.
- EFFLUENT LIMITATIONS.** See Federal Water Pollution Control Act.
- EIGHTH AMENDMENT.** See Constitutional Law, IV.
- ELECTORAL DISTRICTS.** See Voting Rights Act of 1965.
- ELIGIBILITY FOR RESERVE RETIREMENT PAY.** See Army and Air Force Vitalization and Retirement Equalization Act of 1948.
- EMOTIONAL DISTRESS.** See Federal-State Relations, 3; Procedure.
- EMPLOYER AND EMPLOYEES.** See Labor.
- EMPLOYMENT DISCRIMINATION.** See Federal-State Relations, 3; Procedure.
- ENVIRONMENTAL PROTECTION AGENCY.** See Federal Water Pollution Control Act.
- EQUAL PROTECTION OF THE LAWS.** See Army and Air Force Vitalization and Retirement Equalization Act of 1948; Constitutional Law, V; Justiciability.
- EQUITABLE RESTRAINT.** See Federal-State Relations, 1.
- EVIDENCE.** See Constitutional Law, V, 4.
- EXCLUSION OF ALIENS.** See Constitutional Law, V, 1.

EXPIRATION OF COLLECTIVE-BARGAINING AGREEMENT. See Labor.

FAILURE TO SATISFY JUDGMENTS. See Standing to Sue.

FAIR PACKAGING AND LABELING ACT. See Federal-State Relations, 4, 5.

FEDERAL-COURT INTERFERENCE WITH STATE PROCEEDINGS. See Federal-State Relations, 1, 2.

FEDERAL ENCLAVE MURDER STATUTE. See Constitutional Law, V, 6.

FEDERAL FOOD, DRUG, AND COSMETIC ACT. See Federal-State Relations, 4, 5.

FEDERALISM. See Federal-State Relations, 2.

FEDERAL MEAT INSPECTION ACT. See Federal-State Relations, 5.

FEDERAL PACKAGING AND LABELING ACT. See Federal-State Relations.

FEDERAL RESOURCE CONSERVATION AND RECOVERY ACT OF 1976. See Federal-State Relations, 6.

FEDERAL RULES OF CRIMINAL PROCEDURE. See Constitutional Law, VI.

FEDERAL SOLID WASTE DISPOSAL ACT OF 1965. See Federal-State Relations, 6.

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1. *Action seeking relief against enforcement of state statutes—Federal District Court's jurisdiction.*—Principles of equitable restraint enunciated in *Younger v. Harris*, 401 U. S. 37, do not preclude Federal District Court from exercising jurisdiction over action by appellee husband and wife seeking injunctive and declaratory relief against enforcement of New Hampshire statutes requiring noncommercial motor vehicles to bear license plates embossed with state motto, "Live Free or Die," and making it a misdemeanor to obscure motto, where appellee husband had been convicted under misdemeanor statute and there is a threat of repeated prosecutions in future against both appellees. *Wooley v. Maynard*, p. 705.

2. *Federal-court interference with State's contempt process.*—Federal District Court erred in enjoining enforcement of New York contempt procedures on federal constitutional grounds. Principles of federalism and comity enunciated in *Younger v. Harris*, 401 U. S. 37 and *Huffman v. Pursue, Ltd.*, 420 U. S. 592, apply to a case in which State's contempt process is involved. Whether disobedience of a court-sanctioned subpoena,

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and resulting process leading to a finding of contempt of court, as was involved here, is labeled civil, quasi-criminal, or criminal, salient fact is that federal-court interference with State's contempt process is "an offense to the State's interest . . . likely to be every bit as great as it would be were this a criminal proceeding." Moreover, such interference with contempt process not only "unduly interferes with the [State's] legitimate activities," but also "can readily be interpreted 'as reflecting negatively upon the state court's ability to enforce constitutional principles.'" *Juidice v. Vail*, p. 327.

3. *Labor union member's tort action against union—Pre-emption by National Labor Relations Act.*—NLRA does not pre-empt tort action by labor union member and officer against union and union officials for intentional infliction of emotional distress allegedly caused by their "outrageous conduct" toward him because of a sharp disagreement between him and union officials over various internal union policies. *Farmer v. Carpenters*, p. 290.

4. *State regulation of flour packaging—Federal Packaging and Labeling Act as controlling.*—Although Federal Packaging and Labeling Act in 15 U. S. C. § 1461 (which provides that Act supersedes any state laws that are "less stringent than or require information different from" requirements of FPLA or its implementing regulations) does not pre-empt § 12211 of California Business and Professions Code, which regulates net-weight labeling of packages of commodities, as implemented by Art. 5 of California Administrative Code, since it appears that California law is not "less stringent than" and does not "require information different from" FPLA and implementing regulations, nevertheless, with regard to respondent millers' flour, enforcement of § 12211, as implemented by Art. 5, would prevent "the accomplishment and execution of the full purposes and objectives of Congress" in passing FPLA, an impermissible result under Constitution, and hence state law must yield to federal. *Jones v. Rath Packing Co.*, p. 519.

5. *State regulation of meat packaging—Pre-emption by Federal Meat Inspection Act.*—With respect to respondent packing company's packaged bacon, § 12211 of California Business and Professions Code, which regulates net-weight labeling of packages of commodities, and Art. 5 of California Administrative Code, which implements § 12211, are pre-empted by Federal Meat Inspection Act. Since California makes no allowance for loss of weight resulting from moisture loss during course of good distribution practice, state law's requirement—that label accurately state net weight, with implicit allowance only for reasonable manufacturing variations—is "different than" federal requirement, which permits manufacturing deviations and variations caused by moisture loss during good distribution practice. *Jones v. Rath Packing Co.*, p. 519.

FEDERAL-STATE RELATIONS—Continued.

6. *State regulation of waste disposal—Pre-emption—Intervening federal legislation.*—New Jersey Supreme Court's judgment that New Jersey statute prohibiting bringing into State of solid or liquid waste originating or collected elsewhere was not pre-empted by Federal Solid Waste Disposal Act of 1965, and was not unconstitutional as a discrimination against or an undue burden on interstate commerce, is vacated and case is remanded for reconsideration of pre-emption question in light of subsequently enacted Federal Resource Conservation and Recovery Act of 1976. *Philadelphia v. New Jersey*, p. 141.

FEDERAL WATER POLLUTION CONTROL ACT.

1. *Effluent limitations—Judicial review—Court of appeals.*—Section 509 (b)(1)(E) of Act unambiguously authorizes court of appeals review of Environmental Protection Agency's action promulgating an effluent limitation for existing point sources under § 301, and reference in § 509 (b)(1)(E) to § 301 was not intended only to provide for review of grant or denial of an individual variance under § 301 (c). Since effluent limitations are typically promulgated in same proceeding as new-source standards under § 306, there is no doubt that Congress intended review of two sets of regulations to be had in same forum. *E. I. du Pont de Nemours & Co. v. Train*, p. 112.

2. *Environmental Protection Agency's authority—Limitation of discharges—Industrywide regulations.*—EPA has authority under § 301 of Act to limit discharges of pollutants by existing plants through industrywide regulations setting forth uniform effluent limitations for both 1977 and 1983, provided some allowance is made for variations in individual plants. *E. I. du Pont de Nemours & Co. v. Train*, p. 112.

3. *Variances for individual plants.*—Variances for individual plants unable to comply with new-source standards issued under § 306 of Act are not authorized. Congress clearly intended regulations under § 306 to be absolute prohibitions, as is indicated by use of word "standards" in § 306, as well as by description of preferred standard as one "permitting no discharge of pollutants." *E. I. du Pont de Nemours & Co. v. Train*, p. 112.

FELONY MURDER. See **Constitutional Law**, V, 6.

FEMALE WAGE EARNERS. See **Constitutional Law**, V, 3.

FIDUCIARY DUTY OF MAJORITY STOCKHOLDERS. See **Securities Exchange Act of 1934**, 2-4.

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FIFTH AMENDMENT. See **Army and Air Force Vitalization and Retirement Equalization Act of 1948**; **Constitutional Law**, III, 3; V, 1-3, 6-8; VI.

- FINDINGS OF FACT.** See **Habeas Corpus**, 2.
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- FIRST-DEGREE MURDER.** See **Constitutional Law**, III, 2.
- FLORIDA.** See **Constitutional Law**, III, 1; IV.
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- FRAUD.** See **Securities Exchange Act of 1934**, 2-4.
- FREEDOM OF SPEECH.** See **Constitutional Law**, VII, 1.
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- "GOVERNING MAJORITY" THEORY AS TO GRAND JURY DISCRIMINATION.** See **Constitutional Law**, V, 4.
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- GRIEVANCE-ARBITRATION MACHINERY.** See **Labor**.
- HABEAS CORPUS.** See also **Constitutional Law**, X.

1. *District of Columbia Code—Prohibition against postconviction application.*—Section 23-110 (g) of D. C. Code Ann. (which provides that an application for a writ of habeas corpus on behalf of a prisoner authorized to apply for collateral relief by motion in District of Columbia Superior Court pursuant to statute "shall not be entertained by the Superior Court or by any Federal or State court if it appears that the applicant has failed to make a motion for relief under this section or that the Superior Court has denied him relief") prohibits Federal District Court for District of Columbia from entertaining respondent's post-conviction application for a writ of habeas corpus. *Swain v. Pressley*, p. 372.

2. *Federal court—Factual determinations—Consistency with state-court findings.*—In respondent's petition for habeas corpus in Federal District Court after Iowa Supreme Court had affirmed his murder conviction over his objections to admission of certain evidence allegedly obtained in violation of his right to counsel, District Court correctly applied 28 U. S. C. § 2254 (d) (which provides that, subject to certain exceptions, federal habeas corpus courts shall accept as correct factual determinations made by state courts) in its resolution of disputed evidentiary facts, where it appears that it made no findings of fact in conflict with those of Iowa

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courts, and that its additional findings of fact based upon its examination of state-court record were conscientiously and carefully explained and were approved by Court of Appeals as being supported by record. *Brewer v. Williams*, p. 387.

HARD-CORE PORNOGRAPHY. See *Constitutional Law*, III, 3.

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INDIANS. See also *Constitutional Law*, V, 2, 6.

Diminution of Indian reservation boundaries.—Both language and legislative history of Acts of 1904, 1907, and 1910, whereby land in certain counties in South Dakota located within boundaries of Rosebud Sioux Reservation as defined in an 1889 Treaty was required to be ceded by Reservation Indians to Government for sale to settlers under homestead and townsite laws with proceeds to be credited to Indians only as received or, with respect to certain parcels, for transfer to South Dakota for school use, clearly evidence a congressional intent to diminish boundaries of Reservation. *Rosebud Sioux Tribe v. Kneip*, p. 584.

INDIAN TREATIES. See *Constitutional Law*, V, 2; *Indians; Justiciability*.

INDUSTRYWIDE REGULATION OF WATER POLLUTION. See *Federal Water Pollution Control Act*.

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INMATE ACCESS TO COURTS. See *Constitutional Law*, I.

INSURANCE COMPANIES. See *Internal Revenue Code*.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS. See Federal-State Relations, 3; Procedure.

INTERNAL REVENUE CODE.

1. *Accident and health insurance policies—Attribution of unearned premium reserves for federal tax purposes.*—Since taxpayer insurance companies, pursuant to reinsurance treaties, neither held unearned premium dollars from accident and health policies nor set up corresponding unearned premium reserves, and since that treatment was in accord with customary practice as policed by state regulatory authorities, § 801 (c) (2) of Code (which defines “total reserves” as “unearned premiums, and unpaid losses (whether or not ascertained), not included in life insurance reserves,” for purposes of § 801 (a), under which an insurance company is considered a life insurance company qualified for preferential tax treatment if its life insurance reserves constitute more than 50% of its “total reserves”) does not permit attribution to taxpayers of reserves held by other parties to reinsurance treaties for purposes of applying 50% test of § 801 (a). *United States v. Consumer Life Ins. Co.*, p. 725.

2. *Accident and health insurance policies—Attribution of unearned premium reserves for federal tax purposes.*—Attribution to taxpayer insurance companies of unearned premium reserves for accident and health policies is not required under § 801 (c) (3) of Code, counting in total reserves “all other insurance reserves required by law” for purposes of § 801 (a), under which an insurance company is considered a life insurance company qualified for preferential tax treatment if its life insurance reserves constitute more than 50% of its “total reserves.” *United States v. Consumer Life Ins. Co.*, p. 725.

INTERSTATE COMMERCE. See Constitutional Law, II, 1.

INTERVENING LEGISLATION. See Federal-State Relations, 6.

INVIDIOUS DISCRIMINATION. See Constitutional Law, V, 3, 4, 9.

JEHOVAH'S WITNESSES. See Constitutional Law, VII, 1.

JUDGMENT DEBTORS. See Standing to Sue.

JUDGMENTS OF ACQUITTAL. See Constitutional Law, VI.

JUDICIAL REVIEW. See Administrative Procedure Act; Federal Water Pollution Control Act; Justiciability; Social Security Act.

JURISDICTION. See also Administrative Procedure Act; Federal-State Relations, 1, 3; Habeas Corpus, 1; Removal.

1. *Three-judge District Court—Action challenging overcrowding in state prisons.*—A three-judge District Court was not required under 28 U. S. C. § 2281 to hear and determine an action challenging constitutionality of

JURISDICTION—Continued.

overcrowding in Florida's prisons, and a single District Judge properly exercised jurisdiction. *Costello v. Wainwright*, p. 325.

2. *Three-judge District Court—Action challenging unwritten practices of state juvenile institutions.*—A three-judge District Court was not required under 28 U. S. C. § 2281 to hear and determine an action challenging constitutionality of unwritten practices of juvenile institutions administered by Texas Youth Council, and a single District Judge properly exercised jurisdiction. *Morales v. Turman*, p. 322.

JURY TRIALS. See **Constitutional Law**, VIII.

JUSTICIABILITY. See also **Standing to Sue**

Constitutional challenge—Act distributing federal funds to Indians.—Plenary power of Congress in matters of Indian affairs does not mean that an equal protection challenge to Act providing for distribution of federal funds to Indians pursuant to award by Indian Claims Commission to redress a breach by United States of treaty with tribe, is not justiciable. Appropriate standard of judicial review is that legislative judgment should not be disturbed "as long as the special treatment can be tied rationally to the fulfillment of Congress' unique obligation toward the Indians." *Delaware Tribal Business Comm. v. Weeks*, p. 73.

JUVENILE DELINQUENCY. See **Constitutional Law**, VII, 2.

JUVENILE INSTITUTIONS. See **Jurisdiction**, 2.

"KEY MAN" GRAND JURY SELECTION SYSTEM. See **Constitutional Law**, V, 4.

KINGS COUNTY, N. Y. See **Voting Rights Act of 1965**.

LABELING REQUIREMENTS FOR COMMODITIES. See **Federal-State Relations**, 4, 5.

LABOR.

Severance pay dispute—Arbitrability under expired collective-bargaining agreement.—Respondent union's claim for severance pay against petitioner employer under collective-bargaining agreement is subject to resolution under agreement's arbitration clause even though dispute over severance pay arose after termination of agreement. *Nolde Brothers, Inc. v. Bakery Workers*, p. 243.

LABOR UNIONS. See **Federal-State Relations**, 3; **Labor**; **Procedure**.

LAW LIBRARIES FOR PRISONERS. See **Constitutional Law**, I.

LEGAL ASSISTANCE FOR PRISONERS. See **Constitutional Law**, I.

- LEGISLATIVE REAPPORTIONMENT PLANS.** See Voting Rights Act of 1965.
- LIBERTY RIGHTS.** See Constitutional Law, III, 1.
- LICENSE PLATES.** See Constitutional Law, VII, 1; Federal-State Relations, 1.
- LIFE INSURANCE COMPANIES.** See Internal Revenue Code.
- LIVE CONTROVERSY.** See Standing to Sue.
- "LIVE FREE OR DIE."** See Constitutional Law, VII, 1; Federal-State Relations, 1.
- MAIL-ORDER BUSINESS.** See Constitutional Law, II, 2; III, 4.
- MAJOR CRIMES ACT.** See Constitutional Law, V, 6.
- MANIPULATION OR DECEPTION IN SECURITIES TRANSACTIONS.** See Securities Exchange Act of 1934, 2-4.
- MEAT PACKAGING REQUIREMENTS.** See Federal-State Relations, 5.
- MERGERS.** See Securities Exchange Act of 1934, 2-4.
- MEXICAN-AMERICANS.** See Constitutional Law, V, 4.
- MINORITY STOCKHOLDERS.** See Securities Exchange Act of 1934, 2-4.
- MISSISSIPPI.** See Constitutional Law, II, 1.
- MISTRIALS.** See Constitutional Law, VI.
- MOTOR CARRIERS.** See Constitutional Law, II, 1.
- MURDER.** See Constitutional Law, III, 2; V, 6.
- MURDER ON INDIAN RESERVATION.** See Constitutional Law, V, 6.
- NATIONAL GUARD.** See Army and Air Force Vitalization and Retirement Equalization Act of 1948.
- NATIONAL LABOR RELATIONS ACT.** See Federal-State Relations, 3; Procedure.
- NATURAL FATHERS.** See Constitutional Law, V, 1.
- NET-WEIGHT LABELING OF COMMODITIES.** See Federal-State Relations, 4, 5.
- NEW HAMPSHIRE.** See Constitutional Law, VII, 1; Federal-State Relations, 1.

- NEW JERSEY.** See Federal-State Relations, 6.
- NEWS MEDIA.** See Constitutional Law, VII, 2.
- NEW YORK.** See Constitutional Law, V, 9; Federal-State Relations, 2; Standing to Sue; Voting Rights Act of 1965.
- NEXUS BETWEEN STATE AND OUT-OF-STATE SELLERS.** See Constitutional Law, II, 2; III, 4.
- NOTICE AND HEARING PRIOR TO CORPORAL PUNISHMENT.** See Constitutional Law, III, 1.
- OBSCENITY.** See Constitutional Law, III, 3.
- OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970.** See Constitutional Law, VIII.
- OLD-AGE BENEFITS.** See Constitutional Law, V, 7, 8.
- ONE-PERSON, ONE-VOTE PRINCIPLE.** See Constitutional Law, V, 9.
- OUT-OF-STATE SELLERS.** See Constitutional Law, II, 2; III, 4.
- OVERCROWDING IN PRISONS.** See Jurisdiction, 1.
- PACKAGING REQUIREMENTS FOR COMMODITIES.** See Federal-State Relations, 4, 5.
- PENALTIES.** See Constitutional Law, VIII.
- POLLUTION.** See Federal Water Pollution Control Act.
- PORNOGRAPHY.** See Constitutional Law, III, 3.
- POST-CONVICTION REMEDIES.** See Constitutional Law, X; Habeas Corpus, 1.
- PRE-EMPTION.** See Federal-State Relations, 3-6.
- PREFERENTIAL IMMIGRATION STATUS.** See Constitutional Law, V, 1.
- PREMIUM RESERVES.** See Internal Revenue Code.
- PRESENTENCE INVESTIGATION REPORTS.** See Constitutional Law, III, 2.
- PRESUMPTIONS FAVORING ARBITRABILITY OF LABOR DISPUTE.** See Labor.
- PRETRIAL ORDERS.** See Constitutional Law, VII, 2.
- PRIMA FACIE GRAND JURY DISCRIMINATION.** See Constitutional Law, V, 4.
- PRISONERS.** See Constitutional Law, I; X; Habeas Corpus, 1.

PRISONERS' RIGHT OF ACCESS TO COURTS. See **Constitutional Law, I.**

PRISONS. See **Jurisdiction, 1.**

PRIVILEGE OF WRIT OF HABEAS CORPUS. See **Constitutional Law, X.**

PRIVILEGE TAXES. See **Constitutional Law, II, 1.**

PROCEDURE.

Labor union member's tort action against union—Damages for employment discrimination—Improper verdict.—It is clear from record that trial of labor union member's claim against union and union officials for intentional infliction of emotional distress did not meet standards required for state court to exercise jurisdiction over claim, since evidence supporting verdict for plaintiff focuses less on defendants' alleged "outrageous conduct" complained of than on employment discrimination allegedly occurring in hiring hall; hence consequent risk that verdict represented damages for employment discrimination rather than for instances of intentional infliction of emotional distress precludes reinstatement of trial court's judgment. *Farmer v. Carpenters*, p. 290.

PUBLICATION OF JUVENILE DELINQUENT'S NAME OR PHOTOGRAPH. See **Constitutional Law, VII, 2.**

PUBLIC SCHOOLS. See **Constitutional Law, III, 1; IV.**

PURPOSEFUL GRAND JURY DISCRIMINATION. See **Constitutional Law, V, 4.**

RACIAL DISCRIMINATION. See **Constitutional Law, V, 6; Voting Rights Act of 1965.**

RACIAL QUOTAS IN REAPPORTIONING VOTING DISTRICTS. See **Voting Rights Act of 1965.**

REAPPORTIONMENT PLANS. See **Voting Rights Act of 1965.**

REBUTTAL OF PRESUMPTIONS. See **Constitutional Law, V, 4.**

REFERENDUMS. See **Constitutional Law, V, 9.**

REFUSAL TO REOPEN CLAIM FOR SOCIAL SECURITY BENEFITS. See **Administrative Procedure Act; Social Security Act.**

REGULATION OF COMMODITY PACKAGING. See **Federal-State Relations, 4, 5.**

REINSURANCE AGREEMENTS OR TREATIES. See **Internal Revenue Code.**

REMAND OF REMOVED ACTION TO STATE COURT. See **Removal.**

REMOVAL.

Remand to state court—Reviewability.—District Court's order remanding a removed diversity tort action to state courts for apparent lack of complete diversity among parties was clearly within 28 U. S. C. § 1447 (c), which provides for remanding a removed action when district court determines that "case was removed improvidently and without jurisdiction," and hence, under § 1447 (d), was not reviewable by Court of Appeals. *Gravitt v. Southwestern Bell Tel. Co.*, p. 723.

REQUIREMENTS FOR THREE-JUDGE COURT JURISDICTION.

See *Jurisdiction*.

RESERVES. See *Army and Air Force Vitalization and Retirement Equalization Act of 1948*.

RETIREMENT BENEFITS UNDER SOCIAL SECURITY ACT. See *Constitutional Law*, V, 7, 8.

RETIREMENT PAY FOR RESERVES OR NATIONAL GUARD. See *Army and Air Force Vitalization and Retirement Equalization Act of 1948*.

RETROACTIVITY OF NEW OBSCENITY STANDARDS. See *Constitutional Law*, III, 3.

RETROACTIVITY OF STATUTORY AMENDMENT. See *Constitutional Law*, V, 7, 8.

RIGHT OF ACCESS TO COURTS. See *Constitutional Law*, I.

RIGHTS UNDER EXPIRED COLLECTIVE-BARGAINING AGREEMENT. See *Labor*.

RIGHT TO COUNSEL. See *Constitutional Law*, IX; *Habeas Corpus*, 2.

RIGHT TO JURY TRIAL. See *Constitutional Law*, VIII.

RIGHT TO LIBERTY. See *Constitutional Law*, III, 1.

RIGHT TO VOTE. See *Voting Rights Act of 1965*.

ROSEBUD SIOUX RESERVATION. See *Indians*.

RULES OF CRIMINAL PROCEDURE. See *Constitutional Law*, VI.

SAFETY STANDARDS. See *Constitutional Law*, VIII.

SATISFACTION OF JUDGMENTS. See *Standing to Sue*.

SCHOOLS. See *Constitutional Law*, III, 1; IV.

SECRETARY OF HEALTH, EDUCATION, AND WELFARE. See *Administrative Procedure Act*; *Social Security Act*.

SECURITIES EXCHANGE ACT OF 1934.

1. *Damages under § 14 (e) of Act—Tender offeror—Standing to sue.*—A tender offeror, suing in its capacity as a takeover bidder, does not have standing to sue for damages under § 14 (e) of Act; hence, Court of Appeals erred in holding that respondent Chris-Craft Industries, as defeated tender offeror in a contest for control of a corporation, had an implied cause of action for damages under that provision. *Piper v. Chris-Craft Industries*, p. 1.

2. *Parent company and subsidiary—Allowable merger.*—Merger of petitioner parent company with 95%-controlled subsidiary pursuant to Delaware "short-form merger" statute, if carried out as alleged in respondent minority shareholders' complaint, was neither deceptive nor manipulative and therefore did not violate § 10 (b) of Act or Rule 10b-5 issued thereunder. Minority shareholders were furnished with all relevant information with which to decide whether to accept price offered for their stock or reject it and seek an appraisal in Delaware court, and cases relied on by respondents and Court of Appeals in which breaches of fiduciary duty were held violative of Rule 10b-5, all of which included some element of deception, are inappropriate here where there was none. *Santa Fe Industries, Inc. v. Green*, p. 462.

3. *§ 10 (b) or Rule 10b-5—Conduct covered.*—Only conduct involving manipulation or deception is reached by § 10 (b) of Act or Rule 10b-5 issued thereunder. "When a statute speaks so specifically in terms of manipulation and deception, . . . and when its history reflects no more expansive intent, [the Court is] quite unwilling to extend the scope of the statute . . ." *Santa Fe Industries, Inc. v. Green*, p. 462.

4. *Securities and Exchange Commission Rule 10b-5—Conduct regulated—Interference with state regulation.*—A holding that complaint by respondent minority stockholders objecting to merger of petitioner parent company with subsidiary alleged fraud under Rule 10b-5 would bring within Rule a wide variety of corporate conduct traditionally left to state regulation. Absent a clear indication of congressional intent, Court should be reluctant to federalize substantial portion of law of corporations that deals with transactions in securities, particularly where established state policies of corporate regulation would be overridden. *Santa Fe Industries, Inc. v. Green*, p. 462.

5. *Violations of § 14 (e) and Rule 10b-6—Tender offeror—Right to injunctive relief.*—Court of Appeals erred under circumstances presented here in awarding injunctive relief to respondent Chris-Craft Industries, who, as defeated tender offeror in contest for control of a corporation, brought action alleging violations of § 14 (e) of Act and Securities and Exchange Commission Rule 10b-6. Case was tried in District Court exclusively as a suit for damages after Chris-Craft expressly waived any claim

SECURITIES EXCHANGE ACT OF 1934—Continued.

to injunctive relief. Under these circumstances, this Court's holding that Chris-Craft has no cause of action for damages under either § 14 (e) or Rule 10b-6 renders injunction granted by District Court inappropriate, premised as it was upon impermissible award of damages. *Piper v. Chris-Craft Industries*, p. 1.

6. *Violations of Rule 10b-6—Tender offeror—Standing to sue.*—In context of this case, respondent Chris-Craft Industries, as defeated tender offeror in contest for control of a corporation, has no standing to sue for damages on account of asserted Securities and Exchange Commission Rule 10b-6 violations by successful competitor, since Chris-Craft's complaint is not that price paid for target company's shares was influenced by Rule 10b-6 violations, but that opportunity to gain control of target company was lost by virtue of those violations. Thus, Chris-Craft's complaint does not implicate concerns of Rule 10b-6, which is aimed at maintaining an orderly market for distribution of securities free from manipulative influences. *Piper v. Chris-Craft Industries*, p. 1.

SELECTION OF GRAND JURIES. See **Constitutional Law**, V, 4.

SENTENCES. See **Constitutional Law**, III, 2.

SEPARATE VOTER APPROVAL REQUIREMENTS FOR COUNTY CHARTERS. See **Constitutional Law**, V, 9.

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

SEVERANCE PAY. See **Labor**.

SEX DISCRIMINATION. See **Constitutional Law**, V, 3, 7, 8.

SHORT-FORM MERGERS. See **Securities Exchange Act of 1934**, 2-4.

SIXTH AMENDMENT. See **Constitutional Law**, IX; **Habeas Corpus**, 2.

SOCIAL SECURITY ACT. See also **Administrative Procedure Act**; **Constitutional Law**, V, 3, 7, 8.

Judicial review—Decision not to reopen claim for social security benefits.—Section 205 (g) of Act, which provides that any individual, after any "final decision of the Secretary made after a hearing" to which he was a party, irrespective of amount in controversy, may obtain a review of such decision by civil action commenced within 60 days, does not authorize review of decision of Secretary of Health, Education, and Welfare not to reopen a previously adjudicated claim for social security benefits. *Califano v. Sanders*, p. 99.

SOUTH DAKOTA. See **Indians**.

SPECIAL PREFERENCE IMMIGRATION STATUS. See Constitutional Law, V, 1.

STANDARDS FOR DETERMINING HARD-CORE PORNOGRAPHY.
See Constitutional Law, III, 3.

STANDING TO SUE. See also Securities Exchange Act of 1934, 1, 5, 6.

Injunctive relief against state contempt procedures.—Only those appellee judgment debtors who have not yet been fined and imprisoned for contempt for disobeying subpoenas to appear in supplemental proceedings brought to collect judgments but who allegedly were threatened with imprisonment, have standing to seek injunctive relief against New York contempt procedures on federal constitutional grounds, since such appellees are subject to pending proceedings in state courts. Other appellee judgment debtors, who were similarly adjudged in contempt but had paid their fines and were released from jail by time action was filed, have no standing, absent any allegation or finding that they were threatened with further proceedings, since they no longer have a live controversy with appellant judges or other state officials as to either contempt citations or short periods of incarceration that would entitle them to injunctive relief. *Juidice v. Vail*, p. 327.

STATE MOTTOES. See Constitutional Law, VII, 1; Federal-State Relations, 1.

STATE PRISONERS' RIGHT OF ACCESS TO COURTS. See Constitutional Law, I.

STATE PRISONS. See Jurisdiction, 1.

STATE REGULATION OF COMMODITY PACKAGING. See Federal-State Relations, 4, 5.

STATE REGULATION OF CORPORATIONS. See Securities Exchange Act of 1934, 2-4.

STATE REGULATION OF WASTE DISPOSAL. See Federal-State Relations, 6.

STATE TAXES ON PRIVILEGE OF DOING BUSINESS IN STATE.
See Constitutional Law, II, 1.

STATE USE TAXES. See Constitutional Law, II, 2; III, 4.

SUBJECT-MATTER JURISDICTION. See Administrative Procedure Act.

SUBPOENAS. See Federal-State Relations, 2; Standing to Sue.

SUPERIOR COURT OF DISTRICT OF COLUMBIA. See Habeas Corpus, 1.

SUPREME COURT.

1. Assignment of Mr. Justice Clark (retired) to the United States Court of Appeals for the Seventh Circuit, p. 911.
2. Assignment of Mr. Justice Clark (retired) to the United States Court of Appeals for the Eighth Circuit, p. 988.
3. Presentation of Solicitor General, p. v.

SURVIVORS' SOCIAL SECURITY BENEFITS. See Constitutional Law, V, 3.

SUSPENSION OF PRIVILEGE OF WRIT OF HABEAS CORPUS.
See Constitutional Law, X.

TAKEOVER CONTESTS. See Securities Exchange Act of 1934, 1, 5, 6.

TAXES. See Constitutional Law, II, 1, 2; III, 4; Internal Revenue Code.

TAXES ON PRIVILEGE OF DOING BUSINESS IN STATE. See Constitutional Law, II, 1.

TENDER OFFERORS. See Securities Exchange Act of 1934, 1, 5, 6.

TERMINATION OF COLLECTIVE-BARGAINING AGREEMENT.
See Labor.

TEXAS. See Constitutional Law, V, 4.

THREE-JUDGE COURTS. See Jurisdiction.

TORTS. See Federal-State Relations, 3; Procedure.

TREATIES WITH INDIANS. See Constitutional Law, V, 2; Indians; Justiciability.

TRIALS. See Procedure.

UNDERREPRESENTATION OF IDENTIFIABLE GROUP ON GRAND JURIES. See Constitutional Law, V, 4.

UNEARNED PREMIUM RESERVES. See Internal Revenue Code.

UNIONS. See Federal-State Relations, 3; Labor; Procedure.

UNSAFE WORKING CONDITIONS. See Constitutional Law, VIII.

USE TAXES. See Constitutional Law, II, 2; III, 4.

VARIANCES FROM COMPLIANCE WITH WATER POLLUTION REGULATIONS. See Federal Water Pollution Control Act.

VIOLATIONS OF SAFETY STANDARDS. See Constitutional Law, VIII.

VOTER APPROVAL REQUIREMENTS FOR COUNTY CHARTERS.

See **Constitutional Law**, V, 9.

VOTING RIGHTS ACT OF 1965.

Reapportionment plan—Use of racial criteria.—Court of Appeals' judgment holding that New York's use of racial criteria in its 1974 legislative reapportionment plan for Kings County in attempting to comply with § 5 of Act and to secure Attorney General's approval of plan under Act did not violate Fourteenth or Fifteenth Amendment, is affirmed. *United Jewish Organizations v. Carey*, p. 144.

WAIVER OF RIGHT TO COUNSEL. See **Constitutional Law**, IX.

WASTE DISPOSAL. See **Federal-State Relations**, 6.

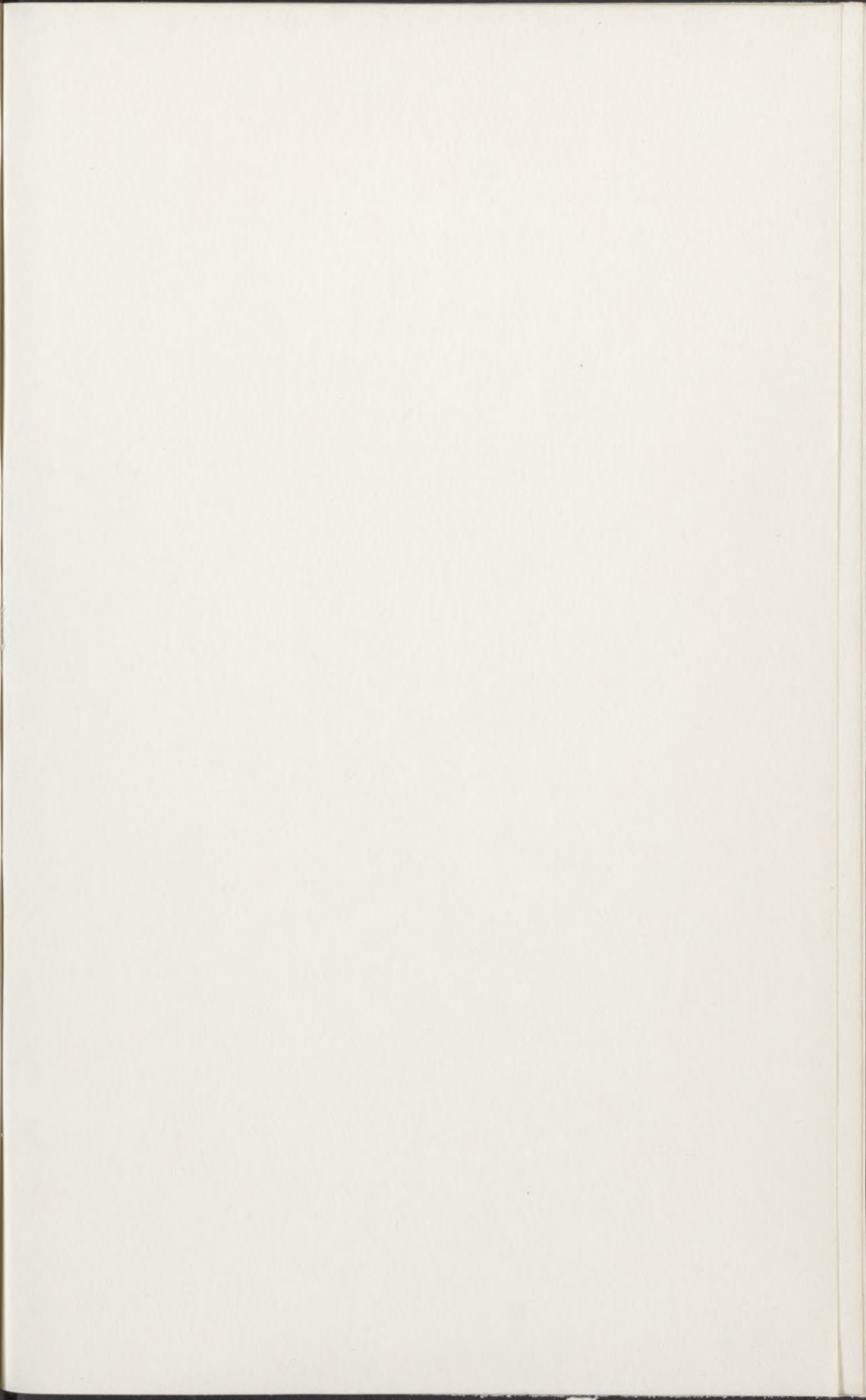
WATER POLLUTION. See **Federal Water Pollution Control Act**.

WEIGHT-LABELING STANDARDS FOR COMMODITIES. See **Federal-State Relations**, 4, 5.

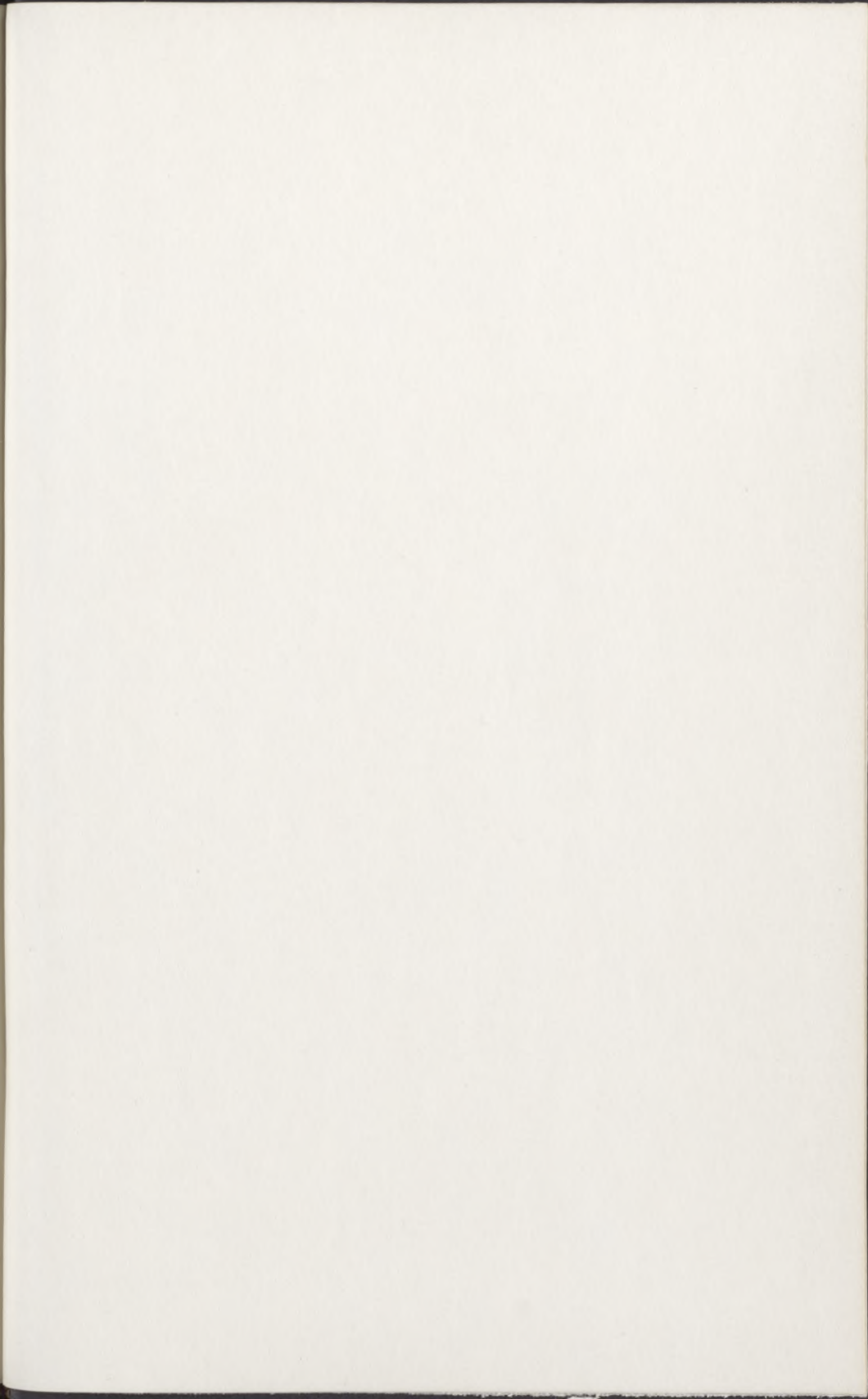
WHOLESOME MEAT ACT. See **Federal-State Relations**, 5.

WIDOWERS' SOCIAL SECURITY BENEFITS. See **Constitutional Law**, V, 3.

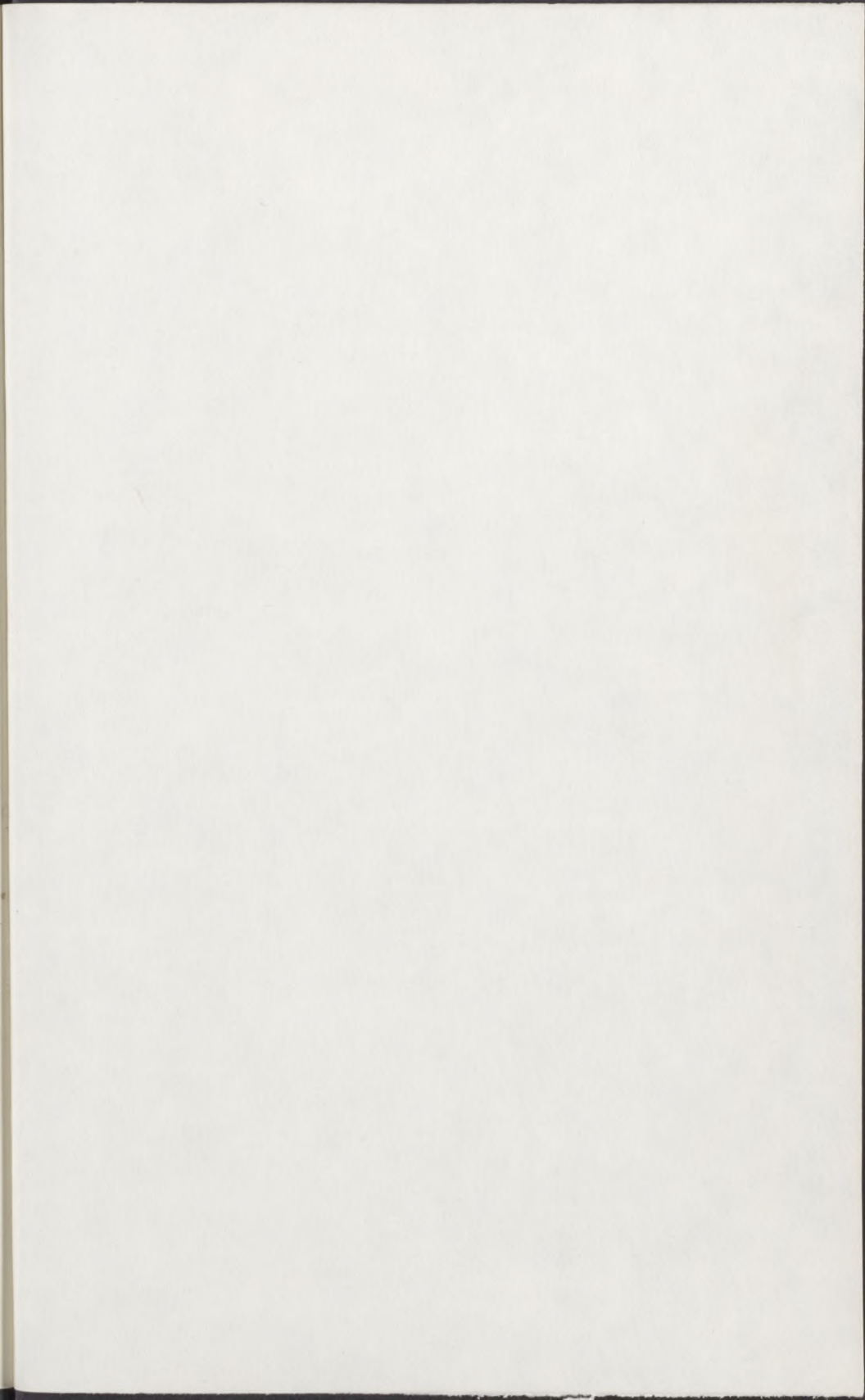














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