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2. *§ 4 of Clayton Act—Illegally overcharged direct purchaser as injured party—Hanover Shoe, Inc.* v. *United Shoe Machinery Corp.*, 392 U. S. 481, which held that generally illegally overcharged direct purchaser suing for treble damages under § 4 of Clayton Act, and not others in chain of manufacture or distribution, is party "injured in his business or property" within meaning of § 4, was correctly decided and its construction of § 4 is adhered to. Illinois Brick Co. v. Illinois, p. 720.

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CIVIL RIGHTS ACT OF 1964.

1. *Employment discrimination—Airline—Female flight attendant—Seniority rights.*—Where respondent female air flight attendant failed to file a timely claim against petitioner airline for violation of Title VII of Act when her employment was terminated in 1968 pursuant to a later invalidated policy because she got married, petitioner does not commit a present, continuing violation of Title VII by refusing to credit respondent, after rehiring her in 1972, with pre-1972 seniority, absent any allegation that petitioner's seniority system, which is neutral in its operation, discriminates against former female employees or victims of past discrimination. Moreover, § 703 (h) of Title VII, which provides that it shall not be an unlawful employment practice to apply different terms of employment pursuant to a bona fide seniority system if any disparity is not result of intentional discrimination, bars respondent's claim, absent any attack on bona fides of petitioner's seniority system or of any charge that system is intentionally designed to discriminate because of race, color, religion, sex, or national origin. United Air Lines, Inc. v. Evans, p. 553.

2. *Employment discrimination—Motor carrier—Line drivers—Improper certification of class action.*—In respondent Mexican-Americans' action against petitioner unions and petitioner motor carrier claiming employment discrimination in violation of Title VII of Act with respect to line-driver positions, Court of Appeals plainly erred in certifying a class action and in imposing classwide liability on petitioners, where trial court proceedings made clear that respondents were not members of class of discriminatees that they purported to represent. East Texas Motor Freight System, Inc. v. Rodriguez, p. 395.

CIVIL RIGHTS ACT OF 1964—Continued.

3. *Employment discrimination—Motor carrier—Line drivers—Incumbent employees—Retroactive seniority.*—With respect to petitioner motor carrier's employment discrimination in line-driver positions, an incumbent employee's failure to apply for a line-driver job does not inexorably bar an award of retroactive seniority, and individual nonapplicants must be afforded an opportunity to undertake their difficult task of proving that they should be treated as applicants and therefore are presumptively entitled to relief accordingly. Teamsters v. United States, p. 324.

4. *Employment discrimination—Motor carrier—Line drivers—Relief.*—Where petitioner motor carrier engaged in a systemwide pattern or practice of employment discrimination against minority members in violation of Title VII of Act with respect to line-driver positions, every post-Act minority member applicant for a line-driver position is presumptively entitled to relief, subject to a showing by carrier that its earlier refusal to place applicant in a line-driver job was not based on its policy of discrimination. Teamsters v. United States, p. 324.

5. *Pattern or practice of employment discrimination—Motor carrier—Burden of proof.*—Government sustained its burden of proving that petitioner motor carrier engaged in a systemwide pattern or practice of employment discrimination against minority members in violation of Title VII of Act by regularly and purposefully treating such members less favorably than white persons. Evidence, showing pervasive statistical disparities in line-driver positions between employment of minority members and whites, and bolstered by considerable testimony of specific instances of discrimination, was not adequately rebutted by carrier and supported findings of courts below. Teamsters v. United States, p. 324.

6. *Post-Act discriminatory employment policies—Motor carrier—Retroactive seniority.*—Since Government proved that petitioner motor carrier engaged in a post-Act pattern of discriminatory employment policies, retroactive seniority may be awarded as relief for post-Act discriminatees even if seniority system agreement makes no provision for such relief. Teamsters v. United States, p. 324.

7. *Seniority system—Pre-Act discrimination—Retroactive seniority—Injunction against union.*—Seniority system in collective-bargaining agreements between petitioner motor carrier and petitioner union was protected by § 703 (h) of Act (which provides that notwithstanding other provisions, it shall not be an unlawful employment practice for an employer to apply different employment standards "pursuant to a bona fide seniority . . . system, . . . provided that such differences are not the result of an intention to discriminate . . .) and therefore union's conduct in agreeing to and maintaining system did not violate Title VII. Employees who suffered only pre-Act discrimination are not entitled to relief, and no

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person may be given retroactive seniority to a date earlier than Act's effective date. District Court's injunction against union must consequently be vacated. Teamsters v. United States, p. 324.

CLASS ACTIONS. See also **Civil Rights Act of 1964, 2; Mootness.**

1. *Effect of intervening legislation on class certified.*—In class action challenging constitutionality of provisions of 1966 Pennsylvania statute governing voluntary admission and commitment to state mental institutions of persons aged 18 or younger, wherein District Court certified class to be represented by named plaintiffs as consisting of all persons 18 or younger who have been or may be admitted or committed to state mental health facilities pursuant to challenged provisions, material changes in status of those included in class certified that resulted from intervening 1976 Act and regulations preclude an informed resolution of that class' constitutional claims. Kremens v. Bartley, p. 119.

2. *Effect of mootness of named plaintiffs—Remand for reconsideration of class definition.*—In class action challenging constitutionality of provisions of Pennsylvania statute governing voluntary admission and commitment to state mental institutions of persons aged 18 or younger, wherein intervening legislation rendered named plaintiffs' claims moot, since none of critical factors that might allow adjudication of claims of a class after mootness of named plaintiffs are present, case must be remanded to District Court for reconsideration of class definition, exclusion of those whose claims are moot, and substitution of class representatives with live claims. Kremens v. Bartley, p. 119.

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CONSTITUTIONAL LAW.

I. Case or Controversy.

Constitutionality of state statutes.—Once District Court had decided that defendant police officers were not liable in appellee's suit against them for shooting and killing his son in an attempted escape from arrest, suit no longer presented a live "case or controversy" entitling appellee to declaratory judgment as to constitutionality of Missouri statutes permitting police to use deadly force in apprehending felon, and hence this Court is unable to consider merits of Court of Appeals' holding that such statutes were unconstitutional. Ashcroft v. Mattis, p. 171.

II. Contract Clause.

Prohibition of retroactive repeal of bistate covenant.—Contract Clause prohibits retroactive repeal of 1962 statutory covenant between New Jersey and New York limiting ability of Port Authority of New York and New Jersey to subsidize rail passenger transportation from revenues and reserves pledged as security for consolidated bonds issued by Port Authority. United States Trust Co. v. New Jersey, p. 1.

III. Due Process.

1. *Decision as to bearing children—Regulation.*—Regulations imposing a burden on a decision as fundamental as whether to bear or beget a child may be justified only by compelling state interests, and must be narrowly drawn to express only those interests. Carey v. Population Services International, p. 678.

2. *Distribution of contraceptives—Prohibition as to persons under 16.*—District Court's judgment declaring unconstitutional, as applied to nonprescription contraceptives, provision, *inter alia,* of New York Education Law prohibiting distribution of contraceptives to persons under 16, is affirmed. Carey v. Population Services International, p. 678.

3. *Distribution of contraceptives—Prohibition except through licensed pharmacists.*—Provision of New York Education Law prohibiting distribution of nonmedical contraceptives to persons over 16 except through licensed pharmacists clearly burdens right of such individuals to use contraceptives if they so desire, and provision serves no compelling state interests. It cannot be justified by an interest in protecting health insofar as it applies to nonhazardous contraceptives or in protecting potential life, nor can it be justified by a concern that young people not sell contracep-

CONSTITUTIONAL LAW—Continued.

tives, or as being designed to serve as a quality control device or as facilitating enforcement of other provisions of statute. Carey v. Population Services International, p. 678.

4. *Federal obscenity statute—Vagueness.*—Title 18 U. S. C. § 1461, which prohibits mailing of obscene materials, is not unconstitutionally vague as applied to prosecution of petitioner for intrastate mailing in violation of § 1461, since type of conduct covered by statute can be ascertained with sufficient ease to avoid due process pitfalls. Smith v. United States, p. 291.

5. *Ordinance limiting occupancy of dwelling unit to single family.*—Judgment upholding appellant's conviction for violating ordinance, which she claims is unconstitutional and which limits occupancy of a dwelling unit to members of a single family, but defines "family" in such a way that appellant's household does not qualify (her son and two grandsons, who are first cousins, living with her in her home), is reversed. Moore v. East Cleveland, p. 494.

6. *Preindictment delay.*—Court of Appeals erred in affirming District Court's dismissal of indictment against respondent on ground that 18-month preindictment delay was unjustified. Although Speedy Trial Clause of Sixth Amendment is applicable only after a person has been accused of a crime and statutes of limitations provide " 'the primary guarantee against bringing overly stale criminal charges,' " those statutes do not fully define a defendant's rights with respect to events antedating indictment, and Due Process Clause has a limited role to play in protecting against oppressive delay. To prosecute a defendant following good-faith investigative delay, as apparently existed in this case, does not deprive him of due process even if his defense might have been somewhat prejudiced by lapse of time. United States v. Lovasco, p. 783.

7. *Procedures for removal of foster children from foster homes.*—New York statutory and regulatory procedures for removal of foster children from foster homes are constitutionally adequate even were it to be assumed that appellee foster parents and foster parent organization have a protected "liberty interest" under Fourteenth Amendment. Procedures employed by State and New York City satisfy standards for determining sufficiency of procedural protections, taking into consideration factors enumerated in *Mathews* v. *Eldridge,* 424 U. S. 319, 335: (1) private interest that will be affected by official action; (2) risk of an erroneous deprivation of such interest through procedures used, and probable value, if any, of additional or substitute procedural safeguards; and (3) government's interest, including function involved and fiscal and administrative burdens that additional or substitute procedural requirement would entail. Smith v. Organization of Foster Families, p. 816.

CONSTITUTIONAL LAW—Continued.

8. *Removal of foster child from foster home.*—District Court erred in finding that "grievous loss" to foster child resulting from improvident decision to remove child from foster home implicated due process guarantee, as determining factor is nature of interest involved rather than its weight. Smith v. Organization of Foster Families, p. 816.

9. *Second-degree murder prosecution—Trial judge's failure to instruct on issue of causation.*—In prosecution of respondent and his accomplice for, *inter alia,* second-degree murder under New York statute providing that a person is guilty of second-degree murder when "[u]nder circumstances evincing a depraved indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes the death of another person," trial judge's failure to instruct jury on issue of causation was not constitutional error requiring District Court to grant habeas corpus relief. Henderson v. Kibbe, p. 145.

10. *Suspension or revocation of driver's license without hearing.*—Illinois Driver Licensing Law, which authorizes Secretary of State to suspend or revoke a driver's license without preliminary hearing upon a showing by his records or other sufficient evidence that driver's conduct falls into any of 18 enumerated categories (one of which is that driver has been repeatedly convicted of offenses against traffic laws to a degree indicating "lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway"), as implemented by Secretary's regulations, is constitutionally adequate under Due Process Clause of Fourteenth Amendment, as analyzed in *Mathews* v. *Eldridge,* 424 U. S. 319, 333. Dixon v. Love, p. 105.

11. *Vagueness—Notice as to prohibited obscene materials.*—Illinois statute forbidding sale of obscene matter and providing that "[a] thing is obscene if, considered as a whole, its predominant appeal is to prurient interest, that is, a shameful or morbid interest in nudity, sex or excretion, and if it goes substantially beyond customary limits of candor in description or representation of such matters," is not unconstitutionally vague as failing to give appellant notice that materials dealing with kind of sexual conduct (sado-masochistic) involved here could not be legally sold in State, where (whether or not State complied with requirement of *Miller* v. *California,* 413 U. S. 15, that sexual conduct that may not be depicted must be specifically defined by applicable state law as written or authoritatively construed) appellant had ample guidance from a previous decision of Illinois Supreme Court making it clear that his conduct did not conform to Illinois law. Ward v. Illinois, p. 767.

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IV. Eighth Amendment.

Mandatory death sentence—Murder of police officer—Louisiana statute.—Mandatory death sentence imposed upon petitioner pursuant to Louisiana statute for first-degree murder of a police officer engaged in performance of his lawful duties, violates Eighth and Fourteenth Amendments, since statute allows for no consideration of particularized mitigating factors in deciding whether death sentence should be imposed. Roberts v. Louisiana, p. 633.

V. Equal Protection of the Laws.

1. *Court-ordered legislative reapportionment plan—Mississippi.*—Federal District Court's legislative reapportionment plan for Mississippi's Senate and House of Representatives does not embody equitable discretion necessary to effectuate standards of Equal Protection Clause of Fourteenth Amendment in that plan failed to meet that Clause's most elemental requirement that legislative districts be "as nearly of equal population as is practicable." Connor v. Finch, p. 407.

2. *Worker unemployed due to labor dispute—Disqualification from unemployment benefits.*—Ohio statute that disqualified a worker from unemployment benefits if his unemployment was "due to a labor dispute other than a lockout at any factory . . . owned or operated by the employer by which he is or was last employed," has a rational relation to a legitimate state interest and is constitutional. Ohio Bureau of Employment Services v. Hodory, p. 471.

VI. Ex Post Facto Laws.

Obscenity prosecution—Use of evidence of pandering.—Though section of California Penal Code that authorized challenged instruction permitting jury, in prosecution of petitioner for selling obscene film in violation of California law, to consider whether film was being commercially exploited, was enacted after part of conduct for which petitioner was convicted but prior to his trial, that section does not create any new substantive offense but merely declares what type of evidence may be received and considered by jury in deciding whether allegedly obscene material was "utterly without redeeming social importance." *People* v. *Noroff*, 67 Cal. 2d 791, 433 P. 2d 479, relied on by petitioner in support of his claim that challenged instruction violated prohibition against *ex post facto* laws, did not disapprove of any use of evidence of pandering for its probative value on obscenity issue but merely rejected concept of pandering of nonobscene material as a separate crime under state law. Splawn v. California, p. 595.

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VII. Fifth Amendment.

1. *Double jeopardy—Retrial on conspiracy charge.*—Where petitioners and others were charged in a single-count indictment with conspiracy and an attempt to obstruct interstate commerce by means of extortion, in violation of Hobbs Act, and jury returned a guilty verdict against each petitioner, Double Jeopardy Clause does not preclude retrial on conspiracy charge. It cannot be assumed that jury disregarded District Court's instructions at initial trial that it could not return a guilty verdict unless Government proved beyond a reasonable doubt all of elements of both offenses charged in indictment, and therefore it would appear that jury did not acquit petitioners of conspiracy charge, while convicting them on attempt charge, as petitioners urge was a possibility in view of general verdict. Abney v. United States, p. 651.

2. *Privilege against self-incrimination—Grand jury testimony—Failure to warn potential defendant—Use of testimony in subsequent trial.*—Where, although respondent was not informed in advance of his appearance before a grand jury investigating a theft that he might be indicted for theft, he was given a series of warnings after being sworn, including warning that he had a right to remain silent, his grand jury testimony may properly be used against him in a subsequent trial. Comprehensive warnings he received, whether or not they were constitutionally required, dissipated any element of compulsion to self-incrimination that might otherwise have been present. Fact that a subpoenaed grand jury witness is a putative or potential defendant neither impairs nor enlarges his constitutional rights, and hence it is unnecessary to give such a defendant warnings that he is a potential defendant. United States v. Washington, p. 181.

3. *Privilege against self-incrimination—Removal of political party officer for refusal to waive privilege.*—New York statute providing for removal of political party officer who refuses to waive immunity against subsequent criminal prosecution when subpoenaed as grand jury witness to testify concerning conduct of his office, violated right of appellee (who was divested of his state political party offices pursuant to statute) to be free of compelled self-incrimination under Fifth Amendment. Lefkowitz v. Cunningham, p. 801.

4. *Privilege against self-incrimination—Suppression of false grand jury testimony.*—A witness who is called to testify before a grand jury while under investigation for possible criminal activity, and is later indicted for perjury in testimony given before grand jury, is not entitled to suppression of false testimony on ground that no effective warning of Fifth Amendment privilege to remain silent had been given. United States v. Wong, p. 174.

CONSTITUTIONAL LAW—Continued.

VIII. First Amendment.

1. *Freedom of association—Collective-bargaining agreement with teachers' union—Agency-shop clause—Use of service charges.*—Insofar as service charges imposed on appellant teachers (who opposed collective bargaining in public sector) equal in amount to union dues pursuant to an agency-shop clause of a collective-bargaining agreement permitted by a Michigan statute are used to finance expenditures by appellee Union for collective-bargaining, contract-administration, and grievance-adjustment purposes, agency-shop clause is valid. Abood v. Detroit Board of Education, p. 209.

2. *Freedom of association—Collective-bargaining agreement with teachers' union—Agency-shop clause—Use of service charges for ideological causes.*—Principles that under First Amendment an individual should be free to believe as he will and that in a free society one's beliefs should be shaped by his mind and his conscience rather than coerced by State, prohibits appellee Board of Education and Union from requiring, pursuant to an agency-shop clause in a collective-bargaining agreement between Board and Union permitted by a Michigan statute, any of appellant teachers (who opposed collective bargaining in public sector) to contribute, in form of service charges, to support of an ideological cause he may oppose as a condition of holding a job as a public school teacher. Abood v. Detroit Board of Education, p. 209.

3. *Freedom of speech—Obscenity—Proscription of sado-masochistic materials.*—Sado-masochistic materials are kind of materials that may be proscribed by state law, even though they were not expressly included within examples of kinds of sexually explicit representations that *Miller* v. *California,* 413 U. S. 15, used to explicate aspect of its obscenity definition dealing with patently offensive depictions of specifically defined sexual conduct. Ward v. Illinois, p. 767.

4. *Freedom of speech—Obscenity prosecution—Jury instruction.*—In prosecution of petitioner for selling obscene film in violation of California law, instruction permitting jury, in determining whether film was utterly without redeeming social importance, to consider circumstances of sale and distribution, particularly whether such circumstances indicated that film was being commercially exploited for sake of its prurient appeal, violated no First Amendment rights of petitioner. Circumstances of distribution of material are relevant from standpoint of whether public confrontation with potentially offensive aspects of material is being forced and are "equally relevant to determining whether social importance claimed for the material in the courtroom was, in the circumstances, pretense or reality—whether it was the basis upon which it was traded in the marketplace or a spurious claim for litigation purposes." Splawn v. California, p. 595.

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5. *Freedom of speech—Opening of international mail for customs inspection.*—Opening of international mail under guidelines of statute only when customs official has reason to believe mail contains other than correspondence, while reading of any correspondence inside envelopes is forbidden by postal regulations, does not impermissibly chill exercise of free speech under First Amendment, and any "chill" that might exist under such circumstances is not only "minimal" but is also wholly subjective. United States v. Ramsey, p. 606.

6. *Freedom of speech—Ordinance prohibiting real estate signs.*—A township ordinance prohibiting posting of real estate "For Sale" and "Sold" signs for purpose of stemming what township perceived as flight of white homeowners from a racially integrated community violates First Amendment. Linmark Associates, Inc. v. Willingboro, p. 85.

7. *Freedom of speech—Prohibition against advertising or displaying contraceptives.*—Provision of New York Education Law prohibiting anyone, including licensed pharmacists, from advertising or displaying contraceptives cannot be justified on ground that advertisements of contraceptive products would offend and embarrass those exposed to them and that permitting them would legitimize sexual activity of young people. These are classically not justifications validating suppression of expression protected by First Amendment, and here advertisements in question merely state availability of products that are not only entirely legal but constitutionally protected. Carey v. Population Services International, p. 678.

8. *Freedom of speech—Proscription of obscene matter—Overbreadth.*—Illinois statute forbidding sale of obscene matter is not unconstitutionally overbroad for failure to state specifically kinds of sexual conduct description or representation of which State intends to proscribe, where it appears that in prior decisions Illinois Supreme Court, although not expressly describing kinds of sexual conduct intended to be referred to under guideline of *Miller* v. *California,* 413 U. S. 15, requiring inquiry "whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law," expressly incorporated such guideline as part of law and thereby intended as well to adopt *Miller* explanatory examples, which gave substantive meaning to such guideline by indicating kinds of materials within its reach. Ward v. Illinois, p. 767.

IX. Fourth Amendment.

1. *Searches and seizures—Border searches.*—Border searches without probable cause and without a warrant are nonetheless "reasonable" within meaning of Fourth Amendment. United States v. Ramsey, p. 606.

2. *Searches and seizures—Border-search exception.*—Border-search exception is not based on doctrine of "exigent circumstances," but is a long-

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standing, historically recognized exception to Fourth Amendment's general principle that a warrant be obtained. United States v. Ramsey, p. 606.

3. *Searches and seizures—Border-search exception—International mail.*—Inclusion of international mail within border-search exception does not represent any "extension" of that exception. Exception is grounded in recognized right of sovereign to control, subject to substantive limitations imposed by Constitution, who and what may enter country, and no different constitutional standards should apply simply because envelopes were mailed, not carried, critical fact being that envelopes cross border and enter country, not that they are brought in by one mode of transportation rather than another. It is their entry into country from without it that makes a resulting search "reasonable." United States v. Ramsey, p. 606.

4. *Searches and seizures—Opening of international mail for customs inspection.*—Fourth Amendment does not interdict actions taken by customs inspector in opening and searching, at General Post Office in New York City (a "border" for border-search purposes), letter-sized airmail envelopes, which were from Thailand, a known source of narcotics, and were bulky and much heavier than a normal airmail letter. United States v. Ramsey, p. 606.

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Opening of international mail for customs inspection—"Reasonable cause to suspect" contraband.—Where, acting pursuant to statute and regulations authorizing customs officials to inspect incoming international mail when they have a "reasonable cause to suspect" that mail contains

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illegally imported merchandise, customs inspector, based on facts that incoming letter-sized airmail envelopes were from Thailand, a known source of narcotics, and were bulky and much heavier than a normal airmail letter, opened envelopes for inspection at General Post Office in New York City (a "border" for border-search purposes), inspector had "reasonable cause to suspect" that there was merchandise or contraband in envelopes, and therefore search was plainly authorized by statute. United States v. Ramsey, p. 606.

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FAILURE TO GIVE CAUSATION INSTRUCTIONS TO JURY. See **Constitutional Law**, III, 9.

"FAMILY" FOR ZONING PURPOSES. See **Constitutional Law**, III, 5.

FEDERAL ENROLLMENT AND LICENSING LAWS. See **Federal-State Relations**, 2, 3.

FEDERAL INTERFERENCE WITH STATE CIVIL ENFORCEMENT ACTION. See **Federal-State Relations**, 4.

FEDERAL OBSCENITY PROSECUTIONS. See **Constitutional Law**, III, 4; **Federal-State Relations**, 5; **Procedure**, 2.

FEDERAL-STATE RELATIONS.

1. *Abstention—Validity of state statute.*—Where, after his claim for unemployment benefits was disallowed under Ohio statute that disqualified a worker from such benefits if his unemployment was due to a labor dispute, appellee filed a class action against appellants in Federal District Court for declaratory and injunctive relief, asserting that Ohio statute conflicted with Social Security Act and that, as applied, was irrational and had no valid public purpose, in violation of Due Process and Equal Protection Clauses of Fourteenth Amendment, abstention is not required under either *Younger* v. *Harris*, 401 U. S. 37, or *Railroad Comm'n* v. *Pullman Co.*, 312 U. S. 496. Where Ohio has concluded to submit constitutional issue to this Court for immediate resolution, *Younger* principles of equity and comity do not require this Court to refuse Ohio immediate resolution it seeks. Nor is *Pullman* abstention appropriate, where possible benefits of abstention have become too speculative to justify or require avoidance of constitutional question. Ohio Bureau of Employment Services v. Hodory, p. 471.

FEDERAL-STATE RELATIONS—Continued.

2. *Commercial fishing rights—Chesapeake Bay—Pre-emption.*—Federal enrollment and licensing laws, under which vessels engaged in domestic or coastwise trade or used for fishing are "enrolled" for purpose of evidencing their national character and to enable them to obtain licenses regulating use to which vessels may be put, pre-empt Virginia statutes that in effect prohibit nonresidents of Virginia from catching menhaden in Virginia portion of Chesapeake Bay and that bar noncitizens (regardless of where they reside) from obtaining commercial fishing licenses for any kind of fish from Virginia. Hence, under Supremacy Clause, Virginia laws cannot prevent appellees whose fishing vessels, though foreign owned, have been federally licensed, from fishing for menhaden in Virginia's waters. Douglas v. Seacoast Products, Inc., p. 265.

3. *Commercial fishing rights—Vineyard Sound—Statutory basis.*—Where it appears that there may be a statutory basis for providing relief to respondent owner of federally enrolled and licensed fishing vessel against enforcement of a Massachusetts statute prohibiting nonresidents from dragging for fish by beam or otter trawl in Vineyard Sound during certain months, this Court will not decide question presented as to constitutionality of statute. Massachusetts v. Westcott, p. 322.

4. *Federal interference with state civil enforcement action.*—Where, after Illinois Department of Public Aid brought civil action against appellees to recover allegedly wrongfully received welfare payments and in connection therewith issued a writ of attachment against appellees' property without notice or hearing, appellees filed suit against appellant IDPA officials in Federal District Court, alleging that Illinois Attachment Act violated due process and seeking return of attached property, District Court should have dismissed complaint under *Younger* v. *Harris,* 401 U. S. 37, and *Huffman* v. *Pursue, Ltd.,* 420 U. S. 592, unless appellees' state remedies were inadequate to litigate their federal due process claim. Injunction asked for and issued by court interfered with Illinois' efforts to utilize Attachment Act as an integral part of State's enforcement action. Trainor v. Hernandez, p. 434.

5. *Federal obscenity prosecution—State definition of contemporary community standards.*—State law cannot define contemporary community standards for appeal to prurient interest and patent offensiveness that under *Miller* v. *California,* 413 U. S. 15, are applied in determining whether or not material is obscene, and Iowa obscenity statute is therefore not conclusive as to those standards. In federal prosecutions, such as this for mailing obscene materials in violation of 18 U. S. C. § 1461, those issues are fact questions for jury, to be judged in light of its understanding of contemporary community standards. Smith v. United States, p. 291.

FEDERAL-STATE RELATIONS—Continued.

6. *Worker unemployed due to labor dispute—State statute disqualifying from unemployment benefits—Conflict with, or pre-emption by, federal statutes.*—Ohio statute disqualifying a worker from unemployment benefits if his unemployment was due to a labor dispute is neither in conflict with, nor is it pre-empted by, 42 U. S. C. § 503 (a) (provision of Social Security Act that precludes Secretary of Labor from certifying payment of federal funds to state unemployment compensation programs unless state law provides for such methods of administration as Secretary finds are "reasonably calculated to insure full payment of unemployment compensation when due"), or Federal Unemployment Tax Act. Ohio Bureau of Employment Services v. Hodory, p. 471.

FEDERAL TORT CLAIMS ACT.

1. *Service-connected injuries—Limit of Government's liability—Third-party indemnity claim.*—Veterans' Benefits Act provides an upper limit of liability for Government as to service-connected injuries, and to permit third-party indemnity claim of petitioner manufacturer of fighter aircraft ejection system against United States in National Guard officer's action under FTCA against United States and petitioner for injuries received when ejection system malfunctioned during midair emergency, would circumvent such limitation. Stencel Aero Engineering Corp. v. United States, p. 666.

2. *Serviceman's action against United States—Third-party indemnity claim against United States.*—Petitioner manufacturer of fighter aircraft ejection system cannot maintain a third-party indemnity claim against United States in National Guard officer's damages action under Act against United States and petitioner for injuries received when ejection system malfunctioned during midair emergency. Right of a third party to recover in an indemnity action against United States recognized in *United States* v. *Yellow Cab Co.*, 340 U. S. 543, is limited by rationale of *Feres* v. *United States*, 340 U. S. 135 (wherein it was held that an on-duty serviceman injured because of Government officials' negligence may not recover against United States under Act) where injured party is a serviceman. Stencel Aero Engineering Corp. v. United States, p. 666.

FEDERAL UNEMPLOYMENT TAX ACT. See **Federal-State Relations**, 1, 6.

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

FEMALE AIR FLIGHT ATTENDANTS. See **Civil Rights Act of 1964**, 1.

FIFTH AMENDMENT. See **Constitutional Law**, III, 6; VII.

FINAL DECISIONS. See **Appeals.**

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

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

FIRST-DEGREE MURDER OF POLICE OFFICER. See **Constitutional Law, IV.**

FISHING RIGHTS. See **Federal-State Relations, 2, 3.**

FLIGHT OF WHITE HOMEOWNERS FROM RACIALLY INTEGRATED COMMUNITY. See **Constitutional Law, VIII, 6.**

"FOR SALE" SIGNS. See **Constitutional Law, VIII, 6.**

FOSTER PARENTS AND CHILDREN. See **Constitutional Law, III, 7, 8.**

FOURTEENTH AMENDMENT. See **Constitutional Law, III, 1–3, 5, 7–8, 10, 11; IV; V.**

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

FREEDOM OF ASSOCIATION. See **Constitutional Law, VIII, 1, 2.**

FREEDOM OF SPEECH. See **Constitutional Law, VIII, 3–8.**

GOVERNMENT EMPLOYEES. See **Constitutional Law, VIII, 1, 2.**

GRAND JURIES. See **Constitutional Law, VII, 2–4.**

GUAM. See **Jurisdiction.**

GUIDELINES FOR DETERMINING OBSCENITY. See **Constitutional Law, VIII, 3, 8; Obscenity.**

GUILTY PLEAS. See **Habeas Corpus.**

GUILTY VERDICTS. See **Constitutional Law, VII, 1.**

HABEAS CORPUS. See also **Constitutional Law, III, 9.**

Acceptance of guilty plea—Improper dismissal of habeas petition.—In light of nature of record of North Carolina trial court proceeding at which respondent's guilty plea to attempted safe robbery was accepted, and of ambiguous status of process of plea bargaining at time guilty plea was made, respondent's federal petition for a writ of habeas corpus alleging that guilty plea had been induced by his attorney's promise of lighter sentence than he received should not have been summarily dismissed. Blackledge v. Allison, p. 63.

HEARINGS ON REVOCATION OF DRIVERS' LICENSES. See **Constitutional Law, III, 10.**

HIGHWAY TRAFFIC AND SAFETY. See **Constitutional Law, III, 10.**

HOBBS ACT. See **Constitutional Law**, VII, 1.

HOUSING ORDINANCES. See **Constitutional Law**, III, 5.

ILLINOIS. See **Constitutional Law**, III, 10, 11; VIII, 3, 8; **Federal-State Relations**, 4; **Obscenity.**

IMPAIRMENT OF OBLIGATION OF CONTRACTS. See **Constitutional Law**, II.

IMPROPER CERTIFICATION OF CLASS ACTIONS. See **Civil Rights Act of 1964**, 2.

INCRIMINATION. See **Constitutional Law**, VII, 2–4.

INDEMNITY. See **Federal Tort Claims Act.**

INDICTMENTS. See **Appeals**; **Constitutional Law**, III, 6,

INDIRECT PURCHASERS' RIGHT TO RECOVER FOR OVERCHARGES. See **Antitrust Acts.**

INJUNCTIONS. See **Federal-State Relations**, 4.

INSPECTION OF INTERNATIONAL MAIL. See **Constitutional Law**, VIII, 5; IX; **Criminal Law.**

INSTRUCTIONS TO JURY IN MURDER PROSECUTION. See **Constitutional Law**, III, 9.

INSTRUCTIONS TO JURY IN OBSCENITY PROSECUTION. See **Constitutional Law**, VI; VIII, 4.

INTERNATIONAL MAIL INSPECTION. See **Constitutional Law**, VIII, 5; IX; **Criminal Law.**

INTERSTATE COMMERCE. See **Omnibus Crime Control and Safe Streets Act of 1968.**

INTERVENING LEGISLATION. See **Class Actions**; **Mootness**; **Procedure**, 1.

IOWA. See **Federal-State Relations**, 5.

JUDICIAL REVIEW.

Supreme Court—Validity of regulations under Clean Air Act.—This Court will not review judgments of Courts of Appeals invalidating transportation control plan regulations promulgated by Administrator of Environmental Protection Agency under Clean Air Act and imposed on various States as elements of an implementation plan, where federal parties have not only renounced an intent to seek review of invalidation of certain regulations but have conceded that those remaining in controversy are invalid unless modified. EPA v. Brown, p. 99.

JURISDICTION. See also **Appeals.**

District Court of Guam—Appellate jurisdiction.—Provision of § 22 of 1950 Organic Act of Guam that District Court of Guam "shall have such appellate jurisdiction as the [Guam] legislature may determine," does not authorize Guam Legislature to divest District Court's appellate jurisdiction under Act to hear appeals from local Guam courts, and to transfer that jurisdiction to newly created Guam Supreme Court, but empowers legislature to "determine" that jurisdiction only in sense of selection of what should constitute appealable causes. Guam v. Olsen, p. 195.

JURY INSTRUCTIONS IN MURDER PROSECUTION. See **Constitutional Law,** III, 9.

JURY INSTRUCTIONS IN OBSCENITY PROSECUTION. See **Constitutional Law,** VI; VIII, 4.

JUSTICIABILITY. See **Constitutional Law,** I.

LABOR UNIONS. See **Constitutional Law,** VIII, 1, 2.

LEGISLATIVE REAPPORTIONMENT PLANS. See **Constitutional Law,** V, 1.

ENSE SUSPENSION OR REVOCATION. See **Constitutional Law,** III, 10.

LIMITATIONS ON OCCUPANCY OF DWELLING UNITS. See **Constitutional Law,** III, 5.

LINE DRIVERS. See **Civil Rights Act of 1964,** 2–7.

LIVE CASE OR CONTROVERSY. See **Constitutional Law,** I.

LOCAL GOVERNMENTAL EMPLOYEES. See **Constitutional Law,** VIII, 1, 2.

LOUISIANA. See **Constitutional Law,** IV.

MAILING OF OBSCENE MATERIALS. See **Constitutional Law,** III, 4; **Federal-State Relations,** 5; **Procedure,** 2.

MANDATORY DEATH SENTENCES. See **Constitutional Law,** IV.

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

MENHADEN. See **Federal-State Relations,** 2.

MENTAL INSTITUTIONS. See **Class Actions; Mootness.**

MEXICAN-AMERICANS. See **Civil Rights Act of 1964,** 2.

MILITARY SELECTIVE SERVICE ACT.

Returning veteran—Rights under employer's pension plan.—Respondent, who left employment with petitioner for military service but who returned

MILITARY SELECTIVE SERVICE ACT—Continued.

after completion of such service and continued in employment until his retirement, is entitled under § 9 of Act, which requires an employer to rehire a returning veteran without loss of seniority, to credit toward his pension under petitioner's pension plan for his period of military service. Alabama Power Co. v. Davis, p. 581.

MINORS' ADMISSION AND COMMITMENT TO MENTAL INSTITUTIONS. See **Class Actions; Mootness.**

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

MOOTNESS. See also **Class Actions.**

Repeal and replacement of challenged statutory provisions.—Enactment of 1976 Act, which completely repealed and replaced, vis-à-vis named appellees, challenged provisions of 1966 Pennsylvania statute governing voluntary admission and commitment to state mental health institutions of persons aged 18 or younger, clearly moots claims of named appellees, who are treated as adults totally free to leave hospital and who cannot be forced to return unless they consent to do so. Kremens v. Bartley, p. 119.

MOTOR CARRIERS. See **Civil Rights Act of 1964,** 2–7.

MOTOR VEHICLES. See **Constitutional Law,** III, 10.

MURDER OF POLICE OFFICER. See **Constitutional Law,** IV.

NARCOTICS. See **Constitutional Law,** IX; **Criminal Law.**

NAVY. See **Armed Forces.**

NEGROES. See **Civil Rights Act of 1964,** 3–7.

NEW JERSEY. See **Constitutional Law,** II.

NEW YORK. See **Constitutional Law,** II; III, 1–3, 7–9; VII, 3; VIII, 7; **Standing to Sue.**

NEXUS BETWEEN POSSESSION OF FIREARMS AND COMMERCE. See **Omnibus Crime Control and Safe Streets Act of 1968.**

1950 ORGANIC ACT OF GUAM. See **Jurisdiction.**

1975 EXECUTIVE SALARY COST-OF-LIVING ADJUSTMENT ACT. See **Procedure,** 1.

NONPRESCRIPTION CONTRACEPTIVES. See **Constitutional Law,** III, 1–3.

NORTH CAROLINA. See **Habeas Corpus.**

NOTICE AS TO PROHIBITED OBSCENE MATERIALS. See **Constitutional Law,** III, 11.

OBSCENITY. See also **Constitutional Law**, III, 4, 11; VI; VIII, 3, 4, 8; **Federal-State Relations**, 5; **Procedure**, 2.

Sado-masochistic materials—Standards for determining obscenity.—Sado-masochistic materials in question were properly found by courts below to be obscene under Illinois statute forbidding sale of obscene matter, which statute conforms to standards of *Miller* v. *California*, 413 U. S. 15, except that it retains stricter "redeeming social value" obscenity criterion announced in *Memoirs* v. *Massachusetts*, 383 U. S. 413. Ward v. Illinois, p. 767.

OHIO. See **Constitutional Law**, V, 2; **Federal-State Relations**, 1, 6.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

Felon's possession of firearm—Required nexus between possession and commerce.—In a prosecution for possession of a firearm in violation of provision of Title VII of Act, 18 U. S. C. App. § 1202 (a), making it a crime for a convicted felon to possess "in commerce or affecting commerce" any firearm, proof that possessed firearm previously traveled at some time in interstate commerce is sufficient to satisfy statutorily required nexus between possession and commerce. This is so, where, as in this case, firearm in question traveled in interstate commerce before accused became a convicted felon; nexus need not be "contemporaneous" with possession. Scarborough v. United States, p. 563.

ONE PERSON, ONE VOTE. See **Constitutional Law**, V, 1.

OPENING OF INTERNATIONAL MAIL FOR CUSTOMS INSPECTION. See **Constitutional Law**, VIII, 5; IX; **Criminal Law.**

ORDINANCES PROHIBITING REAL ESTATE SIGNS. See **Constitutional Law**, VIII, 6.

OVERBREADTH. See **Constitutional Law**, VIII, 3, 8.

OVER-THE-ROAD DRIVERS. See **Civil Rights Act of 1964**, 2–7.

PANDERING. See **Constitutional Law**, VI; VIII, 4.

PASS-ON THEORY IN ANTITRUST TREBLE-DAMAGES ACTIONS. See **Antitrust Acts.**

PATENT OFFENSIVENESS. See **Federal-State Relations**, 5.

PATTERN OR PRACTICE OF EMPLOYMENT DISCRIMINATION. See **Civil Rights Act of 1964**, 3–7.

PENNSYLVANIA. See **Class Action**; **Mootness.**

PENSION RIGHTS OF RETURNING VETERANS. See **Military Selective Service Act.**

PERJURY BEFORE GRAND JURY. See **Constitutional Law**, VII, 4.

PLEA BARGAINING. See **Habeas Corpus.**

POLICE OFFICERS' LIABILITY FOR USING DEADLY FORCE IN APPREHENDING FELON. See **Constitutional Law**, I.

POLITICAL PARTY OFFICERS. See **Constitutional Law**, VII, 3.

PORT AUTHORITY OF NEW YORK AND NEW JERSEY. See **Constitutional Law**, II.

POSSESSION OF FIREARMS. See **Omnibus Crime Control and Safe Streets Act of 1968.**

POSTAL REGULATIONS AUTHORIZING CUSTOMS INSPECTION. See **Criminal Law.**

POSTAL REVENUE AND FEDERAL SALARY ACT OF 1967. See **Procedure**, 1.

POTENTIAL CRIMINAL DEFENDANTS. See **Constitutional Law**, VII, 2.

PRE-EMPTION. See **Federal-State Relations**, 1, 2, 6.

PREINDICTMENT DELAY. See **Constitutional Law**, III, 6.

PRICE FIXING. See **Antitrust Acts.**

PRIOR HEARINGS ON REVOCATION OF DRIVERS' LICENSES. See **Constitutional Law**, III, 10.

PRIVILEGE AGAINST SELF-INCRIMINATION. See **Constitutional Law**, VII, 2–4.

PROCEDURE. See also **Civil Rights Act of 1964**, 2; **Class Actions**; **Judicial Review.**

1. *Challenge to federal statute—Dismissal—Effect of intervening amendment.*—District Court's judgment dismissing complaint challenging constitutionality of certain provisions of Postal Revenue and Federal Salary Act of 1967 and 1975 Executive Salary Cost-of-Living Adjustment Act, is vacated and case is remanded for further consideration in light of intervening amendment. Pressler v. Blumenthal, p. 169.

2. *Federal obscenity prosecution—Voir dire examination—Community standards.*—In prosecution of petitioner for mailing obscene materials in violation of 18 U. S. C. § 1461, District Court did not abuse its discretion in refusing to ask questions tendered by petitioner for *voir dire* about jurors' understanding of community standards, which were no more appropriate than a request for a description of meaning of "reasonableness" would have been. Smith v. United States, p. 291.

PROHIBITION AGAINST ADVERTISEMENT OR DISTRIBUTION OF CONTRACEPTIVES. See **Constitutional Law**, III, 1–3; VIII, 7; **Standing to Sue.**

PROHIBITION OF REAL ESTATE SIGNS. See **Constitutional Law**, VIII, 6.

PUBLIC EMPLOYEES. See **Constitutional Law**, VIII, 1, 2.

PUBLIC SCHOOL TEACHERS. See **Constitutional Law**, VIII, 1, 2.

PUBLIC SECTOR UNIONS. See **Constitutional Law**, VIII, 1, 2.

RACIAL DISCRIMINATION. See **Civil Rights Act of 1964**, 2–7.

RAIL PASSENGER TRANSPORTATION. See **Constitutional Law**, II.

RATIONAL RELATION TO LEGITIMATE STATE INTEREST. See **Constitutional Law**, V, 2.

REAL ESTATE "FOR SALE" AND "SOLD" SIGNS. See **Constitutional Law**, VIII, 6.

REAPPORTIONMENT PLANS. See **Constitutional Law**, V, 1.

RE-ENLISTMENT BONUSES. See **Armed Forces.**

REFUSAL TO WAIVE PRIVILEGE AGAINST SELF-INCRIMNATION. See **Constitutional Law**, VII, 3.

REGULATIONS UNDER CLEAN AIR ACT. See **Judicial Review.**

REHIRING OF RETURNING VETERANS. See **Military Selective Service Act.**

REMEDIES AGAINST EMPLOYMENT DISCRIMINATION. See **Civil Rights Act of 1964**, 3–7.

REMOVAL OF FOSTER CHILDREN FROM FOSTER HOMES. See **Constitutional Law**, III, 7, 8.

REMOVAL OF POLITICAL PARTY OFFICERS FOR REFUSAL TO WAIVE SELF-INCRIMINATION PRIVILEGE. See **Constitutional Law**, VII, 3.

RETRIALS. See **Constitutional Law**, VII, 1.

RETROACTIVE REPEAL OF BISTATE COVENANTS. See **Constitutional Law**, II.

RETROACTIVE SENIORITY. See **Civil Rights Act of 1964**, 3–7.

RETURNING VETERANS' PENSION RIGHTS. See **Military Selective Service Act.**

REVOCATION OF DRIVERS' LICENSES. See **Constitutional Law**, III, 10.

SADO-MASOCHISTIC MATERIALS. See **Constitutional Law**, III, 11; VIII, 3–8; **Obscenity.**

SALE OF CONTRACEPTIVES. See **Constitutional Law**, III, 1–3; **Standing to Sue.**

SEARCHES AND SEIZURES. See **Constitutional Law**, IX; **Criminal Law.**

SECOND-DEGREE MURDER. See **Constitutional Law**, III, 9.

SELF-INCRIMINATION. See **Constitutional Law**, VII, 2–4.

SENIORITY RIGHTS OF RETURNING VETERANS. See **Military Selective Service Act.**

SENIORITY SYSTEMS. See **Civil Rights Act of 1964.**

SERVICE CHARGES UNDER AGENCY-SHOP AGREEMENTS. See **Constitutional Law**, VIII, 1, 2.

SERVICE-CONNECTED INJURIES. See **Federal Tort Claims Act.**

SEX DISCRIMINATION. See **Civil Rights Act of 1964**, 1.

SHERMAN ACT. See **Antitrust Acts.**

SIXTH AMENDMENT. See **Constitutional Law**, III, 6.

SOCIAL SECURITY ACT. See **Federal-State Relations**, 1, 6.

"SOLD" SIGNS. See **Constitutional Law**, VIII, 6.

SPANISH-SURNAMED AMERICANS. See **Civil Rights Act of 1964.**

SPEEDY TRIAL CLAUSE. See **Constitutional Law**, III, 6.

STANDARDS FOR DETERMINING OBSCENITY. See **Constitutional Law**, VIII, 3, 8; **Obscenity.**

STANDING TO SUE.

Action challenging statute regulating distribution and advertisement of contraceptives.—Appellee Population Planning Associates, a corporation which makes mail-order sales of nonmedical contraceptive devices from its North Carolina offices and regularly advertises its products in New York periodicals and fills mail orders from New York residents without limiting availability of products to persons of any particular age, has requisite standing, not only in its own right but also on behalf of its potential customers, to maintain action challenging constitutionality of New York statute prohibiting distribution of contraceptives to minors under 16 and to persons over 16 except through licensed pharmacists, and prohibiting anyone, including licensed pharmacists, from advertising or displaying contraceptives, and therefore there is no occasion to decide standing of other appellees. Carey v. Population Services International, p. 678.

STATE MENTAL INSTITUTIONS. See **Class Actions; Mootness.**

STRIKES. See **Constitutional Law,** V, 2; **Federal-State Relations,** 1, 6.

SUPPRESSION OF EVIDENCE. See **Constitutional Law,** VII, 2, 4.

SUPREMACY CLAUSE. See **Federal-State Relations,** 2

SUPREME COURT. See also **Judicial Review.**

1. Assignment of Mr. Justice Clark (retired) to the United States Court of Appeals for the Seventh Circuit, p. 950.

2. Assignment of Mr. Justice Clark (retired) to the United States Court of Appeals for the Fifth Circuit, p. 961.

SUSPENSION OF DRIVERS' LICENSES. See **Constitutional Law,** III, 10.

TEACHERS. See **Constitutional Law,** VIII, 1, 2.

TERRITORIAL COURTS. See **Jurisdiction.**

THIRD-PARTY INDEMNITY CLAIMS AGAINST UNITED STATES. See **Federal Tort Claims Act.**

TRANSPORTATION CONTROL PLAN REGULATIONS. See **Judicial Review.**

TREBLE-DAMAGES ACTIONS. See **Antitrust Acts.**

TRUCKDRIVERS. See **Civil Rights Act of 1964,** 2–7.

UNEMPLOYMENT COMPENSATION. See **Constitutional Law,** V, 2; **Federal-State Relations,** 1, 6.

UNEMPLOYMENT DUE TO LABOR DISPUTE. See **Constitutional Law,** V, 2; **Federal-State Relations,** 1, 6.

UNIONS. See **Constitutional Law,** VIII, 1, 2.

UNITED STATES. See **Federal Tort Claims Act.**

UNITED STATES NAVY. See **Armed Forces.**

UNLAWFUL EMPLOYMENT PRACTICES. See **Civil Rights Act of 1964.**

VAGUENESS. See **Constitutional Law,** III, 4, 11.

VETERANS' BENEFITS ACT. See **Federal Tort Claims Act.**

VETERANS' PENSION RIGHTS. See **Military Selective Service Act.**

VINEYARD SOUND. See **Federal-State Relations,** 3.

VIRGINIA. See **Federal-State Relations,** 2.

VOIR DIRE. See **Procedure,** 2.

VOLUNTARY ADMISSION AND COMMITMENT OF MINORS TO MENTAL INSTITUTIONS. See **Class Actions; Mootness.**

WAIVER OF IMMUNITY AGAINST PROSECUTION. See **Constitutional Law,** VII, 3.

WARNINGS TO POTENTIAL CRIMINAL DEFENDANTS. See **Constitutional Law,** VII, 2.

WARRANTLESS SEARCHES. See **Constitutional Law,** IX.

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

WITNESSES BEFORE GRAND JURY. See **Constitutional Law,** VII, 2–4.

WORDS AND PHRASES.

"Final decision." 28 U. S. C. § 1291. Abney v. United States, p. 651.

ZONING. See **Constitutional Law,** III, 5.

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