

INDEX

ADMISSIBILITY OF INCULPATORY STATEMENTS. See **Habeas Corpus.**

ADVERTISING BY ATTORNEYS. See **Antitrust Acts, 2; Constitutional Law, VII, 3-5.**

AID TO NONPUBLIC SCHOOLS. See **Constitutional Law, VII, 2.**

AIRCRAFT CRASHES. See **Federal-State Relations, 1.**

AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970. See **Procedure.**

ALABAMA. See **Civil Rights Act of 1964, 1, 2.**

ANTI-INJUNCTION ACT. See **Federal-State Relations, 2.**

ANTITRUST ACTS. See also **Federal-State Relations, 2.**

1. *Location restriction*—Application of rule of reason rather than *per se* rule.—Under standard for creation of *per se* rules stated in *Northern Pac. R. Co. v. United States*, 356 U. S. 1, 5, there is no justification for distinction drawn in *United States v. Arnold, Schwinn & Co.*, 388 U. S. 365, between restrictions imposed in sale and nonsale transactions. Similarly, facts of this case do not present a situation justifying a *per se* rule. Accordingly, *per se* rule stated in *Schwinn* ("Under the Sherman Act, it is unreasonable without more for a manufacturer to seek to restrict and confine areas or persons with whom an article may be traded after the manufacturer has parted with dominion over it," *id.*, at 379), is overruled, and location restriction used by respondent manufacturer of television sets whereby number of retail franchises granted for any given area was limited and each franchisee was required to sell respondent's products only from location or locations at which it was franchised, should be judged under traditional rule-of-reason standard whereby factfinder weighs all of circumstances of a case in deciding whether a restrictive practice should be prohibited as imposing an unreasonable restraint on competition. *Continental T. V., Inc. v. GTE Sylvania Inc.*, p. 36

2. *Sherman Act—Restraint on attorney advertising.*—Restraint upon attorney advertising imposed by Arizona Supreme Court wielding power of State over practice of law is not subject to attack under Sherman Act. *Bates v. State Bar of Arizona*, p. 350.

APPEALS. See **Constitutional Law, VI, 1.**

- ARIZONA.** See *Antitrust Acts*, 2; *Constitutional Law*, VII, 3-5.
- ASSOCIATIONAL RIGHTS.** See *Constitutional Law*, VII, 1, 7.
- ATTORNEYS.** See *Antitrust Acts*, 2; *Constitutional Law*, VII, 3-5.
- BILLS OF ATTAINDER.** See *Constitutional Law*, I.
- BONA FIDE OCCUPATIONAL QUALIFICATION.** See *Civil Rights Act of 1964*, 1, 2.
- BREACHES OF CONTRACT.** See *Federal-State Relations*, 1.
- BROADCAST OF PERFORMER'S ACT.** See *Constitutional Law*, VII, 6; *Jurisdiction*, 2.
- CAPITAL PUNISHMENT.** See *Constitutional Law*, III.
- CHURCH-RELATED SCHOOLS.** See *Constitutional Law*, VII, 2.
- CHURCH-STATE ENTANGLEMENT.** See *Constitutional Law*, VII, 2.
- CIVIL RIGHTS ACT OF 1964.**

1. *Employment discrimination—Hiring of prison guards—Gender criteria.*—In particular circumstances of this case, District Court erred in rejecting appellant Alabama corrections officials' contention that regulation establishing gender criteria for assigning "correctional counselors" (prison guards) to "contact" positions (positions requiring close physical proximity to inmates) falls within narrow ambit of bona-fide-occupational-qualification exception of § 703 (e) of Act, it appearing from evidence that Alabama maintains a prison system where violence is order of day, inmate access to guards is facilitated by dormitory living arrangements, every correctional institution is understaffed, and a substantial portion of inmate population is composed of sex offenders mixed at random with other prisoners, and that therefore use of women guards in "contact" positions in maximum-security male penitentiaries would pose a substantial security problem, directly linked to sex of prison guard. *Dothard v. Rawlinson*, p. 321.

2. *Employment discrimination—Hiring of prison guards—Height and weight requirements—Women applicants.*—District Court did not err in holding that Title VII of Act prohibited application of statutory height and weight requirements for "correctional counselors" (prison guards) in Alabama to appellee woman applicant and class she represents. To establish prima facie case of employment discrimination, a plaintiff need only show that facially neutral standards in question, such as Alabama's height and weight standards, select applicants for hire in a significantly discriminatory pattern, and here showing of disproportionate impact of height and weight standards on women based on national statistics, rather than on comparative statistics of actual applicants, sufficed to make out

CIVIL RIGHTS ACT OF 1964—Continued.

prima facie case, which appellant state corrections officials failed to rebut. *Dothard v. Rawlinson*, p. 321.

3. *Employment discrimination—Pattern or practice—Hiring of teachers.*—In United States' action against petitioner school district and district officials alleging that they were engaged in a "pattern or practice" of teacher employment discrimination in violation of Title VII of Act, which became applicable to petitioners as public employers on March 24, 1972, Court of Appeals erred in disregarding statistical data in record dealing with district's hiring after it became subject to Title VII and court should have remanded case to District Court for further findings as to relevant labor market area and for an ultimate determination whether district has engaged in a pattern or practice of employment discrimination since March 24, 1972. Though Court of Appeals was correct in view that a proper comparison was between racial composition of district's teaching staff and racial composition of qualified public school teacher population in relevant labor market, it erred in disregarding possibility that prima facie statistical proof in record might at trial court level be rebutted by statistics dealing with district's post-Act hiring practices such as with respect to number of Negroes hired compared to total number of Negro applicants. *Hazelwood School District v. United States*, p. 299.

CLAYTON ACT. See **Federal-State Relations**, 2.

COMMERCIAL SPEECH. See **Constitutional Law**, VII, 3-5.

CONSTITUTIONAL LAW. See also **Jurisdiction**, 2; **Schools**, 2.

I. Bill of Attainder Clause.

Presidential Recordings and Materials Preservation Act.—PRMPA, which directs Administrator of General Services to take custody of Presidential papers and tape recordings of appellant former President pending screening by Government archivists in order to return to appellant those personal and private in nature and to preserve those having historical value and to make materials available for use in judicial proceedings subject to "any rights, defenses or privileges which the Federal Government or any person may invoke," does not violate Bill of Attainder Clause. *Nixon v. Administrator of General Services*, p. 425.

II. Due Process.

State jurisdiction over nonresidents.—Delaware's assertion of jurisdiction over appellants (individual defendants in shareholder's derivative suit), based solely on statutory presence of appellants' property in Delaware, violates Due Process Clause, which "does not contemplate that a state may make binding a judgment . . . against an individual or cor-

CONSTITUTIONAL LAW—Continued.

porate defendant with which the state has no contacts, ties, or relations." *Shaffer v. Heitner*, p. 186.

III. Eighth Amendment.

Death sentence for rape—Cruel and unusual punishment.—Georgia Supreme Court's judgment upholding death sentence for rape is reversed, and case is remanded. *Coker v. Georgia*, p. 584.

IV. Eleventh Amendment.

Imposition of school desegregation costs on State.—In District Court's school desegregation decree to remedy *de jure* segregation in Detroit school system, wherein court included educational components in areas of reading, in-service teacher training, testing, and counseling, requirement that state defendants pay one-half additional costs attributable to such components does not violate Eleventh Amendment, since District Court was authorized to provide prospective equitable relief, even though such relief requires expenditure of money by State. *Milliken v. Bradley*, p. 267.

V. Equal Protection of the Laws.

Restrictions on prisoners' labor union.—Prohibition of North Carolina Department of Correction regulation against receipt by and distribution to prison inmates of bulk mail from appellee prisoners' labor Union as well as prohibition of Union meetings among inmates, whereas service organizations, such as Jaycees and Alcoholics Anonymous, were given bulk mailing and meeting rights, does not violate Equal Protection Clause. Prison does not constitute a "public forum," and appellant prison officials demonstrated a rational basis for distinguishing between Union (which occupied an adversary role and espoused a purpose illegal under North Carolina law) and service organizations (which performed rehabilitation services). *Jones v. North Carolina Prisoners' Union*, p. 119.

VI. Fifth Amendment.

1. *Double jeopardy—Dismissal of information—Government appeal.*—Where, prior to any declaration of guilt or innocence, District Court dismissed an information against petitioner on ground that it failed to state an offense, Government's appeal from dismissal was barred by Double Jeopardy Clause. *Finch v. United States*, p. 676.

2. *Double jeopardy—Subsequent prosecution for lesser crime.*—Where petitioner had been convicted of felony-murder based on his companion's killing of a victim during course of an armed robbery, Double Jeopardy Clause of Fifth Amendment barred a separate prosecution of petitioner for lesser crime of robbery with firearms, since conviction of greater crime of murder could not be had without conviction of lesser crime. *Harris v. Oklahoma*, p. 682.

CONSTITUTIONAL LAW—Continued.**VII. First Amendment.**

1. *Associational rights—Presidential Recordings and Materials Preservation Act.*—PRMPA, which directs Administrator of General Services to take custody of Presidential papers and tape recordings of appellant former President pending screening by Government archivists in order to return to appellant those personal and private in nature and to preserve those having historical value and to make materials available for use in judicial proceedings subject to “any rights, defenses or privileges which the Federal Government or any person may invoke,” does not significantly interfere with or chill appellant’s First Amendment associational rights. *Nixon v. Administrator of General Services*, p. 425.

2. *Freedom of religion—State aid to nonpublic schools.*—Those portions of Ohio statute authorizing State to provide nonpublic school pupils with textbooks, standardized testing and scoring, diagnostic services, and therapeutic and remedial services are constitutional. But those portions of statute relating to instructional materials and equipment and field trip services are unconstitutional. *Wolman v. Walter*, p. 229.

3. *Freedom of speech—Attorney advertising—Protected conduct.*—On this record, appellant attorneys’ newspaper advertisement of their “legal clinic,” stating that they were offering “legal services at very reasonable fees,” and listing their fees for certain services, is not misleading and falls within scope of First Amendment protection. *Bates v. State Bar of Arizona*, p. 350.

4. *Freedom of speech—Overbreadth doctrine—Professional advertising—Protected conduct by attorneys.*—First Amendment overbreadth doctrine, which represents a departure from traditional rule that a person may not challenge a statute on ground that it might be applied unconstitutionally in circumstances other than those before court, is inapplicable to professional advertising, a context where it is not necessary to further its intended objective, and appellant attorneys must therefore demonstrate that their specific conduct in advertising their “legal clinic” was constitutionally protected. *Bates v. State Bar of Arizona*, p. 350.

5. *Freedom of speech—Suppression of attorney advertising.*—Commercial speech, which serves individual and societal interests in assuring informed and reliable decisionmaking, is entitled to some First Amendment protection, and justifications advanced by appellee State Bar are inadequate to support suppression of all advertising by attorneys. *Bates v. State Bar of Arizona*, p. 350.

6. *Freedom of the press—Broadcast of performer’s entire act.*—First and Fourteenth Amendments do not immunize news media when they broadcast a performer’s entire act without his consent, and Constitution

CONSTITUTIONAL LAW—Continued.

no more prevents a State from requiring respondent broadcasting company to compensate petitioner for broadcasting his entire "human cannonball" act on television than it would privilege respondent to film and broadcast a copyrighted dramatic work without liability to copyright owner, or to film or broadcast a prize fight or a baseball game, where promoters or participants had other plans for publicizing event. *Zacchini v. Scripps-Howard Broadcasting Co.*, p. 562.

7. *Right of association—Freedom of speech—Restrictions on prisoners' labor union.*—North Carolina Department of Correction regulations prohibiting prisoners from soliciting other inmates to join appellee prisoners' labor Union and barring Union meetings and bulk mailings concerning Union from outside sources, do not violate First Amendment as made applicable to States by Fourteenth. *Jones v. North Carolina Prisoners' Union*, p. 119.

VIII. Fourth Amendment.

Search and seizure—Warrantless search of footlocker.—Where federal narcotics agents, an hour and a half after arresting respondents upon their arrival by train in Boston, opened, without respondents' consent or a search warrant, a double-locked footlocker, which respondents had transported on train and which agents had taken to federal building in Boston, respondents were entitled to protection of Warrant Clause of Fourth Amendment, with evaluation of a neutral magistrate, before their privacy interests in contents of footlocker were invaded. *United States v. Chadwick*, p. 1.

IX. Presidential Privilege.

Presidential Recordings and Materials Preservation Act.—PRMPA, which directs Administrator of General Services to take custody of Presidential papers and tape recordings of appellant former President pending screening by Government archivists in order to return to appellant those personal and private in nature and to preserve those having historical value and to make materials available for use in judicial proceedings subject to "any rights, defenses or privileges which the Federal Government or any person may invoke," does not on its face violate Presidential privilege of confidentiality. *Nixon v. Administrator of General Services*, p. 425.

X. Right of Privacy.

Presidential Recordings and Materials Preservation Act.—PRMPA, which directs Administrator of General Services to take custody of Presidential papers and tape recordings of appellant former President pending screening by Government archivists in order to return to appellant those personal and private in nature and to preserve those having historical value and to make materials available for use in judicial proceedings sub-

CONSTITUTIONAL LAW—Continued.

ject to "any rights, defenses or privileges which the Federal Government or any person may invoke," does not unconstitutionally invade appellant's right of privacy. *Nixon v. Administrator of General Services*, p. 425.

XI. Separation of Powers.

Presidential Recordings and Materials Preservation Act.—PRMPA, which directs Administrator of General Services to take custody of Presidential papers and tape recordings of appellant former President pending screening by Government archivists in order to return to appellant those personal and private in nature and to preserve those having historical value and to make materials available for use in judicial proceedings subject to "any rights, defenses or privileges which the Federal Government or any person may invoke," does not on its face violate principle of separation of powers. *Nixon v. Administrator of General Services*, p. 425.

XII. Tenth Amendment.

States' reserved powers—Effect on school desegregation decree.—With respect to District Court's decree to remedy *de jure* segregation in Detroit school system, Tenth Amendment's reservation of nondelegated power to States is not implicated by a federal court's judgment enforcing express prohibitions of unlawful state conduct enacted by Fourteenth Amendment, nor are principles of federalism abrogated by decree. *Miliken v. Bradley*, p. 267.

CONTEMPORANEOUS-OBJECTION RULE. See **Habeas Corpus**.

CONTRACTS. See **Federal-State Relations**, 1.

CONTROLLING STATE LAW. See **Federal-State Relations**, 1.

CORRECTIONAL COUNSELORS. See **Civil Rights Act of 1964**, 1, 2.

COSTS OF SCHOOL DESEGREGATION. See **Constitutional Law**, IV.

COUNTY AIRPORTS. See **Federal-State Relations**, 1.

COURT-ORDERED SCHOOL DESEGREGATION PLANS. See **Constitutional Law**, IV; **Schools**.

CRIMINAL LAW. See **Constitutional Law**, III; VI; VIII; **Habeas Corpus**.

CRUEL AND UNUSUAL PUNISHMENT. See **Constitutional Law**, III.

CUSTODY OF PRESIDENTIAL MATERIALS. See **Constitutional Law**, I; VII, 1; IX; X; XI.

DAYTON, OHIO. See **Schools**, 2.

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

- DE JURE SCHOOL SEGREGATION.** See Constitutional Law, IV; XII; Schools, 1.
- DELAWARE.** See Constitutional Law, II; Jurisdiction, 1.
- DESEGREGATION DECREES.** See Constitutional Law, IV; XII; Schools, 1, 2.
- DETROIT, MICH.** See Constitutional Law, IV; XII; Schools, 1.
- DISCRIMINATION.** See Civil Rights Act of 1964; Constitutional Law, IV; XII; Schools.
- DISMISSAL OF INFORMATION.** See Constitutional Law, VI, 1.
- DISTRICT COURTS.** See Constitutional Law, IV; XII; Schools, 1.
- DIVERSITY ACTIONS.** See Federal-State Relations, 1.
- DOUBLE JEOPARDY.** See Constitutional Law, VI.
- DUE PROCESS.** See Constitutional Law, II.
- EIGHTH AMENDMENT.** See Constitutional Law, III.
- ELEVENTH AMENDMENT.** See Constitutional Law, IV.
- EMPLOYER AND EMPLOYEES.** See Civil Rights Act of 1964.
- EMPLOYMENT DISCRIMINATION.** See Civil Rights Act of 1964.
- EQUAL PROTECTION OF THE LAWS.** See Constitutional Law, V.
- ESTABLISHMENT CLAUSE.** See Constitutional Law, VII, 2.
- EXECUTIVE BRANCH.** See Constitutional Law, XI.
- FEDERAL AVIATION ADMINISTRATION.** See Federal-State Relations, 1.
- FEDERAL COMMON LAW.** See Federal-State Relations, 1.
- FEDERAL INCOME TAXES.** See Internal Revenue Code.
- FEDERAL-STATE RELATIONS.** See also Constitutional Law, XII; Habeas Corpus; Indians.

1. *Aircraft crash—County airport—Contract with Federal Aviation Administration—State law as applicable to breach of contract claim.*—In petitioners' consolidated diversity actions against respondent county arising out of an aircraft crash at county's airport, state rather than federal law applies to resolution of petitioners' claim that, as, respectively, survivors of deceased passengers, assignee of aircraft owner, and a burn victim, they are third-party beneficiaries of grant contracts between county and FAA whereby county agreed to restrict use of land adjacent to or near airport to activities compatible with normal aircraft operations, including landings and takeoffs; that county breached these contracts by

FEDERAL-STATE RELATIONS—Continued.

operating a garbage dump adjacent to airport; and that cause of crash was ingestion of birds swarming from dump into aircraft's jet engines shortly after takeoff. *Mirce v. DeKalb County*, p. 25.

2. *Anti-Injunction Act*—§ 16 of *Clayton Act as exception*.—Court of Appeals' judgment holding that § 16 of Clayton Act (which authorizes any person to seek injunctive relief against violations of antitrust laws) is an express exception to Anti-Injunction Act (which prohibits a federal court from enjoining state-court proceedings "except as expressly authorized by Act of Congress") is reversed and case is remanded. *Vendo Co. v. Lektro-Vend Corp.*, p. 623.

FIFTH AMENDMENT. See *Constitutional Law*, VI.

FIRST AMENDMENT. See *Constitutional Law*, VII; *Jurisdiction*, 2.

FISHING RIGHTS OF INDIANS. See *Indians*.

FLORIDA. See *Habeas Corpus*.

FOOTLOCKER SEARCHES. See *Constitutional Law*, VIII.

FOURTEENTH AMENDMENT. See *Constitutional Law*, II; V; VII, 6, 7; XII; *Jurisdiction*, 2.

FOURTH AMENDMENT. See *Constitutional Law*, VIII.

FRANCHISE AGREEMENTS. See *Antitrust Acts*, 1.

FREEDOM OF RELIGION. See *Constitutional Law*, VII, 2.

FREEDOM OF SPEECH. See *Constitutional Law*, VII, 3-5, 7.

FREEDOM OF THE PRESS. See *Constitutional Law*, VII, 6; *Jurisdiction*, 2.

GENDER CRITERIA IN HIRING EMPLOYEES. See *Civil Rights Act* of 1964, 1, 2.

GENERAL SERVICES ADMINISTRATION. See *Constitutional Law*, I; VII, 1; IX; X; XI.

GEORGIA. See *Constitutional Law*, III.

GOVERNMENT APPEALS. See *Constitutional Law*, VI, 1.

GOVERNMENT ARCHIVISTS. See *Constitutional Law*, I; VII, 1; IX; X; XI.

GOVERNMENT CONTRACTS. See *Federal-State Relations*, 1.

HABEAS CORPUS.

Admissibility of inculpatory statements—*Failure to make timely objection*.—Respondent's failure at his state murder trial to make timely

HABEAS CORPUS—Continued.

objection under Florida contemporaneous-objection rule to admission of his inculpatory statements made to police officers, absent a showing of cause for noncompliance and some showing of actual prejudice, bars federal habeas corpus review of his claim of inadmissibility of statements by reason of his lack of understanding of warnings read to him pursuant to *Miranda v. Arizona*, 384 U. S. 436. *Wainwright v. Sykes*, p. 72.

HEIGHT AND WEIGHT EMPLOYMENT REQUIREMENTS. See **Civil Rights Act of 1964**, 1, 2.

HIRING OF PRISON GUARDS. See **Civil Rights Act of 1964**, 1, 2.

HIRING OF TEACHERS. See **Civil Rights Act of 1964**, 3.

"HUMAN CANNONBALL" ACT. See **Constitutional Law**, VII, 6; **Jurisdiction**, 2.

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

INCULPATORY STATEMENTS. See **Habeas Corpus**.

INDIANS.

1. *State-court jurisdiction over Indian tribe and its members.*—Absent an effective waiver or consent, a state court may not exercise jurisdiction over a recognized Indian tribe, but tribal sovereign immunity here does not impair Washington Superior Court's authority to adjudicate rights of individual tribal members over whom it properly obtained personal jurisdiction in litigation involving regulation of their fishing activities both on and off reservation, and hence only those portions of judgment that involve relief against petitioner Tribe itself must be vacated in order to honor Tribe's valid claim of immunity. *Puyallup Tribe v. Washington Game Dept.*, p. 165.

2. *Treaty fishing rights.*—Neither petitioner Tribe nor its members have an exclusive right, under Treaty of Medicine Creek, to take steelhead trout passing through reservation. It not only appears that Tribe, pursuant to Acts of Congress passed after treaty was entered into, alienated in fee simple absolute all areas of reservation abutting on Puyallup River, but, moreover, Tribe's treaty right to fish "at all usual and accustomed places" is to be exercised "in common with all citizens of the Territory," and is subject to reasonable regulation by the State pursuant to its power to conserve an important natural resource. Fair apportionment of steelhead catch between Indian net fishing and non-Indian sport fishing directed by *Washington Game Dept. v. Puyallup Tribe*, 414 U. S. 44, could not be effective if Indians retained power to take an unlimited number of steelhead within reservation. *Puyallup Tribe v. Washington Game Dept.*, p. 165.

INDIAN TREATIES. See **Indians.**

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

IN REM JURISDICTION. See **Constitutional Law, II; Jurisdiction, 1.**

INTERNAL REVENUE CODE.

Life insurance companies—Unpaid premiums—Portions includible in company's assets and gross premium income.—"Net valuation" portion of unpaid life insurance premiums (portion state law requires a life insurance company to add to its reserves), but not "loading" portion (portion to be used to pay salesmen's commissions, other expenses such as state taxes and overhead, and profits), is required to be included in a life insurance company's assets and gross premium income, as well as in its reserves, for purposes of computing its federal income tax liability, notwithstanding such computation necessitates making a fictional assumption that "net valuation" portion has been paid but that "loading" portion has not. This treatment of unpaid premiums is in accordance with § 818 (a) of Code (as added by Life Insurance Company Income Tax Act of 1959), which requires computations of life insurance company's income taxes to be made "in a manner consistent with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners," unless NAIC procedures are inconsistent with accrual accounting rules, and to extent that Treasury Regulations require different treatment of unpaid premiums they are inconsistent with § 818 (a) and therefore invalid. *Commissioner v. Standard Life & Acc. Ins. Co.*, p. 148.

INVASION OF PRIVACY. See **Constitutional Law, VIII.**

JURISDICTION. See also **Constitutional Law, II; Indians.**

1. *State jurisdiction over nonresidents—Quasi in rem action.*—Whether or not a State can assert jurisdiction over a nonresident must be evaluated according to minimum-contacts standard of *International Shoe Co. v. Washington*, 326 U. S. 310. In order to justify an exercise of jurisdiction *in rem*, basis for jurisdiction must be sufficient to justify exercising "jurisdiction over the interests of persons in the thing." Presence of property in a State may bear upon existence of jurisdiction by providing contacts among forum State, defendant, and litigation. But where—as in instant *quasi in rem* shareholder's derivative action, wherein stock shares and options in defendant corporation belonging to individual defendant nonresidents of Delaware were sequestered pursuant to Delaware statute—property serving as basis for state-court jurisdiction is completely unrelated to plaintiff's cause of action, presence of property alone, *i. e.*, absent other ties among defendant, State, and litigation, would not support State's jurisdiction. *Shaffer v. Heitner*, p. 186.

JURISDICTION—Continued.

2. *Supreme Court—Federal question—Inadequate state ground.*—In petitioner's state action against respondent broadcasting company for alleged "unlawful appropriation" of his "professional property" by videotaping, without his consent, his entire "human cannonball" act at county fair and later showing it on television news program, it appears from Ohio Supreme Court's opinion syllabus (which is to be looked to for rule of law in case), as clarified by opinion itself, that judgment below did not rest on an adequate and independent state ground but rested solely on federal grounds in that court considered First and Fourteenth Amendments to be source of respondent's privilege to include in its newscasts matters of public interest that would otherwise be protected by the state-law right of publicity, absent an intent to injure or appropriate for some non-privileged purpose, and therefore this Court has jurisdiction to decide federal issue. *Zacchini v. Scripps-Howard Broadcasting Co.*, p. 562.

LABOR UNIONS. See **Constitutional Law**, V; VII, 7.

LAWYERS. See **Antitrust Acts**, 2; **Constitutional Law**, VII, 3-5.

LEGAL CLINICS. See **Constitutional Law**, VII, 3-5.

LIFE INSURANCE COMPANY INCOME TAX ACT OF 1959. See **Internal Revenue Code**.

LOCATION RESTRICTIONS ON RETAIL FRANCHISES. See **Anti-trust Acts**, 1.

MILWAUKEE, WIS. See **Schools**, 5.

MINIMUM-CONTACTS STANDARD. See **Constitutional Law**, II; **Jurisdiction**, 1.

MIRANDA WARNINGS. See **Habeas Corpus**.

NEGROES. See **Civil Rights Act of 1964**, 3; **Constitutional Law**, IV; XII.

NEWS MEDIA. See **Constitutional Law**, VII, 6; **Jurisdiction**, 2.

NONPUBLIC SCHOOLS. See **Constitutional Law**, VII, 2.

NONRESIDENTS AS SUBJECT TO STATE-COURT JURISDICTION.
See **Constitutional Law**, II; **Jurisdiction**, 1.

NORTH CAROLINA. See **Constitutional Law**, V; VII, 7.

OHIO. See **Constitutional Law**, VII, 2.

OMAHA, NEB. See **Schools**, 3, 4.

OVERBREADTH DOCTRINE. See **Constitutional Law**, VII, 3-5.

PAROCHIAL SCHOOLS. See **Constitutional Law**, VII, 2.

- PATTERN OR PRACTICE OF EMPLOYMENT DISCRIMINATION.**
See Civil Rights Act of 1964, 3.
- PERFORMER'S RIGHT TO COMPENSATION FOR BROADCAST OF HIS ACT.** See Constitutional Law, VII, 6; Jurisdiction, 2.
- PER SE VIOLATIONS OF SHERMAN ACT.** See Antitrust Acts, 1.
- PERSONAL-LUGGAGE SEARCHES.** See Constitutional Law, VIII.
- PRECLUSION OF CLAIM NOT RAISED IN COURTS BELOW.** See Procedure.
- PRESIDENTIAL PRIVILEGE OF CONFIDENTIALITY.** See Constitutional Law, IX.
- PRESIDENTIAL RECORDINGS AND MATERIALS PRESERVATION ACT.** See Constitutional Law, I; VII, 1; IX; X; XI.
- PRIMA FACIE CASE.** See Civil Rights Act of 1964.
- PRISONERS' LABOR UNIONS.** See Constitutional Law, V; VII, 7.
- PRISON GUARDS.** See Civil Rights Act of 1964, 1, 2.
- PRIVACY RIGHTS.** See Constitutional Law, VIII; X.
- PRIVATE SCHOOLS.** See Constitutional Law, VII, 2.
- PRIVILEGE OF NEWS MEDIA AS TO BROADCAST OF PERFORMER'S ACT.** See Constitutional Law, VII, 6; Jurisdiction, 2.
- PROCEDURE.**
Supreme Court—Preclusion of claim not pleaded, argued, or briefed in courts below.—Petitioners' claim, argued in this Court, that Airport and Airway Development Act of 1970 provides an implied civil right of action to recover for injury due to violation of Act, will not be considered where it was neither pleaded, argued, nor briefed in courts below. *Miree v. DeKalb County*, p. 25.
- PROFESSIONAL ADVERTISING.** See Antitrust Acts, 2; Constitutional Law, VII, 3-5.
- PROHIBITIONS AGAINST PRISONERS' LABOR UNION ACTIVITIES.** See Constitutional Law, V; VII, 7.
- PUBLIC ACCESS TO PRESIDENTIAL MATERIALS.** See Constitutional Law, I; VII, 1; IX; X; XI.
- QUASI IN REM JURISDICTION.** See Constitutional Law, II; Jurisdiction, 1.
- RACIAL DISCRIMINATION.** See Civil Rights Act of 1964, 3; Constitutional Law, IV; XII; Schools.

- RAPE.** See Constitutional Law, III.
- REGULATION OF INDIANS' FISHING ACTIVITIES.** See Indians.
- RELEVANT LABOR MARKET.** See Civil Rights Act of 1964, 3.
- REMEDIES FOR SCHOOL SEGREGATION.** See Constitutional Law, IV; XII; Schools.
- RESTRAINTS ON ATTORNEY ADVERTISING.** See Antitrust Acts, 2.
- RESTRAINTS ON COMPETITION.** See Antitrust Acts, 1.
- RESTRICTIONS ON PRISONERS' LABOR UNIONS.** See Constitutional Law, V; VII, 7.
- RIGHT OF ASSOCIATION.** See Constitutional Law, VII, 1, 7.
- RIGHT OF PRIVACY.** See Constitutional Law, VIII; X.
- RULE-OF-REASON STANDARD FOR ANTITRUST VIOLATIONS.** See Antitrust Acts, 1.
- SCHOOL DESEGREGATION DECREES.** See Constitutional Law, IV; XII; Schools, 1, 2.
- SCHOOLS.** See also Civil Rights Act of 1964, 3; Constitutional Law, IV; VII, 2; XII.

1. *Desegregation decree—Compensatory or remedial educational programs.*—As part of a desegregation decree a district court can, if record warrants, order compensatory or remedial educational programs for school-children who have been subjected to past acts of *de jure* segregation. Here the District Court, acting on substantial evidence in record, did not abuse its discretion in approving a remedial plan for Detroit school system going beyond pupil assignments and adopting specific programs that had been proposed by local school authorities. Where, as here, a constitutional violation has been found, remedy does not “exceed” violation if remedy is tailored to cure “condition that offends the Constitution,” *i. e.*, Detroit’s *de jure* segregated school system. *Milliken v. Bradley*, p. 267.

2. *Desegregation decree—Propriety of systemwide remedy.*—Judged most favorably to respondent parents of black children, District Court’s findings of constitutional violations on part of petitioner School Board in operation of Dayton, Ohio, school system did not suffice to justify systemwide remedy. *Dayton Board of Education v. Brinkman*, p. 406.

3. *Desegregation decree—Propriety of systemwide remedy.*—In a case like this, where mandatory racial segregation has long since ceased, it must be first determined if school board intended to, and did in fact, discriminate, and all appropriate additional evidence should be adduced; and only

SCHOOLS—Continued.

if systemwide discrimination is shown may there be a systemwide remedy. *Dayton Board of Education v. Brinkman*, p. 406.

4. *Remedial school desegregation plan—Required inquiry.*—Where neither Court of Appeals nor District Court, in addressing itself to remedial school desegregation plan for Omaha, Neb., mandated by an earlier decision of Court of Appeals, addressed itself to inquiry now required by *Dayton Board of Education v. Brinkman*, ante, p. 406, Court of Appeals' judgment is vacated, and case is remanded for reconsideration. *School District of Omaha v. United States*, p. 667.

5. *Remedial school desegregation plan—Required inquiry.*—Where neither District Court in ordering development of a remedial school desegregation plan for Milwaukee, Wis., nor Court of Appeals in affirming, addressed itself to inquiry now mandated by *Dayton Board of Education v. Brinkman*, ante, p. 406, Court of Appeals' judgment is vacated, and case is remanded for reconsideration. *Brennan v. Armstrong*, p. 672.

SCREENING OF PRESIDENTIAL MATERIALS. See **Constitutional Law**, I; VII, 1; IX; X; XI.

SEARCHES AND SEIZURES. See **Constitutional Law**, VIII.

SECTARIAN SCHOOLS. See **Constitutional Law**, VII, 2.

SEGREGATED SCHOOLS. See **Constitutional Law**, IV; XII; **Schools**.

SEPARATION OF POWERS. See **Constitutional Law**, XI.

SEQUESTRATION OF PROPERTY. See **Constitutional Law**, II; **Jurisdiction**, 1.

SEX DISCRIMINATION. See **Civil Rights Act of 1964**, 1, 2.

SHERMAN ACT. See **Antitrust Acts**.

SOVEREIGN IMMUNITY OF INDIAN TRIBES. See **Indians**.

STATE AID TO NONPUBLIC SCHOOLS. See **Constitutional Law**, VII, 2.

STATE COURTS' JURISDICTION OVER INDIANS. See **Indians**.

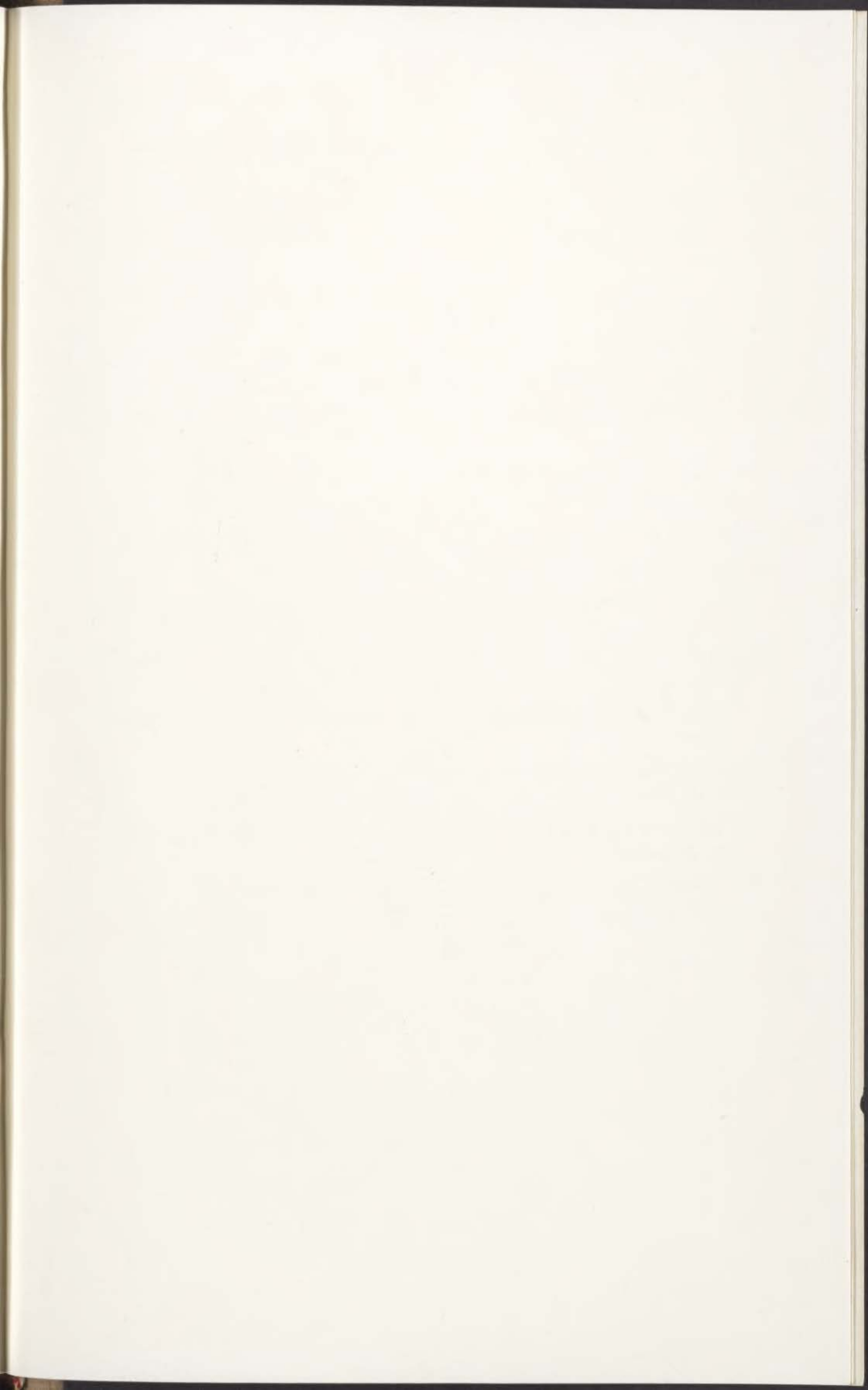
STATE COURTS' JURISDICTION OVER NONRESIDENTS. See **Constitutional Law**, II; **Jurisdiction**, 1.

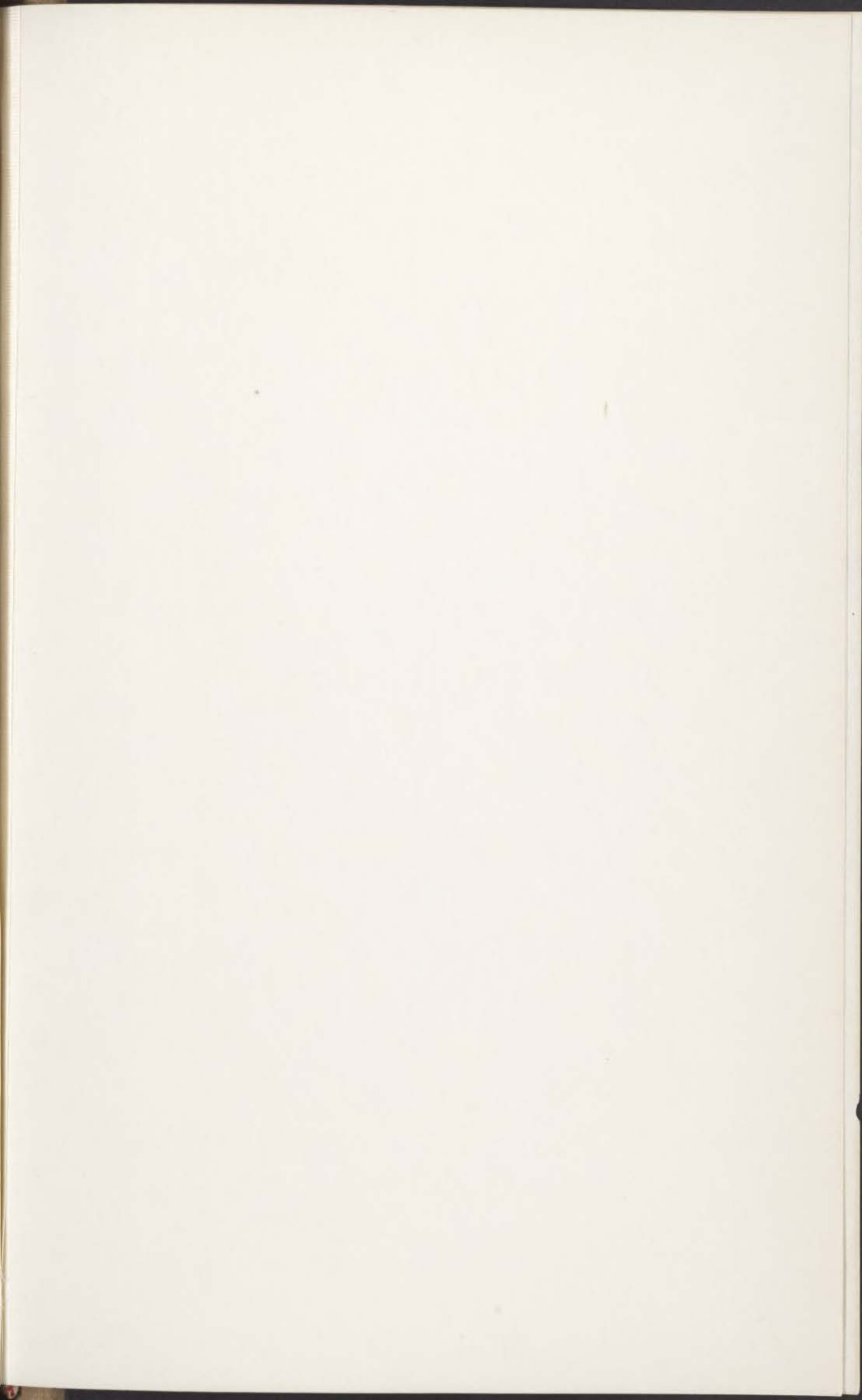
STATES' OBLIGATIONS TO PAY COSTS OF SCHOOL DESEGREGATION. See **Constitutional Law**, IV.

STATISTICAL DISPARITIES IN HIRING. See **Civil Rights Act of 1964**, 3.

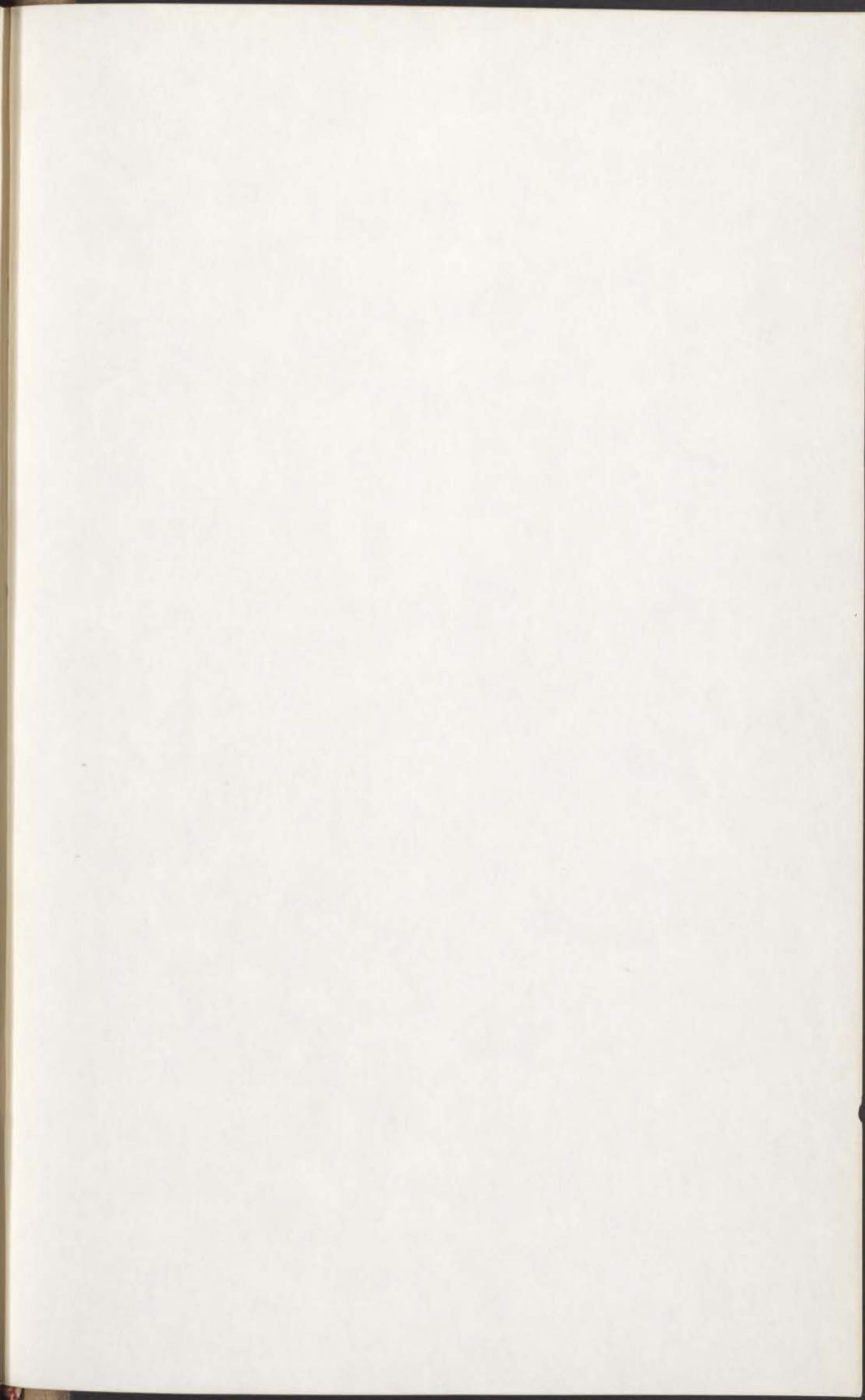
STEELHEAD TROUT. See **Indians**.

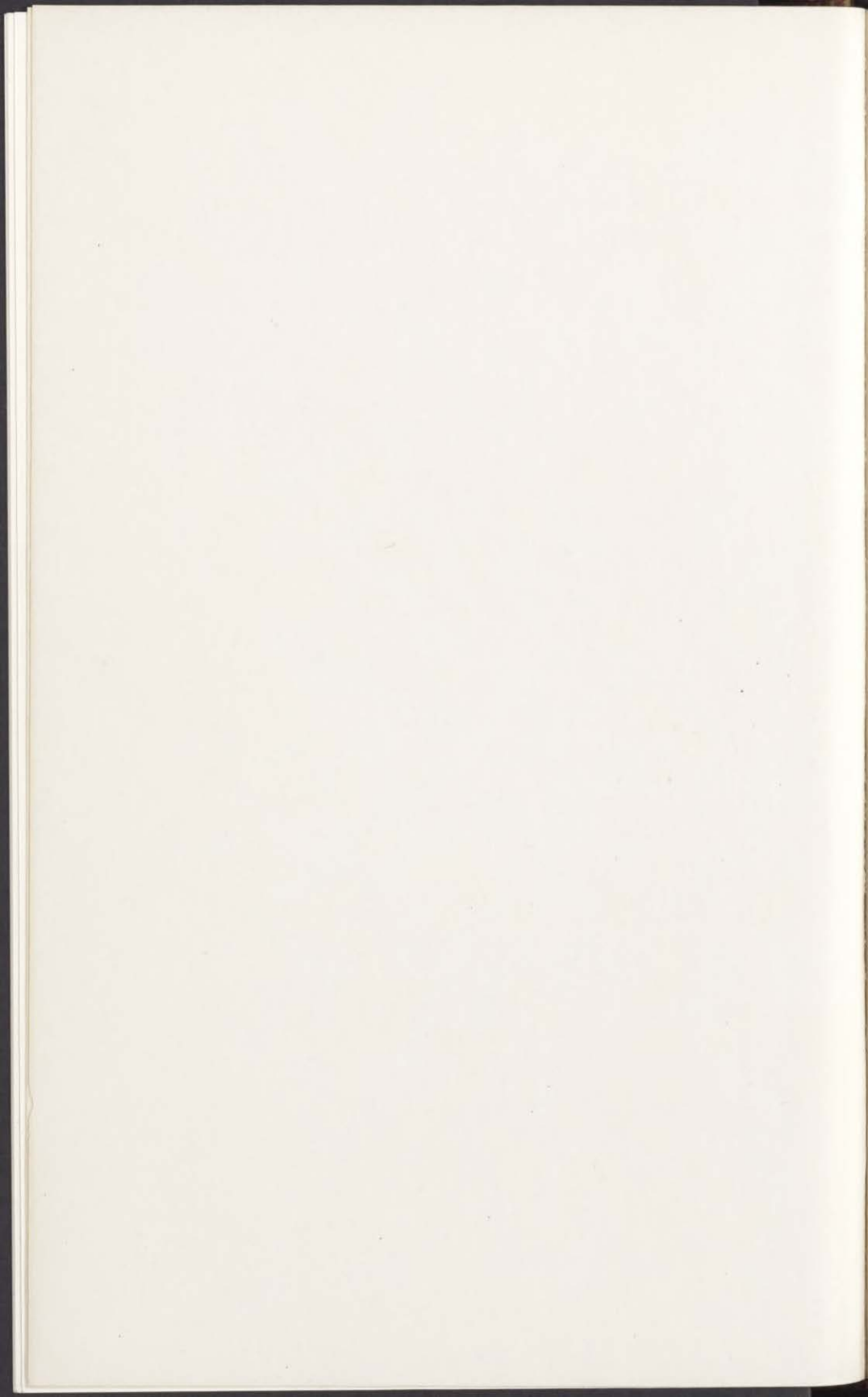
- SUBSEQUENT PROSECUTION FOR LESSER CRIME.** See Constitutional Law, VI, 2.
- SUPREME COURT.** See Jurisdiction, 2; Procedure.
- SYSTEMWIDE REMEDIES FOR SCHOOL SEGREGATION.** See Schools, 2-5.
- TAPE RECORDINGS OF PRESIDENT.** See Constitutional Law, I; VII, 1; IX; X; XI.
- TAXES.** See Internal Revenue Code.
- TEACHERS.** See Civil Rights Act of 1964, 3.
- TELEVISING OF PERFORMER'S ACT.** See Constitutional Law, VII, 6; Jurisdiction, 2.
- TELEVISION SET MANUFACTURERS.** See Antitrust Acts, 1.
- TENTH AMENDMENT.** See Constitutional Law, XII.
- THIRD-PARTY BENEFICIARIES.** See Federal-State Relations, 1.
- UNIONS.** See Constitutional Law, V; VII, 7.
- UNLAWFUL EMPLOYMENT PRACTICES.** See Civil Rights Act of 1964.
- UNPAID LIFE INSURANCE PREMIUMS.** See Internal Revenue Code.
- UNREASONABLE RESTRAINTS ON COMPETITION.** See Antitrust Acts, 1.
- UNREASONABLE SEARCHES AND SEIZURES.** See Constitutional Law, VIII.
- VIDEOTAPE OF PERFORMER'S ACT.** See Constitutional Law, VII, 6; Jurisdiction, 2.
- WARRANTLESS SEARCHES.** See Constitutional Law, VIII.



















OAMGENPUB0543



E00002217