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1. *Criminal offense—Defendant's state of mind or intent as element—Required proof.*—A defendant's state of mind or intent is an element of a criminal antitrust price-fixing offense which must be established by evidence and inferences drawn therefrom and cannot be taken from trier of fact through reliance on a legal presumption of wrongful intent from proof of an effect on prices. *United States v. United States Gypsum Co.*, p. 422.

2. *Robinson-Patman Act—Price fixing—Meeting-competition defense—Exchanges of price information.*—A good-faith belief, rather than an absolute certainty, that a price concession is being offered to meet an equally low price offered by a competitor suffices to invoke meeting-competition defense of § 2 (b) of Clayton Act, as amended by Robinson-Patman Act; exchanges of price information, even when putatively for purpose of Robinson-Patman Act compliance, must remain subject to close scrutiny under Sherman Act. *United States v. United States Gypsum Co.*, p. 422.

3. *Sherman Act—McCarran-Ferguson Act—"Boycott" exception.*—"Boycott" exception of § 3 (b) of McCarran-Ferguson Act applies to certain types of disputes between policyholders and insurers and is not limited to concerted activity directed against competitor insurers or agents or, more generally, against competitors of members of the boycotting group;

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type of private conduct alleged to have taken place here (conspiracy by medical malpractice insurers in violation of Sherman Act), directed against policyholders, constitutes a "boycott" within meaning of § 3 (b). *St. Paul Fire & Marine Ins. Co. v. Barry*, p. 531.

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2. *Death penalty—Aggravated murder.*—Ohio Supreme Court's judgment affirming imposition of death penalty for aggravated murder with specifications, against contention that Ohio death penalty statute does not give sentencing judge a full opportunity to consider mitigating circumstances as required by Eighth and Fourteenth Amendments, is reversed, and case is remanded. *Lockett v. Ohio*, p. 586.

II. Double Jeopardy.

Juvenile Court proceedings—Exceptions to master's nondelinquency findings.—Double Jeopardy Clause of Fifth Amendment, as applied to States by Fourteenth, does not prohibit Maryland officials, acting in accordance with rule of procedure, from taking exceptions to master's proposed nondelinquency findings in Juvenile Court proceedings. *Swisher v. Brady*, p. 204.

III. Due Process.

1. *Fair warning of crime charged—State court's interpretation of statute.*—Accused's contention that Ohio Supreme Court's interpretation of complicity provision of statute under which she was convicted of aggravated murder was so unexpected that it deprived her of fair warning of crime charged, is without merit. *Lockett v. Ohio*, p. 586.

2. *Price-Anderson Act.*—Price-Anderson Act, which imposes a limitation on liability for nuclear accidents resulting from operations of federally licensed private nuclear power plants, does not violate Due Process Clause of Fifth Amendment. *Duke Power Co. v. Carolina Environmental Study Group, Inc.*, p. 59.

IV. Eminent Domain.

Landmark preservation—Grand Central Terminal.—Application of New York City's Landmarks Preservation Law to Grand Central Terminal does not constitute a "taking" of property within meaning of Fifth Amendment as made applicable to States by Fourteenth Amendment. *Penn Central Transp. Co. v. New York City*, p. 104.

V. Equal Protection of the Laws.

Medical school's admissions program—Race as factor.—California Supreme Court's judgment holding that University of California Medical School's special admissions program for disadvantaged or minority students violated Equal Protection Clause of Fourteenth Amendment, is affirmed insofar as it orders respondent white applicant's admission and invalidates such program, but is reversed insofar as it prohibits Medical School from taking race into account as a factor in its future admissions decisions. *University of California Regents v. Bakke*, p. 265.

CONSTITUTIONAL LAW—Continued.**VI. Freedom of the Press.**

News media's right of access to jail.—Court of Appeals' judgment affirming District Court's order preliminarily enjoining county jail supervisor from denying broadcasting company's news personnel and responsible news media representatives reasonable access to jail and from preventing their using photographic or sound equipment or from conducting inmate interviews, is reversed, and case is remanded. *Houchins v. KQED, Inc.*, p. 1.

VII. Impairment of Contracts.

Obligations under employer's pension plan.—Application of Minnesota Private Pension Benefits Protection Act so as to impose pension funding charge on Illinois corporation which closed its Minnesota office in a move planned before passage of Act, violates Contract Clause of Constitution. *Allied Structural Steel Co. v. Spannaus*, p. 234.

VIII. Privilege Against Self-incrimination.

Accused's failure to testify—Prosecutor's remarks.—Prosecutor's closing references to State's evidence in Ohio murder trial as "unrefuted" and "uncontradicted" (no evidence having been introduced to rebut prosecutor's case after accused decided not to testify) did not violate constitutional prohibitions against commenting on accused's failure to testify, where accused's counsel had already focused jury's attention on her silence by promising a defense and telling jury that she would testify. *Lockett v. Ohio*, p. 586.

IX. Right to Jury Trial.

Exclusion of jurors—Opposition to death penalty.—Exclusion from venire, in Ohio murder prosecution, of four prospective jurors who opposed death penalty did not violate accused's Sixth and Fourteenth Amendments rights. *Lockett v. Ohio*, p. 586.

X. Searches and Seizures.

Search warrant—Right to challenge truthfulness of supporting affidavit.—Where defendant makes a substantial preliminary showing that a false statement knowingly and intentionally, or with reckless disregard for truth, was included in search warrant affidavit, and if allegedly false statement is necessary to finding of probable cause, Fourth Amendment, as incorporated in Fourteenth Amendment, requires that a hearing be held at defendant's request. *Franks v. Delaware*, p. 154.

XI. States' Immunity from Suit.

Eleventh Amendment—Injunction against unconstitutional prison conditions.—District Court's injunction prescribing measures to eradicate cruel and unusual punishment in Alabama prison system, insofar as it was

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issued against State and Board of Corrections, violates State's Eleventh Amendment immunity absent State's consent to suit. *Alabama v. Pugh*, p. 781.

CONTRACT CLAUSE. See **Constitutional Law**, VII.

COURTS OF APPEALS. See **Civil Rights Act of 1964**.

CRIMINAL LAW. See also **Antitrust Acts**, 1; **Constitutional Law**, I; II; III, 1; VIII; IX; X; **Trials**.

Sentencing—Consideration of defendant's false testimony.—A sentencing judge, in fixing defendant's sentence within statutory limits, may consider defendant's false testimony observed by judge during trial. *United States v. Grayson*, p. 41.

CRUEL AND UNUSUAL PUNISHMENT. See **Constitutional Law**, I; XI.

DEATH PENALTY. See **Constitutional Law**, I; IX.

DEFENDANT'S FALSE TESTIMONY AS FACTOR IN FIXING SENTENCE. See **Criminal Law**.

DEFENDANT'S STATE OF MIND OR INTENT AS ELEMENT OF CRIMINAL ANTITRUST OFFENSE. See **Antitrust Acts**, 1.

DEFENSES TO PRICE-FIXING CHARGES. See **Antitrust Acts**, 2.

DELINQUENCY PROCEEDINGS. See **Constitutional Law**, II.

DISCRIMINATION. See **Civil Rights Act of 1964**; **Constitutional Law**, V.

DISTRICT COURTS. See **Constitutional Law**, XI; **Jurisdiction**; **Voting Rights Act of 1965**.

DOUBLE JEOPARDY. See **Constitutional Law**, II.

DUE PROCESS. See **Constitutional Law**, III.

EIGHTH AMENDMENT. See **Constitutional Law**, I.

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EMPLOYER AND EMPLOYEES. See **Civil Rights Act of 1964**.

EMPLOYERS' PENSION PLANS. See **Constitutional Law**, VII.

EMPLOYMENT DISCRIMINATION. See **Civil Rights Act of 1964**.

ENVIRONMENTAL LAW. See **Constitutional Law**, III, 2; **Jurisdiction**; **Justiciability**; **Standing to Sue**.

EQUAL PROTECTION OF THE LAWS. See *Constitutional Law*, III, 2; V.

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EXCEPTIONS TO JUVENILE COURT MASTER'S NONDELINQUENCY FINDINGS. See *Constitutional Law*, II.

EXCHANGES OF PRICE INFORMATION. See *Antitrust Acts*, 2.

EXCLUSION OF JURORS WHO OPPOSE DEATH PENALTY. See *Constitutional Law*, IX.

EX PARTE MEETINGS BETWEEN TRIAL JUDGE AND JURY FOREMAN. See *Trials*, 2.

FAIR WARNING OF CRIME CHARGED. See *Constitutional Law*, III, 1.

FALSE TESTIMONY OF ACCUSED AS FACTOR IN FIXING SENTENCE. See *Criminal Law*.

FEDERAL COMMUNICATIONS COMMISSION. See also *Judicial Review*.

Power to regulate indecent radio broadcast.—FCC's order granting complaint about indecent radio broadcast under 18 U. S. C. § 1464 (1976 ed.) was not censorship forbidden by § 326 of Communications Act of 1934 and did not violate First Amendment, and FCC was warranted in concluding that broadcast was indecent within meaning of § 1464. *FCC v. Pacifica Foundation*, p. 726.

FEDERAL OFFICIALS' IMMUNITY FROM SUIT. See *United States*.

FEDERAL-QUESTION JURISDICTION. See *Jurisdiction*.

FEDERAL RECLAMATION PROJECTS. See *Federal-State Relations*, 1.

FEDERAL-STATE RELATIONS.

1. *Federal reclamation project—State's right to impose conditions on water allocation.*—Under § 8 of Reclamation Act of 1902 and in light of its legislative history, a State may impose any condition on "control, appropriation, use or distribution of water" in a federal reclamation project that is not inconsistent with congressional directives respecting project; here whether conditions imposed by California State Water Resources Control Board are inconsistent with congressional directives as to New Melones Dam and issues involving consistency of conditions remain to be resolved. *California v. United States*, p. 645.

2. *National forest—Water rights.*—United States, in setting Gila National Forest aside from other public lands, reserved use of water out of

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Rio Mimbres only where necessary to preserve timber in forest or to secure favorable water flows, and not for aesthetic, recreational, wildlife-preservation, and stockwatering purposes. *United States v. New Mexico*, p. 696.

FIFTH AMENDMENT. See *Constitutional Law*, II; III, 2; IV; VIII.

FINDINGS OF JUVENILE COURT MASTER. See *Constitutional Law*, II.

FIRST AMENDMENT. See *Constitutional Law*, VI; *Federal Communications Commission*.

FOURTEENTH AMENDMENT. See *Constitutional Law*, I; II; IV; V; VIII; IX; X.

FOURTH AMENDMENT. See *Constitutional Law*, X.

FREEDOM OF SPEECH. See *Federal Communications Commission*.

FREEDOM OF THE PRESS. See *Constitutional Law*, VI.

GEORGIA. See *Voting Rights Act of 1965*.

GILA NATIONAL FOREST. See *Federal-State Relations*, 2.

GRAND CENTRAL TERMINAL. See *Constitutional Law*, IV.

GYPSUM BOARD MANUFACTURERS. See *Antitrust Acts*, 1, 2.

HIRING PRACTICES. See *Civil Rights Act of 1964*.

HISTORIC LANDMARKS. See *Constitutional Law*, IV.

IMMUNITY OF FEDERAL OFFICIALS FROM SUIT. See *United States*.

IMMUNITY OF STATES FROM SUIT. See *Constitutional Law*, XI.

IMPAIRMENT OF CONTRACTS. See *Constitutional Law*, VII.

INDECENT RADIO BROADCASTS. See *Federal Communications Commission*; *Judicial Review*.

INJUNCTIONS AGAINST UNCONSTITUTIONAL PRISON CONDITIONS. See *Constitutional Law*, XI.

INSTRUCTIONS TO JURY. See *Trials*, 1.

INSURANCE. See *Antitrust Acts*, 3; *Mootness*.

INTENT AS ELEMENT OF CRIMINAL ANTITRUST OFFENSE. See *Antitrust Acts*, 1.

JAILS. See *Constitutional Law*, VI.

JUDICIAL REVIEW.

Federal Communications Commission's order—Indecent radio broadcast.—FCC's order granting complaint about indecent radio broadcast was an adjudication under 5 U. S. C. § 554 (e) (1976 ed.) and did not constitute rulemaking or promulgation of regulations, and hence this Court's review must focus on FCC's determination that broadcast was indecent. *FCC v. Pacifica Foundation*, p. 726.

JURISDICTION.

District Court—Action challenging Price-Anderson Act's constitutionality.—District Court had jurisdiction, under 28 U. S. C. § 1331 (a) rather than § 1337, over action challenging constitutionality of Price-Anderson Act, which imposes a limitation on liability for nuclear accidents resulting from operations of federally licensed private nuclear power plants. *Duke Power Co. v. Carolina Environmental Study Group, Inc.*, p. 59.

JURORS' OPPOSITION TO DEATH PENALTY. See **Constitutional Law, IX.**

JURY FOREMAN'S MEETING WITH TRIAL JUDGE. See **Trials, 2.**

JURY INSTRUCTIONS. See **Trials, 1.**

JUSTICIABILITY.

Constitutional challenges to Price-Anderson Act.—Constitutional challenges to Price-Anderson Act, which imposes a limitation on liability for nuclear accidents resulting from operations of federally licensed private nuclear power plants, are ripe for adjudication in action by an environmental organization, a labor union, and individuals living near nuclear power plants being constructed by public utility, against utility and Nuclear Regulatory Commission. *Duke Power Co. v. Carolina Environmental Study Group, Inc.*, p. 59.

JUVENILE COURTS. See **Constitutional Law, II.**

JUVENILE DELINQUENCY. See **Constitutional Law, II.**

LANDMARKS PRESERVATION. See **Constitutional Law, IV.**

LIMITATION ON LIABILITY FOR NUCLEAR ACCIDENTS. See **Constitutional Law, III, 2; Jurisdiction; Justiciability; Standing to Sue.**

MARYLAND. See **Constitutional Law, II.**

MASTERS IN JUVENILE COURT PROCEEDINGS. See **Constitutional Law, II.**

MCCARRAN-FERGUSON ACT. See **Antitrust Acts, 3.**

MEDICAL MALPRACTICE INSURANCE. See **Antitrust Acts, 3; Mootness.**

MEDICAL SCHOOLS' ADMISSIONS PROGRAMS. See **Constitutional Law, V.**

MEETINGS BETWEEN TRIAL JUDGE AND JURY FOREMAN. See **Trials, 2.**

MINNESOTA. See **Constitutional Law, VII.**

MITIGATING CIRCUMSTANCES IN CONSIDERING DEATH PENALTY. See **Constitutional Law, I.**

MOOTNESS.

Antitrust claim against medical malpractice insurers.—Rhode Island physicians' and patients' antitrust claim against medical malpractice insurers is not mooted by fact that after complaint was filed Rhode Island formed a Joint Underwriters Association to provide medical malpractice insurance and to require all personal-injury liability insurers in State to pool expenses and losses in providing such insurance. *St. Paul Fire & Marine Ins. Co. v. Barry*, p. 531.

MURDER. See **Constitutional Law, I; III, 1; VIII; IX.**

NATIONAL FORESTS. See **Federal-State Relations, 2.**

NEW MELONES DAM. See **Federal-State Relations, 1.**

NEW MEXICO. See **Federal-State Relations, 2.**

NEWS MEDIA'S RIGHT OF ACCESS TO JAILS OR PRISONS. See **Constitutional Law, VI.**

NEW YORK CITY. See **Constitutional Law, IV.**

NONDELINQUENCY FINDINGS OF JUVENILE COURT MASTER. See **Constitutional Law, II.**

NUCLEAR ACCIDENTS. See **Constitutional Law, III, 2; Jurisdiction; Justiciability; Standing to Sue.**

OHIO. See **Constitutional Law, I; III, 1; VIII; IX.**

OPPOSITION TO DEATH PENALTY. See **Constitutional Law, IX.**

PENSION PLANS. See **Constitutional Law, VII.**

PHYSICIANS. See **Antitrust Acts, 3; Mootness.**

POWER PLANTS. See **Constitutional Law, III, 2; Jurisdiction; Justiciability; Standing to Sue.**

PRESERVATION OF HISTORIC LANDMARKS. See **Constitutional Law, IV.**

PRICE-ANDERSON ACT. See **Constitutional Law, III, 2; Jurisdiction; Justiciability; Standing to Sue.**

- PRICE-FIXING CONSPIRACIES.** See Antitrust Acts, 1, 2; Trials.
- PRIMA FACIE CASE OF EMPLOYMENT DISCRIMINATION.** See Civil Rights Act of 1964.
- PRIMARY ELECTIONS.** See Voting Rights Act of 1965.
- PRISONS.** See Constitutional Law, VI; XI.
- PUBLIC LANDS.** See Federal-State Relations, 2.
- QUALIFIED IMMUNITY OF FEDERAL OFFICIALS FROM SUIT.** See United States.
- RACE AS FACTOR IN SCHOOL ADMISSIONS PROGRAMS.** See Constitutional Law, V.
- RACIAL DISCRIMINATION.** See Civil Rights Act of 1964; Constitutional Law, V.
- RADIO BROADCASTS.** See Federal Communications Commission; Judicial Review.
- REBUTTAL OF PRIMA FACIE CASE OF EMPLOYMENT DISCRIMINATION.** See Civil Rights Act of 1964.
- RECLAMATION ACT OF 1902.** See Federal-State Relations, 1.
- REGULATION OF INDECENT RADIO BROADCASTS.** See Federal Communications Commission; Judicial Review.
- REMEDY FOR NONCOMPLIANCE WITH VOTING RIGHTS ACT OF 1965.** See Voting Rights Act of 1965.
- REVERSE DISCRIMINATION.** See Constitutional Law, V.
- RHODE ISLAND.** See Mootness.
- RIGHT OF ACCESS OF NEWS MEDIA TO JAILS OR PRISONS.** See Constitutional Law, VI.
- RIGHT TO CHALLENGE TRUTHFULNESS OF SEARCH WARRANT AFFIDAVITS.** See Constitutional Law, X.
- RIGHT TO JURY TRIAL.** See Constitutional Law, IX.
- RIPENESS FOR ADJUDICATION.** See Justiciability.
- ROBINSON-PATMAN ACT.** See Antitrust Acts, 1, 2.
- SCHOOL ADMISSIONS PROGRAMS FOR DISADVANTAGED OR MINORITY STUDENTS.** See Constitutional Law, V.
- SCOPE OF JUDICIAL REVIEW.** See Judicial Review.
- SEARCHES AND SEIZURES.** See Constitutional Law, X.
- SEARCH WARRANT AFFIDAVITS.** See Constitutional Law, X.

SENTENCES. See **Criminal Law.**

SHERMAN ACT. See **Antitrust Acts.**

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

STANDING TO SUE.

Organizations and individuals affected by nuclear power plants—Challenge to Price-Anderson Act's constitutionality.—An environmental organization, a labor union, and individuals living near certain nuclear power plants under construction, have standing to challenge constitutionality of Price-Anderson Act, which imposes a limitation on liability for nuclear accidents resulting from operations of federally licensed private nuclear power plants. *Duke Power Co. v. Carolina Environmental Study Group, Inc.*, p. 59.

STATE OF MIND OR INTENT AS ELEMENT OF CRIMINAL ANTI-TRUST OFFENSE. See **Antitrust Acts, 1.**

STATES' IMMUNITY FROM SUIT. See **Constitutional Law, XI.**

STATES' RIGHTS TO CONDITION WATER APPROPRIATION FOR FEDERAL RECLAMATION PROJECTS. See **Federal-State Relations, 1.**

TAKING OF PROPERTY. See **Constitutional Law, IV.**

TRIALS.

1. *Price-fixing conspiracy—Adequacy of jury instructions.*—In trial of price-fixing conspiracy charges, trial judge's charge to jury concerning participation in conspiracy was sufficient, but his charge on withdrawal from conspiracy was erroneous. *United States v. United States Gypsum Co.*, p. 422.

2. *Propriety of ex parte meeting between trial judge and jury foreman.*—*Ex parte* meeting between trial judge and jury foreman in price-fixing conspiracy trial was improper, and Court of Appeals would have been justified in reversing convictions solely because of risk that foreman believed judge was insisting on a dispositive verdict. *United States v. United States Gypsum Co.*, p. 422.

TRUTHFULNESS OF SEARCH WARRANT AFFIDAVITS. See **Constitutional Law, X.**

UNITED STATES. See also **Federal-State Relations.**

Federal executive officials—Immunity from suit for violation of constitutional rights.—In suit for damages arising from unconstitutional action, federal executive officials exercising discretion are entitled only to qualified immunity, except where it is shown that absolute immunity is essential for conduct of public business. *Butz v. Economou*, p. 478.

VOTING RIGHTS ACT OF 1965.

Noncompliance with Act—Scope of remedy.—In action to enforce § 5 of Act brought before 1976 primary election for seats on Peach County, Ga., Board of Commissioners of Roads and Revenues, District Court erred in denying affirmative relief as to such election and should enter order allowing defendant-appellees 30 days within which to apply for federal approval, under § 5, of 1968 change in voting procedures. *Berry v. Doles*, p. 190.

WARNING OF CRIME CHARGED. See **Constitutional Law**, III, 1.

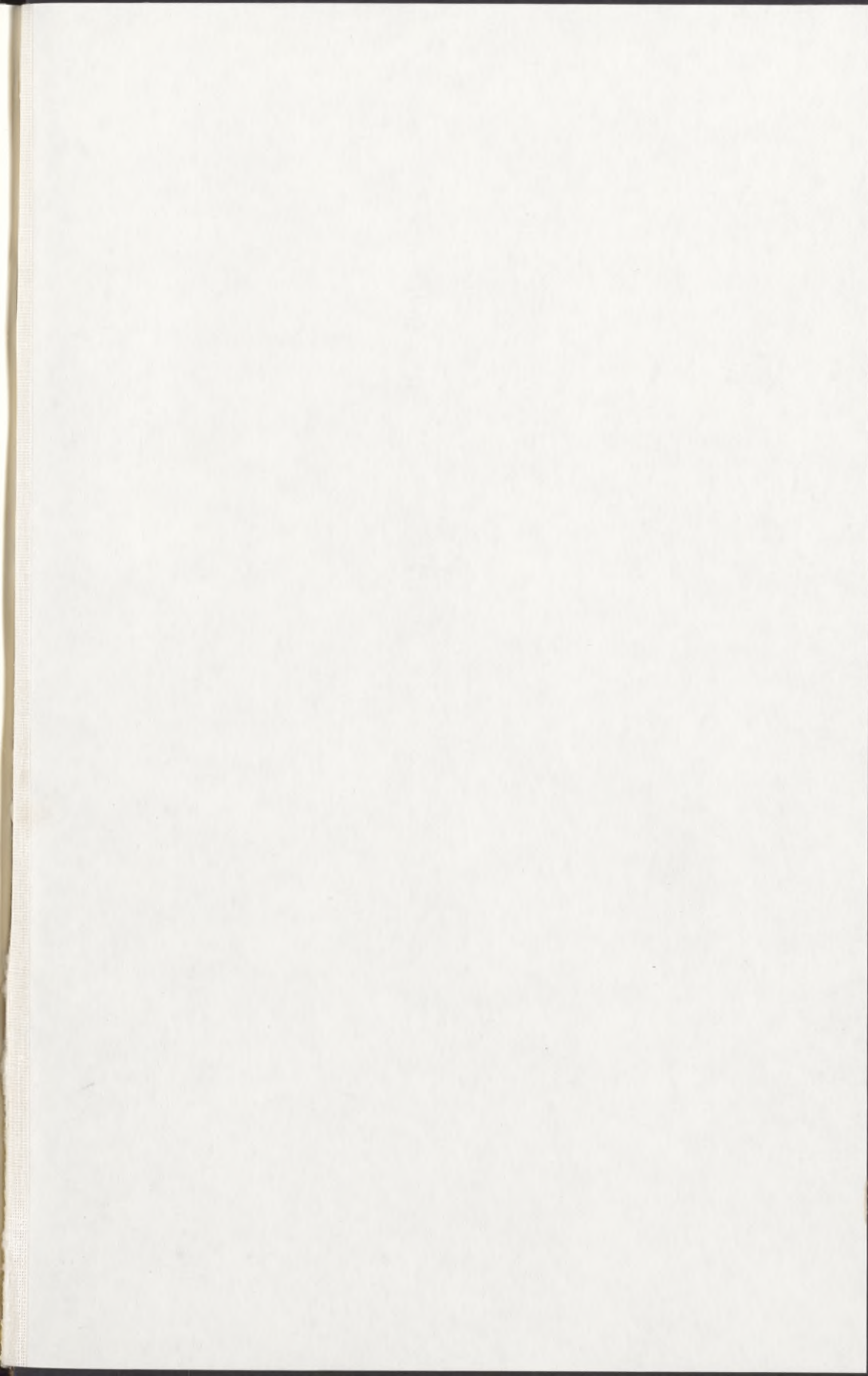
WARRANT AFFIDAVITS. See **Constitutional Law**, X.

WATER RIGHTS. See **Federal-State Relations**.

WORDS AND PHRASES.

1. "*Boycott.*" § 3 (b), McCarran-Ferguson Act, 15 U. S. C. § 1013 (b) (1976 ed.). *St. Paul Fire & Marine Ins. Co. v. Barry*, p. 531.

2. "*Taken.*" U. S. Const., Amdt. 5. *Penn Central Transp. Co. v. New York City*, p. 104.







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