

INDEX

ABANDONMENT OF RAILROAD LINES. See **Interstate Commerce Act.**

ABSTENTION. See **Jurisdiction, 1.**

ACCESS OF PUBLIC TO PRETRIAL SUPPRESSION HEARINGS.
See **Constitutional Law, X.**

ADMINISTRATIVE ADJUDICATION OF DISABILITY BENEFIT CLAIMS. See **Social Security Act.**

ADVERTISING ALCOHOLIC BEVERAGES. See **Federal Communications Commission.**

AGRICULTURAL FAIR PRACTICES ACT OF 1967.

Farmers' associations—Pre-emption of state law.—Act's provisions permitting individual farmers and other producers of agricultural commodities to join voluntarily in cooperative associations, and prohibiting such associations from interfering with such individuals' rights, pre-empts Michigan Act insofar as it provides for accreditation of producers' associations to serve as exclusive bargaining agent for all producers of a particular commodity, to collect service fees from nonmember producers, and to force them to sell their products under terms established by association. *Michigan Canners & Freezers Assn. v. Agricultural Marketing and Bargaining Bd.*, p. 461.

AGRICULTURAL MARKETING AGREEMENT ACT OF 1937.

Milk market orders—Judicial review—Consumers' standing to sue.—Individual consumers of fluid dairy products have no standing to obtain judicial review of Secretary of Agriculture's milk market orders, issued under Act, setting minimum prices that handlers (those who process dairy products) must pay to dairy farmers for "reconstituted milk." *Block v. Community Nutrition Institute*, p. 340.

AIRPLANE ACCIDENTS. See **Federal Tort Claims Act.**

AIR POLLUTION. See **Clean Air Act.**

ALASKA. See **Constitutional Law, I, 2.**

ALCOHOLIC BEVERAGES ADVERTISING. See **Federal Communications Commission.**

ALIENS. See Constitutional Law, V; Immigration and Nationality Act of 1952; National Labor Relations Act.

ANTITRUST ACTS. See also Motor Carrier Act of 1980.

Conspiracies—Parent corporation and subsidiary.—A parent corporation and its wholly owned subsidiary are incapable of conspiring with each other for purposes of § 1 of Sherman Act. *Copperweld Corp. v. Independence Tube Corp.*, p. 752.

APPORTIONMENT OF WATERS BETWEEN STATES. See Water Rights.

ARIZONA. See Constitutional Law, II, 2.

ARMED FORCES. See Garnishment.

ASSISTANCE OF COUNSEL. See Constitutional Law, VIII.

ATTORNEYS' PROMOTIONS IN PARTNERSHIP FIRMS. See Civil Rights Act of 1964, 2.

BACKPAY AWARDS. See National Labor Relations Act.

BIAS OF JURORS. See Constitutional Law, IX.

BONNEVILLE POWER ADMINISTRATION'S SALES OF HYDRO-ELECTRIC POWER. See Pacific Northwest Electric Power Planning and Conservation Act.

BONNEVILLE PROJECT ACT OF 1937. See Pacific Northwest Electric Power Planning and Conservation Act.

BREATH-ANALYSIS TESTS. See Constitutional Law, III, 1.

"BUBBLE CONCEPT" AS TO AIR-POLLUTION CONTROL. See Clean Air Act.

BURDEN OF PROOF. See Water Rights.

CABLE TELEVISION ADVERTISING OF ALCOHOLIC BEVERAGES. See Federal Communications Commission.

CALIFORNIA. See Postal Service.

CAPITAL PUNISHMENT. See Constitutional Law, II, 2.

CERTIFICATION OF AIRCRAFT BY FEDERAL AVIATION AGENCY. See Federal Tort Claims Act.

CERTIORARI.

Improvident grant of writ—Validity of state statute.—Writ of certiorari was dismissed as improvidently granted since case did not provide an appropriate vehicle for determining constitutionality of a New York statute prohibiting loitering in a public place for purpose of engaging in, or solicit-

CERTIORARI—Continued.

ing another to engage in, deviate sexual behavior. *New York v. Uplinger*, p. 246.

CHARITABLE ORGANIZATIONS' FUNDRAISING EXPENSES.

See *Constitutional Law*, VI, 1.

CITIZENSHIP REQUIREMENT FOR NOTARIES PUBLIC. See *Constitutional Law*, V.**CIVIL RIGHTS ACT OF 1866.**

Employment discrimination—Suit for individual discrimination—Effect of earlier class action.—Petitioner bank employees were not precluded from maintaining an action against bank, alleging that each petitioner had been denied a promotion because of race in violation of 42 U. S. C. § 1981, by fact that they were members of class represented in an earlier class action where it was held that bank had not engaged in a pattern or practice of racial discrimination. *Cooper v. Federal Reserve Bank of Richmond*, p. 867.

CIVIL RIGHTS ACT OF 1871.

Conspiracy between public defenders and state officials—Public defenders' immunity.—Where respondent, whose state-court conviction was affirmed on appeal, filed an action in Federal District Court under 42 U. S. C. § 1983 seeking to recover damages from petitioner public defenders who had represented him in state proceedings, allegations that petitioners had conspired with various state officials to secure respondent's conviction were sufficient to assert conduct "under color of" state law for purposes of § 1983; petitioners were not immune from § 1983 liability for such alleged intentional misconduct. *Tower v. Glover*, p. 914.

CIVIL RIGHTS ACT OF 1964.

1. *Employment discrimination—Consent decree—Enforcement or modification.*—Where a consent decree was entered in a class action by black members of Memphis Fire Department alleging racial discrimination in hiring and promotions in violation of Act's Title VII, and, when a subsequent reduction of city employees was required, District Court preliminarily enjoined Department from following its seniority system, resulting in layoffs of white employees with more seniority than retained black employees, such injunction could not be justified either as an effort to enforce or to modify consent decree; litigation was not moot even though all employees affected by layoffs had been restored to duty or offered back their old positions. *Firefighters v. Stotts*, p. 561.

2. *Sex discrimination—Law firm partnership—Failure to advance female associate to partnership.*—In petitioner's action against respondent law firm alleging that (1) when she accepted employment with respondent as an associate she relied on representation that associates would be con-

CIVIL RIGHTS ACT OF 1964—Continued.

sidered for partnership "on a fair and equal basis," (2) such promise created a binding employment contract, and (3) respondent discriminated on the basis of sex when it failed to invite her to become a partner, complaint stated a claim under Title VII of Act. *Hishon v. King & Spalding*, p. 69.

CIVIL RIGHTS ACT OF 1968. See **Jurisdiction**, 2.**CLASS-ACTION JUDGMENT AS AFFECTING SUBSEQUENT INDIVIDUAL SUITS BY CLASS MEMBERS.** See **Civil Rights Act of 1866**.**CLAYTON ACT.** See **Antitrust Acts**.**CLEAN AIR ACT.**

"*Stationary source*" of air pollution—*Plantwide definition*.—Where, pursuant to Act, Environmental Protection Agency promulgated regulations authorizing States to adopt a plantwide definition of statutory term "stationary source" of air pollution under which a plant may install or modify equipment without meeting permit conditions if total plant emissions are not increased, EPA's plantwide definition was a permissible construction of statute. *Chevron U. S. A. Inc. v. Natural Resources Defense Council, Inc.*, p. 837.

CLOSING PRETRIAL SUPPRESSION HEARINGS TO PUBLIC.

See **Constitutional Law**, X.

COLORADO. See **Water Rights**.**COLOR OF STATE LAW.** See **Civil Rights Act of 1871**.**COMMERCE CLAUSE.** See **Constitutional Law**, I.**COMMUNICATIONS ACT OF 1934.** See **Federal Communications Commission**.**COMPREHENSIVE EMPLOYMENT AND TRAINING ACT.** See **Estoppel**.**CONDEMNATION ACTIONS.** See **Constitutional Law**, IV; **Interstate Commerce Act**; **Jurisdiction**, 1.**CONFRONTATION CLAUSE.** See **Securities and Exchange Commission**.**CONSENT DECREES.** See **Civil Rights Act of 1964**, 1.**CONSPIRACY.** See **Antitrust Acts**; **Civil Rights Act of 1871**.**CONSTITUTIONAL LAW.** See also **Certiorari**; **Criminal Law**; **Federal Communications Commission**; **Jurisdiction**; **National Labor Relations Act**; **Securities and Exchange Commission**.**I. Commerce Clause.**

1. *State wholesale gross receipts tax—Validity*.—A West Virginia statute imposing a gross receipts tax on wholesale businesses but exempting

CONSTITUTIONAL LAW—Continued.

local manufacturers, who are subject to a higher manufacturing tax, unconstitutionally discriminates against interstate commerce. *Armco Inc. v. Hardesty*, p. 638.

2. *Timber taken from state lands—Processing in State prior to export.*—Court of Appeals erred in holding that Alaska's requirement that timber taken from state lands be processed within State prior to export was authorized by Congress' endorsement of a similar requirement as to timber taken from federal lands in Alaska, and thus did not violate Commerce Clause. *South-Central Timber Development, Inc. v. Wunnicke*, p. 82.

II. Double Jeopardy.

1. *Guilty pleas to lesser included offenses—Trial on greater charges.*—Where, as a result of a killing and a theft of property, respondent was indicted on counts of murder, involuntary manslaughter, aggravated robbery, and grand theft, and state trial court, over State's objection, accepted guilty pleas to lesser included offenses of involuntary manslaughter and grand theft, court erred in dismissing murder and aggravated robbery charges (to which respondent pleaded not guilty) on ground that Double Jeopardy Clause prohibited State from continuing prosecution on those charges. *Ohio v. Johnson*, p. 493.

2. *Murder conviction—Life sentence—Death penalty on resentencing.*—Double Jeopardy Clause prohibited Arizona from sentencing respondent to death where (1) jury convicted him of first-degree murder and armed robbery and trial judge, after sentencing hearing, found no aggravating or mitigating circumstances and, as required by state law, sentenced respondent on murder conviction to life imprisonment without possibility of parole for 25 years, (2) Arizona Supreme Court held that trial judge erred in interpreting statutory aggravating circumstance of killing for "pecuniary gain" as applying only to contract killings, and (3) after a new sentencing hearing on remand, trial court sentenced respondent to death. *Arizona v. Rumsey*, p. 203.

III. Due Process.

1. *Breath-analysis tests—Preservation of breath samples.*—Due process does not require that law enforcement agencies preserve breath samples in order to introduce breath-analysis test results at trial; thus, Constitution was not violated by State's failure to preserve samples of breath of respondents, who were charged with drunken driving and who sought to suppress test results on ground that they could have used samples to impeach results. *California v. Trombetta*, p. 479.

2. *Multiemployer pension plans—Employer's withdrawal liability.*—Due Process Clause of Fifth Amendment was not violated by application, during 5-month period prior to enactment of Multiemployer Pension Plan Amendments Act of 1980, of Act's provisions requiring an employer withdrawing from a multiemployer pension plan to pay plan employer's pro-

CONSTITUTIONAL LAW—Continued.

portionate share of plan's "unfunded vested benefits." Pension Benefit Guaranty Corporation v. R. A. Gray & Co., p. 717.

3. *Pretrial detention of accused juvenile delinquent—Validity of state statute.*—Due Process Clause was not violated by a New York statute authorizing pretrial detention of an accused juvenile delinquent based on a finding that there was a "serious risk" that juvenile "may before the return date commit an act which if committed by an adult would constitute a crime." Schall v. Martin, p. 253.

IV. Eminent Domain.

1. *Condemnation action—Time of taking—Interest on award.*—Where (1) Government filed a condemnation complaint against petitioner under 42 U. S. C. § 257 in 1978, (2) District Court ultimately entered judgment awarding petitioner a specific amount, plus interest from date of complaint until Government deposited adjudicated value of land with court, and (3) Government deposited amount and acquired title on March 26, 1982, taking of petitioner's land—entitling it to just compensation under Fifth Amendment—occurred on latter date and, because award was paid on that date, no interest was due thereon. Kirby Forest Industries, Inc. v. United States, p. 1.

2. *Taking of property for "public use"—Validity of Hawaii statute.*—"Public use" requirement of Fifth Amendment was not violated by Hawaii statute creating a land condemnation scheme whereby title to real property was taken from owners and transferred to lessees in order to reduce concentration of land ownership. Hawaii Housing Authority v. Midkiff, p. 229.

V. Equal Protection of the Laws.

Notaries public—Citizenship requirement.—Under applicable "strict scrutiny" standard of judicial review, Texas statute requiring that a notary public be a United States' citizen violated resident aliens' rights under Equal Protection Clause. Bernal v. Fainter, p. 216.

VI. Freedom of Speech.

1. *Charitable organizations—Limitation of fundraising expenses—Validity of statute.*—A Maryland statute prohibiting a charitable organization, in connection with any fundraising activity, from paying expenses of more than 25% of amount raised is overbroad and violates First Amendment, regardless of provision authorizing a waiver where limitation would effectively prevent organization from raising contributions; respondent professional fundraiser had standing to challenge statute in a state-court action alleging that it regularly charged certain customers more than 25% limitation, that one customer was reluctant to enter contract because of limitation, and that petitioner Secretary of State had threatened prosecu-

CONSTITUTIONAL LAW—Continued.

tion under statute. *Secretary of State of Md. v. Joseph H. Munson Co.*, p. 947.

2. *Defamation action—Discovery—Protective order.*—Where, in a defamation action arising from newspaper stories about a religious foundation and its leader, Washington state court ordered discovery disclosure by plaintiffs of information concerning foundation members and donors, and, pursuant to state discovery Rules, court also issued a protective order prohibiting defendants from publishing, disseminating, or using such information in any way except where necessary to prepare for and try case, protective order did not violate First Amendment. *Seattle Times Co. v. Rhinehart*, p. 20.

VII. Privilege against Self-Incrimination.

Miranda warnings—"Public safety" exception.—Where (1) a rape victim told police that assailant had just entered a nearby supermarket and had a gun, (2) officer spotted respondent (who matched description given by victim) in store and caught him after a chase, (3) after frisking respondent, discovering an empty holster, and handcuffing him, officer asked where gun was, (4) respondent nodded and said that "the gun is over there," and (5) officer then retrieved gun, formally arrested respondent, and gave *Miranda* warnings, gun and respondent's initial statement, as well as his subsequent statements, were admissible in a state prosecution for criminal possession of a weapon, notwithstanding officer's failure to give *Miranda* warnings before attempting to locate gun, since situation warranted a "public safety" exception to *Miranda* requirements. *New York v. Quarles*, p. 649.

VIII. Right to Counsel.

1. *Exclusionary rule—"Inevitable discovery" exception.*—Where (1) following respondent's arraignment, police informed his counsel that they would drive respondent to another city without questioning him, but an officer began a conversation that resulted in respondent's making incriminating statements and directing police to victim's body, and (2) extensive search of area that was in progress was then terminated, state court, at a trial that resulted in respondent's murder conviction, properly admitted evidence as to body's location and condition (respondent's statements obtained in violation of his Sixth Amendment right to counsel not having been offered in evidence) on ground that it would inevitably have been discovered even if no constitutional violation had taken place. *Nix v. Williams*, p. 431.

2. *Prisoners—Administrative detention.*—Respondent federal prisoners—who were put in administrative isolated detention for periods of from 8 to 19 months during investigations of murders of fellow inmates, were released from such detention when they were arraigned on federal indict-

CONSTITUTIONAL LAW—Continued.

ments and counsel was appointed, and were ultimately convicted of murder—were not constitutionally entitled to appointment of counsel while they were in administrative detention and before any adversary judicial proceedings had been initiated against them. *United States v. Gouveia*, p. 180.

IX. Right to Jury Trial.

Jurors' impartiality—Pretrial publicity.—Where (1) respondent was convicted of murder and rape after a state-court jury trial, but on appeal was granted a new trial, (2) at second trial, court denied respondent's motions for a change of venue on asserted ground that publicity precluded selection of an unbiased jury, (3) respondent was again convicted of murder, and conviction was affirmed on appeal, (4) Federal District Court, denying habeas corpus relief, rejected claim that respondent's right to a fair trial by an impartial jury under Sixth and Fourteenth Amendments had been violated, and (5) Court of Appeals reversed, jurors' *voir dire* testimony at second trial and record of publicity did not reveal kind of "wave of public passion" that would have made a fair trial unlikely; record did not overcome presumption of correctness, under 28 U. S. C. § 2254(d), of trial court's findings related to seating a juror and alternate jurors over respondent's challenges for cause. *Patton v. Yount*, p. 1025.

X. Right to Public Trial.

Wiretap evidence—Closing pretrial suppression hearing to public.—Where, prior to petitioners' trial for violations of state racketeering and gambling statutes, (1) State moved to close to public a suppression hearing as to evidence relating to authorized wiretaps, (2) court ordered closure over petitioners' objections, finding that insofar as wiretap evidence related to alleged offenders not then on trial, evidence would be tainted if made public and could not be used in future prosecutions, and (3) less than 2½ hours of 7-day hearing were devoted to playing wiretap tapes, only a few of which involved persons not then before court, closure of entire hearing was unjustified under Sixth Amendment public trial guarantee. *Waller v. Georgia*, p. 39.

XI. Taking of Property.

EPA's use and disclosure of data—"Taking" for "public" use.—With regard to Federal Insecticide, Fungicide, and Rodenticide Act's provisions authorizing Environmental Protection Agency to consider, in connection with an application for registration of a covered product, a prior applicant's data constituting a trade secret under state law, and to disclose such data to public, consideration or disclosure of prior applicant's data submitted before October 22, 1972, or after September 30, 1978, does not effect a "taking" for purposes of Taking Clause, but consideration or disclosure of data submitted between those dates may constitute a "taking" under certain conditions and would be for a "public" rather than a "private" use;

CONSTITUTIONAL LAW—Continued.

since Tucker Act remedy is available for any such "taking," District Court erred in enjoining EPA from acting under FIFRA's provisions. *Ruckelshaus v. Monsanto Co.*, p. 986.

CONSUMER SUITS. See *Agricultural Marketing Agreement Act of 1937.*

CONTRACT CLAUSE. See *Constitutional Law*, III, 2.

CONTRACTOR'S IMMUNITY FROM LIABILITY FOR INJURIES TO SUBCONTRACTOR'S EMPLOYEES. See *Longshoremen's and Harbor Workers' Compensation Act.*

COOPERATIVE ASSOCIATIONS. See *Agricultural Fair Practices Act of 1967.*

COPYRIGHT REVISION ACT OF 1976. See *Federal Communications Commission.*

CRIMINAL LAW. See also *Certiorari*; *Constitutional Law*, II; III, 1; VII-X.

Plea bargaining—Enforcement of prosecutor's sentencing offer.—Where (1) after respondent was convicted of burglary, assault, and murder charges, State Supreme Court set aside murder conviction, (2) deputy prosecutor then proposed that in exchange for a guilty plea to a charge of accessory after a felony murder, prosecutor would recommend a 21-year sentence to be served concurrently with burglary and assault sentences, (3) when respondent communicated acceptance of offer, prosecutor withdrew it and made a second offer with sentence to be served consecutively to other sentences, and (4) after respondent accepted, and was sentenced pursuant to, second offer, he sought federal habeas corpus relief to enforce first offer, respondent's acceptance of first proposed plea bargain did not create a constitutional right to have bargain specifically enforced, and he could not successfully attack his subsequent guilty plea. *Mabry v. Johnson*, p. 504.

CUSTODIAL INTERROGATIONS. See *Constitutional Law*, VII.

DEADLINES FOR ADMINISTRATIVE ADJUDICATION OF DISABILITY BENEFIT CLAIMS. See *Social Security Act.*

DEATH PENALTY. See *Constitutional Law*, II, 2.

DEFAMATION. See *Constitutional Law*, VI, 2.

DEPORTATION OF ALIENS. See *Immigration and Nationality Act of 1952.*

DETENTION OF ACCUSED JUVENILE DELINQUENTS. See *Constitutional Law*, III, 3.

DEVIATE SEXUAL BEHAVIOR. See *Certiorari.*

- DISABILITY BENEFITS.** See Social Security Act.
- DISCLOSURE OF INFORMATION BY ENVIRONMENTAL PROTECTION AGENCY.** See Constitutional Law, XI.
- DISCOVERY IN DEFAMATION ACTIONS.** See Constitutional Law, VI, 2.
- "DISCRETIONARY FUNCTION" EXCEPTION OF FEDERAL TORT CLAIMS ACT.** See Federal Tort Claims Act.
- DISCRIMINATION AGAINST INTERSTATE COMMERCE.** See Constitutional Law, I, 1.
- DISCRIMINATION BASED ON CITIZENSHIP.** See Constitutional Law, V.
- DISCRIMINATION BASED ON RACE.** See Civil Rights Act of 1866; Civil Rights Act of 1964, 1.
- DISCRIMINATION BASED ON SEX.** See Civil Rights Act of 1964, 2.
- DISCRIMINATION IN EMPLOYMENT.** See Civil Rights Act of 1866; Civil Rights Act of 1964.
- DISTRICT COURTS.** See Jurisdiction, 1.
- DIVERSION OF WATERS.** See Water Rights.
- DOUBLE JEOPARDY.** See Constitutional Law, II.
- DRUNKEN DRIVING.** See Constitutional Law, III, 1.
- DUE PROCESS.** See Constitutional Law, III; Securities and Exchange Commission.
- ELECTIONS OF UNION OFFICERS.** See Labor-Management Reporting and Disclosure Act of 1959.
- EMINENT DOMAIN.** See Constitutional Law, IV; Interstate Commerce Act; Jurisdiction, 1.
- EMPLOYEE RETIREMENT INCOME SECURITY ACT.** See Constitutional Law, III, 2.
- EMPLOYER AND EMPLOYEES.** See Civil Rights Act of 1866; Civil Rights Act of 1964; Constitutional Law, III, 2; Federal Employees' Compensation Act; Garnishment; Longshoremen's and Harbor Workers' Compensation Act; National Labor Relations Act.
- EMPLOYER'S REPORTING ILLEGAL ALIEN EMPLOYEES TO IMMIGRATION AND NATURALIZATION SERVICE.** See National Labor Relations Act.
- EMPLOYMENT DISCRIMINATION.** See Civil Rights Act of 1866; Civil Rights Act of 1964.

ENVIRONMENTAL PROTECTION AGENCY. See *Clean Air Act; Constitutional Law, XI.*

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

ESTOPPEL.

Medicare overpayments—Repayment to Government—Fiscal intermediary's erroneous advice.—Where (1) respondent received Government reimbursement, through a fiscal intermediary, for respondent's costs for home health care services it provided under Medicare program, (2) an official of intermediary gave erroneous advice to respondent that it need not deduct from such costs salaries of its employees paid by a federal grant under Comprehensive Employment and Training Act, and (3) ultimately repayment of Medicare overpayments was sought from respondent, Government was not estopped from recovering funds, since respondent did not demonstrate that traditional elements of an estoppel were present with respect to either its change in position or its reliance on advice of intermediary's official. *Heckler v. Community Health Services of Crawford County, Inc.*, p. 51.

EVIDENCE. See *Constitutional Law, III, 1; VIII, 1; Water Rights.*

EXCLUDING PUBLIC FROM PRETRIAL SUPPRESSION HEARINGS. See *Constitutional Law, X.*

EXCLUSIONARY RULE. See *Constitutional Law, VIII, 1.*

EXPORTATION OF TIMBER. See *Constitutional Law, I, 2.*

FARMERS' ASSOCIATIONS. See *Agricultural Fair Practices Act of 1967.*

FEDERAL AVIATION ACT OF 1958. See *Federal Tort Claims Act.*

FEDERAL AVIATION AGENCY'S CERTIFICATION OF AIRCRAFT. See *Federal Tort Claims Act.*

FEDERAL COMMUNICATIONS COMMISSION.

Cable television—Advertising alcoholic beverages—Pre-emption of state law.—In view of Commission's regulations governing cable television, application of Oklahoma's ban on advertising of alcoholic beverages to out-of-state signals carried by cable television systems in Oklahoma was pre-empted by federal law; Twenty-first Amendment did not save Oklahoma's advertising ban from pre-emption. *Capital Cities Cable, Inc. v. Crisp*, p. 691.

FEDERAL EMPLOYEES' COMPENSATION ACT.

Third-party liability to employee—Damages award or settlement—Government's right to reimbursement.—Under pertinent provision of Act, where Government has paid compensation to its employee or his beneficiaries, Government is entitled to reimbursement from any damages award

FEDERAL EMPLOYEES' COMPENSATION ACT—Continued.

or settlement made in satisfaction of third-party liability to employee or his beneficiaries for personal injury or death, regardless of whether award or settlement was for losses other than medical expenses and lost wages (such as pain and suffering). *United States v. Lorenzetti*, p. 167.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT.

See **Constitutional Law**, XI.

FEDERAL RULES OF CIVIL PROCEDURE. See **Civil Rights Act of 1866**.**FEDERAL-STATE RELATIONS.** See **Agricultural Fair Practices Act of 1967**; **Clean Air Act**; **Federal Communications Commission**; **Garnishment**; **Interstate Commerce Act**; **Jurisdiction**, 2; **Postal Service**.**FEDERAL TORT CLAIMS ACT.**

"Discretionary function" exception—Airplane accidents—FAA's certification of aircraft.—Act's "discretionary function" exception barred respondents' wrongful-death and property damage actions against Government resulting from airplane accidents, where respondents alleged that Federal Aviation Agency was negligent in certifying aircraft in question as safe for use in commercial aviation under Agency's program of "spot checking" aircraft manufacturers' work to ensure that aircraft met Agency's safety regulations. *United States v. Varig Airlines*, p. 797.

FEDERAL TRADE COMMISSION ACT. See **Antitrust Acts**.**FIFTH AMENDMENT.** See **Constitutional Law**, II; III, 2; IV; VII; XI; **Jurisdiction**, 1; **Securities and Exchange Commission**.**FIRST AMENDMENT.** See **Constitutional Law**, VI; **National Labor Relations Act**.**FOURTEENTH AMENDMENT.** See **Constitutional Law**, III, 1, 3; V; IX.**FOURTH AMENDMENT.** See **Securities and Exchange Commission**.**FREEDOM OF SPEECH.** See **Constitutional Law**, VI.**FUNDRAISING EXPENSES OF CHARITABLE ORGANIZATIONS.**
See **Constitutional Law**, VI, 1.**GARNISHMENT.**

Government employee's wages—Government's liability.—Under 42 U. S. C. § 659(f), Government cannot be held liable to its employee for honoring a writ of garnishment—such as one from an Alabama court directing Air Force's withholding from pay of respondent officer, who was stationed in Alaska, to satisfy court's judgment against respondent for alimony and child support—where writ is "regular on its face" and has been

GARNISHMENT—Continued.

issued by a court with subject-matter jurisdiction, it not being necessary that court have personal jurisdiction over employee. *United States v. Morton*, p. 822.

GOVERNMENT EMPLOYEES. See *Civil Rights Act of 1964*, 1; *Federal Employees' Compensation Act*; *Garnishment*.

GOVERNMENT'S SUBROGATION RIGHTS. See *Federal Employees' Compensation Act*.

GROSS RECEIPTS TAXES. See *Constitutional Law*, I, 1.

GUILTY PLEAS. See *Constitutional Law*, II, 1; *Criminal Law*.

HABEAS CORPUS. See *Constitutional Law*, IX.

HARBOR WORKERS. See *Longshoremen's and Harbor Workers' Compensation Act*.

HAWAII. See *Constitutional Law*, IV, 2; *Jurisdiction*, 1.

HYDROELECTRIC POWER. See *Pacific Northwest Electric Power Planning and Conservation Act*.

IMMIGRATION AND NATIONALITY ACT OF 1952. See also *National Labor Relations Act*.

Aliens—Deportation.—Under § 243(h) of Act—which prior to amendment by Refugee Act of 1980 authorized withholding deportation of an alien if he “would be subject to persecution,” and which after amendment authorizes withholding deportation if his life or freedom “would be threatened”—an alien must establish a “clear probability of persecution,” not just a “well-founded fear of persecution,” to avoid deportation. *INS v. Stevic*, p. 407.

IMMUNITY OF CONTRACTOR FROM LIABILITY FOR INJURIES TO SUBCONTRACTOR'S EMPLOYEES. See *Longshoremen's and Harbor Workers' Compensation Act*.

IMMUNITY OF POSTAL SERVICE FROM SUIT. See *Postal Service*.

IMMUNITY OF PUBLIC DEFENDERS FROM DAMAGES LIABILITY. See *Civil Rights Act of 1871*.

IMPAIRMENT OF CONTRACTS. See *Constitutional Law*, III, 2.

IMPARTIALITY OF JURORS. See *Constitutional Law*, IX.

IMPROVIDENT GRANT OF CERTIORARI. See *Certiorari*.

INCOME TAXES. See *Postal Service*.

INDIANS. See *Jurisdiction*, 2.

"INEVITABLE DISCOVERY" EXCEPTION TO EXCLUSIONARY RULE. See *Constitutional Law*, VIII, 1.

INTEREST ON EMINENT DOMAIN AWARDS. See *Constitutional Law*, IV, 1.

INTERSTATE COMMERCE. See *Constitutional Law*, I; *Interstate Commerce Act*; *Motor Carrier Act of 1980*.

INTERSTATE COMMERCE ACT. See also *Motor Carrier Act of 1980*.

Abandonment of railroad line—Pre-emption of state law.—Where (1) appellee rail carrier, pursuant to Act, obtained a certificate from Interstate Commerce Commission authorizing abandonment of a particular line after Minnesota shippers withdrew offer to subsidize operation of Minnesota segment of line, and (2) shippers then formed appellant carrier, planning to use a Minnesota statute to condemn such segment, appellant's proposed application of Minnesota statute was not pre-empted by Act. *Hayfield Northern R. Co. v. Chicago & North Western Transportation Co.*, p. 622.

INTERSTATE COMMERCE COMMISSION. See *Interstate Commerce Act*; *Motor Carrier Act of 1980*.

"INTRA-ENTERPRISE CONSPIRACY" DOCTRINE. See *Antitrust Acts*.

JUDICIAL REVIEW OF ADMINISTRATIVE ORDERS. See *Agricultural Marketing Agreement Act of 1937*.

JUDICIAL SUPERVISION OF UNION OFFICERS' ELECTIONS. See *Labor-Management Reporting and Disclosure Act of 1959*.

JURISDICTION. See also *Garnishment*.

1. *Federal District Court—Abstention—Validity of state statute.*—Federal District Court was not required to abstain from exercising its jurisdiction over action by owners of land in Hawaii challenging constitutionality, under Fifth Amendment, of Hawaii statute creating a condemnation scheme whereby title to real property was taken from owners and transferred to lessees in order to reduce concentration of land ownership. *Hawaii Housing Authority v. Midkiff*, p. 229.

2. *North Dakota courts—Action by Indian Tribe.*—Under applicable federal and state statutes, no federal law or policy required North Dakota courts to forgo jurisdiction of petitioner Indian Tribe's suit alleging negligence and breach of a contract under which respondent North Dakota corporation designed and built a water-supply system on petitioner's reservation in North Dakota. *Three Affiliated Tribes of Fort Berthold Reservation v. Wold Engineering, P. C.*, p. 138.

JURORS' IMPARTIALITY. See *Constitutional Law*, IX.

JUST COMPENSATION CLAUSE. See Constitutional Law, IV; Jurisdiction, 1.

JUVENILE DELINQUENTS. See Constitutional Law, III, 3.

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959.

Election of union officers—Judicial supervision.—Where respondent union members brought suit alleging that union and its officers had violated provisions of Title I of Act establishing various protections for members involved in union elections, District Court overstepped bounds of “appropriate” relief under Title I when it enjoined an ongoing election of union officers and ordered that a new election be held pursuant to court-imposed procedures. *Furniture Moving Drivers v. Crowley*, p. 526.

LABOR UNION OFFICERS’ ELECTIONS. See Labor-Management Reporting and Disclosure Act of 1959.

LAW FIRM PARTNERSHIPS. See Civil Rights Act of 1964, 2.

LESSER INCLUDED OFFENSES. See Constitutional Law, II, 1.

LIFE SENTENCE FOR MURDER AS PRECLUDING DEATH PENALTY ON RESENTENCING. See Constitutional Law, II, 2.

LIMITATIONS ON CHARITABLE ORGANIZATIONS’ FUND-RAISING EXPENSES. See Constitutional Law, VI, 1.

LOITERING. See Certiorari.

LONGSHOREMEN’S AND HARBOR WORKERS’ COMPENSATION ACT.

“Employers’” immunity from tort liability—General contractors.—Act’s §5(a) grant of immunity to an “employer” from tort liability for work-related injuries of its employees if employer secures payment of compensation to employees under Act applies to general contractors who secure payment of compensation for injuries to subcontractors’ employees pursuant to §4(a) of Act. *Washington Metropolitan Area Transit Authority v. Johnson*, p. 925.

MARYLAND. See Constitutional Law, VI, 1.

MEDICARE. See Estoppel.

MICHIGAN. See Agricultural Fair Practices Act of 1967.

MILK PRICES. See Agricultural Marketing Agreement Act of 1937.

MINNESOTA. See Interstate Commerce Act.

MIRANDA WARNINGS. See Constitutional Law, VII.

MODIFICATION OF CONSENT DECREES. See *Civil Rights Act of 1964*, 1.

MOOTNESS. See *Civil Rights Act of 1964*, 1.

MOTOR CARRIER ACT OF 1980.

Motor-carrier rate bureaus—ICC's retroactive rejection of tariffs.—Where Interstate Commerce Commission issued an interpretative ruling explaining how it would implement Act's guidelines to which motor-carrier rate bureaus must conform to receive antitrust immunity—such ruling proposing a new remedy to enforce rate-bureau agreements whereby ICC would retroactively reject effective tariffs that had been submitted in violation of such agreements, thus resulting in rate-bureau overcharge liability—proposed new remedy was within ICC's discretionary authority. *ICC v. American Trucking Assns., Inc.*, p. 354.

MOTOR-CARRIER RATE BUREAUS. See *Motor Carrier Act of 1980*.

MULTIEMPLOYER PENSION PLANS. See *Constitutional Law*, III, 2.

NATIONAL LABOR RELATIONS ACT.

Unfair labor practice—Illegal alien employees—Employer's reporting to INS.—Where, after National Labor Relations Board overruled employer's objections to union representation election on asserted ground that certain voters were illegal aliens, employer asked Immigration and Naturalization Service to check employees' status, and, as a result of INS's investigation, some employees voluntarily left country to avoid deportation, NLRB, in holding that employer had violated § 8(a)(3) of Act, reasonably interpreted Act as applying to unfair labor practices committed against undocumented aliens; Court of Appeals erred in modifying NLRB's order so as to require (1) a minimum backpay award regardless of employees' actual economic losses or legal availability for work, (2) employer to draft reinstatement offers in Spanish and to ensure verification of receipt, and (3) holding reinstatement offers open for four years. *Sure-Tan, Inc. v. NLRB*, p. 883.

NATIONAL LABOR RELATIONS BOARD. See *National Labor Relations Act*.

NEW MEXICO. See *Water Rights*.

NEW YORK. See *Certiorari*; *Constitutional Law*, III, 3.

NORTH DAKOTA. See *Jurisdiction*, 2.

NOTARIES PUBLIC. See *Constitutional Law*, V.

NOTICE TO "TARGETS" OF SECURITIES AND EXCHANGE COMMISSION SUBPOENAS ISSUED TO THIRD PARTIES. See *Securities and Exchange Commission*.

OKLAHOMA. See Federal Communications Commission.

OVERPAYMENTS UNDER MEDICARE PROGRAM. See Estoppel.

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT.

Sales of hydroelectric power—Bonneville Power Administration's contracts.—Administrator of Bonneville Power Administration's interpretation of Act with regard to new contracts for Administration's sales of hydroelectric power to direct-service industrial customers under which such customers received more power than they had under earlier contracts, thereby reducing amount of power available to Administration's "preference" customers, was reasonable, and Administrator had broad discretion to negotiate such new contracts. Aluminum Co. of America v. Central Lincoln Peoples' Utility Dist., p. 380.

PARENT CORPORATION'S AND SUBSIDIARY'S ANTITRUST LIABILITY. See Antitrust Acts.

PATTERN OR PRACTICE OF EMPLOYMENT DISCRIMINATION. See Civil Rights Act of 1866.

PENSION PLANS. See Constitutional Law, III, 2.

"PERSECUTION" OF ALIENS AFTER DEPORTATION. See Immigration and Nationality Act of 1952.

PESTICIDES. See Constitutional Law, XI.

PLEA BARGAINING. See Criminal Law.

POLICE INTERROGATIONS. See Constitutional Law, VII.

POLLUTION. See Clean Air Act.

POSTAL SERVICE.

Immunity from suit—Withholding employees' delinquent taxes—State administrative process.—When appellant State Franchise Tax Board, pursuant to state law, served administrative process on appellee Postal Service to withhold amounts of delinquent state income taxes from wages of certain of appellee's employees, appellee was "sued" within meaning of 39 U. S. C. § 401(1), which provides that appellee may "sue and be sued in its official name," and appellee must respond to appellant's process. Franchise Tax Bd. of Cal. v. USPS, p. 512.

PRE-EMPTION OF STATE LAW BY FEDERAL LAW. See Agricultural Fair Practices Act of 1967; Federal Communications Commission; Interstate Commerce Act.

PRESERVATION OF BREATH SAMPLES. See Constitutional Law, III, 1.

- PRETRIAL DETENTION OF ACCUSED JUVENILE DELINQUENTS.** See Constitutional Law, III, 3.
- PRETRIAL PUBLICITY.** See Constitutional Law, IX.
- PRISONERS' RIGHT TO COUNSEL DURING CRIMINAL INVESTIGATION.** See Constitutional Law, VIII, 2.
- PRIVILEGE AGAINST SELF-INCRIMINATION.** See Constitutional Law, VII; Securities and Exchange Commission.
- PROCESSING OF TIMBER.** See Constitutional Law, I, 2.
- PROSECUTION'S WITHDRAWAL OF PLEA BARGAINING OFFER.** See Criminal Law.
- PROTECTIVE ORDERS IN DISCOVERY PROCEEDINGS.** See Constitutional Law, VI, 2.
- PUBLIC DEFENDERS.** See Civil Rights Act of 1871.
- PUBLIC DISCLOSURE OF INFORMATION BY ENVIRONMENTAL PROTECTION AGENCY.** See Constitutional Law, XI.
- PUBLIC EMPLOYEES.** See Civil Rights Act of 1964, 1; Federal Employees' Compensation Act; Garnishment.
- "PUBLIC SAFETY" EXCEPTION TO MIRANDA REQUIREMENTS.** See Constitutional Law, VII.
- PUBLIC TRIALS.** See Constitutional Law, X.
- "PUBLIC USE" OF PROPERTY TAKEN BY EMINENT DOMAIN.** See Constitutional Law, IV, 2.
- RACIAL DISCRIMINATION.** See Civil Rights Act of 1866; Civil Rights Act of 1964, 1.
- RAILROADS.** See Interstate Commerce Act.
- RATES OF MOTOR CARRIERS.** See Motor Carrier Act of 1980.
- REFUGEE ACT OF 1980.** See Immigration and Nationality Act of 1952.
- REGISTRATION OF PESTICIDES.** See Constitutional Law, XI.
- REIMBURSEMENT OF MEDICARE OVERPAYMENTS.** See Estoppel.
- "RECONSTITUTED MILK" PRICES.** See Agricultural Marketing Agreement Act of 1937.
- RES JUDICATA.** See Civil Rights Act of 1866.
- RETIREMENT PENSION PLANS.** See Constitutional Law, III, 2.

RETROACTIVE APPLICATION OF STATUTES. See Constitutional Law, III, 2.

RIGHT TO COUNSEL. See Constitutional Law, VIII.

RIGHT TO FINANCIAL PRIVACY ACT. See Securities and Exchange Commission.

RIGHT TO JURY TRIAL. See Constitutional Law, IX.

RIGHT TO PETITION GOVERNMENT. See National Labor Relations Act.

RIGHT TO PUBLIC TRIAL. See Constitutional Law, X.

RIPARIAN RIGHTS. See Water Rights.

SALES OF HYDROELECTRIC POWER. See Pacific Northwest Electric Power Planning and Conservation Act.

SEARCHES AND SEIZURES. See Securities and Exchange Commission.

SECRETARY OF AGRICULTURE'S MILK MARKET ORDERS. See Agricultural Marketing Agreement Act of 1937.

SECURITIES ACT OF 1933. See Securities and Exchange Commission.

SECURITIES AND EXCHANGE COMMISSION.

Subpoenas issued to third parties—Notice to investigation “targets.”—Giving of notice to “targets” of nonpublic investigations into possible violations of securities laws when SEC issues subpoenas to third parties is within SEC’s discretion and is not required by Due Process Clause of Fifth Amendment, Confrontation Clause, Self-Incrimination Clause, Fourth Amendment, Securities Act of 1933, or Securities Exchange Act of 1934. SEC v. Jerry T. O’Brien, Inc., p. 735.

SECURITIES EXCHANGE ACT OF 1934. See Securities and Exchange Commission.

SECURITIES REGULATION. See Securities and Exchange Commission.

SELF-INCRIMINATION. See Constitutional Law, VII; Securities and Exchange Commission.

SENIORITY SYSTEMS. See Civil Rights Act of 1964, 1.

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

SHERMAN ACT. See Antitrust Acts.

SIXTH AMENDMENT. See Constitutional Law, VIII-X; Securities and Exchange Commission.

SOCIAL SECURITY ACT.

Disability benefit claims—Administrative adjudication—Deadlines.—District Court's injunction—imposing certain mandatory deadlines within which Department of Health and Human Services must act in administrative adjudication of disputed disability benefit claims under Title II of Act—constituted an unwarranted judicial intrusion into pervasively regulated area of claims adjudication under Act. *Heckler v. Day*, p. 104.

SOLITARY CONFINEMENT. See Constitutional Law, VIII, 2.

STAGGERS RAIL ACT OF 1980. See Interstate Commerce Act.

STANDING TO SUE. See Agricultural Marketing Agreement Act of 1937; Constitutional Law, VI, 1.

STATE-COURT JURISDICTION OVER INDIAN TRIBES' ACTIONS.
See Jurisdiction, 2.

STATE INCOME TAXES. See Postal Service.

STATES' WATER RIGHTS. See Water Rights.

STATE WHOLESALE GROSS RECEIPTS TAXES. See Constitutional Law, I, 1.

"STATIONARY SOURCE" OF AIR POLLUTION. See Clean Air Act.

SUBPOENAS OF SECURITIES AND EXCHANGE COMMISSION.
See Securities and Exchange Commission.

SUBROGATION RIGHTS OF GOVERNMENT. See Federal Employees' Compensation Act.

SUPPRESSION HEARINGS. See Constitutional Law, X.

SUPREMACY CLAUSE. See Federal Communications Commission.

TAKING OF PROPERTY FOR PUBLIC USE. See Constitutional Law, IV; XI.

TARIFFS OF MOTOR CARRIERS. See Motor Carrier Act of 1980.

TAXES. See Constitutional Law, I, 1; Postal Service.

TELEVISION ADVERTISING OF ALCOHOLIC BEVERAGES. See Federal Communications Commission.

TEXAS. See Constitutional Law, V.

TIMBER. See Constitutional Law, I, 2.

TRADE SECRETS ACT. See Constitutional Law, XI.

TUCKER ACT. See Constitutional Law, XI.

TWENTY-FIRST AMENDMENT. See Federal Communications Commission.

UNFAIR LABOR PRACTICES. See **National Labor Relations Act.**

UNION OFFICERS' ELECTIONS. See **Labor-Management Reporting and Disclosure Act of 1959.**

UNITED NATIONS PROTOCOL RELATING TO STATUS OF REFUGEES. See **Immigration and Nationality Act of 1952.**

UNITED STATES' LIABILITY FOR HONORING WRITS OF GARNISHMENT. See **Garnishment.**

UNITED STATES' TORT LIABILITY. See **Federal Tort Claims Act.**

WASHINGTON. See **Constitutional Law, VI, 2.**

WATER RIGHTS.

Apportionment of waters between States—Burden of proof.—In Colorado's action for equitable apportionment of waters of Vermejo River, Colorado's proof was to be judged by a clear-and-convincing-evidence standard, and Colorado did not meet its burden of proving that its proposed diversion of such waters should be permitted. *Colorado v. New Mexico*, p. 310.

WEST VIRGINIA. See **Constitutional Law, I, 1.**

WHOLESALE GROSS RECEIPTS TAXES. See **Constitutional Law, I, 1.**

WIRETAPS. See **Constitutional Law, X.**

WITHDRAWAL BY EMPLOYER FROM MULTIEMPLOYER PENSION PLAN. See **Constitutional Law, III, 2.**

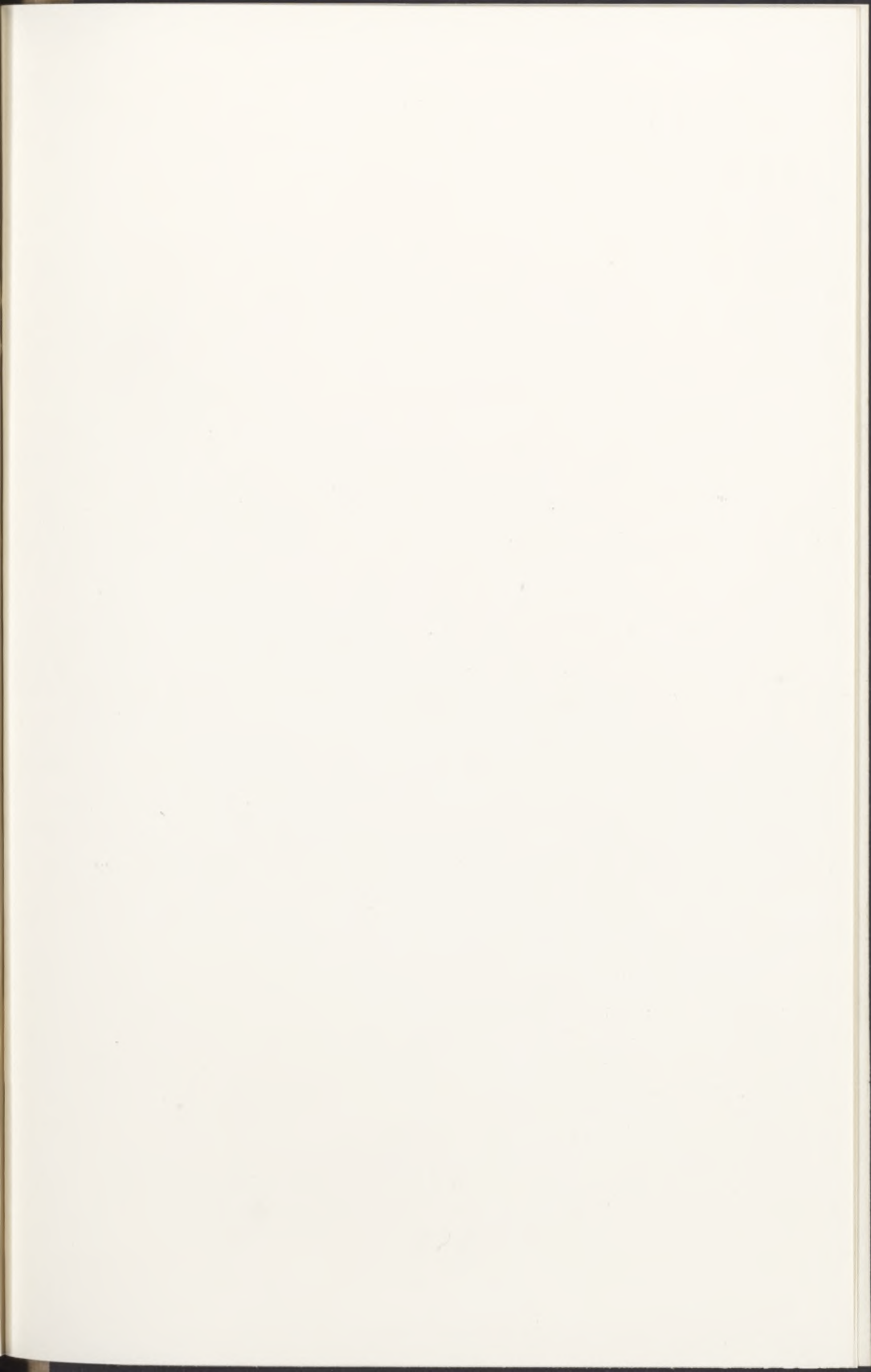
WITHHOLDING EMPLOYEES' DELINQUENT TAXES. See **Postal Service.**

WORDS AND PHRASES.

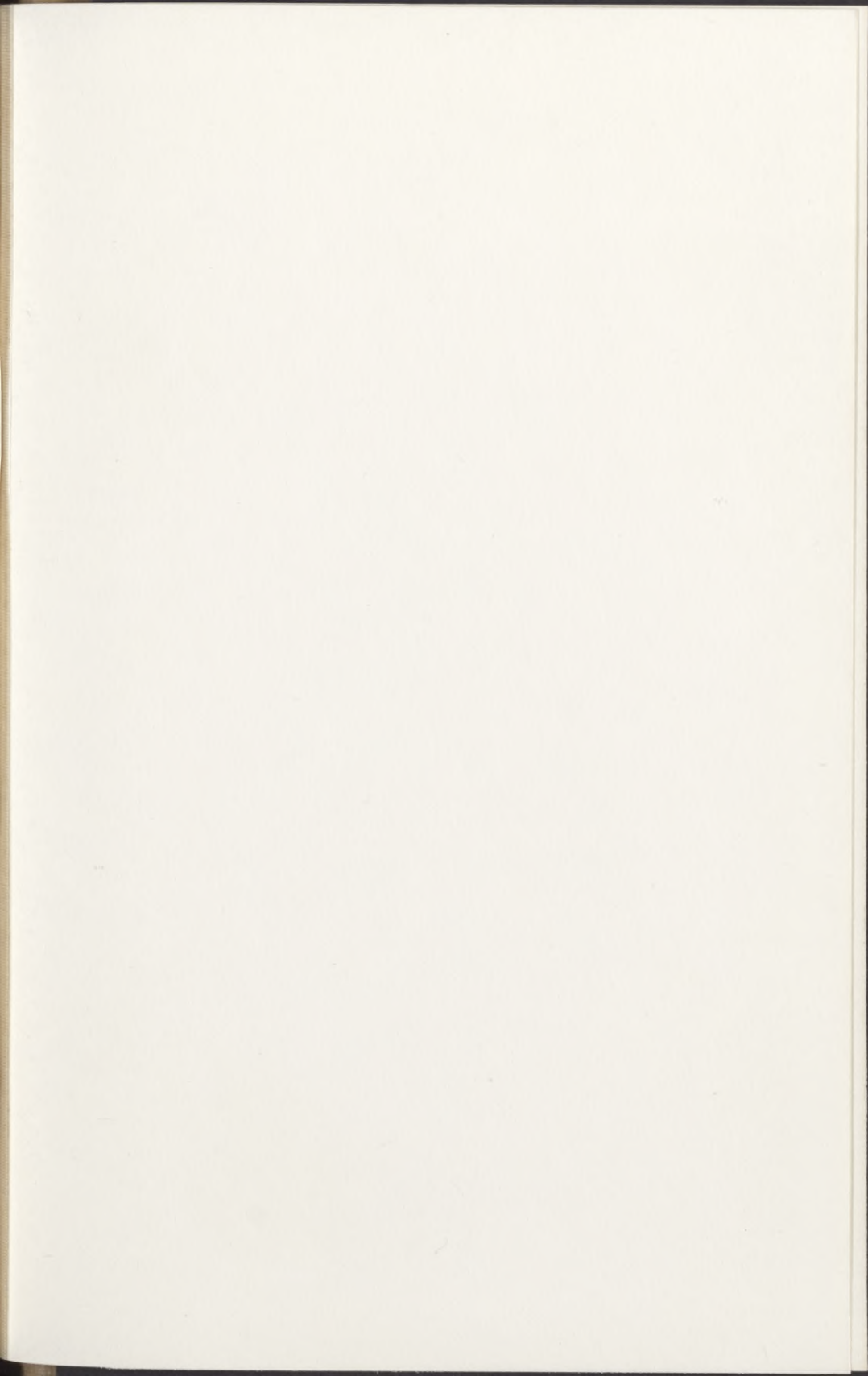
1. "*Discretionary function.*" **Federal Tort Claims Act**, 28 U. S. C. § 2680(a). *United States v. Varig Airlines*, p. 797.

2. "*Legal process regular on its face.*" 42 U. S. C. § 659(f). *United States v. Morton*, p. 822.

WORKERS' COMPENSATION. See **Federal Employees' Compensation Act; Longshoremen's and Harbor Workers' Compensation Act.**



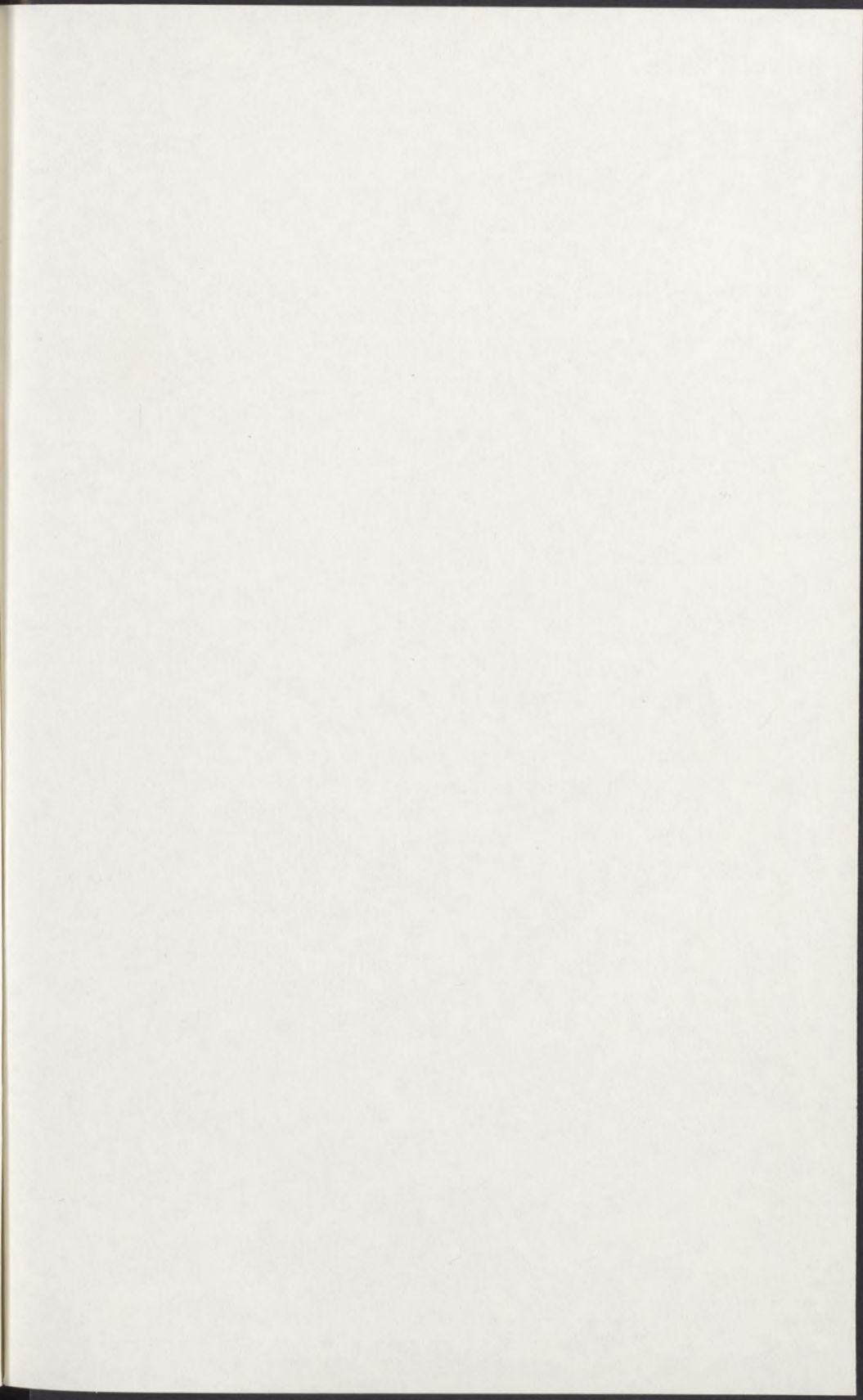




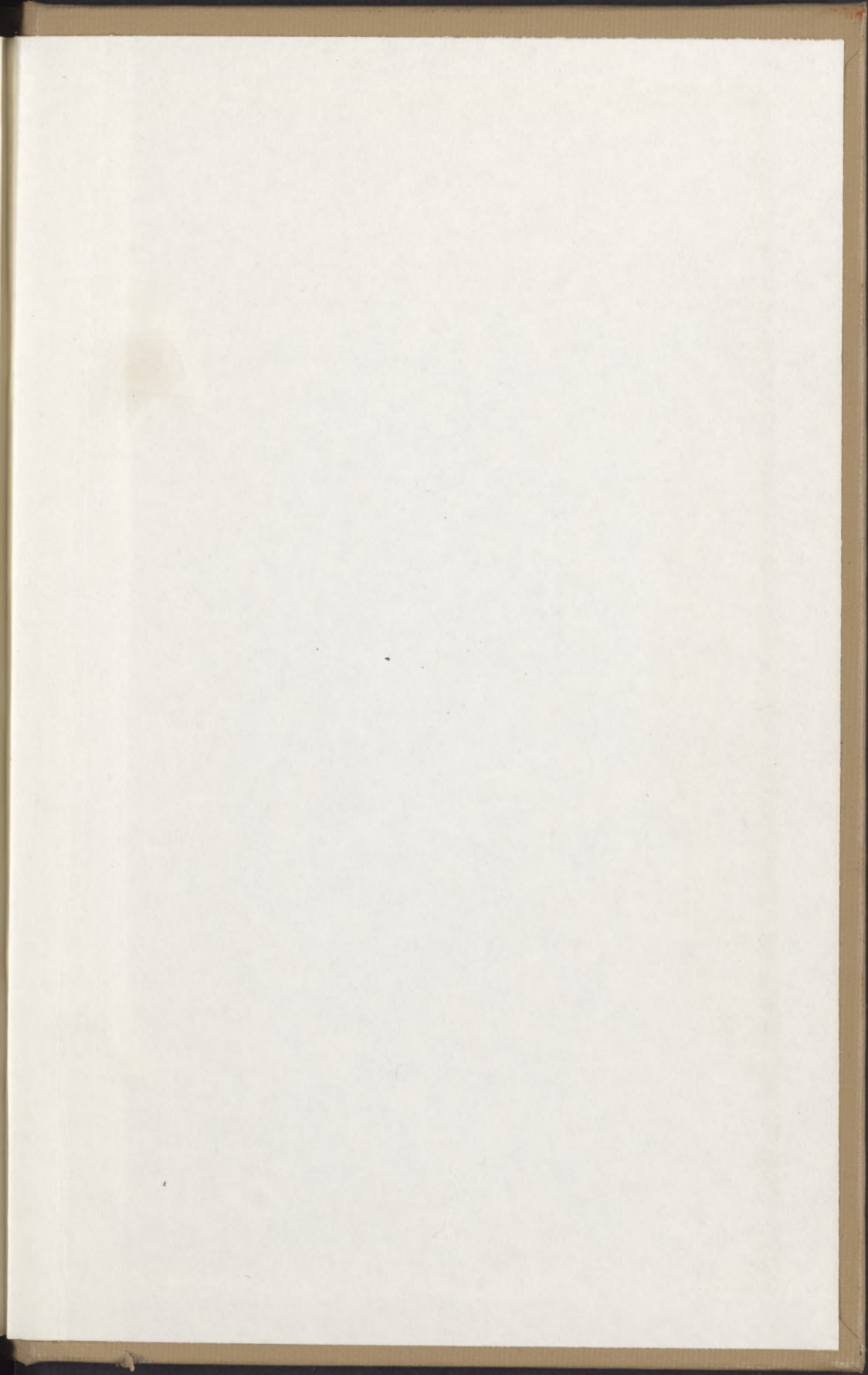












FDLP9577



FDLP9577

IF **FDLP9577** S
607US PW 263754111-000111 RT ID: MD
M -C5-01-2-20-0012-3-01-0' 12057025

SKP:523555717-00002

CUST:52355

NRM

Srv: 10/21 5:00

R

