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2. *Prison disciplinary hearing—Inmate's request to call witnesses—Reasons for denial.*—Due Process Clause does not require that state prison officials' reasons for denying an inmate's request to call witnesses appear in administrative record of a prison disciplinary hearing; but where

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officials' reasons do not appear in administrative record, officials must present testimony as to their reasons in court if deprivation of a prisoner's "liberty" interest, such as that afforded by "good time" credits, is challenged because of refusal to call requested witnesses. *Ponte v. Real*, p. 491.

3. *Restaurant franchise—Breach of agreement—Diversity jurisdiction.*—Where (1) appellant, a Florida corporation conducting a franchise restaurant business, provided in governing contracts that franchise relationship was established in Florida and governed by Florida law and that all fees and notices were to be forwarded to appellant's Florida headquarters, which set policy and worked directly with franchisees in resolving problems, and (2) appellee Michigan resident and another Michigan resident were franchisees and refused to vacate restaurant premises in Michigan after appellant terminated franchise, Due Process Clause was not violated by Federal District Court's exercise of jurisdiction over franchisees pursuant to Florida's long-arm statute in appellant's diversity action for alleged breach of franchise obligations. *Burger King Corp. v. Rudzewicz*, p. 462.

4. *Revocation of probation—Incarceration.*—Due Process Clause does not generally require a sentencing court to indicate that it has considered alternatives to incarceration before revoking probation; procedures required by due process were afforded even though state judge—who, after putting respondent on probation and suspending prison sentences when he pleaded guilty to controlled substances offenses, revoked probation and ordered execution of sentences when respondent was arrested for and charged with felony of leaving scene of an automobile accident—did not explain on record his consideration and rejection of alternatives to incarceration. *Black v. Romano*, p. 606.

IV. Equal Protection of the Laws.

Disenfranchisement of convicts—Alabama law.—Provision of Alabama Constitution disenfranchising persons convicted of certain felonies and misdemeanors, including any crime involving moral turpitude, violated Equal Protection Clause of Fourteenth Amendment, since evidence showed that purpose of provision to discriminate against blacks was "but for" motivation for adopting provision; Tenth Amendment cannot save legislation prohibited by Fourteenth Amendment. *Hunter v. Underwood*, p. 222.

V. Freedom of Speech.

Attorney advertisements—Commercial speech.—Public disciplinary reprimand of appellant attorney for violations of Ohio attorney advertising rules was sustainable to extent reprimand was based on his misleading newspaper advertisement concerning his terms of representation in drunken driving cases and on omission of information from his adver-

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tisement regarding his contingent-fee arrangements for representation of women for injuries resulting from use of a particular contraceptive device; but reprimand violated First Amendment insofar as it was based on appellant's use of an illustration in latter advertisement and his offer of legal advice. *Zauderer v. Office of Disciplinary Counsel of Supreme Court of Ohio*, p. 626.

VI. Right to Grand Jury Indictment.

Allegations—Proof.—Where multicount federal grand jury indictment charging respondent with mail fraud alleged that he defrauded his insurer in connection with a burglary both by consenting to burglary and by lying to insurer about value of his loss, but proof at trial concerned only latter allegation and he was convicted, his Fifth Amendment grand jury right was not violated since crime and elements thereof that sustained conviction were fully and clearly set out in indictment—it normally being immaterial that indictment alleges more crimes or other means of committing same crime. *United States v. Miller*, p. 130.

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1. *Arrests—Fleeing suspect—Deadly force.*—Tennessee statute authorizing use of "necessary" force in effecting arrest of a fleeing suspect is unconstitutional under Fourth Amendment's reasonableness requirement insofar as it authorizes use of deadly force against, as in this case, an apparently unarmed, nondangerous fleeing suspect; such force may not be used unless necessary to prevent escape and officer has probable cause to believe that suspect poses a significant threat of death or serious physical injury to officer or others. *Tennessee v. Garner*, p. 1.

2. *Motor home—Warrantless search.*—Where (1) a law enforcement agent, who had information that respondent's mobile motor home was being used to exchange marihuana for sex, watched respondent approach a youth who accompanied him to vehicle, which was parked in a downtown lot, (2) agents kept vehicle under surveillance, and youth, upon being stopped after leaving vehicle, told them that he had received marihuana in return for allowing respondent sexual contacts, (3) when respondent stepped out of vehicle after youth, at agents' request, knocked on door, one agent, without a warrant or consent, entered vehicle and observed marihuana, (4) a subsequent search of vehicle at police station revealed additional marihuana, and (5) respondent was convicted of a drug offense in a state court after his motion to suppress evidence discovered in vehicle was denied, warrantless search of vehicle did not violate Fourth Amendment. *California v. Carney*, p. 386.

CONTINUING CRIMINAL ENTERPRISE. See **Constitutional Law, II.**

CONTRACEPTIVE DEVICES. See **Constitutional Law, V.**

COPYRIGHTS.

Infringement—“Fair use” doctrine.—Where (1) former President Ford contracted with petitioners to publish his memoirs and gave petitioners exclusive first serial right to license prepublication excerpts, (2) when memoirs were nearing completion, petitioners, as copyright holders, negotiated a licensing agreement with a third party for prepublication excerpting of a portion of manuscript, and (3) an unauthorized source provided unpublished memoirs manuscript to a magazine, which then published an article that included quotes of copyrighted expression taken from manuscript, article was not a “fair use” under § 107 of Copyright Act and constituted a copyright infringement. *Harper & Row, Publishers, Inc. v. Nation Enterprises*, p. 539.

CORPORATION’S ATTORNEY-CLIENT PRIVILEGE. See **Bankruptcy Act.**

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1. *Destruction of apartment building—Federal statute.*—Title 18 U. S. C. § 844(i), which makes it a crime to maliciously destroy or attempt to destroy by means of fire or an explosive “any building . . . used . . . in any activity affecting interstate or foreign commerce,” applied to petitioner’s two-unit apartment building from which he earned rental income. *Russell v. United States*, p. 858.

2. *Food stamp fraud—Defendant’s knowledge.*—In a prosecution for violating 7 U. S. C. § 2024(b)(1), which relates to food stamp fraud and provides that “whoever knowingly . . . acquires . . . or possesses coupons or authorization cards in any manner not authorized by [the statute] or the regulations” is guilty of a crime, Government must prove that defendant knew that his acquisition or possession of food stamps was in such an unauthorized manner. *Liparota v. United States*, p. 419.

3. *Plea bargaining—Government’s obligations in recommending sentence.*—Court of Appeals erred in concluding that Government had breached its plea bargain by not explaining its reasons for its recommended sentence to District Court (which disregarded recommendation) or by failing to show enthusiastic support for leniency, since (1) even assuming that Government, in a particular case, could commit itself to such undertakings, it had not done so here, and (2) Federal Rule of Criminal Procedure 11(e) does not require that such undertakings be implied as a matter of law from Government’s agreement to recommend a particular sentence. *United States v. Benchimol*, p. 453.

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EDUCATION OF THE HANDICAPPED ACT—Continued.

child's placement does not constitute a waiver of parents' right to reimbursement for expenses of private placement. *Burlington School Committee v. Massachusetts Dept. of Ed.*, p. 359.

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affirmed issuance of injunction, noting that it was not finally deciding merits, issue ruled on by Court of Appeals was moot, since petitioners had thereafter complied with terms of injunction. *Honig v. Students of California School for Blind*, p. 148.

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- SCHOOLS.** See *Mootness*.
- SEARCHES AND SEIZURES.** See *Constitutional Law*, VII.
- SECURITIES ACT OF 1933.** See *Securities Regulation*.
- SECURITIES EXCHANGE ACT OF 1934.** See *Securities Regulation*.

SECURITIES REGULATION.

1. *Stock as "security"—"Sale of business" doctrine.*—Where respondent purchased 50% of a company's stock from its president, who previously had owned all of stock, respondent agreed to participate in company's management, but his actions were subject to president's veto, and he subsequently challenged accuracy of representations made to him in connection with his purchase, stock purchased by respondent was a "security" within meaning of antifraud provisions of Securities Act of 1933 and Securities Exchange Act of 1934, and "sale of business" doctrine did not apply. *Gould v. Ruefenacht*, p. 701.

2. *Stock as "security"—"Sale of business" doctrine.*—Where respondents father and sons sold all of stock in family corporation, purchasers formed petitioner company to run business, father agreed to stay on as a consultant to help with business' operation, and petitioner company ultimately went into receivership, stock was a "security" within registration provisions of Securities Act of 1933 and antifraud provisions of Securities Exchange Act of 1934, and "sale of business" doctrine did not apply. *Landreth Timber Co. v. Landreth*, p. 681.

SEISMIC SAFETY STANDARDS. See *Mootness*.

SEWAGE SERVICES. See *Antitrust Acts*, 2.

SEX DISCRIMINATION. See *Civil Rights Act of 1871*, 3.

SHERMAN ACT. See *Antitrust Acts*.

SIXTH AMENDMENT. See *Constitutional Law*, I.

SOCIAL SECURITY ACT.

Medicaid—"Institution for mental diseases."—Under Act's Medicaid provisions and implementing regulations whereby services performed for patients of certain ages in an "institution for mental diseases" (IMD) are not covered for purposes of federal reimbursement payments to a State, an "intermediate care facility" that provides both covered and uncovered services may also be an IMD. *Connecticut Dept. of Income Maintenance v. Heckler*, p. 524.

"STATE ACTION" DOCTRINE. See *Antitrust Acts*.

STATE TAXES ON INDIAN MINERAL LEASES. See *Indian Mineral Leasing Act of 1938*.

STATUTES OF LIMITATIONS. See *Civil Rights Act of 1871*, 2, 3.

STAYS.

Vacation of stay.—Application to vacate Court of Appeals' stay of all proceedings below in Federal District Court and in Crow Tribal Court, pending resolution of merits by this Court, is denied. *National Farmers Union Ins. Cos. v. Crow Tribe* (REHNQUIST, J., in chambers), p. 1301.

STOCK AS "SECURITY." See *Securities Regulation*.

SUPREMACY CLAUSE. See *Public Health Service Act*.

SUPREME COURT.

1. Amendments to Bankruptcy Rules, p. 1147.
2. Amendments to Federal Rules of Civil Procedure, p. 1153.
3. Amendments to Federal Rules of Criminal Procedure, p. 1167.

SUSPENSION OF ALIEN'S DEPORTATION. See *Immigration and Nationality Act*.

TAKING OF PRIVATE PROPERTY. See *Federal Land Policy and Management Act of 1976*.

TAXES. See *Indian Mineral Leasing Act of 1938; Indians*.

TENNESSEE. See *Antitrust Acts, 1; Constitutional Law, VII, 1*.

TENTH AMENDMENT. See *Constitutional Law, IV*.

TRIBAL COURTS. See *Jurisdiction; Stays*.

TRIBAL TAXES. See *Indians*.

TRUSTEES IN BANKRUPTCY. See *Bankruptcy Act*.

TYING AGREEMENTS. See *Antitrust Acts, 2*.

VEHICLE SEARCHES. See *Constitutional Law, VII, 2*.

VOTER QUALIFICATIONS. See *Constitutional Law, IV*.

WAGES AND HOURS. See *Fair Labor Standards Act*.

WAIVER OF CORPORATION'S ATTORNEY-CLIENT PRIVILEGE.
See *Bankruptcy Act*.

WISCONSIN. See *Antitrust Acts, 2; Labor Management Relations Act*.

WORDS AND PHRASES.

- 1. "*Enterprise*." *Fair Labor Standards Act, 29 U. S. C. § 203(r)*. *Tony & Susan Alamo Foundation v. Secretary of Labor*, p. 290.
2. "*Intelligence sources*." § 102(d)(3), *National Security Act of 1947, 50 U. S. C. § 403(d)(3)*. *CIA v. Sims*, p. 159.
3. "*Law of any State which regulates insurance*." § 514(b)(2)(A), *Employee Retirement Income Security Act of 1974, 29 U. S. C. § 1144(b)(2)(A)*. *Metropolitan Life Ins. Co. v. Massachusetts*, p. 724.
4. "*Security*." § 2(1), *Securities Act of 1933, 15 U. S. C. § 77(b)(1)*; § 3(a)(10), *Securities Exchange Act of 1934, 15 U. S. C. § 78c(a)(10)*. *Landreth Timber Co. v. Landreth*, p. 681; *Gould v. Rufenacht*, p. 701.

















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