

INDEX

ABORTIONS. See **Constitutional Law**, VI, 4; **Stays**.

ADMINISTRATIVE PROCEDURE ACT.

Benefits claims—Labor Department rule—Burden of persuasion.—Labor Department's "true doubt" rule, which shifts burden of persuasion to party opposing a claim for benefits under Black Lung Benefits Act or Longshore and Harbor Workers' Compensation Act when evidence is equally balanced, violates §7(c) of APA. *Director, Office of Workers' Compensation Programs v. Greenwich Collieries*, p. 267.

ADMISSION OF EVIDENCE. See **Evidence**.

ADVERTISING BY ATTORNEYS. See **Constitutional Law**, VI, 3.

ANTI-DRUG ABUSE ACT OF 1988.

Capital defendants—Right to qualified counsel in habeas corpus proceedings.—A capital defendant need not file a formal habeas petition in order to invoke Act's right to qualified legal representation in federal habeas proceedings and to establish a federal court's jurisdiction to stay execution. *McFarland v. Scott*, p. 849.

APPORTIONMENT. See **Voting Rights Act of 1965**, 2.

ARBITRATION. See **Labor**.

ATTORNEY ADVERTISING. See **Constitutional Law**, VI, 3.

BENEFITS CLAIMS. See **Administrative Procedure Act**.

BLACK LUNG BENEFITS ACT. See **Administrative Procedure Act**.

BUILDING PERMITS. See **Constitutional Law**, IV.

BURDEN OF PERSUASION. See **Administrative Procedure Act**.

CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992. See **Constitutional Law**, VI, 1.

CALIFORNIA. See **Conflict of Laws**; **Constitutional Law**, I, 1; **Labor**; **Taxes**.

CAPITAL MURDER. See **Anti-Drug Abuse Act of 1988**; **Constitutional Law**, I; III, 1.

CERTIFIED FINANCIAL PLANNER. See **Constitutional Law**, VI, 3.

CERTIFIED PUBLIC ACCOUNTANT. See **Constitutional Law**, VI, 3.

CIGARETTE TAXES. See **Indian Trader Statutes**.

CIVIL RIGHTS ACT OF 1871. See also **Labor**.

Damages for alleged unlawful conviction.—In order to recover damages for an allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a plaintiff bringing suit under 42 U. S. C. § 1983 must prove that conviction or sentence has been reversed on appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus. *Heck v. Humphrey*, p. 477.

COLLECTIVE-BARGAINING AGREEMENTS. See **Railway Labor Act**.

COMMERCE CLAUSE. See **Constitutional Law**, II; **Taxes**.

COMMERCIAL SPEECH. See **Constitutional Law**, VI, 3.

COMMUNICATIONS.

Long distance telephone carriers—Tariff filing.—Federal Communications Commission's decision to make tariff filing optional for all nondominant long distance telephone carriers is not a valid exercise of its power to "modify" any requirements of 47 U. S. C. § 203. *MCI Telecommunications Corp. v. American Telephone & Telegraph Co.*, p. 218.

COMPULSORY SELF-INCRIMINATION. See **Constitutional Law**, VII.

CONFLICT OF LAWS.

Tort liability—Rule of decision to be applied in federal court.—In a suit by Federal Deposit Insurance Corporation as receiver of a California savings and loan, California rule of decision, rather than a federal common-law rule, governed tort liability of attorneys who provided services to bank. *O'Melveny & Myers v. FDIC*, p. 79.

CONSTITUTIONAL LAW. See also **Civil Rights Act of 1871**; **Taxes**.

I. Cruel and Unusual Punishment.

1. *Capital murder—Penalty-phase factors.*—Factors—facts of crime, use of force or violence, and defendant's age—that two California juries considered during penalty phase of petitioners' capital murder trials are not unconstitutionally vague under Cruel and Unusual Punishments Clause. *Tuilaepa v. California*, p. 967.

CONSTITUTIONAL LAW—Continued.

2. *Death penalty—Admission of evidence of prior death sentence—Due process.*—Admission of evidence regarding Romano's prior death sentence at sentencing phase of subsequent state-court trial for first-degree murder did not amount to constitutional error under Eighth and Fourteenth Amendments. *Romano v. Oklahoma*, p. 1.

II. Discrimination Against Interstate Commerce.

Milk pricing order.—A Massachusetts pricing order, which subjects fluid milk sold by dealers to retailers to an assessment that is funded through dealers' "premium payments" and distributed to in-state dairy farmers, unconstitutionally discriminates against interstate commerce. *West Lynn Creamery, Inc. v. Healy*, p. 186.

III. Due Process.

1. *Death penalty—Jury instructions.*—South Carolina Supreme Court's decision that due process was not violated by trial court's refusal to instruct sentencing jury in petitioner's capital murder trial that he was parole ineligible if sentenced to life imprisonment is reversed. *Simmons v. South Carolina*, p. 154.

2. *Estate taxes—Retroactive application of Internal Revenue Code amendment.*—Because retroactive application of 1987 amendment to 26 U. S. C. § 2057—which limited availability of estate tax deduction for proceeds of stock sales to employee stock-ownership plans—is rationally related to a legitimate legislative purpose, amendment, as applied to Carlton's 1986 transactions, is consistent with Due Process Clause. *United States v. Carlton*, p. 26.

3. *Punitive damages awards—Judicial review.*—Oregon's denial of judicial review of size of punitive damages awards violates Fourteenth Amendment's Due Process Clause. *Honda Motor Co. v. Oberg*, p. 415.

IV. Eminent Domain.

Conditions on building permit—Dedication of private land for public use.—Conditioning city's approval of petitioner's building permit on dedication of part of her land to a pedestrian/bicycle pathway and part to a public greenway constitutes an unconstitutional taking of property. *Dolan v. City of Tigard*, p. 374.

V. Establishment of Religion.

School district—Boundaries coextensive with religious group's village.—New York's special law creating a school district coextensive with boundaries of a village inhabited exclusively by practitioners of a strictly observant form of Judaism violates First Amendment's Establishment Clause. *Board of Ed. of Kiryas Joel Village School Dist. v. Grumet*, p. 687.

CONSTITUTIONAL LAW—Continued.**VI. Freedom of Speech.**

1. *Cable Television Consumer Protection and Competition Act of 1992—Must-carry provisions.*—District Court order granting appellants summary judgment and finding Act's must-carry provisions consistent with First Amendment is vacated. *Turner Broadcasting System, Inc. v. FCC*, p. 622.

2. *City ordinance—Ban on residential signs.*—City's ordinance, which bans almost all residential signs, violates a *Ladue* resident's right to free speech. *City of Ladue v. Gilleo*, p. 43.

3. *Commercial speech—Law practice advertising.*—Respondent Accountancy Board's decision to censure attorney for using designations "Certified Public Accountant" and "Certified Financial Planner" in her law practice advertising and other communication is incompatible with First Amendment. *Ibanez v. Florida Dept. of Business and Professional Regulation, Bd. of Accountancy*, p. 136.

4. *State-court injunction—Restriction on abortion clinic protests.*—A content-neutral, state-court injunction restricting abortion clinic protests is valid in part and invalid in part under applicable First Amendment standard: whether it burdens no more speech than necessary to serve a significant government interest. *Madsen v. Women's Health Center, Inc.*, p. 753.

VII. Privilege Against Self-Incrimination.

Waiver of Miranda rights—Request for an attorney.—After a knowing and voluntary waiver of rights under *Miranda v. Arizona*, 384 U. S. 436, law enforcement officers may continue questioning until and unless suspect clearly requests an attorney. *Davis v. United States*, p. 452.

VIII. Right to Jury Trial.

Contempt fines—Violations of strike injunction.—Serious contempt fines imposed on a union for violations of a strike injunction were criminal and constitutionally could be imposed only through a jury trial. *Mine Workers v. Bagwell*, p. 821.

CONTEMPT FINES. See **Constitutional Law**, VIII.

CORPORATE INCOME TAXES. See **Taxes**.

COUNTY COMMISSION ELECTIONS. See **Voting Rights Act of 1965**, 1.

CRIMINAL LAW. See **Anti-Drug Abuse Act of 1988**; **Constitutional Law**, I; VII; VIII; **Evidence**; **Habeas Corpus**; **Jury Instructions**.

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

DAMAGES. See **Civil Rights Act of 1871; Constitutional Law, III, 3.**

DEATH PENALTY. See **Constitutional Law, I; III, 1.**

DEDICATION OF PRIVATE LAND FOR PUBLIC USE. See **Constitutional Law, IV.**

DETAINERS. See **Habeas Corpus.**

DISABILITY BENEFITS. See **Administrative Procedure Act.**

DISCHARGE OF EMPLOYEES. See **Railway Labor Act.**

DISCRIMINATION AGAINST FOREIGN COMMERCE. See **Taxes.**

DISCRIMINATION AGAINST INTERSTATE COMMERCE. See **Constitutional Law, II; Taxes.**

DISCRIMINATION ON BASIS OF RACE. See **Voting Rights Act of 1965, 2.**

DRUGS. See **Anti-Drug Abuse Act of 1988.**

DUE PROCESS. See **Constitutional Law, I, 2; III; Taxes.**

DUTY TO WARN. See **Longshore and Harbor Workers' Compensation Act.**

EDUCATIONAL EXPENSES AS REIMBURSABLE MEDICARE COSTS. See **Social Security.**

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

ELECTIONS. See **Voting Rights Act of 1965.**

EMINENT DOMAIN. See **Constitutional Law, IV.**

EMOTIONAL DISTRESS. See **Federal Employers' Liability Act.**

EMPLOYER AND EMPLOYEES. See **Administrative Procedure Act; Federal Employers' Liability Act; Labor; Railway Labor Act.**

ESTABLISHMENT OF RELIGION. See **Constitutional Law, V.**

ESTATE TAXES. See **Constitutional Law, III, 2.**

EVIDENCE.

Federal Rules of Evidence—Admission of hearsay—Statements against penal interest.—Rule 804(b)(3)'s hearsay exception for statements against penal interest does not allow admission of non-self-inculpatory

EVIDENCE—Continued.

statements, even those made within a broader narrative that is generally self-inculpatory. *Williamson v. United States*, p. 594.

FEDERAL EMPLOYERS' LIABILITY ACT.

Negligent infliction of emotional distress—Standard for evaluation of claims.—Common-law “zone of danger” test is proper standard for evaluating FELA claims for negligent infliction of emotional distress. *Consolidated Rail Corporation v. Gottshall*, p. 532.

FEDERAL RULES OF EVIDENCE. See **Evidence**.

FEDERAL-STATE RELATIONS. See **Constitutional Law**, II; **Indian Trader Statutes**; **Railway Labor Act**.

FEDERAL TAXES. See **Constitutional Law**, III, 2.

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

FINES. See **Constitutional Law**, VIII.

FIRST AMENDMENT. See **Constitutional Law**, V; VI.

FIRST-DEGREE MURDER. See **Constitutional Law**, I.

FLORIDA. See **Constitutional Law**, VI, 3; **Voting Rights Act of 1965**, 2.

FOREIGN COMMERCE. See **Taxes**.

FOURTEENTH AMENDMENT. See **Constitutional Law**, I, 2; III, 1, 3; IV.

FREEDOM OF SPEECH. See **Constitutional Law**, VI.

GEORGIA. See **Voting Rights Act of 1965**, 1.

HABEAS CORPUS. See also **Anti-Drug Abuse Act of 1988**.

Detainer—Speedy trial.—A state court’s failure to observe Interstate Agreement on Detainers’ Article IV(c) speedy trial rule is not cognizable under 28 U. S. C. § 2254, where defendant did not object to his trial date when it was set and suffered no prejudice from delay. *Reed v. Farley*, p. 339.

HEARSAY. See **Evidence**.

HOSPITAL MEDICARE REIMBURSEMENT. See **Social Security**.

HYDE AMENDMENT. See **Stays**.

INCOME TAXES. See **Taxes**.

INCULPATORY STATEMENTS. See **Evidence**.

INDIAN TRADER STATUTES.

State cigarette taxes—Pre-emption.—State regulations—which impose recordkeeping requirements and quotas on quantity of untaxed cigarettes wholesalers can sell to Indian tribes in order to prevent non-Indians from escaping tax by purchasing such cigarettes—do not violate federal Indian Trader Statutes. Department of Taxation and Finance of N. Y. v. Milhelm Attea & Bros., p. 61.

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

INSANITY DEFENSE REFORM ACT OF 1984. See **Jury Instructions**.

INTERNAL REVENUE CODE. See **Constitutional Law**, III, 2.

INTERSTATE AGREEMENT ON DETAINERS. See **Habeas Corpus**.

INTERSTATE COMMERCE. See **Constitutional Law**, II; **Taxes**.

JUDICIAL REVIEW OF PUNITIVE DAMAGES AWARDS. See **Constitutional Law**, III, 3.

JURIES. See also **Constitutional Law**, I, 1; III, 1; VIII.

Instructions—Federal criminal charges—Consequences of a verdict of “not guilty by reason of insanity.”—A federal district court is not required to instruct a jury as to consequences to defendant of a verdict of not guilty by reason of insanity, either under Insanity Defense Reform Act of 1984 or as a matter of general federal criminal practice. Shannon v. United States, p. 573.

LABOR. See also **Administrative Procedure Act**; **Constitutional Law**, VIII; **Railway Labor Act**.

National Labor Relations Act—State-law wage and penalty claims—Pre-emption.—California’s refusal to enforce state-law wage and penalty claims by employees subject to a labor agreement containing an arbitration clause abridges employees’ federal NLRA rights and is pre-empted, and they may seek relief under 42 U.S.C. § 1983. Livadas v. Bradshaw, p. 107.

LATENT DEFECTS IN SHIP’S CARGO AREAS. See **Longshore and Harbor Workers’ Compensation Act**.

LEGAL REPRESENTATION. See **Anti-Drug Abuse Act of 1988**.

LONG DISTANCE TELEPHONE CARRIERS. See **Communications**.

LONGSHORE AND HARBOR WORKERS’ COMPENSATION ACT.
See also **Administrative Procedure Act**.

Latent defects—Duty to warn.—Under §5 of Act, a vessel’s duty to warn of latent defects in cargo stow and cargo area does not require vessel

LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT—

Continued.

to supervise loading stevedore's operations or to inspect completed stow.
Howlett v. Birkdale Shipping Co., p. 92.

LOUISIANA. See **Stays.**

MASSACHUSETTS. See **Constitutional Law**, II.

MEDICAID. See **Stays.**

MEDICAL SCHOOLS. See **Social Security.**

MEDICARE. See **Social Security.**

MILK PRICES. See **Constitutional Law**, II.

MIRANDA RIGHTS. See **Constitutional Law**, VII.

MURDER. See **Anti-Drug Abuse Act of 1988**; **Constitutional Law**,
I; III, 1.

MUST-CARRY RULES. See **Constitutional Law**, VI, 1.

NATIONAL LABOR RELATIONS ACT. See **Labor.**

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS. See **Fed-
eral Employers' Liability Act.**

NEW YORK. See **Constitutional Law**, V; **Indian Trader Statutes.**

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

OREGON. See **Constitutional Law**, III, 3.

PRE-EMPTION OF STATE LAW. See **Indian Trader Statutes**; **Labor.**

PRIVATE PROPERTY TAKEN FOR PUBLIC USE. See **Constitu-
tional Law**, IV.

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

PROPERTY RIGHTS. See **Constitutional Law**, IV.

PROTESTS. See **Constitutional Law**, VI, 4.

PROVIDER REIMBURSEMENT. See **Social Security.**

PUBLIC FUNDS FOR ABORTIONS. See **Stays.**

PUNITIVE DAMAGES. See **Constitutional Law**, III, 3.

RACIAL BLOC VOTING. See **Voting Rights Act of 1965**, 2.

RACIAL DISCRIMINATION. See **Voting Rights Act of 1965**, 2.

RAILWAY LABOR ACT.

Pre-emption of wrongful discharge action.—Act does not pre-empt state-law wrongful discharge actions that are independent of a collective-bargaining agreement. *Hawaiian Airlines, Inc. v. Norris*, p. 246.

REAPPORTIONMENT. See **Voting Rights Act of 1965**, 2.

REIMBURSEMENT UNDER MEDICARE. See **Social Security**.

RETROACTIVITY OF FEDERAL LAWS. See **Constitutional Law**, III, 2.

RIGHT TO COUNSEL. See **Anti-Drug Abuse Act of 1988**.

RIGHT TO JURY TRIAL. See **Constitutional Law**, VIII.

RIGHT TO REMAIN SILENT. See **Constitutional Law**, VII.

RULES OF DECISION. See **Conflict of Laws**.

SAVINGS AND LOANS. See **Conflict of Laws**.

SCHOOL DISTRICT BOUNDARIES. See **Constitutional Law**, V.

SECTION 2. See **Voting Rights Act of 1965**.

SECTION 1983. See **Civil Rights Act of 1871; Labor**.

SELF-INCRIMINATION. See **Constitutional Law**, VII; **Evidence**.

SELF-INCULPATORY STATEMENTS. See **Evidence**.

SENTENCING. See **Constitutional Law**, I.

SIGNAGE BANS. See **Constitutional Law**, VI, 2.

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

SOCIAL SECURITY. See also **Stays**.

Medicare—Reimbursement—Hospital educational costs.—Secretary of Health and Human Services' interpretation of 42 CFR §413.85(c) to forbid reimbursement to hospitals for educational costs that were borne in prior years by requesting hospital's affiliated medical school is a reasonable construction of regulatory language. *Thomas Jefferson Univ. v. Shalala*, p. 504.

SOUTH CAROLINA. See **Constitutional Law**, III, 1.

SPEEDY TRIALS. See **Habeas Corpus**.

STATEMENTS AGAINST PENAL INTEREST. See **Evidence**.

STATE TAXES. See **Indian Trader Statutes; Taxes**.

STAYS.

State abortion restriction inconsistent with Hyde Amendment.—Louisiana officials’ request for a stay of a District Court order enjoining them from enforcing a state law—which prohibits use of public funds for abortion except where necessary to prevent mother’s death—on ground that it is inconsistent with Hyde Amendment requirement that Medicaid fund abortions for women who conceived by acts of rape or incest, is denied. *Edwards v. Hope Medical Group for Women* (SCALIA, J., in chambers), p. 1301.

STEVEDORE OPERATIONS. See **Longshore and Harbor Workers’ Compensation Act.**

SUPREME COURT.

1. Retirement of JUSTICE BLACKMUN, p. VII.
2. Appointment of JUSTICE BREYER, p. XI.
3. Retirement of Alfred Wong as Marshal, p. xv.
4. Appointment of Dale E. Bosley as Marshal, p. xv.
5. Term statistics, p. 1304.

TAKING OF PRIVATE PROPERTY FOR PUBLIC USE. See **Constitutional Law**, IV.

TARIFF FILINGS. See **Communications.**

TAXES. See also **Constitutional Law**, III, 2; **Indian Trader Statutes.**

State corporate income tax—Constitutionality.—California’s corporate income tax, determined using a worldwide reporting scheme, is not unconstitutional under Due Process Clause or Commerce Clause when applied to foreign-based multinational corporations or to domestic corporations’ income earned outside country. *Barclays Bank PLC v. Franchise Tax Board of Cal.*, p. 298.

TELEPHONES. See **Communications.**

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

TRIALS. See **Habeas Corpus.**

“TRUE DOUBT” RULE. See **Administrative Procedure Act.**

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

VOTING RIGHTS ACT OF 1965.

1. *Vote dilution—County commission election.*—Court of Appeals’ order that practice in Bleckley County, Georgia, of electing a single county commissioner, rather than a multimember board of commissioners, is sub-

VOTING RIGHTS ACT OF 1965—Continued.

ject to challenge as dilutive under §2 of Act is reversed. *Holder v. Hall*, p. 874.

2. *Vote dilution—Reapportionment scheme.*—Section 2 was not violated where, in spite of continuing discrimination and racial bloc voting in Florida, minority voters formed effective voting majorities in a number of districts roughly proportional to their respective shares in voting-age population. *Johnson v. De Grandy*, p. 997.

WAGE CLAIMS. See **Labor.**

WAIVER OF *MIRANDA* RIGHTS. See **Constitutional Law**, VII.

WRONGFUL DISCHARGE. See **Railway Labor Act.**

“ZONE OF DANGER” TEST. See **Federal Employers’ Liability Act.**