

7 Summary of California Law (10th), Constitutional Law

I. THE FEDERAL SYSTEM

A. Limited Powers of Federal Government.

1. [§1] Source of Federal Powers.
2. Reserved Powers of States.
 - (a) [§2] In General.
 - (b) Regulation of State Employees.
 - (1) [§3] Former Rule.
 - (2) [§4] Valid Regulation.
 - (3) [§5] Invalid Regulation.
 - (c) [§6] No Requirement That State Officials Administer Federal Law.
 - (d) [§7] Regulation of State Utilities.

B. Relations Between States and Federal Government.

1. Federal Supremacy.
 - (a) Conflicting State Law Is Invalid.
 - (1) [§8] Constitutional Principle.
 - (2) [§9] Questions Involved.
 - (3) Substantive Civil Law.
 - (aa) [§10] Arbitration.
 - (bb) [§11] Aviation.
 - (cc) [§12] Banking.
 - (dd) [§13] Bankruptcy.
 - (ee) [§14] Employee Retirement Income Security Act.
 - (ff) [§15] Environmental Legislation.
 - (gg) [§16] Foreign Affairs.
 - (hh) [§17] Labor Relations.
 - (ii) [§18] Telecommunications.
 - (jj) [§19] Other Subjects.
 - (b) When State Law Will Be Upheld.
 - (1) [§20] General Principles.
 - (2) Where No Conflict Exists.
 - (aa) [§21] U.S. Supreme Court.
 - (bb) [§22] California Supreme Court.
 - (cc) [§23] California Courts of Appeal.
 - (3) [§24] Federal Authorization.
 - (c) [§25] State Court Must Apply Federal Law.
2. [§26] Interference With Governmental Functions.
3. Enclave: Federal Territory Within State.
 - (a) [§27] Federal Jurisdiction.
 - (b) [§28] Reserved State Jurisdiction.
 - (c) [§29] Retrocession.
4. [§30] Full Faith and Credit to Judgments.

C. Relations Between States.

1. Full Faith and Credit Clause.

- (a) **§31 In General.**
- (b) **§32 Choice of Law Questions.**
- (c) **State Statutes.**
 - (1) **§33 Right of Action.**
 - (2) **§34 Substantive Defense.**
- (d) **State Judgments.**
 - (1) **§35 General Principle.**
 - (2) **§36 Public Policy Exception.**
 - (3) **§37 Necessity of Jurisdiction.**
 - (4) **§38 No Greater Effect Than in State of Rendition.**
 - (5) **§39 Judgment Barred by Limitations.**
 - (6) **§40 Penal and Tax Judgments.**

2. Actions Against States.

- (a) **§41 In General.**
- (b) **Action Authorized by Federal Statute.**
 - (1) **§42 Former Rule.**
 - (2) **§43 Fourteenth Amendment.**
 - (3) **§44 Family and Medical Leave Act.**
 - (4) **§44A (New) Americans With Disabilities.**
- (c) **Action Not Authorized by Federal Statute.**
 - (1) **§45 In General.**
 - (2) **§46 Indian Gaming.**
 - (3) **§47 Patent and Trademark.**
 - (4) **§48 Fair Labor Standards.**
 - (5) **§49 Age Discrimination.**
 - (6) **§50 Americans With Disabilities.**
- (d) **§51 Action in State Court.**
- (e) **Action Against State Officer or Agency.**
 - (1) **§52 In General.**
 - (2) **§53 Action To Recover Money.**
 - (3) **§54 Action To Compel Future Act or Expenditure.**
 - (4) **§55 Action For Injunctive or Declaratory Relief.**
 - (5) **§56 Action To Compel Compliance With State Law.**

D. Diversity Jurisdiction: Rules of Decision Act.

1. In General.

- (a) **§57 Nature of Diversity Jurisdiction.**
- (b) **§58 Erie Doctrine.**
- (c) **§59 Determination of State Law.**

2. Procedure.

- (a) **§60 In General.**
- (b) **§61 Capacity To Sue.**
- (c) **§62 Statute of Limitations.**

3. §63 Conflict of Laws.

4. Federal Statute or Policy.

(a) [§64] Case Involving Federal Statute.

(b) [§65] Case Involving Federal Policy.

E. [§66] Interstate Compacts and Reciprocal Agreements.

II. NATURE AND SCOPE OF CONSTITUTIONAL LAW

A. Constitution of California.

1. [§67] History.

2. [§68] Restrictive and Enabling Provisions.

3. [§69] Self-Executing Provisions.

B. Amendment of Constitutions.

1. [§70] Federal Constitution.

2. California Constitution.

(a) [§71] In General.

(b) [§72] No Revision by Initiative.

(c) [§72A] (New) Standing To Defend Initiative.

C. Power To Declare Laws Unconstitutional.

1. In General.

(a) [§73] Origin and Nature of Power.

(b) [§74] Administrative Agency Cannot Exercise Power.

(c) [§75] Presumption of Validity.

2. Standing: Interest of Party Attacking Constitutionality.

(a) In General.

(1) [§76] Nature of Standing Requirement.

(2) [§77] Standing Not Shown.

(3) [§78] Standing Shown.

(b) [§79] First Amendment Challenge.

(c) [§80] State or Local Taxpayer.

(d) [§81] Federal Taxpayer.

(e) Member of Injured Class.

(1) [§82] General Rule and Warth Test.

(2) [§83] California Test.

(3) [§84] Class Member Unable To Challenge Law.

(4) [§85] Complainant Injured by Law.

(5) [§86] Challenge by State, Subdivision, or Court.

3. Political Questions.

(a) [§87] General Rule.

(b) [§88] Illustrations.

4. Case or Controversy Requirement in Federal Courts.

(a) [§89] Constitutional Limitation.

(b) [§90] Jurisdiction Rejected.

(c) [§91] Jurisdiction Accepted.

5. Abstention: Where Decision on Constitutionality Is Unnecessary.

(a) [§92] Abstention Doctrine.

(b) [§93] Pullman Abstention.

(c) [§94] Younger Abstention.

(d) [§95] Burford Abstention.

(e) Exceptions.

- (1) [§96] In General.
 - (2) [§97] Absence of Pending Proceeding in State Court.
 - 6. Methods of Raising Constitutionality.
 - (a) Injunction.
 - (1) [§98] In General.
 - (2) [§99] Limitations on Federal Injunction of State Law.
 - (b) [§100] Declaratory Relief and Quiet Title.
 - (c) Extraordinary Writs and Appeal.
 - (1) [§101] In General.
 - (2) Challenge to Proposed Legislation.
 - (aa) [§102] In General: No Relief.
 - (bb) [§103] Invalid Initiative.
 - 7. [§104] Waiver of Constitutional Right.
 - 8. [§105] Effect of Determination of Unconstitutionality.
 - 9. Partial Unconstitutionality and Severability.
 - (a) [§106] In General.
 - (b) [§107] Severability Clause.
 - (c) [§108] Construction To Avoid Unconstitutionality.
 - 10. State Constitutional Protection (Independent Grounds).
 - (a) [§109] Nature of Doctrine.
 - (b) [§110] Commentary.
 - (c) [§111] Specification of State Grounds.
- D. Interpretation of Constitutions and Statutes.
 - 1. In General.
 - (a) [§112] Federal and State Courts.
 - (b) [§113] Strict or Liberal Construction of Constitution.
 - (c) [§114] Commentary.
 - 2. Rules for Interpretation of Statutes.
 - (a) [§115] In General.
 - (b) [§116] Initiative and Referendum Powers.
 - (c) [§117] Conflicting Statutes.
 - (d) [§118] Construction in Favor of Constitutionality.
 - (e) [§119] Facial Challenge.
 - (f) [§120] Disregarding Words To Avoid Absurdity.
 - (g) [§121] Plain Meaning and Other Particular Rules.
 - (h) [§122] Application of Rules.
 - 3. Aids to Interpretation.
 - (a) [§123] In General.
 - (b) Legislative History.
 - (1) [§124] In General.
 - (2) [§125] Sources of Legislative History.
 - (c) [§126] Statement of Legislative Findings or Intent.
 - (d) [§127] Contemporaneous Administrative Construction.
 - (e) [§128] Distinction: No Extrinsic Evidence Where Statute Is Clear.

- E. Title and Subject of Statute.**
 - 1. [§129] Descriptive Title.
 - 2. [§130] Reenactment Requirement.
 - 3. Single Subject Rule.
 - (a) [§131] In General.
 - (b) [§132] Rule Violated.
 - (c) [§133] Rule Not Violated.

- F. Uncertainty: Void for Vagueness.**
 - 1. [§134] Criminal Statutes.
 - 2. [§135] Civil Statutes.
 - 3. [§136] Rules.

III. SEPARATION OF POWERS

- A. In General.**
 - 1. [§137] Nature of Doctrine.
 - 2. [§138] Exceptions and Distinctions.
 - 3. [§139] Standing and Case-or-Controversy Requirement.
- B. Judicial Power.**
 - 1. Judicial Power Is in Courts.
 - (a) The Judiciary.
 - (1) [§140] In General.
 - (2) [§141] Compelling Payment of Judgment Against Executive.
 - (b) [§142] Executive or Administrative Officers.
 - (c) The Legislature.
 - (1) [§143] In General.
 - (2) [§144] Statutes Abrogating or Interpreting Prior Law.
 - 2. Delegation of Judicial Power.
 - (a) [§145] In General.
 - (b) [§146] Valid Administrative Adjudication.
- C. Legislative Power.**
 - 1. Legislative Power Is in Legislature.
 - (a) [§147] In General.
 - (b) [§148] Court Cannot Compel Legislative Action.
 - (c) [§149] Court Cannot Inquire Into Legislative Motivation.
 - (d) Speech or Debate Clause.
 - (1) [§150] Nature of Immunity.
 - (2) [§151] No Immunity for Nonlegislative Activities.
 - (e) [§152] Qualifications of Members of Legislature.
 - 2. Initiative and Referendum.
 - (a) In General.
 - (1) [§153] Constitutional Authorization.
 - (2) [§154] Statutory Procedure.
 - (3) [§155] Initiative.
 - (4) [§156] Referendum.
 - (5) [§157] Alternative and Complementary Measures.

- (6) [§158] Amendment and Repeal.
 - (b) Exceptions to Initiative and Referendum Powers.
 - (1) [§159] Urgency, Elections, and Tax Matters.
 - (2) [§160] Matters of Statewide Concern.
 - (3) [§161] Administrative Action.
 - (4) [§162] Legislature's Constitutional Power Over Internal Affairs.
 - (5) [§163] Measure Identifying Person or Corporation.
 - 3. Legislative Investigations.
 - (a) [§164] Congressional Investigating Committees.
 - (b) [§165] State and Municipal Investigating Committees.
 - 4. Delegation of Legislative Power.
 - (a) [§166] In General.
 - (b) [§167] Express Standards.
 - (c) [§168] Implied Standards.
 - (d) [§169] Adequate Safeguards Doctrine.
 - 5. [§170] Legislative Veto.
- D. Executive Power.**
- 1. [§171] In General.
 - 2. [§172] Appointment Power.
 - 3. [§173] Veto.
 - 4. [§174] Invalid Delegation of Executive Power.
 - 5. [§175] Judicially Appointed Special Prosecutor.
 - 6. [§176] No Stay of Private Action.

IV. FUNDAMENTAL RIGHTS GENERALLY

A. In General.

- 1. Restrictions on Federal and State Power.
 - (a) [§177] Federal Constitution.
 - (b) [§178] California Constitution.
 - (c) [§179] Classification of Rights.
- 2. [§180] Right To Petition Government.
- 3. [§181] Right To Bear Arms.

B. Citizenship.

- 1. [§182] Citizenship by Birth.
- 2. Citizenship by Naturalization.
 - (a) Immigration.
 - (1) [§183] In General.
 - (2) [§184] Scope of Power.
 - (3) [§185] Marriage Fraud Act.
 - (4) [§186] Detention of Juvenile Aliens.
 - (5) [§187] Political Asylum for Refugees.
 - (6) [§188] Employment of Unauthorized Aliens.
 - (b) Naturalization.
 - (1) [§189] In General.
 - (2) Eligibility.
 - (aa) [§190] In General.

- (bb) [§191] Moral Character.
- (cc) [§192] Military Service.

3. Denaturalization.

- (a) [§193] In General.
- (b) [§194] Proof of Grounds.

4. Expatriation.

- (a) [§195] In General.
- (b) Acts Not Resulting in Expatriation.
 - (1) [§196] Residence in Foreign Country.
 - (2) [§197] Voting in Foreign Election.
 - (3) [§198] Desertion or Draft Evasion.

C. [§199] Unreasonable Search and Seizure.

D. Slavery and Involuntary Servitude.

- 1. [§200] General Rule: No Imprisonment for Debt.
- 2. Exceptions.

- (a) [§201] Economic Oppression.
- (b) [§202] Criminal Nonpayment of Fee or Tax.
- (c) [§203] Other Exceptions.

E. Protection to Persons Accused of Crime.

- 1. [§204] In General.
- 2. Bill of Attainder.
 - (a) [§205] Nature of Prohibition.
 - (b) [§206] Crime of Communist Holding Union Office.
 - (c) [§207] Valid Legislation.

F. Jury Trial.

1. In Federal Courts.

- (a) Nature of Guarantee.
 - (1) [§208] In General.
 - (2) [§209] Composition of Jury.
 - (3) [§210] Size of Jury.
- (b) [§211] Exceptions.
- (c) [§212] Waiver of Jury.

2. In State Courts.

- (a) [§213] Right to Jury Trial.
- (b) Nature of Guarantee.
 - (1) [§214] California Constitution.
 - (2) [§215] Federal Constitution.
 - (3) [§216] Jury of Less Than Six Is Invalid.
- (c) [§217] Exceptions.

G. Fundamental Rights Under Due Process Clause.

- 1. [§218] In General.
- 2. [§219] Incorporation Theory.
- 3. [§220] Rights of Criminal Defendants.
- 4. Fundamental Civil Rights.
 - (a) [§221] In General.
 - (b) Rights of Mentally Ill Persons.

- (1) [§222] Freedom From Unnecessary Confinement.
- (2) [§223] Constitutional Right to Treatment.
- (3) [§224] Statutory Rights.
- (c) [§225] Maternity Leave Regulations.
- (d) [§226] Distinction: Corporal Punishment of Pupil.
- (e) New) Marriage Between Persons of Same Sex.
 - (1) [§226A] (New) Historical Development.
 - (2) [§226B] (New) Constitutional and Statutory Amendments.
 - (3) [§226C] (New) Defense of Marriage Act.

V. SUFFRAGE

A. Nature of Right To Vote.

- 1. [§227] Federal Constitution.
- 2. Federal Voting Rights Act.
 - (a) [§228] In General.
 - (b) [§229] Prohibited Practices.
 - (c) Remedial Provisions.
 - (1) [§230] States and Political Subdivisions.
 - (2) [§231] Tests and Devices Suspended.
 - (3) [§232] Preclearance for Changes in Voting Regulations.
- 3. California Law.
 - (a) [§233] In General.
 - (b) [§234] Secrecy, Absentee Ballots, and Voting by Mail.
 - (c) [§235] Write-in Voting.
 - (d) [§236] New Citizen Voting.
- 4. [§237] 18-Year Old Voters.

A-1. [§237A] (New) Valid Restriction: Identification.

B. Invalid Restrictions.

- 1. [§238] Segregated Districts.
- 2. [§239] Required Designation of Race.
- 3. English Literacy Tests.
 - (a) [§240] Discrimination Against Blacks.
 - (b) Discrimination Against Non-English Speakers.
 - (1) [§241] Federal Law.
 - (2) [§242] California Law.
- 4. [§243] Poll Tax.
- 5. Residence.
 - (a) [§244] Discriminatory Provisions.
 - (b) [§245] Period of Residence.
- 6. Disenfranchisement for Criminal Conviction.
 - (a) [§246] Former California Law.
 - (b) [§247] California Constitutional Revision.

C. Political Parties and Candidates.

- 1. Regulation of Primary Elections.
 - (a) [§248] In General

- (b) 249] Federal Cases.
 - (c) [§250] Independent Candidates
 - d)[§251] Enrollment Deadline.
 - 2. [§252] Rights of Blacks.
 - 3. Political Activities of Public Employees.
 - (a) [§253] Federal Employees.
 - (b) California Employees.
 - (1) [§254] In General.
 - (2) [§255] Case Law.
 - 4. Federal Regulation of Campaigns.
 - (a) [§256] Election Campaign Act.
 - (b) [§257] Contributions From Corporations or Labor Organizations.
 - (c) [§258] Restrictions on Political Committees.
 - 5. Candidates.
 - (a) Residence Requirement.
 - (1) [§259] Invalid Period.
 - (2) [§260] Valid Period.
 - (b) [§261] Filing Fee.
 - (c) [§262] Filing Deadline.
 - (d) [§263] Disqualification of Recalled Officer.
 - (e) [§264] Payment of Costs of Election Pamphlet.
 - (f) [§265] Content of Candidate's Statement.
 - (g) [§266] Candidate's Preelection Promise.
 - (h) [§267] Party's Endorsement of Candidate.
 - 6. Term Limits.
 - (a) [§268] United States Congress.
 - (b) [§269] State Government.
 - 7. [§270] Ballot Regulations.
 - 8. [§270A] (New) Election Contests.
- D. California Political Reform Act.**
- 1. In General.
 - (a) [§271] Nature and Purpose of Act.
 - (b) [§272] Statutory Framework.
 - (c) [§273] Enforcement.
 - 2. [§274] Fair Political Practices Commission.
 - 3. Campaign Disclosure.
 - (a) [§275] In General.
 - (b) [§276] Campaign Statements.
 - (c) [§277] Anonymous Mass Mailings.
 - (d) [§278] Prohibited Practices.
 - 4. Lobbyists.
 - (a) [§279] In General.
 - (b) [§280] Prohibited Acts.
 - 5. Conflicts of Interest.
 - (a) Prohibited Acts.

- (1) [§281] In General.
 - (2) [§282] Exceptions.
 - (b) [§283] Disclosures.
 - (c) [§284] Conflict of Interest Codes.
 - (d) [§285] Restrictions on Former Officials.
 - 6. [§286] Restrictions on Honoraria, Gifts, and Travel Expenses.
 - 7. Limitations on Campaign Spending and Contributions.
 - (a) [§287] Statutory Development.
 - (b) [§288] Filing and Account Requirements.
 - (c) [§289] Contribution Limits.
 - (d) [§290] Voluntary Expenditure Limits.
 - (e) [§291] Use of Funds.
 - E. [§292] Code of Fair Campaign Practices.
 - F. [§293] Regulation of Political Advertising.
 - G. Reapportionment.
 - 1. Justiciable Issue.
 - (a) [§294] In General.
 - (b) Gerrymandering.
 - (1) [§295] In General.
 - (2) [§296] To Benefit Racial Minority Groups.
 - 2. [§297] Discriminatory Weighted Voting.
 - 3. [§298] Congressional Districts.
 - 4. State Legislative Districts.
 - (a) [§299] Reynolds v. Sims.
 - (b) [§300] Subsequent U.S. Supreme Court Decisions.
 - (c) [§301] California Decisions.
 - 5. [§302] County Supervisorial Districts.
 - 6. [§303] City Council Districts.
 - H. Restricted Eligibility in Local Elections.
 - 1. [§304] School District Elections.
 - 2. Special District Elections.
 - (a) [§305] Valid Provisions.
 - (b) [§306] Invalid Provisions.
 - I. General Bond Elections.
 - 1. [§307] Vote Restricted to Property Taxpayers.
 - 2. [§308] Requirement of More Than Majority.
 - J. [§309] Incorporation of City or Annexation.
 - K. [§310] Referendum on County Charter.
- VI. FREEDOM OF SPEECH, PRESS, AND ASSEMBLY**
- A. Nature of Guarantees.
 - 1. Constitutional Provisions.
 - (a) [§311] Federal Constitution.
 - (b) [§312] California Constitution.
 - (c) [§313] Commentary.
 - 2. Rights on Private Property.
 - (a) [§314] Company-Owned Town.

- (b) Shopping Center.**
 - (1) [§315] Under Federal Constitution.**
 - (2) [§316] Under California Constitution.**
 - (c) [§317] Stand-Alone Business.**
 - (d) [§318] Medical Facility.**
 - (e) [§319] Church.**
 - (f) [§320] Private Residential Housing Project.**
- 3. Right of Private Corporation.**
 - (a) [§321] Impermissible Restriction.**
 - (b) [§322] Permissible Restriction.**
- 4. [§323] Entertainment and Symbolic Speech.**
- 5. Commercial Speech.**
 - (a) In General.**
 - (1) [§324] Historical Development.**
 - (2) [§325] Virginia State Board Case.**
 - (3) [§326] No Least-Restrictive-Means Test.**
 - (4) [§327] Texts and Law Reviews.**
 - (b) Restrictions on Advertising and Publicity.**
 - (1) [§328] In General.**
 - (2) [§329] Advertising by Lawyers.**
 - (3) [§330] Publicizing Services of Legal Clinic.**
 - (4) [§331] Advertising by Gambling Casino.**
 - (5) [§332] Advertising of Alcohol and Tobacco.**
 - (6) [§333] Required Funding for Generic Advertising.**
 - (7) [§334] Deceptive or Misleading Advertising.**
 - (c) Other Restrictions.**
 - (1) [§335] In General.**
 - (2) [§336] Moratorium on Solicitation of Accident Victims.**
 - (3) [§337] Solicitation by Accountant.**
 - (4) [§338] Unlawful Conduct.**
- 6. Government Speech.**
 - (a) [§339] In General.**
 - (b) [§340] Funding Restrictions.**
 - (c) [§341] Viewpoint Discrimination.**
- 7. Political Speech.**
 - (a) [§342] In General.**
 - (b) [§343] Advertising on Public Transit Vehicles.**
 - (c) [§344] Restrictions on Initiatives.**
 - (d) [§345] Restrictions on Electioneering.**
 - (e) [§346] Distinction: Nonpublic Forum.**
- 8. Charitable Appeals for Funds.**
 - (a) [§347] In General.**
 - (b) [§348] Solicitation Inside Airport Terminal.**
 - (c) [§349] Distinction: Begging or Soliciting Alms.**
- 9. Right To Circulate or Distribute.**

- (a) [§350] In General.
- (b) [§351] Newsracks.
- (c) [§352] Door-to-Door.

10. Right To Post.

- (a) [§353] In General.
- (b) [§354] Residential Signs.

11. Other Areas.

- (a) [§355] Ban on Receipt of Honoraria.
- (b) [§356] Fortunetelling.
- (c) [§357] Police Surveillance of College.
- (d) [§358] Promotional Advertising by Public Utility.

B. Scope of Protection.

1. Freedom From Previous Restraint.

- (a) [§359] General Principle.
- (b) [§360] Requirement of License or Permit.
- (c) [§361] Invalid Restraint by Injunction.
- (d) [§362] Discriminatory Special Tax.
- (e) Restrictions on Newspapers and Magazines.
 - (1) [§363] In General.
 - (2) [§364] Requirement of Free Space.
 - (3) [§365] Other Restrictions.
 - (4) [§366] Distinction: Action for Breach of Promise of Confidentiality.
- (f) Restrictions on Books.
 - (1) [§367] In General.
 - (2) [§368] Censorship by Listing.
 - (3) [§369] Income From Work Describing Crime.
- (g) [§370] Restrictions on Mail.
- (h) [§371] Restrictions on Motion Pictures and Plays.
- (i) Restrictions on Radio and Television.
 - (1) [§372] In General.
 - (2) [§373] Cable Television and Satellite Broadcasting.
 - (3) [§374] Sexually Oriented Programming.
 - (4) [§375] Must-Carry Requirements.
 - (5) [§376] Refusal To Accept Political Advertisements.
 - (6) [§377] Prohibition of Editorializing.

2. Freedom of Association.

- (a) [§378] In General.
- (b) Confidentiality of Membership.
 - (1) [§379] In General.
 - (2) [§380] Private Social Club.
 - (3) [§381] Membership Applications.
 - (4) [§382] Limited Right of Discovery.
- (c) [§383] Furnishing Attorneys for Group Members.
- (d) [§384] Patronage Appointment of Public Employees.
- (e) [§385] Agency Shop for Public Employees.

- (f) [§386] Politically Motivated Economic Boycott.
- (g) [§387] Restrictions on Prisoners' Rights.
- (h) [§388] Rights of Political Parties.
- (i) [§389] Exclusion of Women From Membership.
- (j) [§390] Exclusion of Group From Parade.
- (k) [§391] Exclusion of Homosexual Scoutmaster.
- (l) [§391A] (New) Exclusion From Subsidized Program.
- (m) [§391B] (New) Exclusion of Group From Street Fair.

3. Right of Peaceable Assembly.

- (a) [§392] In General.
- (b) Public Forum.
 - (1) [§393] U.S. Supreme Court Decisions.
 - (2) [§394] California Decisions.
- (c) [§395] Semipublic Forum.
- (d) Picketing Generally.
 - (1) [§396] In General.
 - (2) [§397] By Labor Organizations.
 - (3) [§398] Residential Picketing.
- (e) Picketing of Abortion Clinics.
 - (1) [§399] Earlier Cases.
 - (2) [§400] Shasta-Diablo Case.
 - (3) [§401] Madsen Case.
 - (4) [§402] Subsequent Cases.

4. Right To Travel.

- (a) [§403] Interstate Travel.
- (b) [§404] International Travel.

C. Limitations on the Rights.

1. General Principles and Tests.

- (a) [§405] Rights Are Not Absolute.
- (b) [§406] Preferred Position of Freedoms.
- (c) [§407] Clear and Present Danger Test.
- (d) Uncertainty and Overbreadth.
 - (1) [§408] In General.
 - (2) [§409] Invalid Regulations.
 - (3) [§410] Valid Regulations.
- (e) [§411] Uneven Application.

2. Interference With Judicial Process.

- (a) [§412] Publications as Contempt.
- (b) Court's Control Over Publicity.
 - (1) [§413] Right of Media To Report Proceedings.
 - (2) [§414] Juvenile Delinquency Proceedings.
 - (3) [§415] Control To Insure Fair Trial.
 - (4) [§416] Unauthorized Photographs of Courtroom Proceedings.
 - (5) [§417] Public Broadcast of Trial.
 - (6) [§418] Discovery Protective Order.

- (c) Public Access to Court Proceedings.**
 - (1) [§419] Criminal Pretrial Hearing.**
 - (2) [§420] Criminal Trial.**
 - (3) [§421] Jury Voir Dire.**
 - (4) [§422] Juvenile Dependency Proceedings.**
 - (5) [§423] Civil Trial.**
- 3. [§424] Fraud.**
- 4. Libel.**
 - (a) [§425] In General.**
 - (b) New York Times Rule.**
 - (1) [§426] Public Officials.**
 - (2) [§427] Public Figures.**
 - (3) [§428] Private Individuals.**
- 5. Invasion of Privacy.**
 - (a) [§429] New York Times Rule Applies.**
 - (b) [§430] Publication of Name of Rape Victim.**
 - (c) [§431] Information Initially Obtained Illegally.**
 - (d) [§432] Infliction of Emotional Distress.**
 - (e) [§433] Distinction: Right of Publicity.**
- 6. Obscenity.**
 - (a) [§434] In General.**
 - (b) [§435] Requirement of Knowledge.**
 - (c) Determination of Obscenity.**
 - (1) [§436] Roth Test.**
 - (2) [§437] Miller Test.**
 - (3) [§438] Subsequent Decisions.**
 - (d) Protection of Minors.**
 - (1) [§439] In General.**
 - (2) [§440] Internet Transmissions.**
 - (3) [§441] Child Pornography.**
 - (e) Theaters, Movies, and Plays.**
 - (1) [§442] In General.**
 - (2) [§443] Zoning of Adult Theaters.**
 - (3) [§444] Consenting Adults.**
 - (f) Private Possession or Distribution.**
 - (1) [§445] Private Possession Protected.**
 - (2) [§446] Private Distribution Not Protected.**
 - (g) [§447] Commercial Telephone Communications.**
 - (h) [§448] Nudity: Public Indecency Statutes.**
 - (i) California Law.**
 - (1) [§449] Statutory Development.**
 - (2) [§450] Validity of Statute.**
 - (3) [§451] Books.**
 - (4) [§452] Films.**
 - (5) [§453] Live Entertainment.**
 - (6) [§454] Validity of Local Ordinances.**

- (j) [§455] Civil Proceedings Against Obscene Matter.
- 6A. [§455A] (New) Animal Cruelty.
- 6B. [§455B] (New) Protection of Minors.
- 7. [§456] Street Meetings and Parades.
- 8. Violence and Incitement to Violence.
 - (a) [§457] In General.
 - (b) [§458] Statements Not “Fighting Words.”
 - (c) Cross Burning.
 - (1) [§459] General Prohibition.
 - (2) [§460] Specific Prohibition on Property of Another.
 - (d) [§461] Acts Motivated by Bigoted Racial Beliefs.
 - (e) [§462] Picketing Court or Legislature.
 - (f) [§463] Sit-in or Stand-in.
- 9. [§464] Antinoise Regulations.
- 10. Registration and Identification.
 - (a) [§465] In General.
 - (b) [§466] Handbill Distributor.
 - (c) [§467] Anonymous Recorded Phone Messages.
 - (d) [§468] Author of Attack on Candidate.
 - (e) [§469] Author of Campaign Materials.
- 11. Loyalty Regulations.
 - (a) Antisubversive Criminal Legislation.
 - (1) [§470] Earlier Statutes.
 - (2) [§471] Smith Act.
 - (3) [§472] Federal Preemption.
 - (4) [§473] Burning Draft Card.
 - (5) [§474] Desecrating Flag.
 - (b) Regulation of Aliens.
 - (1) [§475] Exclusion and Registration.
 - (2) [§476] Deportation.
 - (c) [§477] Registration of Subversive Organizations.
 - (d) [§478] Investigation of Subversive Activities.
 - (e) Loyalty Tests for Employees.
 - (1) [§479] In General.
 - (2) [§480] Disclosure of Communist Membership.
 - (3) [§481] Cooperation With Investigating Agencies.
 - (f) Loyalty Oaths of Employees.
 - (1) [§482] Earlier Cases.
 - (2) [§483] Later Cases.
 - (g) [§484] Loyalty Tests for Others.
- D. Regulation of Educational Institutions.
 - 1. Professors and Schoolteachers.
 - (a) [§485] Protected Rights.
 - (b) [§486] Valid Regulations.
 - 2. College and University Students.
 - (a) [§487] In General.

- (b) [§488] Freedom of Speech and Association.
- (c) [§489] Mandatory Fees To Fund Student Activities.
- (d) [§490] Registration and Identification.
- (e) [§490A] (New) Military Recruiters on Campus.

3. Elementary and Secondary School Students.

- (a) **First Amendment Rights.**
 - (1) [§491] In General.
 - (2) [§492] Demonstrations and Symbolic Acts.
 - (3) [§493] Clothes and Personal Appearance.
 - (4) [§494] Removal of Library Books.
 - (5) [§495] Obscene Speech.
 - (6) [§496] Newspaper Produced by Journalism Class.
- (b) **California Constitution and Statutes.**
 - (1) [§497] Fees for Extracurricular Activity.
 - (2) [§498] Censorship of Unofficial Newspaper.
 - (3) [§499] Censorship of Official Newspaper.
 - (4) [§500] School Placement.

4. Statutory Declaration of Rights.

- (a) [§501] Legislative Findings and Intent.
- (b) [§502] Protected Speech Is Not Subject to Discipline.

E. Regulation of Government Employees.

- 1. [§503] In General.
- 2. [§504] Balancing of Interests.

VII. Freedom of Religion

A. In General.

- 1. [§505] Nature of Constitutional Provisions.
- 2. [§506] Texts and Commentary.
- 3. [§506A] (New) Ministerial Exception to Employment Discrimination Statutes.

B. Establishment Clause.

- 1. **Under Federal Constitution.**
 - (a) [§507] In General.
 - (b) [§508] Prayer.
 - (c) [§509] Religious Speech.
 - (d) [§510] Tax Exemption.
 - (e) [§511] Exemption from Landmark Preservation Laws.
 - (f) [§512] Other Applications.
- 2. [§513] Under California Constitution.

C. Free Exercise Clause.

- 1. **Invalid Direct Restraints.**
 - (a) [§514] In General.
 - (b) [§515] Prohibition of Ritual Slaughter of Animals.
 - (c) [§516] Religious Freedom Restoration Act.
- 2. **Indirect Restraints.**
 - (a) [§517] In General.
 - (b) [§518] Social Security and Social Security Numbers.

- (c) [§519] Children.
- (d) [§520] Prisoners.
- (e) [§521] Religious Solicitation.
- (f) [§522] Meetings in Public Place.
- (g) [§523] Use of Drugs.
- (h) [§524] Defamation Action Against Church.
- (i) [§525] Intentional Infliction of Emotional Distress.
- (j) [§526] Religious Discrimination Against Advertisers.
- (k) [§527] Fair Employment and Housing Act.
- (l) [§528] Prescription Contraceptive Coverage.

D. Religious Activity in Public Schools.

- 1. [§529] Religious Instruction.
- 2. Prayers and Bible Reading.
 - (a) [§530] In General.
 - (b) [§531] Student Bible Study Club.
 - (c) [§532] School Period of Silence.
 - (d) Invocation at School Graduation.
 - (1) [§533] California Decisions.
 - (2) [§534] United States Supreme Court Decision.
- 3. [§535] Instruction on Evolution.
- 4. [§536] Flag Salute.
- 5. [§537] Creation of Public School District for Religious Community.

E. Aid to Private Schools or Private School Students.

- 1. [§538] In General.
- 2. [§539] Furnishing Transportation.
- 3. Lending Textbooks and Equipment.
 - (a) [§540] United States Supreme Court Decisions.
 - (b) [§541] California Decisions.
- 4. Financial Assistance.
 - (a) [§542] Development of Law.
 - (b) [§543] Money for Salaries and Books.
 - (c) [§544] Grants for Special Purposes.
 - (d) [§545] Shared Time of Public School Teacher.
 - (e) Tuition Reimbursement.
 - (1) [§546] In General.
 - (2) [§547] State Income Tax Deduction.
 - (f) [§548] Construction Aid to Colleges
- 5. [§549] Aid to Disabled Students in Private Schools.

F. Other Activities.

- 1. Work on Religious Holiday.
 - (a) [§550] In General.
 - (b) [§551] Broader Protection Under California Constitution.
- 2. [§552] Labor Regulations.
- 3. [§553] Sunday Closing Laws.
- 4. Government-Sponsored Christmas Displays.
 - (a) [§554] U.S. Supreme Court Decisions.

- (b) [§555] California Cases.
- 4A. [§555A] (New) Other Government-Sponsored Religious Displays.
- 5. [§556] State Religious Holiday.
- 6. [§557] Patriotic Message on License Plates.

VIII. PRIVACY

A. Rights Under Federal Constitution.

- 1. [§558] Theory of Peripheral Rights Doctrine.
- 2. [§559] Texts and Law Reviews.
- 3. [§560] Contraceptives.
- 4. Abortion.
 - (a) Woman's Right To Have Abortion.
 - (1) [§561] In General: Roe v. Wade.
 - (2) [§562] Texts and Law Reviews.
 - (3) [§563] Development of Law.
 - (4) [§564] Webster Case.
 - (5) [§565] Casey Case.
 - (6) [§566] Partial Birth Abortion.
 - (b) [§567] Notification of Parents.
 - (c) [§568] Public Funding of Abortion.
- 5. [§569] Right To Marry.
- 6. [§570] Sterilization of Incompetent Conservatee.
- 7. [§571] Withdrawal of Life Support.
- 8. [§572] Assisted Suicide.
- 9. [§573] Sodomy Laws.
- 10. [§574] Drug Prescription Records.
- 11. [§574A] (New) Informational Privacy.

B. Rights Under California Law.

- 1. California Constitutional Provision.
 - (a) In General.
 - (1) [§575] Nature and Scope.
 - (2) [§576] Elements and Analysis.
 - (3) [§577] Rights of Partnership or Corporation.
 - (b) Abortion.
 - (1) [§578] Public Funding.
 - (2) [§579] Rights of Minors.
 - (c) Medical Records and Information.
 - (1) [§580] In General.
 - (2) [§581] Discovery of Medical Patient's Records.
 - (3) [§582] Disclosure of HIV-Positive Status.
 - (d) Employment.
 - (1) [§583] In General.
 - (2) [§584] Disclosure of University Tenure Proceedings.
 - (3) [§585] Disclosure of Employee Personnel Records.
 - (e) Criminal Investigations and Prosecution.
 - (1) [§586] In General.
 - (2) Arrest Records.

(aa) [§587] Protected Acts.

(bb) [§588] Unprotected Acts.

(3) [§589] Sex Crimes.

(4) [§590] Possession of Marijuana.

(5) [§591] Compulsory Polygraph Examination.

(f) Drug Testing.

(1) [§592] In General: Employee or Applicant.

(2) [§593] Distinction: Safety Interest Insufficient To Justify Intrusion.

(3) [§594] Athletes.

(g) Other Illustrations.

(1) [§595] Disclosure of University Grades.

(2) [§596] Discovery of Sexual Experiences.

(3) [§597] Zoning Regulations and Restrictive Covenants.

(4) [§598] Psychosurgery and Shock Treatment.

(5) [§599] Identities of Prospective Jurors.

(6) [§600] Drug Efficacy Requirement.

(7) [§601] Fingerprint and Photograph Requirements.

(8) [§602] Miscellaneous Examples.

2. [§603] Right to Financial Privacy Act.

3. [§604] Information Practices Act.

4. [§605] Medical Records and Information.

5. [§606] Motor Vehicle Records.

6. [§607] Other Privacy Statutes.

IX. PRIVILEGES AND IMMUNITIES

A. United States Citizenship.

1. [§608] The Abridgement Clause.

2. [§609] Access to Courts.

B. State Citizenship.

1. The Entitlement Clause.

(a) [§610] Nature and Purpose.

(b) [§611] Scope.

2. [§612] Wild Animals and Fish.

3. [§613] Employment Discrimination.

4. [§614] Residency Requirement for Attorney.

X. DUE PROCESS OF LAW

A. Nature and Scope of Guarantee.

1. [§615] Procedural and Substantive Due Process.

2. [§616] Protection Only Against Government Action.

3. [§617] No Action for Money Damages.

4. [§618] Persons Protected.

5. State Action.

(a) [§619] In General.

(b) [§620] Government Assisted Housing Projects.

(c) [§621] Nonjudicial Foreclosure.

(d) [§622] Athletic Associations.

B. Retrospective Legislation.

1. Changes Affecting Substantive Rights.

(a) [§623] In General.

(b) [§624] Clarification of Existing Law.

(c) Vested Right as Basis of Attack.

(1) [§625] Rule and Test.

(2) Permit Cases.

(aa) [§626] In General.

(bb) [§627] Distinction: Permit Subject to Condition.

(3) [§628] Community Property Cases.

(d) [§629] Changes in Conditions of License.

2. Changes in Procedure.

(a) [§630] Valid Retrospective Laws.

(b) [§631] Efficient Remedy Must Be Left.

3. [§632] Deprivation of Defense.

4. Construction Against Retroactivity.

(a) [§633] General Rule.

(b) [§634] Initiative Measure.

(c) [§635] Repeal of Statute Without Saving Clause.

C. [§636] Extraterritorial Legislation.

D. Nature of Procedural Due Process.

1. [§637] Long Established and New Procedures.

2. [§638] Notice Is Fundamental.

3. [§639] Non-Essential Matters.

E. Procedural Due Process in Judicial Proceedings.

1. Essential Elements.

(a) [§640] Jurisdiction, Notice, and Hearing.

(b) Fair Hearing.

(1) [§641] In General.

(2) [§642] Impartial Judge.

(3) [§643] Communications Between Judges.

2. [§644] Actions In Personam.

3. [§645] Proceedings In Rem.

4. Creditors' Remedies.

(a) [§646] In General: Sniadach Rule.

(b) [§647] Illustrations.

5. Indigent's Access to Courts.

(a) [§648] Indigent Plaintiffs.

(b) [§649] Indigent Defendants.

6. [§650] Hearing on Child Custody.

7. Commitment of Mentally Ill Person.

(a) [§651] In General.

(b) [§652] Defendant Not Guilty by Reason of Insanity.

(c) Minor.

- (1) [§653] California Decisions.
 - (2) [§654] U.S. Supreme Court Decisions.
- 8. [§655] Treatment of Incompetent Nursing Home Patient.
- 9. [§656] Restraining Criminal Nuisance.
- F. Procedural Due Process in Administrative Proceedings.**
 - 1. Right to Notice and Hearing.**
 - (a) [§657] In General.
 - (b) [§658] Adequate Notice and Hearing.
 - (c) [§659] Illustrations of Inadequate Procedure.
 - (d) [§660] Right-Privilege Distinction Repudiated.
 - (e) [§661] Right To Practice Profession Involved.
 - (f) [§662] Suspension of Driver's License.
 - 2. Type of Hearing Required.**
 - (a) [§663] In General.
 - (b) [§664] Evidence, Witnesses, and Cross-Examination.
 - (c) [§665] Counsel.
 - (d) **Impartial Body or Officer.**
 - (1) [§666] General Rule.
 - (2) [§667] Conflict of Interest.
 - (3) [§668] Bias.
 - (4) [§669] Financial Interest.
 - (5) [§670] Necessity Exception.
 - (6) [§671] Partially Interested Board.
 - (e) [§672] Hearing and Determination.
 - (f) [§673] Who May Render Decision.
 - 3. Non-Adjudicatory Proceedings.**
 - (a) **Quasi-Legislative Action.**
 - (1) [§674] Constitutional Requirement.
 - (2) [§675] Statutory Requirement.
 - (3) [§676] Approval of Subdivision Map.
 - (b) [§677] Investigative Process.
 - 4. Summary Action Without Prior Hearing.**
 - (a) **In General.**
 - (1) [§678] Nature and Scope of Exception.
 - (2) [§679] Right to Subsequent Hearing.
 - (3) [§680] Distinction: Summary Action Unnecessary.
 - (b) **Obscene Matter.**
 - (1) [§681] Valid Seizure or Injunction.
 - (2) [§682] Invalid Procedure.
 - (c) **Termination of Utility Service.**
 - (1) [§683] Telephone Service.
 - (2) [§684] Municipal Utility Service.
 - (d) **Denial of Welfare Aid.**
 - (1) [§685] Termination of Aid.
 - (2) [§686] Denial of Application for Aid.
 - (e) [§687] Termination of Disability Benefits.

- (f) Disciplinary Action Against Students.**
 - (1) [§688] In General.**
 - (2) [§689] Due Process in Short Suspensions.**
 - (3) [§690] Revised Statutory Procedure.**
- (g) [§691] Dismissal of Professors and Schoolteachers.**
- (h) Punitive Action Against Civil Service Employee.**
 - (1) [§692] In General.**
 - (2) [§693] Termination Under AWOL Statute.**

8 Summary of California Law (10th), Constitutional Law

XI. EQUAL PROTECTION OF THE LAWS

A. Nature and Scope of Constitutional Provisions.

1. Federal Constitution.

- (a) [§694] In General.**
- (b) [§695] Meaning of Equal Protection.**
- (c) [§696] Scope of Guarantee.**
- (d) State Action.**
 - (1) [§697] General Principle.**
 - (2) [§698] State Participation or Involvement.**
 - (3) [§699] Acts of State Officers.**
 - (4) [§700] Judicial Action in Private Litigation.**
- (e) Classification of Subjects of Legislation.**
 - (1) [§701] General Principle.**
 - (2) [§702] Statute Need Not Cover Field.**
 - (3) Presumption Favoring Legislative Classification.**
 - (aa) [§703] Traditional Rule.**
 - (bb) [§704] Two-Tier Test of Classification.**

2. California Constitution.

- (a) [§705] Nature and Effect of Provisions.**
- (b) [§706] Local or Special Laws.**
- (c) [§707] Uniform Operation of General Laws.**
- (d) [§708] Discrimination by Public Utility.**

B. Illustrations of Valid and Invalid Classifications.

1. Corporations.

- (a) [§709] Individuals and Corporations.**
- (b) [§710] Classes of Corporations.**

2. Different Types of Business or Activity.

- (a) [§711] Closing Regulations.**
- (b) [§712] Price Regulations.**
- (c) [§713] Other Regulations.**

3. Same Types of Business or Activity.

- (a) [§714] Invalid Classifications.**
- (b) [§715] Valid Classifications.**

4. The State and Subdivisions.

- (a) [§716] Counties or Cities.**

- (b) [§717] Single County or City and County.
- (c) [§718] Experimental Program in Specified Counties.
- (d) [§719] District Created by Special Act.
- (e) [§720] The State and Other Entities.

5. Aliens.

- (a) [§721] In General.
- (b) [§722] Alien Land Laws.
- (c) [§723] Public Works Employment.
- (d) [§724] Federal Civil Service.
- (e) [§725] Profession, Business, or Employment.
- (f) [§726] Alien Gun Laws.
- (g) [§727] Welfare Benefits.
- (h) [§728] Financial Assistance for Higher Education.
- (i) [§729] Education for Illegal Alien Children.
- (j) Valid Classifications.
 - (1) [§730] In General.
 - (2) [§731] Illegal Aliens.
 - (3) [§732] Law Enforcement Officers.
 - (4) [§733] Public Schoolteachers.

6. Nonresidents.

- (a) [§734] In General.
- (b) [§735] Welfare Benefits.
- (c) [§736] Hospitalization and Medical Care.
- (d) [§737] Greater Benefits to Established Residents.
- (e) [§738] Long Residency for Appointed Officers.
- (f) Valid Classifications.
 - (1) [§739] In General.
 - (2) [§740] Residence Requirement for Municipal Employees.
 - (3) [§741] Preferential Parking for Local Residents.
 - (4) [§742] Nonresident Student Fees.

7. Race or National Origin.

- (a) [§743] In General.
- (b) Jury Selection.
 - (1) [§744] In General.
 - (2) [§745] Exclusionary Use of Peremptory Challenge.
- (c) [§746] Racial Restrictive Covenants.
- (d) [§747] Anti-Miscegenation Law.
- (e) [§748] Interracial Cohabitation Law.
- (f) Segregation.
 - (1) [§749] Former Separate but Equal Doctrine.
 - (2) Public Schools Generally.
 - (aa) [§750] Segregation Unconstitutional.
 - (bb) [§751] Initial Implementation of Brown Decision.

(cc) [§752] Unconstitutional Methods of Segregation.

(dd) [§753] Duty To Desegregate and Guidelines.

(ee) [§754] Elimination of De Facto Segregation.

(ff) [§755] No Requirement of Annual Readjustment.

(gg) [§756] Dissolution of Desegregation Decree.

(3) Anti-Busing Laws.

(aa) [§757] In General.

(bb) [§758] Constitutional Amendment.

(4) [§759] Public Facilities.

(5) [§760] Restaurants.

(6) [§761] Public Housing.

8. Women.

(a) In General.

(1) [§762] Constitutional Provisions and Early Cases.

(2) [§763] Modern View.

(3) [§764] Texts and Commentary.

(b) Employment.

(1) [§765] Invalid Discrimination.

(2) [§766] Valid Discrimination.

(c) [§767] Exclusion From Juries.

(d) [§768] Social Security Benefits.

(e) [§769] Crimes.

(f) [§770] Educational Opportunities.

(g) [§771] Other Discriminatory Treatment.

9. Men.

(a) [§772] In General.

(b) [§773] Workers' Compensation.

(c) [§774] Alimony.

(d) Father of Illegitimate Child.

(1) [§775] In General.

(2) [§776] Right To Withhold Consent to Adoption.

(3) [§777] Standing Where Presumed Father Exists.

10. Minors.

(a) In General.

(1) [§778] Valid Classification.

(2) [§779] Invalid Classification.

(b) Illegitimate Children.

(1) [§780] Action for Wrongful Death of Parent.

(2) [§781] Workers' Compensation and Other Benefits.

(3) [§782] Support by Father.

(4) [§783] Public Aid.

(5) [§784] Right To Inherit.

11. [§785] Married and Unmarried Persons.

12. Insane or Incompetent Persons.

- (a) [§786] Insanity Commitments.
- (b) [§787] Mentally Defective Parents.
- (c) [§788] Insane Person's Relatives.
- (d) [§789] Developmentally Disabled Persons.
- 13. [§790] Indigent Criminal Defendant.
- 14. [§791] Persons Convicted of Crimes.
- 15. Civil Litigants or Litigation.
 - (a) [§792] Vexatious Litigant in Pro. Per.
 - (b) [§793] Penalty on Unsuccessful Appellant.
 - (c) [§794] Attorneys' Fees to Particular Litigants.
 - (d) [§795] Tort Action by Guest.
 - (e) [§796] Defamation Action Against Newspaper or Broadcaster.
- 16. [§797] Veterans.
- 17. [§798] Sexual Orientation.
- 18. Other Classes of Persons.
 - (a) [§799] Valid Classifications.
 - (b) [§800] Invalid Classifications.
- 19. [§801] Public Employment.
- 20. [§802] Mandatory Retirement.
- 21. Financial Ability.
 - (a) [§803] Invalid Classifications.
 - (b) [§804] Valid Classifications.
 - (c) School Financing System.
 - (1) [§805] In General.
 - (2) [§806] California Law.
 - (3) [§807] State's Duty To Insure Funds.
- 22. [§808] Motor Vehicles.
- 23. Welfare Regulations.
 - (a) [§809] Valid Regulations.
 - (b) [§810] Invalid Regulations.
- 24. [§811] Preference in Favor of Prior Activity ("Grandfather Clause").
- C. Unconstitutional Conditions.
 - 1. [§812] Theory and Development of Doctrine.
 - 2. [§813] Application Outside Field of Foreign Corporations.
- D. Federal Civil Rights Legislation.
 - 1. Original Civil Rights Acts.
 - (a) Constitutional and Statutory Framework.
 - (1) [§814] In General.
 - (2) [§815] Criminal Liability.
 - (3) [§816] Civil Liability.
 - (4) [§817] Damages for Conspiracy.
 - (b) [§818] Federal and State Court Jurisdiction.
 - (c) [§819] Persons Liable.
 - (d) Elements of Cause of Action.

- (1) Deprivation of Rights.**
 - (aa) [§820] Constitutional Rights.**
 - (bb) [§821] Federal Statutory Rights.**
 - (cc) [§822] High-Speed Police Pursuit.**
 - (dd) [§823] Voluntary Commitment.**
 - (ee) [§824] Distinction: Ordinary Tort.**
- (2) Rights of Prisoners.**
 - (aa) [§825] Fourth Amendment.**
 - (bb) [§826] Eighth Amendment.**
 - (cc) [§827] Fourteenth Amendment.**
- (3) Color of State Law.**
 - (aa) [§828] Constitutional and Statutory Provisions.**
 - (bb) [§829] Custom With Force of Law.**
- (e) Action Against Municipality.**
 - (1) [§830] Right of Action Established.**
 - (1a) [§830A] (New) Superseding Intervening Cause.**
 - (2) Proof of Official Policy.**
 - (aa) [§831] In General.**
 - (bb) [§832] Inadequate Training.**
 - (cc) [§833] Land Use Disputes.**
- (f) Immunities.**
 - (1) Absolute Immunity.**
 - (aa) [§834] In General.**
 - (bb) [§835] Judges.**
 - (cc) [§836] Prosecutors.**
 - (2) Qualified Immunity.**
 - (aa) [§837] In General.**
 - (bb) [§838] Violation of Other Provision.**
 - (cc) [§839] Distinction: Private Defendant.**
 - (3) [§840] Governmental Immunity.**
- (g) Procedure.**
 - (1) [§841] In General.**
 - (2) [§842] Damages and Attorneys' Fees.**
 - (3) [§843] Limitations on Injunctive Relief.**
 - (4) [§844] Effect of State Remedies.**
 - (5) [§845] Effect of Other Federal Remedies.**
- 2. Later Statutes.**
 - (a) [§846] Civil Rights Act of 1957.**
 - (b) [§847] Civil Rights Act of 1964.**
 - (c) [§848] Civil Rights Act of 1968.**
 - (d) [§849] Civil Rights Act of 1991.**
- 3. [§850] Public Accommodations.**
- 4. [§851] Sale or Rental of Property.**
- 5. Federally Assisted Programs.**
 - (a) [§852] In General.**

- (b) [§853] Educational Amendments: Title IX.
 - (c) [§854] Disparate Impact Regulations.
- 6. Discrimination in Employment.
 - (a) In General.
 - (1) [§855] Statutory Prohibition.
 - (2) [§856] Texts and Commentary.
 - (3) [§857] Exceptions and Exemptions.
 - (3a) [§857A] (New) Who Is Supervisor.
 - (4) Enforcement.
 - (aa) [§858] In General.
 - (bb) [§859] Remedies, Costs, and Attorneys' Fees.
 - (cc) [§860] Effect of After-Acquired Evidence of Wrongdoing.
 - (b) Sex Discrimination.
 - (1) [§861] In General.
 - (2) [§862] Burden of Proof.
 - (3) [§863] Gender-Based Fetal Protection Policy.
 - (4) Sexual Harassment.
 - (aa) [§864] In General.
 - (bb) [§865] Same-Gender Discrimination.
 - (cc) [§866] Vicarious Liability.
 - (5) [§867] Comparable Worth.
 - (6) [§868] Discrimination Against Men.
 - (c) Racial Discrimination.
 - (1) [§869] In General.
 - (2) [§870] Proof of Prima Facie Case.
 - (3) [§871] Discrimination Against Whites.
 - (4) [§872] Harassment by Employer.
 - (d) Age Discrimination.
 - (1) [§873] In General.
 - (2) [§874] Government Employers.
 - (2a) [§874A] (New) Burden of Proof.
 - (3) [§875] Sufficiency of Evidence.
 - (e) [§876] Religious Discrimination.
 - (f) [§877] Pregnancy Discrimination.
 - (g) [§878] Seniority Systems.
- 7. [§879] Discrimination by Private School.
- 8. Discrimination Against Disabled Persons.
 - (a) [§880] Rehabilitation Act.
 - (b) [§881] Individuals With Disabilities Education Act.
 - (c) Americans With Disabilities Act (ADA).
 - (1) [§882] In General.
 - (2) [§883] Texts and Commentary.
 - (3) [§884] Integration Mandate.
 - (4) [§885] Reasonable Accommodation Requirement.

- (4a) [§885A] (New) Retaliation and Harassment.**
- (5) [§886] Effect of Arbitration Agreement.**
- (6) [§887] HIV as Disability.**
- (7) [§888] Visual Impairment as Disability.**
- (8) [§889] Inability To Perform Manual Tasks as Substantial Impairment.**

E. California Civil Rights Legislation.

1. In General.

- (a) [§890] Nature and Scope of Civil Rights Legislation.**
- (b) [§891] Insurance.**
- (c) [§892] Public Programs and Activities.**
- (d) [§893] Schools and Education.**
- (e) [§894] Housing Finance.**
- (f) [§895] Hate Crimes, Intimidation, and Threats of Violence.**
- (g) [§896] Sexual Harassment in Business and Professional Relationships.**
- (h) [§897] Other Discrimination Statutes.**

2. Unruh Civil Rights Act.

- (a) [§898] In General.**
- (b) [§899] Business Establishments.**
- (c) Nonprofit Community Service Organizations.**
 - (1) [§900] In General.**
 - (2) [§901] Boys' Club.**
 - (3) [§902] Rotary Club.**
 - (4) [§903] Cult Awareness Network.**
 - (5) [§904] Boy Scouts.**
- (d) Activities Covered.**
 - (1) [§905] In General.**
 - (2) [§906] Business Discrimination.**
 - (3) [§907] Racial Discrimination.**
 - (4) [§908] Housing Discrimination.**
 - (5) [§908A] (New) Marital Status Discrimination.**
 - (6) [§908B] (New) Sexual Orientation Discrimination.**
- (e) Distinctions.**
 - (1) [§909] Age-Based Preferences.**
 - (2) [§910] Classification Based on Marital Status.**
 - (3) [§911] Nonsmokers.**
 - (4) [§912] Economic Criteria.**
 - (5) [§913] Retaliatory Discrimination.**
- (f) [§914] Enforcement.**

3. Fair Employment and Housing Act.

- (a) [§915] Nature and Purpose of Act.**
- (b) Scope of Act.**
 - (1) [§916] In General.**
 - (2) [§917] Employees.**
 - (3) [§918] Employers.**

- (4) [§919] Supervisors.
- (c) [§920] Department and Commission.
- (d) Employment.
 - (1) In General.
 - (aa) [§921] Discrimination.
 - (aa-1) [§921A] (New) Mixed-Motive Cases.
 - (bb) [§922] Harassment.
 - (2) Racial Discrimination.
 - (aa) [§923] Discrimination Against Minorities.
 - (bb) [§924] Discrimination Against Whites.
 - (3) Sex Discrimination.
 - (aa) [§925] In General.
 - (bb) [§926] Discrimination Based on Pregnancy.
 - (4) Sexual Harassment.
 - (aa) [§927] In General.
 - (bb) [§928] Liability of Liability of Supervisor or Coworker.
 - (cc) [§929] Harassment of Applicant.
 - (dd) [§930] Same-Gender Harassment.
 - (5) [§931] Sexual Orientation Discrimination.
 - (6) Age Discrimination.
 - (aa) [§932] In General.
 - (bb) [§933] Sufficiency of Evidence.
 - (cc) [§934] Age as Protected Class.
 - (dd) [§935] Use of Economic Criteria.
 - (7) Discrimination Against Disabled Persons.
 - (aa) [§936] In General.
 - (bb) [§937] Accommodation Requirement.
 - (cc) [§938] Discrimination on Basis of Weight.
 - (dd) [§939] Chronic Alcoholics.
 - (8) [§940] Retaliatory Discrimination.
 - (9) [§941] Other Prohibited Discrimination.
 - (10) Family Care and Medical Leave.
 - (aa) [§942] In General.
 - (bb) [§943] Requirements for Taking Leave.
 - (cc) [§944] Unlawful Employment Practices.
 - (e) Housing.
 - (1) [§945] In General.
 - (2) [§946] Definitions.
 - (3) [§947] Unlawful Activities.
 - (f) Enforcement Procedure.
 - (1) Employment.
 - (aa) [§948] In General.
 - (bb) [§949] Accusation, Hearing, and Decision.
 - (cc) [§950] Damages and Penalties.
 - (dd) [§951] Judicial Enforcement.

(ee) [§952] Exhaustion of Administrative Remedies.

(2) Housing.

(aa) [§953] In General.

(bb) [§954] Accusation, Hearing, and Decision.

(cc) [§955] Civil Action.

(dd) [§956] Damages and Penalties.

4. Rights of Disabled Persons.

(a) [§957] In General.

(b) [§958] Physical Access.

(c) [§959] Enforcement.

5. Rights of Public Safety Officers.

(a) [§960] In General.

(b) [§961] Interrogation and Investigation.

(c) [§962] Waiver of Rights.

(d) [§963] Remedies.

(e) [§964] Administrative Appeal.

F. Affirmative Action Programs.

1. In General.

(a) [§965] Nature of Programs.

(b) [§966] California Statutes.

(c) [§967] Proposition 209: Affirmative Action Prohibited.

2. Programs Directed at Discrimination in Education.

(a) [§968] Bakke Case: California Decision.

(b) [§969] Bakke Case: U.S. Supreme Court Decision.

(c) [§970] Gratz and Grutter Cases.

(d) [§971] Other Decisions.

3. Programs Directed at Discrimination in Employment.

(a) [§972] Programs Created Through Collective Bargaining.

(b) Programs Mandated by Statute, Ordinance, or Rule.

(1) [§973] U.S. Supreme Court Cases.

(2) [§974] California Cases.

(c) [§975] Programs Created by Court Order.

XII. POLICE POWER

A. In General.

1. Nature of Police Power.

(a) [§976] Inherent Power To Regulate.

(b) [§977] Paramount Power.

(c) [§978] Elastic Power.

(d) [§979] Legislative Judgment.

2. [§980] Other Powers Distinguished.

3. Methods of Exercising Power.

(a) [§981] Prohibition and Regulation.

(b) [§982] Taxation and Eminent Domain.

4. [§983] Limitations on Power.

B. Exercise of Police Power by Local Subdivision.

- 1. In General.**
 - (a) [§984] Constitutional Authorization.**
 - (b) [§985] Subjects of Regulation.**
 - 2. Where State Legislates on Same Subject.**
 - (a) [§986] Test of Valid Regulation.**
 - (b) [§987] Legislative Authorization of Local Regulations.**
 - (c) Local Regulations Held Valid.**
 - (1) [§988] In General.**
 - (2) [§989] Alcoholic Beverages.**
 - (3) [§990] Criminal Activities.**
 - (4) [§991] Activity on State-Owned Land.**
 - (d) [§992] Local Regulations Held Void.**
 - 3. Exclusive Power Over Municipal Affairs.**
 - (a) [§993] Constitutional Provisions and Theory.**
 - (b) [§994] Unlawful Surrender of Control.**
 - (c) Determination of Issue.**
 - (1) [§995] In General.**
 - (2) [§996] Consideration of Purpose.**
 - (d) What Are Municipal Affairs.**
 - (1) [§997] In General.**
 - (2) [§998] Financing of Local Political Campaigns.**
 - (3) [§999] Term Limits for Elected Officials.**
 - (e) Matters of Statewide Concern.**
 - (1) [§1000] In General.**
 - (2) [§1001] District Formation and Dissolution.**
 - (3) [§1002] School System.**
 - (4) [§1003] Traffic.**
 - 4. [§1004] Extraterritorial Municipal Regulations.**
- C. Zoning.**
- 1. In General.**
 - (a) [§1005] Nature of Power.**
 - (b) [§1006] Commentary and Practice Works.**
 - (c) [§1007] Prohibiting Removal of Natural Products.**
 - (d) [§1008] Taking of Property.**
 - (e) [§1009] Invalid Regulations.**
 - 2. Planning and Zoning Ordinances.**
 - (a) In General.**
 - (1) [§1010] Local Power and State Law.**
 - (2) [§1011] Statutes of Limitation on Attack.**
 - (b) General Plan.**
 - (1) [§1012] Nature and Scope.**
 - (2) [§1013] Housing Element.**
 - (3) [§1014] Consistency Requirement.**
 - (4) [§1015] Adoption and Implementation.**
 - (5) [§1016] Judicial Review.**
 - (6) [§1017] Amendment.**

- (c) [§1018] Specific Plans.
 - (d) Local Zoning Regulations.
 - (1) [§1019] In General.
 - (2) [§1020] Scope of Zoning Power.
 - (3) [§1021] Consistency With General Plan.
 - (4) [§1022] Zoning Procedure.
 - (5) [§1023] Interim Ordinance.
 - (e) [§1024] Exemptions.
 - (f) Administration and Enforcement.
 - (1) [§1025] Administration.
 - (2) [§1026] Judicial Enforcement.
- 3. Zoning by Initiative or Referendum.
 - (a) [§1027] In General.
 - (b) [§1028] Valid Initiative or Referendum Measures.
 - (c) [§1029] Invalid Initiative or Referendum Measures.
- 4. Exclusionary Zoning.
 - (a) In General.
 - (1) [§1030] U.S. Supreme Court Decisions.
 - (2) [§1031] Tests for Validity.
 - (3) [§1032] Invalid Ordinances.
 - (b) [§1033] Business and Commercial Activity.
 - (c) [§1034] Transient Commercial Use of Residential Property.
 - (d) [§1035] Churches.
 - (e) [§1036] Schools.
 - (f) [§1037] Miscellaneous Classifications.
- 5. Type of Lot or Dwelling.
 - (a) [§1038] Lot Area and Open Space.
 - (b) [§1039] Other Regulations.
- 6. [§1040] Retroactive Zoning.
- 7. Nonconforming Uses.
 - (a) [§1041] In General.
 - (b) [§1042] No Rebuilding or Expansion.
 - (c) [§1043] Distinction: Mining Operations.
 - (d) [§1044] Amortization Provisions.
 - (e) [§1045] Uses Not Protected.
- 8. Individual Hardship.
 - (a) As Defense Against Enforcement.
 - (1) [§1046] Where General Plan Is Reasonable.
 - (2) Where Provision Is Arbitrary.
 - (aa) [§1047] In General.
 - (bb) [§1048] Illustrations.
 - (3) [§1049] Where Required Use Is Uneconomic.
 - (b) As Basis for Exception or Variance.
 - (1) Conditional Use Permit.
 - (aa) [§1050] Nature and Purpose.
 - (bb) [§1051] Conditions and Criteria.

- (cc) [§1052] Challenge by Nonresident.
 - (2) Variance.
 - (aa) [§1053] Nature and Grounds.
 - (bb) [§1054] Discretion of Governing Body.
 - (cc) [§1055] Imposition of Conditions.
 - (dd) [§1056] Judicial Review of Findings.
 - (c) As Basis for Compensation.
 - (1) [§1057] Nature of Problem.
 - (2) [§1058] Agins Case.
 - (3) [§1059] Subsequent Decisions.
- D. Other Restrictions on Use of Property.
 - 1. [§1060] Regulation or Prohibition of Inimical Activity.
 - 2. Regulation of Nondangerous Activity.
 - (a) [§1061] General Principles.
 - (b) [§1062] Invalid Regulations.
 - 3. Aesthetic Regulations.
 - (a) [§1063] In General.
 - (b) Billboards and Other Outdoor Advertising.
 - (1) [§1064] In General.
 - (2) [§1065] On-Site Advertising.
 - (3) Off-Site Advertising.
 - (aa) [§1066] Invalid Restrictions.
 - (bb) [§1067] Valid Restrictions.
 - (4) [§1068] Posting Signs on Public Property.
 - 4. [§1069] Conservation and Prevention of Waste.
- E. [§1070] Restrictions on Freedom of Contract.
- F. [§1071] Regulation of Personal Rights.
- G. Regulation of Business.
 - 1. [§1072] In General.
 - 2. Health and Safety.
 - (a) [§1073] Food, Drugs, and Water.
 - (b) [§1074] Air Pollution.
 - (c) [§1075] Closing and Working Hours.
 - (d) [§1076] Fire Protection.
 - 3. Fraud and Other Improper Practices.
 - (a) [§1077] In General.
 - (b) [§1078] Regulation of Franchises.
 - 4. [§1079] Licensing for Regulatory Purposes.
 - 5. [§1080] Limitations on Right To Do Business.
 - 6. Regulation of Prices and Rates.
 - (a) [§1081] Valid Regulations.
 - (b) [§1082] Invalid Regulations.
 - (c) [§1083] Insurance Rates.
 - 7. Public Utilities in California.
 - (a) [§1084] Public Utilities Commission.
 - (b) Jurisdiction of Commission.

- (1) [§1085] In General.
- (2) [§1086] Judicial Powers of Commission.
- (3) [§1087] Power To Obtain Injunction.
- (4) [§1088] Powers of Other Governmental Agencies.
- (c) Jurisdiction of Courts.
 - (1) [§1089] In General.
 - (2) [§1090] Private Right of Action Allowed.
 - (3) [§1091] Private Right of Action Rejected.
- (d) Public Utilities Regulated by Commission.
 - (1) [§1092] In General.
 - (2) [§1093] Public Transportation Authority.
- (e) Public Utilities Outside Jurisdiction of Commission.
 - (1) [§1094] In General.
 - (2) [§1095] Exceptions Based on Source of Power.
 - (3) [§1096] Specialized Transportation Vehicles.
- (f) [§1097] Private Utilities.
- (g) Nature and Extent of Regulation.
 - (1) [§1098] Permission To Enter Business.
 - (2) Regulation of Rates.
 - (aa) [§1099] In General.
 - (bb) [§1100] Test of Reasonableness.
 - (cc) [§1101] Distribution of Rate Refunds.
 - (3) Regulation of Service.
 - (aa) [§1102] In General.
 - (bb) [§1103] Adequate Service.
 - (4) [§1104] Other Regulatory Powers.
- (h) [§1105] Right To Abandon Operation.
- (i) Procedure Before Commission.
 - (1) [§1106] In General.
 - (2) [§1107] Hearing and Determination.
- (j) Review of Commission's Orders.
 - (1) [§1108] In General.
 - (2) [§1109] Exclusive Method.
 - (3) [§1110] Scope of Review.

H. [§1111] Regulation of Labor Relations.

XIII. EMINENT DOMAIN

A. In General.

- 1. [§1112] Nature of Power.
- 2. [§1113] Property That May Be Taken.
- 3. Who May Exercise Power.
 - (a) [§1114] In General.
 - (b) [§1115] Municipal Corporation.
 - (c) [§1116] Federal Government Acting for State.
 - (d) [§1117] Private Person.
- 4. Public Use.
 - (a) [§1118] In General.

- (b) [§1119] Airport Purposes.
 - (c) [§1120] Review of Legislative Determination.
 - (d) [§1121] Change of Use After Judgment.
 - (e) [§1121A] (New) New Resolution for Change of Use.
 - 5. Public Purpose in Private Use.
 - (a) [§1122] In General.
 - (b) [§1123] Correcting Market Failure.
 - 6. [§1124] Public Necessity.
 - B. Taking Under Federal Constitution.
 - 1. What Constitutes Taking.
 - (a) [§1125] Acquisition of Title or Possession.
 - (b) Damage to Property or Interests.
 - (1) [§1126] In General.
 - (2) [§1127] Insubstantial Permanent Physical Occupation.
 - (3) [§1128] Damage From Airplanes.
 - (4) [§1129] Water and Power Projects.
 - (c) [§1130] Temporary Taking of Going Business.
 - 2. [§1131] Noncompensable Injury.
- C. Taking or Damage Under California Constitution.
 - 1. What Constitutes Damage.
 - (a) [§1132] In General.
 - (b) [§1133] Limitations on Right to Compensation.
 - (c) [§1134] Compensation Without Tort Liability.
 - (d) [§1135] Mitigation Damages.
 - (e) [§1136] Service Duplication.
 - (f) [§1137] Violation of Deed Restriction.
 - (g) [§1138] Compensation to Option Holder.
 - 2. Noncompensable Injury.
 - (a) [§1139] Emergency Exercise of Police Power.
 - (b) [§1140] No Property Right.
 - (c) [§1141] Access to Navigable Waters.
 - (d) [§1142] Damage Occurring During Arrest.
- D. Inverse Condemnation.
 - 1. In General.
 - (a) [§1143] Nature of Action.
 - (b) [§1144] Entity Without Eminent Domain Power.
 - (c) [§1145] Recovery for Loss of Goodwill.
 - 2. Physical Taking or Damage.
 - (a) [§1146] Flood and Water Damage.
 - (b) [§1147] Land Subsidence.
 - (c) Impairment of Access to Street or Highway.
 - (1) [§1148] In General.
 - (2) [§1149] Direct Access Cut Off.
 - (3) [§1150] Circuity of Travel and Loss of Traffic.
 - (4) [§1151] Miscellaneous Inconveniences.

(d) [§1152] Nuisance Rendering Property Uninhabitable.

3. Regulatory Taking.

(a) In General.

(1) [§1153] Valid Exercise of Police Power.

(2) Landlord and Tenant Regulations.

(aa) [§1154] In General.

(bb) [§1155] Rent Control.

(3) [§1156] Fee as Condition for Use or Building Permit.

(4) Taking Requiring Compensation.

(aa) [§1157] In General.

(bb) [§1158] Lucas Decision.

(5) [§1159] Texts and Law Reviews.

(b) Temporary Taking.

(1) [§1160] In General.

(2) [§1161] Delay in Development Process.

(3) [§1162] Building Moratorium.

(4) [§1163] Taking During Pendency of Proceedings.

4. Procedure.

(a) [§1164] In General.

(b) [§1165] Standing and Ripeness.

(c) [§1166] Statute of Limitations.

(d) [§1167] Interest.

(e) [§1168] Costs and Attorneys' Fees.

(f) [§1169] Action Prior to Taking or Damage.

E. Statutory Eminent Domain Law.

1. In General.

(a) [§1170] Nature, Organization, and Scope.

(b) [§1171] Definitions.

(c) [§1172] Rules of Practice.

(d) [§1173] BAJI and CACI Instructions.

(e) [§1174] Jurisdiction of Public Utilities Commission.

2. The Right To Take.

(a) General Limitations on Exercise of Power.

(1) Public Use Limitations.

(aa) [§1175] In General.

(bb) [§1176] Condemnation of Sport Franchise.

(2) Statutory Authorization Required.

(aa) [§1177] In General.

(bb) [§1178] Private Person's Utility Easement.

(cc) [§1179] Private Person's Repair Easement.

(3) [§1180] Public Necessity Required.

(4) [§1181] Extraterritorial Condemnation.

(b) Rights Included in Grant of Authority.

(1) [§1182] Necessary Interests in Property.

(2) [§1183] Property To Make Principal Use Effective.

(3) [§1184] Acquisition of Remainder With Consent.

- (4) [§1185] Joint Exercise of Power.
 - (5) [§1186] Acquisition by Gift, Purchase, Lease, or Other Means.
 - (c) [§1187] Future Use.
 - (d) Substitute Condemnation.
 - (1) [§1188] In General.
 - (2) [§1189] To Relocate Public Use.
 - (3) [§1190] To Provide Utility Service or Access to Road.
 - (e) [§1191] Excess Condemnation.
 - (f) Property Appropriated to Public Use.
 - (1) Condemnation for Compatible Joint Use.
 - (aa) [§1192] Nature of Power.
 - (bb) [§1193] Terms and Conditions of Joint Use.
 - (2) Condemnation for More Necessary Public Use.
 - (aa) [§1194] Nature of Power.
 - (bb) [§1195] Uses Presumed To Be More Necessary.
- 3. Precondemnation Activities.**
- (a) Preliminary Location, Survey, and Tests.
 - (1) [§1196] Right To Enter.
 - (2) [§1197] Entry Under Court Order.
 - (3) [§1198] Owner's Action for Damages.
 - (b) Resolution of Necessity.
 - (1) [§1199] Requirement.
 - (2) [§1200] Effect of Resolution.
 - (3) [§1201] Judicial Review.
 - (4) [§1202] Remedies If Proceeding Is Not Promptly Commenced.
 - (5) [§1203] Consent to Proceeding by Quasi-Public Entity.
- 4. Commencement of Proceeding.**
- (a) [§1204] Jurisdiction and Venue.
 - (b) [§1205] Parties.
 - (c) [§1206] Pleading.
 - (d) [§1207] Process.
 - (e) Pretrial Settlement Offers.
 - (1) [§1208] In General.
 - (2) [§1209] Award of Litigation Expenses.
 - (f) [§1210] Alternative Dispute Resolution.
 - (g) [§1211] Discovery and Exchange of Valuation Data.
- 5. Deposit and Possession Before Judgment.**
- (a) Deposit of Probable Compensation.
 - (1) [§1212] In General.
 - (2) [§1213] Procedure.

(3) [§1214] Deposit on Demand of Homeowner or Lessor.

(4) [§1215] Withdrawal of Deposit.

(b) Possession Prior to Judgment.

(1) [§1216] Application and Order.

(2) [§1217] Service of Order.

(3) [§1218] Stay and Vacation of Order.

5A. [§1218A] (New) Owner's Right to Leaseback.

6. Trial.

(a) [§1219] In General.

(b) [§1220] Contesting Right To Take.

(c) Determining Compensation.

(1) [§1221] In General.

(2) [§1222] Valuation of Divided Interests.

7. Compensation.

(a) [§1223] Right to Compensation.

(b) [§1224] Date of Valuation.

(c) Compensation for Improvements to Realty.

(1) [§1225] In General.

(2) [§1226] Improvements Removed or Destroyed.

(3) [§1227] Improvements Made After Summons Is Served.

(d) [§1228] Compensation for Crops.

(e) Measure of Compensation for Property Taken.

(1) Fair Market Value.

(aa) [§1229] In General.

(bb) [§1230] Determining Market Value.

(cc) [§1231] Admissible Matters.

(dd) [§1232] Inadmissible Matters.

(ee) [§1233] Value of Easement.

(2) Changes Due to Imminence of Project.

(aa) [§1234] Project Enhancement.

(bb) [§1235] Condemnation Blight.

(f) Injury to Remainder.

(1) [§1236] Right to Compensation.

(2) Severance Damages.

(aa) [§1237] In General.

(bb) [§1238] Unity of Title.

(cc) [§1239] Contiguity.

(dd) [§1240] Unity of Use.

(3) Measure of Damages.

(aa) [§1241] In General.

(bb) [§1242] Improper Elements.

(4) Benefit to Remainder.

(aa) [§1243] When Offset Is Proper.

(bb) [§1244] When Offset Is Improper.

(g) Compensation for Loss of Goodwill.

(1) [§1245] In General.

(2) [§1246] Valuation and Proof of Loss.

(h) [§1247] Personal Property of Destroyed Business.

(i) [§1248] Mitigation Work by Condemnor.

(j) [§1249] Protective Work by Owner.

8. Divided Interests.

(a) [§1250] Leases.

(b) [§1251] Encumbrances.

(c) [§1252] Partial Taking and Impairment of Security.

(d) [§1253] Future Interests.

9. Postjudgment Procedure.

(a) [§1254] Payment and Final Order.

(b) Deposit and Withdrawal of Award.

(1) [§1255] Deposit After Judgment.

(2) [§1256] Withdrawal of Deposit.

(c) [§1257] Possession After Judgment.

(d) Interest.

(1) [§1258] In General.

(2) [§1259] Market Rate of Interest.

(e) Ad Valorem Property Taxes.

(1) [§1260] Liability, Proration, and Payment.

(2) [§1261] Exempt Property.

(3) [§1262] Cancellation of Taxes.

(f) [§1263] Special Assessment Liens.

(g) [§1264] Abandonment and Dismissal.

(h) Expenses and Damages on Dismissal or Defeat of Right To Condemn.

(1) [§1265] Litigation Expenses.

(2) [§1266] Damages Caused by Dispossession.

(i) [§1267] Costs.

10. Arbitration.

(a) [§1268] In General.

(b) [§1269] Effect and Enforcement of Agreement.

(c) [§1270] Abandonment of Acquisition.

F. Removal and Relocation Costs.

1. [§1271] In General.

2. [§1272] Authorized Payments and Assistance.

3. [§1273] Displaced Person.

4. [§1274] Comparable Replacement Housing.

5. [§1275] Review.

6. [§1276] Cross-Complaint in Condemnation Action.

7. [§1277] Inverse Condemnation Action.

XIV. OBLIGATION OF CONTRACTS

A. Nature of Protection.

1. [§1278] In General.

2. [§1279] Distinctions.
- B. What Constitutes Contract.
 1. [§1280] In General.
 2. [§1281] Corporate Charter.
 3. [§1282] Public Franchise or Grant.
 4. [§1283] Bond of Public District.
 5. Public Pension System.
 - (a) [§1284] Contractual Theory.
 - (b) [§1285] Valid Modifications.
 - (c) [§1286] Invalid Modifications.
- C. What Constitutes Impairment.
 1. [§1287] Valid Changes in Remedy or Procedure.
 2. [§1288] Invalid Changes in Obligation.
 3. Valid Impairment Under Police Power.
 - (a) [§1289] Emergency Legislation.
 - (b) [§1290] Non-Emergency Legislation.
 - (c) [§1291] Insurance Contracts.
 - (d) [§1292] Stipulated Judgment for Welfare Benefits.

XV. FEDERAL POWERS

- A. [§1293] Nature of Federal Powers.
- B. The Commerce Power.
 1. What Constitutes Interstate and Foreign Commerce.
 - (a) [§1294] In General.
 - (b) [§1295] Transportation.
 - (c) [§1296] Interstate Activity Without Transportation.
 - (d) [§1297] Local Activity as Part of Interstate Movement.
 2. State Power and Interstate Commerce.
 - (a) Prohibitory Legislation.
 - (1) [§1298] General Principle.
 - (2) [§1299] Export of Natural Resources.
 - (b) Unreasonable Burdens.
 - (1) [§1300] In General; Dormant Commerce Clause.
 - (2) [§1301] Legislation Protecting Local Industry.
 - (3) [§1302] Restrictions on Waste Disposal.
 - (4) [§1303] Condemnation of Sports Franchise.
 - (c) State Regulatory Powers Generally.
 - (1) [§1304] Local Phases of Commerce.
 - (2) [§1305] Local Activities of Interstate Salespersons.
 - (3) [§1306] Localized Foreign Commerce.
 - (3a) [§1306A] (New) Interstate Reach of California Law.
 - (4) Congressional Silence.
 - (aa) [§1307] In General.
 - (bb) [§1308] Coincidence of Federal and State Statutes.
 - (5) Express Congressional Authority.

- (aa) [§1309] Rule and Illustrations.
 - (bb) [§1310] Distinctions.
 - (6) [§1311] Direct Burdens Under Twenty-First Amendment.
 - (d) Police Power Regulations.
 - (1) [§1312] Health and Safety Measures.
 - (2) [§1313] State as Market Participant.
 - (3) [§1314] Economic Restrictions on Imports.
 - (4) [§1315] Economic Restrictions on Exports.
 - (5) [§1316] Use of Highways.
 - 3. Federal Power Over Commerce.
 - (a) Regulation of Interstate Commerce.
 - (1) [§1317] In General.
 - (2) [§1318] Labor Relations.
 - (b) Regulation of Intrastate Activity.
 - (1) [§1319] In General.
 - (2) Regulation of Local Production.
 - (aa) [§1320] In General.
 - (bb) [§1321] Labor Regulations.
 - (cc) [§1322] Farming.
- C. War Power.
- 1. [§1323] In General.
 - 2. [§1324] Economic Regulations.
 - 3. [§1325] Restrictions on Speech and Press.
 - 4. [§1326] Enemy Aliens.
 - 5. [§1327] American Citizens of Japanese Descent.
 - 6. [§1328] Martial Rule and Military Commissions.
 - 7. Courts-Martial and Uniform Code.
 - (a) [§1329] American Military Court System.
 - (b) [§1330] Uniform Code of Military Justice.
 - (c) [§1331] Status of Forces Agreements.
 - (d) [§1332] No Jurisdiction Over Civilians.
 - (e) [§1333] Jurisdiction Over Non-Service-Connected Crimes.
 - (f) [§1334] Procedure in Courts-Martial.
 - (g) [§1335] Judicial Review.
 - 8. [§1336] Selective Service.
- D. Power in Foreign Affairs.
- 1. [§1337] In General.
 - 2. Treaties.
 - (a) [§1338] In General.
 - (b) [§1339] Warsaw Convention.
 - (c) [§1340] Supremacy Over State Law.
 - (d) [§1341] Limitations on Power.
 - (e) [§1342] Texts and Law Reviews.
 - 3. [§1343] International Compacts.
- E. Other Federal Powers.

- 1. [§1344] Fiscal Power.**
- 2. [§1345] Bankruptcy Power.**
- 3. [§1346] Property Power.**
- 4. [§1347] Postal Power.**