tection sense of those expressions)[1010] or whether it will simply permit the doctrine to pass from the scene remains unsettled, but it is noteworthy that it now rarely appears on the Court's docket.[1011]

Trials and Appeals.—Trial by jury in civil trials, unlike the case in criminal trials, has not been deemed essential to due process, and the Fourteenth Amendment has not been held to restrain the states in retaining or abolishing civil juries.[1012] Thus, abolition of juries in proceedings to enforce liens,[1013] mandamus[1014] and quo warranto[1015] actions, and in eminent domain[1016] and equity[1017] proceedings has been approved. states are also free to adopt innovations respecting selection and number of jurors. Verdicts rendered by ten out of twelve jurors may be substituted for the requirement of unanimity,[1018] and petit juries containing eight rather than the conventional number of twelve members may be established.[1019]

If a full and fair trial on the merits is provided, due process does not require a state to provide appellate review.[1020] But if an appeal is afforded, the state must not so structure it as to arbitrarily deny to some persons the right or privilege available to others.[1021]

[1010] *Vlandis*, which was approved but distinguished, is only marginally in this doctrinal area, involving as it does a right to travel feature, but it is like *Salfi* and *Murry* in its benefit context and order of presumption. The Court has avoided deciding whether to overrule, retain, or further limit *Vlandis*. Elkins v. Moreno, 435 U.S. 647, 658–62 (1978).

[1011] In Turner v. Department of Employment Security, 423 U.S. 44 (1975), decided after *Salfi*, the Court voided under the doctrine a statute making pregnant women ineligible for unemployment compensation for a period extending from 12 weeks before the expected birth until six weeks after childbirth. *But see* Usery v. Turner Elkhorn Mining Co., 428 U.S. 1 (1977) (provision granting benefits to miners "irrebuttably presumed" to be disabled is merely a way of giving benefits to all those with the condition triggering the presumption); Califano v. Boles, 443 U.S. 282, 284–85 (1979) (Congress must fix general categorization; case-by-case determination would be prohibitively costly).

[1012] Walker v. Sauvinet, 92 U.S. 90 (1876); New York Central R.R. v. White, 243 U.S. 188, 208 (1917).

[1013] Marvin v. Trout, 199 U.S. 212, 226 (1905).

[1014] *In re* Delgado, 140 U.S. 586, 588 (1891).

[1015] Wilson v. North Carolina, 169 U.S. 586 (1898); Foster v. Kansas, 112 U.S. 201, 206 (1884).

[1016] Long Island Water Supply Co. v. Brooklyn, 166 U.S. 685, 694 (1897).

[1017] Montana Co. v. St. Louis M. & M. Co., 152 U.S. 160, 171 (1894).

[1018] *See* Jordan v. Massachusetts, 225 U.S. 167, 176 (1912).

[1019] *See* Maxwell v. Dow, 176 U.S. 581, 602 (1900).

[1020] Lindsey v. Normet, 405 U.S. 56, 77 (1972) (citing cases).

[1021] 405 U.S. at 74–79 (conditioning appeal in eviction action upon tenant posting bond, with two sureties, in twice the amount of rent expected to accrue pending appeal, is invalid when no similar provision is applied to other cases). *Cf.* Bankers Life & Casualty Co. v. Crenshaw, 486 U.S. 71 (1988) (assessment of 15% penalty on