1. Text 1804: One convicted of illegally selling narcotics and given a cumulative sentence composed of consecutive sentences on four counts filed a motion in a District Court seeking suspension of sentence and probation on three of the counts.
2. Text 1403: A union affiliated with the CIO filed a complaint with the National Labor Relations Board charging an employer with unfair labor practices. Although at all times relevant to the proceeding the officers of the CIO had not filed the anti-communist affidavits required by 9 (h) of the National Labor Relations Act as a condition of a union's utilizing the opportunities afforded by the act, the Board entertained the complaint, upon a determination that the CIO was not a "national" or "international" union the officers of which were required to file such affidavits under the terms of 9 (h).
3. Text 1692: After a worker who was employed by a drilling company suffered an injury while working on an oil drilling platform which was located in an area subject to the Longshore and Harbor Workers' Compensation Act (LHWCA) (33 USCS 901 et seq.), the worker (1) filed an administrative claim with the United States Department of Labor against the drilling company and its insurer under the LHWCA; and (2) filed an action in Federal District Court against the platform owner. The drilling company and its insurer paid the worker temporary disability payments for 10 months following the injury. In an informal notice which did not constitute an award, the Department of Labor notified the insurer that the worker was owed permanent disability payments in the total amount of $ 35,592.77, plus penalties and interest. No permanent disability payments were made to the worker by the drilling company or its insurer. Subsequently--and without the written approval of the drilling company and its insurer--the worker settled his action against the platform owner for $ 45,000, of which the worker received $ 29,350.60 after attorneys' fees and expenses. The worker then filed another administrative claim with the Department of Labor against the drilling company and its insurer under the LHWCA. The drilling company and its insurer denied liability on the grounds that under the terms of 33(g)(2) of the LHWCA (33 USCS 933(g)(2))--which specifies that forfeiture occurs if the "employee" fails to notify the employer of any settlement with, or judgment against, a third party, regardless of whether the employer or the employer's insurer has made payments or acknowledged entitlement to LHWCA benefits--the worker had forfeited LHWCA benefits by failing to obtain written approval from the drilling company and its insurer of the worker's settlement with the platform owner, which approval was required for a "person entitled to compensation" under 33(g)(1) of the LHWCA (33 USCS 933(g)(1)). An administrative law judge (ALJ), finding that the worker was not a "person entitled to compensation" under 33(g)(1) because he was not receiving payments at the time of the settlement with the platform owner, ruled in favor of the worker and awarded him (1) $ 35,592.77, less the worker's net recovery from the platform owner of $ 29,350.60; and (2) interest, attorneys' fees, and future medical benefits. On appeal, the Benefits Review Board (BRB) affirmed the decision of the ALJ. On further appeal, the United States Court of Appeals for the Fifth Circuit, reversing the BRB, expressed the view that 33(g) of the LHWCA was unambiguous in providing for forfeiture whenever a claimant under the LHWCA failed to get written approval of a third-party settlement (927 F2d 828).
4. Text 1007: An attorney who had been appointed by the United States District Court for the District of North Dakota to represent a defendant under the Criminal Justice Act submitted, after completing his assignment, a claim for more than $ 1000 for services and expenses, and as required by a provision of the Act (18 USCS 3006A(d)(3)), the Chief Judge of the United States Court of Appeals for the Eighth Circuit reviewed the claim and, finding it to be insufficiently documented, returned it with a request for additional documentation. The attorney subsequently filed a supplemental application, but the Chief Judge's secretary again returned the application, stating that the proffered documentation was unacceptable. At the suggestion of the District Judge's secretary, the attorney wrote a letter to that secretary in which he declined to submit further documentation, refused to accept further assignments under the Act, and criticized the administration of the Act. The District Judge forwarded the letter to the Chief Judge, who, upon failure to receive an apology from the attorney, issued an order to show cause why the attorney should not be suspended. Following the hearing on the show-cause order, during which the attorney again refused to apologize for the letter, the attorney was suspended from the practice of law in the federal courts in the Circuit for six months (734 F2d 334).
5. Text 1672: As a result of unsatisfied federal tax liabilities personally incurred by a husband, the Federal Government placed liens on the husband's property, including his interest in a house which he owned jointly with his wife. After the husband deeded his interest in the house to the wife as part of a division of marital property in contemplation of divorce, the wife entered a contract to sell the house. Subsequently, a week before the scheduled closing date for the sale, the government gave the wife and the purchaser actual notice of the liens, which, the government asserted, were valid against the house or the proceeds of the sale. In order to be able to convey clear title to the house, the wife, under protest, authorized disbursement from the sale proceeds of the total of the liens directly to the Internal Revenue Service. After the government denied the wife's claim for an administrative refund, she filed in the United States District Court for the Central District of California a suit under 28 USCS 1346(a)(1)--which authorizes federal courts to adjudicate any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected--alleging that because, when she received her husband's interest in the house, she lacked notice of the then-existing lien, she had received the property free of such lien. The District Court entered a judgment to the effect that the wife lacked standing to sue for a tax refund under 1346(a)(1) because she was not the assessed party. The United States Court of Appeals for the Ninth Circuit, reversing the judgment of the District Court, held that the wife had standing to sue for a tax refund (24 F3d 1143).
6. Text 1057: After being indicted by a Kentucky state court, the petitioner escaped from custody. He was subsequently arrested in Alabama, convicted by an Alabama state court for the commission of felonies in Alabama, and confined to state prison in Alabama. After Kentucky officials had lodged a detainer in Alabama, the petitioner unsuccessfully requested the Kentucky officials to grant him a speedy trial on his Kentucky indictment. He then instituted habeas corpus proceedings against the Kentucky officials in the United States District Court for the Western District of Kentucky. The District Court held that the petitioner had been denied a speedy trial, and ordered the Kentucky officials either to secure the petitioner's presence in Kentucky for trial within 60 days or to dismiss the indictment. The Court of Appeals for the Sixth Circuit reversed, holding that under 28 USCS 2241(a), which authorizes writs of habeas corpus to be granted by the District Courts "within their respective jurisdictions," jurisdiction is limited to petitions filed by persons physically present within the territorial limits of the District Court (454 F2d 145).
7. Text 1191: A defendant was convicted in a state court on charges of burglary, assault, and murder. After the murder conviction was set aside, a prosecutor proposed to the defendant's attorney that in exchange for a guilty plea to the charge of accessory after a felony murder, the prosecutor would recommend a 21-year sentence to be served concurrently with the burglary and assault sentences. When the defendant's attorney notified the prosecutor that the defendant accepted the offer, the prosecutor told him that a mistake had been made, withdrew that offer, and proposed instead that in exchange for the guilty plea he would recommend a sentence to be served consecutively with the defendant's other sentences. The defendant rejected the new offer and elected to stand trial, but after a mistrial was declared, he accepted the second offer, and the state trial judge then imposed in accordance with the plea bargain a 21-year sentence to be served consecutively to the other sentences. After exhausting his state remedies, the defendant filed a petition for a writ of habeas corpus, which the United States District Court dismissed. The United States Court of Appeals for the Eighth Circuit reversed, holding that fairness precluded the prosecution's withdrawal of the plea proposal once the defendant accepted it (707 F2d 323).
8. Text 1956: A longshoremen's union and an employer's association, upon disagreeing as to the interpretation of "set-back" provisions of the collective bargaining agreement relating to compensation of longshoremen who are told after they report for duty that they will not be needed until the afternoon, submitted the dispute to an arbitrator, who upheld the association's interpretation of the contract provisions in an award setting forth an abstract conclusion of law. After work stoppages resulted from disputes under the contract "set- back" provisions which the union contended were not controlled by the arbitrator's award, the employers' association instituted an action in the United States District Court for the Eastern District of Pennsylvania, seeking to enforce the arbitrator's award. The District Court entered a decree merely requiring that the arbitrator's award "be specifically enforced," and ordering the union "to comply with and to abide by" the award, refusing to explain such decree to counsel for the union. After subsequent "set-back" disputes resulted in further work stoppage, the District Court held the union in contempt, refusing to specify what acts by the union had violated the enforcement order. The United States Court of Appeals for the Third Circuit affirmed both the original enforcement decree (365 F2d 295) and the subsequent contempt order (368 F2d 932).
9. Text 1749: After a union levied fines on several of its members for strikebreaking, and filed state court suits against nine individual employees to collect the fines, the employer filed a charge against the union, and a complaint was issued alleging that the attempted court enforcement of the fines violated 8(b)(1)(A) of the amended National Labor Relations Act. The NLRB ruled that (1) the union violated 8(b)(1)(A) by imposing disciplinary fines on employees for acts committed after the employees had resigned from the union, (2) the union did not violate 8(b)(1)(A) by fining employees for acts committed before they resigned from the union, and (3) the validly- levied fines would not be examined to determine whether they were impermissibly excessive (185 NLRB No. 23). The United States Court of Appeals for the District of Columbia Circuit remanded the case to the NLRB with directions to consider questions relating to the reasonableness of the fines (148 App DC 119, 459 F2d 1143).
10. Text 1763: An employee of the Federal Government--charged with theft of government funds, making false claims against the government, and attempted tax evasion--pleaded guilty pursuant to an agreement which stated the parties' expectation that the employee would be sentenced within a range identified by the Guidelines of the United States Sentencing Commission (18 USCS Appx) as corresponding to a particular offense level and criminal history category. The probation officer's presentence report (1) confirmed this expectation, (2) found the applicable sentencing range to be 30 to 37 months' imprisonment, and (3) concluded that there were no factors that would warrant departure from the guideline sentence. The United States District Court for the District of Columbia, however, announced at the conclusion of the sentencing hearing that the court would depart from the Guidelines' sentencing range and sentence the employee to 60 months' imprisonment, based on (1) the extensive duration of the employee's criminal conduct, (2) the disruption to governmental functions caused by the employee's criminal conduct, and (3) the employee's use of tax evasion to conceal his other offenses. On appeal, the employee argued that Rule 32 of the Federal Rules of Criminal Procedure--which provides in part that counsel for each side must be provided an opportunity, at the sentencing hearing, to comment on the probation officer's determination and on "other matters relating to the appropriate sentence"--required the District Court to furnish advance notice of its intent to depart from the Guidelines. In affirming the sentence, the United States Court of Appeals for the District of Columbia Circuit pointed out that Rule 32 contained no express language requiring a Federal District Court to notify the parties of its intent to depart from the Guidelines on its own motion (282 App DC 194, 893 F2d 1343).
11. Text 436: In the United States District Court for the Northern District of Illinois, a corporate stockholder filed a complaint containing detailed allegations of fraud by the officers and directors of the corporation. Pursuant to Rule 23(b) of the Federal Rules of Civil Procedure, requiring verification of complaints in stockholders' derivative suits, the plaintiff verified the complaint. Over the plaintiff's protest and without being required to file an answer, the defendants were granted a motion to require the plaintiff to submit herself to an oral examination by the defendants' counsel. During such examination, the plaintiff indicated that she did not understand the complaint at all, that she did not know about and could not explain the allegations in the complaint, and that in signing the verification she had merely relied on what her son-in-law had explained to her about the facts of the case. The defendants thereupon moved to dismiss the complaint. In response to this motion, affidavits were filed by the plaintiff's attorney and by the plaintiff's son-in-law, alleging that the plaintiff was a Polish immigrant with a very limited English vocabulary and practically no formal education; that her son-in-law, a professional investment advisor, had used over $ 2,000 of her money to purchase some stock in the defendant corporation for her; that after the corporation had declined to pay its dividend, she sought her son-in-law's advice and was advised by him that he had investigated the corporation and had found that the management had wrongfully damaged the corporation; and that she verified the complaint on the basis of her faith that her son-in-law had correctly advised her that the statements in the complaint were either true or to the best of his knowledge he believed them to be true. Despite these affidavits, the District Court, holding that the plaintiff's verification was false and that she had therefore not complied with Rule 23(b), dismissed the case with prejudice. The Court of Appeals for the Seventh Circuit affirmed. (342 F2d 596.)
12. Text 1148: Various natural gas producers applied to the Federal Power Commission for permanent certificates to sell gas produced in three Texas gulf coast districts. The Commission conditionally certificated the proposed sales. (31 FPC 623, 34 FPC 897.) On an appeal to the Court of Appeals for the Tenth Circuit concerning one of the districts, it was held proper for the Commission, in setting in-line prices, to take account of prices at which gas had been sold under temporary certificates, but it was held that the Commission had no power to order refunds of amounts collected by producers in the past under temporary certificates which contained no refund conditions and had not been appealed. (370 F2d 181; 376 F2d 578.) On appeal to the Court of Appeals for the District of Columbia concerning the other two districts, it was held that the Commission, in setting in-line prices, had erred in giving weight to the price of sales under temporary certificates, and that the Commission had also erred in reserving to later proceedings the question whether there was a public need for the gas which was to be sold. (126 App DC 26, 373 F2d 816.)
13. Text 1895: An employer was charged, in thirty-two counts of an information, with violations of the minimum wage ( 6) and overtime provisions ( 7) and of the requirements for record-keeping ( 11) of the Fair Labor Standards Act. Proceeding on the theory that it is a course of conduct rather than the separate items in such course that constitute the punishable offense, the District Court ordered consolidation of the separate acts set forth in the information into three counts, charging one violation each of 6, 7, and 11.
14. Text 93: After being indicted on two felony counts under New York Statutes, and after negotiating with the prosecuting attorney, the defendant withdrew his not guilty plea and entered a guilty plea to a lesser included offense, the prosecutor agreeing to make no recommendation as to the sentence to be imposed. The New York trial court accepted the guilty plea and set a date for a sentencing hearing, which was subsequently postponed, and at which a new prosecuting attorney appeared and, apparently being ignorant of his colleague's commitment, recommended that the maximum one-year sentence be imposed. Although defendant objected and sought adjournment of the sentencing hearing, the judge stated that he was not influenced by the prosecutor's recommendation, and imposed the maximum sentence on the basis of a presentence report. The Supreme Court of New York, Appellate Division, First Department, affirmed the conviction (35 App Div 2d 1084, 316 NYS2d 194), and the defendant was denied leave to appeal to the New York Court of Appeals.
15. Text 1883: An employee who was discharged by his employer for alleged dishonest acts requested his union to file a grievance on his behalf contesting the discharge. Pursuant to a collective bargaining agreement to which the union and the employer were parties, the employee's grievance was submitted to a joint employer-union grievance panel which upheld the discharge in a binding decision. Seventeen months later, the employee filed a complaint in the United States District Court for the Eastern District of New York against the union and the employer under 301(a) of the Labor Management Relations Act (29 USCS 185(a)), alleging that the union had breached its duty of fair representation and that the employer had discharged him for false reasons. Both the union and the employer moved for summary judgment on the ground that the action was barred by New York's 90-day statute of limitations for actions to vacate arbitration awards. Finding that the action was in fact properly characterized as one to vacate an arbitration award, the District Court granted summary judgment in favor of the union and the employer. However United States Court of Appeals for the Second Circuit reversed, holding that the District Court should have applied New York's 6-year limitation period for breach of contract actions (624 F2d 394).
16. Text 1416: An accused was (1) convicted in a South Dakota court on charges including first-degree murder, (2) sentenced to death, and (3) unsuccessful both on ‚àö¬∂[\*\*\*441]‚àö¬∂ direct review and in state habeas corpus proceedings. In 2000, the accused filed a then-timely federal habeas corpus petition in the United States District Court for the District of South Dakota. However, after AEDPA's limitations period had run, the District Court held that some of the accused's claims had not been exhausted. The accused therefore moved the District Court to hold his pending federal habeas corpus petition in abeyance, while he presented his unexhausted claims to the South Dakota courts. The District Court (1) granted the motion, and (2) issued a stay conditioned upon the accused's commencing (as he did) state-court exhaustion proceedings.
17. Text 283: Before a Florida robbery trial, the defendant filed two motions. The first sought a protective order excusing him from the requirements, under a Florida rule of criminal procedure, that he furnish the prosecuting attorney in advance of trial with the names and addresses of any alibi witnesses and information as to the place where he was claiming to have been. He objected to the disclosure requirements on the ground that the rule compelled him to be a witness against himself in violation of his Fifth and Fourteenth Amendment rights. His second motion sought to impanel a 12-man jury instead of the 6-man jury provided by Florida statute in all but capital cases. Both motions were denied, and the defendant was convicted as charged and was sentenced to life imprisonment. The Florida District Court of Appeal affirmed, rejecting the defendant's claims that his Fifth and Sixth Amendment rights had been violated (224 So 2d 406).
18. Text 1040: Chapter 13 of the Bankruptcy Code uses a statutory formula known as the ‚Äúmeans test‚Äù to help ensure that debtors who can pay creditors do pay them. The means test instructs a debtor to determine his ‚Äúdisposable income‚Äù‚Äîthe amount he has available to reimburse creditors‚Äîby deducting from his current monthly income ‚Äúamounts reasonably necessary to be expended‚Äù for, inter alia, ‚Äúmaintenance or support.‚Äù 11 U. S. C. ¬ß1325(b)(2)(A)(i). For a debtor whose income is above the median for his State, the means test indentifies which expenses qualify as ‚Äúamounts reasonably necessary to be expended.‚Äù As relevant here, the statute provides that ‚Äú[t]he debtor‚Äôs monthly expenses shall be the debtor‚Äôs applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor‚Äôs actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service [IRS] for the area in which the debtor resides.‚Äù ¬ß707(b)(2)(A)(ii)(I). The Standards are tables listing standardized expense amounts for basic necessities, which the IRS prepares to help calculate taxpayers‚Äô ability to pay overdue taxes. The IRS also creates supplemental guidelines known as the ‚ÄúCollection Financial Standards,‚Äù which describe how to use the tables and what the amounts listed in them mean. The Local Standards include an allowance for transportation expenses, divided into vehicle ‚ÄúOwnership Costs‚Äù and vehicle ‚ÄúOperating Costs.‚Äù The Collection Financial Standards explain that ‚ÄúOwnership Costs‚Äù cover monthly loan or lease payments on an automobile; the expense amounts listed are based on nationwide car financing data. The Collection Financial Standards further state that a taxpayer who has no car payment may not claim an allowance for ownership costs. When petitioner Ransom filed for Chapter 13 bankruptcy relief, he listed respondent (FIA) as an unsecured creditor. Among his assets, Ransom reported a car that he owns free of any debt. In determining his monthly expenses, he nonetheless claimed a car-ownership deduction of $471, the full amount specified in the ‚ÄúOwnership Costs‚Äù table, as well as a separate $388 deduction for car-operating costs. Based on his means-test calculations, Ransom proposed a bankruptcy plan that would result in repayment of approximately 25% of his unsecured debt. FIA objected on the ground that the plan did not direct all of Ransom‚Äôs disposable income to unsecured creditors. FIA contended that Ransom should not have claimed the car-ownership allowance because he does not make loan or lease payments on his car. Agreeing, the Bankruptcy Court denied confirmation of the plan. The Ninth Circuit Bankruptcy Appellate Panel and the Ninth Circuit affirmed.
19. Text 1503: The case at hand involved some asserted failures, by the United States Bureau of Land Management (BLM) in its stewardship of public lands in Utah, to take certain actions with respect to the use of off-road vehicles (ORVs). Several challengers filed suit in the United States District Court for the District of Utah and alleged that the District Court had the authority, under \_ 706(1), to remedy the BLM's asserted failures. The challengers included three claims that (1) under the Federal Land Policy and Management Act of 1976 (FLPMA) (43 USCS \_\_ 1701 et seq.), the BLM, by permitting ORV use in certain "wilderness study areas" (WSAs)--roadless lands that had been recommended as suitable for "wilderness" designation, without Congress's having acted yet on the recommendation--had violated the FLPMA's nonimpairment mandate (in 43 USCS \_ 1782(c)) to continue to manage WSAs "in a manner so as not to impair the suitability of such areas for preservation as wilderness"; (2) the BLM had contravened the FLPMA's requirement (in 43 USCS \_ 1732(a)) to manage public lands in accordance with land-use plans when they were available, by failing to comply with three alleged commitments involving (a) a 1991 resource-management plan for the San Rafael area, and (b) a 1990 ORV-implementation plan for the Henry Mountains area; and (3) under the National Environmental Policy Act of 1969 (NEPA) (42 USCS \_\_ 4321 et seq.), the BLM had improperly failed to take a "hard look" at whether the BLM ought to undertake ‚àö¬∂[\*\*\*138]‚àö¬∂ supplemental environmental analyses for areas in which ORV use allegedly had increased. However, the District Court entered a dismissal with respect to these three claims.
20. Text 1047: Alleging that a union had engaged in secondary picketing of an employer's premises, the employer filed an unfair labor practice charge with a Regional Director of the National Labor Relations Board. After issuing a complaint with the Board, the Regional Director petitioned the United States District Court for the District of Colorado, seeking injunctive relief, pursuant to 10(l) of the amended National Labor Relations Act, "pending the final adjudication of the Board" with respect to the unfair labor practice complaint. The District Court denied injunctive relief, holding that the employer was not likely to prevail before the Board on its unfair labor practice charge. The Regional Director did not appeal from the District Court's decision, but the Court of Appeals for the Tenth Circuit dismissed the employer's appeal from such decision, holding that only the Regional Director could appeal from the denial of a 10(l) injunction (410 F2d 1148). Subsequently, the Board found that the union had committed an unfair labor practice by engaging in secondary picketing, and the Board ordered the union to cease and desist from such conduct (176 NLRB No. 120).