1. Text 1704: Whether the Supreme Court should issue a stay of OSHA's vaccine-or-testing regime for all businesses with 100 or more employees.
2. Text 742: This is a companion case to Brown v. Board of Education, supra, p 873. In the latter case the Supreme Court held that the equal protection clause of the Fourteenth Amendment prohibits the states from maintaining racially segregated public schools. In the present case, in an opinion by Warren, Ch. J., it was held that the due process clause of the Fifth Amendment prohibits racial segregation in the public schools of the District of Columbia.
3. 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.)
4. 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).
5. 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.
6. Text 744: The Copyright Act of 1947, in 24, gives the right of renewal, upon the death of the author, to his "widow, widower, or children." The question before the Supreme Court was whether under this provision an illegitimate child is permitted to share in the copyrights which come up for renewal during the widow's lifetime.
7. Text 976: The United States Supreme Court successively held (1) in Batson v Kentucky (1986) 476 US 79, 90 L Ed 2d 69, 106 S Ct 1712, that, under the equal protection clause of the Federal Constitution's Fourteenth Amendment, a state criminal defendant could establish a prima facie case of a prosecutor's purposeful racial discrimination in the selection of jurors based solely on the prosecutor's exercise, at the defendant's trial, of peremptory challenges to exclude members of the defendant's own race; and (2) in Edmonson v Leesville Concrete Co. (1991) 500 US 614, 114 L Ed 2d 660, 111 S Ct 2077, a federal civil case, that racial discrimination in a private civil litigant's exercise of peremptory challenges constituted state action which violated the equal protection component of the due process clause of the Constitution's Fifth Amendment. A Georgia grand jury indicted several white criminal defendants on charges of assault and battery against two alleged victims who were African-Americans. Before jury selection began, the prosecution moved to prohibit the defendants from exercising peremptory challenges in a racially discriminatory manner. The trial judge, however, in denying the motion, expressed the view that neither Georgia law nor federal law prohibited criminal defendants from exercising peremptory strikes in a racially discriminatory manner. On immediate appeal, the Supreme Court of Georgia, in affirming, (1) distinguished Edmonson v Leesville Concrete Co. as involving a civil action; and (2) declined, in view of what the court called the lon history of jury trials as an essential element of the protection of human rights, to diminish the free exercise of peremptory strikes by criminal defendants (261 Ga 473, 405 SE2d 688). A motion for reconsideration was denied.
8. Text 1443: The judgment is reversed. Russell v. United States, 369 U.S. 749.
9. Text 866: Petitioner was convicted of smuggling unauthorized aliens into the United States, in violation of 8 U.S.C.S. ¬¨√ü 1324(a)(2)(B)(ii) and (iii), and after the district court determined that the U.S. Sentencing Guidelines recommended a prison term of between 41 and 51 months, it imposed a sentence of 51 months' imprisonment so petitioner could qualify for and complete the U.S. Bureau of Prison's Residential Drug Abuse Program. Petitioner did not object to her sentence at the time it was imposed; however, she claimed on appeal that the district court violated 18 U.S.C.S. ¬¨√ü 3582(a) when it imposed her sentence. The Ninth Circuit upheld petitioner's sentence, and the Supreme Court granted certiorari to resolve a split amount the U.S. courts of appeals. The Court held that ¬¨√ü 3582(a) precluded federal district courts from imposing or lengthening a prison term to promote a defendant's rehabilitation, and it found that petitioner's case had to be remanded because the district court violated ¬¨√ü 3582(a). The Court did not decide whether the fact that petitioner failed to object to her sentence had any impact on the outcome of the case; instead, it left that determination for the court of appeals.
10. 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).
11. 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).
12. Text 1185: 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 an unfair labor practice 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 National Labor Relations Act. The NLRB ruled that the union violated 8(b)(1)(A) by fining those employees who resigned from the union before returning to work during the strike, and by fining those who had resigned after returning to work to the extent that such fines were based on post-resignation work (185 NLRB No. 23). The United States Court of Appeals for the District of Columbia Circuit sustained these holdings (148 App DC 119, 459 F2d 1143).
13. 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).
14. Text 1275: The justices agreed to allow the Biden administration to enforce nationwide a rule that requires nearly all health care workers at facilities that participate in the Medicare and Medicaid programs to be fully vaccinated against COVID-19 unless they qualify for a medical or religious exemption. The Department of Health and Human Services issued the rule, which applies to more than 10 million workers, in November, but two federal district courts ‚Äì in Missouri and Louisiana ‚Äì put the rule on hold in roughly half the states. In an unsigned opinion, the court emphasized that a key responsibility of the Department of Health and Human Services is ‚Äúto ensure that the healthcare providers who care for Medicare and Medicaid patients protect their patients‚Äô health and safety.‚Äù To do so, HHS has long required those providers to comply with a variety of conditions if they want to receive Medicare and Medicaid funding. Because COVID-19 ‚Äúis a highly contagious, dangerous, and ‚Äî especially for Medicare and Medicaid patients ‚Äî deadly disease,‚Äù HHS determined that a vaccine mandate was necessary to protect patients because it would decrease the chances that health care workers would both contract the virus and pass it on to their patients. Such a mandate, the court wrote, ‚Äúfits neatly within‚Äù the power given to HHS by Congress.
15. 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).
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 1513: After originally denying the defendant's motion to suppress certain evidence in a criminal prosecution, a United States District Court in the Tenth Federal Judicial Circuit, upon reconsidering the matter, dismissed the indictment. The government then filed a motion to set aside the order of dismissal, which motion was denied by the District Court. On the next day, the government filed a notice of appeal. The United States Court of Appeals for the Tenth Circuit dismissed the appeal, holding that it was untimely because it had not been filed within 30 days after the District Court's original order dismissing the indictment and thus did not comply with the 30-day limitation period of 18 USCS 3731 and Rule 4(b) of the Federal Rules of Appellate Procedure for a government appeal from an order dismissing an indictment.
18. Text 1591: Having been discharged from the Army and issued discharge certificates in form other than "honorable," petitioners separately instituted proceedings in the United States District Court for the District of Columbia seeking (1) judgments declaring that the Secretary of the Army, in effecting the discharges and issuing the discharge certificates after taking into account preinduction activities of petitioners rather than basing his action exclusively upon their military record, acted in excess of his powers, and (2) that the District Court direct the Secretary of the Army to issue them "honorable" discharge certificates. The District Court denied the relief sought, and the United States Court of Appeals for the District of Columbia Circuit affirmed ( No. 80, 100 App DC 190, 243 F2d 613; No. 141, 100 App DC 256, 243 F2d 834).
19. Text 1630: Certain individuals who were originally indicted in the Eastern District of Kentucky on two counts for violations of 18 USCS 371 and 545 obtained a change of venue to the Central District of California. In the latter district the government secured a superseding indictment charging four new substantive counts of making false statements to Customs officers in violation of 18 USCS 542, in addition to the two original counts. The government then obtained a voluntary dismissal of the original conspiracy count and two of the false statement counts. The defendants moved to dismiss the remaining counts on the ground that the superseding indictment manifested prosecutorial vindictiveness. The United States District Court for the Central District of California denied the defendants' motion, but stayed the commencement of the trial to permit an appeal. The United States Court of Appeals for the Ninth Circuit, ruling that the denial of a motion to dismiss based on the ground of vindictive prosecution is immediately appealable as a final decision under 28 USCS 1291, held that the defendants established a case of prosecutorial vindictiveness requiring dismissal of the superseding indictment (646 F2d 384).
20. 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).