

226 U. S.

Syllabus.

been an undue advantage given to and an unlawful discrimination practiced in favor of Pfälzer & Sons. If these companies had filed their tariffs, as we now hold they should have filed them, they would have been subject to the restrictions of the Elkins Act as to departures from published rates—and we must consider the case in that light—and this preferential treatment, as we have said, would have been in violation of that act. It is the object of the Interstate Commerce Law and the Elkins Act to prevent favoritism by any means or device whatsoever and to prohibit practices which run counter to the purpose of the act to place all shippers upon equal terms. We think the Commerce Court should have enjoined the carrying out of this contract.

It follows that in case No. 621 the judgment of the Commerce Court should be reversed and the case remanded for the entry of a decree in conformity to this opinion. In No. 622 the judgment of the Commerce Court should be affirmed.

STATE OF FLORIDA ON THE RELATION OF
WAILES v. CROOM, COMPTROLLER OF THE
STATE OF FLORIDA.

ERROR TO THE SUPREME COURT OF FLORIDA.

No. 646. Submitted December 2, 1912.—Decided December 16, 1912.

Where it appears, although by evidence outside the record, that before the writ of error to the state court was sued out, the public officer against whom a writ of mandamus is prayed had died, and his successor had qualified, the writ will be dismissed.

THE facts are stated in the opinion.

Mr. W. S. Jennings, Mr. E. J. L'Engle and Mr. Park Trammell for defendant in error, in support of motion to dismiss.

No appearance for plaintiff in error.

Memorandum opinion, by direction of the court, by
MR. CHIEF JUSTICE WHITE.

This is an action in mandamus. The party proceeded against in the state court was A. C. Croom, sued in his official character as comptroller of the State of Florida. On January 16, 1912, the Supreme Court of Florida affirmed a judgment denying the writ. On April 11, 1912, this writ of error was sued out by the relator below, and Croom, comptroller, was named as defendant in error. Citation was served by delivering a copy to the Attorney General of the State of Florida. The attorneys who represented the defendant in the state courts, acting as friends of the court, have placed upon the files evidence establishing that A. C. Croom died on February 7, 1912, and that William V. Knott was thereafter appointed and duly qualified as comptroller of the State of Florida, and has been acting as such since February 17, 1912. Under the circumstances thus detailed it results that the writ of error was improvidently sued out, and it must therefore be dismissed.

Writ of error dismissed.