CASES ADJUDGED

IN THE

SUPREME COURT OF THE UNITED STATES

AT

OCTOBER TERM, 1917.

SHEPARD ET AL. *v.* BARKLEY, MODERATOR OF THE GENERAL ASSEMBLY AND CHAIRMAN OF THE EXECUTIVE COMMISSION OF THE GENERAL ASSEMBLY OF THE PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA, ET AL.

APPEAL FROM THE CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

No. 257. Argued April 23, 1918.—Decided May 6, 1918.

Decided on the authority of *Watson* v. *Jones*, 13 Wall. 679.
222 Fed. Rep. 669, affirmed.

Mr. Charles E. Morrow, with whom *Mr. Max D. Aber* was on the briefs, for appellants.

Mr. Frank Hagerman for appellees.

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

The court is of the opinion that the following propositions are well founded, although some members of the

court differ concerning them: (a) That the appeal in this case brings up for review both the causes which were decided by the court below at the same time and both therefore will be controlled by the decree here to be rendered. (b) That the order allowing an amendment as to the form of the appeal and the parties which was previously made without prejudice to the right of the appellees to object to the same at the hearing on the merits was rightfully granted and the objection which was at the hearing on the merits made by the appellees is without merit. (c) That under the case as made by the pleadings there is authority to review.

The approach to the merits being thus cleared, without any difference on the subject the court is of opinion that the doctrines by which the case is controlled have been so affirmatively and conclusively settled by a prior decision of this court as to cause it to be unnecessary as a matter of original consideration to restate them. *Watson* v. *Jones*, 13 Wall. 679. And the want of any possible reason for removing this case from the control of the doctrines of the *Watson Case* is, if needs be, conclusively shown by the many cases referred to by the court below in its opinion (222 Fed. Rep. 669) in which the *Watson Case* was made controlling and decisive as to controversies not in substance differing from the one here presented. *Sherard* v. *Walton*, 206 Fed. Rep. 562; *Helm* v. *Zarecor*, 213 Fed. Rep. 648; *Sharp* v. *Bonham*, 213 Fed. Rep. 660; *Harris* v. *Cosby*, 173 Alabama, 81; *Sanders* v. *Baggerly*, 96 Arkansas, 117; *Permanent Committee of Missions* v. *Pacific Synod*, 157 California, 105; *Mack* v. *Kime*, 129 Georgia, 1; *First Presbyterian Church of Lincoln* v. *First Cumberland Presbyterian Church of Lincoln*, 245 Illinois, 74; *Fussell* v. *Hail*, 233 Illinois, 73; *Fancy Prairie Church* v. *King*, 245 Illinois, 120; *Pleasant Grove Congregation* v. *Riley*, 248 Illinois, 604; *Ramsey* v. *Hicks*, 174 Indiana, 428; *Bentle* v. *Ulay*, 175 Indiana, 494; *Wallace* v. *Hughes*,

131 Kentucky, 445; *Carothers* v. *Mosely*, 99 Mississippi, 671; *Hayes* v. *Manning*, 263 Missouri, 1; *Missouri Valley College* v. *Guthrie*, 263 Missouri, 52; *First Presbyterian Church* v. *Cumberland Presbyterian Church*, 34 Oklahoma, 503; *Brown* v. *Clark*, 102 Texas, 323.

Affirmed.

COX *v.* WOOD, COMMANDANT OF CAMP FUNSTON, IN THE STATE OF KANSAS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF KANSAS.

No. 833. Argued April 17, 18, 1918.—Decided May 6, 1918.

Congress may conscript for military duty in a foreign country; the militia clause is not a limitation upon the war power. *Selective Draft Law Cases*, 245 U. S. 366, followed.

Passages in appellant's brief are found scandalous and impertinent, but it is deemed unnecessary to strike them from the files.

Affirmed.

THE case is stated in the opinion.

Mr. Hannis Taylor, with whom *Mr. Joseph E. Black* was on the briefs, for appellant.

The Solicitor General for appellee.

MR. CHIEF JUSTICE WHITE delivered the opinion of the court.

The appellant, conformably to the Selective Draft Law of May 18, 1917, c. 15, 40 Stat. 76, was called to compulsory military duty and in December, 1917, was en-