

DECISIONS PER CURIAM, FROM JANUARY 30, 1923, TO AND INCLUDING APRIL 9, 1923, NOT INCLUDING ACTION ON PETITIONS FOR WRITS OF CERTIORARI.

No. —. SERGIUS APOSTOLOFF, APPELLANT, *v.* CONRAD HUBERT ET AL. Submitted February 20, 1923. Decided February 26, 1923. Motion to docket this cause, and for leave to proceed in forma pauperis, denied. *Mr. Henry E. Davis* for appellant.

No. —, Original. *Ex parte*: IN THE MATTER OF FRANCE & CANADA STEAMSHIP CORPORATION, PETITIONER. Submitted February 20, 1923. Decided February 26, 1923. Motion for leave to file petition for a writ of mandamus herein denied. *Mr. J. Culbert Palmer* and *Mr. Carroll G. Walter* for petitioner.

No. 376. HENRY F. MUELLER ET AL. *v.* SAMUEL W. ADLER ET AL. Appeal from the District Court of the United States for the Eastern District of Missouri. February 26, 1923. On consideration of the petition for a rehearing or to remand this cause to the Circuit Court of Appeals for the Eighth Circuit, it is ordered by the Court that said cause be, and the same is hereby, transferred to the said Circuit Court of Appeals, pursuant to the Act of Congress of September 14, 1922. *Mr. Otto A. Schlobohm*, *Mr. Wm. J. Hughes* and *Mr. Ephrim Caplan* for appellants. *Mr. Edward W. Foristel* for appellees. [See 260 U. S. 694.]

No. 749. CENTRAL COAL & COKE COMPANY *v.* JACOB OCEPEK. Certiorari to the Supreme Court of the State of Arkansas. Submitted February 20, 1923. Decided

February 26, 1923. *Per Curiam*. Reversed with costs, upon the authority of *Baltimore & Ohio R. R. Co. v. Koontz*, 104 U. S. 5, 15; *General Investment Co. v. Lake Shore & Michigan Southern Ry. Co.*, 260 U. S. 261; *Lee v. Chesapeake & Ohio Ry. Co.*, 260 U. S. 653. *Mr. L. C. Boyle* for petitioner. No brief filed for respondent.

No. 18, Original. STATE OF OKLAHOMA *v.* STATE OF TEXAS. Leave to file stipulation and petition in intervention submitted February 26, 1923. Order entered March 5, 1923. It is ordered that the petition in intervention of John Tah Hah et al. be filed in accordance with the stipulation that the evidence introduced in said cause by any of the parties shall be taken as evidence as to these interveners, and that the rights of said interveners may be determined by the decree to be rendered herein. *Mr. Henry E. Asp* for interveners. *Mr. W. W. Dyar*, Special Assistant to the Attorney General, for the United States.

No. 716. AMERICAN TRUST COMPANY *v.* S. S. McNINCH ET AL. Error to the Supreme Court of the State of North Carolina. Motion to dismiss or affirm submitted February 20, 1923. Decided March 5, 1923. *Per Curiam*. Dismissed for want of jurisdiction upon the authority of: (1) *Thomas v. Iowa*, 209 U. S. 258, 263; *Consolidated Turnpike Co. v. Norfolk, etc., Ry. Co.*, 228 U. S. 326, 331, 333; *Bowe v. Scott*, 233 U. S. 658, 664-665; (2) *McCorquodale v. Texas*, 211 U. S. 432, 437; *St. Louis & San Francisco R. R. Co. v. Shepherd*, 240 U. S. 240, 241; *Mergenthaler Linotype Co. v. Davis*, 251 U. S. 256, 258-259; *Jett Bros. Distilling Co. v. Carrollton*, 252 U. S. 1, 6-7. *Mr. John M. Robinson* for plaintiff in error. *Mr. William P. Bynum*, *Mr. W. Cleveland Davis* and *Mr. John J. Parker* for defendants in error. [See *post*, 618.]

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No. 498. JAMES K. COCHRAN ET AL. *v.* COULTON M. BECKER. Error to the Circuit Court of Appeals for the Eighth Circuit. Motion to dismiss or affirm submitted February 26, 1923. Decided March 5, 1923. *Per Curiam*. Dismissed for want of jurisdiction, upon authority of § 6, Act of September 6, 1916, c. 448, 39 Stat. 726, 727. *Mr. Harris Kobey, pro se. Mr. Oliver J. Miller* for defendant in error.

No. 130. HARRIET STOCKER ET AL. *v.* NEMAHA VALLEY DRAINAGE DISTRICT No. 2. Error to the Supreme Court of the State of Nebraska. Submitted February 28, 1923. Decided March 5, 1923. *Per Curiam*. Dismissed for want of jurisdiction upon the authority of *Spencer v. Duplan Silk Co.*, 191 U. S. 526, 530; *Shulthis v. McDougal*, 225 U. S. 561, 569; *Hull v. Burr*, 234 U. S. 712, 720; *Norton v. Whiteside*, 239 U. S. 144, 147. *Mr. Halleck F. Rose, Mr. George N. Foster* and *Mr. T. R. P. Stocker* for plaintiffs in error. *Mr. Fred A. Wright* for defendant in error.

No. 653. PUGET SOUND POWER & LIGHT COMPANY ET AL. *v.* COUNTY OF KING ET AL. Error to the Supreme Court of the State of Washington. Submitted February 26, 1923. Order entered March 5, 1923. Motion to reinstate this cause on the docket granted. *Mr. James B. Howe, Mr. Walter F. Meier, Mr. Thomas J. L. Kennedy* and *Mr. F. D. McKenney* for plaintiffs in error. *Mr. Howard A. Hanson* and *Mr. Malcolm Douglas* for defendants in error. [See *post*, 626.]

No. 314. BRASHER LUMBER COMPANY, FOR THE USE OF ITSELF, ET AL. *v.* SOUTHERN RAILWAY COMPANY. Appeal from the District Court of the United States for the Southern District of Alabama. Submitted March 9, 1923.

Decided March 12, 1923. *Per Curiam*. Affirmed upon the authority of *Baltimore & Ohio R. R. Co. v. Koontz*, 104 U. S. 5, 15; *General Investment Co. v. Lake Shore & Michigan Southern Ry. Co.*, 260 U. S. 261; *Lee v. Chesapeake & Ohio Ry. Co.*, 260 U. S. 653. *Mr. T. M. Stevens* and *Mr. Edgar Watkins* for appellants. *Mr. Gregory L. Smith* for appellee.

No. 522. JAY BURNS BAKING COMPANY ET AL. *v.* SAMUEL R. MCKELVIE, AS GOVERNOR OF THE STATE OF NEBRASKA, ET AL. Error to the Supreme Court of the State of Nebraska. Submitted March 12, 1923. Order entered March 19, 1923. Motion to reinstate cause on the docket granted, but a rule is ordered to issue to show cause why the case should not be dismissed for lack of statutory authority to substitute the new governor for the ex-governor, in view of *Irwin v. Wright*, 258 U. S. 219, and *United States ex rel. Bernardin v. Butterworth*, 169 U. S. 600. *Mr. Matthew A. Hall* and *Mr. Carroll S. Montgomery* for plaintiffs in error. No appearance for defendants in error. [See *post*, 625.]

No. 313. J. M. MACDONALD COAL MINING COMPANY *v.* UNITED STATES. Appeal from the Court of Claims. Argued March 12, 1923. Decided March 19, 1923. *Per Curiam*. Affirmed upon the authority of *Morrisdale Coal Co. v. United States*, 259 U. S. 188. *Mr. William S. Hammers*, for appellant, submitted. *Mr. Assistant Attorney General Riter*, with whom *Mr. Solicitor General Beck* was on the brief, for the United States.

No. 326. JEWEL REDWINE *v.* STATE OF TEXAS. Error to the Court of Criminal Appeals of the State of Texas. Submitted March 15, 1923. Decided March 19, 1923. *Per Curiam*. Affirmed with costs upon the authority of

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Ughbanks v. Armstrong, 208 U. S. 481. *Mr. Joe Burkett* and *Mr. A. H. Carrigan* for plaintiff in error. *Mr. W. A. Keeling* and *Mr. L. C. Sutton* for defendant in error.

No. 327. VIRGINIA HUEY ET AL. *v.* D. A. BROCK ET AL. Error to the Supreme Court of the State of Alabama. Argued March 15, 16, 1923. Decided March 19, 1923. *Per Curiam*. Dismissed for want of jurisdiction upon the authority of § 237 of the Judicial Code, as amended by the Act of September 6, 1916, c. 448, § 2, 39 Stat. 726; *Jett Bros. Distilling Co. v. Carrollton*, 252 U. S. 1, 5-6. *Mr. George H. Lamar*, with whom *Mr. Theodore J. Lamar* was on the brief, for plaintiffs in error. No appearance for defendants in error.

No. 756. SOUTHERN RAILWAY COMPANY *v.* A. D. WATTS, INDIVIDUALLY, ETC., ET AL.;

No. 724. ATLANTIC COAST LINE RAILROAD COMPANY *v.* A. D. WATTS, COMMISSIONER OF REVENUE, ETC., ET AL.;

No. 744. SEABOARD AIR LINE RAILWAY COMPANY *v.* A. D. WATTS, INDIVIDUALLY, ETC., ET AL.; and

No. 727. NORFOLK SOUTHERN RAILROAD COMPANY *v.* A. D. WATTS, COMMISSIONER OF REVENUE, ETC., ET AL. Appeals from the District Court of the United States for the Eastern District of North Carolina. Motion for substitution submitted March 19, 1923. Order entered April 9, 1923. *Per Curiam*. The motion to substitute the new Commissioner of Revenue, R. A. Daughton, for the ex-Commissioner of Revenue, A. D. Watts, is granted, on the ground that such substitution is authorized by § 461, Consol. Stats. N. Car. 1919, as construed by the Supreme Court of North Carolina in *Davenport v. McKee*, 98 N. Car. 500. *Mr. S. R. Prince*, *Mr. Thomas W. Davis*, *Mr. James F. Wright*, *Mr. Murray Allen* and *Mr. W. B. Rodman*, for appellants, in support of the motion.

No. 121. UNITED STATES *v.* MASON & HANGER COMPANY; and

No. 122. UNITED STATES *v.* NORTHEASTERN CONSTRUCTION COMPANY. Appeals from the Court of Claims. Re-argued March 2, 5, 1923. Decided April 9, 1923. *Per Curiam*. Upon rehearing, the former opinions, as well as the judgments heretofore rendered, are affirmed. *Mr. Ralph E. Moody*, Special Assistant to the Attorney General, with whom *Mr. Solicitor General Beck* was on the brief, for the United States. *Mr. George A. King*, *Mr. William B. King* and *Mr. George R. Shields*, for appellees, submitted. [For the former opinions, see 260 U. S. 323, 326.]

PETITIONS FOR CERTIORARI GRANTED, FROM
JANUARY 30, 1923, TO AND INCLUDING APRIL
9, 1923.

No. 820. GREAT NORTHERN RAILWAY COMPANY *v.* McCaull-Dinsmore Company. February 26, 1923. Petition for a writ of certiorari to the Supreme Court of the State of Minnesota granted. *Mr. F. G. Dorety* and *Mr. Reuben J. Hagman* for petitioner. *Mr. Frederick M. Miner* for respondent.

No. 823. FARMERS AND MERCHANTS BANK OF MONROE, NORTH CAROLINA, ET AL. *v.* FEDERAL RESERVE BANK OF RICHMOND, VIRGINIA. February 26, 1923. Petition for a writ of certiorari to the Supreme Court of the State of North Carolina granted. *Mr. Alex W. Smith* and *Mr. John J. Parker* for petitioners. *Mr. M. G. Wallace*, *Mr. H. W. Anderson* and *Mr. H. G. Connor, Jr.*, for respondent.