

DECISIONS PER CURIAM, FROM JANUARY 12, 1926, TO AND INCLUDING APRIL 12, 1926, OTHER THAN DECISIONS ON PETITIONS FOR WRITS OF CERTIORARI.

No. 387. ARTHUR VANDERBILT AND GEORGE WILSON, RECEIVERS OF THE SOUTHERN COTTON OIL COMPANY, *v.* ATLANTIC COAST LINE RAILROAD COMPANY. Error to the Supreme Court of the State of North Carolina. Motion to dismiss submitted January 11, 1926. Decided January 18, 1926. *Per Curiam.* Dismissed for want of jurisdiction upon the authority of section 237 of the Judicial Code as amended by the Act of September 6, 1916, c. 448, sec. 2, 39 Stat. 726; *Fullerton-Krueger Lumber Co. v. Northern Pac. Ry. Co.*, 266 U. S. 435, 436, *Mr. Thomas W. Davis* for the defendant in error, in support of the motion. *Mr. Harry W. Van Dyke* for plaintiffs in error, in opposition thereto.

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No. 729. NORTHERN CEDAR COMPANY *v.* FRANK H. GLOYD, AS DIRECTOR OF AGRICULTURE OF THE STATE OF WASHINGTON ET AL.;

No. 730. YAKIMA COUNTY HORTICULTURAL UNION *v.* FRANK H. GLOYD, AS DIRECTOR OF AGRICULTURE OF THE STATE OF WASHINGTON, ET AL.; and

No. 731. C. W. CHAMBERLAIN & COMPANY ET AL. *v.* FRANK H. GLOYD, AS DIRECTOR OF AGRICULTURE OF THE STATE OF WASHINGTON, ET AL. Error to the Supreme Court of the State of Washington. Submitted January 13, 1926. Decided January 18, 1926. *Per Curiam.* Dismissed for want of jurisdiction upon the authority of *Louisiana Navigation Co. v. Oyster Commission*, 226 U. S. 99, 101; *Coe v. Armour Fertilizer Works*, 237 U. S. 413, 418, 419; *Gray's Harbor Logging Co. v. Coats-Ford-*

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*ney Logging Co.*, 243 U. S. 251, 255; *Bruce v. Tobin*, 245 U. S. 18, 19. *Mr. Dallas V. Halverstadt* for plaintiffs in error. *Mr. John H. Dunbar* for defendants in error.

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No. 574. CHICAGO AND EASTERN ILLINOIS RAILWAY COMPANY v. CHICAGO HEIGHTS TERMINAL TRANSFER RAILROAD COMPANY. Error to the Supreme Court of the State of Illinois. Motion to dismiss or affirm submitted January 18, 1926. Decided January 25, 1926. *Per Curiam*. Dismissed for want of jurisdiction, upon the authority of section 237 of the Judicial Code as amended by the act of September 6, 1916, c. 448, sec. 2, 39 Stat. 726; *Jett Bros. Distilling Co. v. Carrollton*, 252 U. S. 1, 5, 6. Petition for certiorari denied. *Messrs. Luther M. Walter, James G. Condon, and William E. Lamb* for defendant in error, in support of the motion. *Messrs. Homer T. Dick, M. F. Gallagher, and T. P. Littlepage* for plaintiff in error, in opposition thereto.

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No. 141. WISCONSIN LIME AND CEMENT COMPANY, INC. v. CITY OF CHICAGO. Error to the Supreme Court of the State of Illinois. Argued January 15, 18, 1926. Decided January 25, 1926. *Per Curiam*. Dismissed for want of jurisdiction, upon the authority of *Dibble v. Bellingham Bay Land Co.*, 163 U. S. 63, 69; *Dewey v. Des Moines*, 173 U. S. 193, 200; *Henkel v. Cincinnati*, 177 U. S. 170, 171; *Home for Incurables v. New York*, 187 U. S. 155, 158; *Fullerton v. Texas*, 196 U. S. 192, 194; *Marvin v. Trout*, 199 U. S. 212, 223; *Consolidated Turnpike Co. v. Norfolk Ry. Co.*, 228 U. S. 596. *Messrs. James W. Good, Robert W. Childs, Dwight L. Bobb, James B. Wescott, Delbert A. Clithero, and F. M. Hartman* for plaintiff in error, submitted. *Mr. Louis G. Caldwell*, with whom *Messrs. Leon Hornstein and Joseph B. Fleming* were on the brief, for defendant in error.

NO. 143. JOSEPH B. MARSINO *v.* UNITED STATES AND JAMES HIGGINS. Appeal from the District Court of the United States for the District of Massachusetts. Argued January 18, 1926. Decided January 25, 1926. *Per Curiam.* Affirmed, upon the authority of *Ponzi v. Fessenden*, 258 U. S. 254. *Messrs. Asa P. French and Leo A. Rogers* for appellant, submitted. *Assistant to the Attorney General Donovan*, with whom *Solicitor General Mitchell* and *Mr. Jay R. Benton* were on the brief, for the United States.

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NO. 147. ISAAC WOLFGANG *v.* THE PEOPLE OF THE STATE OF CALIFORNIA ET AL. Error to the Supreme Court of the State of California. Argued January 18, 1926. Decided January 25, 1926. *Per Curiam.* Affirmed with costs, upon the authority of *Schwab v. Berggren*, 143 U. S. 442, 451; *Beazell v. State of Ohio et al.*, 269 U. S. 167, and cases cited. *Mr. Ernest B. D. Spagnoli* for plaintiff in error. *Mr. U. S. Webb* for defendants in error.

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NO. 151. CITY OF FORT SMITH, ARKANSAS, ET AL. *v.* SOUTHWESTERN BELL TELEPHONE COMPANY. Appeal from the District Court of the United States for the Western District of Arkansas. Argued January 19, 20, 1926. Decided January 25, 1926. *Per Curiam.* Affirmed with costs, upon the authority of *Newton v. Consolidated Gas Co.*, 258 U. S. 165, 175; *Galveston Electric Co. v. City of Galveston*, 258 U. S. 388, 395; *State of Missouri ex rel. Southwestern Bell Telephone Co. v. Public Service Commission of Missouri*, 262 U. S. 276, 287; *Georgia Ry. & Power Co. v. Railroad Commission of Georgia*, 262 U. S. 625, 631; *Bluefield Water Works & Improvement Co. v. Public Service Commission of West Virginia*, 263 U. S. 679, 690. *Mr. Vincent M. Miles*, with whom *Mr. Thomas B. Pryor* was on the brief, for appellants. *Mr. E. W.*

*Clausen*, with whom *Messrs. J. W. Jamison* and *C. M. Bracelen* were on the brief, for *appellee*.

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No. 160. *NATIONAL CONTRACTING COMPANY v. UNITED STATES*. Appeal from the Court of Claims. Argued January 21, 1926. Decided January 25, 1926. *Per Curiam*. Affirmed, without opinion, for lack of any substantial reason for appeal; *Louisville Bedding Co. et al., v. United States*, 269 U. S. 533. *Mr. Raymond M. Hudson* for *appellant*. *Solicitor General Mitchell* and *Assistant Attorney General Galloway* for the *United States*.

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No. 462. *HARMAN W. McMAHON v. MONTOUR RAILROAD COMPANY*. On writ of certiorari to the Supreme Court of the State of Pennsylvania. Argued January 19, 1926. Decided January 25, 1926. *Per Curiam*. Reversed with costs, upon the authority of *Southern Ry. Co. v. United States*, 222 U. S. 20; *Texas & Pacific Ry. Co. v. Rigsby*, 241 U. S. 33, 37. *Mr. J. Thomas Hoffman*, with whom *Mr. C. D. Scully* was on the brief, for *petitioner*. *Mr. Don Rose* for *respondent*.

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No. 164. *SOVEREIGN CAMP OF THE WOODMEN OF THE WORLD v. ALICE C. SHELTON*. On writ of certiorari to the County Court of Frio County, State of Texas. Argued January 22, 1926. Decided January 25, 1926. *Per Curiam*. Reversed with costs, upon the authority of *Royal Arcanum v. Green*, 237 U. S. 531; *Supreme Lodge, Knights of Pythias v. Meyer*, 265 U. S. 30; *Modern Woodmen of America v. Mixer*, 267 U. S. 544. *Mr. John H. Bickett, Jr.*, with whom *Messrs. Rufus S. Day, Harry J. Gerrity, Charles H. Bates*, and *L. M. Bickett* were on the brief, for *petitioner*. No appearance for *respondent*.

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No. 161. *D. J. BURKE v. MONUMENTAL DIVISION NO. 52, BROTHERHOOD OF LOCOMOTIVE ENGINEERS ET AL.* Appeal from the Circuit Court of Appeals for the Fourth Circuit. Argued January 21, 1926. Decided January 25, 1926. *Per Curiam.* Reversed with costs, with directions to dismiss the bill for lack of allegation disclosing any ground for Federal jurisdiction. *Mr. Cyrus G. Derr*, with whom *Mr. F. D. McKenney* was on the brief, for appellant. *Messrs. Oscar J. Horn and Arthur L. Jackson* for appellees.

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No. 211. *UNITED STATES, ON THE RELATION OF CHARLIE NEWMAN, v. WILLIAM C. HECHT, UNITED STATES MARSHAL, ETC.* Error to the District Court of the United States for the Southern District of New York. Motion to transfer submitted January 27, 1926. Transferred February 1, 1926, to the Circuit Court of Appeals for the Second Circuit. *Mr. Louis J. Vorhaus* for plaintiff in error. *Solicitor General Mitchell* and *Assistant Attorney General Willebrandt* for defendant in error.

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No. 212. *UNITED STATES, ON THE RELATION OF LEWIS FISHLANDER ALIAS LEWIS WILSON, v. WILLIAM C. HECHT, UNITED STATES MARSHAL.* Error to the District Court of the United States for the Southern District of New York. Motion to transfer submitted January 27, 1926. Transferred February 1, 1926, to the Circuit Court of Appeals for the Second Circuit. *Mr. Louis J. Vorhaus* for plaintiff in error. *Solicitor General Mitchell* and *Assistant Attorney General Willebrandt* for defendant in error.

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No. 873. *ROSARIO MACCIENO v. UNITED STATES.* Petition for writ of certiorari to the Circuit Court of Appeals for the Sixth Circuit. March 1, 1926. *Per Curiam.*

Petition for certiorari granted and the judgment of the Circuit Court of Appeals reversed on confession of error by the Government, with directions to remand the case to the United States District Court for the Northern District of Ohio for a new trial. *Mr. Rufus S. Day* for petitioner. *Solicitor General Mitchell* and *Mr. Alfred A. Wheat*, Special Assistant to the Attorney General, for the United States.

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No. 172. UNITED STATES *v.* KHLEBER MILLER VAN ZANDT ET AL. Appeal from the District Court of the United States for the Northern District of Texas. Argued January 25, 1926. Decided March 1, 1926. *Per Curiam*. Dismissed for failure to file appeal in time as required by § 6 of the Act of September 6, 1916, c. 448, 39 Stat. 727. *Messrs. W. D. Smith* and *Alfred A. Wheat*, Special Assistant to the Attorney General, with whom *Solicitor General Mitchell* was on the brief, for the United States. *Mr. Ellis Douthit* for appellees.

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No. 175. NATIONAL PAPER & TYPE COMPANY *v.* FRANK K. BOWERS, COLLECTOR, ETC. Error to the District Court of the United States for the Southern District of New York. Argued January 26, 1926. Decided March 1, 1926. *Per Curiam*. Affirmed upon the authority of *W. E. Peck & Company, Inc., v. Lowe, Collector*, 247 U. S. 165; *United States Glue Co. v. Town of Oak Creek*, 247 U. S. 321; *Cornell v. Coyne*, 192 U. S. 418; *Turpin v. Burgess, Collector*, 117 U. S. 504; *Pace v. Burgess, Collector*, 92 U. S. 372. *Mr. Cornelius W. Wickersham*, with whom *Messrs. Franklin Grady* and *George W. Wickersham* were on the brief, for plaintiff in error. *Solicitor General Mitchell*, with whom *Mr. Richard P. Reeder* was on the brief, for defendant in error.

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No. 180. D. D. ROBERTS AND G. A. COLLINS *v.* TOWN OF PERRY, FLORIDA, ET AL. Error to the Supreme Court of the State of Florida. Argued January 28, 1926. Decided March 1, 1926. *Per Curiam.* Dismissed for want of any ground for federal jurisdiction, there having been no lack of opportunity for a hearing on the merits of the assessment, upon the authority of *Hetrick v. Village of Lindsay*, 265 U. S. 384; and there having been no contract within the meaning of Art. I, § 10 of the Constitution, upon the authority of *Hunter v. City of Pittsburgh*, 207 U. S. 161, 176-177; (2) *New Orleans v. New Orleans Water Works Company*, 142 U. S. 79, 87-88; *Gulf & Ship Island R. R. Co. v. Hewes*, 183 U. S. 66, 75. *Mr. Thomas B. Adams*, with whom *Messrs. William E. Kay* and *Henry C. Clark* were on the brief, for plaintiffs in error. *Mr. Giles J. Patterson* for defendants in error.

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No. —, original. EX PARTE IN THE MATTER OF BENJAMIN CATCHINGS. March 8, 1926. Motion for leave to file motion for rule to show cause on the Secretary of State denied. *Mr. Benjamin Catchings*, pro se.

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No. —, original. THE STATE OF MICHIGAN *v.* THE STATE OF ILLINOIS. March 8, 1926. The motion for leave to file a bill of complaint in this cause is granted and process is ordered to issue returnable on Monday, October 4, next. *Mr. Andrew B. Dougherty*, Attorney General of Michigan, for complainant.

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No. 204. SOUTH FORK BREWING COMPANY, M. F. MURPHY, GEORGE J. BREISINGER ET AL. *v.* UNITED STATES. Appeal from the Circuit Court of Appeals for the Third Circuit. Argued March 9, 1926. Decided March 15, 1926. *Per Curiam.* Affirmed upon the authority of

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*Washington Securities Co. v. United States*, 234 U. S. 76, 78; *Baker v. Schofield*, 243 U. S. 114, 118; *Southern Ry. Co. v. Puckett*, 244 U. S. 571, 574; *Piedmont & G. C. Coal Co. v. Seaboard Fisheries Co.*, 254 U. S. 1, 13. *Mr. David V. Cahill*, with whom *Mr. Joseph A. Burdeau* was on the brief, for appellants. *Solicitor General Mitchell*, *Assistant Attorney General Willebrandt*, and *Mr. Arthur W. Henderson* for the United States.

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No. 610. *DWIGHT HARRISON v. STATE OF OHIO*. Error to the Supreme Court of the State of Ohio. Argued March 10, 1926. Decided March 15, 1926. *Per Curiam*. Affirmed upon the authority of *West v. Louisiana*, 194 U. S. 258; *Twining v. New Jersey*, 211 U. S. 78. *Messrs. Smith W. Bennett* and *Robert R. Nevin* for plaintiff in error. *Mr. John R. King*, with whom *Messrs. L. R. Pugh* and *J. A. Godown* were on the brief, for defendant in error.

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No. 206. *JAMES PATTERSON, ALIAS "BOSSY" PATTERSON v. COMMONWEALTH OF VIRGINIA*. Error to the Supreme Court of Appeals of the State of Virginia. Submitted March 11, 1926. Decided March 15, 1926. *Per Curiam*. Dismissed for want of jurisdiction upon the authority of section 237 of the Judicial Code as amended by the Act of September 6, 1916, c. 448, sec. 2, 39 Stat. 726; *Jett Bros. Distilling Co. v. Carrollton*, 252 U. S. 1, 5-6. *Mr. William F. Denny* for plaintiff in error. *Messrs. John R. Saunders* and *Lewis H. Machen* for defendant in error.

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No. 911. *RED BALL TRANSIT COMPANY v. CHARLES C. MARSHALL ET AL., CONSTITUTING THE PUBLIC UTILITIES COMMISSION OF OHIO ET AL.* March 22, 1926. Motion for temporary injunction is denied. *Mr. John J. Shea*, for

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appellant. *Messrs. Nathan A. Gibson, Joseph S. Hall, Thomas J. Flannelly, and Thomas S. Gibson* for appellees.

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No. 650. *DORA E. ROOKER AND WILLIAM V. ROOKER v. FIDELITY TRUST COMPANY AND FIDELITY TRUST COMPANY, AS TRUSTEE OF THE ESTATE OF DORA E. ROOKER.* Error to the Supreme Court of the State of Indiana. Motion to dismiss or affirm submitted March 15, 1926. Decided March 22, 1926. *Per Curiam.* Dismissed for want of jurisdiction upon the authority of § 237 of the Judicial Code as amended by the Act of February 13, 1925, c. 229, § 1(a), 43 Stat. 937, *Rooker v. Fidelity Trust Co.*, 261 U. S. 114; *Rooker v. Fidelity Trust Co.*, 263 U. S. 413. Petition for certiorari denied. *Mr. Charles W. Cox* for defendant in error, in support of the motion. *Mr. William V. Rooker* for plaintiff in error, in opposition thereto.

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No. 225. *EVANSVILLE OIL AND GREASE COMPANY ET AL. v. IVY L. MILLER, AS STATE FOOD AND DRUG COMMISSIONER OF THE STATE OF INDIANA.* Appeal from the District Court of the United States for the District of Indiana. Argued March 19, 1926. Decided March 22, 1926. *Per Curiam.* Affirmed upon the authority of *Texas Company v. Brown*, 258 U. S. 466. *Mr. Hubert B. Fuller*, with whom *Messrs. Charles D. Chamberlain, Charles O. Roemler, and George B. Morty* were on the brief, for appellants. *Messrs. Arthur L. Gilliam and Edward M. White* for appellee.

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No. 997. *DOROTHY FERGUSON v. DISTRICT OF COLUMBIA.* Petition for writ of certiorari to the Court of Appeals of the District of Columbia. March 22, 1926. *Per Curiam.* Denied for want of jurisdiction in this court under § 240 of the Judicial Code as amended by the Act

of February 13, 1925, c. 229, § 1(a), 43 Stat. 938, to issue a certiorari to review a refusal of a Justice of the Court of Appeals of the District of Columbia to allow a writ of error to the Police Court of the District of Columbia under the authority of the District of Columbia Code, § 227, 29 Stat. 607. *Mr. Harry A. Hegarty* for petitioner. No appearance for respondent.

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No. 16, original. *STATE OF WISCONSIN v. STATE OF ILLINOIS AND SANITARY DISTRICT OF CHICAGO.* Argued on motion to dismiss, March 10, 1926. Decided March 22, 1926. *Per Curiam.* In view of the difficult questions arising on the record, we delay stating our conclusion until the case is made and all the facts are before us on the pleadings and the evidence. The motion to dismiss the bill is therefore overruled without prejudice to any question and with leave to proceed in due course. *Kansas v. Colorado*, 185 U. S. 125, 147. *Mr. James M. Beck* for defendant, the Sanitary District of Chicago, and *Mr. Hugh S. Johnson* for defendant, the State of Illinois, in support of the motion. *Mr. Herman L. Ekern* for complainant, the State of Wisconsin, and *Mr. Newton D. Baker* for the State of Ohio and the Great Lakes Carriers Association, in opposition thereto.

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No. 267. *PATRICK J. O'SHAUGHNESSY ET AL. v. UNITED STATES.* Error to the District Court of the United States for the Southern District of Alabama. Motion submitted March 22, 1926, granted April 12, 1926, to transfer this case to the Circuit Court of Appeals for the Fifth Circuit. *Messrs. Harry H. Smith, William H. Armbrecht, W. J. Young, and Gregory L. Smith* for plaintiffs in error. *Solicitor General Mitchell, Assistant Attorney General Willebrandt, and Mr. John J. Byrne* for the United States.

No. 1060. *CHARLES BARR v. A. A. McCORKLE, WARDEN AND KEEPER OF THE TENNESSEE STATE PENITENTIARY.* Appeal from the District Court of the United States for the Middle District of Tennessee. Motion to transfer cause submitted March 22, 1926. Decided April 12, 1926. *Per Curiam.* Motion to transfer the appeal to the United States Circuit Court of Appeals for the Sixth Circuit denied upon the authority of the act of February 13, 1925, c. 229, sec. 13, 43 Stat. 942, and appeal dismissed for want of jurisdiction upon the authority of the act of February 13, 1925, c. 229, sec. 6 (a), 43 Stat. 940, and sec. 13, *supra*. *Mr. Grover McCormick* for appellant. *Mr. William H. Swiggart* for appellee.

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No. 871. *A. J. BOYD v. HON. JAMES D. SMYTHE, JUDGE OF HENRY COUNTY DISTRICT COURT, STATE OF IOWA.* Error to the Supreme Court of the State of Iowa. Motion for supersedeas submitted March 22, 1926. Decided April 12, 1926. *Per Curiam.* Application for a writ of supersedeas and for leave to file a bond denied; motion for leave to amend the petition in error denied, and the writ of error dismissed, for want of jurisdiction, upon the authority of *Iowa C. R. Co. v. Iowa*, 160 U. S. 389, 393; *Castillo v. McConnico*, 168 U. S. 674, 683; *Rawlins v. Georgia*, 201 U. S. 638; *Burt v. Smith*, 203 U. S. 129; *Standard Oil Co. v. Missouri*, 224 U. S. 270, 281; *DeBearn v. Safe Deposit & Trust Company*, 233 U. S. 24, 34; *McDonald v. Oregon R. R. & Nav. Co.*, 233 U. S. 665, 669, 670; *Gasquet v. Lapeyre*, 242 U. S. 367, 369, 370; (2) *McCain v. Des Moines*, 174 U. S. 168, 181; *Western Union Tel. Co. v. Ann Arbor R. R. Co.*, 178 U. S. 239, 243; *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. Lloyd L. Duke* for plaintiff in error. *Messrs. Benjamin J. Gibson and Neill Garrett* for defendant in error.

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No. 158. RANDOLPH HENRY, TRUSTEE IN BANKRUPTCY OF THE ESTATE OF FREE SERVICE PHARMACY, INC., BANKRUPT, *v. W. A. IRWIN AND THOMAS E. PAYNE*. Error to the Supreme Court of Appeals of the State of Virginia. Submitted March 22, 1926. Decided April 12, 1926. *Per Curiam*. Dismissed upon the authority of *McCain v. Des Moines*, 174 U. S. 168, 181; *Western Union Tel. Co. v. Ann Arbor R. R. Co.*, 178 U. S. 239, 243; *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; (2) *California Powder Works v. Davis & Co.*, 151 U. S. 389, 393; *Gaar, Scott & Co. v. Shannon*, 223 U. S. 468, 470; *Consol. Turnpike Co. v. Norfolk & Ocean View R. R. Co.*, 228 U. S. 596, 599; *Yazoo & Miss. Valley R. R. Co. v. Brewer*, 231 U. S. 245, 249; *Cuyahoga River Power Co. v. Northern Realty Co.*, 244 U. S. 300, 303; *Municipal Securities Corp. v. Kansas City*, 246 U. S. 63; *Bilby v. Stewart*, 246 U. S. 255, 257; *Farson, Son & Co. v. Bird*, 248 U. S. 268, 271. *Mr. Randolph Henry* for plaintiff in error. *Messrs. Harvey B. Apperson and Charles D. Fox, Jr.*, for defendants in error.

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PETITIONS FOR CERTIORARI GRANTED, FROM JANUARY 12, 1926, TO AND INCLUDING APRIL 12, 1926.

No. 847. UNITED STATES, EX REL. SKINNER & EDDY CORPORATION, *v. J. R. McCARL, COMPTROLLER GENERAL OF THE UNITED STATES*. January 18, 1926. Petition for writ of certiorari to the Court of Appeals of the District