

DECISIONS PER CURIAM, FROM APRIL 13, 1926,
TO AND INCLUDING JUNE 7, 1926, OTHER
THAN DECISIONS ON PETITIONS FOR WRITS
OF CERTIORARI.

No. 310. *CARTER LYNCH, TRUSTEE IN BANKRUPTCY OF THE TENNESSEE RIVER COAL COMPANY, v. NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILWAY COMPANY ET AL.* Error to the Supreme Court of the State of Tennessee. Motion to dismiss submitted April 12, 1926. Decided April 19, 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. *Messrs. Frank Spurlock and Fitzgerald Hall* for defendants in error, in support of the motion. *Mr. Charles C. Moore* for plaintiff in error, in opposition thereto.

No. 662. *EMPIRE ENGINEERING COMPANY v. WHITE, GRATWICK AND MITCHELL, INC.* Error to the Supreme Court of the State of New York. Motion to dismiss submitted April 12, 1926. Decided April 19, 1926. *Per Curiam.* Dismissed for want of jurisdiction upon the authority of *California Powder Works v. Davis & Co.*, 151 U. S. 389; *Gaar, Scott & Co. v. Shannon*, 223 U. S. 469, 470; *Consolidated Turnpike Co. v. Norfolk & Ocean View R. R. Co.*, 228 U. S. 596, 599; *Yazoo & Mississippi 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 Corporation v. Kansas City*, 246 U. S. 63, 69; *Bilby v. Stewart*, 246 U. S. 255, 257; *Farson, Son & Co. v. Bird*, 248 U. S. 268, 271. *Mr. Lawrence E. Coffey* for defendant in error, in support of the

motion. *Mr. Adelbert Moot* and *Helen Z. M. Rodgers* for plaintiff in error, in opposition thereto.

No. 674. *ISRAEL SELIGMAN v. FRANK K. BOWERS, COLLECTOR OF INTERNAL REVENUE FOR THE SECOND DISTRICT OF NEW YORK, AND DAVID H. BLAIR, UNITED STATES COMMISSIONER, ETC.* Appeal from the District Court of the United States for the Southern District of New York. Submitted April 12, 1926. Decided April 19, 1926. *Per Curiam.* Dismissed for want of jurisdiction upon the authority of § 238 of the Judicial Code, as amended by the act of February 13, 1925, c. 229, sec. 1, 43 Stat. 938. *Messrs. Charles Marvin* and *Roscoe C. Harper* for appellant. *Solicitor General Mitchell* for appellee.

Nos. 612 and 613. *JOSEPH B. MARSINO v. COMMONWEALTH OF MASSACHUSETTS.* Error to the Superior Court of Worcester County, State of Massachusetts. Argued April 13, 1926. Decided April 19, 1926. *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, sec. 2, 39 Stat. 726; *Jett Bros. Distilling Co. v. Carrollton*, 252 U. S. 1, 5-6. *Mr. Asa P. French* for plaintiff in error. *Messrs. Charles B. Rugg, Jay R. Benton, and George R. Stobbs* for defendant in error.

No. 231. *CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY COMPANY v. A. N. MURPHY AND T. O. MURPHY, PARTNERS DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF MURPHY & SON.* Error to the Supreme Court of the State of Oklahoma. Argued April 14, 1926. Decided April 19, 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. A. T. Boys*, with whom *Messrs. W. R. Bleakmore, W. F. Dickinson, M. L. Bell, Thomas P. Littlepage, John Barry*, and *W. F. Collins* were on the brief for plaintiff in error. *Messrs. W. C. Stevens, A. J. Morris*, and *Riford Bond*, for defendants in error, submitted.

No. 262. *STEVE SUPER AND BENJAMIN H. WILDER v. HUBERT WORK, SECRETARY OF THE INTERIOR, AS A MEMBER OF THE FEDERAL POWER COMMISSION, AND WILLIAM M. JARDINE, SECRETARY OF AGRICULTURE, ETC.* Appeal from the Court of Appeals of the District of Columbia. Argued April 20, 21, 1926. Decided April 26, 1926. *Per Curiam*. Affirmed upon the authority of (1) *Barker v. Harvey*, 181 U. S. 481; *United States v. Title Insurance Company*, 265 U. S. 472; (2) *Lone Wolf v. Hitchcock*, 187 U. S. 553; *Conley v. Ballinger*, 216 U. S. 84, 90. *Mr. Jennings C. Wise*, for appellants. *Mr. George P. Barse*, with whom *Solicitor General Mitchell* and *Assistant Attorney General Parmenter* were on the brief, for appellees.

No. 266. *EMELIE W. PEACOCK v. MABEL G. REINECKE, COLLECTOR OF INTERNAL REVENUE FOR THE FIRST INTERNAL REVENUE DISTRICT OF ILLINOIS.* Appeal from the Circuit Court of Appeals for the Seventh Circuit. Argued April 23, 1926. Decided April 26, 1926. *Per Curiam*. Dismissed for want of jurisdiction upon the authority of *Farrell v. O'Brien*, 199 U. S. 89, 100; *Goodrich v. Ferris*, 214 U. S. 71, 79; *Toop v. Ulysses Land Company*, 237 U. S. 580, 583; *United Security Company v. American Fruit Produce Company*, 238 U. S. 140, 142; *Sugarman v. United States*, 249 U. S. 182, 184; *Berkman v. United States*, 250 U. S. 114, 118; *Piedmont Power & Light Com-*

pany v. Town of Graham, 253 U. S. 193, 195. *Mr. Herbert Pope*, with whom *Messrs. James F. Forstall* and *E. Barrett Prettyman* were on the brief, for appellant. *Solicitor General Mitchell*, with whom *Assistant Attorney General Willebrandt* and *Mr. Sewall Key* were on the brief, for appellee.

No. —, original. *Ex parte William G. EHRLICH*. May 3, 1926. Motion for leave to file petition for writ of habeas corpus and to admit petitioner to bail denied. *Messrs. William C. Prentiss* and *Joseph E. Morrison* for petitioner.

No. —, original. *Ex parte Carl KOBER*. May 3, 1926. Motion for leave to file petition for writ of habeas corpus and to admit petitioner to bail denied. *Messrs. William C. Prentiss* and *Joseph E. Morrison* for petitioner.

No. 269. *ROY RISSLING v. CITY OF MILWAUKEE*. Error to the Supreme Court of the State of Wisconsin. Argued April 26, 1926. Decided May 3, 1926. *Per Curiam*. Affirmed upon the authority of *Gundling v. Chicago*, 177 U. S. 183; *Barbier v. Connolly*, 113 U. S. 27; *Reinman v. City of Little Rock*, 237 U. S. 171. *Mr. Leon B. Lamfrom* for plaintiff in error. *Messrs. John M. Niven* and *Leo A. Mullaney* for defendant in error.

No. 275. *ISABELLA SAMUELS, FORMERLY ISABELLA OSBORNE, ET AL. v. JOE H. CHILDERS*. Error to the Supreme Court of the State of Oklahoma. Submitted April 27, 1926. Decided May 3, 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. John Tomerlin* and

Edgar A. deMueles for plaintiffs in error. *Messrs. James D. Simms* and *James C. Denton* for defendant in error.

No. 281. *SHELLEY B. HUTCHINSON v. WILLIAM M. SPERRY AND EMILY SPERRY, HIS WIFE, FARMERS' LOAN & TRUST CO. OF NEW YORK, ET AL., ETC., ET AL.* Appeal from the Circuit Court of Appeals for the Third Circuit. Argued April 28, 1926. Decided May 3, 1926. *Per Curiam.* Dismissed for want of jurisdiction upon the authority of sections 128 and 240 of the Judicial Code; *Farrell v. O'Brien*, 199 U. S. 89, 100; *Goodrich v. Ferris*, 214 U. S. 71, 79. *Mr. William Mayo Atkinson* for appellant. *Messrs. Frederick Geller, Frederic J. Faulke, Robert H. McCarter, and Josiah Stryker* for appellees.

No. 287. *CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY v. BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF SOUTH DAKOTA.* Error to the Supreme Court of the State of South Dakota. Argued April 29, 1926. Decided May 3, 1926. *Per Curiam.* Dismissed for the want of jurisdiction upon the authority of *McCain v. Des Moines*, 174 U. S. 128, 181; *Western Union Telegraph Company v. Ann Arbor R. R. Co.*, 178 U. S. 239, 243; *Spencer v. Duplan Silk Company*, 191 U. S. 526, 530; *Shulthis v. McDougal*, 225 U. S. 561, 569; *Hull v. Burr*, 234 U. S. 712, 720; *Norton v. Whitesides*, 239 U. S. 144, 147. *Mr. J. N. Davis*, with whom *Messrs. O. W. Dynes, E. L. Grantham, H. H. Field*, and *Frank K. Nebeker*, were on the brief, for plaintiff in error. *Mr. Raymond L. Dillman* for defendant in error.

No.—, original. *EX PARTE EDWARD F. BROWN.* Motion for leave to file petition for mandamus to the District Court of the United States for the district of Massachusetts. May 10, 1926. *Per Curiam.* Application for leave

to file petition for a writ of mandamus to compel Judge Peters of the District Court of the United States for the District of Massachusetts to allow a direct appeal to this court on a question of jurisdiction, the appeal having been applied for before the effective date of the Act of February 13, 1925, 43 Stat. 936, denied upon the authority of *Smith v. McKay*, 161 U. S. 355, 358. *Messrs. C. C. McChord and Conrad W. Crooker* for petitioner.

No. 455. *JAMES SCOTT v. MORRIS NATIONAL BANK, OF MORRIS*. Error to the Supreme Court of the State of Oklahoma. Motion to dismiss or affirm submitted May 3, 1926. Decided May 10, 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 Company v. Carrollton*, 252 U. S. 1, 5-6; (2) *Missouri v. Andriano*, 138 U. S. 496; *Rae v. Homestead Loan & Guaranty Company*, 176 U. S. 121; *Baker v. Baldwin*, 187 U. S. 61. *Messrs. Charles A. Dixon and E. J. McVann* for defendant in error in support of the motion. *Mr. Lewis C. Lawson* for plaintiff in error in opposition thereto.

No. 66. *JOHN C. ROSS v. STATE OF SOUTH DAKOTA*. Error to the Supreme Court of the State of South Dakota. Submitted May 3, 1926. Decided May 10, 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; (2) *Farrell v. O'Brien*, 199 U. S. 89, 100; *Toop v. Ulysses Land Co.*, 237 U. S. 580, 583; *Piedmont Power & Light Co. v. Town of Graham*, 253 U. S. 193, 195; *Seaboard Air Line v. Padgett*, 236 U. S. 668, 671; (3) *Missouri v. Lewis*, 101 U. S. 22, 31. *Messrs. U. S. G.*

Cherry and *Holton Devenport* for plaintiff in error. *Messrs. Byron S. Payne* and *E. D. Roberts* for defendant in error.

No. 302. *C. A. P. TURNER COMPANY v. UNITED STATES*. Appeal from the Court of Claims. Argued May 3, 1926. Decided May 10, 1926. *Per Curiam*. Affirmed upon the authority of *United States v. Smith*, 94 U. S. 214, 218; *Talbert v. United States*, 155 U. S. 45; *Stone v. United States*, 164 U. S. 380, 382; *United States v. Milliken Printing Co.*, 202 U. S. 173, 174; *Keokuk & Hamilton Bridge Co. v. United States*, 260 U. S. 125, 126. *Mr. Benton Baker*, for appellant. *Solicitor General Mitchell* and *Mr. A. C. Paul* for the United States.

No. 304. *WILLIAM H. MAXWELL AND GLOBE INDEMNITY COMPANY v. UNITED STATES*. Error to the United States Circuit Court of Appeals for the Fourth Circuit. Argued May 4, 1926. Decided May 10, 1926. *Per Curiam*. Affirmed upon the authority of *The Harriman*, 9 Wall. 161, 172; *Jones v. United States*, 96 U. S. 24, 29; *Jacksonville, Mayport, Pablo Ry. & Nav. Co. v. Hooper*, 160 U. S. 514, 527; *Globe Refining Co. v. Landa Cotton Oil Co.*, 190 U. S. 540, 543-544; *Carnegie Steel Co. v. United States*, 240 U. S. 156, 164; *Day v. United States*, 245 U. S. 159, 161. *Messrs. George A. King* and *Christie Benet*, with whom *Mr. F. A. W. Ireland* was on the brief, for plaintiffs in error. *Solicitor General Mitchell*, *Assistant to the Attorney General Donovan*, and *Mr. J. D. Ernest Meyer* for the United States.

No. 338. *HAEUSSLER INVESTMENT COMPANY v. CHARLES W. BATES*; and

No. 481. *FRUIN BAMBRICK CONSTRUCTION COMPANY, THIRD STREET REALTY & INVESTMENT COMPANY, COMP-*

TON HILL IMPROVEMENT COMPANY ET AL. *v.* CHARLES W. BATES. Error to the Supreme Court of the State of Missouri. Submitted May 6, 1926. Decided May 10, 1926. *Per Curiam.* Affirmed upon the authority of *Withnell v. Ruecking Construction Co.*, 249 U. S. 63, 69; *Hancock v. City of Muskogee*, 250 U. S. 454, 456; *Goldsmith v. Prendergast Construction Co.*, 252 U. S. 12; (2) *Valley Farms Co. v. Westchester County*, 261 U. S. 155. *Messrs. Lambert E. Walther, Joseph W. Lewis, John S. Leahy, Walter H. Saunders, and Charles M. Rice* for plaintiffs in error. *Mr. Charles W. Bates, pro se.*

No. 17, original. UNITED STATES *v.* MINNESOTA. May 24, 1926. Final decree entered. See 270 U. S. 181.

No. —, original. EX PARTE NORMAN T. WHITAKER. May 24, 1926. Motion for leave to file petition for writ of mandamus or certiorari herein is denied. *Mr. Norman T. Whitaker, pro se.*

No. —, original. EX PARTE HUGH H. NEWELL. May 24, 1926. Motion for leave to file petition for writ of habeas corpus is denied. *Mr. Hugh H. Newell, pro se.*

No. 554. NORMAN S. BOWLES *v.* W. I. BIDDLE, WARDEN. Appeal from the District Court of the United States for the District of Kansas. Motion to dismiss submitted June 1, 1926. Decided June 7, 1926. *Per Curiam.* Motion to dismiss the appeal as moot granted and the order denying the writ of habeas corpus vacated, with directions to the District Court of the United States for the District of Kansas to dismiss the petition. *Solicitor General Mitchell, Assistant Attorney General Luhring,*

271 U. S.

Decisions Per Curiam, Etc.

and *Mr. Harry S. Ridgely* for appellee, in support of the motion. *Mr. Norman S. Bowles, pro se*, in opposition thereto.

No. —, original. *JOHN LAPIQUE v. DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA*. June 7, 1926. Motion for leave to file petition for writ of mandamus and motion for writ of error denied. *Mr. John Lapique, pro se*.

No. 786. *TRANSPORTES MARITIMOS DO ESTADO v. L. MUNDET & SONS, INC.* Appeal from the District Court of the United States for the Southern District of New York. Motion to dismiss submitted June 1, 1926. Decided June 7, 1926. *Per Curiam*. Dismissed for want of jurisdiction upon the authority of section 238 of the Judicial Code as amended by the act of February 13, 1925, c. 229, secs. 1, 13, 43 Stat. 936, 938, 942. *Messrs. John A. McManus and Otis Beall Kent* for appellee, in support of the motion. *Mr. F. Dudley Kohler* for appellant, in opposition thereto.

No. —. *ROBINS DRY DOCK & REPAIR COMPANY v. MARION L. ROBINSON, AS ADMINISTRATRIX, ETC.* Error to the Supreme Court of the State of New York. On rule to show cause why the writ of error, allowed by a Justice of this Court, should not be dismissed. Submitted June 1, 1926. Decided June 7, 1926. *Per Curiam*. Dismissed upon the authority of *Stratton v. Stratton*, 239 U. S. 55; *Andrews v. Virginian Ry. Co.*, 248 U. S. 272; *Matthews v. Huwe*, 269 U. S. 262, 265-266; *Southern Electric Co. v. Stoddard, Superintendent*, 269 U. S. 186, 188-190.

No. 497. *JOE H. TIGER v. WILLIAM M. FEWELL ET AL.* Error to the Supreme Court of the State of Oklahoma.

Motion to dismiss submitted June 1, 1926. Decided June 7, 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 O. Beall* for defendants in error, in support of the motion. *Mr. William Neff* for plaintiff in error, in opposition thereto.

No. 3, Original. *STATE OF NEW MEXICO v. STATE OF TEXAS.* Order entered June 7, 1926. It is ordered that the report of the special master be, and it is hereby, received and a hearing on the report and any exceptions thereto is set for Monday, January 3, 1927.

No. 16, original. *STATE OF WISCONSIN v. STATE OF ILLINOIS AND SANITARY DISTRICT OF CHICAGO.* Order entered June 7, 1926. Announced by MR. JUSTICE HOLMES.

It is ordered that this cause be referred to Charles Evans Hughes, Esquire, as the special master with directions and authority to take the evidence and to report the same to the Court with his findings of fact, conclusions of law, and recommendations for a decree—all subject to examination, consideration, approval, modification, or other disposal by the Court. The special master shall have authority (1) to employ competent stenographic and clerical assistants, (2) to fix the times and places of taking the evidence, and (3) to issue subpœnas to secure the attendance of witnesses and to administer oaths. When the special master's report of his findings of fact, conclusions of law, and recommendations for a decree is completed the clerk of the court shall cause the same to be printed; and when the same is presented to the Court in printed form the parties will be accorded a reasonable time, to be fixed by the Court, within which to present exceptions.

The special master shall be allowed his actual expenses and a reasonable compensation for his services to be fixed hereafter by the Court. The allowances to him, the compensation paid to his stenographic and clerical assistants, and the cost of printing his report shall be charged against and be borne by the parties in such proportions as the Court hereafter may direct. If the parties to the related suit of *State of Michigan v. State of Illinois and Sanitary District of Chicago*, now pending in this Court, so elect and so notify the special master, they shall be permitted to participate in the taking of evidence and in the hearing before the special master in like manner and with like effect as if that suit had been consolidated with this cause by the Court's order; and the Court specially reserves to itself authority to order such a consolidation if it becomes proper to do so. If the appointment herein made of a special master is not accepted, or if the place becomes vacant during the recess of the Court, the Chief Justice shall have authority to make a new designation which shall have the same effect as if originally made by the Court herein.

PETITIONS FOR CERTIORARI GRANTED, FROM
APRIL 13, 1926, TO AND INCLUDING JUNE 7,
1926.

No. 953. UNITED STATES *v.* CHARLES A. LUDY. April 19, 1926. Petition for writ of certiorari to the Court of Claims granted. *Solicitor General Mitchell, Assistant Attorney General Galloway, and Mr. Fred K. Dyar* for the United States. *Mr. Wayne Johnson* for respondent.

No. 957. UNITED STATES *v.* S. S. WHITE DENTAL MANUFACTURING COMPANY OF PENNSYLVANIA. April 19, 1926. Petition for writ of certiorari to the Court of Claims granted. *Solicitor General Mitchell, Assistant Attorney*