

DECISIONS PER CURIAM, FROM APRIL 10, 1928,
TO AND INCLUDING JUNE 5, 1928, OTHER
THAN DECISIONS ON PETITIONS FOR WRITS
OF CERTIORARI.

No. 866. HAWTHORNE *v.* TEXAS AND NEW ORLEANS R. R. Co. Error to the Court of Civil Appeals, First Supreme Judicial District, State of Texas. April 16, 1928. *Per Curiam*: The motion for leave to proceed further herein *in forma pauperis* is denied for the reason that the Court, upon examination of the unprinted record, finds that this is not a case in which is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity; or where is drawn in question the validity of a statute of the State of Texas, on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of its validity. The writ of error is therefore dismissed on the authority of § 237 (a) of the Judicial Code, as amended by the Act of February 13, 1925, 43 Stat. 936, 937, for lack of jurisdiction. *Jett Bros. Distilling Co. v. City of Carrollton*, 252 U. S. 1, 5, 6. Treating the writ of error as an application for certiorari, the certiorari is denied.

The costs already incurred herein shall, by direction of the Court, be paid by the clerk from the special fund in his custody, as provided in the order of October 29, 1926. *Mr. Charles A. Murphy* for plaintiff in error. No appearance for defendant in error.

No. 748. DAVIS *v.* STATE OF OHIO. Error to the Supreme Court of the State of Ohio. Argued April 10, 1928. Decided April 16, 1928. *Per Curiam*: Dismissed for want of jurisdiction, for the reason that the federal

question is frivolous, on the authority of *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. 68, 671; *Quong Ham Wah Co. v. Industrial Commission*, 255 U. S. 445, 448, 449. Mr. Joseph L. Stern, with whom Mr. John A. Cline was on the brief, for plaintiff in error. Messrs. Edward C. Turner and Carl F. Shuler were on the brief for defendant in error.

No. 696. RICKETTS *v.* ALLEN. Error to the Supreme Court of the State of Ohio. Motion to dismiss submitted April 16, 1928. Decided April 23, 1928. *Per Curiam*: The motion to dismiss is granted for the reason that no federal question is presented, on the authority of *Cuyahoga Power Co. v. Northern Realty Co.*, 244 U. S. 300, 303; *California Powder Works v. Davis*, 151 U. S. 389, 393; *Yazoo & Mississippi Valley R. R. Co. v. Brewer*, 231 U. S. 245, 249; *Municipal Securities Corporation v. Kansas City*, 246 U. S. 63, 69. Messrs. A. McL. Marshall and Byron B. Harlan for the defendant in error, in support of the motion. Mr. Leonidas B. McIlhenny for plaintiff in error, in opposition thereto.

No. 455. WHITE RIVER GARDENS, INC., ET AL. *v.* STATE OF WASHINGTON ET AL. Error to the Supreme Court of the State of Washington. Argued April 13, 16, 1928. Decided April 23, 1928. *Per Curiam*: Affirmed, on the authority of *Terrace v. Thompson*, 263 U. S. 197, 217, 223; *Frick v. Webb*, 263 U. S. 326, 332, 334; *Webb v. O'Brien*, 263 U. S. 313, 322. Mr. Frederic E. Fuller for plaintiffs in error. Mr. Howard A. Hanson for defendants in error.

277 U. S.

Decisions Per Curiam, Etc.

No. 463. MONTGOMERY WARD AND CO. *v.* EMMERSON, AS SECRETARY OF STATE OF THE STATE OF ILLINOIS, ET AL.; and

No. 464. VICTOR CHEMICAL WORKS *v.* EMMERSON, AS SECRETARY OF STATE OF THE STATE OF ILLINOIS, ET AL. Appeals from the District Court of the United States for the Southern District of Illinois. Argued April 16, 17, 1928. Decided April 23, 1928. *Per Curiam*: Affirmed, on the authority of *Cream of Wheat Co. v. Grand Forks*, 253 U. S. 325, 328, 330; *Roberts & Schaefer Co. v. Emmerson*, 271 U. S. 50, 53, 54. *Mr. Paul O'Donnell*, with whom *Mr. Silas H. Strawn* was on the brief, for appellant in No. 463. *Mr. Fletcher Lewis*, with whom *Mr. Paul O'Donnell* was on the brief, for appellant in No. 464. *Mr. Bayard L. Catron*, with whom *Mr. Oscar E. Carlstrom* was on the brief, for appellees.

No. 496. THE CARTER OIL CO. ET AL. *v.* ELI ET AL. On writ of certiorari to the Supreme Court of the State of Oklahoma. Argued April 18, 19, 1928. Decided April 23, 1928. *Per Curiam*: Dismissed for want of a federal question, in that the decision of the State Supreme Court could be sustained and was sustained on non-federal grounds. *Hammond v. Johnston*, 142 U. S. 73, 78; *Eustis v. Bolles*, 150 U. S. 361, 366, 370; *Bilby v. Stewart*, 246 U. S. 255, 257; *New York ex rel. Doyle v. Atwell*, 261 U. S. 590, 592; *Richardson Machinery Co. v. Scott*, 276 U. S. 128. *Messrs. George S. Ramsey and Chester I. Long*, with whom *Messrs. George E. Chamberlain, Peter Q. Nyce, James A. Veasey, Gibbs L. Baker, and L. G. Owen* were on the brief, for petitioners. *Mr. Daniel H. Linebaugh*, with whom *Mr. Paul Pinson* was on the brief, for respondents.

No. 552. CITY OF NEW YORK *v.* CAMPBELL. Error to the Supreme Court of the State of New York. Argued

April 19, 1928. Decided April 23, 1928. *Per Curiam*: Dismissed, on the authority of *Pawhuska v. Pawhuska Oil Co.*, 250 U. S. 394, 397, 399; *Trenton v. State of New Jersey*, 262 U. S. 182, 188, 192; *Risty v. Chicago, Rock Island & Pacific R. R. Co.*, 270 U. S. 378, 390. *Mr. Elliot S. Benedict*, with whom *Messrs. George P. Nicholson, J. Joseph Lilly, and George W. Cowie* were on the brief, for plaintiff in error. *Mr. H. Winship Wheatley* for defendant in error.

No. 579. *CLIFFS CHEMICAL CO. v. WISCONSIN TAX COMMISSION*. Error to the Supreme Court of the State of Wisconsin. Argued April 20, 1928. Decided April 23, 1928. *Per Curiam*: Dismissed for want of a substantial federal question on the authority of *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. Wm. P. Belden*, with whom *Mr. E. H. Jaynes* was on the brief, for plaintiff in error. *Messrs. John W. Reynolds and Franklin E. Bump* submitted for defendant in error.

No. 589. *P. J. MCGOWAN & SONS, INC. v. VAN WINKLE, ATTORNEY GENERAL OF THE STATE OF OREGON, ET AL.* Appeal from the District Court of the United States for the District of Oregon. Argued April 20, 1928. Decided April 23, 1928. *Per Curiam*: Affirmed, on the authority of *Olin v. Kitzmiller*, 259 U. S. 260, 263. *Mr. E. S. McCord*, with whom *Mr. John H. Dunbar* was on the brief, for appellant. *Messrs. Alfred E. Clark, I. H. Van Winkle, and Willis S. Moore* were on the brief for appellees.

No. 922. *FIGUEROA v. SALDANA*. On petition for writ of certiorari to the Circuit Court of Appeals for the First Circuit. May 14, 1928. *Per Curiam*: The motion for

277 U. S.

Decisions Per Curiam, Etc.

leave to proceed further herein *in forma pauperis* is denied for the reason that the Court, upon examination of the record herein submitted, finds that there are no grounds upon which certiorari can be issued, application for which is therefore also denied. The costs already incurred herein shall, by direction of the Court, be paid by the clerk from the special fund in his custody as provided by the order of October 29, 1926. *Mr. Cataline Figueroa*, pro se. No appearance for respondent.

No. 746. TAZEWELL, PRESIDING JUDGE OF THE CIRCUIT COURT OF THE STATE OF OREGON FOR MULTNOMAH COUNTY, *v.* STATE OF OREGON, EX REL. SULLIVAN. On writ of certiorari to the Supreme Court of the State of Oregon. May 14, 1928. *Per Curiam*: The Court, having considered the showing made upon the rule, and the concessions made by the respondent, finds that the case is moot, and accordingly vacates the judgment of the Supreme Court of the State of Oregon with directions to dismiss the case without prejudice and without costs, on the authority of *Brownlow v. Schwartz*, 261 U. S. 216, 218, 219; *Board of Public Utility Commissioners v. Company General*, 249 U. S. 425, 426; *Berry v. Davis*, 242 U. S. 468, 470; *Commercial Cable Co. v. Burleson*, 250 U. S. 360, 363. *Mr. Erskine Wood* for petitioner. *Mr. Wallace McCamant* for respondent.

No. 912. SALTIS *v.* THE PEOPLE OF THE STATE OF ILLINOIS. Appeal from the Supreme Court of the State of Illinois. Submitted April 23, 1928. Decided May 14, 1928. *Per Curiam*: The motion to dismiss the appeal is granted for want of jurisdiction in this Court for the reason that the federal questions sought to be presented are frivolous, on the authority of *Farrell v. O'Brien*, 199

U. S. 89, 100; *Toup 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; *Quong Ham Wah Co. v. Industrial Commission*, 255 U. S. 445, 448, 449. Proceeding under Rule 31, as amended April 2, 1927 (274 U. S. 766), it is ordered that the mandate be issued forthwith to the Supreme Court of the State of Illinois for further proceedings. *Mr. Louis Greenberg* for appellant. *Mr. Oscar E. Carlstrom* for appellee.

No. 877. *WYSONG v. THE PEOPLE OF THE STATE OF CALIFORNIA*. On petition for writ of certiorari to the District Court of Appeals, Second Appellate District, State of California. May 14, 1928. *Per Curiam*: Upon the answer of the petitioner to the order to show cause why the application for certiorari should not be denied, the Court denies the certiorari because of the lack of a substantial federal question shown in the record giving this Court jurisdiction. *Shulthis v. McDougal*, 225 U. S. 561, 569; *Hull v. Burr*, 234 U. S. 712, 720; *Norton v. Whiteside*, 239 U. S. 144, 147. Under Rule 31, as amended May 2, 1927 (274 U. S. 766), the Court directs that the mandate and notice of the ruling herein be issued forthwith to the District Court of Appeals of the State of California, Second Appellate District, Division Two, for further proceedings. *Mr. James E. Fenton* for petitioner. No appearance for respondent.

No. —. *RAARUP v. UNITED STATES*. May 21, 1928. *Per Curiam*: The motion for leave to proceed further herein *in forma pauperis* is denied for the reason that the Court, upon examination of the papers herein submitted, includ-

277 U. S.

Decisions Per Curiam, Etc.

ing a copy of the record, finds that there are no grounds upon which certiorari can be issued, application for which is therefore also denied. The costs already incurred herein shall, by direction of the Court, be paid by the clerk from the special fund in his custody as provided by the order of October 29, 1926. *Mr. George B. Smart* for petitioner. No appearance for the United States.

No. 965. *SARBER v. AETNA LIFE INSURANCE Co.* On petition for writ of certiorari to the Circuit Court of Appeals for the Ninth Circuit. May 21, 1928. *Per Curiam*: The motion for leave to proceed further herein *in forma pauperis* is denied for the reason that the Court, upon examination of the unprinted record herein submitted, finds that there are no grounds upon which certiorari can be issued, application for which is therefore also denied. The costs already incurred herein shall, by direction of the Court, be paid by the clerk from the special fund in his custody as provided by the order of October 29, 1926. *Mr. Morris Bien* for petitioner. No appearance for respondent.

No. —, original. *EX PARTE: IN THE MATTER OF STEIDLE, ADMINISTRATOR.* May 28, 1928. The motion of John Steidle for leave to file a petition for a writ of mandamus directed to the Hon. William Clark, Judge of the District Court of the United States for the District of New Jersey, and to the District Court of the United States for the District of New Jersey; and the further motion that a rule be entered and issued directed to Hon. William Clark, Judge of the District Court, and to the District Court, to show cause why a writ of mandamus should not issue against them, are denied. *Mr. John Steidle, pro se.*

No. 941. GRIGG *v.* UNITED STATES; and
No. 953. SLIGH *v.* UNITED STATES. See *post*, p. 582.

No. 782. CHIPPIANNOCK CEMETERY ASS'N *v.* CITY OF ROCK ISLAND. June 4, 1928. Error to the Supreme Court of the State of Illinois. *Per Curiam*: The petition for certiorari ancillary to the writ of error in this case is denied, for the reason that the writ of error must be, and is hereby, dismissed for want of a substantial federal question on the authority of *Shulthis v. McDougal*, 225 U. S. 561, 569; *Hull v. Burr*, 234 U. S. 712, 720; *Norton v. Whiteside*, 239 U. S. 144, 147. *Messrs. Merritt Starr, Albert L. Hopkins, and Richard S. Doyle* for plaintiff in error. *Mr. Ben T. Reidy* for defendant in error.

PETITIONS FOR CERTIORARI GRANTED, FROM
APRIL 10, 1928, TO AND INCLUDING JUNE 5,
1928.

No. 789. UNADILLA VALLEY RAILWAY Co. *v.* CALDINE, ADMINISTRATOR. April 16, 1928. Petition for writ of certiorari to the Court of Appeals of the State of New York granted. *Messrs. Benjamin S. Minor, H. Prescott Gatley, Arthur P. Drury, and Wirt Howe*, for petitioner. *Mr. Thomas B. Kattell* for respondent.

No. 807. UNITED STATES *v.* CARVER ET AL. April 23, 1928. Petition for writ of certiorari to the Court of Claims granted. *Solicitor General Mitchell, Assistant Attorney General Galloway, and Mr. J. Frank Staley* for the United States. *Mr. Frank E. Scott* for respondents.