DECISIONS PER CURIAM, FROM FEBRUARY 19, 1929, TO AND INCLUDING JUNE 3, 1929.*

No. 645. WILCOX *v.* UNITED STATES. See *post*, p. 834.

No. 666. STILZ *v.* BETHLEHEM SHIPBUILDING CORP'N. See *post*, p. 834.

No. 696. THOMAS *v.* MAINE CENTRAL R. CO. See *post*, p. 835.

No. 591. OSAGE INDIANS *v.* UNITED STATES. Appeal from the Court of Claims, 66 Ct. Cls. 64. Submitted February 18, 1929. Decided February 25, 1929. *Per Curiam:* The appeal is dismissed for lack of jurisdiction on the authority of the Act of February 13, 1925 (43 Stat. 936). The petition for writ of certiorari is denied. *Messrs. C. H. Merillat, C. J. Kappler,* and *T. J. Leahy* for appellants. *Solicitor General Mitchell, Assistant Attorney General Galloway,* and *Mr. George T. Stormont,* for the United States.

No. 572. BURKE *v.* OREGON. Appeal from the Supreme Court of Oregon, 126 Ore. 651. Jurisdictional statement submitted February 25, 1929. Decided March 5, 1929. *Per Curiam:* The appeal is dismissed for want of jurisdiction, for the reason that the federal question presented is 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; *Quong Ham Wah* v. *Industrial Comm'n,* 255 U. S. 445, 449. *Mr. Thomas Mannix* for appellant. *Messrs. Stanley Myers, Leon W. Behrman,* and *George Mowry* for appellee.

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* For decisions on applications for certiorari, see *post*, pp. 827, 834.

No. 321. SAMPERE *v.* NEW ORLEANS. Error to and appeal from the Supreme Court of Louisiana, 166 La. 776. Argued February 28, March 1, 1929. Decided March 5, 1929. *Per Curiam:* Affirmed on the authority of (1) *Euclid* v. *Ambler Realty Co.*, 272 U. S. 365; *Zahn* v. *Board of Public Works*, 274 U. S. 325; *Gorieb* v. *Fox*, 274 U. S. 603; (2) *Sperry & Hutchison Co.* v. *Rhodes*, 220 U. S. 502, 505; *Williams* v. *Walsh*, 222 U. S. 415, 420. *Mr. William Winans Wall* for plaintiff in error and appellant. *Mr. Bertrand I. Cahn,* with whom *Messrs. Henry B. Curtis* and *Francis P. Burns* were on the brief, for defendant in error and appellee.

No. 355. UNITED STATES ET AL. *v.* ANCHOR COAL CO. ET AL.;

No. 356. BARTON COAL CO. ET AL. *v.* SAME;

No. 357. PITTSBURGH OPERATORS' LAKE RATE COMMITTEE ET AL. *v.* SAME; and

No. 358. BALTIMORE & OHIO R. CO. ET AL. *v.* SAME. Appeals from the District Court of the United States for the Southern District of West Virginia, 25 F. (2d) 462. Argued February 19, 20, 1929. Decided March 5, 1929. *Per Curiam:* These appeals have been fully argued and considered, but in the present situation we find that they present moot issues and that further proceedings upon the merits can neither be had here nor in the court of first instance. To dismiss the appeals would leave the injunction in force, at least apparently so, notwithstanding that the basis therefor has disappeared. Our action must, therefore, dispose of the cause, not merely of the appellate proceedings which brought it here. The practice now established by this Court under similar conditions and circumstances is to reverse the decree below and remand the cause with directions to dismiss the bill. The order will be, therefore, that the decree is reversed with directions to the District Court

to dismiss the bill of complaint without costs, because the controversy involved has become moot and, therefore, is no longer a subject appropriate for judicial action. *United States* v. *Hamburg American Co.*, 239 U. S. 466, 475; *Berry* v. *Davis*, 242 U. S. 468, 470; *Board of Public Utility Comm'rs* v. *Compania General de Tabacos de Filipinas*, 249 U. S. 425; *Commercial Cable Co.* v. *Burleson*, 250 U. S. 360; *Heitmuller* v. *Stokes*, 256 U. S. 359; *Brownlow* v. *Schwartz*, 261 U. S. 216; *Alejandrino* v. *Quezon*, 271 U. S. 528, 535; *Norwegian Co.* v. *Tariff Comm'n*, 274 U. S. 106, 112. Mr. Justice Sanford took no part in the consideration or decision of this cause. *Mr. Luther M. Walter*, Special Assistant to the Attorney General, with whom *Mr. Daniel W. Knowlton* was on the brief, for appellants United States and Interstate Commerce Commission. *Messrs. Ernest S. Ballard* and *August G. Gutheim*, with whom *Mr. Frank E. Harkness* was on the brief, for appellants Barton Coal Company and Pittsburgh Operators' Lake Rate Committee et al. *Mr. Henry Wolf Biklé*, with whom *Messrs. Clyde Brown, William N. King, Andrew P. Martin, Frederic D. McKenney, Atlee Pomerene, James Stilwell*, and *Charles R. Webber* were on the brief, for appellants Baltimore & Ohio Railroad Company et al. *Messrs. John W. Davis* and *J. V. Norman*, with whom *Messrs. E. L. Greever, G. F. Graham*, and *Robert E. Quirk* were on the brief, for appellees Anchor Coal Company et al. *Mr. C. R. Hillyer* for appellees Whiting-Plover Paper Company et al.

No. 514. Ohio Oil Co. *v.* Conway. Appeal from the District Court of the United States for the Eastern District of Louisiana, 28 F. (2d) 441. Argued February 26, 1929. Decided March 5, 1929. *Per Curiam:* This is a suit to prevent the enforcement against the plaintiff of a statute of Louisiana (Act 5 of 1928) amending a prior

statute (Act 140 of 1922) imposing a severance tax on the production of oil as a natural product of the soil. The prior act fixed the tax at 3 per cent. of the market value of the oil at the time and place of severance, and the amendatory act makes it a graduated tax ranging from 4 to 11 cents per barrel according to the gravity of the oil. As applied to the plaintiff's operations the tax fixed by the amendatory act is about $12,000 more in each period of three months than the tax under the prior act would be for the like period. While admitting the validity of the prior act and declaring a willingness and readiness to pay the tax imposed thereby, the plaintiff alleges that the change and enlarged tax imposed by the amendatory act is invalid in that that act as applied to the plaintiff's operations contravenes the equal protection clause of the fourteenth amendment to the Constitution of the United States, and also a provision of the Constitution of the State requiring that severance taxes be predicated upon "either the quantity or value" of the product at the time and place of its severance.

The parties are citizens of different States and the matter in controversy exceeds in value the jurisdictional requirement. On bringing the suit, the plaintiff applied for an interlocutory injunction restraining the enforcement against it of the amendatory act pending the decree on final hearing; but the District Court, composed of three judges conformably to § 380 of Title 28 of the United States Code, denied the application. An appeal from that order brings it under review.

The application for an interlocutory injunction was submitted on ex parte affidavits which are harmonious in some particulars and contradictory in other. The affidavits, especially those for the defendant, are open to the criticism that on some points mere conclusions are given instead of primary facts. But enough appears to make it plain that there is a real dispute over material questions

of fact which can not be satisfactorily resolved upon the present affidavits and yet must be resolved before the constitutional validity of the amendatory statute can be determined.

The statute provides for the enforced payment of the tax quarterly in each year. If the tax be paid during the pendency of the suit, and the statute be adjudged invalid by the final decree, the plaintiff will be remediless. The laws of the State afford no remedy whereby restitution of the money so paid may be enforced, even where the payment is under both protest and compulsion.

Where the questions presented by an application for an interlocutory injunction are grave, and the injury to the moving party will be certain and irreparable if the application be denied and the final decree be in his favor, while if the injunction be granted the injury to opposing party, even if the final decree be in his favor, will be inconsiderable, or may be adequately indemnified by a bond, the injunction usually will be granted. *Love* v. *Atchison, Topeka & Santa Fe R. Co.*, 185 Fed. 321, 331–332.

Under this rule and in view of the entire absence under the local law of any remedy enforceable by the plaintiff if the tax be paid and afterwards held invalid by the final decree, we are of opinion that the application for an interlocutory injunction should have been granted, and that this should have been done upon terms requiring that the plaintiff (*a*) punctually and regularly pay the tax fixed by the prior act, (*b*) give an adequate bond whereby, in the event the amendatory act is adjudged valid by the final decree, the plaintiff and its surety will be obligated to pay, with interest and without other penalty, such further amounts as may be necessary, with the prior payments, to satisfy the tax fixed by that act, and (*c*) prosecute the suit with reasonable expedition to a final decree.

The order is accordingly vacated with directions for further proceedings in conformity with this opinion. *Mr. S. L. Herold,* with whom *Messrs. S. P. Sousin* and *R. L. Benoit* were on the brief, for appellant. *Mr. Wood H. Thompson,* Assistant Attorney General of Louisiana, with whom *Mr. Percy Saint,* Attorney General, was on the brief, for appellee.

No. 15, original. UNITED STATES *v.* UTAH. Motion submitted March 5, 1929. Decided March 11, 1929.

ORDER

On consideration of the motion by the United States for the appointment of a Special Master to take the evidence in this case and report the same to this Court with his findings of fact, conclusions of law, and recommendations for a decree,

It is now here ordered that Charles Warren, of Washington, D. C., be, and he is hereby, appointed a Special Master with the powers of a Master in Chancery, as provided in the rules of this Court, to take the evidence *viva voce* or by deposition 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 to limit the time within which each party shall present its evidence, and (3) to issue subpœnas to secure the attendance of witnesses and to administer oaths. Depositions of witnesses residing at any place may be taken upon stipulation of the parties, or by the mode provided in the rules of practice for the Courts of Equity of the United States, or as provided by §§ 863, 865–867 of the Revised Statutes for

the taking of depositions *de bene esse* in the District Courts, or as may be directed by the Master. They may be returned in the first instance to the Master. 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 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.

Attorney General Mitchell for the United States. No appearance for defendant.

No. 728. BUNDY *v.* BUNDY. See *post*, p. 842.

No. 631. UNITED STATES EX REL. WENGER *v.* MATHUES. Appeal from the Circuit Court of Appeals for the Third Circuit, 29 F. (2d) 1023. Jurisdictional statement submitted March 5, 1929. Decided March 11, 1929. *Per Curiam:* The appeal is dismissed on the authority of § 240 (b) and (c) of the Judicial Code, as amended by the act of February 13, 1925 (43 Stat. 938), for lack of jurisdiction. *Mr. Joseph Blank* for appellant. *Attorney General Mitchell* for appellee.

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No. 74. LUN ET AL. *v.* BOND ET AL. Error to the Supreme Court of Mississippi, 148 Miss. 467. Argued March 5, 1929. Decided March 11, 1929. *Per Curiam:* The judgment is reversed, with directions to the Circuit Court of Coahoma County, Miss., to dismiss the petition for mandamus without costs, because the controversy involved has become moot. *Atherton Mills* v. *Johnston,* 259 U. S. 13; *Brownlow* v. *Schwartz,* 261 U. S. 216; *Alejandrino* v. *Quezon,* 271 U. S. 528, 535; *Norwegian Co.* v. *Tariff Commission,* 274 U. S. 106, 112. *Messrs. James M. Flowers, Earl Brewer,* and *Edward C. Brewer* submitted for plaintiffs in error. *Mr. James A. Lauderdale,* with whom *Messrs. Rush H. Knox,* Attorney General of Mississippi, and *Mr. E. C. Sharp* were on the brief, for defendants in error.

No. —, original. EX PARTE CITY OF CAPE MAY. Motion submitted March 11, 1929. Decided April 8, 1929. *Per Curiam:* Motion for leave to file petition for writ of mandamus denied. *Mr. Edmond C. Fletcher* for petitioner.

No. 634. JENSEN *v.* CONTINENTAL LIFE INS. CO. Appeal from the Circuit Court of Appeals for the Third Circuit, 28 F. (2d) 545. Jurisdictional statement submitted March 11, 1929. Decided April 8, 1929. *Per Curiam:* The appeal is dismissed on the authority of § 240 (b) and (c) of the Judicial Code as amended by the act of February 13, 1925 (43 Stat. 938), for lack of jurisdiction. *Mr. Charles A. Donnelly* for appellant. *Mr. W. Calvin Chesnut* for appellee.

No. 662. KLAR *v.* ERIE R. CO. ET AL. Appeal from the Supreme Court of Ohio, 118 Oh. St. 612. Jurisdictional statement submitted March 11, 1929. Decided April 8, 1929. *Per Curiam:* The appeal is dismissed on the au-

thority of § 237 (a) of the Judicial Code, as amended by the act of February 13, 1925 (43 Stat. 936, 937), for lack of jurisdiction and the absence of a federal question. Treating the appeal as an application for certiorari the same is also denied. *Mr. Don F. Reed* for appellant. *Messrs. E. A. Foote* and *D. B. Holt* for appellees.

No. 220. JOHNSON *v.* UNITED STATES SHIPPING BOARD EMERGENCY FLEET CORPORATION. Argued February 21, 1929. Restored to Docket April 8, 1929. *Per Curiam:* This cause is restored to the docket for reargument and is set down for hearing with No. 676, United States Shipping Board Merchant Fleet Corporation *v.* Lustgarten, the two cases to be argued as one. The Court especially invites argument on the following questions:

1. Is the United States Shipping Board Merchant Fleet Corporation, as an agency of the United States, immune from suit for the tortious acts of persons whom it has employed to carry on the operation of merchant vessels of the United States, and who have been selected by it with due care?

2. Are the remedies given against the United States Shipping Board Emergency Fleet Corporation by the suits in admiralty act of March 9, 1920, exclusive of all other remedies, whether at law or in admiralty, for liabilities of the Fleet Corporation growing out of the operation of merchant vessels of the United States?

3. Is the two-year period of limitation prescribed in the suits in admiralty act applicable to the present suit?

Mr. Myron Scott, pro hac vice, by special leave of Court, with whom *Messrs. Silas B. Axtell* and *Charles A. Ellis* were on the brief, for petitioner. *Mr. J. Frank Staley,* with whom *Solicitor General Mitchell, Assistant Attorney General Farnum,* and *Mr. Chauncey G. Parker,* General Counsel, Emergency Fleet Corporation, were on the brief, for respondent.

No. 632. FARMERS LOAN & TRUST CO. *v.* MINNESOTA. Appeal from the Supreme Court of Minnesota. (Reported below as *"In re Estate of Henry R. Taylor,"* 175 Minn. 310, s. c., 176 Minn. 634.) Jurisdictional statement submitted April 8, 1929. Decided April 15, 1929. *Per Curiam:* The appeal is 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, on the ground that the judgment sought to be reviewed is not a final one. *Schlosser* v. *Hemphill,* 198 U. S. 173, 175; *Arnold* v. *United States for the use of Guimarin & Co.,* 263 U. S. 427, 434. *Messrs. George W. Morgan* and *Cleon Headley* for appellant. No appearance for appellee.

No. 322. MCKAY *v.* MCINNES ET AL. Appeal from the Supreme Judicial Court of Maine, 127 Me. 110. Submitted April 8, 1929. Decided April 15, 1929. *Per Curiam:* Affirmed on the authority of *Ownbey* v. *Morgan,* 256 U. S. 94, 109; *Coffin Bros.* v. *Bennett,* 277 U. S. 29, 31. *Messrs. Robert E. Quirk, George F. Graham,* and *Ralph B. Fleharty* were on the brief for appellant. *Messrs. Carroll S. Chaplin* and *Sidney St. F. Thaxter* were on the brief for appellees.

No. 7, original. WISCONSIN ET AL. *v.* ILLINOIS ET AL.;
No. 11, original. MICHIGAN *v.* SAME; and
No. 12, original. NEW YORK *v.* SAME. April 16, 1929. *Per Curiam:* Leave granted to file suggestions by the City of Chicago in reply to brief in opposition to motion of the City of Chicago for leave to intervene as a party defendant.

Mr. Samuel A. Ettelson in support of the motion.

No. 13, original. CONNECTICUT *v.* MASSACHUSETTS. Motion submitted April 15, 1929. Decided April 22, 1929. *Per Curiam:* Motion to cite the Secretary of War and Chief of Engineers of the United States Army as parties defendant denied. *Mr. Ernest L. Averill* for complainant, in support of the motion. *Mr. Bentley W. Warren* for defendant in opposition thereto.

No. 7, original. WISCONSIN ET AL. *v.* ILLINOIS ET AL.;
No. 11, original. MICHIGAN *v.* SAME; and
No. 12, original. NEW YORK *v.* SAME. Motion submitted April 15, 1929. Decided April 22, 1929. *Per Curiam:* Motion of the City of Chicago for leave to intervene denied. *Mr. Samuel A. Ettelson* in support of the motion. *Mr. Hamilton Ward* for complainant New York; and *Mr. Herman L. Ekern* for complainant Wisconsin, in opposition thereto.

No. 495. ATLANTA & CHARLOTTE AIR LINE R. CO. ET AL. *v.* GREEN. On writ of certiorari to the Supreme Court of South Carolina. Argued April 16, 1929. Decided April 22, 1929. *Per Curiam:* Reversed on the authority of *Davis* v. *Green,* 260 U. S. 349; *St. Louis-San Francisco Ry.* v. *Mills,* 271 U. S. 344; *Atlantic Coast Line* v. *Southwell,* 275 U. S. 64; and cause remanded for further proceedings. *Mr. Sidney R. Prince,* with whom *Messrs. H. O'B. Cooper, F. G. Tompkins, L. E. Jeffries,* and *H. E. DePass* were on the brief, for petitioners. *Mr. C. Erskine Daniel,* with whom *Messrs. I. C. Daniel* and *Horace L. Bomar* were on the brief, for respondent.

No. 843. DAVIDSON *v.* CALIFORNIA. See *post,* p. 856.

No. 715. WILSON *v.* MCLANE ET AL.; and

No. 716. HARVIE, DOING BUSINESS UNDER THE NAME AND STYLE OF AUTOMATIC SALES COMPANY, *v.* HEISE ET AL. Appeals from the Supreme Court of South Carolina, 150 S. C. 277. Jurisdictional statement submitted April 22, 1929. Decided April 29, 1929. *Per Curiam:* The appeals are dismissed for want of a properly presented substantial federal question on the authority of *Miller* v. *Cornwall R. R.*, 168 U. S. 131, 134; *Thomas* v. *Iowa*, 209 U. S. 258, 263; *Bowe* v. *Scott*, 233 U. S. 658, 665. *Mr. P. A. Bonham* for appellants. No appearance for appellees.

No. 721. BOOHER *v.* WASHINGTON. Error to the Supreme Court of Washington. Return to rule submitted April 29, 1929. Decided May 13, 1929. *Per Curiam:* Upon consideration of the informal return to the rule to show cause heretofore issued in this case, miscalled a motion to reinstate, and upon examination of the unprinted record herein submitted, the Court finds no federal question, or jurisdiction in this Court, and the appeal is therefore dismissed. *Mr. Frank R. Jeffrey* for plaintiff in error. No appearance for defendant in error.

No. 854. RICHARDSON ET AL. *v.* UNITED STATES. See *post*, p. 859.

No. 261. WALLACE *v.* MOTOR PRODUCTS CORP'N. See *post*, p. 859.

No. 718. INTERNATIONAL SHOE CO. *v.* FEDERAL TRADE COMM'N. See *post*, p. 832.

No. 19, original. EX PARTE ATLANTIC COAST LINE R. CO. Return to rule presented April 22, 1929. Decided May 20, 1929. *Per Curiam:* Upon examination of the returns to the rule to show cause, the Court finds that the reasons

given by the respondent, the District Judge for the Northern District of Florida, that the case is likely to become moot, are not sufficient to justify his failure, immediately upon application, to call to his assistance, to hear and determine the application, two other judges, in accord with the provisions for direct review by this Court of the District Court, under § 4 of 238 of the Judicial Code, as amended by the act of February 13, 1925, c. 229, 43 Stat. 936. See *Virginian Ry.* v. *United States,* 272 U. S. 658, 672. And the rule against the respondent is made absolute, and directed to be certified to him for due observance thereof. We assume it will not be necessary to issue a formal writ. *Messrs. F. B. Grier, W. E. Kay,* and *Robert C. Alston* for petitioner.

No. —, original. NEW JERSEY *v.* STATE OF NEW YORK ET AL. Motion submitted May 13, 1929. Decided May 20, 1929. *Per Curiam:* Motion for leave to file a bill of complaint herein is granted, and process is ordered to issue, returnable on Monday, May 27 next. *Messrs. Duane E. Minard* and *Williams A. Stevens* for complainant. *Messrs. Hamilton Ward,* Attorney General of New York, and *Albert J. Danaher* for the State of New York.

No. —, original. NEW JERSEY *v.* CITY OF NEW YORK. Motion submitted May 13, 1929. Decided May 20, 1929. *Per Curiam:* Motion for leave to file a bill of complaint herein is granted, and process is ordered to issue, returnable on Monday, May 27 next. *Messrs. Duane E. Minard* and *Williams A. Stevens* for complainant. *Messrs. Arthur J. W. Hilley* and *J. Joseph Lilly* for defendant.

No. 754. PERRY ET AL. *v.* CHELAN ELECTRIC CO. ET AL. Appeal from the Supreme Court of Washington, 148 Wash. 353. Return to rule submitted May 13, 1929.

Decided May 20, 1929. *Per Curiam:* The return to the rule to show cause is held insufficient and the appeal is 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. Frank Reeves* and *Crooker Perry, pro se,* for appellants. *Messrs. Thomas Balmer* and *Charles S. Albert* for appellees.

No. 873. GREEN ET AL. *v.* AETNA LIFE INS. CO. See *post,* p. 861.

No. 759. TEFFT *v.* GRANT, RECEIVER, ET AL. Appeal from the Supreme Court of Washington, 148 Wash. 195. Jurisdictional statement submitted May 13, 1929. Decided May 20, 1929. *Per Curiam:* The appeal is 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. L. J. Tefft, pro se.* No appearance for appellees.

No. 746. SUPERIOR CONFECTION CO. *v.* CRAIG ET AL.; and

No. 747. KISER *v.* HEISE ET AL. Appeals from the Supreme Court of South Carolina, 150 S. C. 277. Jurisdictional statement submitted May 13, 1929. Decided May 20, 1929. *Per Curiam:* The appeals are 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. Treating the appeals as applications for certiorari, the same are denied. The motions for a rule to show cause and for the enforcement of the order of supersedeas are therefore also denied. *Mr. Joseph A. Tolbert* for appellants. No appearance for appellees.

No. 905. BUZYNSKI *v.* LUCKENBACH S. S. Co., INC., ET AL. See *post*, p. 867.

No. 791. KEMP *v.* SEATTLE. Appeal from and error to the Supreme Court of Washington, 149 Wash. 197. Jurisdictional statement submitted May 20, 1929. Decided May 27, 1929. *Per Curiam:* The appeal and writ of error are 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. Treating the appeal and writ of error as an application for certiorari the same is denied. *Mr. G. Ward Kemp, pro se. Messrs. Thomas J. L. Kennedy* and *J. Ambler Newton* for respondent.

No. —, original. NEW JERSEY *v.* DELAWARE. Motion submitted May 27, 1929. Decided June 3, 1929. *Per Curiam:* The motion for leave to file a bill of complaint in this case is granted, and process is ordered to issue returnable on Monday, July 1 next. *Mr. Duane E. Minard* for complainant. No appearance for defendant.

No. —, original. EX PARTE HOBBS, COMMISSIONER OF INSURANCE, ET AL. Motion submitted May 27, 1929. Decided June 3, 1929. *Per Curiam:* The motion for leave to file petition for a writ of mandamus is granted, and a rule is ordered to issue returnable on Monday, July 1 next. *Mr. John G. Egan* for petitioners.

No. 931. JUMER *v.* SMITH ET AL. Appeal from the Supreme Court of Washington. Motion submitted May 27, 1929. Decided June 3, 1929. *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 is no jurisdiction for the appeal, which is therefore dismissed. Treating the appeal as an application for certiorari, the same is denied. The costs already incurred herein, by direction of the Court shall be paid by the clerk from the special fund in his custody as provided in the order of October 29, 1926. *Barbara J. Jumer, pro se.* No appearance for respondents.

No. 935. ALDERMAN *v.* UNITED STATES. See *post,* p. 869.

No. 571. WHEELER LUMBER BRIDGE & SUPPLY CO. *v.* UNITED STATES; and

No. 576. INDIAN MOTOCYCLE CO. *v.* UNITED STATES. On certificates from the Court of Claims. Argued April 25, 1929. Restored to docket June 3, 1929. *Per Curiam:* It is now here ordered by this Court that these cases be, and they are hereby, restored to the docket for reconsideration, and that the judgments heretofore entered herein be, and they are hereby, revoked and set aside, and that the opinion announced in these cases on Monday, May 27 last, be, and it is hereby, ordered to be withdrawn. *Mr. Jesse I. Miller* for Wheeler Lumber Bridge & Supply Company. *Attorney General Mitchell, Assistant Attorney General Galloway, Messrs. Alfred A. Wheat* and *Gardner P. Lloyd,* Special Assistants to the Attorney General, and *Mr. Joseph H. Sheppard* were on the brief for the United States in No. 571. *Mr. Monte Appel,* with whom *Mr. Frederick Schwertner* was on the brief, for Indian Motocycle Company. *Attorney General Mitchell,* and *Messrs. Alfred A. Wheat* and *Gardner P. Lloyd,* Special Assistants to the Attorney General, were on the brief for the United States in No. 576.