

CARR, DIRECTOR OF IMMIGRATION, *v.* ZAJA.CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE  
NINTH CIRCUIT.

No. 125. Argued March 2, 1931.—Decided March 23, 1931.

1. Alien *held* liable to deportation, on the authority of *Philippides v. Day*, *ante*, p. 48.
  2. Jurisdiction of this Court to review a judgment of the Circuit Court of Appeals is not defeated by the fact that the mandate of that court was issued and spread upon the records of the District Court.
- 37 F. (2d) 1016, reversed.

CERTIORARI, 282 U. S. 816, to review a judgment sustaining an order discharging Zaja on habeas corpus.

*Mr. Claude R. Branch*, Special Assistant to the Attorney General, with whom *Attorney General Mitchell*, *Assistant Attorney General Dodds*, *Messrs. Albert E. Reitzel* and *B. W. Butler*, Assistant Solicitors, Department of Labor, *Harry S. Ridgely*, and *Erwin N. Griswold* were on the brief, for petitioner.

*Mr. Erwin I. Feldman*, with whom *Mr. J. Edward Keating* was on the brief, for respondent.

MR. JUSTICE HOLMES delivered the opinion of the Court.

This case raises the same question as No. 92, *ante*, p. 48, but, as stated in No. 92, was decided the other way by the Circuit Court of Appeals for the Ninth Circuit. Zaja is a Dalmatian, citizen of Jugo-Slavia. He shipped as a seaman upon an Italian ship and on its arrival at San Pedro, California, deserted the ship on January 25, 1925. He was arrested on October 4, 1928, more than three years after his entry, and after a hearing was ordered to be deported on the same ground as in No. 92. He obtained a

writ of habeas corpus and was ordered to be discharged from custody. 37 F. (2d) 1016. The judgment must be reversed for the reasons given in No. 92. It is objected that the mandate of the Circuit Court of Appeals was not stayed, but was issued to the District Court and spread upon its records and that therefore the case is finished. But that does not defeat the jurisdiction of this Court. *The Conqueror*, 166 U. S. 110, 113. *Louisville & Nashville R. Co. v. Behlmer*, 169 U. S. 644, 648. Rule 45.

*Judgment reversed.*

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FLYNN, EXECUTOR, *v.* NEW YORK, NEW HAVEN,  
& HARTFORD RAILROAD COMPANY.

CERTIORARI TO THE SUPREME COURT OF ERRORS OF  
CONNECTICUT.

No. 235. Argued March 12, 1931.—Decided March 23, 1931.

The Employers' Liability Act gives a right of action to the employee, or, in case of his death, to his personal representative for the benefit of the widow and children, and provides that no action shall be maintained unless commenced within two years from the day the cause of action accrued. *Held* that the right of the representative is derivative and depends upon the continuance of a right in the injured employee at the time of his death, so that where the right of the employee was extinguished before he died, by the lapse of the prescribed period, there was no right in his executor, on behalf of his widow and children. P. 56.

111 Conn. 196; 149 Atl. 682, affirmed.

CERTIORARI, 282 U. S. 821, to review a judgment in favor of the Railroad Company in an action under the Federal Employers' Liability Act.

*Mr. William F. Geenty*, with whom *Messrs. Thomas R. Fitzsimmons* and *William A. Bree* were on the brief, for petitioner.

The statute of limitations begins to run at the time of death. It is then, and not until then, that the cause of