

DECISIONS PER CURIAM, FROM OCTOBER 5,
1931, TO AND INCLUDING FEBRUARY 15, 1932*

No. —, original. EX PARTE MURPHY. October 12, 1931.
The motion for leave to file a petition for writ of mandamus is denied. *Mr. James Edward Murphy, pro se.*

No. —, original. EX PARTE HUSTY. October 12, 1931.
The motion for leave to file a petition for writ of mandamus is denied. *Mr. Percy F. Parrott* for petitioner.

No. 630 (October Term, 1930). DEFOREST RADIO Co. v. GENERAL ELECTRIC Co. October 19, 1931. Ordered, that the opinion in this case (283 U. S. 664, 686) be amended as follows:

(1) By substituting for the words "In July, 1912," in the 12th line of the last paragraph of the opinion, the following:

"August 20, 1912, the earliest date claimed for Langmuir, was rejected, rightly, we think, by the District Court, which held that Langmuir was anticipated by Arnold in November, 1912. But before the earlier date . . ."

(2) By substituting for the 3d sentence from the end the following:

"By August, 1912, the Telegraph Company used De Forest amplifying audions at 54 volts, and, by November, they were used by another at 67½ volts. This was possible only because the tubes had thus been exhausted of gas which would otherwise have ionized with blue glow at from 20 to 30 volts."

* For decisions on applications for certiorari, see *post*, pp. 599, 617.

No. 44. ORNSTEIN ET AL. *v.* CHESAPEAKE & OHIO RY. Co. Appeal from the Supreme Court of Ohio. Jurisdictional statement submitted October 12, 1931. Decided October 19, 1931. *Per Curiam*: The appeal herein is dismissed for the want of jurisdiction. *Grays Harbor Logging Co. v. Coats-Fordney Logging Co.*, 243 U. S. 251, 255-257. *Mr. Stuart R. Bolin* for appellants. *Mr. Fred C. Rector* for appellee. Reported below: 123 Oh. St. 260; 174 N. E. 772.

No. 53. PALM *v.* HOLLOPETER. Appeal from the Supreme Court of Oregon. Jurisdictional statement submitted October 12, 1931. Decided October 19, 1931. *Per Curiam*: The appeal herein is dismissed for the want of jurisdiction. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937). Treating the papers whereon the appeal was allowed as a petition for writ of certiorari as required by § 237 (c), Judicial Code as amended (43 Stat. 936, 938), certiorari is denied. *Mr. Alfred Evan Reames* for appellant. *Mr. Gus Newbury* for appellee. Reported below: 134 Ore. 546; 291 Pac. 380.

No. 56. STUART ET AL. *v.* FOX ET AL.;

No. 57. SAME *v.* MINOTT; and

No. 58. SAME *v.* SHWARTZ ET AL. Appeals from the Supreme Judicial Court of Maine. Jurisdictional statement submitted October 12, 1931. Decided October 19, 1931. *Per Curiam*: The appeals herein are dismissed for the want of jurisdiction. Section 237 (a), Judicial Code as amended by the Act of February 13, 1925 (43 Stat. 936, 937). Treating the papers whereon the appeals were allowed as petitions for writs of certiorari as required by § 237 (c), Judicial Code as amended (43 Stat. 936, 938), certiorari is denied. *Messrs. Frank H. Purinton* and

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Jacob H. Berman for appellants. *Mr. Robert Hale* for appellees. Reported below: 129 Me. 407; 152 Atl. 413.

No. 80. WASHINGTON EX REL. CLITHERO ET AL. *v.* SHOWALTER ET AL. Appeal from the Supreme Court of Washington. Jurisdictional statement submitted October 12, 1931. Decided October 19, 1931. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Wabash Ry. Co. v. Flannigan*, 192 U. S. 29; *Erie R. Co. v. Solomon*, 237 U. S. 427; *C. A. King & Co. v. Horton*, 276 U. S. 600; *Bank of Indianola v. Miller*, 276 U. S. 605; *Roe v. Kansas*, 278 U. S. 191. Messrs. *Raymond M. Hudson* and *Robert L. Edmiston* for appellants. Messrs. *John H. Dunbar* and *E. W. Anderson* for appellees. Reported below: 159 Wash. 519; 293 Pac. 1000.

No. 105. WALNUT & QUINCE STREETS CORP. *v.* MILLS, SUPERINTENDENT OF PUBLIC SAFETY, ET AL. Appeal from the Supreme Court of Pennsylvania. Jurisdictional statement submitted October 12, 1931. Decided October 19, 1931. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Wabash Ry. Co. v. Flannigan*, 192 U. S. 29; *Erie R. Co. v. Solomon*, 237 U. S. 427; *C. A. King & Co. v. Horton*, 276 U. S. 600; *Bank of Indianola v. Miller*, 276 U. S. 605; *Roe v. Kansas*, 278 U. S. 191. Messrs. *Maurice Bower Saul*, *Walter Biddle Saul*, and *Earl G. Harrison* for appellant. *Mr. G. Coe Farrier* for appellees. Reported below: 303 Pa. 25; 154 Atl. 29.

No. 136. PASSERA ET AL. *v.* PONTCHARTRAIN REALTY CO., INC. Appeal from the Supreme Court of Louisiana. Jurisdictional statement submitted October 12, 1931. De-

cided October 19, 1931. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Wabash Ry. Co. v. Flannigan*, 192 U. S. 29; *Erie R. Co. v. Solomon*, 237 U. S. 427; *C. A. King & Co. v. Horton*, 276 U. S. 600; *Bank of Indianola v. Miller*, 276 U. S. 605; *Roe v. Kansas*, 278 U. S. 191. Messrs. Wm. C. Dufour and J. Zach Spearing for appellants. Mr. Henry P. Dart, Jr., for appellee. Reported below: 172 La. 243; 133 So. 761.

No. 89. AUGUSTA POWER CO. ET AL. *v.* SAVANNAH RIVER ELECTRIC Co. Appeal from the Supreme Court of South Carolina. Jurisdictional statement submitted October 12, 1931. Decided October 19, 1931. *Per Curiam*: The appeal herein is dismissed. *Louisiana Navigation Co., Ltd., v. Oyster Commission*, 226 U. S. 99, 101; *Reddall v. Bryan*, 24 How. 420; *Bruce v. Tobin*, 245 U. S. 18, 19; *Verden v. Coleman*, 18 How. 86; *Moses v. The Mayor*, 15 Wall. 387. Mr. Edgar Watkins for appellants. Mr. M. G. McDonald for appellee. 161 S. E. 767.

No. 142. TWIN CITY POWER Co. *v.* SAVANNAH RIVER ELECTRIC Co. Appeal from the Supreme Court of South Carolina. Jurisdictional statement submitted October 12, 1931. Decided October 19, 1931. *Per Curiam*: The appeal herein is dismissed. *Louisiana Navigation Co., Ltd., v. Oyster Commission*, 226 U. S. 99, 101; *Reddall v. Bryan*, 24 How. 420; *Bruce v. Tobin*, 245 U. S. 18, 19; *Verden v. Coleman*, 18 How. 86; *Moses v. The Mayor*, 15 Wall. 387. The petition for a writ of certiorari in this cause is denied. Messrs. D. W. Robinson, George E. O'Connor, and E. H. Callaway for appellant. Mr. M. G. McDonald for appellee.

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NO. 1. AKRON, CANTON & YOUNGSTOWN RY. CO. ET AL. v. UNITED STATES ET AL. Appeal from the District Court of the United States for the Northern District of Illinois. Argued October 14, 15, 1931. Decided October 26, 1931. *Per Curiam*: The Court is of the opinion that the Interstate Commerce Commission acted within its authority and that its order is supported by substantial evidence. The decree is affirmed. *Western Chemical Co. v. United States*, 271 U. S. 268, 271; *Chicago, R. I. & P. Ry. Co. v. United States*, 274 U. S. 29, 33, 34; *Alabama v. United States*, 283 U. S. 776, 779. Mr. Leo P. Day, with whom Mr. Anthony P. Donadio was on the brief, for appellants. Mr. J. Stanley Payne, with whom Solicitor General Thacher, Assistant to the Attorney General O'Brian, and Messrs. Daniel W. Knowlton and E. M. Reidy were on the brief, for the United States et al.

NO. 2. GREAT ATLANTIC & PACIFIC TEA CO. ET AL. v. MAXWELL, COMMISSIONER OF REVENUE. Appeal from the Supreme Court of North Carolina. Argued October 15, 1931. Decided October 26, 1931. *Per Curiam*: Judgment affirmed. *State Board of Tax Commissioners v. Jackson*, 283 U. S. 527.

MR. JUSTICE VAN DEVANTER and MR. JUSTICE SUTHERLAND concur in the judgment solely upon the ground that the decision in *State Board of Tax Commissioners v. Jackson*, *supra*, is in point and controlling; but if the question were still open they would regard the taxing act as repugnant to the equal protection clause of the fourteenth amendment for the reasons stated in the dissenting opinion in the *Jackson* case.

MR. JUSTICE McREYNOLDS and MR. JUSTICE BUTLER are of opinion that the challenged judgment should be reversed.

Mr. John W. Davis, with whom Messrs. Edward H. Green, Martin A. Schenck, Charles W. Tillett, Jr., Clark McKercher, W. H. Dannat Pell, and Edward H. Holloway were on the brief, for appellants. Mr. Dennis G. Brummitt, Attorney General of North Carolina, with whom Messrs. Frank Nash, Walter D. Siler, and A. A. F. Seawell, Assistant Attorneys General, were on the brief, for appellee. Mr. J. Fraser Lyon, by leave of Court, filed a brief on behalf of the Tax Commission of South Carolina, as *amicus curiae*. Reported below: 199 N. C. 433; 154 S. E. 838.

No. 5. MITCHELL, ATTORNEY GENERAL, ET AL. v. PENNY STORES, INC. Appeal from the District Court of the United States for the Southern District of Mississippi. Argued October 16, 1931. Decided October 26, 1931. *Per Curiam*: In this suit, brought to enjoin the enforcement of the provisions of §§ 2 (c), 11, and 13 of article 1 of chapter 90 of the Laws of Mississippi of 1930, an application was made to the District Court of the United States for an interlocutory injunction. The District Court, composed of three judges (U. S. C., Title 28, § 380), granted an interlocutory injunction upon the giving by the plaintiffs of a bond payable to the State of Mississippi in the sum of \$5,000, conditioned as required by law, restraining the enforcement of the statutory provisions until the cause could be fully heard and determined. No opinion was rendered by the District Court, and the only question presented by the record upon this appeal is whether the District Court abused its discretion in granting an injunction until the case could be heard upon the merits. *Alabama v. United States*, 279 U. S. 229, 231; *United Fuel Gas Co. v. Public Service Commission*, 278 U. S. 322, 326; *National Fire Insurance Co. v. Thompson*, 281 U. S. 331, 338. The

order was made prior to the decision of this Court in *State Board of Commissioners v. Jackson*, 283 U. S. 527, and, as no abuse of discretion is shown, the order must be affirmed. *Mr. W. L. Guice*, with whom *Messrs. George T. Mitchell*, Attorney General of Mississippi, and *J. A. Lauderdale*, Assistant Attorney General, were on the brief, for appellants. *Messrs. Wm. H. Watkins, Martin A. Schenck, Clark McKercher, Robert S. Marx*, and *W. H. Dannat Pell* were on the brief, for appellee.

No. 21. VIRGINIAN RY. CO. *v.* CHAMBERS;

No. 22. SAME *v.* FITZGERALD; and

No. 23. SAME *v.* HYLTON. Certiorari to the Circuit Court of Appeals for the Fourth Circuit. Argued October 21, 1931. Decided October 26, 1931. *Per Curiam*: Judgments affirmed by a divided court. *Mr. John R. Pendleton*, with whom *Mr. W. H. T. Loyall* was on the brief, for petitioner. *Messrs. Russell S. Ritz* and *Grover C. Worrell* for respondents. Reported below: 46 F. (2d) 20.

No. 25. CHICAGO *v.* CHICAGO RAPID TRANSIT CO. Appeal from the District Court of the United States for the Northern District of Illinois. Argued October 21, 1931. Decided October 26, 1931. *Per Curiam*: This suit was brought to restrain the Illinois Commerce Commission and the Attorney General of the State of Illinois from enforcing an order of the commission prescribing rates of fare upon the appellee's railroads upon the ground that the order was confiscatory and in violation of the Fourteenth Amendment of the Constitution of the United States. The City of Chicago was permitted to intervene as defendant. The District Court, composed of three judges (U. S. C., Title 28, § 380), granted an interlocutory

injunction, and on final hearing entered its decree, adjudging, upon findings, that the rates prescribed by the state commission were confiscatory and permanently restraining the enforcement of its order. The Illinois Commerce Commission and the Attorney General of the State have not appealed from the decree, which is thus a final adjudication of the invalidity of the rate order. The present appeal is taken by the City of Chicago.

The Court is of the opinion that the City of Chicago has no separate standing which entitles it to appeal from the decree, and its appeal is dismissed. *Pawhuska v. Pawhuska Oil & Gas Co.*, 250 U. S. 394; *Chicago v. Dempsy*, 250 U. S. 651; *Denney v. Pacific Telephone & Telegraph Co.*, 276 U. S. 97, 102; *Railroad Commission of California v. Los Angeles Ry. Corp.*, 280 U. S. 145, 156; *Public Utilities Commission v. Quincy*, 290 Ill. 360, 369, 370; 125 N. E. 374; *Chicago Railways Co. v. Chicago*, 292 Ill. 190, 195; 126 N. E. 585; 257 U. S. 617; *Hoyne v. Chicago & Oak Park Elevated Ry. Co.*, 294 Ill. 413, 420-422; 128 N. E. 587. See also *New York City v. New York Telephone Co.*, 261 U. S. 312, 316. *Mr. Joseph F. Grossman*, with whom *Messrs. Wm. H. Sexton, Albert H. Veeder, Samuel A. Ettelson*, and *Edward C. Higgins* were on the brief, for appellant. *Messrs. Addison L. Gardner, Harry J. Dunbaugh*, and *Gilbert E. Porter* were on the brief for appellee.

No. 120. PUBLIC SERVICE COMMISSION *v.* BATESVILLE TELEPHONE Co. See *ante*, p. 6.

No. 68. BAXTER, ADMINISTRATOR, *v.* CONTINENTAL CASUALTY Co. Appeal from the Circuit Court of Appeals for the Eighth Circuit. Jurisdictional statement submitted October 12, 1931. Decided October 26, 1931. *Per Curiam*: This action was originally brought in the Circuit

Court, City of St. Louis, Missouri, and was removed to the District Court of the United States upon the ground of diversity of citizenship. The action was upon a policy of automobile insurance issued by the defendant, and recovery depended upon judgment having been obtained and execution thereon having been returned unsatisfied in an action against the assured. It was shown that action had been brought in the state court against the assured, the Southwest Motor Sales Co., a Missouri corporation, and also against one Harry Shields, its executive officer. Process had been served upon Shields personally, and jurisdiction of the Southwest Motor Sales Co. had been sought by constructive service under the Missouri law. Judgment by default had been entered against both defendants and execution had been returned unsatisfied.

In the present action the Circuit Court of Appeals, affirming judgment for the defendant, held that the insurance policy which the defendant had issued did not cover Shields and that the service in the action against the Southwest Motor Sales Co. was invalid under the decisions of the state court. *Priest v. Captain*, 236 Mo. 446, 457; 139 S. W. 204; *Moss v. Fitch*, 212 Mo. 484, 497; 111 S. W. 475. As the decision of the Circuit Court of Appeals merely applied the law of the State, no question is presented which gives this Court jurisdiction of the appeal. *Public Service Commission v. Batesville Telephone Co.*, ante, p. 6. Appeal dismissed. *Messrs. P. Taylor Bryan and Douglass H. Jones* for appellant. No appearance for appellee. Reported below: 48 F. (2d) 467.

NO. 169. BRANNAN ET AL. v. HARRISON, COMPTROLLER GENERAL. Appeal from the Supreme Court of Georgia. Jurisdictional statement submitted October 12, 1931. Decided October 26, 1931. *Per Curiam*: The appeal herein is dismissed. *Louisiana Navigation Co., Ltd., v. Oyster*

Commission, 226 U. S. 99, 101; *Reddall v. Bryan*, 24 How. 420; *Bruce v. Tobin*, 245 U. S. 18, 19; *Verden v. Coleman*, 18 How. 86; *Moses v. The Mayor*, 15 Wall. 387. Mr. C. N. Davie for appellants. Messrs. Robert S. Parker and T. R. Gress for appellee. Reported below: 172 Ga. 669; 158 S. E. 319.

No. 174. INTERSTATE NATURAL GAS CO., INC., ET AL. *v.* ARENT. Appeal from the Supreme Court of Louisiana. Jurisdictional statement submitted October 12, 1931. Decided October 26, 1931. *Per Curiam*: The appeal herein is dismissed for the want of jurisdiction. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937). Treating the papers whereon the appeal was allowed as a petition for writ of certiorari as required by § 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied. Messrs. Henry P. Dart, Jr., Edward M. Freeman, Allan Sholars, and Henry P. Dart for appellants. Messrs. J. D. Barksdale and George Genby for appellee. Reported below: 133 So. 157.

No. 195. SALVATIERRA ET AL. *v.* INDEPENDENT SCHOOL DISTRICT ET AL. Appeal from the Court of Civil Appeals, Fourth Supreme Judicial District, of Texas. Jurisdictional statement submitted October 12, 1931. Decided October 26, 1931. *Per Curiam*: The appeal herein is dismissed for the want of jurisdiction. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937). Treating the papers whereon the appeal was allowed as a petition for writ of certiorari as required by § 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied. Messrs. Fred C. Knollenberg and John L. Dodson for appellants. No appearance for appellees. Reported below: 33 S. W. (2d) 790.

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NO. 223. *KIELDSEN v. BARRETT, STATE TREASURER*. Appeal from the Supreme Court of Idaho. Jurisdictional statement submitted October 12, 1931. Decided October 26, 1931. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Wabash R. Co. v. Flannigan*, 192 U. S. 29; *Erie R. Co. v. Solomon*, 237 U. S. 427; *C. A. King & Co. v. Horton*, 276 U. S. 600; *Bank of Indianola v. Miller*, 276 U. S. 605; *Roe v. Kansas*, 278 U. S. 191. *Mr. Oliver O. Haga* for appellant. *Messrs. Fred J. Babcock and Leon M. Fisk* for appellee. Reported below: 297 Pac. 405.

NO. 266. *HANSON v. HANSON*. Appeal from the Supreme Court of Kansas. Jurisdictional statement submitted October 12, 1931. Decided October 26, 1931. *Per Curiam*: The motion for leave to proceed further herein *in forma pauperis* is denied. On consideration of the unprinted record submitted in this cause it is ordered that the appeal herein be, and it is hereby, dismissed for the want of a substantial federal question. *Wabash R. Co. v. Flannigan*, 192 U. S. 29; *Erie R. Co. v. Solomon*, 237 U. S. 427; *C. A. King & Co. v. Horton*, 276 U. S. 600; *Bank of Indianola v. Miller*, 276 U. S. 605; *Roe v. Kansas*, 278 U. S. 191. *Mr. John F. Hanson, pro se. Mr. Frank O. Johnson* for appellee. Reported below: 131 Kan. 27; 289 Pac. 474.

NO. 45. *SOUTHERN RY. CO. v. MOORE, ADMINISTRATOR*. Certiorari to the Supreme Court of South Carolina. Submitted October 23, 1931. Decided November 2, 1931. *Per Curiam*: The judgment herein is reversed, upon the ground, as matter of law, that the evidence is not sufficient to sustain a finding that negligence of the petitioner was the cause of the death of respondent's intestate. *Chicago, Milwaukee & St. Paul Ry. Co. v. Coogan*, 271

U. S. 472, 474, 478; *Atlantic Coast Line v. Driggers*, 279 U. S. 787, 788; *Atchison, Topeka & Santa Fe Ry. Co. v. Toops*, 281 U. S. 351, 354-355. Messrs. S. R. Prince, H. O'B. Cooper, Frank G. Tompkins, and L. E. Jeffries were on the brief for petitioner. Mr. Wm. C. Wolfe was on the brief for respondent. See 161 S. E. 525.

No. 41. PAINTERS DISTRICT COUNCIL No. 14 OF CHICAGO ET AL. v. UNITED STATES. Appeal from the District Court of the United States for the Northern District of Illinois. Argued October 26, 1931. Decided November 2, 1931. *Per Curiam*: Decree affirmed. *Duplex Printing Press Co. v. Deering*, 254 U. S. 443; *United States v. Brims*, 272 U. S. 549; *Bedford Cut Stone Co. v. Journeymen Stone Cutters' Assn.*, 274 U. S. 37. Mr. Wm. E. Rodriguez for appellants. Assistant to the Attorney General O'Brian, with whom Solicitor General Thacher and Mr. Charles H. Weston were on the brief, for the United States. Reported below: 44 F. (2d) 58.

No. 59. UNITED STATES v. CAMPBELL. Certiorari to the Circuit Court of Appeals for the Second Circuit. Argued October 28, 1931. Decided November 2, 1931. *Per Curiam*: Judgment reversed. Section 309, World War Veterans' Act, as amended by the Act of July 2, 1926, c. 723, 44 Stat. 790, 800 (U. S. C. App., Title 38, § 516 b); *United States v. Worley*, 281 U. S. 339; *Jackson v. United States*, 281 U. S. 344. Assistant Attorney General St. Lewis, with whom Solicitor General Thacher and Messrs. W. Clifton Stone and Paul D. Miller were on the brief, for the United States. Mr. David F. Lee for respondent. Reported below: 47 F. (2d) 227.

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NO. 371. *KEOGH v. NEELY, COLLECTOR OF INTERNAL REVENUE.* Appeal from the Circuit Court of Appeals for the Seventh Circuit. Jurisdictional statement submitted October 19, 1931. Decided November 2, 1931. *Per Curiam:* The appeal herein is dismissed for the want of jurisdiction. Section 240 (b), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 938). The petition for writ of certiorari is denied. *Mr. John W. Keogh, pro se. Solicitor General Thacher, Assistant Attorney General Youngquist, and Messrs. Whitney North Seymour, Sewall Key, and Hayner N. Larson* for appellee. Reported below: 50 F. (2d) 685.

NO. 31. *SANTOVINCENZO, CONSUL OF THE KINGDOM OF ITALY AT NEW YORK, v. EGAN, PUBLIC ADMINISTRATOR, ET AL.* Appeal from the Surrogate's Court of the County of New York, State of New York. Jurisdictional statement submitted April 20, 1931. Decided November 23, 1931. *Per Curiam:* The appeal herein is dismissed for the want of jurisdiction, § 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937). Treating the papers whereon the appeal was allowed as a petition for writ of certiorari as required by § 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is granted. For opinion in this case, see *ante*, p. 30.

NO. 294. *BURNET, COMMISSIONER OF INTERNAL REVENUE, v. HOWES BROTHERS HIDE CO. ET AL.* Petition for writ of certiorari to the Circuit Court of Appeals for the First Circuit. Certiorari submitted October 5, 1931. Decided November 23, 1931. *Per Curiam:* The petition for a writ of certiorari in this case is granted. The decree

herein is reversed upon the authority of *Handy & Harman v. Burnet*, ante, p. 136. *Solicitor General Thacher*, *Assistant Attorney General Youngquist*, and *Messrs. Claude R. Branch, Sewall Key, John Henry McEvers, and Paul D. Miller* for petitioner. *Mr. Robert A. Littleton* for respondents. Reported below: 49 F. (2d) 878.

No. 50. UNITED STATES *v.* ANDERSON. Petition for writ of certiorari to the Circuit Court of Appeals for the Ninth Circuit. Submitted May 18, 1931. Decided November 23, 1931. The petition for a writ of certiorari in this case is granted. The decree herein is reversed upon the authority of *United States v. Ryan*, ante, p. 167. *Solicitor General Thacher*, *Assistant Attorney General Youngquist*, and *Messrs. Mahlon D. Kiefer, John J. Byrne, and Paul D. Miller* for the United States. No appearance for respondent. Reported below: 44 F. (2d) 953.

No. 328. LIAS ET AL. *v.* UNITED STATES. Certiorari to the Circuit Court of Appeals for the Fourth Circuit. Argued November 23, 24, 1931. Decided November 30, 1931. *Per Curiam*: Judgment affirmed. *Allen v. United States*, 164 U. S. 492, 501, 502. *Messrs. Howard D. Matthews and J. Bernard Handlan*, with whom *Mr. John Marshall* was on the brief, for petitioners. *Solicitor General Thacher*, with whom *Assistant Attorney General Youngquist* and *Messrs. Mahlon D. Kiefer, John J. Byrne, and Wilbur H. Friedman* were on the brief, for the United States. Reported below: 51 F. (2d) 215.

No. 184. GREAT ATLANTIC & PACIFIC TEA CO. *v.* MORRISSETT, STATE TAX COMMISSIONER, ET AL. Appeal from the District Court of the United States for the Eastern

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District of Virginia. Argued November 25, 1931. Decided November 30, 1931. *Per Curiam*: Decree affirmed. *State Board of Tax Commissioners v. Jackson*, 283 U. S. 527; *Great Atlantic & Pacific Tea Co. v. Maxwell*, ante, p. 575. *Mr. Thomas B. Gay* for appellant. *Mr. W. W. Martin*, with whom *Mr. Henry R. Miller, Jr.*, was on the brief, for appellees.

No. 447. *HANSON v. KRAMER ET AL.* Appeal from the Supreme Court of Kansas. Jurisdictional statement submitted November 23, 1931. Decided November 30, 1931. *Per Curiam*: The motion for leave to proceed further herein *in forma pauperis* is denied. The appeal is dismissed for the want of a substantial federal question. *Equitable Life Assurance Society v. Brown*, 187 U. S. 308, 311; *Campbell v. Olney*, 262 U. S. 352, 354; *Tidal Oil Co. v. Flanagan*, 263 U. S. 444, 455, 456; *Wick v. Chelan Electric Co.*, 280 U. S. 108, 111. *Mr. John F. Hanson, pro se.* No appearance for appellees. Reported below: 131 Kan. 491; 292 Pac. 788.

No. —, original. *EX PARTE ESTABROOK.* Motion submitted November 23, 1931. Decided November 30, 1931. The motion for leave to proceed *in forma pauperis* is denied. The motion for leave to file petition for writ of mandamus is also denied. *Mr. A. W. Estabrook, pro se.*

No. 13, original. *NEW JERSEY v. CITY OF NEW YORK.* December 7, 1931.

DECREE

This cause came on to be heard upon the pleadings, evidence, and the exceptions filed by the defendant to the report of the special master, the report of the special mas-

ter on re-reference and the form of decree prepared and filed by counsel for the parties. The court being fully advised in the premises, and for the purpose of carrying into effect the decision announced May 18, 1931, 283 U. S. 473, and the report of the special master on re-reference filed November 23, 1931,

It is ordered, adjudged and decreed as follows:

1. On and after June 1, 1933, the defendant, the City of New York, its employees and agents, and all persons assuming to act under its authority, be and they are hereby enjoined from dumping, or procuring or suffering to be dumped, any garbage or refuse, or other noxious, offensive or injurious matter, into the ocean, or waters of the United States, off the coast of New Jersey, and from otherwise defiling or polluting said waters and the shores or beaches thereof or procuring them to be defiled or polluted as aforesaid.

2. That meanwhile the defendant, the City of New York, its employees and agents, and other persons assuming to act under its authority, be and they are hereby enjoined to operate and utilize the existing incinerators and other facilities for the final disposition of garbage and refuse in such a manner as to reduce to the lowest practicable limit the amount of garbage dumped at sea.

3. That the defendant, the City of New York, shall file with the Clerk of this Court, on the first days of April, and October of each year, beginning April 1, 1932, a report to this Court adequately setting forth the progress made in the construction of incinerator plants for the final disposition of garbage and refuse, and their appurtenances, and also the amount of garbage and refuse dumped at sea during the periods covered by such reports.

4. That on the coming in of each of said reports, and on due notice to the other party, either party to this suit may apply to the Court for such action or relief, either

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with respect to the time allowed for the construction, or the progress of construction, or the method of operation, of the proposed incinerator plants or other means of final disposition of garbage and refuse, or with respect to the quantities, places or character of the dumping of garbage and refuse at sea, as may be deemed to be appropriate.

5. That either of the parties hereto may, irrespective of the filing of the above-described reports, apply at the foot of this decree for any other or further action or relief, and this Court retains jurisdiction of the above-entitled suit for the purpose of any order or direction, or modification of this decree, or any supplemental decree, which it may deem at any time to be proper in relation to the subject matter in controversy.

And it is further ordered that the costs of this suit, the expenses incurred by the special master and his compensation, to be fixed by the Court, shall be taxable against the defendant.

NO. 71. KEATING, RECEIVER OF TAXES OF THE CITY OF NEW YORK, ET AL. *v.* PUBLIC NATIONAL BANK. Appeal from the Circuit Court of Appeals for the Second Circuit. Argued November 30, 1931. Decided December 7, 1931. *Per Curiam*: Decree affirmed. *Bodkin v. Edward*, 255 U. S. 221, 223; *Texas & New Orleans R. Co. v. Brotherhood of Clerks*, 281 U. S. 548, 558; *First National Bank v. Hartford*, 273 U. S. 548; *Minnesota v. First National Bank*, 273 U. S. 561; *Georgetown National Bank v. McFarland*, 273 U. S. 658. *Mr. Arthur J. W. Hilly*, with whom *Messrs. William Herbert King*, and *Eugene Fay* were on the brief, for appellants. *Messrs. Martin Saxe* and *Robert C. Beatty*, with whom *Messrs. Henry L. Moses* and *Herman G. Kopald* were on the brief, for appellee. *Messrs. Charles L. Feldman* and *Herbert A. Hickman*, by leave of Court, filed a brief on behalf of the City

of Buffalo, N. Y., as *amicus curiae*. Reported below: 47 F. (2d) 561.

No. 72. BROAD-GRACE ARCADE CORP. *v.* BRIGHT, MAYOR, ET AL. Appeal from the District Court of the United States for the Eastern District of Virginia. Argued November 30, December 1, 1931. Decided December 7, 1931. *Per Curiam*: The order denying an interlocutory injunction is affirmed (*Alabama v. United States*, 279 U. S. 229, 231; *United Fuel Gas Co. v. Public Service Commission*, 278 U. S. 322, 326; *National Fire Insurance Co. v. Thompson*, 281 U. S. 331, 338), but without prejudice to the power and duty of the District Court, as specially constituted, to inquire and determine whether the court has jurisdiction (Judicial Code, § 37; U. S. Code, Title 28, § 80) both in relation to the amount involved in the controversy (*Chase v. Wetzler*, 225 U. S. 79, 85, 86; *North Pacific Steamship Co. v. Soley*, 257 U. S. 216, 221), and with respect to the right of the complainant to maintain this suit in equity (*Fenner v. Boykin*, 271 U. S. 240, 243, 244; *Cline v. Frink Dairy Co.*, 274 U. S. 445, 451-453). *Mr. Andrew D. Christian* for appellant. *Mr. Collins Denny, Jr.*, with whom *Messrs. John R. Saunders*, Attorney General of Virginia, and *Edwin H. Gibson* were on the brief, for appellees. Reported below: 48 F. (2d) 348.

No. 77. CHAPEL STATE THEATRE Co. *v.* HOOPER. Appeal from the Supreme Court of Ohio. Argued December 1, 1931. Decided December 7, 1931. *Per Curiam*: Judgment affirmed. *Great Southern Fireproof Hotel Co. v. Jones*, 193 U. S. 632. *Mr. Albert D. Cash*, with whom *Mr. Levi Cooke* was on the brief, for appellant. *Mr. R. M. Lucas* was on the brief for appellee. Reported below: 123 Oh. St. 322; 175 N. E. 450.

Nos. 86 and 87. *ELGIN, JOLIET & EASTERN RY. CO. v. CHURCHILL, ADMINISTRATOR*. Certiorari to the Appellate Court of Illinois, First District, and the Supreme Court of Illinois. Argued December 2, 1931. Decided December 7, 1931. *Per Curiam*: The writs of certiorari herein are dismissed as improvidently granted. *Mr. Paul R. Conaghan*, with whom *Messrs. Kemper K. Knapp* and *William Beye* were on the brief, for petitioner. *Mr. Herbert H. Patterson* for respondent.

No. 112. *BURWELL, EXECUTRIX, ET AL. v. POWELL ET AL.* Appeal from the Supreme Court of Appeals of Virginia. Argued December 8, 1931. Decided December 14, 1931. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Ennis Water Works v. Ennis*, 233 U. S. 652, 657, 658; *Banning Co. v. California*, 240 U. S. 142, 153, 154, 155; *Board of Liquidation v. Louisiana*, 179 U. S. 622, 638. *Mr. James E. Heath* for appellants. *Mr. Stewart K. Powell*, with whom *Mr. Wm. M. Williams* was on the brief, for appellees. Reported below: 155 Va. 612; 155 S. E. 819.

No. 159. *YALE OIL CORP. v. MONTANA*. Appeal from the Supreme Court of Montana. Argued December 9, 1931. Decided December 14, 1931. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Wabash Ry. Co. v. Flannigan*, 192 U. S. 29; *Erie R. Co. v. Solomon*, 237 U. S. 427; *C. A. King & Co. v. Horton*, 276 U. S. 600; *Bank of Indianola v. Miller*, 276 U. S. 605; *Roe v. Kansas*, 278 U. S. 191. *Mr. Frederick L. Pearce*, with whom *Mr. George M. Morris* was on the brief, for appellant. *Messrs. L. A. Foot* and *S. R. Foot* were on the brief for appellee. Reported below: 88 Mont. 506; 295 Pac. 255.

No. 163. UNITED STATES *v.* VANBIERVIET. Certificate from the Circuit Court of Appeals for the Sixth Circuit. Argued December 9, 1931. Decided December 14, 1931.

The facts certified were as follows: The alien entered the United States at Detroit on July 14, 1924, without any immigration visa, thus entering in violation of § 13 of the Immigration Act of 1924 (Title 8, § 213, U. S. C.). He was arrested for deportation January 3, 1930; and the warrant of deportation, based upon the finding "that he was not, at the time of his entry into the United States, in possession of an unexpired immigration visa," was issued February 17, 1930. Upon his petition for habeas corpus the District Court at Detroit discharged him from custody because the period of limitation provided by § 19 of the Immigration Act of 1917 (Title 8, § 155, U. S. C.) had expired. From that order of discharge the Government appealed. Question certified: "On January 3, 1930, did § 19 of the Immigration Act of 1917 (§ 155, Title 8, U. S. C.) by its time limitations bar the deportation proceedings?"

Per Curiam: Question answered "No." *Philippides v. Day*, 283 U. S. 48.

Mr. Whitney North Seymour, with whom *Solicitor General Thacher*, *Assistant Attorney General Dodds*, and *Mr. Frank M. Parrish* were on the brief, for the United States. *Mr. Martin J. Kilsdonk* submitted for Vanbiervliet.

No. 165. AVERILL, INSURANCE COMMISSIONER, *v.* NORTHWESTERN NATIONAL INS. Co. Appeal from the District Court of the United States for the District of Oregon. Argued December 10, 1931. Decided December 14, 1931. *Per Curiam*: The order granting an interlocutory injunction is affirmed (*Alabama v. United States*, 279 U. S. 229, 231) without prejudice to further con-

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sideration of the merits of the cause, and without prejudice to the power and duty of the District Court, as specially constituted, to inquire and determine whether the court has jurisdiction, both in relation to the amount involved in the controversy and with respect to the right of the complainant to maintain this suit in equity. *Mr. I. H. Van Winkle*, Attorney General of Oregon, with whom *Mr. Willis S. Moore*, Assistant Attorney General, was on the brief, for appellant. *Mr. Thomas MacMahon*, with whom *Mr. Guy E. Kelly* was on the brief, for appellee. Reported below: 49 F. (2d) 274.

No. 472. SAUNDERS *v.* GEORGIA. Appeal from the Supreme Court of Georgia. Jurisdictional statement submitted December 7, 1931. Decided December 14, 1931. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Hall v. Geiger-Jones Co.*, 242 U. S. 539, 555, 556, 557; *Caldwell v. Sioux Falls Stock Yards Co.*, 242 U. S. 559; *Merrick v. N. W. Halsey & Co.*, 242 U. S. 568. *Messrs. James A. Branch and Wm. Schley Howard* for appellant. No appearance for appellee. Reported below: 158 S. E. 791.

No. 462. OWNERS' AUTOMOBILE INS. CO. *v.* LAWRASON. Appeal from the Supreme Court of Louisiana. Jurisdictional statement submitted December 14, 1931. Decided January 4, 1932. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Standard Oil Co. v. Missouri*, 224 U. S. 270, 286, 287; *Lott v. Pittman*, 243 U. S. 588, 591; *McDonald v. Oregon Railroad & Navigation Co.*, 233 U. S. 665, 669, 670; *Missouri ex rel. Hurwitz v. North*, 271 U. S. 40, 42. *Mr. Hugh M. Wilkinson* for appellant. *Mr. Wylie M. Barrow* for appellee. Reported below: 136 So. 57.

No. 482. *JARDINE v. SUPERIOR COURT ET AL.* Appeal from the Supreme Court of California. Jurisdictional statement submitted December 14, 1931. Decided January 4, 1932. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Sugg v. Thornton*, 132 U. S. 524; *United Mine Workers v. Coronado Coal Co.*, 259 U. S. 344. *Messrs. H. W. O'Melveny, Walter K. Tuller, and Irving M. Walker* for appellant. *Messrs. Leslie R. Hewitt, Aloysius I. McCormick, and Guy Richards Crump* for appellees. Reported below: 2 P. (2d) 756.

No. 248. *SNOWDEN ET AL. v. RED RIVER & BAYOU DES GLAISES LEVEE & DRAINAGE DISTRICT ET AL.* Certiorari to the Supreme Court of Louisiana. Argued January 6, 1932. Decided January 11, 1932. *Per Curiam*: After hearing oral argument the Court, being of opinion that no substantial federal question is presented, dismisses the writ of certiorari. *Messrs. Winston K. Joffrion and S. Allen Bordelon* for petitioners. *Mr. W. E. Couvillon* submitted for respondents. Reported below: 134 So. 389.

No. —, original. *EX PARTE KOSOLAPOV.* Submitted January 4, 1932. Decided January 11, 1932. The motion for leave to file petition for writ of mandamus is denied. *Mr. Borris M. Komar* for petitioner.

No. 319. *ARNESON ET AL. v. UNITED IRRIGATION CO. ET AL.* Appeal from the Court of Civil Appeals, Fourth Supreme Judicial District of Texas. Argued January 13, 1932. Decided January 18, 1932. *Per Curiam*: The appeal herein is dismissed for the reason that the decree of the state court sought here to be reviewed was based on non-federal grounds adequate to support it (*Farson Son*

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& Co. v. Bird, 248 U. S. 268; *Browne v. Union Pacific R. Co.*, 267 U. S. 255; *Live Oak Water Users' Assn. v. Railroad Commission*, 269 U. S. 354, 359; *Security National Bank v. Twinde*, 278 U. S. 659; *Garysburg Mfg. Co. v. Board of Commissioners*, 280 U. S. 520); and for the want of a substantial federal question (*Wabash Ry. Co. v. Flannigan*, 192 U. S. 29; *Erie R. Co. v. Solomon*, 237 U. S. 427; *C. A. King & Co. v. Horton*, 276 U. S. 600; *Bank of Indianola v. Miller*, 276 U. S. 605; *Roe v. Kansas*, 278 U. S. 191). *Mr. S. J. Brooks*, with whom *Mr. W. L. Matthews* was on the brief, for appellants. *Messrs. J. Q. Henry*, *pro hac vice*, by leave of Court, and *John A. Mobley*, with whom *Mr. W. L. Cook* was on the brief, for appellees. Reported below: 32 S. W. (2d) 907.

No. 324. UNITED DRUG CO. v. WASHBURN, COMMISSIONER OF AGRICULTURE. Appeal from the District Court of the United States for the District of Maine. Argued January 13, 1932. Decided January 18, 1932. *Per Curiam*: The order denying an interlocutory injunction is affirmed. *Alabama v. United States*, 279 U. S. 229, 231; *United Fuel Gas Co. v. Public Service Commission*, 278 U. S. 322, 326; *National Fire Ins. Co. v. Thompson*, 281 U. S. 331, 338. *Mr. Brenton K. Fisk* for appellant. *Messrs. Clement F. Robinson*, Attorney General of Maine, and *Nathan W. Thompson* were on the brief for appellee. *Messrs. John J. Bennett, Jr.*, Attorney General of New York, and *Henry S. Manley*, by leave of Court, filed a brief on behalf of the State of New York et al., as *amici curiae*.

No. 325. POTTER ET AL. v. MAYBURY, DIRECTOR OF LICENSES, ET AL. Appeal from the Supreme Court of Washington. Argued January 13, 1932. Decided January 18, 1932. *Per Curiam*: The appeal herein is dismissed for

the reason that the decree of the state court here sought to be reviewed was based upon a non-federal ground adequate to support it. *McCoy v. Shaw*, 277 U. S. 302, 303; *People ex rel. Doyle v. Atwell*, 261 U. S. 590, 591, 592; *Howat v. Kansas*, 258 U. S. 181, 186, 190. *Mr. George H. Rummens*, with whom *Mr. Alfred J. Schweppe* was on the brief, for appellants. *Messrs. John H. Dunbar*, Attorney General of Washington, and *Lester T. Parker*, Assistant Attorney General, were on the brief for appellees. Reported below: 161 Wash. 142; 296 Pac. 566.

No. 338. DAHLSTROM METALLIC DOOR CO. ET AL. v. INDUSTRIAL BOARD OF NEW YORK. Appeal from the Supreme Court of New York, Appellate Division. Argued January 14, 15, 1932. Decided January 18, 1932. *Per Curiam*: As this case is governed by principles set forth in *New York Central R. Co. v. White*, 243 U. S. 188, and *Mountain Timber Co. v. Washington*, 243 U. S. 219, the judgment is affirmed. *Mr. Robert H. Jackson* for appellants. *Messrs. John J. Bennett, Jr.*, Attorney General of New York, and *Joseph A. McLaughlin*, Assistant Attorney General, were on the brief for appellee. *Messrs. John W. Reynolds*, Attorney General of Wisconsin, *Mortimer Levitan*, Assistant Attorney General, and *Walter F. Dodd*, by leave of Court, filed a brief on behalf of the State of Wisconsin as *amicus curiae*. Reported below: 256 N. Y. 199; 176 N. E. 141.

No. 449. GANT ET AL. v. OKLAHOMA CITY ET AL. Appeal from the Supreme Court of Oklahoma. Jurisdictional statement submitted January 11, 1932. Decided January 18, 1932. *Per Curiam*: The appeal herein is dismissed for the want of jurisdiction. *Reddall v. Bryan*, 24 How. 420; *Verden v. Coleman*, 18 How. 86; *Augusta*

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Power Co. v. Savannah River Electric Co., ante, p. 574; *Twin City Power Co. v. Savannah River Electric Co.*, ante, p. 574; *Brannan v. Harrison*, ante, p. 579. Mr. J. H. Everest for appellants. No appearance for appellees.

No. 511. *COUSINS v. SOVEREIGN CAMP, WOODMEN OF THE WORLD*. Appeal from the Supreme Court of Texas. Jurisdictional statement submitted January 11, 1932. Decided January 18, 1932. *Per Curiam*: The appeal herein is dismissed for the want of a properly presented federal question. *Hiawassee River Power Co. v. Carolina-Tennessee Power Co.*, 252 U. S. 341, 344; *Lawler v. Walker*, 14 How. 149, 152; *Maxwell v. Newbold*, 18 How. 511, 516, 517; *Yazoo & Mississippi R. Co. v. Adams*, 180 U. S. 41, 45, 48; *Mutual Life Ins. Co. v. McGrew*, 188 U. S. 291, 309, 312. Mr. John D. Cofer for appellant. Mr. Charles L. Black for appellee. Reported below: 35 S. W. (2d) 696.

No. 512. *GIANATASIO v. KAPLAN ET AL.* Appeal from the Supreme Court of New York, New York County. Jurisdictional statement submitted January 11, 1932. Decided January 18, 1932. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Atkin v. Kansas*, 191 U. S. 207; *Heim v. McCall*, 239 U. S. 175. Mr. Copal Mintz for appellant. Messrs. Arthur J. W. Hilly, J. Joseph Lilly, and Frederick A. Keck for appellees. Reported below: 178 N. E. 782.

No. —, original. *EX PARTE SILVERMAN*. Submitted January 11, 1932. Decided January 18, 1932. The motion for leave to file petition for writ of mandamus is denied. Mr. William H. Lewis for petitioner.

No. 550. BORUM ET AL. *v.* UNITED STATES. Certificate from the Court of Appeals of the District of Columbia. Argued January 22, 1932. Decided January 25, 1932.

Reporter's statement: The certificate set forth an indictment in four counts charging the three defendants with murder in the first degree. The first count named one of the defendants, the second another, and the third the last as having held the pistol with which the crime was committed. The fourth count alleged that the weapon was held by one of the defendants but that his name was to the grand jurors unknown. The certificate also set out a part of the instructions of the trial judge, and showed that all three defendants were found not guilty under the first three counts but guilty under the fourth, and were sentenced to death.

The question certified was:

"Can the judgment of the Supreme Court of the District of Columbia, based upon the conviction of the defendants on the fourth count of the indictment, be sustained in view of the acquittal of each and all of the defendants of the charge of murder in the first degree as contained in the first three counts of the indictment?"

Per Curiam: Question answered "Yes." *Dunn v. United States*, *ante*, p. 390.

Mr. John H. Burnett, with whom *Messrs. James A. O'Shea* and *Bertrand Emerson* were on the brief, for *Borum et al.*, maintained that the verdict was bad for inconsistency, citing:

Fulton v. United States, 45 App. D. C. 27; *Davis v. United States*, 37 App. D. C. 126, 133; *Commonwealth v. Haskins*, 128 Mass. 60, which is followed in *Fulton v. United States*, *supra*; *People v. Koehn*, 207 Cal. 605, 611; *Tobin v. People*, 104 Ill. 565, 567; *John Hohenadel Brewery Co. v. United States*, 295 Fed. 489, 490-491; *State v. Headrick*, 179 Mo. 300; *Henry v. United States*, 49 App.

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D. C. 207, 210, followed in *State v. Toombs*, 34 S. W. (2d) 61, 65; *Ballerini v. Aderholt*, 44 F. (2d) 352, distinguishing *Solomon v. United States*, 58 App. D. C. 182; *Salon v. State*, 70 Fla. 622, 627-628; *State v. Wiseback*, 139 Mo. 214; *People v. Copeland*, 46 S. C. 13; *Hurst v. State*, 11 Ga. App. 754; *Carlile v. State*, 97 Tex. Cr. Rep. 477, 262 S. W. 489; *Boyle v. United States*, 22 F. (2d) 547; *Murphy v. United States*, 18 F. (2d) 509; *Peru v. United States*, 4 F. (2d) 881-885.

In *Dunn v. United States*, ante, p. 390, the Court distinguished the criminal liability of a person who was guilty of maintaining a nuisance, although absent when the nuisance was carried forward, and the criminal liability of a person who was guilty and actually present carrying forward the said nuisance.

Solicitor General Thacher and Messrs. *Erwin N. Griswold*, *Leo A. Rover*, U. S. Attorney for the District of Columbia, and *Wm. H. Collins*, Assistant U. S. Attorney, were on the brief for the United States.

The indictment was drawn in four counts to meet all possible turns of the evidence at the trial, in order that so far as possible a variance might be avoided. The jury's verdict on this indictment is plainly to be interpreted as their statement that they were not convinced beyond a reasonable doubt that any particular named defendant held the gun, but that they were convinced beyond a reasonable doubt that some one of the three defendants did hold the gun.

But even if the verdict should be regarded as inconsistent, the conviction is correct and should not be disturbed. *Dunn v. United States*, ante, p. 390; *State v. Headrick*, 179 Mo. 300; *Dealy v. United States*, 152 U. S. 593, 542, 543; *Selvester v. United States*, 170 U. S. 262, 267; *Commonwealth v. Webster*, 5 Cush. 321; *Griffin v. State*, 18 Oh. St. 438; *Smith v. Commonwealth*, 21 Grat-

tan 809, 811; *Flickinger v. United States*, 150 Fed. 1, certiorari denied, 204 U. S. 671.

No. 391. *BINFORD ET AL. v. J. H. McLEAISH & Co. ET AL.* Appeal from the District Court of the United States for the Southern District of Texas. Argued January 21, 22, 1932. Decided January 25, 1932. *Per Curiam*: The order granting an interlocutory injunction is affirmed. *Alabama v. United States*, 279 U. S. 229; *United Fuel Gas Co. v. Public Service Commission*, 278 U. S. 322, 326; *National Fire Ins. Co. v. Thompson*, 281 U. S. 331, 338. Messrs. *Albert L. Reed* and *Elbert Hooper*, Assistant Attorney General of Texas, with whom Messrs. *James V. Allred*, Attorney General, *T. S. Christopher*, Assistant Attorney General, and *Mr. W. L. Cook* were on the brief, for appellants. Messrs. *Lon E. Blankenbecker* and *John H. Crooker*, with whom *Mr. R. C. Fulbright* was on the brief, for appellees. Reported below: 52 F. (2d) 151.

No. 522. *ELLISON RANCHING CO. v. BARTLETT.* Appeal from the Supreme Court of Nevada. Jurisdictional statement submitted January 18, 1932. Decided January 25, 1932. *Per Curiam*: The appeal herein is dismissed for the reason that the judgment of the state court is based upon a non-federal ground adequate to support it. *Doyle v. Atwell*, 261 U. S. 590, 592; *McCoy v. Shaw*, 277 U. S. 302, 303. Messrs. *J. D. Skeen* and *Waldemar Van Cott* for appellant. Messrs. *A. G. Mashburn* and *M. A. Diskin* for appellee. Reported below: 3 P. (2d) 151.

No. 62. *AMERICAN HIDE & LEATHER CO. v. UNITED STATES.* January 25, 1932. The opinion in this cause (*ante*, p. 343) is hereby amended by adding at the conclusion thereof the following paragraph:

“The amounts of the tax computed by the commissioner and the amount of the overpayment as stated in this opinion are those shown by the findings of the Court of Claims, but the mandate of this Court will be without prejudice to any restatement of the amount of overpayment based on a recomputation of the tax.”

No. 115. *LEWIS ET AL. v. REYNOLDS, COLLECTOR OF INTERNAL REVENUE.* February 15, 1932. In this cause it is ordered that the following words be deleted from the sixth paragraph of the opinion (*ante*, pp. 282, 283):

“Also that at the time of his last decision he was restricted to consideration of the demand for refund and determination of whether the trustees were entitled to deduct the state inheritance taxes.”

Otherwise the opinion will stand as heretofore announced.

DECISIONS GRANTING CERTIORARI, FROM OCTOBER 5, 1931, TO AND INCLUDING FEBRUARY 15, 1932

No. 62. *AMERICAN HIDE & LEATHER Co. v. UNITED STATES.* October 12, 1931. Petition for writ of certiorari to the Court of Claims granted. *Messrs. Wm. E. Hayes and George E. Hamilton* for petitioner. *Solicitor General Thacher, Assistant Attorney General Rugg, and Messrs. Claude R. Branch and George H. Foster* for the United States. Reported below: 71 Ct. Cls. 114; 48 F. (2d) 430.

No. 79. *CHICAGO & EASTERN ILLINOIS R. Co. v. INDUSTRIAL COMMISSION OF ILLINOIS ET AL.* October 12, 1931. Petition for writ of certiorari to the Circuit Court of Cook County, Illinois, granted. *Messrs. Edward W. Rawlins*