

DECISIONS PER CURIAM, FROM APRIL 12, 1932,  
TO AND INCLUDING MAY 31, 1932 \*

No. 730. *LANG v. UNITED STATES*. On writ of certiorari to the Circuit Court of Appeals for the Second Circuit. Argued April 12, 1932. Decided April 18, 1932. *Per Curiam*: The writ of certiorari herein is dismissed as having been improvidently granted. *Messrs. Charles Dicker- man Williams* and *Jerome A. Strauss* for petitioner. *Solicitor General Thacher*, with whom *Assistant Attorney General Youngquist*, and *Messrs. Wilbur H. Fried- man, John J. Byrne*, and *W. Marvin Smith* were on the brief, for the United States. Reported below: 55 F. (2d) 922.

No. 530. *GIRARD TRUST CO., TRUSTEE, v. OCEAN & LAKE REALTY CO.* Appeal from the Supreme Court of Florida. Argued April 12, 1932. Decided April 18, 1932. *Per Curiam*: The appeal herein is dismissed for the reason that the judgment of the state court sought here to be reviewed was based upon a non-federal ground adequate to support it. *Broad River Power Co. v. South Carolina*, 281 U. S. 537, 540, 541; *Cross Lake Club v. Louisiana*, 224 U. S. 632, 639, 640; *Long Sault Development Co. v. Call*, 242 U. S. 272, 277, 278; *Hardin-Wyandot Lighting Co. v. Village of Upper Sandusky*, 251 U. S. 173, 178, 179; *McCoy v. Shaw*, 277 U. S. 302, 303. *Mr. Frank J. Wide- man*, with whom *Mr. Manley P. Caldwell* was on the brief, for appellant. *Messrs. Francis P. Fleming, William W. Miller*, and *Henry J. O'Neill* were on the brief for appellee. Reported below: 101 Fla. 1324, 1337; 133 So. 569; 135 So. 795.

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\* For decisions on applications for certiorari, see *post*, pp. 534, 542.

No. 537. BURNET, COMMISSIONER OF INTERNAL REVENUE, *v.* PEAVY-WILSON LUMBER Co.;

No. 538. SAME *v.* PEAVY-MOORE LUMBER Co.; and

No. 539. SAME *v.* PEAVY-BYRNES LUMBER Co. On writs of certiorari to the Circuit Court of Appeals for the Fifth Circuit. Argued April 12, 13, 1932. Decided April 18, 1932. *Per Curiam:* The judgments of the Circuit Court of Appeals in these cases are reversed and the cases remanded to the Circuit Court of Appeals with instructions to remand to the Board of Tax Appeals for further proceedings in conformity with the opinion of this Court in *Handy & Harman v. Burnet, Commissioner of Internal Revenue*, 284 U. S. 136. Mr. Whitney North Seymour, with whom Solicitor General Thacher, Assistant Attorney General Youngquist, and Messrs. Sewall Key, John H. McEvers, and John MacC. Hudson were on the brief, for petitioner. Messrs. Sidney L. Herold and John B. Files for respondents. Reported below: 51 F. (2d) 163.

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No. 799. BURNET, COMMISSIONER OF INTERNAL REVENUE, *v.* J. ROGERS FLANNERY & Co.;

No. 800. SAME *v.* FLANNERY BOLT Co.; and

No. 801. SAME *v.* VANADIUM METALS Co. On petition for writs of certiorari to the Circuit Court of Appeals for the Third Circuit. Submitted April 11, 1932. Decided April 18, 1932. *Per Curiam:* The petition for writs of certiorari in these cases is granted. The judgments of the Circuit Court of Appeals are reversed and the cases remanded to the Circuit Court of Appeals with instructions to remand to the Board of Tax Appeals for further proceedings in conformity with the opinion of this Court in *Handy & Harman v. Burnet, Commissioner of Internal Revenue*, 284 U. S. 136. Solicitor General Thacher, Assistant Attorney General Youngquist, and Messrs. Sewall

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*Key* and *Norman D. Keller* for petitioner. *Messrs. Kenneth N. Parkinson* and *David A. Pine* for respondents. Reported below: 54 F. (2d) 365.

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No. 542. *SOUTH CAROLINA POWER CO. v. SOUTH CAROLINA TAX COMMISSION ET AL.*;

No. 566. *BROAD RIVER POWER CO. v. QUERY ET AL.*; and  
No. 567. *LEXINGTON WATER POWER CO. v. SAME*. Appeals from the District Court of the United States for the Eastern District of South Carolina. Argued April 13, 1932. Decided April 18, 1932. *Per Curiam*: The orders denying interlocutory injunctions are 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; *United Drug Co. v. Washburn*, 284 U. S. 593; *Binford v. J. H. McLeaish & Co.*, 284 U. S. 598. *Mr. Arthur R. Young*, with whom *Mr. M. Rutledge Rivers* was on the brief, for the South Carolina Power Co. *Mr. George M. Le Pine*, with whom *Messrs. C. Edward Paxson* and *W. C. McLain* were on the brief, for the Broad River Power Co. and the Lexington Water Power Co. *Messrs. John M. Daniel*, Attorney General of South Carolina, *Cordie Page*, Assistant Attorney General, and *J. Fraser Lyon* were on the brief for appellees. Reported below: 52 F. (2d) 515.

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No. 557. *OGDEN & MOFFETT CO. ET AL. v. MICHIGAN PUBLIC UTILITIES COMMISSION ET AL.* Appeal from the District Court of the United States for the Eastern District of Michigan. Argued April 14, 1932. Decided April 18, 1932. *Per Curiam*: The order denying 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; *United Drug Co. v. Washburn*, 284 U. S. 593; *Binford v. J. H. McLeaish & Co.* 284 U. S. 598. *Mr. Percy J. Donovan* for appellants. *Messrs. Paul W. Voorhies*, Attorney General of Michigan, *Hugh E. Lillie*, Assistant Attorney General, and *K. F. Clardy* were on the brief for appellees. Reported below: 58 F. (2d) 832.

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No. 553. *BOARD OF COMMISSIONERS OF ALLEN COUNTY, OHIO, ET AL. v. OHIO EX REL. BOWMAN.* Appeal from the Supreme Court of Ohio. Argued April 14, 1932. Decided April 18, 1932. *Per Curiam:* The appeal herein is dismissed for the want of a substantial federal question. (1) *County of Mobile v. Kimball*, 102 U. S. 691, 703, 704; *Houck v. Little River Drainage District*, 239 U. S. 254, 262; *Joslin Mfg. Co. v. City of Providence*, 262 U. S. 668, 674; *Memphis & Charleston Ry. Co. v. Pace*, 282 U. S. 241, 245, 246; (2) *Doyle v. Atwell*, 261 U. S. 590, 591, 592; *McCoy v. Shaw*, 277 U. S. 302, 303; *Howat v. Kansas*, 258 U. S. 181, 185, 186. *Mr. H. E. Garling*, with whom *Messrs. Ernest M. Botkin, Melvin C. Light*, and *J. J. Weadick, Sr.*, were on the brief, for appellants. *Messrs. U. G. Denman* and *William H. Harris* were on the brief for appellee. *Messrs. Gilbert Bettman*, Attorney General of Ohio, and *Wm. S. Evatt*, by leave of Court, filed a brief on behalf of the State of Ohio, as *amicus curiae*. Reported below: 124 Oh. St. 174; 177 N. E. 271.

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No. 716. *ATLANTA LAUNDRIES, INC., ET AL. v. CITY OF NEWMAN ET AL.* Appeal from the Supreme Court of Georgia. Jurisdictional statement submitted April 11, 1932. Decided April 18, 1932. *Per Curiam:* The appeal herein is dismissed for the want of a final decree.

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*Gibbons v. Ogden*, 6 Wheat. 448; *Verden v. Coleman*, 18 How. 86; *Moses v. The Mayor*, 15 Wall. 387; *Reddall v. Bryan*, 24 How. 420; *Brannan v. Harrison*, 284 U. S. 579; *Augusta Power Co. v. Savannah River Electric Co.*, 284 U. S. 574; *Gant v. Oklahoma City*, 284 U. S. 594. *Mr. B. J. Mayer* for appellants. *Mr. H. A. Hall* for appellees. Reported below: 174 Ga. 99; 162 S. E. 497.

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No. 525. *HARTFORD ACCIDENT & INDEMNITY CO. v. McPHERSON, ADMINISTRATOR*. Appeal from the Supreme Court of North Carolina. Argued April 18, 1932. Decided April 25, 1932. *Per Curiam*: The appeal is dismissed for the want of a properly presented federal question. *Hartford Life Insurance Co. v. Johnson*, 249 U. S. 490, 493; *Nevada-California-Oregon Ry. v. Burrus*, 244 U. S. 103, 104, 105; *Atlantic Coast Line R. Co. v. Mims*, 242 U. S. 532, 535; *Louisville & Nashville R. Co. v. Woodford*, 234 U. S. 46, 51. *Mr. R. M. Robinson* for appellant. *Messrs. Frank P. Hobgood, Jr., and Wm. S. Coulter* were on the brief for appellee. Reported below: 201 N. C. 303; 160 S. E. 283.

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No. 657. *EDWARD A. THOMPSON, INC. v. LUMBER MUTUAL CASUALTY INSURANCE CO.* Appeal from the City Court of the City of New York, New York. Argued April 21, 22, 1932. Decided April 25, 1932. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Wabash R. Co. v. Flannigan*, 192 U. S. 29, 38; *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. Leo C. Weiler* for appellant. *Mr. Herbert G. Kraft* was on the brief for appellee. Reported below: 234 App. Div. (N. Y.) 841. See also 134 Misc. 370, 235 N. Y. S. 646; 137 Misc. 379, 244 N. Y. S. 20, 254 N. Y. S. 921, 1007.

No. 698. *L'HOTE ET AL. v. CROWELL, DEPUTY COMMISSIONER, ET AL.* On writ of certiorari to the Circuit Court of Appeals for the Fifth Circuit. Submitted April 22, 1932. Decided April 25, 1932. *Per Curiam*: The judgment of the Circuit Court of Appeals herein is reversed and the cause is remanded to the District Court with directions to affirm the order of the Deputy Commissioner rejecting the claim of Zeb Payne. *Crowell v. Benson*, 285 U. S. 22. *Mr. Arthur A. Moreno* was on the brief for petitioners. *Messrs. H. W. Robinson* and *Daniel J. Murphy* were on the brief for Zeb Payne, respondent. *Solicitor General Thacher*, *Assistant Attorney General St. Lewis*, and *Messrs. Claude R. Branch* and *W. Clifton Stone* were on the brief for Crowell, respondent. Reported below: 54 F. (2d) 212.

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No. 786. *LAVINE ET AL. v. CALIFORNIA*. Appeal from the District Court of Appeal, 2d Appellate District, of California. Jurisdictional statement submitted April 18, 1932. Decided April 25, 1932. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Waters-Pierce Oil Co. v. Texas* (No. 1), 212 U. S. 86, 108-111; *Fox v. Washington*, 236 U. S. 273, 277, 278; *Miller v. Strahl*, 239 U. S. 426, 434; *Omaechevarria v. Idaho*, 246 U. S. 343, 348; *Hygrade Provision Co. v. Sherman*, 266 U. S. 497, 501, 502, 503. In so far as the papers whereon the appeal was allowed seek review of the rulings of the District Court of Appeal upon questions of the asserted denial of rights under the Federal Constitution by the proceedings at the trial of this cause, not involving the validity of any statute of the state, such papers are treated as a petition for writ of certiorari (§ 237 (c), Judicial Code, as amended by the act of February 13, 1925, 43 Stat. 936, 938), and certiorari is denied. *Messrs. Morris Lavine and Francis Forrest Murray* for appellants.

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*Mr. U. S. Webb*, Attorney General of California, for appellee. Reported below: 115 Cal. App. 289; 1 P. (2d) 496.

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No. —, original. *Ex parte Keogh*. Submitted April 18, 1932. Decided April 25, 1932. The petition for the issue of a writ of mandamus herein is denied for the want of jurisdiction. *Luther v. Borden*, 7 How. 1, 42; *Pacific States Telephone & Telegraph Co. v. Oregon*, 223 U. S. 118, 150; *Marshall v. Dye*, 231 U. S. 250, 256, 257; *Massachusetts v. Mellon*, 262 U. S. 447, 483, 488. *Mr. John W. Keogh, pro se.*

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No. 725. *Wells v. Commissioner of Internal Revenue*. On certificate from the Circuit Court of Appeals for the Eighth Circuit. Argued April 27, 1932. Decided May 2, 1932. *Per Curiam*: The certificate is dismissed upon the ground that the questions are not properly framed and that the statement in the certificate is inadequate. *United States v. Mayer*, 235 U. S. 55, 66; *White v. Johnson*, 282 U. S. 367, 371; *United States v. Worley*, 281 U. S. 339, 340. *Mr. James S. Y. Ivins*, with whom *Mr. Kingman Brewster* was on the brief, for *Wells. Solicitor General Thacher*, with whom *Assistant Attorney General Youngquist*, *Miss Helen R. Carloss*, and *Messrs. Sewall Key, Erwin N. Griswold*, and *Wilbur H. Friedman* were on the brief, for the Commissioner of Internal Revenue.

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No. 837. *Godfrey v. Godfrey, Executor*. Appeal from the Supreme Court of Washington. Jurisdictional statement submitted April 25, 1932. Decided May 2, 1932. *Per Curiam*: The motion for leave to proceed further herein *in forma pauperis* is denied. The appeal 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 (§ 237 (c), Judicial Code, as amended, 43 Stat. 936, 938), certiorari is denied. *Mr. Joseph W. Robinson* for appellant. No appearance for appellee. Reported below: 164 Wash. 269; 2 P. (2d) 894.

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No. 825. *UNITED STATES v. CORRIVEAU*. On petition for writ of certiorari to the Circuit Court of Appeals for the First Circuit. Submitted April 18, 1932. Decided May 16, 1932. *Per Curiam*: The petition for writ of certiorari herein is granted. The decree of the Circuit Court of Appeals is reversed, and the cause is remanded to the District Court for further proceedings in conformity with the opinions of this Court in *United States v. The Ruth Mildred*, 286 U. S. 67; *General Import & Export Co. v. United States*, 286 U. S. 70; *General Motors Acceptance Corp. v. United States*, 286 U. S. 49; and *United States v. Commercial Credit Co.*, 286 U. S. 63. *Solicitor General Thacher* for the United States. No appearance for respondent. Reported below: 56 F. (2d) 362. See also, 53 F. (2d) 735.

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No. 784. *CHANG CHOW v. UNITED STATES*. On petition for writ of certiorari to the Circuit Court of Appeals for the Ninth Circuit. Submitted May 2, 1932. Decided May 16, 1932. *Per Curiam*: The appeal to the Circuit Court of Appeals having been dismissed by that Court for want of a bill of exceptions, and it appearing, and being conceded by the Government, that the review of the Circuit Court of Appeals was by appeal according to the applicable practice prior to the Act of January 31, 1928, as amended (45 Stat. 54, 466), and that no bill of ex-

ception was necessary but that a duly authenticated record was required, the petition for writ of certiorari herein is granted, the judgment of the Circuit Court of Appeals is reversed and the cause is remanded to that Court with directions to consider the sufficiency of the authentication of the record, and, if the record be found defective in this respect, to exercise its discretion, if proper application be made, to determine whether an opportunity should be afforded for authentication of the record so that the decision of the District Court may be reviewed by the Circuit Court of Appeals. *Mr. Chauncey F. Eldridge* for petitioner. *Solicitor General Thacher*, and *Messrs. Whitney North Seymour, Harry S. Ridgely, and Wilbur H. Friedman* for the United States. Reported below: 53 F. (2d) 637.

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No. 785. *YIM KIM LAU v. UNITED STATES*. On petition for writ of certiorari to the Circuit Court of Appeals for the Ninth Circuit. Submitted May 2, 1932. Decided May 16, 1932. *Per Curiam*: The appeal to the Circuit Court of Appeals having been dismissed by that Court for the want of a bill of exceptions, and it appearing, and being conceded by the Government, that the review of the Circuit Court of Appeals was by appeal according to the applicable practice prior to the act of January 31, 1928, as amended (45 Stat. 54, 466), and that no bill of exceptions was necessary but that a duly authenticated record was required, the petition for writ of certiorari herein is granted, the judgment of the Circuit Court of Appeals is reversed, and the cause is remanded to that court with directions to consider the sufficiency of the authentication of the record, and, if the record be found defective in this respect, to exercise its discretion, if proper application be made, to determine whether an opportunity should be afforded for authentication of

the record so that the decision of the District Court may be reviewed by the Circuit Court of Appeals. *Mr. Chauncy F. Eldridge* for petitioner. *Solicitor General Thacher*, and *Messrs. Whitney North Seymour, Harry S. Ridgely*, and *Wilbur H. Friedman* for the United States. Reported below: 53 F. (2d) 638.

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No. 802. *LAZAR v. PENNSYLVANIA*. Appeal from the Court of Quarter Sessions of the Peace of Philadelphia County, Pennsylvania. Jurisdictional statement submitted May 16, 1932. Decided May 23, 1932. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Whitney v. California*, 274 U. S. 357, 371; *Fiske v. Kansas*, 274 U. S. 380; *Stromberg v. California*, 283 U. S. 359, 368, 369. *Messrs. Allen S. Olmsted, 2d, Walter Biddle Saul, Ira Jewell Williams, and Ira Jewell Williams, Jr.*, for appellant. *Messrs. James W. Tracey, Jr., and Charles F. Kelley* for appellee. Reported below: 103 Pa. Super. 417; 157 Atl. 701.

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No. 818. *KERR GLASS MFG. CORP. v. SUPERIOR COURT OF WASHINGTON FOR KING COUNTY ET AL.* Appeal from the Supreme Court of Washington. Jurisdictional statement submitted May 16, 1932. Decided May 23, 1932. *Per Curiam*: The appeal herein is dismissed for the want of a properly presented federal question. *Manhattan Life Insurance Co. v. Cohen*, 234 U. S. 123, 134; *Cleveland & Pittsburgh R. Co. v. Cleveland*, 235 U. S. 50, 53; *Hiawassee River Power Co. v. Carolina-Tennessee Power Co.*, 252 U. S. 341, 344; *White River Co. v. Arkansas*, 279 U. S. 692, 700. Treating the papers whereon the appeal was allowed as a petition for writ of certiorari (§ 237 (c), Judicial Code as amended, 43 Stat. 936, 938), certiorari is denied. *Messrs. W. V. Tanner, John P. Garvin, Walter*

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*Schaffner*, and *A. E. Clark* for appellant. *Mr. Samuel B. Bassett* for appellees. Reported below: 166 Wash. 41; 6 P. (2d) 368.

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No. —, original. **Ex parte UNITED STATES.** Submitted May 16, 1932. Decided May 23, 1932. The motion for leave to file petition for writ of mandamus herein is granted and a rule is ordered to issue returnable on Monday, October 3 next. *Solicitor General Thacher* for the United States.

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No. —, original. **Ex parte KRENTLER-ARNOLD HINGE LAST Co.** Motion for leave to file petition for writ of mandamus. Submitted May 16, 1932. Decided May 23, 1932. The decree of this Court in *Leman v. Krentler-Arnold Hinge Last Co.*, 284 U. S. 448, reversed the final decree of the Circuit Court of Appeals for the First Circuit in this cause only in so far as it related to the allowance of profits. The decree of the Circuit Court of Appeals modifying that of the District Court in matters other than in relation to the allowance of profits remains unaffected by the decree or mandate of this Court. In this view it remains for the District Court, in its decree upon the mandate of this Court, to carry into effect so much of the decree of the Circuit Court of Appeals as is unaffected by the decree and mandate of this Court. The Circuit Court of Appeals has full authority, upon appropriate application to it, to secure enforcement of its decree to the extent that it was affirmed by this Court. In view of the existence of that remedy, the motion for leave to file petition for writ of mandamus in this Court is denied without prejudice. *Mr. Otto F. Barthel* for petitioner.

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No. 455. **FRANKLIN-AMERICAN TRUST Co. v. ST. LOUIS UNION TRUST Co. ET AL.** On writ of certiorari to the

Circuit Court of Appeals for the Eighth Circuit. Argued February 18, 19, 1932. Decided May 31, 1932. *Per Curiam*: The writ of certiorari in this case is dismissed as improvidently granted. MR. JUSTICE BRANDEIS dissents from this order of the Court. *Mr. George B. Rose*, with whom *Messrs. D. H. Cantrell, J. F. Loughborough, A. W. Dobyns*, and *A. F. House* were on the brief, for petitioner. *Mr. Henry Davis*, with whom *Messrs. P. Taylor Bryan, George H. Williams*, and *Thomas S. McPheeters* were on the brief, for the St. Louis Union Trust Co., respondent. *Mr. Walter G. Riddick*, with whom *Mr. Charles T. Coleman* was on the brief, for Rorick, respondent. Reported below: 52 F. (2d) 431.

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No. 24. *TEXAS & PACIFIC RY. CO. ET AL. v. UNITED STATES ET AL.* Appeal from the District Court of the United States for the Southern District of Texas. May 31, 1932. This cause is restored to the docket for reargument upon all questions involved.

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No. —. *EX PARTE KEOGH.* Submitted May 16, 1932. Decided May 31, 1932. The motion that jurisdiction be assumed is denied. *Mr. John W. Keogh, pro se.*

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#### DECISIONS GRANTING CERTIORARI, FROM APRIL 12, 1932, TO AND INCLUDING MAY 31, 1932

No. 799. *BURNET, COMMISSIONER OF INTERNAL REVENUE, v. J. ROGERS FLANNERY & Co.;*

No. 800. *SAME v. FLANNERY BOLT Co.;* and

No. 801. *SAME v. VANADIUM METALS Co.* See same cases, *ante*, p. 524.