

289 U.S.

Decisions Granting Certiorari.

printing the report; and for a new appointment by the Chief Justice if this one be not accepted or become vacant during the recess of the Court.]

No. 693. *FACTOR v. LAUBENHEIMER, U.S. MARSHAL, ET AL.* Certiorari to the Circuit Court of Appeals for the Seventh Circuit. Argued April 18, 1933. Restored to docket May 29, 1933. This case is restored to the docket and assigned for reargument on Monday, October 9 next, upon all questions involved, including the question whether the offense charged is an extraditable offense under the Treaty of 1889, even if the offense does not constitute a crime under the law of the State of Illinois or under any acts of Congress. The attention of counsel is directed to the interpretation placed upon Article X of the treaty of 1842 by the Secretary of State of the United States, John C. Calhoun, shortly after the ratification of the Treaty (August 7, 1844, January 28, 1845, MSS. Inst. Gr. Br.), and also to the available diplomatic correspondence relating to Article X of the Treaty of 1842 and the Treaty of 1889. *Mr. Newton D. Baker*, with whom *Messrs. Rush C. Butler, S. O. Levinson, and G. Gale Gilbert, Jr.*, were on the brief, for petitioner. *Mr. Franklin R. Overmyer* for respondents. Reported below: 61 F. (2d) 626.

DECISIONS GRANTING CERTIORARI, FROM
MARCH 14, 1933, TO AND INCLUDING MAY 29,
1933

No. 693. *FACTOR v. LAUBENHEIMER, U.S. MARSHAL, ET AL.* March 20, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Seventh Circuit granted. *Messrs. Newton D. Baker, Rush C. Butler, S. O. Levinson, and G. Gale Gilbert, Jr.*, for petitioner. *Mr. Franklin Overmyer* for respondents. Reported below: 61 F. (2d) 626.

No. 711. *JOHNSON v. MANHATTAN RAILWAY CO. ET AL.*; and

No. 721. *BOEHM v. SAME.* March 20, 1933. Petitions for writs of certiorari to the Circuit Court of Appeals for the Second Circuit granted. *Messrs. Alfred C. B. McNevin, Herbert Goldman, and Charles Franklin* for Johnson, petitioner. *Messrs. Elliot S. Benedict, Harry Shulman, and Louis Boehm* for Boehm, petitioner. *Messrs. Paxton Blair, James L. Quackenbush, Nathan L. Miller, Cloyd Laporte, Allen S. Hubbard, Edwin S. S. Sunderland, Charles H. Tuttle, and John W. Davis* for respondents. Reported below: 61 F. (2d) 934.

No. 675. *GEORGE MOORE ICE CREAM CO., INC. v. ROSE, COLLECTOR OF INTERNAL REVENUE.* March 20, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Fifth Circuit granted. *Mr. J. C. Murphy* for petitioner. *Solicitor General Thacher* for respondent. Reported below: 61 F. (2d) 605.

No. 748. *INTERSTATE COMMERCE COMMISSION v. UNITED STATES EX REL. CAMPBELL ET AL.* March 20, 1933. Petition for writ of certiorari to the Court of Appeals of the District of Columbia granted. *Messrs. Daniel W. Knowlton and Edward M. Reidy* for petitioner. *Messrs. Johnston B. Campbell and A. Henry Walter* for respondents. Reported below: 61 App. D.C. 382; 63 F. (2d) 358.

No. 685. *SOUTH CAROLINA v. BAILEY.* March 27, 1933. Petition for writ of certiorari to the Supreme Court of North Carolina granted. *Messrs. John M. Daniel, William C. Wolfe, and J. Ivey Humphrey* for petitioner. *Mr. Clyde R. Hoey* for respondent. Reported below: 203 N.C. 362; 166 S.E. 165.

289 U.S.

Decisions Granting Certiorari.

No. 701. *QUERCIA v. UNITED STATES*. March 27, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the First Circuit granted. *Mr. Essex S. Abbott* for petitioner. *Solicitor General Thacher* for the United States. Reported below: 62 F. (2d) 746.

No. 718. *CONRAD, RUBIN & LESSER v. PENDER, TRUSTEE IN BANKRUPTCY*. March 27, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Second Circuit granted. *Messrs. David J. Colton and Samuel Rubin* for petitioners. *Messrs. George C. Levin and Sydney Krause* for respondent. Reported below: 61 F. (2d) 771.

No. 724. *UNITED STATES EX REL. VOLPE v. SMITH, DISTRICT DIRECTOR OF IMMIGRATION*. March 27, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Seventh Circuit granted. *Mr. Frank R. Reid* for petitioner. *Solicitor General Thacher* and *Mr. W. Marvin Smith* for respondent. Reported below: 62 F. (2d) 808.

No. 767. *ICKES, SECRETARY OF THE INTERIOR, v. UNITED STATES EX REL. CHESTATEE PYRITES & CHEMICAL CORP.* March 27, 1933. Petition for writ of certiorari to the Court of Appeals of the District of Columbia granted. *Solicitor General Thacher* for petitioner. *Messrs. Edgar Watkins, Mac Asbill, Edgar Watkins, Jr., and Marion Smith* for respondent. Reported below: 61 App. D.C. 212; 59 F. (2d) 887.

No. 791. *DU PONT v. COMMISSIONER OF INTERNAL REVENUE*. March 27, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Third Circuit granted. *Messrs. J. S. Y. Ivins, Richard B. Barker, King-*

man Brewster, and *Percy W. Phillips* for petitioner. *Solicitor General Thacher* for respondent. Reported below: 63 F. (2d) 44.

No. 792. *BURNET, COMMISSIONER OF INTERNAL REVENUE, v. WELLS*. March 27, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Eighth Circuit granted. *Solicitor General Thacher* for petitioner. *Messrs. J. S. Y. Ivins, Kingman Brewster, Percy W. Phillips*, and *Richard B. Barker* for respondent. Reported below: 63 F. (2d) 425.

No. 732. *ROGERS v. HILL ET AL.* April 10, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Second Circuit granted. *Messrs. Richard Reid Rogers* and *Evan Shelby* for petitioner. *Messrs. Nathan L. Miller* and *William M. Parke* for respondents. Reported below: 62 F. (2d) 1079.

No. 734. *KRAUSS BROS. LUMBER CO. v. DIMON STEAMSHIP CORP.* April 10, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Ninth Circuit granted. *Messrs. Lane Summers, W. H. Hayden*, and *F. F. Merritt* for petitioner. *Mr. Cassius E. Gates* for respondent. Reported below: 61 F. (2d) 187.

No. 735. *LEIGHTON ET AL. v. UNITED STATES*. April 10, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Ninth Circuit granted. *Messrs. Walter C. Fox, Jr.*, and *Blair S. Shuman* for petitioners. *Solicitor General Thacher* and *Messrs. Whitney North Seymour, Sewall Key*, and *Francis H. Horan* for the United States. Reported below: 61 F. (2d) 530.

289 U.S.

Decisions Granting Certiorari.

No. 736. *OAKES v. LAKE, SHERIFF*. April 10, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Ninth Circuit granted. *Messrs. James G. Wilson, John F. Reilly, and George B. Guthrie* for petitioner. No appearance for respondent. Reported below: 62 F. (2d) 728.

No. 752. *SINCLAIR REFINING CO. v. JENKINS PETROLEUM PROCESS CO.* April 10, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the First Circuit granted. *Messrs. Dean S. Edmonds and Frank E. Barrows* for petitioner. *Messrs. Frederick Schafer and C. Stanley Thompson* for respondent. Reported below: 62 F. (2d) 663.

No. 764. *MINNESOTA v. BLASIUS*. April 17, 1933. Petition for writ of certiorari to the Supreme Court of Minnesota granted. *Mr. Harry H. Peterson* for petitioner. *Mr. D. L. Grannis* for respondent. Reported below: 187 Minn. 420; 245 N.W. 612.

No. 768. *BUTTE, ANACONDA & PACIFIC RY. CO. v. UNITED STATES*. April 17, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Ninth Circuit granted. *Mr. D. M. Kelly* for petitioner. *Solicitor General Thacher* for the United States. Reported below: 61 F. (2d) 587.

No. 772. *CULLEN FUEL CO., INC. v. W. E. HEDGER, INC.* April 17, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Second Circuit granted. *Mr. Horace L. Cheyney* for petitioner. *Mr. Forrest E. Single* for respondent. Reported below: 62 F. (2d) 68.

No. 774. *BULLARD ET AL. v. CISCO*. April 17, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Fifth Circuit granted. *Messrs. Lawrence C. McBride and Dexter Hamilton* for petitioners. No appearance for respondent. Reported below: 62 F. (2d) 313.

No. 797. *TRAINOR CO. v. AETNA CASUALTY & SURETY CO.* April 24, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Third Circuit granted. *Mr. Joseph J. Brown* for petitioner. *Mr. Joseph W. Henderson* for respondent. Reported below: 62 F. (2d) 487.

No. 842. *TAIT, COLLECTOR OF INTERNAL REVENUE, v. WESTERN MARYLAND RY. CO.* April 24, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Fourth Circuit granted. *Solicitor General Thacher* for petitioner. *Messrs. William C. Purnell and Eugene S. Williams* for respondent. Reported below: 62 F. (2d) 933.

No. 691. *C. M. PATTEN & CO. ET AL. v. UNITED STATES*. See same case, *ante*, p. 705.

No. 832. *BURNET, COMMISSIONER OF INTERNAL REVENUE, v. U. S. REFRACTORIES CORP.* May 8, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Third Circuit granted. *Solicitor General Thacher* for petitioner. *Messrs. Robert P. Smith and W. W. Montgomery, Jr.*, for respondent. Reported below: 64 F. (2d) 69.

No. 802. *YARBOROUGH v. YARBOROUGH*. May 8, 1933. Petition for writ of certiorari to the Supreme Court of

289 U.S.

Decisions Granting Certiorari.

South Carolina granted. *Mr. R. E. Whiting* for petitioner. No appearance for respondent. Reported below: 168 S.C. 46; 166 S.E. 877.

No. 806. *JACOBS ET AL. v. UNITED STATES.* May 8, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Fifth Circuit granted. *Mr. Charles C. Moore* for petitioners. *Solicitor General Thacher* and *Messrs. Whitney North Seymour, Wm. W. Scott, and Wm. S. Ward* for the United States. Reported below: 63 F. (2d) 326.

No. 830. *BURNET, COMMISSIONER OF INTERNAL REVENUE, v. NORTHERN COAL Co.; and*

No. 831. *SAME v. C. H. SPRAGUE & SONS Co.* May 8, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the First Circuit granted. *Solicitor General Thacher* for petitioner. *Messrs. Paul F. Myers and Edmund B. Quiggle* for respondents. Reported below: 62 F. (2d) 742.

No. 851. *BURNET, COMMISSIONER OF INTERNAL REVENUE, v. DUKE ET AL.* May 8, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Third Circuit granted. *Solicitor General Thacher* for petitioner. *Messrs. John D. Davis, William R. Perkins, Harry H. Shelton, and Forrest J. Hyde* for respondents. Reported below: 62 F. (2d) 1057.

No. 815. *MISSOURI STATE LIFE INSURANCE Co. ET AL. v. JOHNSON.* May 8, 1933. Petition for writ of certiorari to the Supreme Court of Arkansas granted. *Messrs. Paul B. Cromelin, Bolitha J. Laws, and A. F. House* for petitioners. No appearance for respondent. Reported below: 186 Ark. 519.

No. 833. *BURNET, COMMISSIONER OF INTERNAL REVENUE, v. OSWEGO & SYRACUSE R. CO.* May 8, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Second Circuit granted. *Solicitor General Thacher* for petitioner. *Mr. Douglas Swift* for respondent. Reported below: 62 F. (2d) 518.

No. 873. *MISSOURI ET AL. v. FISKE ET AL.* May 15, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Eighth Circuit granted. *Mr. Gilbert Lamb* for petitioners. No appearance for respondents. Reported below: 62 F. (2d) 150.

No. 888. *COOPER, TRUSTEE IN BANKRUPTCY, v. DASHER.* May 15, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Fifth Circuit granted. *Mr. C. Edmund Worth* for petitioner. *Mr. W. K. Zewadski, Jr.*, for respondent. Reported below: 63 F. (2d) 749.

No. 905. *WELCH v. COMMISSIONER OF INTERNAL REVENUE.* May 22, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Eighth Circuit granted. *Messrs. Thomas D. O'Brien, Alexander E. Horn, and Edward S. Stringer* for petitioner. *Solicitor General Biggs* and *Messrs. Whitney North Seymour, Sewall Key, John G. Remey, and William H. Riley, Jr.*, for respondent. Reported below: 63 F. (2d) 976.

No. 915. *NATHANSON v. UNITED STATES.* May 29, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Third Circuit granted. *Mr. Frederic M. P. Pearse* for petitioner. *Solicitor General Biggs* and *Messrs. Norman J. Morrisson, Paul D. Miller, John J. Byrne, and W. Marvin Smith* for the United States. Reported below: 63 F. (2d) 937.

289 U.S.

Decisions Granting Certiorari.

No. 942. *SHEPARD v. UNITED STATES*. May 29, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Tenth Circuit granted. *Messrs. Harry W. Colmery and C. L. Kagey* for petitioner. No appearance for the United States. Reported below: 62 F. (2d) 683; 64 F. (2d) 641.

No. 874. *UNITED STATES, TRUSTEE, ET AL. v. MCGOWAN ET AL.*; and

No. 875. *SAME v. BAKERS BAY FISH CO. ET AL.* May 29, 1933. Petition for writs of certiorari to the Circuit Court of Appeals for the Ninth Circuit granted. *Solicitor General Thacher* for petitioners. *Mr. Guy E. Kelly* for respondents. Reported below: 62 F. (2d) 955.

No. 900. *UNITED STATES v. REILY*. May 29, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Tenth Circuit granted. *Solicitor General Thacher* for the United States. *Mr. F. H. Reily, pro se*. Reported below: 62 F. (2d) 621.

No. 903. *JOHN K. & CATHERINE S. MULLEN BENEVOLENT CORP. v. UNITED STATES*. May 29, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Ninth Circuit granted. *Mr. W. G. Bissell* for petitioner. *Solicitor General Biggs* and *Messrs. Whitney North Seymour, Wm. W. Scott, Wm. H. Riley, Jr., and Wm. S. Ward* for the United States. Reported below: 63 F. (2d) 48.

Nos. 908 and 909. *KEYSTONE DRILLER CO. v. GENERAL EXCAVATOR CO.*; and

Nos. 910 and 911. *SAME v. OSGOOD CO.* May 29, 1933. Petition for writs of certiorari to the Circuit Court of Appeals for the Sixth Circuit granted. *Messrs. F. O. Richey*

and *Wm. H. Boyd* for petitioner. *Mr. Lloyd T. Williams* for respondents. Reported below: 62 F. (2d) 48; 64 F. (2d) 39.

No. 912. *GRISWOLD ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. May 29, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Seventh Circuit granted. *Mr. Walter T. Fisher* for petitioners. *Solicitor General Biggs* and *Messrs. Whitney North Seymour, Sewall Key, Wm. C. Thompson, and Erwin N. Griswold* for respondent. Reported below: 62 F. (2d) 591.

Nos. 962 and 963. *FIRST NATIONAL BANK OF CINCINNATI ET AL. v. FLERSHEM ET AL.*; and

No. 964. *ARZT ET AL. v. SAME*. May 29, 1933. Petitions for writs of certiorari to the Circuit Court of Appeals for the Third Circuit granted. *Messrs. Ralph Royall and Horace F. Baker* for petitioners. *Messrs. Maynard Teall and Grandin Tracy Vought* for respondents. Reported below: 64 F. (2d) 847.

No. 965. *CLAPIER v. FLERSHEM ET AL.* May 29, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Third Circuit granted. *Mr. Charles H. Sachs* for petitioner. *Mr. Maynard Teall* for respondents. Reported below: 64 F. (2d) 847.

No. 930. *DAKIN, RECEIVER, v. BAYLY, LIQUIDATOR*. May 29, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Fifth Circuit granted. *Mr. Donald C. McMullen* for petitioner. *Mr. Thomas Hamilton* for respondent. Reported below: 63 F. (2d) 592.

No. 976. *BURNET, COMMISSIONER OF INTERNAL REVENUE, v. BUTTERWORTH ET AL.* May 29, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for

289 U.S.

Decisions Denying Certiorari.

the Third Circuit granted. *Solicitor General Biggs* for petitioner. No appearance for respondents. Reported below: 63 F. (2d) 944.

No. 977. BURNET, COMMISSIONER OF INTERNAL REVENUE, *v.* FIDELITY-PHILADELPHIA TRUST CO., TRUSTEE. May 29, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Third Circuit granted. *Solicitor General Biggs* for petitioner. No appearance for respondent. Reported below: 63 F. (2d) 949.

No. 978. BURNET, COMMISSIONER OF INTERNAL REVENUE, *v.* PARDEE ET AL. May 29, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Third Circuit granted. *Solicitor General Biggs* for petitioner. No appearance for respondents. Reported below: 63 F. (2d) 948.

No. 979. BURNET, COMMISSIONER OF INTERNAL REVENUE, *v.* TITLE GUARANTEE LOAN & TRUST CO., TRUSTEE. May 29, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Fifth Circuit granted. *Solicitor General Biggs* for petitioner. *Messrs. E. J. Smyer, Oscar W. Underwood, Jr., and H. C. Kilpatrick* for respondent. Reported below: 63 F. (2d) 621.

DECISIONS DENYING CERTIORARI, FROM
MARCH 14, 1933, TO AND INCLUDING MAY 29,
1933

No. 592. STANDARD LUMBER CO. ET AL. *v.* FLORIDA INDUSTRIAL CO. March 20, 1933. Petition for writ of certiorari to the Supreme Court of Florida denied. *Mr. Thomas B. Adams* for petitioners. *Messrs. E. J. L'Engle and J. W. Shands* for respondents. Reported below: 141 So. 729