

DECISIONS PER CURIAM, FROM OCTOBER 2,
1933, TO AND INCLUDING JANUARY 8, 1934.*

No. 138. JACK LEWIS, INC. *v.* MAYOR AND CITY COUNCIL OF BALTIMORE ET AL. Appeal from the Court of Appeals of Maryland. Jurisdictional statement submitted September 9, 1933. Decided October 9, 1933. *Per Curiam*: The motion to dismiss the appeal herein is granted and the appeal is dismissed for the want of a substantial federal question. *Euclid v. Ambler Realty Co.*, 272 U. S. 365, 388; *Cusack Co. v. Chicago*, 242 U.S. 526; *Hadacheck v. Los Angeles*, 239 U.S. 394; *Reinman v. Little Rock*, 237 U.S. 171, 176, 177. *Messrs. W. Frank Every and J. Purdon Wright* for appellant. *Messrs. R. E. Lee Marshall and Ernest F. Fadum* for appellees. Reported below: 164 Md. 146; 164 Atl. 220.

No. 184. FIRST UNION TRUST & SAVINGS BANK, TRUSTEE, *v.* CONSUMERS CO. ET AL. Petition for writ of certiorari to the Circuit Court of Appeals for the Seventh Circuit. October 9, 1933. *Per Curiam*: The petition for writ of certiorari herein is granted. On consideration of the suggestion of the respondent of a diminution of the record and of the motion for writ of certiorari to correct the same, it is ordered that such writ be, and it is hereby, granted. It having been shown to the Court that this cause is moot (*Mills v. Green*, 159 U.S. 651, 653-658; *Jones v. Montague*, 194 U.S. 147; *Alejandrino v. Quezon*, 271 U.S. 528, 535, 536; *Railroad Comm'n v. MacMillan*, 287 U.S. 576), the decree of the Circuit Court of Appeals is reversed, and the cause is remanded to the District

* For decisions on applications for certiorari, see pp. 606, 625.

Court with directions to vacate the orders appealed from and to dismiss the proceedings as moot. *Brownlow v. Schwartz*, 261 U.S. 216; *U.S. ex rel. Norwegian Nitrogen Products Co. v. Tariff Comm'n*, 274 U.S. 106, 112; *Coyne v. Prouty*, 289 U.S. 704. *Messrs. Rush C. Butler and Frank E. Harkness* for petitioner. *Messrs. Edwin M. Sims, Franklin J. Stransky, Silas H. Strawn, and John D. Black* for respondents. Reported below: 63 F. (2d) 273.

No. 189. *HUNT v. TEXAS*. Appeal from the Court of Criminal Appeals of Texas. Jurisdictional statement submitted September 9, 1933. Decided October 9, 1933. *Per Curiam*: The motion of the appellant for leave to file statement as to jurisdiction is granted. The appeal herein is dismissed for 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. A. S. Baskett* for appellant. No appearance for appellee. Reported below: 123 Tex. Crim. Rep. —; 59 S.W. (2d) 836.

No. 339. *MILLER ET AL. v. BOARD OF COUNTY COMMISSIONERS OF THE CITY AND COUNTY OF DENVER ET AL.* Appeal from the Supreme Court of Colorado. Jurisdictional statement submitted September 9, 1933. Decided October 9, 1933. *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); *Jett Bros. Co. v. Carrollton*, 252 U.S. 1, 5, 6. Treating the papers whereon the appeal was allowed as a petition for writ of certiorari as required by § 237 (c)

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Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied. *Mr. Frederick E. Dickerson* for appellants. No appearance for appellees. Reported below: 92 Colo. 425; 21 P. (2d) 714.

No. 366. *DIVEN, EXECUTOR, ET AL. v. SIELING*. Appeal from the Court of Appeals of Maryland. Jurisdictional statement submitted September 9, 1933. Decided October 9, 1933. *Per Curiam*: The motion for leave to proceed further herein *in forma pauperis* is denied. The motion to dismiss is granted, and 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 as required by § 237 (c) Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied. *Mr. George W. Sutton* for appellants. *Mr. Richard E. Preece* for appellee. Reported below: 164 Md. 526; 165 Atl. 485.

No. 404. *AKER v. AKER ET AL.* Appeal from the Supreme Court of Idaho. Jurisdictional statement submitted September 9, 1933. Decided October 9, 1933. *Per Curiam*: The motion for leave to proceed further herein *in forma pauperis* is denied. The motion to dismiss is granted, and 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 as required by § 237 (c) Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied. *Mr. J. M. Lampert* for appellant. No appearance for appellees. Reported below: 52 Ida. 713; 20 P. (2d) 796.

No. 426. *SPUR DISTRIBUTING CO. v. LINDSEY*. Appeal from the Supreme Court of Tennessee. Jurisdictional statement submitted September 9, 1933. Decided October 9, 1933. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Nashville, C. & St. L. Ry Co. v. Wallace*, 288 U.S. 249, 265-268; *Gregg Dyeing Co. v. Query*, 286 U.S. 472, 478, 479, 481, 482; *Eastern Air Transport v. South Carolina Tax Comm'n*, 285 U.S. 147, 152; *Edelman v. Boeing Air Transport*, 289 U.S. 249, 251, 252. *Mr. Thomas H. Malone* for appellant. No appearance for appellee. Reported below: 166 Tenn. 424; 62 S.W. (2d) 53.

No. —, original. *EX PARTE SALISBURY*. October 9, 1933. Motion for leave to file petition for writ of mandamus denied. *Adele T. Salisbury, pro se*.

No. —, original. *EX PARTE HEUSSLER ET AL.* October 9, 1933. Motion for leave to file petition for writ of mandamus denied. *Messrs. D. Roger Englar, Henry N. Longley, and Ezra G. Benedict Fox* for petitioners.

No. —, original. *EX PARTE COLORADO*. October 9, 1933. Motion for leave to file petition for writ of mandamus denied. *Mr. Paul P. Prosser* for petitioner.

No. —, original. *EX PARTE FLETCHER*. October 9, 1933. Motion for leave to file petition for writ of mandamus denied. *Mr. Edmond C. Fletcher, pro se*.

No. —, original. *EX PARTE BENJAMIN*. October 9, 1933. Motion for leave to file petition for writ of habeas corpus denied. *Mr. Jehudah Benjamin, pro se*.

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No. —, original. EX PARTE WILLIAMS. October 9, 1933. Motion for leave to file petition for writ of habeas corpus denied. *Mr. Joseph Williams, pro se.*

No. —, original. EX PARTE RUBIN. October 9, 1933. Motion for leave to file petition for writ of habeas corpus denied. *Mr. Lloyd Rubin, pro se.*

No. —, original. EX PARTE JORDON. October 9, 1933. Motion for leave to file petition for writ of habeas corpus denied. *Mr. Harry Jordon, pro se.*

No. —, original. EX PARTE MARTIN. October 9, 1933. Motion for leave to file petition for writ of habeas corpus denied. *Mr. Milford B. Martin, pro se.*

No. 2, original. VERMONT *v.* NEW HAMPSHIRE. October 10, 1933. The Court, being advised that the parties hereto desire that the decree to be entered herein shall provide for the appointment of a commissioner to mark upon the ground such parts of the boundary line between the State of Vermont and the State of New Hampshire, settled and determined by this Court, as shall be designated by the parties hereto,

It is now ordered that before entry of the decree herein, and within sixty days from the date hereof, each State shall give written notice to the other State of the points between which such State desires that such boundary line shall be definitively marked by monuments, with proper inscriptions, and within said time shall file proof

of said notice with the Clerk of this Court. If the two States so elect they may within such sixty days file with the Clerk of this Court, in lieu of such notices, a stipulation containing an agreed designation of the parts of the boundary to be so marked.

No. 3. COLUMBIA-DESCHUTES POWER Co. *v.* STRICKLIN, STATE ENGINEER. Appeal from the Supreme Court of Oregon. Motion to dismiss argued October 10, 1933. Decided October 16, 1933. *Per Curiam*: The appeal herein is dismissed for the want of jurisdiction, upon the ground that the application for allowance of the appeal was not made within the time provided by law. Section 8 (a), Act of February 13, 1925 (c. 229, 43 Stat. 936, 940; U.S. Code, Title 28, § 350). *Mr. Willis S. Moore*, Assistant Attorney General of Oregon, with whom *Mr. I. H. Van Winkle*, Attorney General, and *Mr. Alfred E. Clark*, Assistant Attorney General, were on the brief, for appellee, in support of the motion. *Mr. Arthur L. Veazie*, for appellant, in opposition thereto. Reported below: 134 Ore. 623; 286 Pac. 563, 294 Pac. 1049.

No. 6, original. LOUISIANA *v.* MISSISSIPPI. October 16, 1933. Order entered approving and adopting the report of Samuel S. Gannett, commissioner, showing the work done, time employed, and expenses incurred by him in running, locating, and marking the boundary line between the two States, as directed by the decree of April 13, 1931, 283 U.S. 793; approving the action of the two States in paying the expenses incurred by the commissioner; and fixing the compensation of the commissioner, to be paid by the two States in equal shares. For the opinion in this case, see 282 U.S. 458.

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No. 18. *HELVERING, COMMISSIONER OF INTERNAL REVENUE, v. NORTHERN COAL CO.*;

No. 19. *SAME v. C. H. SPRAGUE & SON CO.*; and

No. 21. *SAME v. OSWEGO & SYRACUSE R. CO.* Nos. 18 and 19, on writs of certiorari to the Circuit Court of Appeals for the First Circuit; No. 21, on certiorari to the Circuit Court of Appeals for the Second Circuit. Argued October 13, 16, 1933. Decided October 23, 1933. *Per Curiam*: Decrees affirmed by an equally divided Court. MR. JUSTICE ROBERTS took no part in the consideration or decision of these cases. *Mr. Erwin N. Griswold*, with whom *Solicitor General Biggs* and *Messrs. Sewall Key* and *J. P. Jackson* were on the brief, for petitioner. *Mr. Paul F. Myers*, with whom *Mr. Edmund B. Quiggle* was on the brief, for respondents in Nos. 18 and 19. *Mr. Douglas Swift* for respondent in No. 21. Reported below: 62 F. (2d) 742; 62 F. (2d) 518.

No. 20. *HELVERING, COMMISSIONER OF INTERNAL REVENUE, v. U.S. REFRACTORIES CORP.* Certiorari to the Circuit Court of Appeals for the Third Circuit. Argued October 16, 1933. Decided October 23, 1933. *Per Curiam*: Decree affirmed by an equally divided Court. MR. JUSTICE ROBERTS took no part in the consideration or decision of this case. *Mr. Erwin N. Griswold*, with whom *Solicitor General Biggs* and *Messrs. Sewall Key* and *J. P. Jackson* were on the brief, for petitioner. *Mr. W. W. Montgomery, Jr.*, with whom *Mr. Robert P. Smith* was on the brief, for respondent. Reported below: 64 F. (2d) 69.

No. 25. *HELVERING, COMMISSIONER OF INTERNAL REVENUE, v. DUKE ET AL.* Certiorari to the Circuit Court of Appeals for the Third Circuit. Argued October 17, 1933. Decided October 23, 1933. *Per Curiam*: Decree affirmed by an equally divided Court. MR. CHIEF JUS-

TICE HUGHES took no part in the consideration or decision of this case. *Solicitor General Biggs* and *Mr. Erwin N. Griswold*, with whom *Messrs. Sewall Key* and *Francis H. Horan* were on the brief, for petitioner. *Mr. John W. Davis*, with whom *Messrs. Wm. R. Perkins, Forrest Hyde, H. H. Shelton*, and *Marion N. Fisher* were on the brief, for respondents. Reported below: 62 F. (2d) 1057.

No. 28. UNITED STATES, TRUSTEE, ET AL. v. MCGOWAN ET AL.; and

No. 29. SAME v. BAKERS BAY FISH CO. ET AL. Writs of certiorari to the Circuit Court of Appeals for the Ninth Circuit. Argued October 20, 1933. Decided October 23, 1933. *Per Curiam*: Decrees affirmed. *Bodkin v. Edwards*, 255 U.S. 221, 223; *Texas & New Orleans R. Co. v. Railway Clerks*, 281 U.S. 548, 558; *Keating v. Public National Bank*, 284 U.S. 587; *United States v. Commercial Credit Co.*, 286 U.S. 63, 67; *Page v. Arkansas Natural Gas Corp.*, 286 U.S. 269, 271. *Assistant Solicitor General MacLean*, with whom *Solicitor General Biggs* and *Mr. Nat M. Lacy* were on the brief, for the United States et al. *Mr. Guy E. Kelly*, with whom *Mr. G. W. Hamilton*, Attorney General of Washington, and *Mr. J. H. Secrest*, Assistant Attorney General, were on the brief for respondents. Reported below: 62 F. (2d) 955.

No. —, original. EX PARTE MCCARTHY. October 23, 1933. The motion for leave to file petition for writ of habeas corpus is denied. *Mr. J. W. McCarthy, pro se.*

No. 472. PUBLIC SERVICE COMM'N OF INDIANA ET AL. v. NORTHERN INDIANA PUBLIC SERVICE Co. Appeal from the District Court of the United States for the Northern

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District of Indiana. Jurisdictional statement submitted October 21, 1933. Decided November 6, 1933. *Per Curiam*: The order granting an interlocutory injunction is affirmed. (1) *Ex parte Young*, 209 U.S. 123, 159; *Ex parte LaPrade*, 289 U.S. 444, 455, 456; (2) *Alabama v. United States*, 279 U.S. 229; *Binford v. McLeaish*, 284 U.S. 598. Messrs. George W. Hufsmith and Joseph W. Hutchinson for appellants. Mr. John C. Lawyer for appellee. Reported below: 1 F.Supp. 296.

No. 493. PAUL KLOPSTOCK & Co., INC. *v.* UNITED FRUIT Co. Appeal from the Supreme Court of Louisiana. Jurisdictional statement submitted October 21, 1933. Decided November 6, 1933. *Per Curiam*: The motion of appellant to strike the statement opposing jurisdiction 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 as required by § 237 (c) Judicial Code as amended (43 Stat. 936, 938), certiorari is denied. Messrs. Percy S. Benedict and Michael M. Irwin for appellant. Messrs. Edouard F. Henriques and W. B. Spencer, Jr., for appellee. Reported below: 177 La. 811; 149 So. 462.

No. —, original. EX PARTE BERNSTEIN. November 6, 1933. Motion for leave to file petition for writ of habeas corpus denied. Mr. Irwin J. Bernstein, *pro se*.

No. 222. MONTANA ET AL. *v.* UNITED STATES ET AL. Appeal from the District Court of the United States for the District of Montana. Submitted November 8, 1933. Decided November 13, 1933. *Per Curiam*: Decree

affirmed. *United States v. Louisiana*, ante, p. 70. Mr. Raymond T. Nagle, Attorney General of Montana, and Mr. Francis A. Silver were on the brief for appellants. Solicitor General Biggs and Messrs. Elmer B. Collins, Daniel W. Knowlton, and Edward M. Reidy were on the brief for the United States and Interstate Commerce Commission, appellees. Messrs. M. L. Countryman, Jr., D. F. Lyons, J. N. Davis, Walter McFarland, J. M. Souby, Conrad Olson, and F. G. Dorety were on the brief for the railway companies, appellees. Messrs. John E. Benton and Clyde S. Bailey, by leave of Court, filed a brief on behalf of the National Association of Railroad and Utilities Commissioners, as *amicus curiae*. Reported below: 2 F.Supp. 448.

No. 351. LARABEE FLOUR MILLS CO. *v.* FIRST NATIONAL BANK OF DUBLIN; and

No. 352. FIRST NATIONAL BANK OF ST. PETERSBURG ET AL. *v.* MIAMI. Certificates from the Circuit Court of Appeals for the Fifth Circuit. Argued November 8, 1933. Decided November 13, 1933. *Per Curiam*: The certificates are dismissed. *Baltimore & Ohio R. Co. v. Interstate Commerce Comm'n*, 215 U.S. 216, 221; *Water-ville v. Van Slyke*, 116 U.S. 699, 703-704; *Jewell v. Knight*, 123 U.S. 426, 432, 433, 434; *Chicago B. & Q. Ry. Co. v. Williams*, 205 U.S. 444, 451, 454; *Hallowell v. United States*, 209 U.S. 101, 106, 107; *United States v. Mayer*, 235 U.S. 55, 66; *Biddle v. Luvisch*, 266 U.S. 173, 174, 175. Messrs. C. C. Crockett, W. W. Larsen, and W. W. Larsen, Jr., were on the brief for Larabee Flour Mills Co. Mr. Kenneth I. McKay, with whom Mr. Maynard Ramsey was on the brief, for the First National Bank of Dublin and the First National Bank of St. Petersburg. Mr. H. E. Hackney, with whom Mr. F. G. Awalt and George P. Barse were on the brief, for the

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Comptroller of the Currency. *Mr. C. I. Carey* for the City of Miami.

No. 41. BOARD OF SUPERVISORS OF HARRISON COUNTY ET AL. v. BOARD OF SUPERVISORS OF POTTAWATTAMIE COUNTY ET AL. Appeal from the Supreme Court of Iowa. Argued November 9, 1933. Decided November 13, 1933. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Boston & Maine R. Co. v. Armburg*, 285 U.S. 234, 240; *O'Gorman & Young v. Hartford Ins. Co.*, 282 U.S. 251, 257, 258; *Hardware Dealers Mutual Fire Ins. Co. v. Glidden Co.*, 284 U.S. 151, 158; *Lawrence v. State Tax Comm'n*, 286 U.S. 276, 283. *Messrs. Ellsworth C. Alvord and Harry L. Robertson* for appellants. *Mr. George S. Wright* for appellees. Reported below: 214 Ia. 655; 241 N.W. 14.

No. 525. AMERICAN BASEBALL CLUB OF PHILADELPHIA ET AL. v. PHILADELPHIA ET AL. Appeal from the Supreme Court of Pennsylvania. Jurisdictional statement submitted November 4, 1933. Decided November 13, 1933. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. (1) *Ex parte Poresky*, ante, p. 30; *Levering & Garrigues Co. v. Morrin*, 289 U.S. 103, 105; *Equitable Life Assurance Society v. Brown*, 187 U.S. 308, 311; *Pennsylvania Hospital v. Philadelphia*, 245 U.S. 20, 24; *Roe v. Kansas*, 278 U.S. 191. (2) *Patsone v. Pennsylvania*, 232 U.S. 138, 144; *Silver v. Silver*, 280 U.S. 117, 123; *Sproles v. Binford*, 286 U.S. 374, 396. (3) *United States v. Grimaud*, 220 U.S. 506, 516, 518; *United States v. Chemical Foundation*, 272 U.S. 1, 11, 12; *Hampton & Co. v. United States*, 276 U.S. 394, 406, 407. *Mr. John B. Gest* for appellants. *Messrs. Thos. B. K. Ringe and Ernest Lowengrund* for appellees. Reported below: 312 Pa. 311; 167 Atl. 891.

No. 546. *AMERICAN AIRWAYS, INC. v. GROSJEAN*. Appeal from the District Court of the United States for the Eastern District of Louisiana. Jurisdictional statement submitted November 4, 1933. Decided November 13, 1933. *Per Curiam*: Decree affirmed. *Edelman v. Boeing Air Transport, Inc.*, 289 U.S. 249, 251, 252. *Messrs. Hugh N. Wilkinson and R. S. Pruitt* for appellant. No appearance for appellee. Reported below: 3 F.Supp. 995.

No. 551. *WALD TRANSFER & STORAGE CO. v. SMITH ET AL.* Appeal from the District Court of the United States for the Southern District of Texas. Jurisdictional statement submitted November 4, 1933. Decided November 13, 1933. *Per Curiam*: Decree affirmed. *Bradley v. Public Utilities Comm'n*, 289 U.S. 92, 95-98. *Mr. Maurice Hirsch* for appellant. No appearance for appellees. Reported below: 4 F.Supp. 61. [See *post*, p. 602.]

No. 552. *BEARD v. SMITH ET AL.* Appeal from the District Court of the United States for the Southern District of Texas. Jurisdictional statement submitted November 4, 1933. Decided November 13, 1933. *Per Curiam*: Decree affirmed. *Bradley v. Public Utilities Comm'n*, 289 U.S. 92, 95-98. *Mr. Maurice Hirsch* for appellant. No appearance for appellees. Reported below: 4 F.Supp. 61. [See *post*, p. 602.]

No. —, original. *EX PARTE LATTI*. November 13, 1933. The motion for leave to file petition for writ of habeas corpus is denied. *Mr. Garland Latta, pro se.*

No. [18], original. *PENNSYLVANIA v. ARKANSAS*. November 13, 1933. The motion for leave to file a bill of

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complaint herein is granted and process is ordered to issue returnable on Monday, January 15, next. *Mr. Philip S. Moyer* for plaintiff. *Mr. W. L. Pope* for defendant.

No. —, original. *EX PARTE THOMAS ET AL.* November 13, 1933. The rule to show cause herein is discharged and the motion for leave to file petition for writ of mandamus is denied. *Mr. W. Bissell Thomas* for petitioners.

No. 529. *COALE ET AL. v. PEARSON ET AL.* Appeal from the Court of Appeals of Maryland. Jurisdictional statement submitted November 11, 1933. Decided November 20, 1933. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Equitable Life Assurance Society v. Brown*, 187 U.S. 308, 311; *Roe v. Kansas*, 278 U.S. 191; *American Baseball Club v. Philadelphia*, ante, p. 595; *Atkin v. Kansas*, 191 U.S. 207, 222, 223; *Heim v. McCall*, 239 U.S. 175, 191; *Stephenson v. Binford*, 287 U.S. 251, 275, 276; *Waugh v. Mississippi University*, 237 U.S. 589, 596, 597; *United States v. MacIntosh*, 283 U.S. 605, 623, 624. *Mr. John H. Skeen* for appellants. *Mr. William Preston Lane, Jr.*, Attorney General of Maryland, and *Mr. Willis R. Jones* for appellees. Reported below: 165 Md. 224; 167 Atl. 54.

No. 562. *LUKENS v. PENNSYLVANIA.* Appeal from the Supreme Court of Pennsylvania. Jurisdictional statement submitted November 11, 1933. Decided November 20, 1933. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Wabash R. Co. v. Flannigan*, 192 U.S. 29; *Equitable Life Assurance Society v. Brown*, 187 U.S. 308, 311; *American Baseball Club v. Philadelphia*, ante, p. 595; *State Board of Tax*

Commissioners v. Jackson, 283 U.S. 527, 537; *Heisler v. Thomas Colliery Co.*, 260 U.S. 245, 255-257. *Mr. William P. Smith* for appellant. No appearance for appellee. Reported below: 312 Pa. 220; 167 Atl. 167.

No. 569. *JEFFERSON COUNTY v. HARD ET AL.* Appeal from the Supreme Court of Alabama. Jurisdictional statement submitted November 11, 1933. Decided November 20, 1933. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. (1) *Pawhuska v. Pawhuska Oil Co.*, 250 U.S. 394, 397-399; *Trenton v. New Jersey*, 262 U.S. 182, 188, 191, 192; *Chicago v. Chicago Rapid Transit Co.*, 284 U.S. 577, 578. (2) *Quong Ham Wah Co. v. Industrial Accident Comm'n*, 255 U.S. 445, 448, 449; *Knights of Pythias v. Meyer*, 265 U.S. 30, 32, 33; *American Railway Express Co. v. Royster Guano Co.*, 273 U.S. 274, 280; *Swiss Oil Corp. v. Shanks*, 273 U.S. 392, 411, 412. *Mr. J. Q. Smith* for appellant. No appearance for appellees. Reported below: 149 So. 81.

No. 103. *NORUMBEGA Co. v. BENNETT, ATTORNEY GENERAL OF NEW YORK, ET AL.* Appeal from the District Court of the United States for the Eastern District of New York. Argued November 16, 1933. Decided December 4, 1933. *Per Curiam*: The decree of the District Court herein is reversed, and the cause is remanded to the District Court, as specially constituted, with directions to dismiss the bill of complaint for the want of jurisdiction, upon the ground that the allegations of the bill do not set forth a substantial federal question. *Newburyport Water Co. v. Newburyport*, 193 U.S. 561, 576, 579; *Levering & Garrigues Co. v. Morrin*, 289 U.S. 103, 105; *Ex parte Poresky*, ante, p. 30. *Mr. Bernhard Knollenberg* for appellant. *Mr. John J. Bennett, Jr.*, Attorney General of

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New York, and *Mr. Wendell P. Brown*, Assistant Attorney General, were on the brief for appellees. Reported below: 3 F.Supp. 500, 502.

No. 566. *DANCIGER OIL & RFG. CO. ET AL. v. SMITH ET AL.* Appeal from the District Court of the United States for the Northern District of Texas. Jurisdictional statement submitted November 18, 1933. Decided December 4, 1933. *Per Curiam*: The motion of the appellant for leave to file statement as to jurisdiction is granted. On consideration of a stipulation of the parties that this cause has become moot and of a motion by the appellant to reverse the decree of the District Court and to remand the cause to that court with directions to dismiss the bill as moot, it is ordered that the said motion be, and it is hereby, granted, and that the decree of the specially constituted District Court rendered in this case is reversed, and the cause is remanded to that court with directions to dismiss the bill of complaint upon the ground that the cause is moot. *Brownlow v. Schwartz*, 261 U.S. 216; *Alejandrino v. Quezon*, 271 U.S. 528, 535, 536; *U.S. ex rel. Norwegian Nitrogen Products Co. v. Tariff Commission*, 274 U.S. 106, 112; *Railroad Commission of Texas v. MacMillan*, 287 U.S. 576; *Coyne v. Prouty*, 289 U.S. 704; *First Union Trust & Savings Bank v. Consumers Co.*, ante, p. 585. All costs in this Court and in the court below are to be taxed against the appellant as stipulated. *Messrs. S. A. L. Morgan, I. J. Ringolsky, W. G. Boatright, and Nelson Phillips* for appellants. No appearance for appellees. Reported below: 4 F.Supp. 236.

No. 574. *KFAB BROADCASTING CO. v. SORENSEN.* Appeal from the Supreme Court of Nebraska. Jurisdictional statement submitted November 18, 1933. Decided De-

cember 4, 1933. *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. *Cleveland v. Chamberlain*, 1 Black 419, 425, 426; *East Tennessee, V. & G. R. Co. v. Southern Telegraph Co.*, 125 U.S. 695; *Mills v. Green*, 159 U.S. 651, 654; *Love v. Griffith*, 266 U.S. 32; *Live Oak Water Users Assn. v. Railroad Commission*, 269 U.S. 354, 359; *Gerard Trust Co. v. Ocean & Lake Realty Co.*, 286 U.S. 523; *Wagner v. Leenhouts*, 287 U.S. 571; *Real Estate Land Title & Trust Co. v. Springfield*, 287 U.S. 577. *Mr. Maxwell V. Beghtol* for appellant. No appearance for appellee. Reported below: 123 Neb. 348; 243 N.W. 82.

No. 124. *MISSOURI PACIFIC R. CO. v. NORWOOD, ATTORNEY GENERAL OF ARKANSAS, ET AL.* Appeal from the District Court of the United States for the Western District of Arkansas. Argued December 6, 1933. Decided December 11, 1933. *Per Curiam*: The Court sees no reason to disagree with the determinations of fact reached by the District Court. The decree is affirmed. *Mr. Edward J. White*, with whom *Mr. Thomas B. Pryor* was on the brief, for appellant. *Mr. Frank L. Mulholland*, with whom *Mr. Hal L. Norwood*, Attorney General of Arkansas, *Mr. Robert F. Smith*, Assistant Attorney General, and *Mr. W. D. Jackson* were on the brief, for appellees. Reported below: 42 F. (2d) 765.

No. 598. *ROSENBERG v. WISCONSIN.* Appeal from the Municipal Court of Milwaukee County, Wisconsin. Jurisdictional statement submitted December 2, 1933. Decided December 11, 1933. *Per Curiam*: The motion to dismiss the appeal herein is granted, and the appeal is dismissed for the want of a substantial federal question. (1)

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Meuller v. Illinois, 289 U.S. 711; *Leach v. California*, 287 U.S. 579, 580; *Lavine v. California*, 286 U.S. 528; *Sproles v. Binford*, 286 U.S. 374, 393; *Bandini v. Superior Court*, 284 U.S. 8, 18; *Hygrade Provision Co. v. Sherman*, 266 U.S. 497, 501-503. (2) *Durland v. United States*, 161 U.S. 306, 315; *Husty v. United States*, 282 U.S. 694, 702. (3) *Portland Ry. Co. v. Oregon Railroad Comm'n*, 229 U.S. 397, 411, 412; *Pure Oil Co. v. Minnesota*, 248 U.S. 158, 164; *Aetna Life Ins. Co. v. Dunken*, 266 U.S. 389, 394. *Messrs. Wm. E. Leahy and Wm. J. Hughes, Jr.*, for appellant. *Mr. Fred M. Wylie* for appellee. Reported below: 212 Wis. 434; 249 N.W. 541.

Nos. 600 and 601. NEW YORK EX REL. NORTHERN FINANCE CORP. *v.* LYNCH ET AL. Appeals from the Supreme Court, County of Albany, New York. Jurisdictional statement submitted December 2, 1933. Decided December 11, 1933. *Per Curiam*: The motion to dismiss the appeals herein is denied. The motion to affirm is granted, and the judgments are affirmed. *Pacific Co., Ltd. v. Johnson*, 285 U.S. 480, 490. *Mr. Edwin DeT. Bechtel* for appellant. *Mr. Wendell P. Brown* for appellees.

No. [19], original. EX PARTE BALDWIN ET AL., TRUSTEES, ET AL. December 11, 1933. The motion for leave to file petition for writ of mandamus herein is granted and a rule to show cause is ordered to issue returnable on Monday, January 8 next.

No. —, original. EX PARTE WESTERN LOAN & SECURITIES Co.; and

No. —, original. EX PARTE MAYER. December 11, 1933. Motions for leave to file petitions for writs of mandamus

in these causes are severally denied. *Ex parte United States*, 287 U.S. 241, 248. *Mr. George S. McCarthy* for petitioners.

No. 181. CLARK, ADMINISTRATRIX, ET AL. *v.* MOFFETT ET AL. Certiorari to the Supreme Court of Kansas. December 11, 1933. Motion for leave to file petition for rehearing denied.

No. 551. WALD TRANSFER & STORAGE CO. *v.* SMITH ET AL.; and

No. 552. BEARD *v.* SAME. December 11, 1933. Upon consideration of the petitions for rehearing, the decrees entered herein by this Court on November 13, 1933, (*ante*, p. 596) are amended so as to provide that the decrees entered in these causes by the District Court, as specially constituted, be modified by providing that the appellants may apply at any time to the District Court, by bill or otherwise, as they may be advised, for a further order or decree, in case it shall appear that the state court shall have construed the applicable state statute as not authorizing the state commission to enter the orders challenged in this proceeding. *Glenn v. Field Packing Co.*, *ante*, p. 177. As so modified, the decrees of the District Court are affirmed. *Bradley v. Public Utilities Comm'n*, 289 U.S. 92, 95-98. The petitions for rehearing are denied. *Mr. Maurice Hirsch* for appellants. No appearance for appellees. Reported below: 4 F.Supp. 61.

No. 2, original. VERMONT *v.* NEW HAMPSHIRE. December 11, 1933. Stipulation of the parties designating parts of boundary to be marked presented.

No. 168. JANNETT ET AL. *v.* HARDIE, SHERIFF. Appeal from the Supreme Court of Florida. Argued December

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11, 1933. Decided December 18, 1933. *Per Curiam*: The Supreme Court of Florida entertained on rehearing and decided the constitutional question as to the denial of the equal protection of the laws under the Fourteenth Amendment. The judgment is affirmed. *Missouri v. Lewis*, 101 U.S. 22, 30, 31; *Hayes v. Missouri*, 120 U.S. 68, 71, 72; *Budd v. New York*, 143 U.S. 517, 548; *Griffith v. Connecticut*, 218 U.S. 563; *Engel v. O'Malley*, 219 U.S. 128, 137, 138; *Mutual Loan Co. v. Martell*, 222 U.S. 225, 235, 236; *Toyota v. Hawaii*, 226 U.S. 184, 191, 192; *Northwestern Laundry Co. v. Des Moines*, 239 U.S. 486, 495; *Packard v. Banton*, 264 U.S. 140, 143, 144; *Radice v. New York*, 264 U.S. 292, 296; *Dillingham v. McLaughlin*, 264 U.S. 370; *Ohio v. Akron Park District*, 281 U.S. 74, 81. Mr. John M. Murrell, with whom Mr. W. L. Freeland was on the brief for appellants. Mr. Cary D. Landis, Attorney General of Florida, and Mr. H. E. Carter, Assistant Attorney General, were on the brief for appellee. By leave of Court, Mr. David J. Gallert filed a brief as *amicus curiae*. Reported below: 109 Fla. 129; 147 So. 296.

No. 613. *ROSS v. FORT, COMMISSIONER OF FINANCE & TAXATION OF TENNESSEE*. Appeal from the Supreme Court of Tennessee. Jurisdictional statement submitted December 9, 1933. Decided December 18, 1933. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. (1) *Maguire v. Trefry*, 253 U.S. 12; (2) *Klein v. Board of Supervisors*, 282 U.S. 19, 22-24; *Magoun v. Illinois Trust & Savings Bank*, 170 U.S. 283, 298, 299; *Keeney v. New York*, 222 U.S. 525, 535, 536; *Standard Stock Food Co. v. Wright*, 225 U.S. 540, 550. Mr. J. A. Fowler for appellant. No appearance for appellee. Reported below: 166 Tenn. 314; 61 S.W. (2d) 479.

No. —, original. EX PARTE BOYCE. December 18, 1933. Motion for leave to file petition for writ of mandamus denied. *Mr. Benjamin A. Boyce, pro se.*

No. —, original. EX PARTE DASHER. December 18, 1933. Motion for leave to file petition for writ of habeas corpus denied. *Mr. Burton G. Henson* for petitioner.

No. 602. ARCHERD *v.* OREGON. Appeal from the Supreme Court of Oregon. Jurisdictional statement submitted December 17, 1933. Decided January 8, 1934. *Per Curiam*: The appeal herein is dismissed (1) for the want of a properly presented federal question. *Godchaux v. Estopinal*, 251 U.S. 179; *Rooker v. Fidelity Trust Co.*, 251 U.S. 114, 117; *Live Oak Water Users Assn. v. Railroad Comm'n*, 269 U.S. 354, 357, 358; (2) for the want of a reviewable judgment by the highest court of the State in which a decision could have been had. *John v. Paullin*, 231 U.S. 583, 587; *Newman v. Gates*, 204 U.S. 89, 95; *Chesapeake & Ohio Ry. Co. v. McDonald*, 214 U.S. 101; *Harrington v. Holler*, 111 U.S. 796; and (3) for the want of a substantial federal question, *Equitable Life Assurance Society v. Brown*, 187 U.S. 300, 311; *Wabash R. Co. v. Flannigan*, 192 U.S. 29; *Roe v. Kansas*, 278 U.S. 191. Mandate stayed and motion for leave to file petition for rehearing granted January 22, 1934. *Mr. Chester I. Long* for appellant. *Messrs. I. H. Van Winkle, Ralph E. Moody, and Willis S. Moore* for appellee. Reported below: 144 Ore. 309; 24 P. (2d) 5.

No. 665. AGLES *v.* STOLZE LUMBER Co. Appeal from the Supreme Court of Illinois. Jurisdictional statement submitted December 23, 1933. Decided January 8, 1934. *Per Curiam*: The motion of the appellee to dismiss the

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appeal herein is granted, and the appeal is hereby 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 an application for writ of certiorari as required by § 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied. *Mr. Ferdinand Tunnell* for appellant. *Messrs. Thomas Williamson and George D. Burroughs* for appellee.

No. 664. SCHMELING *v.* F. W. WOOLWORTH Co. Appeal from the Supreme Court of Kansas. Jurisdictional statement submitted December 30, 1933. Decided January 8, 1934. *Per Curiam*: The motion of the appellee to dismiss the appeal herein is granted, and the appeal is dismissed for the want of a substantial federal question. *New York Central R. Co. v. White*, 243 U.S. 188; *Mountain Timber Co. v. Washington*, 243 U.S. 219; *Lower Vein Co. v. Industrial Board*, 255 U.S. 144; *Madera Sugar Pine Co. v. Industrial Commission*, 262 U.S. 499; *Castillo v. McConnico*, 168 U.S. 674; 683; *McDonald v. Oregon Navigation Co.*, 233 U.S. 665, 669, 670; *Hebert v. Louisiana*, 272 U.S. 312, 316, 317; *Glenn v. Doyal*, 285 U.S. 526. *Mr. Joseph H. Brady* for appellant. *Mr. Clay C. Rogers* for appellee. Reported below: 137 Kan. 573, 21 P. (2d) 337; 138 Kan. 281, 26 P. (2d) 265.

No. 2, original. VERMONT *v.* NEW HAMPSHIRE. January 8, 1934. Decree entered. See *ante*, p. 579.

No. —, original. EX PARTE MILLER ET AL. January 8, 1934. The motion for leave to file petition for writ of mandamus or prohibition is denied. *Ex parte United States*, 287 U.S. 241, 248, 249. *Messrs. C. Wilbur Miller*,

Ernest B. Miller, Jos. I. McMullen, and Wm. Burnet Wright for petitioners.

No. —, original. *EX PARTE DI PIPPA*. January 8, 1934. The motion for leave to file petition for writ of habeas corpus is denied. *Mr. Rocco Di Pippa, pro se*.

No. —, original. *PRINCIPALITY OF MONACO v. MISSISSIPPI*. January 8, 1934. A rule is ordered to issue, returnable on Monday, February 5 next, requiring the defendant to show cause why the motion for leave to file the declaration herein should not be granted.

No. 19, original. *EX PARTE BALDWIN ET AL.* January 8, 1934. Return to rule to show cause presented.

DECISIONS GRANTING CERTIORARI, FROM OCTOBER 2, 1933, TO AND INCLUDING JANUARY 8, 1934.

No. 184. *FIRST UNION TRUST & SAVINGS BANK, TRUSTEE, v. CONSUMERS CO. ET AL.* See same case, *ante*, p. 585.

No. 88. *UNITED STATES v. MURDOCK*. October 9, 1933. Petition for writ of certiorari to the Circuit Court of Appeals for the Seventh Circuit granted. *Solicitor General Biggs* and *Messrs. Sewall Key* and *John H. McEvers* for the United States. *Messrs. Edmund Burke* and *Harold J. Bandy* for respondent. Reported below: 62 F. (2d) 926.

No. 241. *SNYDER v. MASSACHUSETTS*. October 9, 1933. Petition for writ of certiorari to the Superior Court in and