

Mr. Mac Q. Williamson, Attorney General of Oklahoma, with whom *Mr. Smith C. Matson*, Assistant Attorney General, was on the brief, for respondent.

PER CURIAM.

Petitioner was convicted in the District Court of Okmulgee County, Oklahoma, upon an information charging rape. At the trial, petitioner challenged the jury panel upon the ground that negroes for a long period had been excluded from jury service in that county solely on account of their race or color, and that this discrimination had deprived petitioner of the equal protection of the laws in violation of the Constitution of the United States. Evidence was taken by the trial court upon this issue, the challenge was overruled, and petitioner excepted. Upon appeal, the federal question was presented to the Criminal Court of Appeals and was decided against petitioner. This Court granted a writ of certiorari, April 1, 1935.

From its examination of the evidence, the Court is of the opinion that the case calls for the application of the principles declared in *Neal v. Delaware*, 103 U. S. 370, 397, and *Norris v. Alabama*, 294 U. S. 587.

The judgment is reversed and the cause is remanded for further proceedings not inconsistent with this opinion.

Reversed.

TEXAS & NEW ORLEANS RAILROAD CO. ET AL. v.
UNITED STATES ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF MISSOURI.

No. 670. Argued May 1, 1935.—Decided May 13, 1935.

Rate-fixing orders of the Interstate Commerce Commission sustained.
10 F. Supp. 198, affirmed.

APPEAL from a judgment of the District Court of three judges dismissing the bill in a suit to set aside two orders of the Interstate Commerce Commission.

Mr. Robert Wilkins Thompson, with whom *Messrs. Jules Henri Tallichet* and *T. D. Gresham* were on the brief, for appellants.

Mr. Nelson Thomas, with whom *Solicitor General Reed*, *Assistant Attorney General Stephens*, and *Messrs. Elmer B. Collins* and *Daniel W. Knowlton* were on the brief, for the United States et al.

PER CURIAM.

This is a suit to restrain the enforcement of two orders of the Interstate Commerce Commission, made July 24, 1933, and December 11, 1933, respectively, relating to rates for the transportation of horses and mules, in carloads, in southwestern territory. 195 I. C. C. 417. Upon the hearing by the District Court, composed of three judges, the application for an injunction was denied and the amended bill of complaint was dismissed.

This Court, upon an examination of the record, agrees with the conclusion of the District Court that the orders in question were sustained by findings of the Commission acting within its statutory authority and that these findings were adequately supported by evidence. The decree is

Affirmed.

UNITED STATES EX REL. KASSIN *v.* MULLIGAN,
U. S. MARSHAL, ET AL.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE
SECOND CIRCUIT.

No. 569. Argued April 2, 1935.—Decided May 13, 1935.

1. The right of the defendant to a hearing before removal from one district to another for trial (R. S., § 1014) is not a constitutional right but one given by statute. P. 400.