

DECISIONS PER CURIAM, FROM MARCH 31 TO
AND INCLUDING JUNE 1, 1936.*

No. 797. CRAIG *v.* UNITED STATES; and

No. 798. WEINBLATT *v.* SAME. March 31, 1936. The application for writs of certiorari to the Circuit Court of Appeals for the Ninth Circuit is dismissed upon the ground that it is premature, without prejudice to a renewal of the application within thirty days after action by the Circuit Court of Appeals on the petition for rehearing. *Messrs. Mark L. Herron and Aloysius I. McCormick* for petitioners. No appearance for the United States. Reported below: 81 F. (2d) 816.

No. 856. FOLEY, DISTRICT ATTORNEY OF THE COUNTY OF BRONX, ET AL. *v.* WACHS. Appeal from the District Court of the United States for the Southern District of New York. April 6, 1936. *Per Curiam*: The motion for leave to file jurisdictional statement is granted. The decree granting an interlocutory injunction is affirmed. *Alabama v. United States*, 279 U. S. 229, 231; *Langer v. Grandin Farmers Coöperative Elevator Co.*, 292 U. S. 605; *Baldwin v. G. A. F. Seelig, Inc.*, 293 U. S. 522; *Grosjean v. Texas Co.*, 297 U. S. 697. *Mr. Paul Windels* for appellants. No appearance for appellee.

No. 817. P. J. CARLIN CONSTRUCTION CO. ET AL. *v.* HEANEY ET AL. Appeal from the Supreme Court of New York. Jurisdictional statement distributed March 28,

* For decisions on applications for certiorari, see *post*, pp. 647, 654; for rehearing, *post*, p. 691.

1936. Decided April 6, 1936. *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); *Citizens National Bank v. Durr*, 257 U. S. 99, 106; *Jett Bros. Distilling Co. v. Carrollton*, 252 U. S. 1, 5, 6; *Indian Territory Co. v. Board of Equalization*, 287 U. S. 573; *Lewis v. New York*, 289 U. S. 709. Treating the papers whereon the appeal was allowed as a petition for a writ of certiorari, § 237 (c), Judicial Code as amended (43 Stat. 936, 938), certiorari is granted. *Mr. Elmer Clyde Sherwood* for appellants. *Messrs. Henry Epstein and Joseph A. McLaughlin* for appellees. Reported below: 269 N. Y. 93, 199 N. E. 16; 243 App. Div. 648, 277 N. Y. S. 754.

No. 787. NATIONAL CITY BANK OF NEW YORK CITY *v.* OELBERMANN ET AL. On petition for writ of certiorari to the Circuit Court of Appeals for the Second Circuit. April 6, 1936. *Per Curiam*: Petition for writ of certiorari granted. The judgment is modified by substituting a direction for a judgment of dismissal on the merits with costs in place of the direction for a new trial, and, as so modified, is affirmed. *Baltimore & C. Line v. Redman*, 295 U. S. 654. *Messrs. Carl A. Mead and Frank A. F. Severance* for petitioner. *Messrs. Kenneth E. Walser and Ralph B. Evans* for respondents. Reported below: 79 F. (2d) 534.

No. —, original. EX PARTE MORTIMER. April 6, 1936. The motion for leave to file petition for writ of mandamus is denied. *Messrs. Hubert E. Rogers, John T. Dooling, and John F. Condon, Jr.*, for petitioner.

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No. 15, original. TEXAS *v.* NEW MEXICO ET AL. April 6, 1936. The answers of the defendants are received and ordered to be filed. The motion to make additional parties defendant is denied.

No. 168. MICHALEK *v.* UNITED STATES GYPSUM Co. On petition for writ of certiorari to the Circuit Court of Appeals for the Second Circuit. April 13, 1936. *Per Curiam*: The petition for writ of certiorari is granted. The judgment is reversed with respect to the fifth cause of action with directions to remand the case to the District Court for further proceedings. *Schmidt v. Merchants Despatch Transportation Co.*, 270 N. Y. 287. *Mr. William L. Clay* for petitioner. *Mr. E. Willoughby Middleton* for respondent. Reported below: 76 F. (2d) 115.

No. —, original. EX PARTE O'TOOLE. April 13, 1936. The motion for leave to file petition for writ of habeas corpus is denied. *Mr. Arthur O'Toole, pro se.*

No. 772. MORF *v.* BINGAMAN, COMMISSIONER. Appeal from the District Court of the United States for the District of New Mexico. April 13, 1936. The motion to join in the appeal is granted.

No. 867. BROWN *v.* SOUTH CAROLINA. Appeal from the Supreme Court of South Carolina. Jurisdictional statement distributed April 11, 1936. Decided April 27, 1936. *Per Curiam*: The appeal herein is dismissed for the want of a final judgment. *Bostwick v. Brinkerhoff*, 106

U. S. 3; *Meagher v. Minnesota Thresher Mfg. Co.*, 145 U. S. 608, 610, 611; *Georgia Ry. Co. v. Decatur*, 262 U. S. 432, 437; *Moran v. Loudoun National Bank*, 297 U. S. 698. *Mr. Sam M. Wolfe* for appellant. No appearance for appellee. Reported below: 178 S. C. 294; 182 S. E. 838.

No. 869. *MILES ET AL. v. DEPARTMENT OF TREASURY OF INDIANA ET AL.* Appeal from the Supreme Court of Indiana. Jurisdictional statement distributed April 18, 1936. Decided April 27, 1936. *Per Curiam*: The appeal herein is dismissed upon the ground that the appellants have failed to show any interest entitling them to invoke the protection of the Federal Constitution. *Tyler v. Judges of Court of Registration*, 179 U. S. 405, 406, 407, 410; *Southern Ry. Co. v. King*, 217 U. S. 524, 534; *Standard Stock Food Co. v. Wright*, 225 U. S. 540, 550. *Messrs. Walter Bachrach, Schuyler C. Mowrer, and Martin M. Hugg* for appellants. *Messrs. Philip Lutz, Jr., Joseph W. Hutchinson, and Joseph P. McNamara* for appellees. Reported below: 209 Ind. —; 199 N. E. 372.

No. 921. *COLLINS v. STREITZ.* Appeal from the Supreme Court of Arizona. Motion to dismiss distributed April 25, 1936. Decided May 4, 1936. *Per Curiam*: The motion of the appellee to dismiss the appeal herein is granted and the appeal is dismissed for the want of properly presented substantial federal questions. (1) *Central Loan & Trust Co. v. Campbell*, 173 U. S. 84, 98; *Hammond Packing Co. v. Arkansas*, 212 U. S. 322, 349; *Ownbey v. Morgan*, 256 U. S. 94, 111; *Washington v. Superior Court*, 289 U. S. 361, 366; (2) *Cleveland & Pittsburgh R. Co. v. Cleveland*, 235 U. S. 50, 53; *Hiawasse Power Co. v. Carolina-Tennessee Co.*, 252 U. S. 341, 344;

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Whitney v. California, 274 U. S. 357, 360; *White River Co. v. Arkansas*, 279 U. S. 692, 700. *Mr. John W. Ray* for appellant. *Mr. Thomas A. Flynn* for appellee. Reported below: 54 P. (2d) 264.

No. —, original. EX PARTE POLLITT. May 4, 1936. The motion for leave to file petition for writ of habeas corpus is denied. *Mr. Basil H. Pollitt, pro se.*

Nos. 956 and 957. MOUNTAIN STATES POWER Co. v. PUBLIC SERVICE COMMISSION OF MONTANA ET AL. May 4, 1936. The motion for injunction pending appeal is granted upon condition that the impounding be continued, as provided by the restraining order in the court below, and that bond be given in the same amount as therein provided. The order to be settled on notice. MR. JUSTICE BRANDEIS dissents. *Mr. Hance H. Cleland* for appellant in support of the motion. *Mr. A. H. Angstrom* for appellees in opposition thereto.

No. 872. SMITH, COLLECTOR OF REVENUE, ET AL. v. AJAX PIPE LINE Co. On certificate from the Circuit Court of Appeals for the Eighth Circuit. Motion submitted May 4, 1936. Decided May 18, 1936. *Per Curiam*: The motion to bring up the entire record and cause is denied. The certificate is dismissed. *Jewell v. Knight*, 123 U. S. 426, 433; *Cross v. Evans*, 167 U. S. 60, 63; *B. & O. R. Co. v. Interstate Commerce Comm'n*, 215 U. S. 216, 221; *United States v. Mayer*, 235 U. S. 55, 66; *Larabee Flour Mills Co. v. First National Bank of Dublin*, 290 U. S. 594; *Mantle Lamp Co. v. Aluminum Products Co.*, 297 U. S. 638. *Mr. William L. Vandeventer* for Smith et al. *Messrs. Charles F. Newman and L. G. Owen* for Ajax Pipe Line Co.

No. —, original. EX PARTE HAGMAN. May 18, 1936. The motion for leave to file petition for writ of habeas corpus is denied. *Mr. Axel Hagman, pro se.*

No. —, original. EX PARTE TEGTMEYER. May 18, 1936. The application for leave to file petition for writ of habeas corpus is denied. *Mr. William Chones* for petitioner.

No. —, original. EX PARTE RUBIN. May 18, 1936. The application for leave to file petition for writ of habeas corpus is denied. *Mr. Lloyd Rubin, pro se.*

Nos. —, original (2 cases). EX PARTE FOX. May 18, 1936. The motion for leave to file petition for writs of certiorari is denied. *Mr. Benjamin Reass* for petitioner.

No. 2, original. VERMONT *v.* NEW HAMPSHIRE. May 18, 1936. The application for the appointment of a Special Commissioner to locate and mark additional points on the boundary is granted and Samuel S. Gannett, Esq., is appointed Special Commissioner for that purpose.

No. 13, original. NEBRASKA *v.* WYOMING. May 18, 1936. The answer and cross bill of the State of Colorado is ordered to be filed and leave is granted to the States of Nebraska and Wyoming to answer within 60 days.

No. 270. PRUDENCE COMPANY, INC. *v.* FIDELITY & DEPOSIT CO. ET AL. May 18, 1936. It is ordered that the mandate of this Court in the above-entitled cause on file in the District Court of the United States for the

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Southern District of New York be, and the same is hereby, recalled; and that said mandate be amended so as to give petitioner recovery for additional costs in the sum of \$908.40, being the expenses incurred in furnishing records for the use of this Court.

No. 990. WARNER BROS. PICTURES, INC. ET AL. *v.* UNITED STATES. Appeal from the District Court of the United States for the Eastern District of Missouri. Motion distributed May 16, 1936. Decided May 25, 1936. *Per Curiam*: The motion of the appellee to affirm is granted and the decree is affirmed. *Pullman's Car Co. v. Transportation Co.*, 171 U. S. 138, 145-146; *McGowan v. Columbia River Packers' Assn.*, 245 U. S. 352, 358; *Ex parte Skinner & Eddy Corp.*, 265 U. S. 86, 93-94; *Jones v. Securities & Exchange Comm'n*, ante, p. 1. Messrs. Frederick H. Wood, James A. Reed, Sam B. Jeffries, R. W. Perkins, Louis Phillips, S. W. Fordyce, Wm. R. Gentry, Wm. J. Donovan, and Jacob M. Lashly for appellants. Solicitor General Reed for the United States. Reported below: 13 F. Supp. 614.

No. 991. PIPER ET AL. *v.* BINGAMAN, COMMISSIONER OF REVENUE OF NEW MEXICO. Appeal from the District Court of the United States for the District of New Mexico. Jurisdictional statement distributed May 16, 1936. Decided May 25, 1936. *Per Curiam*: The decree is affirmed on the authority of *Morf v. Bingaman*, ante, p. 407. Mr. A. S. Baskett for appellants. No appearance for appellee. Reported below: 12 F. Supp. 755.

No. —, original. EX PARTE GIFFORD. May 25, 1936. The motion for leave to file petition for writ of mandamus is denied. Mr. Charles H. Gifford, pro se.

No. 15, original. *TEXAS v. NEW MEXICO ET AL.* May 25, 1936. The motion for the appointment of a Special Master is granted, and it is ordered that Charles Warren, Esquire, of Washington, D. C., be, and he is hereby, appointed Special Master in this cause, with authority to summon witnesses, issue subpoenas, and to take such evidence as may be introduced and such as he may deem it necessary to call for. The Master is directed to make findings of fact and conclusions of law, and to submit the same to this Court with all convenient speed, together with his recommendations for a decree. The findings, conclusions, and recommendations of the Master shall be subject to consideration, revision, or approval by the Court. [The order makes provision also for the compensation and expenses of the Master; 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. —. *ISBRANDTSEN-MOLLER Co., INC. v. UNITED STATES ET AL.* Appeal from the District Court of the United States for the Southern District of New York. May 25, 1936. Motion to stay running of penalties submitted by *Mr. James W. Ryan* for appellant, and the motion granted. The order to be settled on notice.

No. 1032. *PARKER, ADMINISTRATOR, ET AL. v. JAMES GRANGER, INC., ET AL.* Appeal from the Supreme Court of California. Jurisdictional statement distributed May 23, 1936. Decided June 1, 1936. *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

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a writ of certiorari, § 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied. *Messrs. Frank F. Nesbit and Lasher B. Gallagher* for appellants. *Mr. Oscar Lawler* for appellees. Reported below: 4 Cal. (2d) 668; 52 P. (2d) 226.

No. 967. *DIXIE TERMINAL CO. v. UNITED STATES*. On certificate from the Court of Claims. Motion submitted May 25, 1936. Decided June 1, 1936. *Per Curiam*: The motion to dismiss the certificate is granted and the certificate is dismissed. *Jewell v. Knight*, 123 U. S. 426, 433; *Cross v. Evans*, 167 U. S. 60, 63; *B. & O. R. Co. v. Interstate Commerce Comm'n*, 215 U. S. 216, 221; *United States v. Mayer*, 235 U. S. 55, 66; *Larabee Flour Mills Co. v. First National Bank of Dublin*, 290 U. S. 594; *Mantle Lamp Co. v. Aluminum Products Co.*, 297 U. S. 638; *Smith, Collector v. Ajax Pipe Line Co.*, ante, p. 641. *Solicitor General Reed* for the United States in support of the motion. *Messrs. Charles P. Taft and Robert A. Taft* for Dixie Terminal Co.

No. 1049. *MOZINGO v. MARION STEAM SHOVEL CO.* Appeal from the Supreme Court of Ohio. Jurisdictional statement distributed May 29, 1936. Decided June 1, 1936. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *New York Central R. Co. v. White*, 243 U. S. 188, 197, 198, 200-202; *Mountain Timber Co. v. Washington*, 243 U. S. 219, 236; *Middleton v. Texas Power & Light Co.*, 249 U. S. 152, 163; *Rolette v. Rothstein Dental Laboratories, Inc.*, 289 U. S. 736. *Messrs. Paul D. Smith and Thomas H. Sutherland* for appellant. No appearance for appellee. Reported below: 130 Ohio St. 591; 200 N. E. 756.

No. 1076. *MONTJOY v. KENTUCKY*. Appeal from the Court of Appeals of Kentucky. Motion distributed May 29, 1936. Decided June 1, 1936. *Per Curiam*: The motion for leave to proceed further herein *in forma pauperis* is denied. The appeal is dismissed for the want of properly presented substantial federal questions. (1) *Smith v. Mississippi*, 162 U. S. 592, 600-601; *Tarrance v. Florida*, 188 U. S. 519, 520-522; *Brownfield v. South Carolina*, 189 U. S. 426; *Martin v. Texas*, 200 U. S. 316, 318-320; (2) *New York v. Kleinert*, 268 U. S. 646, 650; *Whitney v. California*, 274 U. S. 357, 362; *Home Cab Co. v. Wichita*, 295 U. S. 716. The mandate is ordered to issue forthwith. *Mr. Alfred Bettman* for appellant. No appearance for appellee. Reported below: 262 Ky. 426; 90 S. W. (2d) 362.

No. 202. *STONE ET AL. v. WHITE, FORMER COLLECTOR OF INTERNAL REVENUE*. Petition for writ of certiorari to the Circuit Court of Appeals for the First Circuit. June 1, 1936. The motion to extend the time for filing petition for rehearing until November 2, 1936, is granted. The motion to stay entry of judgment by the District Court is denied.

No. 686. *MORGAN ET AL. v. UNITED STATES ET AL.* Appeal from the District Court of the United States for the Western District of Missouri. June 1, 1936. The motion to substitute New Amsterdam Casualty Co. as a party appellant in the place and stead of Harry J. Kenaley is granted.