

DECISIONS PER CURIAM, ETC., FROM OCTOBER
5, 1936, THROUGH JANUARY 31, 1937.*

No. 94. *CANNON v. LOUISIANA*. Appeal from the Supreme Court of Louisiana. Jurisdictional statement distributed September 10, 1936. Decided October 12, 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 a writ of certiorari, as required by § 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied. The motion for leave to proceed further herein *in forma pauperis* is denied. *Mr. H. P. Viering* for appellant. No appearance for appellee. Reported below: 184 La. 514; 166 So. 485.

No. 109. *TIMMONS ET AL. v. SECURITY SAVINGS BANK*. Appeal from the Supreme Court of Iowa. Jurisdictional statement distributed September 10, 1936. Decided October 12, 1936. *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. *Gibbes v. Zimmerman*, 290 U. S. 326, 332; *Doty v. Love*, 295 U. S. 64. *Mr. C. H. E. Boardman* for appellants. *Mr. Earl C. Mills* for appellee. Reported below: 221 Iowa 102; 264 N. W. 708.

No. 116. *DRACKETT COMPANY v. CHAMBERLAIN COMPANY*. Appeal from and petition for writ of certiorari

*MR. JUSTICE STONE took no part in the consideration or decision of any of the cases reported in this volume in which judgments or orders were announced on November 9th or days subsequent.

For decisions on applications for certiorari, see *post*, pp. 523, 539; for rehearing, *post*, p. 618.

to the Circuit Court of Appeals for the Third Circuit. Jurisdictional statement distributed September 10, 1936. Decided October 12, 1936. *Per Curiam*: The motion of the appellee to dismiss the appeal is granted, and the appeal is dismissed for the want of jurisdiction. Section 240 (b) and (c), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 939). The petition for a writ of certiorari is denied for the reason that application therefor was not made within the time provided by law. Act of February 13, 1925, § 8 (a) 43 Stat. 936, 940). *Messrs. Walter F. Murray, Jonathan S. Green, and Edgar W. McCallister* for appellant. *Messrs. W. H. Parmelee, Bruce G. Mackey, and Leslie C. Strickland* for appellee. Reported below: 81 F. (2d) 866.

No. 130. BRACKEN ET AL. *v.* SECURITIES & EXCHANGE COMM'N. On petition for writ of certiorari to the Circuit Court of Appeals for the Second Circuit. October 12, 1936. *Per Curiam*: The petition for writ of certiorari in this case is granted. The decree of the Circuit Court of Appeals is reversed and the cause is remanded to the District Court with directions to vacate its decree and to dismiss the proceeding upon the ground that the cause is moot. *Brownlow v. Schwartz*, 261 U. S. 216; *Alejandrino v. Quezon*, 271 U. S. 528, 535, 536; *C. M. Patten & Co. v. United States*, 289 U. S. 705; *First Union Trust & Savings Bank v. Consumers Co.*, 290 U. S. 585. *Mr. Abraham M. Lowenthal* for petitioners. *Solicitor General Reed* and *Mr. John J. Burns* for respondent. Reported below: 84 F. (2d) 316.

No. 134. WISCONSIN EX REL. SAYLESVILLE CHEESE MANUFACTURING Co. *v.* ZIMMERMAN, CIRCUIT JUDGE. Appeal from the Supreme Court of Wisconsin. Jurisdictional statement distributed September 10, 1936. Decided October 12, 1936. *Per Curiam*: The motion of the

299 U. S.

Decisions Per Curiam, Etc.

appellee to dismiss the appeal herein is granted, and the appeal is dismissed for the want of a substantial federal question. *Cincinnati Street Ry. Co. v. Snell*, 193 U. S. 30; *Bain Peanut Co. v. Pinson*, 282 U. S. 499, 501. Mr. Harold M. Wilkie for appellant. Mr. William H. Spohn for appellee. Reported below: 220 Wis. 682; 265 N. W. 856.

No. 149. *BANNER CLEANERS & DYERS, INC. v. LOUISIANA*. Appeal from the Supreme Court of Louisiana. Jurisdictional statement distributed September 10, 1936. Decided October 12, 1936. *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. *American Sugar Refining Co. v. Louisiana*, 179 U. S. 89; *Quong Wing v. Kirkendall*, 223 U. S. 59, 62, 63; *Tax Commissioners v. Jackson*, 283 U. S. 527, 537-538. Mr. Moses C. Scharff for appellant. Mr. Charles J. Rivet for appellee. Reported below: 184 La. 997; 168 So. 127.

No. 157. *EASTMAN v. OHIO*. Appeal from the Supreme Court of Ohio. Jurisdictional statement distributed September 10, 1936. Decided October 12, 1936. *Per Curiam*: The appeal herein is dismissed for the want of a final judgment. *Rankin v. State*, 11 Wall. 380; *Heike v. United States*, 217 U. S. 423, 432-433. Messrs. H. W. Fraser, E. R. Eppler, and R. H. Baker for appellant. Messrs. Frazier Reams and Joel S. Rhinefort for appellee. Reported below: 131 Oh. St. 1; 1 N. E. (2d) 140.

No. 174. *HAM, INSURANCE COMMISSIONER, v. EQUITABLE LIFE ASSURANCE SOCIETY*. Appeal from the Supreme Court of Wyoming. Jurisdictional statement distributed September 10, 1936. Decided October 12, 1936.

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. *Seattle & Renton Ry. v. Linhoff*, 231 U. S. 568, 570; *Gasquet v. Lapeyre*, 242 U. S. 367, 369; *Enterprise Irrigation Dist. v. Canal Co.*, 243 U. S. 157, 165, 166. *Messrs. Ray E. Lee and James A. Greenwood* for appellant. *Messrs. John U. Loomis and James H. McIntosh* for appellee. Reported below: 49 Wyo. 525; 52 P. (2d) 1223.

No. 252. *GLOVER v. SIMPSON, WARDEN*. Appeal from the Supreme Court of Kansas. Jurisdictional statement distributed September 10, 1936. Decided October 12, 1936. *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. *Moore v. Missouri*, 159 U. S. 673; *McDonald v. Massachusetts*, 180 U. S. 311; *Graham v. West Virginia*, 224 U. S. 616; *Levell v. Simpson*, 297 U. S. 695. *Mr. Harold E. Neibling* for appellant. *Mr. John G. Egan* for appellee. Reported below: 144 Kan. 153; 58 P. (2d) 73.

No. 265. *LINDWAY v. OHIO*. Appeal from and petition for writ of certiorari to the Supreme Court of Ohio. Jurisdictional statement distributed September 10, 1936. Decided October 12, 1936. *Per Curiam*: The motion of the appellee to dismiss the appeal 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). The petition for writ of certiorari is denied. *Mr. Morris H. Wolf* for appellant. *Mr. Frederick W. Green* for appellee. Reported below: 131 Oh. St. 166; 2 N. E. (2d) 490.

No. 282. *DEDERICK v. SMITH*. Appeal from the Supreme Court of New Hampshire. Jurisdictional state-

299 U. S.

Decisions Per Curiam, Etc.

ment distributed September 10, 1936. Decided October 12, 1936. *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. *Railroad Co. v. Husen*, 95 U. S. 465, 472; *Jacobson v. Massachusetts*, 197 U. S. 11, 28, 29; *Zucht v. King*, 260 U. S. 174, 176, 177. *Florence M. Dederick, pro se. Mr. Fred C. Demond* for appellee. Reported below: 88 N. H. 63; 184 Atl. 595.

No. 289. *SKIPPER v. SCHUMACHER, SHERIFF*. Appeal from the Supreme Court of Florida. Jurisdictional statement distributed September 10, 1936. Decided October 12, 1936. *Per Curiam*: The motion for leave to file amended statement as to jurisdiction is granted. The motion of the appellee to dismiss the appeal is granted, and the appeal is dismissed for the want of a substantial federal question. *Seattle, R. & S. Ry. v. Linhoff*, 231 U. S. 568, 570; *Enterprise Irrigation District v. Canal Co.*, 243 U. S. 157, 165, 166; *Hebert v. Louisiana*, 272 U. S. 312, 316, 317; *American Railway Express Co. v. Kentucky*, 273 U. S. 269, 272, 273; *Secor v. Fulton*, 293 U. S. 517. Insofar as the papers whereon the appeal was allowed seek review of the rulings of the Supreme Court of Florida upon questions of the asserted denial of rights under the Federal Constitution 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. *Mr. W. D. Bell* for appellant. *Mr. Cary D. Landis*, Attorney General of Florida, for appellee. Reported below: 124 Fla. 384; 169 So. 58.

No. 290. *POLK COMPANY v. MAYO, COMMISSIONER OF AGRICULTURE*. Appeal from the Supreme Court of Florida. Jurisdictional statement distributed September

10, 1936. Decided October 12, 1936. *Per Curiam*: The motion for leave to amend the statement as to jurisdiction is granted. The appeal is dismissed for the want of a substantial federal question. *Gundling v. Chicago*, 177 U. S. 183, 188; *Payne v. Kansas*, 248 U. S. 112; *Arnold v. Hanna*, 276 U. S. 591; cf. *Sligh v. Kirkwood*, 237 U. S. 52, 61, 62. *Mr. George C. Bedell* for appellant. *Mr. Cary D. Landis*, Attorney General of Florida, for appellee. Reported below: 124 Fla. 534; 169 So. 41.

No. 338. WINSTON BROTHERS CO. *v.* STOVER. Appeal from the Supreme Court of Washington. Jurisdictional statement distributed September 10, 1936. Decided October 12, 1936. *Per Curiam*: The motion of the appellee to dismiss the appeal herein is granted, and the appeal is dismissed (1) for the want of a substantial federal question (*Atkin v. Kansas*, 191 U. S. 207, 223, 224; *Heim v. McCall*, 239 U. S. 175, 191-193; *Caldwell v. Louisiana*, 282 U. S. 801; *Gianatasio v. Kaplan*, 284 U. S. 595); (2) for the reason that the judgment sought here to be reviewed is based upon a non-federal ground adequate to support it. *Pierce v. Somerset Railway*, 171 U. S. 641, 648; *Leonard v. Vicksburg R. Co.*, 198 U. S. 416, 422, 423; *McCoy v. Shaw*, 277 U. S. 302, 303. The motion of the appellee to allow damages is granted, and it is ordered that damages of one thousand dollars, payable to appellee, be taxed against appellant. *Slaker v. O'Connor*, 278 U. S. 188; *Roe v. Kansas*, 278 U. S. 191; *Mississippi Central R. Co. v. Aultman*, 296 U. S. 537. *Messrs. Robert H. Evans, William G. McLaren, J. Speed Smith, and Norman M. Littell* for appellant. *Mr. Samuel B. Bassett* for appellee. Reported below: 185 Wash. 416; 55 P. (2d) 821.

No. 353. TORINUS *v.* JOHNSON ET AL. Appeal from the Supreme Court of Minnesota. Jurisdictional state-

299 U. S.

Decisions Per Curiam, Etc.

ment distributed September 10, 1936. Decided October 12, 1936. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Tappan v. Merchants' National Bank*, 19 Wall. 490, 505; *Florida Central R. Co. v. Reynolds*, 183 U. S. 471, 480-481; *White River Co. v. Arkansas*, 279 U. S. 692, 696-699. *Mr. Carl W. Cummins* for appellant. *Messrs. Harry H. Peterson and William S. Ervin* for appellees. Reported below: 197 Minn. 266; 266 N. W. 867.

No. —, original. *EX PARTE THOMAS P. MERRIAM*. October 12, 1936. Motion for leave to file petition for writ of habeas corpus denied.

No. —, original. *EX PARTE JOSEPH LESSER*. October 12, 1936. Motion for leave to file petition for writ of habeas corpus denied.

No. —, original. *EX PARTE NORMAN T. WHITAKER*. October 12, 1936. Motion for leave to file petition for writ of habeas corpus denied.

No. —, original. *EX PARTE T. J. HAMILTON*. October 12, 1936. Motion for leave to file petition for writ of habeas corpus denied.

No. —, original. *EX PARTE ELZA G. WYATT*. October 12, 1936. Motion for leave to file petition for writ of habeas corpus denied.

No. —, original. *EX PARTE WILLIAM F. WILTSE*. October 12, 1936. Motion for leave to file petition for writ of habeas corpus denied.

No. —, original. *EX PARTE DOUGLAS VAN HORNE*. October 12, 1936. Motion for leave to file petition for writ of mandamus denied.

No. —, original. *EX PARTE HAROLD MANILOFF*. October 12, 1936. Motion for leave to file petition for writ of mandamus denied.

No. —, original. *EX PARTE NICHOLS, STATE TAX COMMISSIONER OF NORTH DAKOTA*. October 12, 1936. The rule to show cause herein is discharged and the motion for leave to file petition for writ of mandamus is denied. *Mr. P. O. Sathre*, Attorney General of North Dakota, and *Mr. Charles A. Verret*, Assistant Attorney General, for petitioner. *Messrs. F. G. Dorety* and *C. J. Murphy* for respondent.

No. 10, original. *NEBRASKA v. WYOMING ET AL.* October 12, 1936. The replications of Nebraska to the amended and supplemental answer of Wyoming and the answer of Colorado, the answers of Nebraska and Wyoming to the cross-bill of Colorado, and the replications of Colorado to the answers of Nebraska and Wyoming are received and ordered filed.

It is ordered that the authority granted Michael J. Doherty, Esq., the Special Master, by the provisions of the order entered herein on October 14, 1935, shall be deemed to embrace like authority in relation to the issues raised by the pleadings above mentioned.

No. 225. *CONTINENTAL OIL Co. v. UNITED STATES*. October 12, 1936. The application for a writ of certiorari to the Court of Claims is dismissed upon the ground that it is premature, without prejudice to a renewal of the application after action by the Court of Claims on the

motion for amendment of the special findings. The motion to defer consideration of the application for certiorari is denied. *Mr. Arthur B. Hyman* for petitioner. *Solicitor General Reed* for the United States. Reported below: 83 Ct. Cls. 344; 14 F. Supp. 533.

No. 384. *S. H. KRESS & CO. ET AL. v. JOHNSON, GOVERNOR*. Appeal from the District Court of the United States for the District of Colorado. Jurisdictional statement distributed September 10, 1936. Decided October 19, 1936. *Per Curiam*: The motion of the appellees to affirm the decree is granted. *Powell v. Pennsylvania*, 127 U. S. 678, 685, 686; *Price v. Illinois*, 238 U. S. 446, 451, 452; *Standard Oil Co. v. Marysville*, 279 U. S. 582, 584; *Nebbia v. New York*, 291 U. S. 502, 537, 538. *Messrs. Paul W. Lee, George H. Shaw, and Wm. A. Bryans, III*, for appellants. *Messrs. Norris C. Bakke and Hudson Moore* for appellee. Reported below: 16 F. Supp. 5.

No. 403. *JONES v. LOUISIANA*. Appeal from the Supreme Court of Louisiana. Jurisdictional statement distributed October 10, 1936. Decided October 19, 1936. *Per Curiam*: The appeal herein is dismissed for the want of a properly presented substantial federal question. (1) *Pim v. St. Louis*, 165 U. S. 673; *Wall v. Chesapeake & Ohio Ry. Co.*, 256 U. S. 125; *Herndon v. Georgia*, 295 U. S. 441, 443. (2) *Enterprise Irrigation Dist. v. Canal Co.*, 243 U. S. 157, 166; *Hebert v. Louisiana*, 272 U. S. 312, 316; *Ham, Commissioner, v. Equitable Life Assurance Society, ante*, p. 505. In so far as the papers whereon the appeal was allowed seek a review of the rulings of the Supreme Court of Louisiana upon questions of the asserted denial of rights under the Federal Constitution 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. The motion for leave to proceed further herein *in forma pauperis* is denied. *Mr. Alex W. Swords* for appellant. No appearance for appellee. Reported below: 185 La. 308; 169 So. 417.

No. 417. *EISENHARDT v. LOUISIANA*. Appeal from the Supreme Court of Louisiana. Jurisdictional statement distributed October 10, 1936. Decided October 19, 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 writ of certiorari, as required by § 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied. The motion for leave to proceed further herein *in forma pauperis* is denied. *Mr. Henry P. Viering* for appellant. No appearance for appellee. Reported below: 185 La. 308; 169 So. 417.

No. 33. *WERK ET AL. v. LORAIN STREET SAVINGS & TRUST Co. ET AL.* Appeal from the Supreme Court of Ohio. Argued October 20, 1936. Decided October 26, 1936. *Per Curiam*: The motion of the appellees to dismiss the appeal is granted, and the appeal is dismissed for the want of a properly presented substantial federal question as to the validity of a statute of the State. (1) *Crowell v. Randell*, 10 Pet. 368, 392; *Railroad Co. v. Rock*, 4 Wall. 177, 180; *Whitney v. California*, 274 U. S. 357, 360. (2) *Doty v. Love*, 295 U. S. 64. In so far as the papers whereon the appeal was allowed seek a review of the rulings of the Supreme Court of Ohio upon questions of the asserted denial of rights under the

299 U. S.

Decisions Per Curiam, Etc.

Federal Constitution 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. *Mr. Orlin F. Goudy*, with whom *Mr. Louis W. Gering, Jr.*, was on the brief, for appellants. *Messrs. James R. Garfield, Arthur D. Baldwin, John W. Bricker*, Attorney General of Ohio, and *J. Roth Crabbe*, Assistant Attorney General, were on the brief for appellees. Reported below: 130 Ohio St. 338.

No. 439. *MUSSER v. SHEPPARD*, COMPTROLLER OF PUBLIC ACCOUNTS. Appeal from the Supreme Court of Texas. Jurisdictional statement distributed October 24, 1936. Decided November 9, 1936. *Per Curiam*: The motion of the appellee to dismiss the appeal is granted, and the appeal is dismissed for the want of a final judgment. *Reddall v. Bryan*, 24 How. 420; *Verden v. Coleman*, 18 How. 86; *Twin City Power Co. v. Savannah River Electric Co.*, 284 U. S. 574; *Gant v. Oklahoma City*, 284 U. S. 594. *Mr. Mark McGee* for appellant. *Mr. Wm. McCraw*, Attorney General of Texas, and *Messrs. William C. Davis and Cecil C. Rotsch* for appellee. Reported below: 127 Tex. 193; 92 S. W. (2d) 219.

No. 444. *WALTER v. INDIANA*. Appeal from the Supreme Court of Indiana. Jurisdictional statement distributed October 31, 1936. Decided November 9, 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 a writ of certiorari, as required by § 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied. *Mr. P. H. Marshall* for appellant.

No appearance for appellee. Reported below: 210 Ind. —; 1 N. E. (2d) 127.

No. 464. AMERICAN BAKERIES CO. ET AL v. HUNTSVILLE. Appeal from the Supreme Court of Alabama. Jurisdictional statement distributed October 31, 1936. Decided November 9, 1936. *Per Curiam*: The appeal herein is dismissed for the want of a final judgment. *Missouri Ry. Co. v. Olathe*, 222 U. S. 185; *O'Mara v. Crampton*, 267 U. S. 575; *Manassas Park, Inc. v. Robertson*, 274 U. S. 716. *Messrs. Hughes Spalding and Joseph B. Brennan* for appellants. *Mr. Robert V. Fletcher* for appellee. Reported below: 232 Ala. 612; 168 So. 880.

No. —, original. *EX PARTE OTTO VAN DYKE*. November 9, 1936. The motion for leave to file petition for writ of habeas corpus is denied.

No. —, original. *EX PARTE C. M. BRUMMETT*. November 16, 1936. Motion for leave to file petition for writ of habeas corpus denied.

No. —, original. *EX PARTE ETHEL E. GLEASON*. November 16, 1936. Motion for leave to file petition for writ of mandamus or prohibition denied.

No. 26. LEONARD SCHAFER v. HELVERING, COMMISSIONER OF INTERNAL REVENUE. November 17, 1936. Death of Leonard Schafer suggested and Louis B. Tim and Adelina T. Schafer, Executors of the Estate of Leonard Schafer, substituted as party petitioners on motion of *Mr. Eugene Untermeyer* for the petitioner.

299 U. S.

Decisions Per Curiam, Etc.

No. 49. *W. H. H. CHAMBERLIN, INC. v. ANDREWS, INDUSTRIAL COMMISSIONER OF NEW YORK, ET AL.*;

No. 50. *E. C. STEARNS & Co. v. SAME*; and

No. 64. *ASSOCIATED INDUSTRIES OF NEW YORK STATE, INC. v. DEPARTMENT OF LABOR OF NEW YORK ET AL.* Appeals from the Supreme Court of New York. Argued November 11, 12, 1936. Decided November 23, 1936. *Per Curiam*: The judgments in these cases are severally affirmed by an equally divided Court. *Messrs. Henry S. Fraser and Frederick H. Wood*, with whom *Messrs. Reynolds Robertson, Thomas T. Cooke, and G. Everett De-More* were on the brief, for appellants in Nos. 49 and 50. *Mr. James McCormick Mitchell*, with whom *Messrs. Ernest J. Brown and Harold V. Potter* were on the brief, for appellant in No. 64. *Mr. Henry Epstein*, Solicitor General of New York, with whom *Mr. John J. Bennett, Jr.*, Attorney General, was on the brief, for appellees. Reported below: 271 N. Y. 1, 2 N. E. (2d) 22; 286 N. Y. S. 242, 459.

No. —, original. *Ex PARTE JAMES J. WALTER*. November 23, 1936. Motion for leave to file petition for writ of habeas corpus denied.

No. 516. *UNION BUILDING CORP. v. CONWAY*. Appeal from the Supreme Court of Louisiana. Jurisdictional statement distributed November 21, 1936. Decided December 7, 1936. *Per Curiam*: The motion of the appellee to dismiss the appeal is granted, and the appeal is dismissed for the want of a substantial federal question. *Southwestern Oil Co. v. Texas*, 217 U. S. 114, 121-124; *Singer Sewing Machine Co. v. Brickell*, 233 U. S. 304, 315; *Tax Commissioners v. Jackson*, 283 U. S. 527, 537-542; *First National Bank v. Tax Commission*, 289 U. S. 60, 63-64; *Puget Sound Co. v. Seattle*, 291 U. S.

619, 626. *Anna Judge Veters* for appellant. *Messrs. Charles J. Rivet* and *P. H. Stern* for appellee. Reported below: 185 La. 598; 170 So. 7.

No. —, original. *EX PARTE FRANK CASSEL*. December 7, 1936. Motion for leave to file petition for writ of habeas corpus denied.

No. —, original. *EX PARTE HARRY CLARK*. December 7, 1936. A rule is ordered to issue, returnable within thirty days from this date, requiring the respondent to show cause why leave to file the petition for writ of habeas corpus should not be granted.

No. —, original. *EX PARTE GENE McCANN*. December 7, 1936. Motion for leave to file petition for writ of mandamus denied.

No. 27. *HELVERING, COMMISSIONER OF INTERNAL REVENUE, v. ILLINOIS LIFE INSURANCE Co.* December 7, 1936. It is ordered that the sentence in the second paragraph of the opinion delivered in this cause on November 9, 1936, which is as follows: "That provision is a reënactment of § 245 (a) (2), Revenue Act of 1921, which in *Helvering v. Insurance Co.* we held not to apply to assets reserved by a life insurance company against unmatured, unsurrendered, and unpaid coupons attached to its policies," be amended by striking therefrom the word "unmatured" and inserting in its place the word "matured." The petition for rehearing is denied. [Opinion reported as amended, *ante*, p. 88.]

No. 546. *NORTHROP ET AL. v. BEALE ET AL.* Appeal from the Court of Appeals of Maryland. Jurisdictional

299 U. S.

Decisions Per Curiam, Etc.

statement distributed December 5, 1936. Decided December 14, 1936. *Per Curiam*: The motion of the appellees to dismiss the appeal is granted, and the appeal is dismissed for the reason that the judgment sought here to be reviewed is based upon a non-federal ground adequate to support it. *Petrie v. Nampa Irrigation District*, 248 U. S. 154, 157; *McCoy v. Shaw*, 277 U. S. 302, 303; *Fox Film Corp. v. Muller*, 296 U. S. 207, 209-210. Insofar as the papers whereon the appeal was allowed seek a review of the rulings of the Court of Appeals of Maryland upon questions of the asserted denial of rights under the Federal Constitution 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. *Mr. Claudian B. Northrop* for appellants. *Messrs. Frederic D. McKenney, John S. Flannery, and G. Bowdoin Craighill* for appellees. Reported below: 170 Md. 439; 184 Atl. 900.

No. 108. *NORTH AMERICAN CEMENT CORP. v. GRAVES ET AL.* Appeal from the Supreme Court of New York. Argued December 8, 1936. Decided December 21, 1936. *Per Curiam*: Judgment affirmed upon the ground that the statute (§ 214, Art. 9-A, of the Tax Law of the State of New York) is valid upon its face and it has not been shown to have been so applied as to violate appellants' constitutional rights. *Bass, Ratcliff & Gretton, Ltd. v. State Tax Comm'n*, 266 U. S. 271. *Messrs. Henry S. Manley and Charles J. Tobin* for appellant. *Mr. Wendell P. Brown*, Assistant Attorney General of New York, with whom *Mr. John J. Bennett, Jr.*, Attorney General, was on the brief, for appellees. Reported below: 269 N. Y. 507, 199 N. E. 510; 243 App. Div. 834, 278 N. Y. S. 920.

No. 212. *MARVEL v. ZERBST, WARDEN*. On writ of certiorari to the Circuit Court of Appeals for the Tenth Circuit. Argued December 17, 1936. Decided December 21, 1936. *Per Curiam*: Judgment affirmed. *Sa-linger v. Loisel*, 265 U. S. 224, 235, 237. *Mr. John B. Boddie* for petitioner. *Solicitor General Reed*, *Assistant Attorney General McMahon*, and *Messrs. Guy K. Bard*, *William W. Barron*, *John T. M. Reddan*, and *Lee A. Jackson* were on the brief for respondent. Reported below: 83 F. (2d) 974.

No. 543. *MISSISSIPPI CENTRAL R. CO. ET AL. v. SMITH*. Appeal from the Supreme Court of Mississippi. Jurisdictional statement distributed December 12, 1936. Decided December 21, 1936. *Per Curiam*: The motion of the appellee to dismiss the appeal 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. The motion of the appellee to allow damages is granted, and it is ordered that damages of five hundred dollars, payable to the appellee, be taxed against appellants. *Mississippi Central R. Co. v. Roberts*, 296 U. S. 536; *Mississippi Central R. Co. v. Aultman*, 296 U. S. 537. *Mr. Thomas Brady, Jr.*, for appellants. *Messrs. Wm. H. Watkins*, *S. B. Laub*, and *Charles F. Engle* for appellee. Reported below: 176 Miss. 306; 168 So. 604.

No. 483. *BOSTON SAFE DEPOSIT & TRUST Co., TRUSTEE, v. LONG, COMMISSIONER*. Appeal from the Probate Court of Dukes County, Massachusetts. Jurisdictional statement distributed November 14, 1936. Decided December 21, 1936. *Per Curiam*: The motion of the appellee to dismiss the appeal is granted, and the appeal is

299 U. S.

Decisions Per Curiam, Etc.

dismissed for the want of a substantial federal question. *Saltonstall v. Saltonstall*, 276 U. S. 260. *Mr. R. Ammi Cutter* for appellant. *Mr. Paul A. Dever*, Attorney General of Massachusetts, and *Mr. James J. Ronan* for appellee. Reported below: 3 N. E. (2d) 33.

No. —, original. *TEXAS v. NEW YORK ET AL.* December 21, 1936. A rule is ordered to issue, returnable within forty days from this date, requiring the respondents to show cause why leave to file the bill of complaint should not be granted.

No. 2, original. *VERMONT v. NEW HAMPSHIRE.* December 21, 1936. Upon the joint application of the State of Vermont and the State of New Hampshire, it is ordered that Samuel S. Gannett, Esq., Special Commissioner in this cause, supplement his report filed November 23, 1936, by adding thereto a description of the traverse reference line and a map thereof. The time within which exceptions or objections to said report and supplemental report may be filed is extended to forty days after the delivery of the supplemental report to the Clerk of the Court and to the Attorneys General of the two States.

No. 561. *HAMMOND ET AL. v. BURBANK ET AL.* Appeal from the Supreme Court of California. Jurisdictional statement distributed December 26, 1936. Decided January 4, 1937. *Per Curiam*: The motion of the appellees to dismiss the appeal is granted, and the appeal is dismissed (1) for the reason that the judgment sought here to be reviewed is based upon a non-federal ground adequate to support it, *Henderson Bridge Co. v. Henderson City*, 141 U. S. 679, 688, 689; *McCoy v. Shaw*, 277 U. S. 302, 303; *Fox Film Corp. v. Muller*, 296 U. S. 207, 209, 210; (2) in so far as a federal question is sought to be presented, for the want of a substantial federal question, *Seattle & Renton Ry. v. Linhoff*, 231 U. S. 568,

570; *Enterprise Irrigation Dist. v. Canal Co.*, 243 U. S. 157, 165, 166; *Hebert v. Louisiana*, 272 U. S. 312, 316, 317; *Ham v. Equitable Life Assurance Society*, ante, p. 505. *Mr. E. C. Pyle* for appellants. *Mr. Leon Thomas David* for appellees. Reported below: 6 Cal. (2d) 646; 59 P. (2d) 495.

No. —, original. *EX PARTE MAURO PIERGIOVANNI*. January 4, 1937. Motion for leave to file petition for writ of habeas corpus denied.

No. 207. *HELVERING, COMMISSIONER OF INTERNAL REVENUE, v. TEX-PENN OIL CO.*;

No. 208. *SAME v. BENEDUM*; and

No. 209. *SAME v. PARRIOTT*. January 4, 1937. These cases are restored to the docket and assigned for reargument.

No. —, original. *EX PARTE HARRY CLARK*. January 11, 1937. The rule to show cause herein is discharged and the motion for leave to file petition for writ of habeas corpus is denied.

No. —, original. *EX PARTE JOHN JOBISSY*. January 11, 1937. Motion for leave to file petition for writ of habeas corpus denied.

No. 584. *CITY BUS CO. v. MISSISSIPPI*. Appeal from the Supreme Court of Mississippi. January 18, 1937. *Per Curiam*: The appeal herein is dismissed for failure of the appellant to comply with Rule 12. *Messrs. Marcellus Green, Garner W. Green, and B. E. Eaton* for appellant. *Messrs. Greek L. Rice and W. W. Pierce* for appellee. Reported below: 176 Miss. 597; 169 So. 774.

No. 603. *SOUTHERN NEBRASKA POWER CO. ET AL. v. NEBRASKA EX REL. SORENSEN, ATTORNEY GENERAL*. Ap-

299 U. S.

Decisions Per Curiam, Etc.

peal from the Supreme Court of Nebraska. Jurisdictional statement distributed January 9, 1937. Decided January 18, 1937. *Per Curiam*: The appeal herein is dismissed (1) for the reason that the judgment sought here to be reviewed is based upon a non-federal ground adequate to support it, *Electric Co. v. Dow*, 166 U. S. 489, 492, 493; *Pierce v. Somerset Railway*, 171 U. S. 641, 648; *Leonard v. Vicksburg Ry. Co.*, 198 U. S. 416, 422, 423; *Gause v. Detroit Trust Co.*, 297 U. S. 695, (2) in so far as a federal question is sought to be presented, for the want of a substantial federal question, *Zucht v. King*, 260 U. S. 174, 176; *Sugarman v. United States*, 249 U. S. 182, 184; *Texas & Pacific Ry. Co. v. Texas*, 296 U. S. 552. *Mr. B. F. Napheys, Jr.*, for appellants. *Mr. Edwin Vail* for appellee. Reported below: 131 Neb. 472; 268 N. W. 284.

No. 241. POPE ET AL. *v.* BLANTON, COUNTY JUDGE, ET AL. Appeal from the District Court of the United States for the Northern District of Florida. Argued January 11, 12, 1937. Decided January 18, 1937. *Per Curiam*: The decree of the District Court is modified and the cause is remanded with directions to dismiss the bill for want of jurisdiction by reason of the absence of the requisite jurisdictional amount. *McNutt v. General Motors Corp.*, 298 U. S. 178; *KVOS, Inc. v. Associated Press*, 299 U. S. 269. *Mr. John B. Sutton* for appellants. *Messrs. W. P. Allen and H. E. Carter*, Assistant Attorneys General of Florida, with whom *Mr. Cary D. Landis*, Attorney General, and *Mr. W. T. Hendry* were on the brief, for appellees. Reported below: 10 F. Supp. 15, 18.

No. 374. LAURO ET AL. *v.* BARKER ET AL. Appeal from the Supreme Court of New York. Argued January 14, 1937. Decided January 18, 1937. *Per Curiam*: The motion of the appellees to affirm the judgment is granted, and the judgment is affirmed. (1) *Bellingham Bay Co.*

v. *New Whatcom*, 172 U. S. 314, 318, 319; *Goodrich v. Ferris*, 214 U. S. 71, 81; *Wick v. Chelan Electric Co.*, 280 U. S. 108, 110, 111. (2) *Gilfillan v. Union Canal Co.*, 109 U. S. 401. *Mr. Henry N. Rapaport*, with whom *Messrs. Irving S. Rapaport* and *Robert S. Garson* were on the brief, for appellants. *Messrs. Lawrence S. Greenbaum, Benjamin J. Rabin, Theodore S. Jaffin, Benjamin Kaplan*, and *Maurice Finkelstein* were on the brief for appellees. Reported below: 270 N. Y. 436.

No. 347. *NEW YORK CITY v. GOLDSTEIN, TRUSTEE IN BANKRUPTCY*. On petition for writ of certiorari to the Circuit Court of Appeals for the Second Circuit. January 18, 1937. *Per Curiam*: The motion for leave to file a petition for rehearing is granted. The order heretofore entered on October 26, 1936, denying the petition for writ of certiorari herein is vacated, and the petition for writ of certiorari is granted. The decree of the Circuit Court of Appeals is reversed and the case is remanded to the District Court for further proceedings. *In the Matter of Atlas Television Co. Inc.*, 273 N. Y. 51 (decided December 31, 1936). *Messrs. Paul Windels, Paxton Blair, Oscar S. Cox*, and *Charles S. Levine* for petitioner. *Mr. S. Frederick Placer* for respondent. Reported below: 84 F. (2d) 982.

No. —, original. *EX PARTE ARTHUR O'TOOLE*. January 18, 1937. Motion for leave to file petition for writ of habeas corpus denied.

No. 638. *STEELMAN, TRUSTEE IN BANKRUPTCY, v. ALL CONTINENT CORPORATION*. On petition for writ of certiorari to the Circuit Court of Appeals for the Third Circuit. January 18, 1937. The petition for a temporary restraining order and injunction, pending action of this Court upon the petition for a writ of certiorari filed herein, is granted, and

It is ordered that, until this Court acts upon the petition for writ of certiorari, All Continent Corporation, its officers, agents, attorneys, and employees be, and they are hereby, enjoined from proceeding in any manner against the petitioner herein in a suit in equity now pending in the United States District Court for the Eastern District of Pennsylvania entitled "*All Continent Corporation, Plaintiff v. John S. Wynn et al., Defendants*," being cause No. 9533 on the equity docket of said court. Mr. Wm. Elmer Brown, Jr., for petitioner. Mr. Benjamin Reass for respondent. Reported below: 86 F. (2d) 913.

DECISIONS GRANTING CERTIORARI, FROM OCTOBER 5, 1936, THROUGH JANUARY 31, 1937.

No. 130. BRACKEN ET AL. *v.* SECURITIES & EXCHANGE COMM'N. See *ante*, p. 504.

No. 212. MARVEL *v.* ZERBST, WARDEN. October 12, 1936. Petition for writ of certiorari to the Circuit Court of Appeals for the Tenth Circuit granted. The motion for leave to proceed *in forma pauperis* is also granted. Mr. John B. Boddie for petitioner. Solicitor General Reed, Assistant Attorney General McMahon, and Messrs. Guy K. Bard, William W. Barron, and Lee A. Jackson for respondent. Reported below: 83 F. (2d) 974.

No. 70. NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS ET AL. *v.* WOOD, ADMINISTRATOR. October 12, 1936. Petition for writ of certiorari to the Circuit Court of Appeals for the Seventh Circuit granted. Solicitor General Reed for petitioners. Messrs. Ray M. Foreman and Lawrence T. Allen for respondent. Reported below: 81 F. (2d) 963.

No. 97. UNITED STATES *v.* HUDSON. October 12, 1936. Petition for writ of certiorari to the Court of Claims