

DECISIONS PER CURIAM, ETC., FROM OCTOBER
7, 1940, THROUGH JANUARY 6, 1941.*

No. 21. BACARDI CORPORATION OF AMERICA *v.* BONET, TREASURER, ET AL. October 7, 1940. Manuel I. Domenech, present Treasurer of Puerto Rico, substituted as a party respondent in the place and stead of Rafael Sancho Bonet, former Treasurer, on motion of *Mr. Preston B. Kavanagh* for the petitioner.

No. 327. FUTRALL, RECEIVER, *v.* RAY. October 7, 1940. A. F. Rawlings, present Receiver of the Lee County National Bank, substituted as the party petitioner in the place and stead of E. B. Futrall, former Receiver, on motion of *Mr. George P. Barse* for the petitioner.

No. 104. SNEAD & COMPANY *v.* STEINMETZ. Appeal from the Court of Errors and Appeals of New Jersey. October 14, 1940. *Per Curiam*: The motion to affirm is granted and the judgment is affirmed. *Alaska Packers Association v. Industrial Accident Commission*, 294 U. S. 532. *Mr. R. Robinson Chance* for appellant. *Mr. William T. Cahill* for appellee. Reported below: 123 N. J. L. 497; 124 N. J. L. 450; 9 A. 2d 801; 12 A. 2d 678.

No. 265. VAN DYKE ET AL. *v.* WISCONSIN TAX COMMISSION ET AL.; and

No. 266. FIRST WISCONSIN TRUST CO., TRUSTEE, *v.* SAME. Appeals from the Supreme Court of Wisconsin.

* For decisions on applications for certiorari, see *post*, pp. 623, 644; for rehearing, *post*, p. 723. For cases disposed of without consideration by the Court, *post*, p. 720.

October 14, 1940. *Per Curiam*: The motions to affirm are granted, and the judgments are affirmed. *Pearson v. McGraw*, 308 U. S. 313. *Messrs. Douglass Van Dyke and George D. Van Dyke* for appellants. *Messrs. John E. Martin*, Attorney General of Wisconsin, and *Harold H. Persons*, Assistant Attorney General, for appellees. Reported below: 235 Wis. 128; 292 N. W. 313.

No. 276. COLUMBUS & CHICAGO MOTOR FREIGHT, INC. *v. PUBLIC SERVICE COMMISSION OF INDIANA ET AL.* Appeal from the District Court of the United States for the Northern District of Indiana. October 14, 1940. *Per Curiam*: The judgment is affirmed. *Hendrick v. Maryland*, 235 U. S. 610; *McDonald v. Thompson*, 305 U. S. 263; *H. P. Welch Co. v. New Hampshire*, 306 U. S. 79; *Eichholz v. Public Service Commission*, 306 U. S. 268. *Mr. Philip Lutz, Jr.* for appellant. *Messrs. Omer Stokes Jackson*, Attorney General of Indiana, and *Urban C. Stover*, Deputy Attorney General, for appellees.

No. 156. HOLMES, STATE AUDITOR, *v. SPRINGFIELD FIRE & MARINE INSURANCE Co.* Appeal from the District Court of the United States for the District of Montana. October 14, 1940. *Per Curiam*: The judgment is reversed. *Osborn v. Ozlin*, 310 U. S. 53. *Messrs. Harrison J. Freebourn*, Attorney General of Montana, *Enor K. Matson*, First Assistant Attorney General, *Lee Metcalf*, Assistant Attorney General, and *Earle N. Genzberger* for appellant. Reported below: 32 F. Supp. 964.

No. 114. WACKER-WABASH CORPORATION *v. CITY OF CHICAGO.* Appeal from the Supreme Court of Illinois.

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October 14, 1940. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question. *Cincinnati Street Ry. Co. v. Snell*, 193 U. S. 30, 36; *Iowa Central Ry. Co. v. Iowa*, 160 U. S. 389, 393; *Pittsburgh, C., C. & St. L. Ry. Co. v. Backus*, 154 U. S. 421, 427. *Mr. Howard F. Bishop* for appellant. *Messrs. Barnet Hodes and J. Herzl Segal* for appellee. Reported below: 372 Ill. 521; 25 N. E. 2d 23.

No. 170. *YAZOO & MISSISSIPPI VALLEY RAILROAD CO. v. BOARD OF MISSISSIPPI LEVEE COMMISSIONERS*. Appeal from the Supreme Court of Mississippi. October 14, 1940. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question. *Nashville, C. & St. L. Ry. v. Browning*, 310 U. S. 362, 368-369; *New York Rapid Transit Co. v. New York City*, 303 U. S. 573, 578-581; *Atlantic Coast Line v. Daughton*, 262 U. S. 413, 423-424. *Messrs. Richard C. Beckett, V. W. Foster, and E. C. Craig* for appellant. *Mr. Pat H. Eager, Jr.* for appellee. Reported below: 188 Miss. 889; 195 So. 704.

No. 222. *KIRKPATRICK v. STELLING*. Appeal from the District Court of Appeal, 1st Appellate District, of California. October 14, 1940. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question. *Honeyman v. Jacobs*, 306 U. S. 539; *Richmond Mortgage Corporation v. Wachovia Bank Co.*, 300 U. S. 124. *Mr. John H. Riordan* for appellant. *Mr. Arthur G. Shoup* for appellee. Reported below: 36 Cal. App. 2d 658; 98 P. 2d 566.

No. 143. *CROW ET AL., CONSTITUTING THE ARKANSAS STATE BOARD OF CHIROPRACTIC EXAMINERS, ET AL. v.*

STROUD ET AL. Appeal from the Supreme Court of Arkansas. October 14, 1940. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. *Dent v. West Virginia*, 129 U. S. 114, 121-124; *Watson v. Maryland*, 218 U. S. 173, 176-177; *Collins v. Texas*, 223 U. S. 288, 294-297. *Mr. Edward H. Coulter* for appellants. Reported below: 199 Ark. 814; 136 S. W. 2d 1025.

No. 213. HORNE ET AL. *v.* CITY OF OCALA. Appeal from the Supreme Court of Florida. October 14, 1940. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. *Leigh v. Greene*, 193 U. S. 79; *Longyear v. Toolan*, 209 U. S. 414, 418; *Ontario Land Co. v. Yordy*, 212 U. S. 152, 156-158. *Mr. H. M. Hampton* for appellants. *Mr. L. W. Duval* for appellee. Reported below: 143 Fla. 108; 196 So. 441.

No. 441. H. E. BUTT GROCERY CO. ET AL. *v.* SHEPPARD, COMPTROLLER OF PUBLIC ACCOUNTS OF TEXAS, ET AL. Appeal from the Court of Civil Appeals, 3d Supreme Judicial District, of Texas. October 14, 1940. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. *Board of Tax Commissioners v. Jackson*, 283 U. S. 527; *Liggett Co. v. Lee*, 288 U. S. 517; *Fox v. Standard Oil Co.*, 294 U. S. 87; *Great A. & P. Tea Co. v. Grosjean*, 301 U. S. 412. *Mr. Dan Moody* for appellants. *Mr. Cecil C. Rotsch* for appellees. Reported below: 137 S. W. 2d 823.

No. 115. LUCKENBACH TERMINALS, INC. *v.* TOWNSHIP OF NORTH BERGEN ET AL. Appeal from the Court of Chancery of New Jersey. October 14, 1940. *Per Curiam*: The motion to dismiss is granted and the appeal

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is dismissed for the reason that the judgment of the court below is based upon a non-federal ground adequate to support it. *McCoy v. Shaw*, 277 U. S. 302; *Doyle v. Atwell*, 261 U. S. 590; *Farson, Son & Co. v. Bird*, 248 U. S. 268, 271. *Mr. Clarence Kelsey* for appellant. *Mr. Nicholas S. Schloeder* for North Bergen, and *Mr. John A. Hartpence* for New Jersey Junction R. Co. et al., appellees. Reported below: 125 N. J. Eq. 562; 127 *id.* 93; 6 A. 2d 548; 11 A. 2d 46.

No. 286. *SINCLAIR REFINING CO. v. LOUISIANA*. Appeal from the Supreme Court of Louisiana. October 14, 1940. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed for the want of a properly presented federal question. (1) *Godchaux Co. v. Estopinal*, 251 U. S. 179; *Rooker v. Fidelity Trust Co.*, 261 U. S. 114, 117; *Herndon v. Georgia*, 295 U. S. 441, 443; (2) *Louisville & Nashville R. Co. v. Schmidt*, 177 U. S. 230, 236; *Holmes v. Conway*, 241 U. S. 624, 631-632; *Hardware Dealers Insurance Co. v. Glidden Co.*, 284 U. S. 151, 158. *Messrs. Roy T. Osborn and F. Carter Johnson, Jr.* for appellant. *Mr. E. Leland Richardson* for appellee. Reported below: 195 La. 288; 196 So. 349.

No. 299. *SOUTHWESTERN BELL TELEPHONE CO. v. LEE*; and

No. 300. *SAME v. HANNA*. Appeals from the Supreme Court of Arkansas. October 14, 1940. *Per Curiam*: The motions to dismiss are granted and the appeals are dismissed for want of a properly presented federal question. *Godchaux v. Estopinal*, 251 U. S. 179; *Rooker v. Fidelity Trust Co.*, 261 U. S. 114, 117; *Herndon v. Georgia*, 295 U. S. 441, 443. *Messrs. Edward B. Downie and E. W. Clausen* for appellant. *Suzanne Chalfant Lighton* for

appellee in No. 299. *Mr. Charles D. Atkinson* for appellee in No. 300. Reported below: 200 Ark. 318; 140 S. W. 2d 132.

No. 326. *CORCORAN v. CITY OF CHICAGO*. Appeal from the Supreme Court of Illinois. October 14, 1940. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed for want of a properly presented substantial federal question. (1) *Cleveland & Pittsburgh R. Co. v. Cleveland*, 235 U. S. 50, 53; *Hiawassee Power Co. v. Carolina-Tenn. Co.*, 252 U. S. 341, 344; *White River Co. v. Arkansas*, 279 U. S. 692, 700. (2) *Escanaba & Lake Michigan Co. v. Chicago*, 107 U. S. 678, 688-689; *Permoli v. First Municipality*, 3 How. 589, 610; *Cincinnati v. Louisville & Nashville Railroad Co.*, 223 U. S. 390, 401. (3) *Pearson v. Yewdall*, 95 U. S. 294, 296; *Minneapolis & St. Louis R. Co. v. Bombolis*, 241 U. S. 211, 217. *Mr. Charles C. Spencer* for appellant. *Messrs. Barnet Hodes and J. Herzl Segal* for appellee. Reported below: 296 Ill. App. 645; 373 Ill. 567; 16 N. E. 2d 922; 27 N. E. 2d 451.

No. 158. *BADER v. ILLINOIS*. Appeal from the Supreme Court of Illinois; and

No. 189. *HARTFORD ACCIDENT & INDEMNITY CO. ET AL. v. DELTA & PINE LAND Co.* Appeal from the Supreme Court of Mississippi. October 14, 1940. *Per Curiam*: The motions to dismiss are granted and the appeals are 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 appeals were allowed as petitions for writs of certiorari, as required by § 237 (c) of the Judicial Code (43 Stat. 936, 938), certiorari is denied. *Mr. Wm. Scott Stewart* for appellant in No. 158. *Mr. Wm. M. Hall* for appellants in No. 189. *Messrs. John E. Cassidy, Attor-*

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ney General of Illinois, and A. B. Dennis, Assistant Attorney General, for appellee in No. 158. *Messrs. Marcellus Green and Garner W. Green* for appellee in No. 189. Reported below: No. 158, 372 Ill. 345; 23 N. E. 2d 691; No. 189, 189 Miss. 496; 195 So. 667.

No. 240. *WRIGHT v. SECURITY-FIRST NATIONAL BANK OF LOS ANGELES*. Appeal from the District Court of Appeal, 4th Appellate District, of California. October 14, 1940. *Per Curiam*: The motion to dismiss is granted and the appeal 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) of the Judicial Code (43 Stat. 936, 938), certiorari is denied. The motion for leave to proceed further *in forma pauperis* is also denied. *Mr. Morris Lavine* for appellant. *Mr. James E. Shelton* for appellee. Reported below: 35 Cal. App. 2d 264; 95 P. 2d 194.

No. —. *POWELL v. SANFORD, WARDEN*;

No. —. *JOHNSON v. METROPOLITAN CASUALTY INSURANCE Co.*; and

No. —. *EX PARTE NORMAN H. WILSON*. October 14, 1940. Applications denied.

No. —, original. *EX PARTE EMMET H. BOZEL*. October 14, 1940. The motion for leave to file petition for writ of habeas corpus is denied without prejudice to an application for a writ of habeas corpus to the District Court.

No. —, original. *EX PARTE JOHN DYE*;

No. —, original. *EX PARTE FRANK L. ROBERSON*;

No. —, original. *EX PARTE* TAYLOR SEALS;
No. —, original. *EX PARTE* LINDLEY J. HANSEN;
No. —, original. *EX PARTE* ROY WHITSON; and
No. —, original. *EX PARTE* SELVIE W. WELLS. October 14, 1940. The motions for leave to file petitions for writs of habeas corpus are denied.

No. —, original. *EX PARTE* THOMAS K. CASE. October 14, 1940. The motion for leave to file petition for writ of mandamus or prohibition is denied.

No. —, original. *EX PARTE* BERKSHIRE KNITTING MILLS. October 14, 1940. The motion for leave to file petition for writ of mandamus is denied.

No. —, original. *LISKE v. BAR ASSOCIATION OF NASSAU COUNTY ET AL.* October 14, 1940. The motion for leave to file bill of complaint is denied.

No. 9, original. *ARKANSAS v. TENNESSEE.* October 14, 1940. Decree entered. See *ante*, p. 1.

No. 666, October Term, 1928. *STILZ v. BETHLEHEM SHIPBUILDING CORPORATION.* October 14, 1940. The motion for leave to file a bill of review in the District Court is denied. See 279 U. S. 834.

No. 896, October Term, 1939. *McCAMPBELL v. WAR-RICH CORPORATION ET AL.* October 14, 1940. The motion for a writ of certiorari to supply omissions from the record and for an order for further proof is denied. *Messrs.*

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Lewis H. Barnes, Carmi A. Thompson, and Orville Smith for petitioner. *Messrs. Elmer M. Leesman and Harold L. Reeve* for respondents. See 310 U. S. 631.

No. 2. *NEW WORLD LIFE INSURANCE CO. v. UNITED STATES.* October 14, 1940. The motion to dismiss is denied. *Messrs. Walter E. Barton and Wm. Marshall Bullitt* for petitioner. *Solicitor General Biddle* for the United States. See *post*, p. 620.

No. 3. *UNITED STATES v. NORTHERN PACIFIC RAILWAY CO. ET AL.* October 14, 1940. Motion for leave to file brief of the Minority Stockholders of the Northern Pacific Railway Company denied.

No. 230. *VILES v. JOHNSON*, JUDGE, DISTRICT COURT, CITY & COUNTY OF DENVER. See *post*, p. 644.

No. 950, October Term, 1939. *ARROW DISTILLERIES, INC. v. ALEXANDER, ADMINISTRATOR.* October 14, 1940. Motion for leave to withdraw petition for rehearing granted.

No. 191. *UNITED STATES v. GOLTRA ET AL., EXECUTORS.* Appeal from the Court of Claims. October 14, 1940. Motion to dismiss or affirm denied.

No. 459, October Term, 1939. *H. ROUW COMPANY v. CRIVELLA.* October 14, 1940. It is ordered that the mandate in this case be and it hereby is recalled. The judgment of this Court dated May 27, 1940, 310 U. S. 612, is modified so as to provide that the reversal shall be without costs to either party in this Court. The petition for rehearing is denied.

No. 117. CONTINENTAL ASSURANCE Co. *v.* TENNESSEE. See *ante*, p. 5.

No. —, original. EX PARTE DAVID H. JOHNSON;

No. —, original. EX PARTE MERRITT B. SCHUYLER;

No. —, original. EX PARTE CLARENCE M. BRUMMITT;
and

No. —, original. EX PARTE M. J. CUSICK. October 21, 1940. The motions for leave to file petitions for writs of habeas corpus are denied.

No. 11, original. KANSAS *v.* MISSOURI. October 21, 1940. The answer of the defendant is received and ordered filed. The motion to reconsider the order denying E. A. Cole leave to intervene is denied. See 310 U. S. 616.

No. 11, original. KANSAS *v.* MISSOURI. October 21, 1940. It is ordered that Dean G. Acheson, Esq., of Washington, D. C., be, and he is hereby, appointed Special Master in this cause.

No. 681, October Term, 1939. RAILROAD COMMISSION OF TEXAS ET AL. *v.* ROWAN & NICHOLS OIL Co. October 21, 1940.

It is ordered that the following sentence on page 4 of the opinion handed down June 3, 1940, 310 U. S. 580, be stricken from the opinion:

"Except where the jurisdiction rests, as it does not here, on diversity of citizenship, the only question open to a federal tribunal is whether the state action complained of has transgressed whatever restrictions the vague contours of the Due Process Clause may place upon the exercise of the state's regulatory power."

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It is further ordered that the following paragraph be added at the close of the opinion:

"While the presence of a federal question may also open up state issues, *Siler v. Louisville & Nashville R. Co.*, 213 U. S. 175, the claim here founded on Texas law is derived from a statute requiring proration on a 'reasonable basis.' Vernon's Texas Annotated Civil Statutes (1925), art. 6049c, § 7. The Texas decisions, insofar as they have been brought to our attention, do not make clear whether the local courts may exercise an independent judgment on what is 'reasonable.' Compare *Brown v. Humble Oil & Refining Co.*, 126 Tex. 296, 316; 83 S. W. 2d 935; 87 S. W. 2d 1069. But, in any event, as we read the Texas cases, the standard of 'reasonable basis' under the statute opens up the same range of inquiry as the respondent in effect asserted to exist in his claims under the Due Process Clause. These latter claims we have found untenable. What ought not to be done by the federal courts when the Due Process Clause is invoked ought not to be attempted by these courts under the guise of enforcing a state statute. Whether the respondent may still have a remedy in the state courts is for the Texas courts to determine, and is not foreclosed by the denial, on the grounds we have indicated, of the extraordinary relief of an injunction in the federal courts."

The motion for leave to present oral argument is denied.

The petition for rehearing is denied.

No. 26. WEST INDIA OIL CO. (PUERTO RICO) *v.* BONET, TREASURER OF PUERTO RICO. October 23, 1940. Manuel V. Domenech, present Treasurer of Puerto Rico, substituted as the party respondent herein in the place and stead of Rafael Sancho Bonet, former Treasurer, on motion of *Mr. James R. Beverley* for the petitioner.

No. 337. *SCHWINN v. UNITED STATES*. On petition for writ of certiorari to the Circuit Court of Appeals for the Ninth Circuit. October 28, 1940. *Per Curiam*: The petition for writ of certiorari is granted. The judgment is affirmed on the sole ground that the certificate of citizenship was illegally procured. *Herman Max Schwinn, pro se. Solicitor General Biddle, Assistant Attorney General Rogge, and Messrs. George F. Kneip and W. Marvin Smith* for the United States. Reported below: 112 F. 2d 74.

No. 431. *KEATON v. OKLAHOMA CITY ET AL.* Appeal from the Supreme Court of Oklahoma. October 28, 1940. *Per Curiam*: The motion to dismiss is granted and the appeal 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) of the Judicial Code (43 Stat. 936, 938), certiorari is denied. *Messrs. W. C. Sullivan and Chas. Hill Johns* for appellant. *Mr. Edward M. Box* for appellees. Reported below: 187 Okla. 593; 102 P. 2d 938.

No. —. *EX PARTE CHARLES N. WILLIAMS*. October 28, 1940. Application denied.

No. —, original. *EX PARTE KENNETH GERARD*. October 28, 1940. The motion for leave to file petition for writ of habeas corpus is denied without prejudice to an application to the District Court.

No. —, original. *EX PARTE ROBERT CONSIDINE*. October 28, 1940. The motion for leave to file petition for writ of habeas corpus is denied.

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No. —, original. EX PARTE STREET & SMITH PUBLICATIONS, INC. October 28, 1940. The motion for leave to file petition for writ of prohibition is denied.

No. —, original. EX PARTE NATIONAL LABOR RELATIONS BOARD. October 28, 1940. The motion for leave to file petition for writs of mandamus and prohibition is denied.

Nos. 133 and 134. LIENBA v. CALIFORNIA. Appeals from the Supreme Court of California. October 28, 1940. The motions for leave to proceed *in forma pauperis* are granted. The appeals are dismissed for want of jurisdiction. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925. Treating the papers whereon the appeals were allowed as petitions for writs of certiorari, as required by § 237 (c) of the Judicial Code (43 Stat. 936, 938), certiorari is granted. *Mr. Morris Lavine* for appellant. Reported below: 14 Cal. 2d 403; 94 P. 2d 569.

No. 37. STERN BROTHERS & Co. v. HELVERING, COMMISSIONER OF INTERNAL REVENUE. Certiorari, 310 U. S. 617, to the Circuit Court of Appeals for the Eighth Circuit. November 12, 1940. Judgment affirmed, per stipulation of counsel to abide the decision in *United States v. Stewart*, ante, p. 60. *Messrs. Arthur Mag and John H. McEvers* for petitioner. *Solicitor General Biddle* for respondent. Reported below: 108 F. 2d 309.

No. 446. SCHMIDT v. MINNESOTA STATE BOARD OF MEDICAL EXAMINERS. Appeal from the Supreme Court of Minnesota. November 12, 1940. *Per Curiam*: The motion for leave to file the statement as to jurisdiction

is granted. 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) of the Judicial Code (43 Stat. 936, 938), certiorari is denied. *Mr. Ray E. Lane* for appellant. *Mr. John A. Weeks* for appellee. Reported below: 207 Minn. 526, 649; 292 N. W. 255.

No. 246. *MARTIN v. CALIFORNIA*. Appeal from the Supreme Court of California. November 12, 1940. *Per Curiam*: 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) of the Judicial Code (43 Stat. 936, 938), certiorari is denied. *Milford B. Martin, pro se*.

No. —, original. *EX PARTE FRED J. BECKER*. November 12, 1940. A rule is ordered to issue, returnable December 9, next, 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 LOUIS BURALL*. November 12, 1940. A rule is ordered to issue, returnable December 9, next, requiring the respondent to show cause why leave to file the petition for writ of mandamus should not be granted.

No. 356. *BAKER ET AL. v. GROSSJEAN ET AL.*; and
No. 399. *BLAYDES ET AL. v. C. H. LITTLE & Co. ET AL.*
Appeals from the Supreme Court of Tennessee. November 18, 1940. *Per Curiam*: The motions for leave to file supplemental statements as to jurisdiction are granted.

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The appeals are dismissed for want of a substantial federal question. *Lent v. Tillson*, 140 U. S. 316, 328; *Paulsen v. Portland*, 149 U. S. 30, 40; *North Laramie Land Co. v. Hoffman*, 268 U. S. 276, 283; *Fidelity National Bank v. Swope*, 274 U. S. 123, 130. *Mr. Horace C. Young* for appellants. *Mr. Nat Tipton* for appellees.

No. 128. *MOSBACHER v. UNITED STATES*. On petition for writ of certiorari to the Court of Claims. November 18, 1940. *Per Curiam*: The petition for writ of certiorari is granted, the judgment is reversed, and the cause is remanded to the Court of Claims for further proceedings. *Neuberger v. Commissioner of Internal Revenue*, ante, p. 83. *Messrs. Mark Eisner and Ferdinand Tannenbaum* for petitioner. *Solicitor General Biddle*, *Assistant Attorney General Clark*, and *Mr. Sewall Key* for the United States. Reported below: 90 Ct. Cls. 247; 30 F. Supp. 703.

No. —. *EX PARTE ALBERT LEIGHTON*. November 18, 1940. Application denied.

No. —, original. *EX PARTE HENRY EARL DUNLAP*; and
No. —, original. *EX PARTE ALFRED BAUER*. November 18, 1940. The motions for leave to file petitions for writs of certiorari are denied.

No. —, original. *EX PARTE DAVID H. JOHNSON*. November 25, 1940. The motion for leave to file petition for writ of mandamus is denied.

No. —, original. *EX PARTE DAVID L. SIMON*. November 25, 1940. The motion for leave to file petition for writ of habeas corpus is denied.

No. —, original. UNITED STATES *v.* ALABAMA. November 25, 1940. A rule is ordered to issue, returnable January 6th next, requiring the defendant to show cause why leave to file the bill of complaint should not be granted.

No. 2. NEW WORLD LIFE INSURANCE CO. *v.* UNITED STATES. Certiorari, 310 U. S. 654, to the Court of Claims. Argued November 18, 19, 1940. Decided December 9, 1940. *Per Curiam*: The judgment is affirmed upon the first ground set forth in the opinion of the Court of Claims with respect to investment expenses, the views expressed on the second question considered by the Court of Claims as to the right of deduction on account of insurance reserves not being an essential basis for the judgment and being contrary to *Helvering v. Oregon Mutual Life Insurance Co.*, ante, p. 267. Mr. William Marshall Bullitt, with whom Mr. Walter E. Barton was on the brief, for petitioner. Mr. Arnold Raum, with whom Solicitor General Biddle, Assistant Attorney General Clark, and Messrs. Sewall Key, J. Louis Monarch, and Guy Patten were on the brief, for the United States. Reported below: 88 Ct. Cls. 405; 26 F. Supp. 444.

No. 547. NATIONAL LABOR RELATIONS BOARD *v.* FOOTE BROTHERS GEAR & MACHINE CORP.; and

No. 548. SAME *v.* INDEPENDENT UNION OF GEAR WORKERS. On petition for writs of certiorari to the Circuit Court of Appeals for the Seventh Circuit. December 9, 1940. *Per Curiam*: The petition for writs of certiorari is granted. The motion to reverse is also granted, the judgments are reversed, and the causes are remanded to the Circuit Court of Appeals with directions to determine the questions presented upon the record as certified by the National Labor Relations Board

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pursuant to § 10 (e) of the National Labor Relations Act. *Solicitor General Biddle* and *Mr. Robert B. Watts* for petitioner. *Mr. Silas H. Strawn* for respondent in No. 547. *Mr. Benjamin Wham* for respondent in No. 548. Reported below: 114 F. 2d 611.

No. —, original. Ex PARTE EDWARD QUINN;

No. —, original. Ex PARTE HUGH A. BOWEN;

No. —, original. Ex PARTE FRED ROTHERMEL; and

No. —, original. Ex PARTE LLOYD RUBIN. December 9, 1940. The motions for leave to file petitions for writs of habeas corpus are denied.

No. —, original. Ex PARTE JOHN D. HARDY. December 9, 1940. The rule to show cause is discharged and the motion for leave to file petition for writ of habeas corpus is denied.

No. 176. LEWIS, EXECUTRIX, ET AL. v. FONTENOT, COLLECTOR, ET AL.;

No. 177. LEWIS, TESTAMENTARY EXECUTRIX, ET AL. v. UNITED STATES ET AL.; and

No. 178. LEWIS, TESTAMENTARY EXECUTRIX, ET AL. v. UNITED STATES DEPARTMENT OF AGRICULTURE ET AL. December 9, 1940. Application denied. *Agnes E. Lewis, pro se*. Reported below: 110 F. 2d 65.

No. 561. EQUITABLE LOAN SOCIETY, INC., ET AL. v. BELL, SECRETARY OF BANKING, ET AL. Appeal from the Supreme Court of Pennsylvania. December 16, 1940. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. *Griffith v. Connecticut*, 218 U. S. 563; *Noble State Bank v. Haskell*, 219 U. S. 104,

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111-113; *Engel v. O'Malley*, 219 U. S. 128, 136-137; *Dillingham v. McLaughlin*, 264 U. S. 370, 374. Mr. William A. Schnader for appellants. Mr. Orville J. Brown for appellees. Reported below: 339 Pa. 449; 14 A. 2d 316.

No. —. *BLOSSER v. UNITED STATES*. December 16, 1940. Application denied.

No. —, original. EX PARTE JOSEPH E. JONES. December 16, 1940. The motion for leave to file petition for writ of habeas corpus is denied.

No. —, original. EX PARTE CLAUD OFFILL. December 16, 1940. The rule to show cause is discharged and the motion for leave to file petition for writ of habeas corpus is denied.

No. 47. *WISCONSIN ET AL. v. F. W. WOOLWORTH Co.* Certiorari, 310 U. S. 619, to the Supreme Court of Wisconsin. Argued November 20, 1940. Decided December 23, 1940. *Per Curiam*: The judgment is reversed on the authority of *Wisconsin v. J. C. Penney Co.*, ante, p. 435. MR. JUSTICE STONE took no part in the consideration or decision of this cause. Messrs. Harold H. Persons, Assistant Attorney General of Wisconsin, and James Ward Rector, Deputy Attorney General, with whom Mr. John E. Martin, Attorney General, was on the brief, for petitioners. Mr. Martin A. Schenck, with whom Messrs. Edward Cornell and G. Burgess Ela were on the brief, for respondent. Reported below: 233 Wis. 305; 289 N. W. 685.

No. 617. *HARRIS v. WHITTLE, SHERIFF*. Appeal from the Supreme Court of Georgia. January 6, 1941. *Per*

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Decisions Granting Certiorari.

Curiam: 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), of the Judicial Code (43 Stat. 936, 938), certiorari is denied. *Mr. Benjamin E. Pierce* for appellant. Reported below: 190 Ga. 850; 10 S. E. 2d 926.

No. —, original. *EX PARTE CLARENCE KELLY*. January 6, 1941. The motion for leave to file petition for writ of habeas corpus is denied.

DECISIONS GRANTING CERTIORARI, FROM OCTOBER 7, 1940, THROUGH JANUARY 6, 1941.

No. 90. *SAMPAYO v. BANK OF NOVA SCOTIA*. October 14, 1940. Motion for leave to proceed *in forma pauperis*, and petition for writ of certiorari to the Circuit Court of Appeals for the First Circuit, granted. *Mr. F. B. Fornaris* for petitioner. *Mr. Henri Brown* for respondent. Reported below: 109 F. 2d 743.

No. 72. *BEAL, COUNTY ATTORNEY, ET AL. v. MISSOURI PACIFIC RAILROAD CORP.* October 14, 1940. Petition for writ of certiorari to the Circuit Court of Appeals for the Eighth Circuit granted. *Messrs. Walter R. Johnson*, Attorney General of Nebraska, *H. Emerson Kokjer*, and *Edwin Vail*, Assistant Attorneys General, for petitioners. *Messrs. J. A. C. Kennedy*, *G. L. De Lacy*, *R. E. Svoboda*, and *E. J. Svoboda* for respondent. Reported below: 108 F. 2d 897.