

DECISIONS PER CURIAM, ETC., FROM JANUARY  
7, 1941, THROUGH MARCH 31, 1941.\*

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No. 86. STEWART *v.* PENNSYLVANIA. Appeal from the Supreme Court of Pennsylvania. Argued January 6, 1941. Decided January 13, 1941. *Per Curiam*: The judgment is affirmed. *Curry v. McCanness*, 307 U. S. 357; *Graves v. Elliott*, 307 U. S. 383. MR. CHIEF JUSTICE HUGHES, MR. JUSTICE McREYNOLDS, and MR. JUSTICE ROBERTS dissent. *Mr. Charles I. Thompson*, with whom *Mr. William A. Schnader* was on the brief, for appellant. *Mr. Frederic L. Ballard* entered an appearance for appellant. *Mr. E. Russell Shockley*, Deputy Attorney General of Pennsylvania, with whom *Mr. Claude T. Reno*, Attorney General, was on the brief, for appellee. Reported below: 338 Pa. 9; 12 A. 2d 444.

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No. 210. MANUFACTURERS TRUST CO. ET AL. *v.* PRUDENCE SECURITIES ADVISORY GROUP ET AL.;

No. 211. ENDELMAN ET AL. *v.* PRUDENCE-BONDS CORP. ET AL.;

No. 214. KELBY, TRUSTEE, *v.* PRUDENCE SECURITIES ADVISORY GROUP ET AL.;

No. 259. PRUDENCE REALIZATION CORP. *v.* PRUDENCE-BONDS CORP.; and

No. 273. DAVISON *v.* PRUDENCE SECURITIES ADVISORY GROUP ET AL. On petitions for writs of certiorari to the Circuit Court of Appeals for the Second Circuit. January 13, 1941. *Per Curiam*: The petitions for writs of

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\*For decisions on applications for certiorari, see *post*, pp. 669, 677; for rehearing, *post*, p. 711. For cases disposed of without consideration by the Court, *post*, p. 710.

certiorari are granted and the judgment is reversed on the authority of *Reconstruction Finance Corp. v. Prudence Securities Advisory Group*, 311 U. S. 579. Messrs. Dan Gordon Judge, John Ross Delafield, Edwin De T. Bechtel, Ralph W. Crolley, and Emery H. Sykes for petitioners in No. 210. Messrs. Jacob A. Freedman and Edward Endelman for petitioners in No. 211. Mr. Charles A. Frueauff for petitioner in No. 214. Mr. Irving L. Schanzer for petitioner in No. 259. Mr. Alfred T. Davison *pro se*, in No. 273. Reported below: 111 F. 2d 37.

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No. 284. DENHAM *v.* MUNSON LINE, INCORPORATED. On petition for writ of certiorari to the Circuit Court of Appeals for the Second Circuit. January 13, 1941. *Per Curiam*: The petition for writ of certiorari is granted and the judgment is reversed on the authority of *Reconstruction Finance Corp. v. Prudence Securities Advisory Group*, 311 U. S. 579. Mr. I. L. Broadwin for petitioner. Mr. Francis L. Driscoll for respondent.

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No. —. EX PARTE JOHN J. SHERIDAN. January 13, 1941. Application denied.

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No. —, original. EX PARTE CHESTER W. CAMPBELL;  
 No. —, original. EX PARTE R. GORDON WHITMAN;  
 and  
 No. —, original. EX PARTE HERBERT A. BURGTORF.  
 January 13, 1941. Motions for leave to file petitions for writs of habeas corpus denied.

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No. —, original. EX PARTE FRED J. BECKER. January 13, 1941. The rule to show cause is discharged and the

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motion for leave to file petition for writ of habeas corpus is denied.

No. 498. STEWART *v.* JOHNSTON. See *post*, p. 677.

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No. 255. RODDEWIG, CHAIRMAN, ET AL. *v.* SEARS, ROEBUCK & Co.; and

No. 256. RODDEWIG, CHAIRMAN, ET AL. *v.* MONTGOMERY WARD & Co., INC. January 13, 1941. State Tax Commission and Fred W. Nelson, present Chairman of the State Tax Commission, substituted as parties petitioners in the place and stead of Iowa State Board of Assessment and Review and Louis E. Roddewig, on motion of *Mr. John E. Mulroney* for the petitioners.

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No. 315. EVANS *v.* UNITED STATES. Certiorari, 311 U. S. 635, to the Circuit Court of Appeals for the Tenth Circuit. January 20, 1941. *Per Curiam*: On consideration of the stipulation between counsel for the petitioner and the Solicitor General, the orders of the Circuit Court of Appeals dismissing the appeal and denying petitioner's motions to be furnished with a transcript of the record, for an extension of time within which to file a transcript of the record on appeal, and to remand the cause to the District Court for the purpose of permitting him to present a motion for a new trial on the ground of newly discovered evidence, are vacated. The cause is remanded to the Circuit Court of Appeals with directions to grant the petitioner reasonable extensions of time for the perfection of his appeal and to reconsider the motion to remand when the court shall have before it a transcript of the evidence. It is ordered that the mandate issue forthwith. *Everett Ault Evans, pro se*, and *Mr. Richard H. Wels* for petitioner. *Solicitor Gen-*

*eral Biddle, Assistant Attorney General Rogge, and Mr. William W. Barron for the United States. Reported below: 113 F. 2d 935.*

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No. —. *EX PARTE JOSEPH J. MCCARTHY.* January 20, 1941. Application denied.

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No. 12, original. *UNITED STATES v. ALABAMA.* January 20, 1941. The motion for leave to file the Bill of Complaint is granted and process is ordered to issue returnable Monday, March 3, next.

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No. 689. *OHIO EX REL. SQUIRE, SUPERINTENDENT OF BANKS IN CHARGE OF THE LIQUIDATION OF THE GUARDIAN TRUST COMPANY, v. BROWN ET AL.* Appeal from the Supreme Court of Ohio. February 3, 1941. *Per Curiam:* The motion to dismiss is granted and the appeal is dismissed for want of a properly presented federal question: (1) *Cleveland & Pittsburgh R. Co. v. Cleveland*, 235 U. S. 50, 53; *Hiawasse Power Co. v. Carolina-Tenn. Co.*, 252 U. S. 341, 344; *White River Co. v. Arkansas*, 279 U. S. 692, 700; (2) *Zadig v. Baldwin*, 166 U. S. 485, 488; *Live Oak Water Users' Assn. v. Railroad Commission of California*, 269 U. S. 354, 357-358; *Lynch v. New York*, 293 U. S. 52, 54. *Mr. Thomas J. Herbert* for appellant. *Mr. Jack B. Dworken* for appellees. Reported below: 137 Ohio St. 315; 29 N. E. 2d 362.

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No. 11, original. *KANSAS v. MISSOURI.* February 3, 1941. Honorable Dean G. Acheson, having accepted appointment as Assistant Secretary of State of the United States, has resigned as Special Master in this case and his resignation has been accepted.

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No. —. *PORESKY v. ELY*. February 3, 1941. Motion for leave to file application granted, and the application is denied.

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No. —. *STOEHR v. MINNESOTA*. February 3, 1941. Application denied.

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No. —, original. *EX PARTE JOSEPH F. KOLEG*;

No. —, original. *EX PARTE C. E. PHILLIPS*;

No. —, original. *EX PARTE J. B. KING*; and

No. —, original. *EX PARTE ORVILLE CHESTER GARRISON*. February 3, 1941. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. —, original. *EX PARTE MARY M. HUGHES*. February 3, 1941. Motion for leave to file petition for writ of mandamus denied.

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No. 312. *SWANSON, SECRETARY OF STATE OF NEBRASKA, ET AL. v. BUCK ET AL.* Appeal from the District Court of the United States for the District of Nebraska. February 3, 1941. Pursuant to paragraph (c) of Rule 75 of the Rules of Civil Procedure and without prejudice to the future application of paragraph (e) of Rule 75, the motion of the appellees for a writ of certiorari to correct a diminution of the record is granted with respect to items 1 to 57 inclusive. The motion is also granted with respect to items 58 to 62 inclusive so far as the certification of docket entries and designations is concerned, which, however, are to be dispensed with in printing.

No. 9. *SCHRIEBER-SCHROTH Co. v. CLEVELAND TRUST Co. ET AL.*;

No. 10. *ABERDEEN MOTOR SUPPLY Co. v. CLEVELAND TRUST Co. ET AL.*; and

No. 11. *F. E. ROWE SALES Co. v. CLEVELAND TRUST Co. ET AL.* February 3, 1941. Ordered that the opinion in these cases be amended as follows:

1. Strike from the second complete paragraph, page 2, lines 5 and 6, the phrases "one of several claims" and "which the Court sustained".

2. In line 18 of the same paragraph substitute the word "one" for the word "another".

3. In the fourth line from the bottom of page 3 insert the words "without prejudice" before the word "of".

4. Modify the third, fourth, and fifth lines from the bottom of the first complete paragraph on page 9 to read: "found the elements of the invention which it described but in which, absent the flexible web element, it found no invention. In view of such want of invention and of the prior art the only material difference between the amended and the allowed claims is the presence in the former of the flexible web element and, in consequence of the surrender of the former particularizing".

The petition for rehearing and the motion to remand are denied.

Opinion reported as amended, 311 U. S. 211.

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No. 319. *SHERWIN v. UNITED STATES*; and

No. 320. *SHERIDAN v. UNITED STATES*. Certiorari, 311 U. S. 636, to the Circuit Court of Appeals for the Ninth Circuit. February 10, 1941. *Per Curiam*: On the Government's confession of error, its motion to reverse is granted. The judgments are reversed, and the causes are remanded to the Circuit Court of Appeals with

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directions to consider the sufficiency of the evidence to support the verdicts, and petitioners' assignment of error with respect to the argument of the Assistant United States Attorney without regard to any technical deficiency in its phraseology. *Messrs. Earl C. Demoss and Charles M. Trammell, Jr.* for petitioners. *Solicitor General Bidle, Assistant Attorney General Rogge, and Messrs. William W. Barron, J. Albert Woll, and William J. Connor* for the United States. Reported below: 112 F. 2d 503.

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No. 708. PHILADELPHIA-DETROIT LINES, INC. v. SIMPSON, STATE ROAD COMMISSIONER, ET AL. Appeal from the District Court of the United States for the Southern District of West Virginia. February 10, 1941. *Per Curiam*: The motion to affirm is granted and the judgment is affirmed. *Maurer v. Hamilton*, 309 U. S. 598, 603-604; *South Carolina Highway Dept. v. Barnwell Bros.*, 303 U. S. 177. *Messrs. Leo P. Kitchen and Dan R. Schwartz* for appellant. *Messrs. Clarence W. Meadows, Attorney General of West Virginia, and Robert S. Spilman* for appellees. Reported below: 37 F. Supp. 314.

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No. 11, original. KANSAS v. MISSOURI. February 10, 1941. Samuel M. Wilson, Esquire, of Lexington, Kentucky, appointed Special Master in this cause.

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No. 28. SIBBACH v. WILSON & Co., INC. February 10, 1941. The opinion is amended by striking from the first sentence on page 7 the following words: "a litigant need not resort to the federal courts unless willing to comply with the rule, and that," and adding, after the word "comply", the words "with its provisions." The petition for rehearing is denied.

Opinion reported as amended, *ante*, p. 1.

Nos. 242 and 243. PHILADELPHIA COMPANY ET AL. v. DIPPLE ET AL. February 10, 1941. Ordered that the opinion in these cases be amended as follows:

In the second full sentence on page 6 of the opinion, strike out the words "the corporate identity of the companies whose lines have gone into this system should be ignored and", and add after the word "business", and before the word "treated", the words "should be".

Opinion reported as amended, *ante*, p. 168.

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No. 705. UNITED STATES v. FLORIAN, EXECUTOR. On petition for writ of certiorari to the Circuit Court of Appeals for the Seventh Circuit. February 17, 1941. *Per Curiam*: The petition for writ of certiorari is granted and the judgment is reversed for want of jurisdiction in the Circuit Court of Appeals because of the absence of a final judgment in the District Court. *Collins v. Miller*, 252 U. S. 364, 370-371; *Nyanza Co. v. Jahncke Dry Dock*, 264 U. S. 439. The cause is remanded to the District Court for a determination of the issues presented by the remaining counts, which the District Court by its order of June 27, 1940, as of October 23, 1939, reserved for disposition. *Solicitor General Biddle* for the United States. Reported below: 114 F. 2d 990.

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No. 719. READ, SUPERINTENDENT OF THE NEW JERSEY DEPARTMENT OF WEIGHTS AND MEASURES, v. DICKERSON ET AL. Appeal from the District Court of the United States for the District of New Jersey. February 17, 1941. *Per Curiam*: The judgment is reversed and the cause is remanded to the District Court for a determination and appropriate findings on the questions whether the jurisdictional amount is involved and whether a case has been made for the granting of an injunction restraining crimi-

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nal prosecution. (1) *McNutt v. General Motors Acceptance Corp.*, 298 U. S. 178, 188-189; *KVOS v. Associated Press*, 299 U. S. 269; (2) *Spielman Motor Sales Co. v. Dodge*, 295 U. S. 89; *Beal v. Missouri Pacific R. Corp.*, 312 U. S. 45. *Messrs. John Solan and Harry A. Walsh* for appellant. Reported below: 33 F. Supp. 431.

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No. 82. UNITED STATES *v.* DARBY. February 17, 1941. The opinion in this case is amended as follows: 12th line from the top of page 14, the following phrase is added after the word "overtime": "of 'not less than one and one-half times the regular rate' at which the worker is employed."

Opinion reported as amended, *ante*, p. 100.

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No. 330. OPP COTTON MILLS, INC., ET AL. *v.* ADMINISTRATOR OF THE WAGE AND HOUR DIVISION OF THE DEPARTMENT OF LABOR. February 17, 1941. The opinion in this case is amended as follows: 4th line from the top of page 14, strike the word "We" and insert the following phrase: "On the record before us, we".

Opinion reported as amended, *ante*, p. 126.

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No. 368. TYLER, EXECUTRIX, *v.* HELVERING, COMMISSIONER OF INTERNAL REVENUE. Certiorari, 311 U. S. 629, to the Circuit Court of Appeals for the Eighth Circuit. March 3, 1941. Judgment affirmed per stipulation of counsel to abide the decision in *Helvering v. Le Gierse*, *ante*, p. 531. *Mr. Harry B. Betty* for petitioner. *Solicitor General Biddle* for respondent. Reported below: 111 F. 2d 422.

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No. 369. HEMPHILL *v.* UNITED STATES. Certiorari, 311 U. S. 634, to the Circuit Court of Appeals for the Ninth Circuit. Argued February 13, 1941. Decided

March 3, 1941. *Per Curiam*: The judgment is reversed and the cause remanded to the Circuit Court of Appeals with directions to consider the sufficiency of the evidence to support the verdict. *Sherwin v. United States* and *Sheridan v. United States*, *ante*, p. 654. Mr. Melville Monheimer submitted for petitioner. Mr. Thomas E. Harris, with whom Solicitor General Biddle, Assistant Attorney General Berge, and Messrs. William W. Barron and George F. Kneip were on the brief, for the United States. Reported below: 112 F. 2d 505.

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No. 700. JOURNEYMEN TAILORS UNION LOCAL NO. 195 OF THE AMALGAMATED CLOTHING WORKERS OF AMERICA ET AL. *v.* MILLER'S, INC. On petition for writ of certiorari to the Court of Errors and Appeals of New Jersey. March 3, 1941. *Per Curiam*: The petition for writ of certiorari is granted and the judgment is reversed. *American Federation of Labor v. Swing*, *ante*, p. 321; *Thornhill v. Alabama*, 310 U. S. 88; *Carlson v. California*, 310 U. S. 106. Mr. A. J. Isserman for petitioners. Mr. Louis R. Kagan for respondent. Reported below: 128 N. J. Eq. 162; 15 A. 2d 822, 824.

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No. 753. EAGLES ET AL. *v.* GENERAL ELECTRIC CO. Appeal from the Supreme Court of the State of Washington. March 3, 1941. *Per Curiam*: The appeal is dismissed for the want of a properly presented federal question. *Godchaux Co. v. Estopinal*, 251 U. S. 179; *Rooker v. Fidelity Trust Co.*, 261 U. S. 114, 117; *Hernndon v. Georgia*, 295 U. S. 441, 443. Messrs. O. C. Moore, Harry Ellsworth Foster, and John E. Belcher for appellants. Mr. Antone E. Russell for appellee. Reported below: 5 Wash. 2d 20; 104 P. 2d 912.

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No. 748. *McKINLEY ET AL. v. SALTER ET AL.* Appeal from the Court of Civil Appeals, 8th Supreme Judicial District, of Texas. March 3, 1941. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. *Jones v. Prairie Oil Co.*, 273 U. S. 195. *Messrs. F. W. Fischer and Earle B. Mayfield* for appellants. Reported below: 136 S. W. 2d 615.

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No. 763. *KREICKER v. NAYLOR PIPE CO. ET AL.* Appeal from the Supreme Court of Illinois. March 3, 1941. *Per Curiam*: The motion to affirm is granted and the judgment is affirmed. *Violet Trapping Co. v. Grace*, 297 U. S. 119, 120; *Ingraham v. Hanson*, 297 U. S. 378, 381; *Schenebeck v. McCrary*, 298 U. S. 36, 37. *Mr. James A. Cosgrove* for appellant. *Mr. Floyd E. Thompson* for appellees. Reported below: 374 Ill. 364; 29 N. E. 2d 502.

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No. 716. *HUSSOCK v. STATE OF NEW YORK.* Appeal from the Court of Special Sessions of the City of New York, State of New York. March 3, 1941. *Per Curiam*: 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) of the Judicial Code (43 Stat. 936, 938), certiorari is denied. *Messrs. Joseph F. Rutherford and Hayden C. Covington* for appellant. *Mr. Stanley H. Fuld* for appellee. Reported below: 23 N. Y. S. 2d 520.

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No. —, original. *EX PARTE RALPH MARK.* March 3, 1941. Motion for leave to file petition for writ of mandamus denied.

No. —, original. *EX PARTE LOUIS BURALL*. March 3, 1941. The rule to show cause is discharged and the motion for leave to file petition for writ of mandamus is denied, without prejudice to the petitioner's right to present a petition for a writ of habeas corpus to the United States District Court for the Northern District of California.

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No. —, original. *EX PARTE OPAL O. MEADOWS*; and

No. —, original. *EX PARTE TAYLOR SEALS*. March 3, 1941. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. 814. *VERNON v. WILSON, WARDEN*. March 6, 1941. Upon consideration of the application of counsel for the petitioner in the above-entitled cause for a stay of execution of the sentence of death upon the said Joe Vernon;

It is ordered that execution of the judgment and sentence of the Supreme Court of Alabama entered March 28, 1940, in the case therein entitled *Joe Vernon v. State of Alabama*, be, and the same hereby is, stayed pending the consideration and final determination by this Court of the petition for writ of certiorari herein filed this day.

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No. 447. *WESTINGHOUSE ELECTRIC & MANUFACTURING Co. v. NATIONAL LABOR RELATIONS BOARD*. Certiorari, 311 U. S. 639, to the Circuit Court of Appeals for the Second Circuit. Argued March 4, 1941. Decided March 10, 1941. *Per Curiam*: The judgment is affirmed. *Labor Board v. Newport News Co.*, 308 U. S. 241; *Labor Board v. Link-Belt Co.*, 311 U. S. 584. *Mr. Charles A. Reinwald*, with whom *Messrs. Roswell L. Gilpatric, F. Harold Smith, and Donald C. Swatland* were on the brief, for petitioner. *Mr. Robert B. Watts*, with whom

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*Solicitor General Biddle and Messrs. Laurence A. Knapp and Mortimer B. Wolf, and Miss Ruth Weyand* were on the brief, for respondent. Reported below: 112 F. 2d 657.

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No. 448. SCANDRETT ET AL., TRUSTEES, ET AL. *v.* UNITED STATES ET AL. Appeal from the District Court of the United States for the District of Oregon. Argued March 5, 1941. Decided March 10, 1941. *Per Curiam*: The judgment is affirmed. Interstate Commerce Act, §§ 15 (1); 15a (2) (41 Stat. 484, 488; 49 U. S. C. 15 (1), 15a (2)); *United States v. Louisiana*, 290 U. S. 70, 75-77; *Florida v. United States*, 292 U. S. 1, 9. *Mr. Roy F. Shields*, with whom *Messrs. J. N. Davis, Robert S. Macfarlane, Fletcher Rockwood, Charles A. Hart, Arthur C. Spencer, and Lawrence W. Hobbs* were on the brief, for appellants. *Mr. Frank Coleman*, with whom *Solicitor General Biddle, Assistant Attorney General Arnold, and Messrs. Warner W. Gardner, James C. Wilson, Daniel W. Knowlton, and Nelson Thomas* were on the brief, for the United States et al.; and *Mr. Albert E. Stephan* for Dependable Tank Transport, Inc., et al., appellees. *Mr. Johnston B. Campbell* submitted for Inland Empire Waterways Assn. et al.; and *Mr. Harry Ellsworth Foster* submitted for International Brotherhood of Teamsters, Chauffeurs, etc., appellees. Reported below: 32 F. Supp. 995.

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No. 556. EARLY, COLLECTOR OF INTERNAL REVENUE, *v.* REID. On petition for writ of certiorari to the Circuit Court of Appeals for the Fourth Circuit. March 10, 1941. *Per Curiam*: The petition for writ of certiorari is granted and the judgment is affirmed. *Helvering v. Hutchings*, 312 U. S. 393. *Solicitor General Biddle* for petitioner. Reported below: 112 F. 2d 718.

No. 770. *CHIRILLO ET AL. v. LEHMAN, GOVERNOR, ET AL.* Appeal from the District Court of the United States for the Southern District of New York. March 10, 1941. *Per Curiam*: The judgment is affirmed. *American Surety Co. v. Baldwin*, 287 U. S. 156, 169. *Mr. Morris Shapiro* for appellants. Reported below: 38 F. Supp. 65.

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No. —, original. *EX PARTE GEORGE T. KEMNITZER.* March 10, 1941. Motion for leave to file petition for writ of habeas corpus denied.

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No. 667. *RICHARDS v. FLORIDA.* March 10, 1941. Petition for writ of certiorari to the Supreme Court of Florida dismissed for failure to comply with the rules. *Mr. Edgar W. Waybright, Sr.* for petitioner. Reported below: 144 Fla. 177; 197 So. 772.

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No. 625. *UTILITIES INSURANCE CO. v. POTTER ET AL.* Certiorari, *post*, p. 670, to the Supreme Court of Oklahoma. Argued February 13, 1941. Decided March 17, 1941. *Per Curiam*: The writ of certiorari is dismissed for the reason that the judgment of the Supreme Court of Oklahoma rests upon a nonfederal ground adequate to support it. *Atlantic Coast Line v. Mims*, 242 U. S. 532, 535; *Nevada-California-Oregon Ry. v. Burrus*, 244 U. S. 103, 105; *Hartford Life Ins. Co. v. Johnson*, 249 U. S. 490, 492-493. *Mr. Clayton B. Pierce* for petitioner. *Mr. John W. Barry* for respondents. Reported below: 105 P. 2d 259.

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No. 631. *CASEBEER v. HUDSPETH, WARDEN.* On petition for writ of certiorari to the Circuit Court of Appeals for the Tenth Circuit. March 17, 1941. *Per Curiam*: The motion for leave to proceed *in forma pauperis* is

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granted, the petition for writ of certiorari is also granted, the judgment is reversed, and the cause is remanded to the Circuit Court of Appeals with directions to reconsider the petitioner's appeal in the light of a transcript of the testimony taken at the hearing on the petition for habeas corpus. *Edward Casebeer, pro se.* Reported below: 114 F. 2d 789.

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No. 744. POSEY *v.* UNITED STATES. On petition for writ of certiorari to the Circuit Court of Appeals for the Sixth Circuit. March 17, 1941. *Per Curiam:* On the Government's confession of error, the petition for writ of certiorari is granted, the judgment is reversed, and the cause is remanded to the District Court with directions to grant the motion to suppress. *Mr. W. R. Fain, Jr.* for petitioner. *Solicitor General Biddle, Assistant Attorney General Berge, and Messrs. George F. Kneip, Fred E. Strine, and W. Marvin Smith* for the United States. Reported below: 116 F. 2d 282.

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No. —. EX PARTE ISOM J. GUILLORY. March 17, 1941. The application for a stay, presented to MR. JUSTICE BLACK and referred by him to the Court, is denied.

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No. —. EX PARTE CECIL L. SNYDER. March 17, 1941. Application denied.

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No. —, original. EX PARTE CLARENCE SCOTT. March 17, 1941. The motion for leave to file petition for writ of habeas corpus is denied.

No. 9, original. ARKANSAS *v.* TENNESSEE. March 17, 1941.

## DECREE

On consideration of the report filed herein on February 24, 1941, by W. H. Green and O. W. Gauss, the Commissioners appointed herein by decree of this Court entered October 14, 1940 (311 U. S. 1), to locate and mark on the ground the boundary between the State of Arkansas and the State of Tennessee, at the points designated in said decree; and the State of Arkansas and the State of Tennessee having stipulated by counsel that they have no exceptions and no objections to the said report, and they having applied to this Court to terminate the time within which exceptions or objections to said report may be filed:

It is now adjudged, ordered, and decreed as follows:

1. The time within which exceptions or objections to said report may be filed is hereby terminated;
2. The said report is in all respects confirmed;
3. The boundary line marked and located on the ground as set forth by the report and accompanying map is established and declared to be the true boundary between the State of Arkansas and the State of Tennessee, as determined by the decree of this Court of October 14, 1940;
4. As it appears that the Commissioners have completed their work in conformity with the decree of this Court of October 14, 1940, they are hereby discharged, and their fees and expenses in the amounts stated in the report are approved;
5. The Clerk of this Court is directed to transmit to the Chief Magistrates of the States of Arkansas and Tennessee copies of this decree, duly authenticated under the seal of this Court, together with copies of the said report

of the Commissioners and of the accompanying map;

6. The costs in this cause shall be borne and paid in equal parts by the States of Arkansas and Tennessee.

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No. 268. MISSOURI-KANSAS PIPE LINE CO. v. UNITED STATES ET AL.; and

No. 269. PANHANDLE EASTERN PIPE LINE CO. v. UNITED STATES ET AL. March 17, 1941.

It is ordered that in the sentence beginning on line 6 of page 2 of the opinion handed down March 3, 1941, after the words "These acts stifled" and before the word "Panhandle's" there be inserted the words ", so it was claimed,".

It is further ordered that the paragraph beginning on page 4 of the opinion be stricken from the opinion and that the following paragraph be added in its place:

"A final contention in support of the order remains. It is based on two prior denials of motions by Mogan to intervene. Treating Mogan's motions as made on its own behalf on the score of its ownership of more than forty percent of Panhandle's stock, the district court denied the motions. Appeals from these denials were dismissed by the circuit court of appeals, 108 F. 2d 614, and we denied certiorari, 309 U. S. 687. The denials are now urged as *res judicata*. But they were a rejection of Mogan's attempt to intervene in its own behalf. In neither instance was the relief denied deemed a mode of enforcing Panhandle's rights under Sections IV and V of the Decree. The earlier denials involved different legal claims from that now asserted, and, therefore, are no bar to the present proceeding."

The petition for rehearing in No. 268 is denied.

Opinion reported as amended, *ante*, p. 502.

No. 79. CITY COMPANY OF NEW YORK, INC. *v.* STERN;  
and

No. 89. CHASE SECURITIES CORP. *v.* VOGEL. On petitions for writs of certiorari to the Circuit Court of Appeals for the Eighth Circuit. March 31, 1941. *Per Curiam*: The petitions for writs of certiorari are granted and the judgments are reversed. *Vandenbark v. Owens-Illinois Glass Co.*, 311 U. S. 538; *Pomeroy v. National City Co.*, 209 Minn. 155; 296 N. W. 513; *Donaldson v. Chase Securities Corp.*, 209 Minn. 165; 296 N. W. 518. The causes are remanded to the Circuit Court of Appeals for further proceedings with respect to any questions not determined by the Supreme Court of Minnesota in the *Pomeroy* and *Donaldson* cases. *Messrs. M. J. Doherty and Wilfrid E. Rumble* for petitioner in No. 79. *Messrs. F. H. Stinchfield and S. S. Jennings, Jr.* for petitioner in No. 89. *Mr. Benedict Deinard* for respondents. Reported below: 110 F. 2d 601, 607.

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No. 603. GRAY, DIRECTOR OF THE BITUMINOUS COAL DIVISION OF THE DEPARTMENT OF THE INTERIOR, ET AL. *v.* POWELL ET AL., RECEIVERS. Certiorari, 311 U. S. 644, to the Circuit Court of Appeals for the Fourth Circuit. Argued March 14, 1941. Decided March 31, 1941. *Per Curiam*: The judgment is affirmed by an equally divided Court. *Mr. Robert L. Stern*, with whom *Solicitor General Biddle*, *Assistant Attorney General Arnold*, and *Messrs. Richard H. Demuth, James C. Wilson, Abe Fortas, and Arnold Levy* were on the brief, for petitioners. *Messrs. Joseph F. Johnston and W. R. C. Cocke*, with whom *Mr. Wm. H. Delaney* was on the brief, for respondents. Reported below: 114 F. 2d 752.

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No. 776. HELVERING, COMMISSIONER OF INTERNAL REVENUE, *v.* NEBRASKA BRIDGE SUPPLY & LUMBER CO.

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On petition for writ of certiorari to the Circuit Court of Appeals for the Eighth Circuit. March 31, 1941. *Per Curiam*: The petition for writ of certiorari is granted and the judgment is reversed. *Helvering v. Hammel*, 311 U. S. 504; *Electro-Chemical Engraving Co. v. Commissioner*, 311 U. S. 513. *Solicitor General Biddle* for petitioner. *Mr. Clarence T. Spier* for respondent. Reported below: 115 F. 2d 288.

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No. 789. *CANTEY v. McLAIN LINE, INC., ET AL.* On petition for writ of certiorari to the Circuit Court of Appeals for the Second Circuit. March 31, 1941. *Per Curiam*: The petition for writ of certiorari is granted, the judgment is reversed, and the cause is remanded to the District Court for further proceedings. *South Chicago Coal & Dock Co. v. Bassett*, 309 U. S. 251, 258-259. *Mr. George J. Engleman* for petitioner. *Mr. Paul Speer* for respondents. Reported below: 114 F. 2d 1017.

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No. 805. *SUN-MAID RAISIN GROWERS ASSOCIATION ET AL. v. UNITED STATES ET AL.* Appeal from the District Court of the United States for the Northern District of California. March 31, 1941. *Per Curiam*: The judgment is affirmed. *Swayne & Hoyt v. United States*, 300 U. S. 297, 303-304. *Mr. J. Richard Townsend* for appellants. Reported below: 33 F. Supp. 959.

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No. —, original. *EX PARTE ARTHUR MATTHEW BECKER*; and

No. —, original. *EX PARTE RAYMOND STITELY*. March 31, 1941. The motions for leave to file petitions for writs of habeas corpus are denied.

No. 291. *EQUITABLE LIFE INSURANCE Co. v. HALSEY, STUART & Co.* March 31, 1941. Ordered that the opinion in this case be amended by striking the word "unsuccessful" from the eighth line from the bottom of page 5. The petition for rehearing is denied.

Opinion reported as amended, *ante*, p. 410.

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No. 373. *JUST ET AL. v. CHAMBERS, EXECUTRIX.* March 31, 1941. It is ordered that the opinion herein be amended by striking from the sixth and seventh lines of the second paragraph on page two the words, "and does not appear to be disputed here." The petition for rehearing is denied.

Opinion reported as amended, *ante*, p. 383.

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No. 537. *FASHION ORIGINATORS' GUILD OF AMERICA, INC., ET AL. v. FEDERAL TRADE COMMISSION.* March 31, 1941. It is ordered that the last two sentences of the last full paragraph on page 2 of the opinion handed down March 3 be amended to read as follows: "And the power of the combination is made even greater by reason of the affiliation of some members of the National Federation of Textiles, Inc.—that being an organization composed of about one hundred textile manufacturers, converters, dyers, and printers of silk and rayon used in making women's garments. Those members of the Federation who are affiliated with the Guild have agreed to sell their products only to those garment manufacturers who have in turn agreed to sell only to cooperating retailers."

Opinion reported as amended, *ante*, p. 457.