

DECISIONS PER CURIAM, ETC., FROM OCTOBER  
6, 1941, THROUGH JANUARY 5, 1942.\*

No. 185. REUTER ET AL. *v.* WISCONSIN EX REL. DEPARTMENT OF AGRICULTURE. Appeal from the Supreme Court of Wisconsin. October 13, 1941. *Per Curiam*: The motion for leave to file statement of jurisdiction is granted. The motion to dismiss is also granted, and the appeal is dismissed for want of a substantial federal question. (1) *Highland Farms Dairy v. Agnew*, 300 U. S. 608, 612; (2) *Nebbia v. New York*, 291 U. S. 502; *Borden's Co. v. Ten Eyck*, 297 U. S. 251; *United States v. Rock Royal Co-op.*, 307 U. S. 533, 562-71; *Central Lumber Co. v. South Dakota*, 226 U. S. 157. *Messrs. Morris Karon and Walter D. Corrigan, Sr.* for appellants. *Mr. Fred M. Wylie* for appellee. Reported below: 237 Wis. 607, 296 N. W. 622.

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No. 190. E. E. MORGAN CO., INC. *v.* ARKANSAS FOR USE AND BENEFIT OF PHILLIPS COUNTY. Appeal from the Supreme Court of Arkansas. October 13, 1941. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question. (1) *Stewart & Co. v. Sadrakula*, 309 U. S. 94, 105; *James v. Dravo Contracting Co.*, 302 U. S. 134, 149; *General Construction Co. v. Fisher*, 295 U. S. 715; *Trinityfarm Construction Co. v. Grosjean*, 291 U. S. 466, 472; (2) *International Harvester Co. v. Kentucky*, 234 U. S. 579, 588-

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\*MR. JUSTICE ROBERTS took no part in the consideration and decision of the orders announced on January 5th.

For decisions on applications for certiorari, see *post*, pp. 587, 606; for rehearing, *post*, pp. 704, 706. For cases disposed of without consideration by the Court, *post*, p. 701.

89; *Natural Gas Co. v. Slattery*, 302 U. S. 300, 306-7. *Mr. Wm. M. Hall* for appellant. *Mr. Leo J. Mundt* for appellee. Reported below: 202 Ark. 404, 150 S. W. 2d 736.

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No. 199. *EMPIRE OIL & REFINING CO., KNOWN AS CITIES SERVICE OIL CO., ET AL. v. FIELDS*. Appeal from the Supreme Court of Oklahoma. October 13, 1941. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question. *Metropolitan Casualty Ins. Co. v. Brownell*, 294 U. S. 580, 583; *Washington v. Superior Court*, 289 U. S. 361, 366. *Messrs. A. Carey Hough and R. E. Cullison* for appellants. *Mr. Herbert K. Hyde* for appellee. Reported below: 188 Okla. 666, 112 P. 2d 395.

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No. 313. *O'KEEFE, SURVIVING EXECUTOR, ET AL. v. ADAMS ET AL.* Appeal from the Supreme Court of Florida. October 13, 1941. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. *United States v. Fox*, 94 U. S. 315, 320-21; *United States v. Perkins*, 163 U. S. 625, 627-28; *Ferry v. Spokane, P. & S. Ry. Co.*, 258 U. S. 314, 319; *Stebbins v. Riley*, 268 U. S. 137. *Mr. Olin E. Watts* for appellants. *Messrs. Stafford Caldwell and E. T. McIlvaine* for appellees. Reported below: 147 Fla. 267, 2 So. 2d 855.

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No. 331. *MORRIS PLAN INDUSTRIAL BANK OF NEW YORK v. GRAVES ET AL., CONSTITUTING THE STATE TAX COMMISSION OF THE STATE OF NEW YORK*. Appeal from the Supreme Court of New York. October 13, 1941. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed for want of a final judgment of the highest court of the State on the constitutional question presented. The CHIEF JUSTICE took no part in this decision. *Mr. R.*

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*Randolph Hicks* for appellant. *Messrs. John J. Bennett, Jr.*, Attorney General of New York, and *Wendell P. Brown*, Assistant Attorney General, for appellees. Reported below: 260 App. Div. 978, 23 N. Y. S. 2d 312; 261 App. Div. 1018, 26 N. Y. S. 2d 854.

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No. 533. *STANDARD OIL CO. OF LOUISIANA v. TENNESSEE EX REL. McCANLESS, COMMISSIONER OF FINANCE & TAXATION, ET AL.* Appeal from the Supreme Court of Tennessee. October 13, 1941. *Per Curiam*: The judgment is affirmed. *General Oil Co. v. Crain*, 209 U. S. 211; *Bacon v. Illinois*, 227 U. S. 504; *Susquehanna Coal Co. v. South Amboy*, 228 U. S. 665; *Minnesota v. Blasius*, 290 U. S. 1, 10-12. *Messrs. T. M. Milling, William Waller, and J. Paschall Davis* for appellant. *Mr. William F. Barry*, Assistant Attorney General of Tennessee, for appellees.

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No. 566. *TRENT ET AL. v. HUNT ET AL.* Appeal from the District Court of the United States for the Southern District of Indiana. October 13, 1941. *Per Curiam*: The judgment is affirmed. *Beal v. Missouri Pacific R. Co.*, 312 U. S. 45, 49-51; *Watson v. Buck*, 313 U. S. 387, 400-01. *Messrs. Hayden C. Covington and Joseph F. Rutherford* for appellants. *Mr. Urban C. Stover*, Deputy Attorney General of Indiana, for appellees. Reported below: 39 F. Supp. 373.

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No. 567. *BEVINS ET AL. v. PRINDABLE ET AL.* Appeal from the District Court of the United States for the Eastern District of Illinois. October 13, 1941. *Per Curiam*: The motion to affirm is granted and the judgment is affirmed. *Beal v. Missouri Pacific R. Co.*, 312 U. S. 45, 49-51; *Watson v. Buck*, 313 U. S. 387, 400-01. *Messrs.*

*Hayden C. Covington and Joseph F. Rutherford* for appellants. *Mr. George F. Barrett*, Attorney General of Illinois, for appellees. Reported below: 39 F. Supp. 708.

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No. 568. *PENDERGAST v. UNITED STATES*; and

No. 569. *O'MALLEY v. UNITED STATES*. Appeals from the District Court of the United States for the Western District of Missouri. October 13, 1941. *Per Curiam*: It does not appear that the proceedings sought to be reviewed required the presence of three judges under § 266 of the Judicial Code as amended, 28 U. S. C. § 380. *Public Service Commission v. Brashear Lines*, 312 U. S. 621, 625-26; *Phillips v. United States*, 312 U. S. 246, 248-51. The motion to dismiss is therefore granted and the appeals are dismissed. The appeals filed under § 238 of the Judicial Code as amended, 28 U. S. C. § 345, are dismissed for want of jurisdiction. MR. JUSTICE MURPHY and MR. JUSTICE JACKSON took no part in this decision. *Messrs. R. R. Brewster and John G. Madden* for appellant in No. 568. *Messrs. James P. Aylward and Terence M. O'Brien* for appellant in No. 569. *Assistant Solicitor General Fahy* and *Mr. William S. Hogsett* for the United States. Reported below: 39 F. Supp. 189.

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No. 591. *WHITNEY, DOING BUSINESS AS WHITNEY TRANSFER CO., INC., ET AL. v. JOHNSON, CHIEF EXECUTIVE, ET AL.* Appeal from the District Court of the United States for the Eastern District of Kentucky. October 13, 1941. *Per Curiam*: The judgment is affirmed. (1) *South Carolina Highway Dept. v. Barnwell Bros.*, 303 U. S. 177; *Maurer v. Hamilton*, 309 U. S. 598; *Philadelphia-Detroit Lines, Inc. v. Simpson*, 312 U. S. 655; *Darnall Trucking Co. v. Simpson*, 313 U. S. 549; (2) *Sproles v. Binford*, 286 U. S. 374, 395-96. *Mr. H. W. Vincent* for appellants. Reported below: 37 F. Supp. 65.

No. 596. *IRVINE v. SPAETH, COMMISSIONER OF TAXATION.* Appeal from the Supreme Court of Minnesota. October 13, 1941. *Per Curiam:* The appeal is dismissed for want of jurisdiction. § 237 (a), Judicial Code, as amended, 28 U. S. C. § 344 (a). Treating the papers whereon the appeal was allowed as a petition for writ of certiorari as required by § 237 (c) of the Judicial Code as amended, 28 U. S. C. § 344 (c), certiorari is denied. *Mr. Leland W. Scott* for appellant. *Mr. J. A. A. Burnquist*, Attorney General of Minnesota, for appellee. Reported below: 210 Minn. 489, 299 N. W. 204.

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Nos. 360 to 496, inclusive. *AMERICAN INSURANCE CO. AND OTHERS v. LUCAS, SUPERINTENDENT OF THE INSURANCE DEPARTMENT OF MISSOURI, ET AL.* Appeals from the District Court of the United States for the Western District of Missouri. October 13, 1941. *Per Curiam:* The decrees here sought to be reviewed modify consent decrees for the distribution of funds theretofore impounded by the District Court and direct a different distribution of these funds. They are not decrees "granting or denying" an injunction. Therefore direct appeals to this Court do not lie. § 266 of the Judicial Code, as amended, 28 U. S. C. § 380. See *Public Service Comm'n v. Brashear Lines*, 306 U. S. 204, 207, and *Phillips v. United States*, 312 U. S. 246, 248-251. The appeals are dismissed. MR. JUSTICE MURPHY and MR. JUSTICE JACKSON took no part in this decision. *Messrs. Wm. Marshall Bullitt, E. R. Morrison, and D. A. Murphy* for appellants. *Messrs. Roy McKittrick*, Attorney General of Missouri, *James H. Linton*, and *Charles L. Henson* for Ray B. Lucas, Superintendent of Insurance, appellee. Reported below: 38 F. Supp. 896, 926.

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No. 181. *MAGNOLIA PETROLEUM CO. ET AL. v. HULL ET AL.* On petition for writ of certiorari to the Circuit

Court of Appeals for the Fifth Circuit. October 13, 1941. *Per Curiam*: The petition for writ of certiorari is granted. The judgment is reversed and the cause remanded to the District Court to permit trial of the issues raised by petitioners' answer and for further proceedings. *Messrs. Wallace Hawkins, Wm. A. Vinson, and Hugh Carney* for petitioners. Reported below: 119 F. 2d 123.

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No. 168. *HOLLEY v. GEORGIA*. Appeal from the Supreme Court of Georgia. October 13, 1941. *Per Curiam*: The motion to strike the motion to dismiss is denied. The motion to dismiss is granted, and the appeal is dismissed for want of a properly presented federal question. *McCorquodale v. Texas*, 211 U. S. 432, 436-37; *Forbes v. State Council of Virginia*, 216 U. S. 396, 398-99; § 6-1607, Code of Georgia of 1933; Rule 40 (c) of the Supreme Court of Georgia. The motion for leave to proceed further *in forma pauperis* is therefore denied. *Mr. W. K. Miller* for appellant. *Mr. Ellis Arnall*, Attorney General of Georgia, for appellee. Reported below: 191 Ga. 804, 14 S. E. 2d 103.

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No. 666, October Term, 1940. *DETROLA RADIO & TELEVISION CORP. v. HAZELTINE CORPORATION*. October 13, 1941. The opinion is amended by substituting the figure "8" for the figure "9" in the seventh line of the third paragraph of the opinion. The petition for rehearing is denied.

Opinion reported as amended, 313 U. S. 261.

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No. 196. *FERGUSON v. UNITED STATES*. October 14, 1941. Order denying petition for writ of certiorari, *post*, p. 623, withheld on motion of *Mr. William D. Donnelly* for the petitioner.

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No. 285. PIKE ET AL. *v.* WALKER, POSTMASTER GENERAL, ET AL. October 15, 1941. Order denying certiorari, *post*, p. 625, withheld on motion of *Mr. Horace J. Donnelly, Jr.* for petitioners.

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No. 354. MORTON, TRUSTEE, ET AL. *v.* DARDANELLE SPECIAL SCHOOL DISTRICT No. 15. October 16, 1941. Order denying certiorari, *post*, p. 655, withheld on motion of counsel for the petitioners.

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No. —, original. LOUISIANA *v.* CUMMINS ET AL. On motion for leave to file complaint. October 20, 1941. *Per Curiam:* Leave to file the complaint is denied for want of jurisdiction, it appearing that one of the named parties defendant is a citizen of Louisiana. *California v. Southern Pacific Co.*, 157 U. S. 229, 256-262; *Minnesota v. Northern Securities Co.*, 184 U. S. 199, 238; *New Mexico v. Lane*, 243 U. S. 52, 58; *Texas v. Interstate Commerce Commission*, 258 U. S. 158, 163. The rule to show cause is discharged. *Messrs. Eugene Stanley*, Attorney General of Louisiana, and *James J. Morrison* for plaintiff. *Messrs. Roger Siddall and Eberhard P. Deutsch* for Claude Cummins et al., and *Mr. Bon Geaslin* for Abraham L. Shushan, defendants.

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No. 626. APONAUG MANUFACTURING CO. *v.* STONE, CHAIRMAN STATE TAX COMM'N, ET AL. Appeal from the Supreme Court of Mississippi. October 20, 1941. *Per Curiam:* The judgment is affirmed. *American Mfg. Co. v. St. Louis*, 250 U. S. 459; *Department of Treasury v. Ingram-Richardson Mfg. Co.*, 313 U. S. 252. *Mr. Ben F. Cameron* for appellant. Reported below: 190 Miss. 805, 1 So. 2d 763.

No. —. *MIDDLEMAN v. UNITED STATES*;  
No. —. *EX PARTE GODFREY D. RICKETTS*; and  
No. —. *EX PARTE MRS. JULE S. JACKSON*. October 20,  
1941. Applications denied.

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No. —, original. *EX PARTE VIRGIL CURRENT*. October 20, 1941. The motion for leave to file petition for writ of habeas corpus is denied without prejudice to an application to the United States District Court.

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No. —, original. *EX PARTE LLOYD WILEY*;  
No. —, original. *EX PARTE DAVID H. JOHNSON*;  
No. —, original. *EX PARTE ANDREW FREY*;  
No. —, original. *EX PARTE BEN SIMS*;  
No. —, original. *EX PARTE DANIEL PATRICK DOYLE*;  
No. —, original. *EX PARTE CHARLES LEFKOWITZ*;  
No. —, original. *EX PARTE HOMER FRANKS*;  
No. —, original. *EX PARTE WILLIAM H. PADGETT*;  
No. —, original. *EX PARTE FRED REGER*;  
No. —, original. *EX PARTE WILLIAM BARBER*;  
No. —, original. *EX PARTE FRANK ROBERSON*;  
No. —, original. *EX PARTE STANLEY B. PEPLOWSKI*;  
No. —, original. *EX PARTE HERMAN BARMORE*;  
No. —, original. *EX PARTE KENNETH GERARD*;  
No. —, original. *EX PARTE GEORGE D. LATIMER*;  
No. —, original. *EX PARTE ERNEST DIEFENBACH*; and  
No. —, original. *EX PARTE JOHN R. MILLER*. October 20, 1941. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. —, original. *EX PARTE JAMES M. WRIGHT*. October 20, 1941. The motion for leave to file petition for writ of prohibition is denied.

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No. —, original. *EX PARTE THOMAS M. MCNEILL*;  
No. —, original. *EX PARTE JESSIE E. MOORE*;  
No. —, original. *EX PARTE SAMUEL WHITE*; and  
No. —, original. *EX PARTE EDWARD CASEBEER*. October 20, 1941. The motions for leave to file petitions for writs of mandamus are denied.

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No. —, original. *EX PARTE STATE OF TEXAS ET AL.* October 20, 1941. A rule is ordered to issue returnable November 10 next, requiring the respondents to show cause why leave to file the petition for writ of mandamus should not be granted.

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No. 150. *PELLEY v. COLPOYS, U. S. MARSHAL*. October 20, 1941. The motion to withhold the order denying petition for writ of certiorari is denied. MR. JUSTICE JACKSON took no part in the consideration and decision of this application. *Post*, p. 622.

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No. 352. *GENERAL MOTORS CORP. ET AL. v. UNITED STATES*. October 20, 1941. The motion to withhold the order denying petition for writ of certiorari is granted. MR. JUSTICE JACKSON took no part in the consideration and decision of this application. *Post*, p. 618.

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No. 901, October Term, 1940. *BAKERY & PASTRY DRIVERS & HELPERS LOCAL 802 of the INTERNATIONAL BROTHERHOOD OF TEAMSTERS ET AL. v. WOHL ET AL.* See *post*, p. 704.

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No. 303. *C. M. LANE LIFEBOAT Co., INC. ET AL. v. UNITED STATES*. On petition for writ of certiorari to the Circuit Court of Appeals for the Second Circuit. October

20, 1941. Dismissed for failure to comply with the rules. *Mr. Cornelius C. Webster* for petitioners. Reported below: 118 F. 2d 793.

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No. —, original. *LOUISIANA v. CUMMINS ET AL.* On motion for leave to file complaint. October 27, 1941. *Per Curiam*: The motion to strike Abraham L. Shushan, the citizen of Louisiana, as a party defendant is granted. The petition for rehearing is granted. Leave to file the complaint is denied. *Massachusetts v. Missouri*, 308 U. S. 1, 19-20. *Messrs. Eugene Stanley*, Attorney General of Louisiana, and *James J. Morrison* were on the petition for rehearing. See *ante*, p. 577.

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No. —. *EX PARTE ROBERT WRIGHT*. October 27, 1941. Application denied.

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No. —, original. *EX PARTE J. L. STEWART*. October 27, 1941. Motion for leave to file petition for writ of mandamus denied.

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No. 244. *READY TRUCK LINES, INC. v. UNITED STATES ET AL.* Appeal from the District Court of the United States for the Northern District of Illinois. November 10, 1941. *Per Curiam*: The motion to affirm is granted and the judgment is affirmed. § 209 (a), Part II, Interstate Commerce Act, 49 U. S. C., § 309 (a); *United States v. Maher*, 307 U. S. 148, 153-4. MR. JUSTICE JACKSON took no part in the consideration and decision of this case. *Messrs. Gerald T. Wiley and J. Austin Latimer* for appellant. *Assistant Solicitor General Fahy* and *Mr. Daniel W. Knowlton* for appellees.

No. 701. *MILLER v. WISCONSIN DEPARTMENT OF TAXATION*. Appeal from the Supreme Court of Wisconsin. November 10, 1941. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question. *Mr. A. W. Schutz* for appellant. *Mr. Harold H. Persons* for appellee. Reported below: 238 Wis. 287, 299 N. W. 28.

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No. —, original. *EX PARTE GEORGE C. YAUNT*;

No. —, original. *EX PARTE C. C. CREBS*; and

No. —, original. *EX PARTE HILLIARD SANDERS*. November 10, 1941. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. —. *TINKOFF v. COMMISSIONER OF INTERNAL REVENUE*; and

No. —. *PEOPLE EX REL. TINKOFF v. BRISTOW, JUDGE*. November 10, 1941. The motions to vacate orders denying applications for extension of time within which to file petitions for writs of certiorari are denied. *MR. JUSTICE JACKSON* took no part in the consideration and decision of these applications.

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No. 710. *TEMPLETON v. CALIFORNIA*. Appeal from the Supreme Court of California. November 17, 1941. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed because the record does not show that the federal question presented was necessarily passed on by the Supreme Court of California. *Herndon v. Lowry*, 301 U. S. 242, 247; *Honeyman v. Hanan*, 300 U. S. 14, 18; *Lynch v. New York ex rel. Pierson*, 293 U. S. 52. *Mr. Thos. D. Aitken* for appellant. *Mr. Earl Warren*, Attorney General of California, for appellee.

No. —, original. *EX PARTE FRANK CONTARDI*;

No. —, original. *EX PARTE GLEN WILKERSON*; and

No. —, original. *EX PARTE MANUEL MANZANO*. November 17, 1941. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. —, original. *EX PARTE STATE OF TEXAS*. November 17, 1941. The motion of Lone Star Gas Company for leave to intervene is granted.

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No. 16. *TOUCEY v. NEW YORK LIFE INSURANCE Co.* November 17, 1941. The motion of petitioner relative to New York Life Policy No. 8,611,895 is denied. See *ante*, p. 118.

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No. 714. *HARRINGTON v. CALIFORNIA*. Appeal from the Superior Court of Los Angeles County, California. November 24, 1941. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. *Nicchia v. New York*, 254 U. S. 228. *George F. Harrington, pro se*.

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No. —, original. *EX PARTE JAMES R. KELLER*. November 24, 1941. The motion for leave to file petition for writ of habeas corpus is denied.

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No. 223. *UNITED STATES ET AL. v. RAILWAY LABOR EXECUTIVES ASSOCIATION ET AL.* Appeal from the District Court of the United States for the District of Columbia. November 24, 1941. Appeal dismissed as to appellant United States, on motion of *Solicitor General Fahy* for the United States.

No. 40. *CHRYSLER CORPORATION ET AL. v. UNITED STATES*; and

No. 41. *COMMERCIAL CREDIT CO. ET AL. v. UNITED STATES*. Appeals from the District Court of the United States for the Northern District of Indiana. Argued October 24, 1941. Decided December 8, 1941. *Per Curiam*: The Court orders that the appeals in these cases be dismissed for want of a quorum of Justices qualified to sit in them. The CHIEF JUSTICE, MR. JUSTICE ROBERTS, MR. JUSTICE MURPHY, and MR. JUSTICE JACKSON are unable to take part in the consideration or decision of these cases on the merits. *Mr. Nicholas Kelley*, with whom *Messrs. William Stanley, Carl McFarland, and S. J. Crumpacker* were on the brief, for appellants in No. 40; and *Messrs. Duane R. Dills and W. Russell Mules* submitted for appellants in No. 41. *Assistant Attorney General Arnold*, with whom *Assistant Solicitor General Fahy* and *Mr. Charles H. Weston* were on the brief, for the United States.

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No. 50. *HOLMES v. UNITED STATES*. On petition for writ of certiorari to the Circuit Court of Appeals for the Eighth Circuit. December 8, 1941. *Per Curiam*: The motion for leave to proceed *in forma pauperis* is granted. On the Government's consent, the petition for a writ of certiorari is granted, the judgment is vacated, and the case is remanded to the Circuit Court of Appeals with instructions to enter an order affording reasonable opportunity for the preparation, presentation, settling, and filing of a suitable bill of exceptions, and with permission to the court to hear argument and redetermine the case insofar as that course may be required if such a bill is filed, or to take such further proceedings and enter such further orders as may seem appropriate if no adequate bill can be settled. MR. JUSTICE DOUGLAS took no part in the

consideration and decision of this case. *Leo S. Holmes, pro se. Solicitor General Fahy, Assistant Attorney General Berge, and Messrs. Oscar A. Provost and W. Marvin Smith* for the United States. Reported below: 115 F. 2d 528.

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No. 736. *MORRIS, SPECIAL ADMINISTRATRIX, ET AL. v. CLARK ET AL.* Appeal from the Supreme Court of Utah. December 8, 1941. *Per Curiam:* The motion to dismiss is granted and the appeal is dismissed for the want of jurisdiction. § 237 (a), Judicial Code, as amended, 28 U. S. C. § 344 (a). Treating the papers whereon the appeal was allowed as a petition for writ of certiorari as required by § 237 (c) of the Judicial Code as amended, 28 U. S. C. § 344 (c), certiorari is denied. *Mr. Roy L. Black* for appellants. *Mr. William J. Lowe* for appellees. Reported below: 112 P. 2d 153.

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No. —, original. *EX PARTE JAMES W. KAUFFMAN*;  
No. —, original. *EX PARTE FREDERICK H. MULLINS*;  
No. —, original. *EX PARTE THADDEUS DEATHERAGE*;  
and

No. —, original. *EX PARTE LOUIS DEATHERAGE*. December 8, 1941. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. 271. *SMITH v. FOURTH NATIONAL BANK*. December 8, 1941. The motion of petitioner to tax costs is denied.

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No. 81. *RILEY ET AL., EXECUTORS, v. NEW YORK TRUST CO., ADMINISTRATOR*. December 8, 1941. The motion of the Tax Commission of New York for leave to appear and present oral argument as *amicus curiae* is granted.

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No. —, original. **EX PARTE WILLIAM CHERRY**;

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

No. —, original. **EX PARTE PAUL B. ROUBAY**. December 15, 1941. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. —, original. **EX PARTE GEORGE ACRET**. December 15, 1941. The motion for leave to file petition for writ of mandamus is denied.

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No. —, original. **EX PARTE G. H. BURNHAM**. December 15, 1941. The motion for leave to file petition for writ of mandamus is denied. The rule to show cause is discharged.

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No. 16. **TOUCEY v. NEW YORK LIFE INSURANCE Co.**; and

No. 19. **PHOENIX FINANCE CORP. v. IOWA-WISCONSIN BRIDGE Co.** December 15, 1941. On page 6 of the opinion in these cases, the words "have *pro tanto* amended" in lines twenty-five and twenty-six are changed to "qualify *pro tanto*." The petitions for rehearing are denied.

Opinion reported as amended, *ante*, p. 133, line 14.

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No. —. **IN THE MATTER OF JOE TENNER**. December 22, 1941. It is now here ordered by this Court that the State of California, its officers, agents, and servants and all other persons, are hereby prohibited from removing Joe Tenner or permitting him to be removed from the State of California pending the filing by him of a petition for a writ of habeas corpus in the Supreme Court of California and pending the disposition of that petition. The

petitioner is directed to file his petition for a writ of habeas corpus on or before January 7, 1942. This order prohibiting the removal of Joe Tenner from the State of California is to remain in effect until the further order of this Court.

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No. —, original. *Ex parte Thomas Contreras*; and

No. —, original. *Ex parte Harley Stewart*. December 22, 1941. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. —, original. *De Wolfe v. California*. December 22, 1941. The motion for leave to file bill of complaint is denied. *Mr. William H. Metson* for complainant.

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No. —, original. *Ex parte John Botwinski*. January 5, 1942. *Per Curiam*: It does not appear that petitioner has exhausted his state remedies by applying for a writ of error coram nobis. *State ex rel. Dowd v. Superior Court of La Porte County*, 36 N. E. 2d 765; *State ex rel. Kunkel v. Circuit Court of La Porte County*, 209 Ind. 682, 200 N. E. 614. The motion for leave to file a petition for writ of habeas corpus is therefore denied without prejudice. *Mooney v. Holohan*, 294 U. S. 103. *Mr. Oscar B. Thiel* for petitioner.

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No. 794. *Perkins, Trading as Perkins Battery Co., v. Pennsylvania*. Appeal from the Supreme Court of Pennsylvania. January 5, 1942. *Per Curiam*: The motion to affirm is granted and the judgment is affirmed. § 1606 (a) of the Internal Revenue Code as amended, 53 Stat. 1391; *Kentucky Whip & Collar Co. v. Illinois Central Railroad Co.*, 299 U. S. 334. *Mr. Samuel Kagle* for

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appellant. *Mr. Claude T. Reno*, Attorney General of Pennsylvania, for appellee. Reported below: 342 Pa. 529, 21 A. 2d 45.

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No. —, original. *Ex parte Stephen Rogalski*; and

No. —, original. *Ex parte Kenneth Gerard*. January 5, 1942. The motion for leave to file petitions for writs of habeas corpus are denied.

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No. 108. *Identification Devices, Inc. v. United States*. January 5, 1942. The motion for leave to file an amended petition for writ of certiorari is denied.

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No. 37. *Cuno Engineering Corp. v. Automatic Devices Corp.* January 5, 1942. It is ordered that the mandate of this Court in the above-entitled cause on file in the District Court of the United States for the District of Connecticut be, and the same is hereby, recalled; and that said mandate be amended so as to give petitioner recovery for additional costs in the sum of \$70.60, being the expense incurred in furnishing copies of certain patents for inclusion in the record.

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#### DECISIONS GRANTING CERTIORARI, FROM OCTOBER 6, 1941, THROUGH JANUARY 5, 1942.

No. 181. *Magnolia Petroleum Co. et al. v. Hull et al.* See *ante*, p. 575.

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No. 1023, October Term, 1940. *Pickett, General Chairman of the Brotherhood of Railway & Steamship Clerks, v. Union Terminal Co.* See *post*, p. 704.