

DECISIONS PER CURIAM, ETC., FROM APRIL 11,
1944, THROUGH JUNE 12, 1944.*

No. —. EX PARTE OLIVER GOBIN; and
No. —. EX PARTE NOEL GAINES. April 24, 1944. Ap-
plications denied.

No. —. KELLEY v. UNITED STATES. April 24, 1944.
The motion for leave to file petition for writ of certiorari
is denied.

No. —. TRICE v. WRIGHT, WARDEN. April 24, 1944.
The motion for leave to file petition for writ of habeas
corpus is denied.

No. 874. DONOVAN, ADMINISTRATOR, v. KANSAS CITY.
Appeal from the Supreme Court of Missouri. May 1,
1944. *Per Curiam*: The motion to dismiss is granted
and the appeal is dismissed for want of a substantial fed-
eral question. *Thomas v. City of Richmond*, 12 Wall. 349,
356-57; *Hedges v. Dixon County*, 150 U. S. 182, and cases
cited. *Messrs. John G. Madden, Armwell L. Cooper,*
Cyrus Crane, Frank W. McAllister, William J. Carroll,
Ralph M. Russell, and James E. Burke for appellant. *Mr.*
Wm. E. Kemp for appellee. Reported below: 352 Mo.
431, 179 S. W. 2d 108.

No. —, original. JONES, GOVERNOR, EX REL. LOUISI-
ANA ET AL. v. BOWLES, PRICE ADMINISTRATOR. May 1,
1944. The motion for leave to file the complaint is de-
nied for want of jurisdiction of this Court to entertain it

* Decisions on applications for certiorari, *post*, pp. 718, 726; rehear-
ing, *post*, p. 766; cases disposed of without consideration by the Court,
post, p. 766.

under Article III, § 2, of the Constitution. Cf. (1) *Massachusetts v. Mellon*, 262 U. S. 447, 485-86; *Florida v. Mellon*, 273 U. S. 12, 18; (2) *New Hampshire v. Louisiana*, 108 U. S. 76; *Oklahoma v. Atchison, T. & S. F. Ry. Co.*, 220 U. S. 277; *Oklahoma ex rel. Johnson v. Cook*, 304 U. S. 387. *Mr. Vernon B. Lowrey* for complainants.

No. —. *EX PARTE* SAMUEL JACKSON;

No. —. *EX PARTE* PERCY ARTHUR WHISTLER; and

No. —. *PATTERSON v. SANFORD*, WARDEN. May 1, 1944. The motions for leave to file petitions for writs of habeas corpus are denied.

No. —. *EX PARTE* WILLIAM HANLEY; and

No. —. *EX PARTE* JOHN WELCH. May 1, 1944. The motions for leave to file petitions for writs of habeas corpus are denied. *Ex parte Hawk*, 321 U. S. 114, 117. Treating the papers as petitions for writs of certiorari to the Supreme Court of Illinois, the petitions are denied.

No. 5, original. *COLORADO v. KANSAS ET AL.* May 1, 1944.

This cause having been heretofore submitted on the pleadings and the evidence taken before and reported by the Commissioner and the Special Master appointed for the purpose, and the Court being now fully advised in the premises:

It is considered, ordered, and decreed that the defendant, The Finney County Water Users' Association, its officers, attorneys, agents, and employees, be, and they are hereby, severally enjoined from prosecuting further those certain cases now pending in the District Court of the United States for the District of Colorado entitled

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The Finney County Water Users' Association, a corporation of Kansas, plaintiff, versus The Graham Ditch Company and others, defendants, and The Finney County Water Users' Association, a corporation of Kansas, plaintiff, versus The Coler Ditch and Reservoir Company, a corporation of Colorado, and others, defendants, said cases being numbered 6633 and 7493 respectively on the docket of said United States District Court.

It is further considered, ordered, and decreed that the prayers of both the State of Colorado and the State of Kansas for relief other than that decreed herein be, and they are hereby, dismissed.

It is also considered, ordered, and decreed that costs in this cause shall be borne and paid in equal parts by the States of Colorado and Kansas.

No. 613. *AMERICAN SEATING Co. v. ZELL*. Certiorari, 321 U. S. 757, to the Circuit Court of Appeals for the Second Circuit. Argued April 25, 1944. Decided May 8, 1944. *Per Curiam*: In this case two members of the Court think that the judgment of the Circuit Court of Appeals should be affirmed. Seven are of opinion that the judgment should be reversed and the judgment of the District Court affirmed—four because proof of the contract alleged in respondent's affidavits on the motion for summary judgment is precluded by the applicable state parol evidence rule, and three because the contract is contrary to public policy and void, see *Tool Company v. Norris*, 2 Wall. 45, 54; *Hazelton v. Sheckells*, 202 U. S. 71, 79; Executive Order No. 9001, Tit. II, par. 5, 6 Fed. Reg. 6788; War Department Procurement Regulations, 10 Code Fed. Reg. (Cum. Supp.) § 81.1181. The judgment of the Circuit Court of Appeals is reversed. *Mr. William Dwight Whitney*, with whom *Mr. Albert R. Connelly* was

on the brief, for petitioner. *Mr. J. Edward Lumbard, Jr.*, with whom *Messrs. Ralstone R. Irvine* and *Theodore S. Hope, Jr.* were on the brief, for respondent. Reported below: 138 F. 2d 641.

No. 598. *McGUIRE v. HUNTER, WARDEN*. On petition for writ of certiorari to the Circuit Court of Appeals for the Tenth Circuit. May 8, 1944. *Per Curiam*: The motions for leave to proceed *in forma pauperis* and to add to the record the order of the District Court for the Western District of Michigan, dated April 7, 1944, are granted. The petition for writ of certiorari is also granted. In view of the new issues raised by the order of April 7, 1944, and with the consent of the Solicitor General, the judgments of the Circuit Court of Appeals and of the District Court are vacated, and the cause is remanded to the District Court, with leave to each party to present further evidence upon the material issues of the case. *Bernard G. McGuire, pro se. Solicitor General Fahy, Assistant Attorney General Tom C. Clark, and Messrs. Robert S. Erdahl and W. Marvin Smith* for respondent. Reported below: 138 F. 2d 379.

No. 936. *HOUSE v. MAYO, STATE PRISON CUSTODIAN*. Appeal from the Supreme Court of Florida. May 8, 1944. *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.

No. —. *SMITH v. PESCOR, WARDEN*. May 8, 1944. The petition for appeal is denied.

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No. —. *EX PARTE STANLEY B. PEPLOWSKI*. May 8, 1944. The motion for leave to file petition for writs of habeas corpus and mandamus is denied.

No. —. *EX PARTE HAROLD D. REED*. May 8, 1944. The motion for leave to file petition for writ of mandamus is denied.

No. —. *EX PARTE RAYMOND JONES*; and

No. —. *EX PARTE CLARENCE WILLIAMS*. May 8, 1944. The motions for leave to file petitions for writs of habeas corpus are denied.

No. —. *EX PARTE MONROE D. NEELY*. May 15, 1944. The motion for leave to file petition for writ of habeas corpus is denied.

No. —. *BROWDER v. UNITED STATES*. May 15, 1944. Petition for appeal denied for want of jurisdiction to entertain it.

No. 942. *ROCK ISLAND REFINING Co. v. OKLAHOMA TAX COMMISSION*. Appeal from the Supreme Court of Oklahoma. May 22, 1944. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. (1) *U. S. Glue Co. v. Oak Creek*, 247 U. S. 321; *Matson Navigation Co. v. State Board*, 297 U. S. 441, 443-44; *Western Live Stock v. Bureau of Revenue*, 303 U. S. 250, 255. (2) *Lawrence v. State Tax Commission*, 286 U. S. 276; *New York ex rel. Cohn v. Graves*, 300 U. S. 308. *Mr. C. D. Cund* for appellant. Reported below: 145 P. 2d 194.

No. 943. *TEXAS EX REL. CITY OF WEST UNIVERSITY PLACE ET AL. v. CITY OF HOUSTON ET AL.* Appeal from the

Supreme Court of Texas. May 22, 1944. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. (1) *Pawhuska v. Pawhuska Oil Co.*, 250 U. S. 394; *Trenton v. New Jersey*, 262 U. S. 182, 187, 191-92; *Risty v. Chicago, R. I. & P. Ry. Co.*, 270 U. S. 378, 390; *Williams v. Mayor*, 289 U. S. 36, 40. (2) *King Mfg. Co. v. Augusta*, 277 U. S. 100, 103-4. *Messrs. Everett L. Looney and Edward Clark* for appellants. Reported below: 142 Tex. 190, 176 S. W. 2d 928.

No. —. *ROLLS-ROYCE, INC. v. STIMSON, SECRETARY OF WAR*. May 22, 1944. The motion for leave to file petition for writ of prohibition or mandamus is denied.

No. —. *EX PARTE SYLVAN BLUMENFELD*. May 22, 1944. The motion for leave to file petition for writ of mandamus is denied.

No. —. *EX PARTE RAYMOND DECKER*;

No. —. *EX PARTE JOHN H. ROONEY*;

No. —. *EX PARTE LOUIS B. AMES*; and

No. —. *UNITED STATES EX REL. TOWNSEND v. RAGEN, WARDEN*. May 22, 1944. The motions for leave to file petitions for writs of habeas corpus are denied.

No. —. *KELLEY v. DOWD, WARDEN*. May 22, 1944. The motion for leave to file petition for writ of certiorari is denied.

No. 977. *ERICKSEN v. JOHN MORRELL & Co.* Appeal from the Circuit Court of Minnehaha County, South Dakota. May 29, 1944. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed for want of a prop-

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erly presented federal question. *Mr. George J. Danforth* for appellant. *Messrs. Paul M. Godehn and Leo F. Tierney* for appellee.

No. 992. *WEBER v. HENDERSON ET AL., EXECUTRICES, ET AL.* Appeal from the Circuit Court in and for the County of Essex, New Jersey. May 29, 1944. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question. (1) *Memphis v. United States*, 97 U. S. 293, 295, 297; *McFaddin v. Evans-Snyder-Buel Co.*, 185 U. S. 505, 510-13; *Graham & Foster v. Goodcell*, 282 U. S. 409, 429-30; *Paramino Lumber Co. v. Marshall*, 309 U. S. 370, 377-79. (2) *Richmond Mortgage Corp. v. Wachovia Bank Co.*, 300 U. S. 124, 130-31; *Gelfert v. National City Bank*, 313 U. S. 221, 235. *Messrs. Meyer M. Semel and Geo. H. Rosenstein* for appellant. *Mr. Michael J. Bruder* for appellees. Reported below: See 131 N. J. L. 299, 35 A. 2d 609.

No. 982. *KARLOFTIS ET AL. v. HELTON ET AL.* Appeal from the Court of Appeals of Kentucky. May 29, 1944. *Per Curiam*: The motion to dismiss is granted and 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. *Messrs. S. H. Brown and Cleon K. Calvert* for appellants. *Mr. Geo. E. H. Goodner* for appellees. Reported below: 297 Ky. 463, 178 S. W. 2d 959.

No. 1004. *CLARKE, ADMINISTRATRIX, v. STORCHAK.* Appeal from the Supreme Court of Illinois. May 29, 1944. *Per Curiam*: The motion to dismiss is granted and the

appeal is dismissed for want of a substantial federal question. *Silver v. Silver*, 280 U. S. 117. *Messrs. John E. Owens and Thomas L. Owens* for appellant. *Mr. Edward R. Adams* for appellee. Reported below: 384 Ill. 564, 52 N. E. 2d 229.

No. —. EX PARTE JAMES GALLAGHER; and

No. —. EX PARTE ALICE M. BETTS. May 29, 1944.
Applications denied.

No. —. EX PARTE CHARLES HOWERTON; and

No. —. EX PARTE WALKER KIMLER. May 29, 1944.
The motions for leave to file petitions for writs of habeas corpus are denied.

No. —. BULLDOG ELECTRIC PRODUCTS CO. v. GALSTON, JUDGE;

No. —. BOYD v. MACDONALD;

No. —. BOYD v. CURRAN;

No. —. EX PARTE CARL MINGIONE;

No. —. EX PARTE DAISY D. WILSON; and

No. —. ABBOTT, ADMINISTRATRIX, ET AL. v. SWINFORD, JUDGE. May 29, 1944. The motions for leave to file petitions for writs of mandamus are denied.

No. 11, original. ILLINOIS v. INDIANA ET AL. May 29, 1944. The motion of American Maize Products Company for leave to intervene and to file answer and cross-claim is granted with leave to any of the parties to reply and without prejudice to any order or motion to dismiss or strike any part of the intervenor's answer and cross-claim.

No. 754. MESHBERGER ET AL. v. FEDERAL LAND BANK OF LOUISVILLE; and

No. 798. GARLINGTON ET AL. v. WASSON. May 29, 1944. Motions denied. *Messrs. Elmer McClain* and

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Samuel E. Cook for petitioners in No. 754. *Mr. Elmer McClain* for petitioners in No. 798. *Mr. William C. Goodwyn* for respondent in No. 754. Reported below: 138 F. 2d 954, 139 F. 2d 183.

No. 939. *COFFMAN v. BREEZE CORPORATIONS, INC. ET AL.* Appeal from the District Court of the United States for the District of New Jersey. May 29, 1944. The petition for a temporary injunction, referred to the conference of the Court by MR. JUSTICE ROBERTS, is denied. *Mr. James D. Carpenter, Jr.* for appellant. *Solicitor General Fahy* for appellees. Reported below: 55 F. Supp. 501.

No. 1018. *PYRAMID MOVING Co. v. UNITED STATES ET AL.* Appeal from the District Court of the United States for the Northern District of Ohio. June 5, 1944. *Per Curiam*: The motion to affirm is granted and the judgment is affirmed. (1) *United States v. Carolina Freight Carriers Corp.*, 315 U. S. 475, 480-82; *Alton R. Co. v. United States*, 315 U. S. 15, 23. (2) *Western Chemical Co. v. United States*, 271 U. S. 268, 271; *Virginian Ry. Co. v. United States*, 272 U. S. 658, 666. *Mr. H. W. Kiser* for appellant. *Solicitor General Fahy* and *Mr. Daniel W. Knowlton* for appellees.

No. —. *LONG v. HICKS, PRESIDING JUDGE*; and

No. —. *LONG v. BENSON, WARDEN.* June 5, 1944. The motions for leave to file petitions for peremptory writs of mandamus are denied.

No. —. *LONG v. BENSON, WARDEN.* June 5, 1944. The motion for a rule to show cause is denied.

No. —. MID-CONTINENT INVESTMENT CO. *v.* IGOE, JUDGE; and

No. —. MINNEAPOLIS-HONEYWELL REGULATOR CO. *v.* BARNES, JUDGE. June 5, 1944. The motions for leave to file petitions for writs of mandamus are denied.

No. —. EX PARTE GEORGE W. PULLITT; and

No. —. EX PARTE PERCY BERRY. June 5, 1944. The motions for leave to file petitions for writs of habeas corpus are denied.

No. —. EX PARTE THOMAS KING. June 5, 1944. The motion for leave to file petition for writ of habeas corpus is denied. Treating the papers as a petition for writ of certiorari to the Supreme Court of Illinois, certiorari is denied.

No. —. ROBERTS *v.* UNITED STATES DISTRICT COURT, EASTERN VIRGINIA. June 5, 1944. The motion for leave to file petition for certiorari is denied.

No. 2. UNITED STATES *v.* ALUMINUM COMPANY OF AMERICA ET AL. Appeal from the District Court of the United States for the Southern District of New York. June 12, 1944. *Per Curiam*: In this case there is wanting a quorum of six Justices qualified to hear it, see 320 U. S. 708. The cause is accordingly certified and transferred to the Circuit Court of Appeals for the Second Circuit, pursuant to § 2 of the Act of February 11, 1903, 32 Stat. 823, 15 U. S. C., § 29, as amended by the Act of June 9, 1944, c. 239, 58 Stat. 272. Reported below: 47 F. Supp. 647.

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No. 1024. *VARNADO v. WOMACK ET AL.* Appeal from the Supreme Court of Louisiana. June 12, 1944. *Per Curiam*: The motion for leave to file jurisdictional statement is granted. The appeal is dismissed for the reason that the judgment of the court below is based upon a non-federal ground adequate to support it. *Mr. M. C. Scharff* for appellant. Reported below: 204 La. 1019, 16 So. 2d 825.

No. 1033. *JONES v. FREEMAN, SPEAKER OF THE HOUSE OF REPRESENTATIVES OF OKLAHOMA, ET AL.* Appeal from the Supreme Court of Oklahoma. June 12, 1944. *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. Samuel A. Boorstin* for appellant. Reported below: 146 P. 2d 564.

No. —. *EX PARTE JAMES M. JOHN*; and

No. —. *EX PARTE RAYMOND PAUL HILE.* June 12, 1944. Applications denied.

No. —. *EX PARTE ROBERT GEORGE BANKS*;

No. —. *EX PARTE ALLEN DIXON*; and

No. —. *EX PARTE JOHN GARDNER.* June 12, 1944. The motions for leave to file petitions for writs of habeas corpus are denied.

No. —. *EX PARTE EARL F. HALL.* June 12, 1944. The motion for leave to file petition for writ of habeas corpus is denied. Treating the papers as a petition for writ of certiorari to the Supreme Court of Illinois, certiorari is denied.

No. 51. SMITH *v.* ALLWRIGHT, ELECTION JUDGE, ET AL. June 12, 1944. The sentence on page 9 of the slip opinion which reads:

"Under our Constitution, the great privilege of choosing his rulers may not be denied a man by the State because of his color," is amended to read as follows:

"Under our Constitution the great privilege of the ballot may not be denied a man by the State because of his color."

MR. JUSTICE ROBERTS and MR. JUSTICE FRANKFURTER took no part in the consideration of the order here entered.

Opinion reported as amended, 321 U. S. 649, 662.

No. 716. UNITED STATES *v.* SAYLOR ET AL.; and

No. 717. UNITED STATES *v.* POER ET AL. June 26, 1944. Order entered as of June 12, 1944, amending the opinion in these cases. Opinion reported as amended, *ante*, p. 385.

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No. 804. SCREWS ET AL. *v.* UNITED STATES. April 24, 1944. Petition for writ of certiorari to the Circuit Court of Appeals for the Fifth Circuit granted. *Mr. James F. Kemp* for petitioners. *Solicitor General Fahy*, *Assistant Attorney General Tom C. Clark*, and *Messrs. Edward G. Jennings, G. Maynard Smith, and W. Marvin Smith* for the United States. Reported below: 140 F. 2d 662.

No. 803. McCARTHY ET AL., TRUSTEES, ET AL. *v.* BRUNER. May 1, 1944. Petition for writ of certiorari to the Supreme Court of Utah granted. *Messrs. P. T. Farnsworth, Jr. and W. Q. Van Cott* for petitioners. *Messrs. Calvin W. Rawlings and Harold E. Wallace* for