

DECISIONS PER CURIAM, ETC., FROM JANUARY  
30, 1945, THROUGH APRIL 23, 1945.\*

No. 830. *CANTRELL ET AL. v. ADAMS ET AL.* Appeal from the Court of Appeals of Kentucky. February 5, 1945. *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. Cleon K. Calvert* for appellants. Reported below: 298 Ky. 845, 183 S. W. 2d 492.

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No. 865. *SIMMONS v. MISSISSIPPI.* Appeal from the Supreme Court of Mississippi. February 5, 1945. *Per Curiam*: The motion for leave to proceed *in forma pauperis* is granted. 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. Reported below: 20 So. 2d 64.

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No. 856. *RYAN v. THOMPSON ET AL.* Appeal from the District Court of the United States for the Northern District of Illinois. February 5, 1945. *Per Curiam*: The judgment is affirmed. (1) *Douglas v. Jeannette*, 319 U. S.

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\*Decisions on applications for certiorari, *post*, pp. 832, 840; rehearing, *post*, p. 885; cases disposed of without consideration by the Court, *post*, p. 884.

157, and cases cited; (2) *Hayman v. Galveston*, 273 U. S. 414; *Semler v. Dental Examiners*, 294 U. S. 608. *Mr. Ray E. Lane* for appellant.

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No. —. EX PARTE KENNETH SUTTON. February 5, 1945. The motion for leave to file petition for writ of habeas corpus is denied.

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No. —. WILSON *v.* HINMAN ET AL. February 5, 1945. Application denied.

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No. 832. JOHNSON *v.* MISSISSIPPI STATE BOARD OF HEALTH. Appeal from the Supreme Court of Mississippi. February 12, 1945. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. *Hurwitz v. North*, 271 U. S. 40, 42. *Mr. Forrest Butler Jackson* for appellant. Reported below: 19 So. 2d 827.

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No. 850. JACK COLE CO., INC. *v.* UNITED STATES ET AL. Appeal from the District Court of the United States for the Northern District of Alabama. February 12, 1945. *Per Curiam*: The motion to affirm is granted and the judgment is affirmed. (1) *United States v. Carolina Carriers Corp.*, 315 U. S. 475, 480–82; *Howard Hall Co. v. United States*, 315 U. S. 495, 498–99; (2) *United States v. Pan American Corp.*, 304 U. S. 156, 158. *Mr. Francis H. Hare* for appellant. *Solicitor General Fahy* and *Mr. Daniel W. Knowlton* for appellees. Reported below: 59 F. Supp. 10.

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No. —. EX PARTE JAMES MARTINE;

No. —. EX PARTE LEROY BAKER; and

No. —. EX PARTE TOM STEPHENSON. February 12, 1945. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. —. *EX PARTE WILLIAM BURGESS*. February 12, 1945. The motion for leave to file petition for writ of habeas corpus is denied. MR. JUSTICE JACKSON took no part in the consideration or decision of this application.

No. —. *EX PARTE F. GERALD THOMAS*. February 12, 1945. The motion for leave to file petition for writs of mandamus or certiorari is denied.

No. —. *EX PARTE BEN FRAZIER*. February 12, 1945. The motion for leave to file petition for writ of mandamus is denied.

No. —. *STEINBERG v. GRAHAM ET AL.* February 12, 1945. The motion for a stay is denied.

No. 858. *ILLINOIS COMMERCE COMMISSION ET AL. v. ILLINOIS CENTRAL RAILROAD CO.* Appeal from the Supreme Court of Illinois. February 26, 1945. *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. *George F. Barrett*, Attorney General, and *William C. Wines*, Assistant Attorney General, for appellants. *Messrs. Vernon W. Foster, Charles A. Helsell and Elmer A. Smith* for appellee. Reported below: 387 Ill. 256, 56 N. E. 2d 432.

No. 859. *ILLINOIS COMMERCE COMMISSION v. FLEMING ET AL., TRUSTEES*;

No. 860. ILLINOIS COMMERCE COMMISSION *v.* CHICAGO, BURLINGTON & QUINCY RAILROAD CO.;

No. 861. ILLINOIS COMMERCE COMMISSION *v.* SCANDRETT ET AL., TRUSTEES; and

No. 862. ILLINOIS COMMERCE COMMISSION *v.* SPRAGUE ET AL., RECEIVERS. Appeals from the Supreme Court of Illinois. February 26, 1945. *Per Curiam*: The appeals are dismissed for the reason that the judgment of the court below in each case is based upon a non-federal ground adequate to support it. *George F. Barrett*, Attorney General, and *William C. Wines*, Assistant Attorney General, for appellant. *Messrs. M. L. Bell, W. F. Peter, Harry E. Boe* and *Martin L. Cassell, Jr.* for appellees in No. 859. *Mr. Eldon Martin* for appellee in No. 860. *Mr. Carson L. Taylor* for appellees in No. 861. *Mr. Ralph R. Bradley* for appellees in No. 862. Reported below: 388 Ill. 138, 57 N. E. 2d 384.

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No. 913. ADIRONDACK TRANSIT LINES, INC. *v.* UNITED STATES ET AL. Appeal from the District Court of the United States for the Southern District of New York. February 26, 1945. *Per Curiam*: The motions to affirm are granted and the judgment is affirmed. *Mr. Martin J. Kelly, Jr.* for appellant. *Solicitor General Fahy* and *Mr. Daniel W. Knowlton* for the United States et al.; *Messrs. John E. Buck* and *John F. Finerty* for the Hudson & Manhattan R. Co.; and *Mr. Henry P. Goldstein* for the Manhattan Coach Line, Inc. et al., appellees. Reported below: 59 F. Supp. 503.

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No. 727. ORIOLO *v.* UNITED STATES. On petition for writ of certiorari to the Circuit Court of Appeals for the Third Circuit. February 26, 1945. *Per Curiam*: The petition for writ of certiorari is granted and the judgment is reversed. *Mortensen v. United States*, 322 U. S. 369. The

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CHIEF JUSTICE, MR. JUSTICE DOUGLAS, and MR. JUSTICE JACKSON think that the judgment should be affirmed, the Mortensen case being inapplicable for the reasons stated in the opinion of the court below. *Mr. Thomas D. McBride* for petitioner. *Solicitor General Fahy, Assistant Attorney General Tom C. Clark, Messrs. Robert S. Erdahl and Irving S. Shapiro* for the United States. Reported below: 146 F. 2d 152.

No. —. EX PARTE HOWARD O. BUTLER. February 26, 1945. The motion for leave to file petition for writ of mandamus is denied.

No. —. EX PARTE ARTHUR LEWIS. February 26, 1945. Application denied.

No. —. EX PARTE GEORGE S. MILLER;

No. —. EX PARTE GEORGE ALBERT BROWN;

No. —. EX PARTE BRYAN SCHWAB; and

No. —. ILLINOIS EX REL. RENSING *v.* NIERSTHEIMER, WARDEN. February 26, 1945. The motions for leave to file petitions for writs of habeas corpus are denied.

No. —. BROTHERHOOD & UNION OF TRANSIT EMPLOYEES OF BALTIMORE *v.* MADDEN, REGIONAL DIRECTOR. February 26, 1945. The motion for a stay is denied.

No. 410. PRICE, TRUSTEE, ET AL. *v.* GURNEY ET AL. February 26, 1945. Order entered amending opinion. The petition for rehearing is denied.

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

No. —. *WATKINS v. UNITED STATES*. March 5, 1945.  
Petition denied.

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No. —. *EX PARTE GUSS BROWN*. March 5, 1945.  
The motion for leave to file petition for writ of mandamus is denied.

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No. —. *EX PARTE ROBERT LEE WILHOIT*. March 5, 1945. The motion for leave to file petition for writ of habeas corpus is denied.

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No. —. *PUTNAM v. FEDERAL LAND BANK OF BALTIMORE*. March 5, 1945. The application for reconsideration of the denial of petition for appeal is denied.

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No. —. *EX PARTE UNIVERSAL OIL PRODUCTS Co.* March 5, 1945. The motion for leave to file petition for writ of prohibition and mandamus is denied without prejudice to the filing of an application for writ of certiorari. MR. JUSTICE ROBERTS took no part in the consideration or decision of this application.

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No. 2, October Term, 1941. *BERNARDS ET AL. v. JOHNSON ET AL.* March 5, 1945. The motion to recall the mandate is denied.

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No. 55. *PACIFIC GAS & ELECTRIC Co. v. SECURITIES & EXCHANGE COMMISSION*. Certiorari, 322 U. S. 720, to the Circuit Court of Appeals for the Ninth Circuit. Argued December 4, 1944. Decided March 12, 1945. *Per Curiam*: The judgment is affirmed by an equally divided Court. MR. JUSTICE DOUGLAS took no part in

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the consideration or decision of this case. *Mr. Herman Phleger*, with whom *Messrs. Wm. B. Bosley, Robert H. Gerdes and James S. Moore, Jr.* were on the brief, for petitioner. *Mr. Chester T. Lane*, with whom *Solicitor General Fahy, Messrs. Roger S. Foster, Milton V. Freeman, David K. Kadane and Arnold R. Ginsburg* were on the brief, for respondent. Reported below: 139 F. 2d 298.

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No. 872. *FORD MOTOR CO. v. PENNSYLVANIA*. Appeal from the Supreme Court of Pennsylvania. March 12, 1945. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question. (1) *Flint v. Stone Tracy Co.*, 220 U. S. 107, 165; *Educational Films Corp. v. Ward*, 282 U. S. 379; *Ford Motor Co. v. Beauchamp*, 308 U. S. 331; *Butler Bros. v. McColgan*, 315 U. S. 501; (2) *Kansas City, M. & B. R. Co. v. Stiles*, 242 U. S. 111; *Northwestern Mutual Life Ins. Co. v. Wisconsin*, 247 U. S. 132; (3) *Phelps v. Board of Education*, 300 U. S. 319, 322-323. *Messrs. W. A. Seifert, Geo. Ross Hull and Roy J. Keefer* for appellant. *James H. Duff*, Attorney General, and *Mr. H. F. Stambaugh* for appellee. Reported below: 350 Pa. 236, 38 A. 2d 329.

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No. 873. *QUAKER OATS Co. v. PENNSYLVANIA*. Appeal from the Supreme Court of Pennsylvania. March 12, 1945. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question. (1) *Flint v. Stone Tracy Co.*, 220 U. S. 107, 165; *Educational Films Corp. v. Ward*, 282 U. S. 379; *Ford Motor Co. v. Beauchamp*, 308 U. S. 331; *Butler Bros. v. McColgan*, 315 U. S. 501; (2) *Kansas City, M. & B. R. Co. v. Stiles*, 242 U. S. 111; *Northwestern Mutual Life Ins. Co. v. Wisconsin*, 247 U. S. 132; (3) *Phelps v. Board of Education*, 300 U. S. 319, 322-323; (4) *Western Live*

*Stock v. Bureau*, 303 U. S. 250, 256, and cases cited. *Messrs. W. A. Seifert, Geo. Ross Hull and Roy J. Keefer* for appellant. *James H. Duff*, Attorney General, and *Mr. H. F. Stambaugh* for appellee. Reported below: 350 Pa. 253, 38 A. 2d 325.

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No. —. EX PARTE CHESTEEN McCONNELL. March 12, 1945. Application denied.

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No. —. CATOVOLO *v.* HIBBS, COMMANDING GENERAL. March 12, 1945. The motion for a stay of proceedings pending application for and consideration of a petition for writ of certiorari is granted.

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No. 982. WISCONSIN EX REL. BARTELT, ADMINISTRATOR, *v.* THOMPSON ET AL. Appeal from the Supreme Court of Wisconsin. March 26, 1945. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. *Phelps v. Board of Education*, 300 U. S. 319, 322-323; *Dodge v. Board of Education*, 302 U. S. 74, 79. *Mr. Herbert C. Hirschboeck* for appellant. Reported below: 246 Wis. 11, 16 N. W. 2d 420.

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No. —. EX PARTE JOSEPH RICHETSKY;

No. —. EX PARTE HOWARD VAN ORDEN; and

No. —. DAVIS *v.* JOHNSTON, WARDEN. March 26, 1945. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. —. EX PARTE DORSEY W. McMAHAN. March 26, 1945. The motion for leave to file petition for writ of mandamus is denied.

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No. —. *DUNCOMBE v. MARTINSON ET AL.* March 26, 1945. Application denied.

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No. 749. *HOLLAND v. ILLINOIS.* March 26, 1945. The motion of petitioner, dated March 10, is denied.

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No. 934. *DOSS v. LINDSLEY, SHERIFF.* March 29, 1945. The motion of the petitioner to postpone issuance of order denying petition for certiorari pending filing and action on petition for rehearing is denied.

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No. 976. *JONES v. WHITTLE, SHERIFF.* Appeal from the Supreme Court of Georgia. April 2, 1945. *Per Curiam*: The motion to dismiss is granted and 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. Benjamin B. McCowen* for appellant. *Mr. Reuben A. Garland* for appellee. Reported below: 198 Ga. 538, 32 S. E. 2d 94.

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No. 1037. *BARLOW ET AL. v. UTAH.* Appeal from the Supreme Court of Utah. April 2, 1945. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question. *Davis v. Beason*, 133 U. S. 333; *Reynolds v. United States*, 98 U. S. 145. *Messrs. Claude T. Barnes* and *O. A. Tangren* for appellants. *Grover A. Giles*, Attorney General, for appellee. Reported below: 153 P. 2d 647.

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No. —. *STOCKTON v. TEXAS.* April 2, 1945. The motion for leave to file petition for writ of habeas corpus is denied.

No. 371. COMMISSIONER OF INTERNAL REVENUE v. SMITH. April 9, 1945. Order entered amending opinion. Opinion reported as amended, *ante*, p. 177.

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No. —. EX PARTE MARY A. RUTHVEN. April 9, 1945. The motion for leave to file a petition for a writ of habeas corpus is denied.

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No. —. EX PARTE STANLEY B. PEPLOWSKI. April 9, 1945. The motion for leave to file petition for writs of habeas corpus and mandamus is denied.

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No. —. KELLY v. SWYGERT, JUDGE. April 9, 1945. The petition for writ of mandate is denied.

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Nos. 561 and 592. VINSON, ECONOMIC STABILIZATION DIRECTOR, BY BOWLES, PRICE ADMINISTRATOR, v. UNITED STATES ET AL. April 9, 1945. Davis, present Economic Stabilization Director, substituted for Vinson.

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No. 980. WOMBLE v. UNITED STATES. On petition for writ of certiorari to the Circuit Court of Appeals for the Ninth Circuit. April 23, 1945. *Per Curiam*: The petition for writ of certiorari is granted. The judgment is reversed for want of substantial evidence to sustain the conviction. Dissenting: MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS. *Mr. Nathaniel A. Brown* for petitioner. *Solicitor General Fahy, Assistant Attorney General Tom C. Clark, Messrs. Robert S. Erdahl and Leon*

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*Ulman* for the United States. Reported below: 146 F. 2d 263.

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No. —. EX PARTE NOEL GAINES; and

No. —. EX PARTE ROBERT L. MCCLENDON. April 23, 1945. Applications denied.

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No. —. EX PARTE ROBERT H. SMITH; and

No. —. EX PARTE NATHAN MCBRIDE. April 23, 1945. The motions for leave to file petitions for writs of habeas corpus are denied.

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No. —. EX PARTE CHESTEEN MCCONNELL. April 23, 1945. The motion for leave to file petition for writ of habeas corpus and for other relief is denied.

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No. —. EX PARTE ALFRED MINNTOLE. April 23, 1945. The motion for leave to file petition for writ of certiorari is denied.

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No. 379. COLORADO INTERSTATE GAS CO. v. FEDERAL POWER COMMISSION ET AL.; and

No. 380. CANADIAN RIVER GAS CO. v. FEDERAL POWER COMMISSION ET AL. April 23, 1945. The motion to dismiss the writs of certiorari is denied. The motions for an order as to distribution of impounded funds are denied without prejudice to applications to the Circuit Court of Appeals.