

DECISIONS PER CURIAM, ETC., FROM OCTOBER
1, 1945, THROUGH JANUARY 28, 1946.*

No. 201. *CALLAN v. SANFORD, WARDEN*. On petition for certiorari to the Circuit Court of Appeals for the Fifth Circuit. October 1, 1945. Dismissed on motion of counsel for petitioner. *Mr. Jeremiah A. O'Leary* for petitioner. Reported below: 148 F. 2d 376.

No. 315. *JENNINGS v. SMITH, WARDEN*. On petition for certiorari to the Supreme Court of Pennsylvania. October 1, 1945. Dismissed on motion of petitioner.

No. 141. *JOHNSON ET AL. v. MEAGHER COUNTY ET AL.* Appeal from the Supreme Court of Montana. October 8, 1945. *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); *Charleston Assn. v. Alderson*, 324 U. S. 182, 185, and cases cited. 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. Oscar A. Provost* for appellants. *Mr. R. V. Bottomly* for appellees. Reported below: 155 P. 2d 750.

*MR. JUSTICE JACKSON took no part in the consideration or decision of the cases in which judgments or orders were announced during this period.

MR. JUSTICE BURTON took no part in the consideration or decision of the cases in which judgments or orders were announced on October 1 and 8, 1945.

For decisions on applications for certiorari, see *post*, pp. 698, 716; rehearing, *post*, pp. 801, 802.

No. 144. *ST. LOUIS AMUSEMENT CO. ET AL. v. UNITED STATES ET AL.* Appeal from the District Court of the United States for the Southern District of New York. October 8, 1945. *Per Curiam*: The motions to dismiss are granted and the appeal is dismissed for want of jurisdiction. *United States v. California Canneries*, 279 U. S. 553, 556, and cases cited; *Allen Co. v. Cash Register Co.*, 322 U. S. 137, 142. *Messrs. John M. Minton, Jr. and Russell Hardy* for appellants. *Solicitor General Fahy* for the United States, and *Messrs. Whitney North Seymour, John W. Davis, George S. Leisure and Joseph M. Proskauer* for Paramount Pictures, Inc. et al., appellees. Reported below: 61 F. Supp. 854.

No. 178. *CAROLINA SCENIC COACH LINES v. UNITED STATES ET AL.* Appeal from the District Court of the United States for the Western District of North Carolina. October 8, 1945. *Per Curiam*: The motions to affirm are granted and the judgment is affirmed. *I. C. C. v. Jersey City*, 322 U. S. 503, 515, and cases cited. *Mr. Wilmer A. Hill* for appellant. *Assistant Solicitor General Cox* and *Mr. Daniel W. Knowlton* for the United States and Interstate Commerce Commission, and *Mr. William A. Roberts* and *Mrs. Irene Kennedy* for the Smoky Mountain Stages, Inc., appellees. Reported below: 59 F. Supp. 336.

No. 215. *DEATON TRUCK LINE, INC. v. UNITED STATES ET AL.* Appeal from the District Court of the United States for the Northern District of Alabama. October 8, 1945. *Per Curiam*: The motion to affirm is granted and the judgment is affirmed. (1) *United States v. Hancock Truck Lines*, 324 U. S. 774. (2) *United States v. Carolina Carriers Corp.*, 315 U. S. 475. *Mr. Francis H. Hare* for

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appellant. *Assistant Solicitor General Cox* and *Mr. Daniel W. Knowlton* for appellees.

No. 225. *BEMIS v. HUMBLE OIL & REFINING CO. ET AL.* Appeal from the Court of Civil Appeals, 1st Supreme Judicial District, of Texas. October 8, 1945. *Per Curiam*: The appeal is dismissed for want of jurisdiction. § 237 (a), Judicial Code, as amended, 28 U. S. C. § 344 (a); *Charleston Assn. v. Alderson*, 324 U. S. 182, 185, and cases cited. 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. Edward S. Boyles* for appellant. *Messrs. R. E. Seagler* and *Fred V. Hughes* for appellees. Reported below: 184 S. W. 2d 645.

No. 267. *STROBEL v. MULCAHY, SHERIFF.* Appeal from the Supreme Court of Illinois. October 8, 1945. *Per Curiam*: The appeal is dismissed for want of jurisdiction. § 237 (a), Judicial Code, as amended, 28 U. S. C. § 344 (a); *Charleston Assn. v. Alderson*, 324 U. S. 182, 185, and cases cited. 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. Wm. Scott Stewart* for appellant. Reported below: 390 Ill. 233, 60 N. E. 2d 397.

No. 284. *DELAVAN HOME & LAND CO., INC. v. COUNTY OF ERIE.* Appeal from the Supreme Court of New York, Erie County. October 8, 1945. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. *Winona & St. Peter Land Co. v. Minnesota*, 159 U. S. 526; *Anderson National Bank v. Lockett*, 321 U. S. 233, 243,

and cases cited. *Mr. Joseph A. Wechter* for appellant. See 294 N. Y. 847, 62 N. E. 2d 396.

No. 341. *MOSHER v. WAYLAND ET AL.* Appeal from the Supreme Court of Arizona. October 8, 1945. *Per Curiam*: The appeal is dismissed for want of a properly presented federal question. *Whitney v. California*, 274 U. S. 357, 360, and cases cited. Appellant *pro se*. Messrs. *Charles L. Strouss* and *Frank L. Snell* for appellees. Reported below: 158 P. 2d 654.

No. 368. *MADISON AVENUE OFFICES, INC. v. BROWNE ET AL.* Appeal from the Supreme Court of New York. October 8, 1945. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. *Rapid Transit Corp. v. New York*, 303 U. S. 573, 577-578, 582-583; *Carmichael v. Southern Coal Co.*, 301 U. S. 495, 509-513. *Mr. Harold J. Treanor* for appellant. *Nathaniel L. Goldstein*, Attorney General of New York, *Orrin G. Judd*, Solicitor General, and *Wendell P. Brown*, First Assistant Attorney General, for appellees. See 294 N. Y. 811, 62 N. E. 2d 241.

No. 369. *MACDONALD ET AL., EXECUTORS, v. BROWNE ET AL.* Appeal from the Supreme Court of New York. October 8, 1945. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. *Rapid Transit Corp. v. New York*, 303 U. S. 573, 577-578, 582-583; *Carmichael v. Southern Coal Co.*, 301 U. S. 495, 509-513. *Mr. Harold J. Treanor* for appellants. *Nathaniel L. Goldstein*, Attorney General of New York, *Orrin G. Judd*, Solicitor General, and *Wendell P. Brown*, First Assistant Attorney General, for appellees. See 294 N. Y. 263, 62 N. E. 2d 63.

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No. 386. *AMERICAN STORES DAIRY CO. v. WISCONSIN DEPARTMENT OF TAXATION*. Appeal from the Supreme Court of Wisconsin. October 8, 1945. *Per Curiam*: The appeal is dismissed for want of a properly presented federal question. *Whitney v. California*, 274 U. S. 357, 360, and cases cited; *Godchaux Co. v. Estopinal*, 251 U. S. 179. *Mr. George D. Spohn* for appellant. *John E. Martin*, Attorney General of Wisconsin, and *Harold H. Persons*, Assistant Attorney General, for appellee. Reported below: 246 Wis. 396, 17 N. W. 2d 596.

No. 8. *ATKINS v. ATKINS*. Certiorari, 325 U. S. 846, to the Supreme Court of Illinois. October 8, 1945. *Per Curiam*: The judgment is vacated and the cause is remanded to the Supreme Court of Illinois in order to enable it to reexamine its decision in the light of *Williams v. North Carolina*, 325 U. S. 226, and *Esenwein v. Commonwealth ex rel. Esenwein*, 325 U. S. 279; *Busey v. District of Columbia*, 319 U. S. 579, 580; *New York ex rel. Whitman v. Wilson*, 318 U. S. 688, 690-691 and cases cited; *State Tax Commission v. Van Cott*, 306 U. S. 511, 515-516. MR. JUSTICE BLACK dissents. *Messrs. Harry F. Gillis and A. Rea Williams* for petitioner. *Mr. Harold F. Trapp* for respondent. Reported below: 386 Ill. 345, 54 N. E. 2d 488.

No. 6, original. *NEBRASKA v. WYOMING ET AL.* October 8, 1945. Decree entered. Reported at 325 U. S. 665.

No. 8, original. *KANSAS v. MISSOURI*. October 8, 1945. Upon consideration of the stipulation of counsel it is ordered that the time for marking the boundary be extended until the further order of the Court.

No. 2, October Term, 1941. *BERNARDS ET AL. v. JOHN-SON ET AL.* October 8, 1945. The motion to recall the mandate is denied.

No. 337, October Term, 1944. *INTERNATIONAL UNION OF MINE, MILL & SMELTER WORKERS LOCALS NOS. 15, 17, 107, 108 AND 111 (C. I. O.) ET AL. v. EAGLE-PICHER MINING & SMELTING Co. ET AL.* October 8, 1945. The motions for leave to withdraw the petitions for rehearings are granted. 325 U. S. 335.

No. 470. *UNITED STATES EX REL. DOSS v. LINDSLEY, SHERIFF.* October 8, 1945. The application for bail presented to MR. JUSTICE MURPHY, and by him referred to the Court, was considered by it and denied.

No. 12, Misc. *SHOTKIN v. KENNEDY, ACTING JUDGE.* October 8, 1945. The motion for leave to file petition for writ of mandamus is denied.

- No. 1, Misc. *KELLY v. DOWD, WARDEN* ;
 No. 5, Misc. *AUDETTE v. JOHNSTON, WARDEN* ;
 No. 6, Misc. *FRETTIE v. SQUIER, WARDEN* ;
 No. 7, Misc. *WALEY v. JOHNSTON, WARDEN* ;
 No. 8, Misc. *UNITED STATES EX REL. STAPLES v. NIER-STHEIMER, WARDEN* ;
 No. 10, Misc. *EDMONDSON v. WRIGHT* ;
 No. 11, Misc. *FIFE v. RAGEN, WARDEN* ;
 No. 13, Misc. *THOMPSON v. LAINSON, WARDEN* ;
 No. 14, Misc. *REEVES v. LAINSON, WARDEN* ;
 No. 17, Misc. *BENNETT v. NEW JERSEY* ;
 No. 19, Misc. *DAVIS v. SMYTH, SUPERINTENDENT* ;
 No. 22, Misc. *TURNER v. RAGEN, WARDEN* ; and

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No. 23, Misc. *JONES v. NIERSTHEIMER, WARDEN*. October 8, 1945. The motions for leave to file petitions for writs of habeas corpus are denied.

No. 2, Misc. *IN RE DELISLE*;

No. 3, Misc. *SRYGLEY v. UNITED STATES*; and

No. 4, Misc. *CRUM v. HUNTER, WARDEN*. October 8, 1945. The applications are denied.

No. 9, Misc. *BOZELL v. CLARK, ATTORNEY GENERAL*. October 8, 1945. The petition for writ of injunction is denied.

No. 15, Misc. *SINCLAIR v. DOWD, WARDEN*. October 8, 1945. The motion for leave to file petition for writ of certiorari is denied.

No. 158. *NEW YORK EX REL. RAY v. MARTIN, WARDEN*. Appeal from the County Court, Wyoming County, New York. October 8, 1945. The appeal is dismissed for want of jurisdiction, § 237 (a) of the 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 granted. *Mr. Thomas J. McKenna* for appellant.

No. 329. *COOK, COMMISSIONER, v. WILSON ET AL., PARTNERS, DOING BUSINESS AS WILSON LUMBER Co.* Appeal from the Supreme Court of Arkansas. October 8, 1945. The appeal is dismissed for want of jurisdiction, § 237 (a) of the 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 granted. *Mr. Thomas S. Buzbee* for appellant. Reported below: 208 Ark. 459, 187 S. W. 2d 7.

No. 820, October Term, 1944. 10 EAST 40TH STREET BUILDING, INC. *v.* CALLUS ET AL. October 8, 1945. Order entered amending opinion. The petition for rehearing is denied.

Opinion reported as amended, 325 U. S. 578.

No. 111. DiBENEDETTO, INSPECTOR OF CUSTOMS, ET AL. *v.* MORGENTHAU, SECRETARY OF THE TREASURY. On petition for writ of certiorari to the United States Court of Appeals for the District of Columbia. October 8, 1945. Dismissed on motion of counsel for petitioners. *Mr. Charles A. Horsky* for petitioners. *Acting Solicitor General Cox, Messrs. Paul A. Sweeney and Joseph B. Goldman* for respondent. Reported below: 148 F. 2d 223.

No. 243. DEVEREUX FOUNDATION, INC. *v.* LEA ET AL. Appeal from the Supreme Court of Pennsylvania. October 15, 1945. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. *Euclid v. Ambler Realty Co.*, 272 U. S. 365, 388, 390, and cases cited; *Zahn v. Board of Public Works*, 274 U. S. 325, 328, and cases cited; *Nectow v. Cambridge*, 277 U. S. 183. The petition for leave to intervene and for leave to file a motion to dismiss is denied. *Mr. Edward J. Griffiths* for appellant. *Mr. Joseph Neff Ewing* for petitioners. Reported below: 351 Pa. 478, 41 A. 2d 744.

No. 18, Misc. GRAY ET AL. *v.* BYBEE ET AL. October 15, 1945. The motion for leave to file a petition for writ of certiorari is denied.

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No. 24, Misc. IN RE WILSON;
No. 26, Misc. SAWYER *v.* DUFFY, WARDEN;
No. 27, Misc. ISENBERG *v.* WELCH, SUPERINTENDENT;
No. 28, Misc. PETERS *v.* ASHE, WARDEN;
No. 29, Misc. BROWN *v.* UTAH;
No. 30, Misc. HILLIARD *v.* JOHNSTON, WARDEN;
No. 32, Misc. FOSTER *v.* ASHE, WARDEN; and
No. 33, Misc. ROGERS *v.* SQUIER, WARDEN. October 15, 1945. The motions for leave to file petitions for writs of habeas corpus are denied.

No. 34, Misc. JOHNSON *v.* UTAH; and
No. 35, Misc. METTER *v.* ZRISKEY ET AL. October 15, 1945. The applications are denied.

No. 31, Misc. ILLINOIS EX REL. SHAFFER *v.* RAGEN, WARDEN. October 15, 1945. The motion for leave to withdraw the motion for leave to file a petition for writ of habeas corpus is granted.

No. 204. GRECO *v.* WHITECOTTON, WARDEN. October 15, 1945. The order of October 8, 1945 denying the petition for writ of certiorari, 326 U. S. 748, is vacated.

No. 219. GERSEWITZ *v.* NEW YORK. October 15, 1945. The petition for writ of certiorari to the Court of Appeals of New York is dismissed, it appearing that the petitioner died on September 8, 1945. Petitioner *pro se.* *Mr. Henry J. Walsh* for respondent. Reported below: 294 N. Y. 163, 61 N. E. 2d 427.

No. 431. FELDMAN ET AL. *v.* UNITED STATES. On petition for writ of certiorari to the Circuit Court of Appeals

for the Seventh Circuit. October 15, 1945. Dismissed pursuant to stipulation of counsel. *Mr. Arthur Abraham* for petitioners. *Acting Solicitor General Judson* for the United States. Reported below: 149 F. 2d 951.

No. 12, original. UNITED STATES *v.* CALIFORNIA. October 22, 1945. The motion for leave to file the bill of complaint is granted.

No. 36, Misc. MCCOY *v.* UTAH;

No. 37, Misc. KING *v.* RAGEN, WARDEN;

No. 38, Misc. KING *v.* HORGAN;

No. 39, Misc. CARSON *v.* RAGEN, WARDEN; and

No. 40, Misc. JENKOT *v.* RAGEN, WARDEN. October 22, 1945. The motions for leave to file petitions for writs of habeas corpus are denied.

No. 41, Misc. COYLE *v.* CALIFORNIA ET AL. October 22, 1945. The motions for leave to file petitions for writs of habeas corpus and certiorari are denied. The petition for appeal is also denied.

Nos. 20 and 21, Misc. LOBER ET AL. *v.* MORGAN, LEWIS & BOCKIUS ET AL. October 22, 1945. The motion for leave to file petition for writs of certiorari is denied. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this application. *Mr. Archibald Palmer* for petitioners. *Messrs. Frederic L. Ballard and Allen Hunter White* for Ballard, Spahr, Andrews & Ingersoll et al., *Mr. Henry S. Drinker* for Drinker, Biddle & Reath et al., and *Acting Solicitor General Judson, Messrs. Roger S. Foster, Milton V. Freeman and George Zolotar* for the Securities & Exchange Commission, respondents.

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No. 43. KEETON, ADMINISTRATRIX, *v.* THOMPSON, TRUSTEE IN BANKRUPTCY. Certiorari, 324 U. S. 838, to the Supreme Court of Arkansas. Submitted October 15, 1945. Decided November 5, 1945. *Per Curiam*: On examination of all the evidence considered in this case by the Supreme Court of Arkansas, we are of opinion that the question of respondent's negligence should have been submitted to the jury. The judgment will be reversed and the cause remanded for further proceedings not inconsistent with this opinion. *Messrs. Theron W. Agee and David S. Partain* submitted for petitioner. *Messrs. Thomas T. Railey and Thomas B. Pryor* submitted for respondent. Reported below: 207 Ark. 793, 183 S. W. 2d 505.

No. 421. McCALLUM *v.* BOARD OF MANAGERS AND THE GRIEVANCE COMMITTEE OF THE CHICAGO BAR ASSOCIATION. Appeal from the Supreme Court of Illinois. November 5, 1945. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question. *Mr. Charles A. Horsky* for appellant. *Mr. Charles Leviton* for appellees. Reported below: 391 Ill. 400, 64 N. E. 2d 310.

No. 42, Misc. BERNARD *v.* WRIGHT, WARDEN; and

No. 47, Misc. HILLIARD *v.* JOHNSTON, WARDEN. November 5, 1945. The motions for leave to file petitions for writs of habeas corpus are denied.

No. 46, Misc. IN RE YOUNG;

No. 48, Misc. HILLIARD *v.* ROCHE, U. S. DISTRICT JUDGE; and

No. 49, Misc. HILLIARD *v.* JOHNSTON, WARDEN. November 5, 1945. The motions for leave to file petitions for writs of mandamus are denied.

No. 45, Misc. *YOUNG v. ST. SURE*, U. S. DISTRICT JUDGE. November 5, 1945. The motion for leave to file a petition for writ of certiorari is denied.

No. 43, Misc. *IN RE YOUNG*; and
No. 44, Misc. *BANTZ v. SQUIER, WARDEN*. November 5, 1945. The applications are denied.

No. 408. *MONTGOMERY WARD & Co., INC. ET AL. v. UNITED STATES*. November 5, 1945. Petition for writ of certiorari to the Circuit Court of Appeals for the Seventh Circuit granted. The judgment of the Circuit Court of Appeals is vacated and the cause is remanded to the District Court with directions to dismiss the cause as moot. *Messrs. Stuart S. Ball, John A. Barr, Harold A. Smith and Guy A. Gladson* for petitioners. *Solicitor General McGrath* for the United States. Reported below: 150 F. 2d 369.

No. 50, Misc. *REAGAN v. UTAH*. November 13, 1945. The motion for leave to file a petition for writ of habeas corpus is denied.

No. 593. *McELROY, SECRETARY, ET AL. v. MITCHELL, ATTORNEY GENERAL, ET AL.*; and

No. 594. *MITCHELL, ATTORNEY GENERAL, ET AL. v. McELROY, SECRETARY, ET AL.* Appeals from the District Court of the United States for the District of Kansas. November 13, 1945. Appeals dismissed pursuant to stipulation, costs to be equally divided. *Mr. Clyde Taylor* for McElroy et al. *A. B. Mitchell*, Attorney General of Kansas, for Mitchell et al. Reported below: 60 F. Supp. 51.

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No. 2, October Term, 1941. *BERNARDS ET AL. v. JOHNSON ET AL.* November 19, 1945. The motion to recall the mandate is denied.

No. 51, Misc. *IN RE FRASER.* November 19, 1945. The application is denied.

No. 25, Misc. *SPEARS v. JOHNSTON, WARDEN.* December 3, 1945. The motion for leave to file a petition for a writ of certiorari is denied.

No. 16, Misc. *DECLOUX v. JOHNSTON, WARDEN, ET AL.* December 3, 1945. The motion for leave to file a petition for a writ of certiorari is denied. Petitioner *pro se*. Solicitor General *McGrath*, Messrs. *Robert S. Erdahl* and *Leon Ulman* for respondents.

No. 53, Misc. *IN RE GUTTERMAN.* December 3, 1945. The motion for leave to file a petition for a writ of mandamus is denied.

No. 54, Misc. *JACKSON v. RAGEN, WARDEN;*

No. 55, Misc. *IN RE WRIGHT;* and

No. 56, Misc. *IN RE THUNDER.* December 3, 1945. The applications are denied.

No. 49. *BAILEY v. ANDERSON, STATE HIGHWAY COMMISSIONER.* December 3, 1945. Order entered amending opinion. The petition for rehearing is denied.

Opinion reported as amended, 326 U. S. 203.

No. 558. *HOUGH v. CALIFORNIA.* On petition for writ of certiorari to the Supreme Court of California. Decem-

ber 3, 1945. Dismissed on motion of counsel for petitioner. *Mr. Morris Lavine* for petitioner. *Robert W. Kenny*, Attorney General of California, and *Frank W. Richards*, Deputy Attorney General, for respondent. Reported below: 26 Cal. 2d 618, 160 P. 2d 549.

No. 57, Misc. *FLANNIGAN v. RAGEN, WARDEN*; and

No. 59, Misc. *IN RE SMITH*. December 10, 1945. The motions for leave to file petitions for writs of habeas corpus are denied.

No. 58, Misc. *FISHER v. MATCHETT ET AL.* December 10, 1945. The motion for leave to file petition for writ of mandamus or prohibition is denied.

No. 481. *LAUGHLIN v. UNITED STATES*. December 11, 1945. The motion of the petitioner to stay issuance of order denying petition for writ of certiorari is denied.

No. 489. *ZAP v. UNITED STATES*. December 11, 1945. The issuance of the order denying petition for writ of certiorari, 326 U. S. 777, is stayed pending the consideration and decision on a petition for rehearing to be filed within the time prescribed in Rule 33, on motion of counsel for the petitioner.

No. 60, Misc. *DAVIS v. NIERSTHEIMER, WARDEN*; and

No. 62, Misc. *SINGER v. RAGEN, WARDEN*. December 17, 1945. The motions for leave to file petitions for writs of certiorari are denied.

No. 63, Misc. *WOODS v. NIERSTHEIMER, WARDEN*. December 17, 1945. The motion for leave to file a petition for writ of habeas corpus is denied.

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No. 64, Misc. *BURALL v. ROCHE*, U. S. DISTRICT JUDGE. December 17, 1945. The motion for leave to file a petition for writ of mandamus is denied.

No. 11, original. *GEORGIA v. PENNSYLVANIA RAILROAD CO. ET AL.* December 17, 1945. Lloyd K. Garrison, Esquire, appointed Special Master.

No. 61, Misc. *IN RE YAMASHITA*. Application for leave to file petition for writ of habeas corpus and writ of prohibition; and

No. —. *YAMASHITA v. STYER*, COMMANDING GENERAL. Petition for writ of certiorari to the Supreme Court of the Philippines. December 17, 1945.

It having been represented to this Court by the Attorney General of the United States that a petition for writ of certiorari in the above-entitled cause has been forwarded to this Court from Manila to review the denial of writs of habeas corpus and prohibition by the Supreme Court of the Philippines, on or about November 28, 1945;

And whereas, the Court considers it advisable to defer consideration of the application for writs of habeas corpus and prohibition until it has had an opportunity to examine the petition for writ of certiorari;

It is ordered by this Court that all further proceedings in this cause be, and the same are hereby, stayed pending the consideration and determination by this Court of the applications for writs of habeas corpus and prohibition now pending as No. 61, Miscellaneous of the present term, and of the petition for writ of certiorari now in transit.

The Secretary of War is requested to advise the Military Authorities of this action of the Court.

No. 59. UNITED STATES *v.* ROMPEL, ADMINISTRATOR. December 17, 1945. Order entered amending opinion.

Opinion reported as amended, 326 U. S. 367.

No. 71. MINE SAFETY APPLIANCES CO. *v.* FORRESTAL. December 17, 1945. The concurring opinion of MR. JUSTICE REED in this case is amended.

Opinion reported as amended, 326 U. S. 375.

No. 61, Misc. IN RE YAMASHITA. Application for leave to file petition for writ of habeas corpus and writ of prohibition; and

No. 672. YAMASHITA *v.* STYER, COMMANDING GENERAL. Petition for writ of certiorari to the Supreme Court of the Philippines. December 20, 1945.

The Court desires to hear argument upon the questions presented by the motion for leave to file the petition for writs of habeas corpus and prohibition and by the petition for writ of certiorari. Action upon the motion for leave to file and the petition for writ of certiorari will be withheld meanwhile, and the motion and petition are set down for oral argument on Monday, January 7, next.

MR. JUSTICE JACKSON took no part in the consideration of this order.

No. 637. BOARD OF SUPERVISORS OF MONONA COUNTY ET AL. *v.* BOARD OF TRUSTEES OF MONONA-HARRISON DRAINAGE DISTRICT NO. 1 ET AL. Appeal from the Supreme Court of Iowa. January 2, 1946. *Per Curiam*: The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question. *Breiholz v. Board of Supervisors*, 257 U. S. 118. *Mr. Allan A. Her- rick* for appellants. *Messrs. J. W. Anderson and M. M. Lothrop* for appellees. Reported below: 19 N. W. 2d 196.

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No. 65, Misc. *IN RE EDMONDSON*;

No. 69, Misc. *JOHNSON v. JOHN HANCOCK MUTUAL LIFE INSURANCE CO. ET AL.*; and

No. 71, Misc. *DURKIN v. CLARK, ATTORNEY GENERAL*.
January 2, 1946. The applications are denied.

No. 66, Misc. *HAYES v. RAGEN, WARDEN*. January 2, 1946. The motion for leave to file petition for writ of certiorari is denied.

No. 67, Misc. *McMILLAN v. MUNICIPAL COURT FOR THE D. C. ET AL.* January 2, 1946. The motion for leave to file a petition for writ of prohibition is denied.

No. 68, Misc. *GRIMM v. NIERSTHEIMER, WARDEN*;
and

No. 70, Misc. *KELLY v. JOHNSTON, WARDEN*. January 2, 1946. The motions for leave to file petitions for writs of habeas corpus are denied.

No. 73, Misc. *SMITH v. NIERSTHEIMER, WARDEN*.
January 7, 1946. The motion for leave to file a petition for a writ of habeas corpus is denied.

No. 52, Misc. *WRIGHT v. ROCHE, U. S. DISTRICT JUDGE*.
January 7, 1946. The motion for leave to file a petition for writ of mandamus is denied.

No. 72, Misc. *IN RE STORCH*. January 14, 1946. The motion for leave to file petition for a writ of habeas corpus is denied.

No. 76, Misc. *STIZZA v. ESSEX COUNTY JUVENILE AND DOMESTIC RELATIONS COURT*. January 14, 1946. The application is denied.

No. 77, Misc. *EUREKA GAS Co. v. FORD*, U. S. DISTRICT JUDGE. January 14, 1946. The motion for leave to file a petition for a writ of mandamus is denied. MR. JUSTICE REED took no part in the consideration or decision of this application. *Mr. J. W. Jones* for petitioner.

No. 290. *HALLIBURTON OIL WELL CEMENTING Co. v. WALKER ET AL., DOING BUSINESS AS DEPTHOGRAPH COMPANY*. Certiorari, 326 U. S. 705, to the Circuit Court of Appeals for the Ninth Circuit. Argued January 9, 1946. Decided January 28, 1946. *Per Curiam*: The judgment is affirmed by an equally divided Court. *Mr. Earl Babcock* for petitioner. *Mr. Harold W. Mattingly* for respondents. Reported below: 149 F. 2d 896.

No. 724. *MONKS v. LEE*. Appeal from Probate Court, Suffolk County, Massachusetts. January 28, 1946. *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. MR. JUSTICE RUTLEDGE took no part in the consideration or decision of this case. *Mr. Herbert S. Avery* for appellant. *Mr. Robert E. Goodwin* for appellee. See 318 Mass. 513, 62 N. E. 2d 657.

No. 725. *TWENTIETH CENTURY ASSOCIATES, INC. v. WALDMAN*. Appeal from Municipal Court, City of New

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York, New York. January 28, 1946. *Per Curiam*: The appeal is dismissed for the reason that it was not properly allowed. Rule 36, 28 U. S. C. § 868; *Bartemeyer v. Iowa*, 14 Wall. 26. MR. JUSTICE RUTLEDGE took no part in the consideration or decision of this case. *Mr. Benjamin Bernstein* for appellant. *Nathaniel L. Goldstein*, Attorney General of New York, *Orrin G. Judd*, Solicitor General, and *Saul A. Shames*, Assistant Attorney General, filed a statement on behalf of the State of New York, as *amicus curiae*, with respect to jurisdiction. Reported below: 184 Misc. 24, 53 N. Y. S. 2d 612.

No. 726. TWENTIETH CENTURY ASSOCIATES, INC. *v.* WALDMAN. Appeal from Municipal Court, City of New York, New York. January 28, 1946. *Per Curiam*: The appeal is dismissed for want of a substantial federal question. *Block v. Hirsh*, 256 U. S. 135; *Marcus Brown Holding Co. v. Feldman*, 256 U. S. 170; *East New York Savings Bank v. Hahn*, 326 U. S. 230. MR. JUSTICE RUTLEDGE took no part in the consideration or decision of this case. *Mr. Benjamin Bernstein* for appellant. Reported below: 184 Misc. 24, 53 N. Y. S. 2d 612.

No. 78, Misc. McMAHAN *v.* BENNETT, DIRECTOR. January 28, 1946. The motion for leave to file a petition for a writ of mandamus is denied. MR. JUSTICE RUTLEDGE took no part in the consideration or decision of this application.

No. 79, Misc. KINNER MOTORS, INC. *v.* BEAUMONT, U. S. DISTRICT JUDGE. January 28, 1946. The motion for leave to file a petition for a writ of mandamus is denied because application therefor is made to this Court rather than to the Circuit Court of Appeals. MR. JUSTICE RUT-

LEDGE took no part in the consideration or decision of this application. *Mr. Ford W. Harris* for petitioner.

No. 80, Misc. *MILLER v. WILTMER*, SUPERINTENDENT. January 28, 1946. The motion for leave to file a petition for a writ of habeas corpus is denied. MR. JUSTICE RUTLEDGE took no part in the consideration or decision of this application.

No. 81, Misc. *DIOGUARDI v. DURNING*, COLLECTOR OF CUSTOMS;

No. 82, Misc. *SMITH v. MAGUIRE*, JUSTICE, ET AL.; and

No. 83, Misc. *HARDING v. LAGUARDIA*, MAYOR, ET AL. January 28, 1946. The applications are denied. MR. JUSTICE RUTLEDGE took no part in the consideration or decision of these applications.

No. 36. *JOHN KELLEY Co. v. COMMISSIONER OF INTERNAL REVENUE*; and

No. 47. *TALBOT MILLS v. COMMISSIONER OF INTERNAL REVENUE*. January 28, 1946. Order entered amending opinion.

Opinion reported as amended, 326 U. S. 521.

ORDERS GRANTING CERTIORARI, FROM OCTOBER 1, 1945, THROUGH JANUARY 28, 1946.

No. 158. *NEW YORK EX REL. RAY v. MARTIN*, WARDEN. See *ante*, p. 685.

No. 329. *COOK, COMMISSIONER, v. WILSON ET AL., PARTNERS, DOING BUSINESS AS WILSON LUMBER CO.* See *ante*, p. 685.