

January 17, 1966.

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NORTHWESTERN PACIFIC RAILROAD CO. v.
PUBLIC UTILITIES COMMISSION OF
CALIFORNIA.

APPEAL FROM THE SUPREME COURT OF CALIFORNIA.

No. 676. Decided January 17, 1966.

Appeal dismissed.

Thormund A. Miller, Jeremiah C. Waterman and Randolph Karr for appellant.*Mary Moran Pajalich and Hector Anninos* for appellee.
Boris H. Lakusta for the City of San Rafael et al.

PER CURIAM.

The motion of the City of San Rafael, California, et al. for leave to be named parties appellee is denied. The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question.

SCHILDHAUS v. ASSOCIATION OF THE BAR OF
THE CITY OF NEW YORK.

APPEAL FROM THE COURT OF APPEALS OF NEW YORK.

No. 732. Decided January 17, 1966.

Appeal dismissed and certiorari denied.

Arnold Schildhaus, appellant, *pro se*.*John G. Bonomi and Michael Franck* for appellee.

PER CURIAM.

The motion to dismiss is granted and the appeal is dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for a writ of certiorari, certiorari is denied.

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January 17, 1966.

CONVOY CO. *v.* UNITED STATES ET AL.APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF OREGON.

No. 719. Decided January 17, 1966.

Affirmed.

Marvin Handler and Moe M. Tonkon for appellant.
Solicitor General Marshall, Assistant Attorney General Turner, Robert B. Hummel, Robert W. Ginnane, I. K. Hay and Betty Jo Christian for the United States et al. *Donald W. Smith* for Commercial Carriers, Inc., appellee.

PER CURIAM.

The motions to affirm are granted and the judgment is affirmed.

JOHN *v.* JOHN.

APPEAL FROM THE COURT OF APPEALS OF NEW YORK.

No. 699. Decided January 17, 1966.

16 N. Y. 2d 675, 210 N. E. 2d 457, appeal dismissed and certiorari denied.

Warner Pyne for appellant.*Irwin L. Germaine* for appellee.

PER CURIAM.

The motion to dispense with printing the motion to dismiss or affirm is granted.

The motion to dismiss is granted and the appeal is dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for a writ of certiorari, certiorari is denied.

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AMERICAN TRUCKING ASSOCIATIONS, INC.,
ET AL. v. UNITED STATES ET AL.APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA.

No. 510. Decided January 17, 1966.*

242 F. Supp. 890, affirmed.

Peter T. Beardsley, Richard R. Sigmon, Bryce Rea, Jr., and Ralph C. Busser, Jr., for appellants in No. 510. *Carl Helmetag, Jr.*, for appellant in No. 511.

Solicitor General Marshall, Assistant Attorney General Turner, Lionel Kestenbaum and Robert W. Ginnane for the United States et al. *John F. Donelan and John M. Cleary* for National Industrial Traffic League, appellee in both cases. *Joseph E. Keller and W. H. Borghesani, Jr.*, for South Paterson Trucking Co., Inc., et al.; and *William A. Goichman and Joseph C. Bruno* for Pennsylvania Public Utility Commission, appellees in No. 511.

PER CURIAM.

The motions to affirm are granted and the judgment is affirmed.

MR. JUSTICE BLACK and MR. JUSTICE HARLAN are of the opinion that probable jurisdiction should be noted.

*Together with No. 511, *Pennsylvania Railroad Co. v. United States et al.*, also on appeal from the same court.

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January 17, 1966.

AMERICAN TRUCKING ASSOCIATIONS, INC.,
ET AL. v. UNITED STATES ET AL.APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA.

No. 662. Decided January 17, 1966.

242 F. Supp. 597, affirmed.

Peter T. Beardsley, Richard R. Sigmon and Harry C. Ames, Jr., for appellants.*Solicitor General Marshall, Assistant Attorney General Turner, Robert B. Hummel, Robert W. Ginnane and Betty Jo Christian* for the United States et al. *William M. Moloney, Hugh B. Cox, William H. Allen and James A. Bistline* for Atchison, Topeka & Santa Fe Railway Co. et al., appellees.

PER CURIAM.

The motion of the Atchison, Topeka & Santa Fe Railway Company et al. to be added as parties appellee is granted.

The motions to affirm are granted and the judgment is affirmed.

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NEWSPAPER DRIVERS & HANDLERS LOCAL UNION NO. 372, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, INC. *v.* DETROIT NEWSPAPER PUBLISHERS ASSOCIATION ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT.

No. 663. Decided January 17, 1966.

Certiorari granted; 346 F. 2d 527, judgments vacated and remanded.

David Previant for petitioner.

Philip T. Van Zile II for Detroit Newspaper Publishers Association et al.; and *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for National Labor Relations Board, respondents.

PER CURIAM.

The petition for a writ of certiorari to the United States Court of Appeals for the Sixth Circuit is granted, the judgments are vacated and the case is remanded to that court with instructions that the case be remanded to the National Labor Relations Board for further consideration in light of *American Ship Building Co. v. Labor Board*, 380 U. S. 300.

Syllabus.

SEGAL, DBA SEGAL COTTON PRODUCTS, ET AL. *v.*
ROCHELLE, TRUSTEE IN BANKRUPTCY.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FIFTH CIRCUIT.

No. 44. Argued November 17, 1965.—Decided January 18, 1966.

On September 27, 1961, the individual petitioners and their business partnership filed bankruptcy petitions. After the end of that year loss-carryback federal income tax refunds were obtained for the individual petitioners based on the firm's losses during 1961 prior to bankruptcy which were offset against income for 1959 and 1960 on which taxes had been paid. These refunds, on deposit in a special account by the bankruptcy trustee, are claimed by petitioners on the ground that bankruptcy had not passed the refund claims to the trustee. The referee ruled against petitioners, as did the District Court and the Court of Appeals, the latter holding that the loss-carryback refund claims were both "property" and "transferable" at the time of the bankruptcy petition and thus had passed to the trustee. *Held:*

1. These inchoate claims for loss-carryback refunds constituted "property" as that term is used in § 70a (5) of the Bankruptcy Act. Pp. 379-381.

(a) The classification as "property" is governed by the purposes of the Act. P. 379.

(b) The main thrust of § 70a (5) being to obtain for creditors everything of value possessed by the bankrupt in alienable form at the time the petition was filed, the term "property" has been generously construed and does not exclude interests which are novel or contingent or where enjoyment must be postponed. P. 379.

(c) The term is limited by another purpose of the Act, which is to leave the bankrupt free after the date of the petition to acquire new wealth. P. 379.

(d) The loss-carryback refund claim is sufficiently rooted in the prebankruptcy past and so little enmeshed with the bankrupt's ability to make an unencumbered new start that it should be regarded as "property" under § 70a (5). P. 380.

2. The refund claims were property which prior to filing the petition could have been "transferred" within the meaning of § 70a (5). Pp. 381-385.

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(a) The Assignment of Claims Act, 31 U. S. C. § 203, does not always prevent giving effect, between the parties, to a non-complying transfer, *Martin v. National Surety Co.*, 300 U. S. 588. P. 384.

(b) In Texas, where the petitioners resided and did business, the precedents leave little doubt that an assignment of the refund claims would normally be enforced in equity between the parties. Pp. 384-385.

336 F. 2d 298, affirmed.

Henry Klepak argued the cause and filed a brief for petitioners.

William J. Rochelle, Jr., argued the cause *pro se*. With him on the brief was *Marvin S. Sloman*.

MR. JUSTICE HARLAN delivered the opinion of the Court.

This case, presenting a difficult question of bankruptcy law on which the circuits have differed, arises out of the following facts. On September 27, 1961, voluntary bankruptcy petitions were filed in a federal court in Texas by Gerald Segal, Sam Segal, and their business partnership, Segal Cotton Products. A single trustee, Rochelle, was designated to serve in all three proceedings. After the close of that calendar year, loss-carryback tax refunds were sought and obtained from the United States on behalf of Gerald and Sam Segal under Internal Revenue Code § 172. The losses underlying the refunds had been suffered by the partnership during 1961 prior to the filing of the bankruptcy petitions; the losses were carried back to the years 1959 and 1960 to offset net income on which the Segals had both paid taxes. By agreement, Rochelle deposited the refunds in a special account, and the Segals applied to the referee in bankruptcy to award the refunds to them on the ground that bankruptcy had not passed the refund claims to the trustee.

Concluding that the refund claims had indeed passed under § 70a (5) of the Bankruptcy Act¹ as "property . . . which prior to the filing of the petition . . . [the bankrupt] could by any means have transferred," the referee denied the Segals' application. The District Court affirmed the denial, and the Segals and their partnership appealed to the Court of Appeals for the Fifth Circuit.² That court too rejected the Segals' contention.

As the Court of Appeals here recognized, the Court of Appeals for the First Circuit in *Fournier v. Rosenblum*, 318 F. 2d 525, and the Court of Appeals for the Third Circuit in *In re Sussman*, 289 F. 2d 76, have both ruled squarely that a bankrupt's loss-carryback refund claims based on losses in the year of bankruptcy do not pass to the trustee but instead the bankrupt is entitled to the refunds when they are ultimately paid. Concededly, under § 70a (5) the trustee must acquire the bankrupt's "property" as of the date the petition is filed and property subsequently acquired belongs to the bankrupt. See note 1, *supra*; 4 Collier, Bankruptcy ¶ 70.09 (14th ed. 1962). Since the tax laws allow a loss-carryback refund claim to be made only when the year

¹ 30 Stat. 565, as amended, 11 U. S. C. § 110 (a)(5) (1964 ed.). In relevant part that section provides: "(a) The trustee of the estate of a bankrupt . . . shall . . . be vested by operation of law with the title of the bankrupt as of the date of the filing of the petition initiating a proceeding under this title, except insofar as it is to property which is held to be exempt, to all of the following kinds of property wherever located . . . (5) property, including rights of action, which prior to the filing of the petition he could by any means have transferred or which might have been levied upon and sold under judicial process against him, or otherwise seized, impounded, or sequestered"

² The wife of Gerald Segal and the estate of the deceased wife of Sam Segal had unsuccessfully urged before the referee their own contingent rights to half the refunds, but review on this issue was not sought.

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has closed, see I. R. C. §§ 172 (a), (c), 6411, both the First and Third Circuits reasoned that prior to the year's end a loss-carryback refund claim was too tenuous to be classed as "property" which would pass under § 70a (5). Alternatively, the Third Circuit stated that because of the federal anti-assignment statute,³ inchoate refund claims were not in any event property "which prior to the filing of the petition . . . [the bankrupt] could by any means have transferred," as § 70a (5) also requires. Both circuits felt the result to be unfortunate, not least because the very losses generating the refunds often help precipitate the bankruptcy and injury to the creditors, but both believed the statutory language left no option.

After detailed discussion of the problems, the Court of Appeals in this case resolved that the loss-carryback refund claims were both "property" and "transferable" at the time of the bankruptcy petition and hence had passed to the trustee. 336 F. 2d 298. We granted certiorari because of the conflict and the significance of the issue in bankruptcy administration.⁴ 380 U. S. 931.

³ Rev. Stat. § 3477, as amended, 31 U. S. C. § 203 (1964 ed.). The section, so far as relevant, states: "All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor . . . shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof."

⁴ Considerable commentary has been directed to the problem. Practically all the writers agree that it is desirable for the trustee to receive the refunds although a minority contend that existing law will not permit this result. See Herzog, *Bankruptcy Law—Modern Trends*, 36 Ref. J. 18 (1962); 60 Nw. U. L. Rev. 122 (1965); 40 Notre Dame Law. 118 (1964); 14 Stan. L. Rev. 380 (1962); 40 Tex. L. Rev. 569 (1962); 42 Tex. L. Rev. 542 (1964); 17 U. Fla. L. Rev. 241 (1964); 16 U. Miami L. Rev. 345 (1961); 110 U. Pa. L. Rev. 275 (1961).

Conceding the question to be close, we are persuaded by the reasoning of the Fifth Circuit and we affirm its decision.

I.

We turn first to the question whether on the date the bankruptcy petitions were filed, the potential claims for loss-carryback refunds constituted "property" as § 70a (5) employs that term. Admittedly, in interpreting this section "[i]t is impossible to give any categorical definition to the word 'property,' nor can we attach to it in certain relations the limitations which would be attached to it in others." *Fisher v. Cushman*, 103 F. 860, 864. Whether an item is classed as "property" by the Fifth Amendment's Just-Compensation Clause or for purposes of a state taxing statute cannot decide hard cases under the Bankruptcy Act, whose own purposes must ultimately govern.

The main thrust of § 70a (5) is to secure for creditors everything of value the bankrupt may possess in alienable or leviable form when he files his petition. To this end the term "property" has been construed most generously and an interest is not outside its reach because it is novel or contingent or because enjoyment must be postponed. *E. g., Horton v. Moore*, 110 F. 2d 189 (contingent, postponed interest in a trust); *Kleinschmidt v. Schroeter*, 94 F. 2d 707 (limited interest in future profits of a joint venture); see 3 Remington, *Bankruptcy* §§ 1177-1269 (Henderson ed. 1957). However, limitations on the term do grow out of other purposes of the Act; one purpose which is highly prominent and is relevant in this case is to leave the bankrupt free after the date of his petition to accumulate new wealth in the future. Accordingly, future wages of the bankrupt do not constitute "property" at the time of bankruptcy nor, analogously, does an intended bequest to him or a promised gift—even though state law might permit all of these

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to be alienated in advance. *E. g., In re Coleman*, 87 F. 2d 753; see 4 Collier, Bankruptcy ¶¶ 70.09, 70.27 (14th ed. 1962). Turning to the loss-carryback refund claim in this case, we believe it is sufficiently rooted in the pre-bankruptcy past and so little entangled with the bankrupts' ability to make an unencumbered fresh start that it should be regarded as "property" under § 70a (5).

Temporally, two key elements pointing toward realization of a refund existed at the time these bankruptcy petitions were filed: taxes had been paid on net income within the past three years, and the year of bankruptcy at that point exhibited a net operating loss. The Segals stress in this Court that under the statutory scheme no refund could be claimed from the Government until the end of the year, but as cases already cited indicate, postponed enjoyment does not disqualify an interest as "property." That earnings by the bankrupt after filing the petition might diminish or eliminate the loss-carryback refund claim does further qualify the interest, but we have already noted that contingency in the abstract is no bar and the actual risk that the refund claims may be erased is quite far from a certainty.⁵ Unlike a pre-bankruptcy promise of a gift or bequest, passing title to the trustee does not make it unlikely the gift or bequest will be effected. Nor does passing the claim hinder the bankrupt from starting out on a clean slate, for any administrative inconvenience to the bankrupt will not be prolonged, see 110 U. Pa. L. Rev., at 279-280, and the bankrupt without a refund claim to preserve has more reason to earn income rather than less.

⁵ So far as losses by the bankrupt after filing but before the year's end might increase the refund—a situation not claimed to be present in this case—the Court of Appeals suggested "[a] proration of the refund in the ratio of the losses before and after the filing date would be indicated . . ." 336 F. 2d, at 302, n. 5.

We are told that if this loss-carryback refund claim is "property," that label must also attach to loss-carryovers, that is, the application of pre-bankruptcy losses to earnings in future years. Since losses may be carried forward five years and in some cases even seven or ten years, I. R. C. §§ 172 (b)(1)(B)–(D), great hardship for the estate is foreseen by petitioners in keeping it open for this length of time. While in fact the trustee can obviate this detriment to the estate—by selling a contingent claim in some instances or simply forgoing it—inconvenience and hindrance might be caused for the bankrupt individual. Without ruling in any way on a question not before us, it is enough to say that a carry-over into post-bankruptcy years can be distinguished conceptually as well as practically. The bankrupts in this case had both prior net income and a net loss when their petitions were filed and apparently would have deserved an immediate refund had their tax year terminated on that date; by contrast, the supposed loss-carryover would still need to be matched in some future year by earnings, earnings that might never eventuate at all.

II.

Having concluded that the loss-carryback refund claims in this case constituted "property" at the time of the bankruptcy petitions, it remains for us to decide whether in addition they were property "which prior to the filing of the petition . . . [the bankrupt] could by any means have transferred . . ."⁶ The prime ob-

⁶ The "choice of law" rules relevant to this question are not in dispute. What would constitute a "transfer" is a matter of federal law. 4 Collier, *Bankruptcy* ¶ 70.15, at 1035–1036 and n. 25 (14th ed. 1962). Whether an item could have been so transferred is determined generally by state law, save that on rare occasions overriding federal law may control this determination or bear upon it. *Id.*, at 1034–1035 and n. 22. The Segals were Texas residents, the business was apparently based in Texas, and the bankruptcy court was located there; no other State's law is claimed to be relevant.

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stacle to an affirmative answer is 31 U. S. C. § 203, which renders "absolutely null and void" all transfers of any claim against the United States unless among other conditions the claim has been allowed and the amount ascertained. See n. 3, *supra*. Plainly since the tax laws calculate the refund only on the full year's experience after the year has closed, the claims in the present instance could not have been allowed or ascertained at the time the petitions were filed.

The respondent argues that the transferability requirement of § 70a (5) can be met by relying on the long-established rule that § 203 does not apply to prevent transfers by "operation of law." See *United States v. Aetna Surety Co.*, 338 U. S. 366, 373-374; *Goodman v. Niblack*, 102 U. S. 556, 560.⁷ The phrasing of § 70a (5), however, suggests that it contemplates a voluntary transfer and is not satisfied simply because property could have been transferred by operation of law, such as by death, bankruptcy, or judicial process. Not only is there practically no form of property that would not be transferable under the broader reading, but such a reading also makes redundant the alternative route for complying with § 70a (5) through showing that the property "might have been levied upon and sold under judicial process"⁸ Admittedly, the Bankruptcy Act defines the word "transfer" in its general definitional section to include at least certain transfers that are "invol-

⁷ This exception is the simplest reason why § 203 does not interfere with the vesting in the trustee of property coming within § 70a (5), for all transfers under § 70a are explicitly by "operation of law," see n. 1, *supra*; but of course property must still qualify as transferable within the meaning of § 70a (5).

⁸ See n. 1, *supra*. The respondent has not argued that under Texas law the Segals' inchoate refund claims would be subject to such judicial process, and apparently in Texas the claims' contingent status would render this argument quite doubtful. See 26 Tex. Jur. 2d, *Garnishment* § 17 (1961), and cases there cited.

untary,"⁹ but legislative history indicates that the introduction of this latter term into the Act 40 years after its framing was not aimed at § 70a (5) at all. See H. R. Rep. No. 1409, 75th Cong., 1st Sess., p. 5; Analysis of H. R. 12889, 74th Cong., 2d Sess., p. 7 (House Judiciary Comm. Print).

Difficulty in defining the term "transfer" is enhanced by the absence of any explanation for Congress' having made transferability a condition in the first place. Bankruptcy Acts prior to the present one enacted in 1898 had no like limitation on the trustee's succession to property, see Bankruptcy Acts of 1867, § 14, 14 Stat. 522; of 1841, § 3, 5 Stat. 442; and of 1800, §§ 5, 13, 2 Stat. 23, 25, and under the predecessor Act claims against the Government passed without impediment to the trustee. See, *e. g.*, *Erwin v. United States*, 97 U. S. 392. This history and the chance that the 1898 limitation sought only to respect state policies against alienating property such as a contingent remainder or spendthrift trust fund argue for flatly ignoring the limitation in this instance. See 14 Stan. L. Rev., at 383-386. Nevertheless, we have been shown no legislative history on the point, and an uncertain guess at Congress' intent provides dubious ground for disregarding its plain language. In any event, we are not prepared to accept this argument, just as we cannot now go beyond a narrow definition of the term "transfer," in a case in which these points have not been thoroughly briefed by the parties.

⁹ Bankruptcy Act § 1 (30), as amended by the Chandler Act, 52 Stat. 842, as amended, 11 U. S. C. § 1 (30) (1964 ed.), pertinently reads: "'Transfer' shall include the sale and every other and different mode, direct or indirect, of disposing of or of parting with property or with an interest therein or with the possession thereof or of fixing a lien upon property or upon an interest therein, absolutely or conditionally, voluntarily or involuntarily, by or without judicial proceedings, as a conveyance, sale, assignment, payment, pledge, mortgage, lien, encumbrance, gift, security, or otherwise . . .'"

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The Court of Appeals determined that despite § 203 a sufficient voluntary transfer of the loss-carryback refund claim could have been made prior to bankruptcy to satisfy § 70a (5), and on balance we share this view. In *Martin v. National Surety Co.*, 300 U. S. 588, 596, a unanimous Court held that § 203, in spite of its broad language, "must be interpreted in the light of its purpose to give protection to the Government" so that between the parties effect might still be given to an assignment that failed to comply with the statute. The opinion reasoned that after claims have been collected by the assignor, requiring compliance with the invalid assignment by transfer of the recovery to the assignee presented no danger that the Government might become "embroiled in conflicting claims, with delay and embarrassment and the chance of multiple liability." 300 U. S., at 594. While other circumstances encouraged *Martin* to uphold the assignment and this Court has not faced the problem head-on since that time, we find no reason to retreat now from the basic holding in *Martin* which was both anticipated and followed by a number of other courts, state and federal. See *California Bank v. United States Fid. & Guar. Co.*, 129 F. 2d 751; *Royal Indem. Co. v. United States*, 93 F. Supp. 891; *Leonard v. Whaley*, 91 Hun 304, 36 N. Y. Supp. 147; Ann., 12 A. L. R. 2d 460, 468-475 (1950). Among these States is Texas, whose precedents leave little doubt that an assignment of the claims at issue would be enforced in equity in the normal case. *Trinity Univ. Ins. Co. v. First State Bank*, 143 Tex. 164, 183 S. W. 2d 422; see *United Hay Co. v. Ford*, 124 Tex. 213, 76 S. W. 2d 480 (dictum).

It should not be pretended that this contemplated "transfer" is one in the fullest sense that term permits. For example, this Court has ruled that one holding a claim invalidly assigned under § 203 may not sue the Government upon it though he join his assignor as well.

United States v. Shannon, 342 U. S. 288. Yet it remains true that a Texas court of equity could and would compel the assignment of any refund received, if indeed it might not try to compel a reluctant assignor to collect the claim or make it over by a valid assignment when that became possible. This, we believe, suffices to make the Segals' claims transferable within the meaning of § 70a (5). Cf. 4 Collier, *Bankruptcy* ¶ 70.37, at 1293, n. 6 (14th ed. 1962).

Affirmed.

CALIFORNIA *v.* BUZARD.

CERTIORARI TO THE SUPREME COURT OF CALIFORNIA.

No. 40. Argued November 16, 1965.—Decided January 18, 1966.

Respondent, a resident of Washington, was stationed in California under military orders. He bought an automobile while temporarily assigned in Alabama, where he registered it and obtained Alabama license plates. California, on his return, insisted he could not use the Alabama plates in that State but that he had to register the car in California and obtain California plates. When he sought to do so he was advised that he had to pay a registration fee and a 2% "license fee" under the state revenue and tax code. He refused to pay the latter fee. Respondent was thereafter convicted for violating a California misdemeanor provision by driving a vehicle on California highways without registering it and paying "appropriate fees." The California Supreme Court reversed the District Court of Appeal's affirmance of the conviction, on the ground that California had improperly conditioned registration of respondent's car on payment of a fee from which he was exempt under § 514 of the Soldiers' and Sailors' Civil Relief Act of 1940. Section 514 (2)(b) of the Act provides for exemption in the case of motor vehicles, provided that the fee "required by" the home State has been paid. The court reasoned that in respondent's case no such payment to the home State was necessary since the duty to register is imposed only as to cars driven on the home State's highways and he had not driven in the home State that year; that the terms of the proviso were satisfied; and that, since no payment was required, respondent was not subject to the California tax. *Held:*

1. The condition in § 514 (2)(b) for the exemption applicable to nonresident servicemen that they must have paid the licenses, fees, or excises "required by" the State of residence or domicile means that they must have paid such licenses, fees, or excises "of" that State. It was not Congress' intention to permit servicemen in respondent's position completely to avoid registration and licensing requirements, which are within the State's police power to impose. Servicemen may be required to register their cars and obtain license plates in host States if they do not do so in their home States, and may be required to pay all taxes essential thereto. Pp. 391-392.

2. Congress did not intend to include in § 514 (2)(b) taxes imposed only to defray the costs of highway maintenance. Since California authorities had determined that California's 2% "license fee" serves primarily a revenue purpose and is not essential to assure registration of motor vehicles, it does not constitute a "license, fee, or excise" within the meaning of § 514 (2)(b) and nonresident servicemen are therefore exempt from its imposition regardless of whether they are required to register and license their motor vehicles in California because of a failure to do so in their home States. Pp. 392-396.

3. As the California Supreme Court held, the invalidity as to the respondent of the 2% "license fee" constituted a valid defense to the misdemeanor violation for which he was convicted. P. 396.

61 Cal. 2d 833, 395 P. 2d 593, affirmed.

Doris H. Maier, Assistant Attorney General of California, argued the cause for petitioner. With her on the briefs were *Thomas C. Lynch*, Attorney General, and *Edsel W. Haws*, Deputy Attorney General.

Thomas Keister Greer argued the cause for respondent. With him on the brief was *C. Ray Robinson*.

Acting Solicitor General Spritzer, *Acting Assistant Attorney General Jones* and *I. Henry Kutz* filed a memorandum for the United States, as *amicus curiae*, urging reversal.

MR. JUSTICE BRENNAN delivered the opinion of the Court.

Section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940, 56 Stat. 777, as amended, provides a nonresident serviceman present in a State in compliance with military orders with a broad immunity from that State's personal property and income taxation. Section 514 (2)(b) of the Act further provides that

"the term 'taxation' shall include but not be limited to licenses, fees, or excises imposed in respect to

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motor vehicles or the use thereof: *Provided*, That the license, fee, or excise required by the State . . . of which the person is a resident or in which he is domiciled has been paid.”¹

The respondent here, Captain Lyman E. Buzard, was a resident and domiciliary of the State of Washington stationed at Castle Air Force Base in California. He had purchased an Oldsmobile while on temporary duty in Alabama, and had obtained Alabama license plates for it by registering it there. On his return, California refused to allow him to drive the car on California high-

¹ 50 U. S. C. App. § 574 (2)(b). Section 514, 50 U. S. C. App. § 574, reads in relevant part as follows:

“(1) For the purposes of taxation in respect of any person, or of his *personal* property, income, or gross income, by any State, . . . such person shall not be deemed to have lost a residence or domicile in any State, . . . solely by reason of being absent therefrom in compliance with military or naval orders, or to have acquired a residence or domicile in, or to have become resident in or a resident of, any other State, . . . while, and solely by reason of being, so absent. For the purposes of taxation in respect of the *personal* property, income, or gross income of any such person by any State, . . . of which such person is not a resident or in which he is not domiciled, . . . *personal property shall not be deemed to be located or present in or to have a situs for taxation in such State, Territory, possession, or political subdivision, or district.* . . .

“(2) *When used in this section, (a) the term ‘personal property’ shall include tangible and intangible property (including motor vehicles), and (b) the term ‘taxation’ shall include but not be limited to licenses, fees, or excises imposed in respect to motor vehicles or the use thereof: Provided, That the license, fee, or excise required by the State . . . of which the person is a resident or in which he is domiciled has been paid.”* (50 U. S. C. App. § 574.)

The unitalicized text was enacted in 1942, 56 Stat. 777. Concern whether nonresident servicemen were sufficiently protected from personal property taxation by host States led to a clarifying amendment in 1944, 58 Stat. 722. That amendment gave § 514 its two subsections. The italicized words in subsection (1) are the relevant additions to the original section. Subsection (2) was entirely new.

ways with the Alabama plates, and, since he had not registered or obtained license tags in his home State, demanded that he register and obtain license plates in California. When he sought to do so, it was insisted that he pay both the registration fee of \$8 imposed by California's Vehicle Code² and the considerably larger "license fee" imposed by its Revenue and Taxation code.³ The license fee is calculated at "two (2) percent of the market value of the vehicle," § 10752, and is "imposed . . . in lieu of all taxes according to value levied for State or local purposes on vehicles . . . subject to registration under the Vehicle Code" § 10758. Captain Buzard refused to pay the 2% fee,⁴ and was prosecuted and convicted for violating Vehicle Code § 4000, which provides that "[N]o person shall drive . . . any motor vehicle . . . upon a highway unless it is registered and the appropriate fees have been paid under this code." The conviction, affirmed by the District Court of Appeal, 38 Cal. Rptr. 63, was reversed by the Supreme Court of California, 61 Cal. 2d 833, 395 P. 2d 593. We granted certiorari, 380 U. S. 931, to consider whether § 514 barred California from exacting the 2% tax as a condition of registering and licensing Captain Buzard's car. We conclude that it did, and affirm.

The California Supreme Court's reversal of Captain Buzard's conviction depended on its reading of the

² The relevant provisions of the Vehicle Code, enacted in 1935, and recodified in 1959, are §§ 4000, 4750 and 9250.

³ The relevant provisions of the Revenue and Taxation Code, enacted in 1939, are §§ 10751, 10752 and 10758.

⁴ Captain Buzard did not have sufficient cash to pay the \$8 registration fee and the approximately \$100 demanded in payment of the 2% tax and penalties. He testified without contradiction that at that time he "didn't refuse to pay" the tax. "He [the registration officer] said, 'Do you want to pay it now?' and I said, 'I don't have the money in cash with me, will you accept a check?' and he said, 'No.'" It was thereafter that Captain Buzard asserted his contention that the tax could not legally be assessed.

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words "required by" in the proviso of § 514 (2)(b). In the context of the entire statute and its prior construction, it gave those words the effect of barring the host State from imposing a motor vehicle "license, fee, or excise" unless (1) there was such a tax owing to and assessed by the home State and (2) that tax had not been paid by the serviceman. The mandatory registration statute of Washington, as of most States, imposes the duty to register only as to cars driven on its highways, and Captain Buzard had not driven his car in Washington during the registration year. The court reasoned that there was thus no "license, fee, or excise" owing to and assessed by his home State. Since there was on this view no tax "required by" Washington, the court concluded that California could not impose its tax, even though Captain Buzard had not paid any Washington tax.

If this reading of the phrase "required by" in the proviso were correct, no host State could impose any tax on the licensing or registration of a serviceman's motor vehicle unless he had not paid taxes actually owing to and assessed by his home State. If the serviceman were under no obligation to his home State, and payment of taxes was a prerequisite of registration or licensing under the host State statutes, the host State authorities might consider themselves precluded from registering and licensing his car. The California court did not confront this consequence of its construction, because it regarded the relevant provisions of California statutes as allowing registration and licensing whether or not taxes were paid; hence, the possibility of unregistered cars using the California highways was thought not to be at issue.⁵ The court's construction, however, per-

⁵ "Defendant does not contend that California may not, as an exercise of its police power, require him to register his automobile. In fact, his attempt to register the vehicle independently of the

tained to the federal, not the state, statute; if correct, it would similarly restrict the imposition of other host States' registration and licensing tax provisions, whether or not they are as flexible as California's. We must therefore consider the California court's construction in the light of the possibility that in at least some host States, it would permit servicemen to escape registration requirements altogether.

Thus seen, the California court's construction must be rejected. Although little appears in the legislative history to explain the proviso,⁶ Congress was clearly concerned that servicemen stationed away from their home State should not drive unregistered or unlicensed motor vehicles. Every State required in 1944, and requires now, that motor vehicles using its highways be registered and bear license plates. Such requirements are designed to facilitate the identification of vehicle

payment of fees and penalties was frustrated by the department. Defendant's position is simply that the Soldiers' and Sailors' Civil Relief Act of 1940 . . . prohibits the collection of such fees as an incident to a proper exercise of the police power or otherwise. As a consequence of the narrow question thus raised by the defendant, contentions which look to the purpose of registration in furtherance of proper law enforcement and administration fail to address themselves to the issue." 61 Cal. 2d, at 835, 395 P. 2d, at 594.

The statutory scheme severs the 2% tax provision of the Revenue and Taxation Code from the flat registration fee of \$8 requirement in the Vehicle Code. Vehicle Code § 4000, under which respondent was prosecuted, refers only to payments of "the appropriate fees . . . under *this code*" and Vehicle Code § 4750 refers only to "the required fee." (Emphasis supplied.) The severability clause of the Revenue and Taxation Code, § 26, provides that if application of any provision of that Code to "any person or circumstance, is held invalid . . . the application of the provision to other persons or circumstances, is not affected."

⁶ H. R. Rep. No. 1514, 78th Cong., 2d Sess.; S. Rep. No. 959, 78th Cong., 2d Sess. There were no debates.

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owners and the investigation of accidents, thefts, traffic violations and other violations of law. Commonly, if not universally, the statutes imposing the requirements of registration or licensing also prescribe fees which must be paid to authorize state officials to issue the necessary documents and plates. To assure that servicemen comply with the registration and licensing laws of some State, whether of their home State or the host State, we construe the phrase "license, fee, or excise *required by* the State . . ." as equivalent to "license, fee, or excise *of* the State. . ." Thus read, the phrase merely indicates Congress' recognition that, in one form or another, all States have laws governing the registration and licensing of motor vehicles, and that such laws impose certain taxes as conditions thereof. The serviceman who has not registered his car and obtained license plates under the laws "of" his home State, whatever the reason, may be required by the host State to register and license the car under its laws.

The proviso is to be read, at the least, as assuring that § 514 would not have the effect of permitting servicemen to escape the obligation of registering and licensing their motor vehicles. It has been argued that § 514 (2)(b) also represents a congressional judgment that servicemen should contribute to the costs of highway maintenance, whether at home or where they are stationed, by paying whatever taxes the State of registration may levy for that purpose. We conclude, however, that no such purpose is revealed in the section or its legislative history and that its intent is limited to the purpose of assuring registration. Since at least the 2% tax here involved has been held not essential to that purpose as a matter of state law, we affirm the California Supreme Court's judgment.

It is plain at the outset that California may collect the 2% tax only if it is a "license, fee, or excise" on a motor

vehicle or its use. The very purpose of § 514 in broadly freeing the nonresident serviceman from the obligation to pay property and income taxes was to relieve him of the burden of supporting the governments of the States where he was present solely in compliance with military orders. The statute operates whether or not the home State imposes or assesses such taxes against him. As we said in *Dameron v. Brodhead*, 345 U. S. 322, 326, ". . . though the evils of potential multiple taxation may have given rise to this provision, Congress appears to have chosen the broader technique of the statute carefully, freeing servicemen from both income and property taxes imposed by any state by virtue of their presence there as a result of military orders. It saved the sole right of taxation to the state of original residence whether or not that state exercised the right." Motor vehicles were included as personal property covered by the statute. Even if Congress meant to do more by the proviso of § 514 (2)(b) than insure that the car would be registered and licensed in one of the two States, it would be inconsistent with the broad purposes of § 514 to read subsection (2)(b) as allowing the host State to impose taxes other than "licenses, fees, or excises" when the "license, fee, or excise" of the home State is not paid.⁷

Although the Revenue and Taxation Code expressly denominates the tax "a license fee," § 10751, there is no persuasive evidence Congress meant state labels to be conclusive; therefore, we must decide as a matter of federal law what "licenses, fees, or excises" means in the statute. See *Storaasli v. Minnesota*, 283 U. S. 57, 62. There is nothing in the legislative history to show that Congress intended a tax not essential to assure registration, such as the California "license fee," to fall within the

⁷ Contra, *Whiting v. City of Portsmouth*, 202 Va. 609, 118 S. E. 2d 505; *Snapp v. Neal*, 250 Miss. 597, 164 So. 2d 752, reversed today, *post*, p. 397.

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category of "licenses, fees, or excises" host States might impose if home State registration was not effected. While it is true that a few state taxes in effect in 1944, like the California 2% "license fee," were imposed solely for revenue purposes, the great majority of state taxes also served to enforce registration and licensing statutes.⁸ No discussion of existing state laws appears in the Committee Reports. There is thus no indication that Congress was aware that any State required that servicemen contribute to the costs of highway maintenance without regard to the relevance of such requirements to the non-revenue purposes of state motor vehicle laws.

⁸ Most States in 1944, as now, conditioned registration and the issuance of license plates upon the payment of a registration fee measured by horsepower, weight or some combination of these factors. See, e. g., Del. Rev. Code 1935, § 5564 (weight); Page's Ohio Gen. Code (1945 Repl. Vol.), § 6292 (weight); Mo. Rev. Stat. Ann. 1942, § 8369 (horsepower); N. J. Rev. Stat. 1937, § 39:3-8 (horsepower); Conn. Gen. Stat. Rev. 1930, § 1578 (cubic displacement); Iowa Code 1939, § 5008.05 (value and weight); Digest Ark. Stat. 1937, § 6615 (horsepower and weight).

Other States charged a flat fee. See, e. g., Ore. Comp. Laws 1940, §§ 115-105, 115-106; Ariz. Code 1939, § 66-256; Alaska Comp. Laws 1933, § 3151.

A few States, such as California, charged both a flat registration fee and a larger, variable "license fee" measured by vehicle value. See, e. g., Cal. Vehicle Code 1935, §§ 140, 148, 370, Cal. Rev. & Tax. Code 1939, §§ 10751-10758; Remington's Wash. Rev. Stat. (1937 Repl. Vol.), §§ 6312-16, 6312-102; compare Miss. Code 1942, §§ 9352-19, 9352-03 (certificate of payment of ad valorem tax required of those who must pay it); Wyo. Comp. Stat. 1945, §§ 60-103, 60-104 (flat fee plus ad valorem fee; ad valorem fee to be paid only by persons actually driving in the State).

The statutes commonly recited that these fees, whatever their measure, were imposed for the privilege of using the State's highways; the proceeds were usually devoted to highway purposes. Even where property value was the measure of the fees, they were characterized as privilege, not property, taxes. See, e. g., *Ingels v. Riley*, 5 Cal. 2d 154, 53 P. 2d 939 (1936).

The conclusion that Congress lacked information about the California practice does not preclude a determination that it meant to include such taxes, levied only for revenue, as "licenses, fees, or excises." But in deciding that question in the absence of affirmative indication of congressional meaning, we must consider the overall purpose of § 514 as well as the words of subsection (2)(b). Taxes like the California 2% "license fee" serve primarily a revenue interest, narrower in purpose but no different in kind from taxes raised to defray the general expenses of government.⁹ It is from the burden of taxes serving such ends that nonresident servicemen were to be freed, in the main, without regard to whether their home States imposed or sought to collect such taxes from them. *Dameron v. Brodhead, supra.* In recent amendments, Congress has reconfirmed this basic purpose.¹⁰ We do not think that subsection (2)(b) should be read as impinging upon it. Rather, reading the Act, as we must, "with an eye friendly to those who dropped their affairs to answer their country's call," *Le Maistre v. Leffers*, 333 U. S. 1, 6, we conclude that subsection (2)(b) refers only to those taxes which are essential to the functioning of the host State's licensing and registration laws in their application to the motor vehicles of nonresident servicemen. Whether the 2% tax is within the reach of the federal immunity is thus not to be tested, as California argues, by whether its inclusion frustrates the administration of California's tax policies. The test, rather, is whether the inclusion would deny the State power to

⁹ Indeed, the 2% "license fee" was adopted in 1935 as a substitute for local ad valorem taxation of automobiles, which had proved administratively impractical. Stockwell, *Studies in California State Taxation, 1910-1935*, at pp. 108-110 (1939); *Final Report of the California Tax Commission* 102 (1929). Its basis remains the location of the automobile in the State.

¹⁰ Pub. L. § 87-771, 76 Stat. 768.

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enforce the nonrevenue provisions of state motor vehicle legislation.

Whatever may be the case under the registration and licensing statutes of other States, California authorities have made it clear that the California 2% tax is not imposed as a tax essential to the registration and licensing of the serviceman's motor vehicle.¹¹ Not only did the California Supreme Court regard the statutes as permitting registration without payment of the tax, but the District Court of Appeal, in another case growing out of this controversy, expressly held that "[t]he registration statute has an entirely different purpose from the license fee statutes, and it is clearly severable from them." *Buzard v. Justice Court*, 198 Cal. App. 2d 814, 817, 18 Cal. Rptr. 348, 349-350.¹² The California Supreme Court also held, in effect, that invalidity of the "license fee" as applied was a valid defense to prosecution under Vehicle Code § 4000. In these circumstances, and since the record is reasonably to be read as showing that Captain Buzard would have registered his Oldsmobile but for the demand for payment of the 2% tax, the California Supreme Court's reversal of his conviction is

Affirmed.

¹¹ It is not clear from the California courts' opinions whether they regard the \$8 registration fee as a fee essential to the registration and licensing of the motor vehicle. Therefore that question remains open for determination in the state courts.

¹² See note 5, *supra*.

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SNAPP *v.* NEAL, STATE AUDITOR, ET AL.

CERTIORARI TO THE SUPREME COURT OF MISSISSIPPI.

No. 16. Argued November 15-16, 1965. Decided January 18, 1966.

Imposition by a host State of an ad valorem tax on a nonresident serviceman's house trailer, where the serviceman had paid no "license, fee, or excise" to his home State, held invalid under § 514 of the Soldiers' and Sailors' Civil Relief Act of 1940, an ad valorem tax not being within the category of a motor vehicle "license, fee, or excise" under § 514 (2) (b). *California v. Buzard*, *ante*, p. 386, followed. P. 398.

250 Miss. 597, 164 So. 2d 752, reversed.

Leon D. Hubert, Jr., argued the cause for petitioner. With him on the briefs was *Carl J. Felth*.

Martin R. McLendon, Assistant Attorney General of Mississippi, argued the cause for respondents. With him on the brief was *Joe T. Patterson*, Attorney General.

Acting Solicitor General Spritzer, *Acting Assistant Attorney General Jones* and *I. Henry Kutz* filed a brief for the United States, as *amicus curiae*, urging reversal.

Mr. JUSTICE BRENNAN delivered the opinion of the Court.

This is a companion case to *California v. Buzard*, *ante*, p. 386, decided today. The State of Mississippi levied an ad valorem tax against a house trailer of the petitioner, Sergeant Jesse E. Snapp. Sergeant Snapp was stationed under military orders at Crystal Springs Air Force Base, Mississippi. He bought the trailer in Mississippi and moved it on Mississippi highways to a private trailer park near the Air Force Base where he placed it on movable concrete blocks and used it as a home. He did not register or license the trailer, or pay

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any taxes on it in his home State of South Carolina. He challenged the Mississippi tax as a tax on his personal property prohibited by the Soldiers' and Sailors' Civil Relief Act of 1940, 54 Stat. 1178, as amended in 1944, § 514, 50 U. S. C. App. § 574.* The Mississippi Supreme Court sustained the levy on the ground that, as applied to motor vehicles, § 514 (2)(b) conditions the nonresident serviceman's immunity from its *ad valorem* tax on the serviceman's prior payment of the fees imposed by his home State. The court reasoned that since § 514 (2)(b) "stipulat[es] expressly that the taxation should not be limited to privilege and excise taxes, it necessarily follows that the prohibited tax must include the only other general branch of taxation, that is, *ad valorem*. It is emphasized that the federal statute is meant to include *ad valorem* taxes as being one of the taxes for which the serviceman is *immune*, provided he complies with the laws of his home state concerning registration of the motor vehicle. If he fails to so comply, as was done in this case at bar, he is no longer entitled to protection of the Act of Congress." 250 Miss. 597, at 614-615, 164 So. 2d 752, at 760. We granted certiorari, 380 U. S. 931. We reverse on the authority of our holding today in *Buzard* that the failure to pay the motor vehicle "license, fee, or excise" of the home State entitles the host State only to exact motor vehicle taxes qualifying as "licenses, fees, or excises"; the *ad valorem* tax, as the Mississippi Supreme Court acknowledged, is not such an exaction. We thus have no occasion to decide whether the Mississippi Supreme Court was correct in holding that the house trailer was a "motor vehicle" within the meaning of § 514 (2)(b).

Reversed.

*The relevant text of the statute is in *California v. Buzard*, *ante*, p. 388, n. 1.

Syllabus.

GIACCIO *v.* PENNSYLVANIA.

APPEAL FROM THE SUPREME COURT OF PENNSYLVANIA.

No. 47. Argued December 6, 1965.—Decided January 19, 1966.

Appellant was acquitted following a jury trial on a misdemeanor indictment. Costs were assessed against him under an 1860 Pennsylvania statute permitting jurors to "determine, by their verdict, whether the [acquitted] defendant shall pay the costs," and providing for his commitment to jail in default of payment or security. The jury had been instructed that it could place the prosecution costs on appellant though found guiltless of the charges if nevertheless it found him guilty of "some misconduct" less than that charged but which had brought on the prosecution and warranted some penalty short of conviction. The trial court upheld appellant's contention that the statute violated due process requirements of the Fourteenth Amendment. The intermediate appellate court reversed the trial court and was sustained by the State Supreme Court. *Held:* The 1860 Act violates the Due Process Clause because of vagueness and the absence of any standards that would prevent arbitrary imposition of costs. Pp. 402—405.

(a) Regardless of whether the Act is "penal" or "civil," it must meet the due process requirements of the Fourteenth Amendment. P. 402.

(b) The absence of any statutory standards is not cured by judicial interpretations that allow juries to impose costs on a defendant where they find the defendant's conduct though not unlawful was "reprehensible" or "improper" or where the jury finds that the defendant committed "some misconduct." Pp. 402—405.

415 Pa. 139, 202 A. 2d 55, reversed and remanded.

Peter Hearn argued the cause for appellant. With him on the brief were *James C. N. Paul* and *Paul J. Mishkin*.

John S. Halsted argued the cause for appellee. With him on the brief were *Walter E. Alessandroni*, Attorney General of Pennsylvania, *Graeme Murdock*, Deputy Attorney General, and *A. Alfred Delduoco*.

MR. JUSTICE BLACK delivered the opinion of the Court.

Appellant Giaccio was indicted by a Pennsylvania grand jury and charged with two violations of a state statute which makes it a misdemeanor to wantonly point or discharge a firearm at any other person.¹ In a trial before a judge and jury appellant's defense was that the firearm he had discharged was a starter pistol which only fired blanks. The jury returned a verdict of not guilty on each charge, but acting pursuant to instructions of the court given under authority of a Pennsylvania statute of 1860, assessed against appellant the court costs of one of the charges (amounting to \$230.95). The Act of 1860, set out below,² provides among other things that:

"... in all cases of acquittals by the petit jury on indictments for [offenses other than felonies], the jury trying the same shall determine, by their verdict, whether the county, or the prosecutor, or the

¹ Act of June 24, 1939, Pub. L. 872, § 716, Pa. Stat. Ann., Tit. 18, § 4716.

² Act of March 31, 1860, Pub. L. 427, § 62, Pa. Stat. Ann., Tit. 19, § 1222, provides:

"In all prosecutions, cases of felony excepted, if the bill of indictment shall be returned ignoramus, the grand jury returning the same shall decide and certify on such bill whether the county or the prosecutor shall pay the costs of prosecution; and in all cases of acquittals by the petit jury on indictments for the offenses aforesaid, the jury trying the same shall determine, by their verdict, whether the county, or the prosecutor, or the defendant shall pay the costs, or whether the same shall be apportioned between the prosecutor and the defendant, and in what proportions; and the jury, grand or petit, so determining, in case they direct the prosecutor to pay the costs or any portion thereof, shall name him in their return or verdict; and whenever the jury shall determine as aforesaid, that the prosecutor or defendant shall pay the costs, the court in which the said determination shall be made shall forthwith pass sentence to that effect, and order him to be committed to the jail of the county until the costs are paid, unless he give security to pay the same within ten days."

defendant shall pay the costs . . . and whenever the jury shall determine as aforesaid, that the . . . defendant shall pay the costs, the court in which the said determination shall be made shall forthwith pass sentence to that effect, and order him to be committed to the jail of the county until the costs are paid, unless he give security to pay the same within ten days."

Appellant made timely objections to the validity of this statute on several grounds,³ including an objection that the statute is unconstitutionally vague in violation of the Fourteenth Amendment's Due Process Clause because it authorizes juries to assess costs against acquitted defendants, with a threat of imprisonment until the costs are paid, without prescribing definite standards to govern the jury's determination. The trial court held the 1860 Act void for vagueness in violation of due process, set aside the jury's verdict imposing costs on the appellant, and vacated the "sentence imposed upon Defendant that he pay said costs forthwith or give security to pay the same within ten (10) days and to stand committed until he had complied therewith."⁴ The Superior Court of Pennsylvania, one judge dissenting, reversed the trial court closing its opinion this way:

"We can find no reason that would justify our holding it [the 1860 Act] unconstitutional.

"Order reversed, sentence reinstated."⁵

The State Supreme Court, again with one judge dissenting, agreed with the Superior Court and affirmed its judg-

³ One objection was that the Act violates the Equal Protection Clause of the Fourteenth Amendment because it discriminates against defendants in misdemeanor cases by imposing greater burdens upon them than upon defendants in felony cases and cases involving summary offenses. We do not reach or decide this question.

⁴ 30 Pa. D. & C. 2d 463 (Q. S. Chester, 1963).

⁵ 202 Pa. Super. 294, 310, 196 A. 2d 189, 197.

ment.⁶ This left appellant subject to the judgment for costs and the "sentence" to enforce payment. We noted jurisdiction to consider the question raised concerning vagueness and absence of proper standards in the 1860 Act. 381 U. S. 923. We agree with the trial court and the dissenting judges in the appellate courts below that the 1860 Act is invalid under the Due Process Clause because of vagueness and the absence of any standards sufficient to enable defendants to protect themselves against arbitrary and discriminatory impositions of costs.

1. In holding that the 1860 Act was not unconstitutionally vague the State Superior and Supreme Courts rested largely on the declaration that the Act "is not a penal statute" but simply provides machinery for the collection of costs of a "civil character" analogous to imposing costs in civil cases "not as a penalty but rather as compensation to a litigant for expenses. . . ." But admission of an analogy between the collection of civil costs and collection of costs here does not go far towards settling the constitutional question before us. Whatever label be given the 1860 Act, there is no doubt that it provides the State with a procedure for depriving an acquitted defendant of his liberty and his property. Both liberty and property are specifically protected by the Fourteenth Amendment against any state deprivation which does not meet the standards of due process, and this protection is not to be avoided by the simple label a State chooses to fasten upon its conduct or its statute. So here this state Act whether labeled "penal" or not must meet the challenge that it is unconstitutionally vague.

2. It is established that a law fails to meet the requirements of the Due Process Clause if it is so vague and standardless that it leaves the public uncertain as to the conduct it prohibits or leaves judges and jurors free to

⁶ 415 Pa. 139, 202 A. 2d 55.

decide, without any legally fixed standards, what is prohibited and what is not in each particular case. See, *e. g.*, *Lanzetta v. New Jersey*, 306 U. S. 451; *Baggett v. Bullitt*, 377 U. S. 360. This 1860 Pennsylvania Act contains no standards at all, nor does it place any conditions of any kind upon the jury's power to impose costs upon a defendant who has been found by the jury to be not guilty of a crime charged against him. The Act, without imposing a single condition, limitation or contingency on a jury which has acquitted a defendant simply says the jurors "shall determine, by their verdict, whether . . . the defendant, shall pay the costs" whereupon the trial judge is told he "shall forthwith pass sentence to that effect, and order him [defendant] to be committed to the jail of the county" there to remain until he either pays or gives security for the costs. Certainly one of the basic purposes of the Due Process Clause has always been to protect a person against having the Government impose burdens upon him except in accordance with the valid laws of the land. Implicit in this constitutional safeguard is the premise that the law must be one that carries an understandable meaning with legal standards that courts must enforce. This state Act as written does not even begin to meet this constitutional requirement.

3. The State contends that even if the Act would have been void for vagueness as it was originally written, subsequent state court interpretations have provided standards and guides that cure the former constitutional deficiencies. We do not agree. All of the so-called court-created conditions and standards still leave to the jury such broad and unlimited power in imposing costs on acquitted defendants that the jurors must make determinations of the crucial issue upon their own notions of what the law should be instead of what it is. Pennsylvania decisions have from time to time said expressly, or at least implied, that juries having found a defendant not

guilty may impose costs upon him if they find that his conduct, though not unlawful, is "reprehensible in some respect," "improper," outrageous to "morality and justice," or that his conduct was "not reprehensible enough for a criminal conviction but sufficiently reprehensible to deserve an equal distribution of costs" or that though acquitted "his innocence may have been doubtful."⁷ In this case the trial judge instructed the jury that it might place the costs of prosecution on the appellant, though found not guilty of the crime charged, if the jury found that "he has been guilty of some misconduct less than the offense which is charged but nevertheless misconduct of some kind as a result of which he should be required to pay some penalty short of conviction [and] . . . his misconduct has given rise to the prosecution."

It may possibly be that the trial court's charge comes nearer to giving a guide to the jury than those that preceded it, but it still falls short of the kind of legal standard due process requires. At best it only told the jury that if it found appellant guilty of "some misconduct" less than that charged against him, it was authorized by law to saddle him with the State's costs in its unsuccessful prosecution. It would be difficult if not impossible for a person to prepare a defense against such general abstract charges as "misconduct," or "reprehensible conduct." If used in a *statute* which imposed forfeitures, punishments or judgments for costs, such loose and unlimiting terms would certainly cause the statute to fail to measure up to the requirements of the Due Process Clause. And these terms are no more effective to make a statute valid which standing alone is void for vagueness.

⁷ The foregoing quotations appear in a number of Pennsylvania cases including *Commonwealth v. Tilghman*, 4 S. & R. 127; *Baldwin v. Commonwealth*, 26 Pa. 171; *Commonwealth v. Daly*, 11 Pa. Dist. 527 (Q. S. Clearfield); and in the opinion of the Superior Court in this case, 202 Pa. Super. 294, 196 A. 2d 189.

We hold that the 1860 Act is constitutionally invalid both as written and as explained by the Pennsylvania courts.⁸ The judgment against appellant is reversed and the case is remanded to the State Supreme Court for further proceedings not inconsistent with this opinion.

Reversed and remanded.

MR. JUSTICE STEWART, concurring.

I concur in the Court's determination that the Pennsylvania statute here in question cannot be squared with the standards of the Fourteenth Amendment, but for reasons somewhat different from those upon which the Court relies. It seems to me that, despite the Court's disclaimer,* much of the reasoning in its opinion serves to cast grave constitutional doubt upon the settled practice of many States to leave to the unguided discretion of a jury the nature and degree of punishment to be imposed upon a person convicted of a criminal offense. Though I have serious questions about the wisdom of that practice, its constitutionality is quite a different matter. In the present case it is enough for me that Pennsylvania allows a jury to punish a defendant after finding him not guilty. That, I think, violates the most rudimentary concept of due process of law.

MR. JUSTICE FORTAS, concurring.

In my opinion, the Due Process Clause of the Fourteenth Amendment does not permit a State to impose a penalty or costs upon a defendant whom the jury has found not guilty of any offense with which he has been charged.

⁸ In so holding we intend to cast no doubt whatever on the constitutionality of the settled practice of many States to leave to juries finding defendants guilty of a crime the power to fix punishment within legally prescribed limits.

*See n. 8, *ante*.

TEHAN, SHERIFF *v.* UNITED STATES
EX REL. SHOTT.CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT.

No. 52. Argued November 18, 1965.—Decided January 19, 1966.

In 1961 respondent was tried and convicted in an Ohio court for violation of the Ohio Securities Act. Respondent had not taken the stand and the prosecutor commented extensively, as permitted by Ohio law, on his failure to testify. The conviction was affirmed by an Ohio court of appeals, the State Supreme Court declined review, and this Court dismissed an appeal and denied certiorari in 1963. Shortly thereafter respondent sought a writ of habeas corpus, alleging various constitutional violations at his trial. The federal District Court dismissed the petition, but the Court of Appeals reversed, noting that on the day preceding oral argument of the appeal the Supreme Court in *Malloy v. Hogan*, 378 U. S. 1, held that the Fifth Amendment's freedom from self-incrimination is also protected by the Fourteenth against state abridgment, and reasoning that the protection includes freedom from comment on failure to testify. In *Griffin v. California*, 380 U. S. 609, this Court held that adverse comment on a defendant's failure to testify in a state criminal trial violates the privilege against self-incrimination, and the parties here were requested to brief and argue the question of the retroactivity of that doctrine. *Held*: The doctrine of *Griffin v. California* will not be applied retroactively. *Linkletter v. Walker*, 381 U. S. 618, followed. Pp. 409–419.

337 F. 2d 990, vacated and remanded.

Calvin W. Prem argued the cause for petitioner. With him on the brief was *Melvin G. Rueger*.

Thurman Arnold argued the cause for respondent. With him on the brief were *James G. Andrews, Jr.*, and *John A. Lloyd, Jr.*

Thomas C. Lynch, Attorney General of California, *Arlo E. Smith*, Chief Assistant Attorney General, *Albert*

W. Harris, Jr., Assistant Attorney General, and *Derald E. Granberg*, Deputy Attorney General, filed a brief for the State of California, as *amicus curiae*, urging reversal.

MR. JUSTICE STEWART delivered the opinion of the Court.

In 1964 the Court held that the Fifth Amendment's privilege against compulsory self-incrimination "is also protected by the Fourteenth Amendment against abridgment by the States." *Malloy v. Hogan*, 378 U. S. 1, 6. In *Griffin v. California*, decided on April 28, 1965, the Court held that adverse comment by a prosecutor or trial judge upon a defendant's failure to testify in a state criminal trial violates the federal privilege against compulsory self-incrimination, because such comment "cuts down on the privilege by making its assertion costly." 380 U. S. 609, 614. The question before us now is whether the rule of *Griffin v. California* is to be given retrospective application.

I.

In the summer of 1961 the respondent was brought to trial before a jury in an Ohio court upon an indictment charging violations of the Ohio Securities Act.¹ The respondent did not testify in his own behalf, and the prosecuting attorney in his summation to the jury commented extensively upon that fact.² The jury found

¹ Ohio Rev. Code §§ 1707.01-1707.45.

² Since 1912 a provision of the Ohio Constitution has permitted a prosecutor to comment upon a defendant's failure to testify in a criminal trial. Article I, § 10, of the Constitution of Ohio provides, in part, as follows: "No person shall be compelled, in any criminal case, to be a witness against himself; but his failure to testify may be considered by the court and jury and may be the subject of comment by counsel."

Section 2945.43 of the Revised Code of Ohio contains substantially the same wording.

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the respondent guilty, the judgment of conviction was affirmed by an Ohio court of appeals, and the Supreme Court of Ohio declined further review. 173 Ohio St. 542, 184 N. E. 2d 213. The respondent then brought his case to this Court, claiming several constitutional errors but not attacking the Ohio comment rule as such. On May 13, 1963, we dismissed the appeal and denied certiorari, MR. JUSTICE BLACK dissenting. 373 U. S. 240. All avenues of direct review of the respondent's conviction were thus fully foreclosed more than a year before our decision in *Malloy v. Hogan*, *supra*, and almost two years before our decision in *Griffin v. California*, *supra*.

A few weeks after our denial of certiorari the respondent sought a writ of habeas corpus in the United States District Court for the Southern District of Ohio, again alleging various constitutional violations in his state trial. The District Court dismissed the petition, and the respondent appealed to the United States Court of Appeals for the Sixth Circuit. On November 10, 1964, that court reversed, noting that "the day before the oral argument of this appeal, the Supreme Court in *Malloy v. Hogan* . . . reconsidered its previous rulings and held that the Fifth Amendment's exception from self-incrimination is also protected by the Fourteenth Amendment against abridgment by the states," and reasoning that "the protection against self-incrimination under the Fifth Amendment includes not only the right to refuse to answer incriminating questions, but also the right that such refusal shall not be commented upon by counsel for the prosecution." 337 F. 2d 990, 992.

We granted certiorari, requesting the parties "to brief and argue the question of the retroactivity of the doctrine announced in *Griffin v. California*" 381 U. S. 923. Since, as we have noted, the original Ohio

judgment of conviction in this case became final long before *Griffin v. California* was decided by this Court, that question is squarely presented.³

II.

In *Linkletter v. Walker*, 381 U. S. 618, we held that the exclusionary rule of *Mapp v. Ohio*, 367 U. S. 643, was not to be given retroactive effect. The *Linkletter* opinion reviewed in some detail the competing conceptual and jurisprudential theories bearing on the problem of whether a judicial decision that overturns previously established law is to be given retroactive or only prospective application. MR. JUSTICE CLARK's opinion for the Court outlined the history and theory of the problem in terms both of the views of the commentators and of the decisions in this and other courts which have reflected those views. It would be a needless exercise here to survey again a field so recently and thoroughly explored.⁴

³ The Supreme Court of California and the Supreme Court of Ohio have both considered the question, and each court has unanimously held that under the controlling principles discussed in *Linkletter v. Walker*, 381 U. S. 618, the *Griffin* rule is not to be applied retroactively in those States. *In re Gaines*, 63 Cal. 2d 234, 404 P. 2d 473; *Pinch v. Maxwell*, 3 Ohio St. 2d 212, 210 N. E. 2d 883.

As in *Linkletter*, the question in the present case is not one of "pure prospectivity." The rule announced in *Griffin* was applied to reverse *Griffin's* conviction. Compare *England v. Louisiana State Board of Medical Examiners*, 375 U. S. 411. Nor is there any question of the applicability of the *Griffin* rule to cases still pending on direct review at the time it was announced. Cf. *O'Connor v. Ohio*, *ante*, p. 286.

The precise question is whether the rule of *Griffin v. California* is to be applied to cases in which the judgment of conviction was rendered, the availability of appeal exhausted, and the time for petition for certiorari elapsed or a petition for certiorari finally denied, all before April 28, 1965.

⁴ See *Linkletter v. Walker*, 381 U. S. 618, 622-628.

Rather, we take as our starting point *Linkletter*'s conclusion that "the accepted rule today is that in appropriate cases the Court may in the interest of justice make the rule prospective," that there is "no impediment—constitutional or philosophical—to the use of the same rule in the constitutional area where the exigencies of the situation require such an application," in short that "the Constitution neither prohibits nor requires retrospective effect." Upon that premise, resolution of the issue requires us to "weigh the merits and demerits in each case by looking to the prior history of the rule in question, its purpose and effect, and whether retrospective operation will further or retard its operation." 381 U. S., at 628-629.⁵

III.

Twining v. New Jersey was decided in 1908. 211 U. S. 78. In that case the plaintiffs in error had been convicted by the New Jersey courts after a trial in which the judge had instructed the jury that it might draw an adverse inference from the defendants' failure to testify. The plaintiffs in error urged in this Court two propositions: "first, that the exemption from compulsory self-incrimination is guaranteed by the Federal Constitution against impairment by the States; and, second, if it be so guaranteed, that the exemption was in fact impaired in the case at bar." 211 U. S., at 91. In a lengthy opinion which thoroughly considered both the Privileges and Immunities Clause and the Due Process Clause of the Fourteenth Amendment, the Court held, explicitly and unambiguously, "that the exemption from compulsory self-incrimination in the courts of the States is

⁵ For a recent commentary on the *Linkletter* decision and a suggested alternative approach to the problem, see Mishkin, The Supreme Court 1964 Term—Foreword: The High Court, The Great Writ, and the Due Process of Time and Law, 79 Harv. L. Rev. 56.

not secured by any part of the Federal Constitution." 211 U. S., at 114. Having thus rejected the first proposition advanced by the plaintiffs in error, the Court refrained from passing on the second. That is, the Court did not decide whether adverse comment upon a defendant's failure to testify constitutes a violation of the federal constitutional right against self-incrimination.⁶

The rule thus established in the *Twining* case was reaffirmed many times through the ensuing years. In an opinion for the Court in 1934, Mr. Justice Cardozo cited *Twining* for the proposition that "[t]he privilege against self-incrimination may be withdrawn and the accused put upon the stand as a witness for the state." *Snyder v. Massachusetts*, 291 U. S. 97, 105. Two years later Chief Justice Hughes, writing for a unanimous Court, reiterated the explicit statements of the rule in *Twining* and *Snyder*, noting that "[t]he compulsion to which the quoted statements refer is that of the processes of justice by which the accused may be called as a witness and required to testify." *Brown v. Mississippi*, 297 U. S. 278, 285. In 1937 the Court again approved the *Twining* doctrine in *Palko v. Connecticut*, 302 U. S. 319, 324, 325-326. In *Adamson v. California*, 332 U. S. 46, the issue was once more presented to the Court in much the same form as it had been presented almost 40 years earlier in *Twining*. In *Adamson* there had been com-

⁶ "We have assumed only for the purpose of discussion that what was done in the case at bar was an infringement of the privilege against self-incrimination. We do not intend, however, to lend any countenance to the truth of that assumption. The courts of New Jersey, in adopting the rule of law which is complained of here, have deemed it consistent with the privilege itself and not a denial of it. . . . The authorities upon the question are in conflict. We do not pass upon the conflict, because, for the reasons given, we think that the exemption from compulsory self-incrimination in the courts of the States is not secured by any part of the Federal Constitution." 211 U. S., at 114.

ment by judge and prosecutor upon the defendant's failure to testify at his trial, as permitted by the California Constitution. The Court again followed *Twining* in holding that the Fourteenth Amendment does not require a State to accord the privilege against self-incrimination, and, as in *Twining*, the Court did not reach the question whether adverse comment upon a defendant's failure to testify would violate the Fifth Amendment privilege.⁷ Thereafter the Court continued to adhere to the *Twining* rule, notably in *Knapp v. Schweitzer*, decided in 1958, 357 U. S. 371, 374, and in *Cohen v. Hurley*, decided in 1961, 366 U. S. 117, 127-129.

In recapitulation, this brief review clearly demonstrates: (1) For more than half a century, beginning in 1908, the Court adhered to the position that the Federal Constitution does not require the States to accord the Fifth Amendment privilege against self-incrimination. (2) Because of this position, the Court during that period never reached the question whether the federal guarantee against self-incrimination prohibits adverse comment upon a defendant's failure to testify at his trial.⁸ Although there were strong dissenting voices,⁹ the Court made not the slightest deviation from that position during a period of more than 50 years.

Thus matters stood in 1964, when *Malloy v. Hogan* announced that the Fifth Amendment privilege against self-incrimination is protected by the Fourteenth Amend-

⁷ As the Court pointed out in *Adamson*, 332 U. S., at 50, n. 6, this question had never arisen in the federal courts, because a federal statute had been interpreted as prohibiting adverse comment upon a defendant's failure to testify in a federal criminal trial. See 20 Stat. 30, as amended, now 18 U. S. C. § 3481; *Bruno v. United States*, 308 U. S. 287; *Wilson v. United States*, 149 U. S. 60.

⁸ In the federal judicial system, the matter was controlled by a statute. See n. 7, *supra*.

⁹ See, e. g., MR. JUSTICE BLACK's historic dissenting opinion in *Adamson v. California*, 332 U. S., at 68.

ment against abridgment by the States (378 U. S., at 6). Less than a year later, on April 28, 1965, *Griffin v. California* held that the Fifth Amendment "in its bearing on the States by reason of the Fourteenth Amendment, forbids . . . comment by the prosecution on the accused's silence" (380 U. S., at 615.)

IV.

Thus we must reckon here, as in *Linkletter*, 381 U. S., at 636, with decisional history of a kind which Chief Justice Hughes pointed out "is an operative fact and may have consequences which cannot justly be ignored. The past cannot always be erased by a new judicial declaration." *Chicot County Drainage Dist. v. Baxter State Bank*, 308 U. S. 371, 374. It is against this background that we look to the purposes of the *Griffin* rule, the reliance placed upon the *Twining* doctrine, and the effect on the administration of justice of a retrospective application of *Griffin*. See *Linkletter v. Walker*, 381 U. S., at 636.

In *Linkletter*, the Court stressed that the prime purpose of the rule of *Mapp v. Ohio*,¹⁰ rejecting the doctrine of *Wolf v. Colorado*¹¹ as to the admissibility of unconstitutionally seized evidence, was "to deter the lawless action of the police and to effectively enforce the Fourth Amendment." 381 U. S., at 637. There we could not "say that this purpose would be advanced by making the rule retrospective. The misconduct of the police prior to *Mapp* has already occurred and will not be corrected by releasing the prisoners involved." *Ibid.*

No such single and distinct "purpose" can be attributed to *Griffin v. California*, holding it constitutionally impermissible for a State to permit comment by a judge or prosecutor upon a defendant's failure to testify in a

¹⁰ 367 U. S. 643.

¹¹ 338 U. S. 25.

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criminal trial. The *Griffin* opinion reasoned that such comment "is a penalty imposed by courts for exercising a constitutional privilege. It cuts down on the privilege by making its assertion costly." 380 U. S., at 614. It follows that the "purpose" of the *Griffin* rule is to be found in the whole complex of values that the privilege against self-incrimination itself represents, values described in the *Malloy* case as reflecting "recognition that the American system of criminal prosecution is accusatorial, not inquisitorial, and that the Fifth Amendment privilege is its essential mainstay. . . . Governments, state and federal, are thus constitutionally compelled to establish guilt by evidence independently and freely secured, and may not by coercion prove a charge against an accused out of his own mouth."¹² 378 U. S., at 7-8.

¹² These values were further catalogued in Mr. Justice Goldberg's opinion for the Court in *Murphy v. Waterfront Comm'n*, 378 U. S. 52, announced the same day as *Malloy v. Hogan*, 378 U. S. 1: "The privilege against self-incrimination 'registers an important advance in the development of our liberty—"one of the great landmarks in man's struggle to make himself civilized.'" *Ullmann v. United States*, 350 U. S. 422, 426. [The quotation is from Griswold, *The Fifth Amendment Today* (1955), 7.] It reflects many of our fundamental values and most noble aspirations: our unwillingness to subject those suspected of crime to the cruel trilemma of self-accusation, perjury or contempt; our preference for an accusatorial rather than an inquisitorial system of criminal justice; our fear that self-incriminating statements will be elicited by inhumane treatment and abuses; our sense of fair play which dictates 'a fair state-individual balance by requiring the government to leave the individual alone until good cause is shown for disturbing him and by requiring the government in its contest with the individual to shoulder the entire load,' 8 Wigmore, *Evidence* (McNaughton rev., 1961), 317; our respect for the inviolability of the human personality and of the right of each individual 'to a private enclave where he may lead a private life,' *United States v. Grunewald*, 233 F. 2d 556, 581-582 (Frank, J., dissenting), rev'd 353 U. S. 391; our distrust of self-deprecatory statements; and our realization that the privilege, while sometimes 'a shelter to the guilty,' is often 'a protection to

Insofar as these "purposes" of the Fifth Amendment privilege against compulsory self-incrimination bear on the question before us in the present case, several considerations become immediately apparent. First, the basic purposes that lie behind the privilege against self-incrimination do not relate to protecting the innocent from conviction, but rather to preserving the integrity of a judicial system in which even the guilty are not to be convicted unless the prosecution "shoulder the entire load." Second, since long before *Twining v. New Jersey*, all the States have by their own law respected these basic purposes by extending the protection of the testimonial privilege against self-incrimination to every defendant tried in their criminal courts. In *Twining* the Court noted that "all the States of the Union have, from time to time, with varying form but uniform meaning, included the privilege in their constitutions, except the States of New Jersey and Iowa, and in those States it is held to be part of the existing law." 211 U. S., at 92. See also 8 Wigmore, Evidence § 2252 (McNaughton rev. 1961). It follows that such variations as may have existed among the States in the application of their respective guarantees against self-incrimination during the 57 years between *Twining* and *Griffin* did not go to the basic purposes of the federal privilege. And finally,

the innocent.' *Quinn v. United States*, 349 U. S. 155, 162." 378 U. S., at 55. "[T]he privilege against self-incrimination represents many fundamental values and aspirations. It is 'an expression of the moral striving of the community . . . a reflection of our common conscience' *Malloy v. Hogan*, ante, p. 9, n. 7, quoting *Griswold*, The Fifth Amendment Today (1955), 73. That is why it is regarded as so fundamental a part of our constitutional fabric, despite the fact that 'the law and the lawyers . . . have never made up their minds just what it is supposed to do or just whom it is intended to protect.' *Kalven*, Invoking the Fifth Amendment—Some Legal and Impractical Considerations, 9 Bull. Atomic Sci. 181, 182." 378 U. S., at 56, n. 5.

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insofar as strict application of the federal privilege against self-incrimination reflects the Constitution's concern for the essential values represented by "our respect for the inviolability of the human personality and of the right of each individual 'to a private enclave where he may lead a private life,'" ¹³ any impairment upon those values resulting from a State's application of a variant from the federal standard cannot now be remedied. As we pointed out in *Linkletter* with respect to the Fourth Amendment rights there in question, "the ruptured privacy . . . cannot be restored." 381 U. S., at 637.

As in *Mapp*, therefore, we deal here with a doctrine which rests on considerations of quite a different order from those underlying other recent constitutional decisions which have been applied retroactively. The basic purpose of a trial is the determination of truth, and it is self-evident that to deny a lawyer's help through the technical intricacies of a criminal trial or to deny a full opportunity to appeal a conviction because the accused is poor is to impede that purpose and to infect a criminal proceeding with the clear danger of convicting the innocent. See *Gideon v. Wainwright*, 372 U. S. 335; *Doughty v. Maxwell*, 376 U. S. 202; *Griffin v. Illinois*, 351 U. S. 12; *Eskridge v. Washington Prison Board*, 357 U. S. 214. The same can surely be said of the wrongful use of a coerced confession. See *Jackson v. Denno*, 378 U. S. 368; *McNerlin v. Denno*, 378 U. S. 575; *Reck v. Pate*, 367 U. S. 433. By contrast, the Fifth Amendment's privilege against self-incrimination is not an adjunct to the ascertainment of truth. That privilege, like the guarantees of the Fourth Amendment, stands as a protection of quite different constitutional values—values reflecting the concern of our society for the right of each individual to be let alone. To recognize this is no more than to accord those values undiluted respect.

¹³ See n. 12, *supra*.

There can be no doubt of the States' reliance upon the *Twining* rule for more than half a century, nor can it be doubted that they relied upon that constitutional doctrine in the utmost good faith. Two States amended their constitutions so as expressly to permit comment upon a defendant's failure to testify, Ohio in 1912,¹⁴ and California in 1934.¹⁵ At least four other States followed some variant of the rule permitting comment.¹⁶

Moreover, this reliance was not only invited over a much longer period of time, during which the *Twining* doctrine was repeatedly reaffirmed in this Court, but was of unquestioned legitimacy as compared to the reliance of the States upon the doctrine of *Wolf v. Colorado*, considered in *Linkletter* as an important factor militating against the retroactive application of *Mapp*. During the 12-year period between *Wolf v. Colorado* and *Mapp v. Ohio*, the States were aware that illegal seizure of evidence by state officers violated the Federal Constitution.¹⁷ In the 56 years that elapsed from *Twining* to *Malloy*, by contrast, the States were repeatedly told that comment upon the failure of an accused to testify in a state criminal trial in no way violated the Federal Constitution.¹⁸

¹⁴ See n. 2, *supra*.

¹⁵ California Constitution, Art. I, § 13.

¹⁶ See *State v. Heno*, 119 Conn. 29, 174 A. 181; *State v. Ferguson*, 226 Iowa 361, 372-373, 283 N. W. 917, 923; *State v. Corby*, 28 N. J. 106, 145 A. 2d 289; *State v. Sandoval*, 59 N. M. 85, 279 P. 2d 850.

¹⁷ In *Wolf v. Colorado*, 338 U. S. 25, it was unequivocally determined by a unanimous Court that the Federal Constitution, by virtue of the Fourteenth Amendment, prohibits unreasonable searches and seizures by state officers. "The security of one's privacy against arbitrary intrusion by the police . . . is . . . implicit in 'the concept of ordered liberty' and as such enforceable against the States through the Due Process Clause." 338 U. S., at 27-28.

¹⁸ See, for example, *Scott v. California*, 364 U. S. 471, where, as late as December 1960, only a single member of the Court expressed dissent from the dismissal of an appeal challenging the constitutionality of the California comment rule.

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The last important factor considered by the Court in *Linkletter* was "the effect on the administration of justice of a retrospective application of *Mapp*." 381 U. S., at 636. A retrospective application of *Griffin v. California* would create stresses upon the administration of justice more concentrated but fully as great as would have been created by a retrospective application of *Mapp*. A retrospective application of *Mapp* would have had an impact only in those States which had not themselves adopted the exclusionary rule, apparently some 24 in number.¹⁹ A retrospective application of *Griffin* would have an impact only upon those States which have not themselves adopted the no-comment rule, apparently six in number.²⁰ But upon those six States the impact would be very grave indeed. It is not in every criminal trial that tangible evidence of a kind that might raise *Mapp* issues is offered. But it may fairly be assumed that there has been comment in every single trial in the courts of California, Connecticut, Iowa, New Jersey, New Mexico, and Ohio, in which the defendant did not take the witness stand—in accordance with state law and with the United States Constitution as explicitly interpreted by this Court for 57 years.

Empirical statistics are not available, but experience suggests that California is not indulging in hyperbole when in its *amicus curiae* brief in this case it tells us that "Prior to this Court's decision in *Griffin*, literally thousands of cases were tried in California in which comment was made upon the failure of the accused to take the stand. Those reaping the greatest benefit from a rule compelling retroactive application of *Griffin* would be [those] under lengthy sentences imposed many years before *Griffin*. Their cases would offer the least like-

¹⁹ See *Elkins v. United States*, 364 U. S. 206, at 224-225 (Appendix).

²⁰ See notes 2, 15, and 16, *supra*.

lihood of a successful retrial since in many, if not most, instances, witnesses and evidence are no longer available." There is nothing to suggest that what would be true in California would not also be true in Connecticut, Iowa, New Jersey, New Mexico, and Ohio. To require all of those States now to void the conviction of every person who did not testify at his trial would have an impact upon the administration of their criminal law so devastating as to need no elaboration.

V.

We have proceeded upon the premise that "we are neither required to apply, nor prohibited from applying, a decision retrospectively." *Linkletter v. Walker*, 381 U. S., at 629. We have considered the purposes of the *Griffin* rule, the reliance placed upon the *Twining* doctrine, and the effect upon the administration of justice of a retrospective application of *Griffin*. After full consideration of all the factors, we are not able to say that the *Griffin* rule requires retrospective application.

The judgment is vacated and the case remanded to the Court of Appeals for the Sixth Circuit for consideration of the claims contained in the respondent's petition for habeas corpus, claims which that court has never considered.

It is so ordered.

MR. JUSTICE BLACK, with whom MR. JUSTICE DOUGLAS joins, dissents for substantially the same reasons stated in his dissenting opinion in *Linkletter v. Walker*, 381 U. S. 618, at 640.

THE CHIEF JUSTICE took no part in the decision of this case.

MR. JUSTICE FORTAS took no part in the consideration or decision of this case.

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BANKS *v.* CALIFORNIA.ON PETITION FOR WRIT OF CERTIORARI TO THE DISTRICT
COURT OF APPEAL OF CALIFORNIA, FIRST
APPELLATE DISTRICT.

No. 87, Misc. Decided January 24, 1966.

Certiorari granted; vacated and remanded.

Petitioner *pro se*.*Thomas C. Lynch*, Attorney General of California,
Albert W. Harris, Jr., Assistant Attorney General,
and *Charles W. Rumph*, Deputy Attorney General, for
respondent.

PER CURIAM.

The motion for leave to proceed *in forma pauperis* and
the petition for a writ of certiorari are granted. The
judgment is vacated and the case is remanded to the
District Court of Appeal of California, First Appellate
District, for further proceedings in light of *Griffin v. California*, 380 U. S. 609.THE CHIEF JUSTICE took no part in the consideration
of this motion and petition.ODELL *v.* STATE DEPARTMENT OF PUBLIC
WELFARE OF WISCONSIN ET AL.APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF WISCONSIN.

No. 896, Misc. Decided January 24, 1966.

Appeal dismissed.

PER CURIAM.

The appeal is dismissed for want of jurisdiction.

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January 24, 1966.

PEW *v.* COMMANDANT, U. S. COAST GUARD.APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT.

No. 824, Misc. Decided January 24, 1966.

Appeal dismissed and certiorari denied.

Appellant *pro se*.

Solicitor General Marshall for appellee.

PER CURIAM.

The appeal is dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for a writ of certiorari, certiorari is denied.

ESCALERA *v.* SUPREME COURT OF
PUERTO RICO.

APPEAL FROM THE SUPREME COURT OF PUERTO RICO.

No. 849, Misc. Decided January 24, 1966.

Appeal dismissed and certiorari denied.

PER CURIAM.

The appeal is dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for a writ of certiorari, certiorari is denied.

January 24, 1966.

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CHICAGO & NORTH WESTERN RAILWAY CO.
ET AL. v. CHICAGO, BURLINGTON & QUINCY
RAILROAD CO. ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ILLINOIS.

No. 751. Decided January 24, 1966.*

242 F. Supp. 414, affirmed.

Jordan Jay Hillman, Bryce L. Hamilton and John C. Danielson for appellants in No. 751. *Robert W. Ginnane* and *Leonard S. Goodman* for appellant in No. 752.

Eldon Martin, Robert J. Cooney, Frank S. Farrell, Robert G. Gehrz, William P. Higgins, Curtis H. Berg, John H. Bishop, Louis E. Torinus, Jr., and Paul M. Sand for appellees in both cases.

PER CURIAM.

The motion to affirm is granted and the judgment is affirmed.

MR. JUSTICE FORTAS took no part in the consideration or decision of these cases.

*Together with No. 752, *Interstate Commerce Commission v. Chicago, Burlington & Quincy Railroad Co. et al.*, also on appeal from the same court.

Syllabus.

BROTHERHOOD OF LOCOMOTIVE ENGINEERS
ET AL. *v.* CHICAGO, ROCK ISLAND & PACIFIC
RAILROAD CO. ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF ARKANSAS.

No. 69. Argued December 8-9, 1965.—Decided January 31, 1966.*

Appellees, a group of interstate railroads operating in Arkansas, sued in District Court for declaratory and injunctive relief on the ground that two Arkansas statutes which provided for train crews of minimum sizes were unconstitutional. Appellees claimed that as to them the statutes violated the Due Process and Equal Protection Clauses of the Fourteenth Amendment and the Commerce Clause; that they discriminated against interstate, and favored intrastate, commerce because by exempting lines below certain mileages they excluded from coverage all intrastate railroads but included most of the interstate railroads operating in Arkansas; and that they invaded a legislative field primarily pre-empted by the Federal Government with the enactment in 1963 of Public Law 88-108. That statute provided for compulsory arbitration of then current collective bargaining disputes over the use of railroad firemen and over manning levels for railroad crews and for arbitration awards that were to expire two years after the awards went into effect. A three-judge District Court granted appellees' motion for summary judgment on the single ground that the Arkansas statutes conflicted with Public Law 88-108, which was held to pre-empt the field of regulation. *Held:*

1. Since there were substantial constitutional challenges in this case in addition to the pre-emption issue, it was proper to convene a three-judge District Court, from whose judgment a direct appeal lies to this Court. *Swift & Co. v. Wickham*, *ante*, p. 111, distinguished. P. 428.

2. It was not the legislative purpose of Public Law 88-108 to pre-empt the field of manning-level regulation and supersede States' full-crew laws, nor was that the effect of the statute or of the arbitration awards made thereunder. Pp. 429-437.

*Together with No. 71, *Hardin et al. v. Chicago, Rock Island & Pacific Railroad Co. et al.*, also on appeal from the same court.

(a) As held in *Missouri Pac. R. Co. v. Norwood*, 283 U. S. 249, at 256, one of three cases in which this Court upheld the Arkansas statutes against federal pre-emption charges, Congress in the absence of a clearly expressed purpose, will not be held to have intended to prevent exercise of the States' police power to regulate crew sizes. P. 429.

(b) The problem of railroad manning levels, and particularly whether or not retention of firemen is necessary, has led to constant collective bargaining disputes between the railroads and unions. Public Law 88-108 was enacted to deal with such a dispute which began in 1959 and by 1963, despite various settlement efforts, reached an impasse which threatened to result in a nationwide strike. Pp. 429-431.

(c) The statute was intended to deal with that emergency on a temporary basis only and was not designed either permanently to supplant collective bargaining over manning levels or to supersede state full-crew laws. Pp. 431-437.

3. The record in this case does not support a conclusion that the mileage bases fixed for application of the statutes were irrational and discriminatory. Pp. 437-438.

4. The cause is remanded to the District Court for consideration of the constitutional issues not yet decided. P. 438.

239 F. Supp. 1, reversed and remanded.

James E. Youngdahl argued the cause for appellants in No. 69. With him on the briefs was *Eugene F. Mooney*. *Jack L. Lessenberry* argued the cause for appellants in No. 71. With him on the brief was *Bruce Bennett*, Attorney General of Arkansas.

Robert V. Light and *Dennis G. Lyons* argued the cause for appellees in both cases. With them on the brief were *Thurman Arnold*, *W. J. Smith*, *H. H. Friday* and *R. W. Yost*.

Briefs of *amici curiae*, urging reversal, were filed by *Bronson C. La Follette*, Attorney General, and *Beatrice Lampert*, Assistant Attorney General, for the State of Wisconsin; by *John J. O'Connell*, Attorney General, and *Frank P. Hayes*, *James R. Cunningham* and *Paul*

Coughlin, Assistant Attorneys General, for the State of Washington; and by the following Attorneys General for their respective States: *Arthur K. Bolton* of Georgia, *John J. Dillon* of Indiana, *Jack P. F. Gremillion* of Louisiana, *Forrest H. Anderson* of Montana, *Frank L. Farrar* of South Dakota, and *Waggoner Carr* of Texas.

Briefs of *amici curiae*, urging affirmance, were filed by *William P. Rogers*, *Robert M. Lane*, *Gerald E. Dwyer*, *Victor F. Condello*, *Jordan Jay Hillman*, *Joseph S. Gill* and *Woodrow L. Taylor* for Associated Railways of Indiana et al., and by *Francis M. Shea*, *Richard T. Conway*, *William H. Dempsey, Jr.*, *Ralph J. Moore, Jr.*, *James R. Wolfe* and *Charles I. Hopkins, Jr.*, for the National Railway Labor Conference.

Opinion of the Court by MR. JUSTICE BLACK, announced by MR. CHIEF JUSTICE WARREN.

Appellees, a group of interstate railroads operating in Arkansas, brought this action in a United States District Court asking that court to declare two Arkansas statutes unconstitutional and to enjoin two Arkansas Prosecuting Attorneys, appellants here, from enforcing or attempting to enforce the two state statutes. The railroad brotherhoods, also appellants here, were allowed to intervene in the District Court in order to defend the validity of the state statutes. One of those statutes, enacted in 1907, makes it an offense for a railroad operating a line of more than 50 miles to haul freight trains consisting of more than 25 cars without having a train crew consisting of not "less than an engineer, a fireman, a conductor and three brakemen . . .".¹ The second statute challenged by the railroads, enacted in 1913, makes it an offense for any railroad operating with lines 100 miles or more

¹ Ark. Laws 1907, Act 116, Ark. Stat. Ann. §§ 73-720 through 73-722 (1957).

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in length to engage in switching activities in cities of designated populations, with "less than one [1] engineer, a fireman, a foreman and three [3] helpers. . . ."² The complaint charged that, as applied to the plaintiff railroads, both statutes (1) operate in an "arbitrary, capricious, discriminatory and unreasonable" manner in violation of the Due Process and Equal Protection Clauses of the Fourteenth Amendment; (2) unduly interfere with, burden and needlessly increase the cost of interstate commerce in violation of the Commerce Clause, Art. I, § 8, cl. 3, of the Constitution, and contrary to the National Transportation Policy expressed in the Interstate Commerce Act; (3) discriminate against interstate commerce in favor of local or intrastate commerce; and (4) by seeking to regulate and control the number of persons working on interstate railroad locomotives and cars invade a field of legislation pre-empted by the Federal Government primarily through federal enactment of Public Law 88-108 passed by Congress in 1963.³ This law was passed to avert a nationwide railroad strike threatened by a labor dispute between the national railroads and the brotherhoods over the number of employees that should be used on trains.

In their complaint the railroads admitted that this Court had on three separate occasions, in 1911,⁴ in 1916,⁵ and again in 1931,⁶ sustained the constitutionality of both state statutes against the same Fourteenth Amendment and Commerce Clause challenges made in the

² Ark. Act 67 of 1913, Ark. Stat. Ann. §§ 73-726 through 73-729 (1957).

³ 77 Stat. 132, 45 U. S. C. following § 157 (1964 ed.).

⁴ *Chicago, R. I. & P. R. Co. v. Arkansas*, 219 U. S. 453.

⁵ *St. Louis, I. M. & S. R. Co. v. Arkansas*, 240 U. S. 518.

⁶ *Missouri Pac. R. Co. v. Norwood*, 283 U. S. 249, 290 U. S. 600. See also latter case below, 13 F. Supp. 24.

present action. The complaint alleged, however, that improvements have now been so great in locomotives, freight cars, couplers, brakes, trackage, roadbeds, and operating methods that the facts on which the prior holdings rested no longer exist. The brotherhoods and the two defendant Prosecuting Attorneys answered the complaint asserting the constitutionality of the Acts and denying that there had been a change in conditions so significant as to justify any departure from this Court's prior decisions. The brotherhoods' answer alleged that modern developments had actually multiplied the dangers of railroading thus making the Arkansas statutes more necessary than ever. The pleadings therefore, at least to some extent, presented factual issues calling for the introduction and determination of evidence under prior holdings of this Court. See, *e. g.*, *Southern Pacific Co. v. Arizona*, 325 U. S. 761. At this stage of the trial, however, the railroads, claiming there was no substantial dispute in the evidence with reference to any relevant issues, filed a motion for summary judgment under Rule 56, Fed. Rules Civ. Proc. alleging that: (1) Both state statutes are "pre-empted by federal legislation in conflict therewith, to-wit: Public Law 88-108 and the award of Arbitration Board No. 282 pursuant thereto; the Railway Labor Act . . . ; and the Interstate Commerce Act . . . particularly the preamble thereto"; (2) the state statutes constitute discriminatory legislation against interstate commerce in violation of the Commerce Clause; and (3) the state statutes deny the railroads equal protection of the laws in violation of the Fourteenth Amendment. Without hearing any evidence the three-judge court convened to consider the case sustained the railroads' motion for summary judgment, holding, one judge dissenting, that the Arkansas statutes are "in substantial conflict with Public Law 88-108 . . . and the proceedings thereunder, and are therefore unenforce-

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able against the plaintiffs" 239 F. Supp. 1, 29. The District Court did not purport to rule on the other questions presented in the motion for summary judgment and the complaint. We noted probable jurisdiction, 381 U. S. 949.

A few weeks ago this Court held in *Swift & Co. v. Wickham*, *ante*, p. 111, that an allegation that a state statute is pre-empted by a federal statute does not allege the unconstitutionality of the state statute so as to call for the convening of a three-judge court under 28 U. S. C. § 2281 (1964 ed.). Thus, under *Swift*, the pre-emption issue in this case standing alone would not have justified a three-judge court, and hence would not have justified direct appeal to us under 28 U. S. C. § 1253 (1964 ed.). The complaint here, however, also challenged the Arkansas statutes as being in violation of the Commerce, Due Process, and Equal Protection Clauses. In briefs submitted to us after oral argument the appellants have argued that all these constitutional challenges are so insubstantial as a matter of law that they are insufficient to make this an appropriate case for a three-judge court. We cannot accept that argument. Whatever the ultimate holdings on the questions may be we cannot dismiss them as insubstantial on their face. Nor does the fact that the pre-emption issue alone was passed on by the District Court keep this from being a three-judge case. Had all the issues been tried by the District Court and had that court enjoined enforcement of the state laws on pre-emption alone, we would have had jurisdiction of a direct appeal to us under 28 U. S. C. § 1253 (1964 ed.). *Florida Lime & Avocado Growers, Inc. v. Jacobsen*, 362 U. S. 73. The same is true here where the state laws were enjoined on the basis of pre-emption but the other constitutional challenges were left undecided. Thus we have jurisdiction and so proceed to the merits.

I.

We first consider the question of pre-emption. Congress unquestionably has power under the Commerce Clause to regulate the number of employees who shall be used to man trains used in interstate commerce. In the absence of congressional legislation on that subject, however, the States have extensive power of their own to regulate in this field, particularly to protect the safety of railroad employees and the public. This Court said in *Missouri Pac. R. Co. v. Norwood*, one of the previous decisions upholding the constitutionality of these Arkansas statutes, that:

"In the absence of a clearly expressed purpose so to do Congress will not be held to have intended to prevent the exertion of the police power of the States for the regulation of the number of men to be employed in such crews." 283 U. S., at 256.

See also the same case, 290 U. S. 600.

In view of *Norwood* and the two preceding cases, all of which sustained the constitutionality of the Arkansas statutes over charges of federal pre-emption, the question presented to this Court is whether in adding the 1963 compulsory arbitration Act to previous federal legislation, Congress intended to pre-empt this field and supersede state legislation like that of Arkansas, or, stated another way, whether application of the Arkansas law "would operate to frustrate the purpose of the [1963] federal legislation." *Teamsters Union v. Morton*, 377 U. S. 252, 258.

Since the railroad unions first gained strength in this country the problem of manning trains has presented an issue of constant dispute between the railroads and the unions. Some States, such as Arkansas, believing perhaps that many railroads might not voluntarily assume the expense necessary to hire enough workers for their

trains to make the operations as safe as they could and should be, passed laws providing for the minimum size of the train crews. Where these laws were not in effect the question of the size of the crews was settled by collective bargaining, though not without great difficulty. It was this sensitive and touchy problem which brought on the explosive collective bargaining impasse that triggered the 1963 Act which the railroads now contend was intended to permanently supersede the 1907 and 1913 Arkansas statutes. Such a permanent supersession would, of course, amount to an outright repeal of the statutes by Congress.

The particular dispute which eventually led to the enactment of Public Law 88-108 began in 1959 when the Nation's major railroads notified the brotherhoods that they considered it to be the right of management to have the unrestricted discretion to decide how many employees should be used to man trains, and that they did not intend to submit that subject to collective bargaining in the future. The brotherhoods protested, serving counter-proposals on the railroads. As a result the representatives of each side met to try to negotiate a new collective bargaining agreement. On the question of the size of the crews the negotiators stuck and would not budge. The railroad negotiators insisted that changed conditions, particularly the substitution of diesel and electrically propelled engines for steam engines, had made firemen completely unnecessary employees. They continued to insist that the railroads should be left free to decide for themselves when and how many firemen should be used, if any at all. Throughout all negotiations, and up to now, the brotherhoods have insisted that a fireman is needed even on a diesel engine, particularly to aid the engineer as a lookout for safety purposes, and to help make needed repairs and adjustments while the train is moving, should the engine for any reason fail to function. Agreement on

this question proving impossible in the 1959 negotiations, President Eisenhower, acting at the request of both sides, appointed a Presidential Commission to try to adjust the dispute. After long investigation and consideration the Commission reported. Its report was unsatisfactory to the brotherhoods, not wholly satisfactory to the railroads, and did not result in any settlement. The dispute dragged on. Another report was made by the President's Advisory Committee on Labor-Management Policy but it also failed to bring about an agreement.

All efforts at agreement having failed, President Kennedy, on July 22, 1963, reported to Congress that on July 29 the railroads "can be expected to initiate work rules changes And the brotherhoods thereupon can be expected to strike." "This Nation," he said, "stands on the brink of a nationwide rail strike that would, in very short order, create widespread economic chaos and distress." Pointing out the disastrous consequences that might occur to the country should a strike take place, the President recommended legislation to provide "for an interim remedy while awaiting the results of further bargaining by the parties." He recommended that "for a 2-year period during which both the parties and the public can better inform themselves on this problem . . . interim work rules changes proposed by either party to which both parties cannot agree should be submitted for approval, disapproval or modification to the Interstate Commerce Commission in accordance with the procedures and provisions of section 5 of the Interstate Commerce Act" President Kennedy repeatedly emphasized to the Congress his hope that the dispute could eventually be settled by collective bargaining. He stated his belief that advances in railroad technology had made it necessary to reduce the railroad labor force, but he insisted that the public should help bear the burden of this reduction in order that it not fall entirely on those em-

ployees who would lose their jobs. He warned the Congress that it was highly necessary "for workers to enjoy reasonable protection against the harsh effects of too sudden change." In his message the President expressed no desire to have Congress pass a law that would finally and completely dispose of the problem of the number of men who should man the crew of a train, but instead warned that "It would be wholly inappropriate to make general and permanent changes in our labor relations statutes on this basis" and that any "revolutionary changes even for the better carry a high price in disruption . . . (that) might exceed the value of the improvements." Thus the President's message did not in any way indicate a purpose on his part to disturb the existing pattern of full-crew laws by supersession of them, either temporarily or permanently.

Congress enacted the bill proposed by the President with one significant change. He had recommended that a binding determination of the issues not resolved by collective bargaining be made by the Interstate Commerce Commission. At least one brotherhood witness testified before the Senate Commerce Committee to an apprehension that the Interstate Commerce Commission if given the power requested would declare States' full-crew laws superseded by orders of the Commission.⁷ Subsequent to this both the House and Senate Committees dropped a section of the proposed bill that would have vested power in the Commission to make binding settlements.⁸ Instead of that section the Act passed by Congress provided for establishment of an arbitration board to consist of seven members, two appointed by the railroads, two by the unions and three to be appointed by the President

⁷ Hearings before Senate Committee on Commerce on S. J. Res. No. 102, 88th Cong., 1st Sess., 629.

⁸ S. Rep. No. 459, 88th Cong., 1st Sess., 9.

should the four members named by the railroads and unions fail to agree among themselves on an additional three. The arbitration board was given power to resolve the dispute over the firemen and full-crew questions. Their award was to be a complete and final disposition of these issues for a period not exceeding two years from the date the awards would take effect. Awards were made by such a board which the railroads now claim call for supersession of the state laws. We hold that neither the Act itself nor the awards made under it can have such an effect.

The text of the Act and the awards made under it contain no section specifically pre-empting the States' full-crew laws nor is there any specific saving clause indicating lack of intent to pre-empt them. Appellees argue, however, that the terms of the Act and the awards are inconsistent with the operation of the state laws and thus the laws are no longer valid. But Congress wanted to do as little as possible in solving the dispute which was before it, and we note that this dispute was not over the size of crews in States which had full-crew laws, for there the size of crews was regulated by statute and not by collective bargaining agreements. The railroads made this very point before the Senate Commerce Committee when a spokesman for three railroads, in commenting on the few jobs that would be lost if the brotherhoods accepted the railroads' proposal, said, "25.9 percent of the firemen positions in freight and yard service must be maintained because of the provisions of so-called full-crew laws of the States of [listing 13 States including Arkansas]."⁹ It appears, therefore, that Congress did not need to pre-empt the state laws in order to eliminate this collective bargaining impasse, and further examina-

⁹ Hearings before the Senate Committee on Commerce on S. J. Res. No. 102, 88th Cong., 1st Sess., 707.

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tion of the legislative history of Public Law 88-108 confirms our view that Congress had no intention of superseding the state full-crew laws by passage of that Act.

The President's proposal was interpreted and explained to the House Committee on Interstate and Foreign Commerce by the Secretary of Labor. On the subject of state full-crew laws he told that Committee:

"I call attention to such statements as those of the *Missouri Railroad Company v. Norwood*, the Supreme Court case in 1930 in which the Court said, 'In the absence of a clearly stated purpose so to do Congress will not be held to have intended to prevent the assertion of the police power of the States for the regulation of the number of men to be employed in such crews.' It would be the intention reflected here that the issuance of an interim ruling, subject to termination in a time period or at the agreement of the parties, would not have the effect of affecting any State full crew law."¹⁰

The Chairman of the House Committee on several occasions emphatically stated both in the hearings and on the House floor that the bill was not intended, either as proposed or as passed, to supersede state laws. On one occasion he said:

"This issue was raised in the course of the hearings before the committee. Questions were asked of the various people representing management and the labor industry and witnesses representing the labor brotherhoods, the employees' representatives, and the Secretary of Labor. It was made rather clear in the course of the hearings that it would in no way affect the provisions of State laws. The committee in executive session discussed the question

¹⁰ Hearings before the House Committee on Interstate and Foreign Commerce on H. J. Res. No. 565, 88th Cong., 1st Sess., 78.

and concluded that it was not the intent of the committee in any way to affect State laws. On page 14 of the committee report we included, in order that this history might be made, this language: 'The committee does not intend that any award made under this section may supersede or modify any State law relating to the manning of trains.'"¹¹

The Chairman of the Committee then went on to tell the House, after referring to this Court's holding in *Missouri Pac. R. Co. v. Norwood*,

"Therefore, since this bill does not mention the subject of State laws, and since, as the committee report shows, we do not intend to affect these laws, I am confident they are not affected by the bill.

"I think that is about as clear as we can make it."

Many statements like those quoted above point to the fact that both the Senate and the House members did not intend by enacting Public Law 88-108 to supersede state laws. This sentiment was voiced by witnesses representing both labor and railroads as well as by public officials of the Nation. The railroads seek to offset these carefully considered expressions by reference to a single incident. On one of the occasions when Representative Harris, Chairman of the House Committee reporting the bill, had stated that the Act would not supersede the state law, Representative Smith of Virginia, Chairman of the Rules Committee of the House, interrupted Representative Harris to make the statement set out below.¹²

¹¹ 109 Cong. Rec. 16122 (1963). See also the Committee Report referred to by Chairman Harris, H. R. Rep. No. 713, 88th Cong., 1st Sess., 14.

¹² "Mr. SMITH of Virginia. Mr. Speaker, the colloquy between the gentleman from California [Mr. SISK], and the chairman of the Committee on Interstate and Foreign Commerce, the gentleman from Arkansas [Mr. HARRIS], raises a question that has not previously been discussed on the floor of the House. It was discussed in the

This single statement by Congressman Smith was hardly enough to cast doubt in the minds of the members of the House as to the accuracy of the statement made by Congressman Harris, Chairman of the Committee which reported the bill. The substance of Congressman Smith's statement was:

"I think the provisions of the Constitution are such and the decisions of the courts are such that there is no way in which a State can overcome the power of the Federal Government under the interstate commerce clause."

committee yesterday before the Committee on Rules. I do not like to remain silent in view of the statement that a State law can overcome the constitutional provision which gives exclusive jurisdiction to the Federal Government in matters of interstate commerce. I do not know what precedents may have been found with reference to this question, but of course, in the matter of purely intrastate commerce under our Constitution the State, of course, would have authority, but when it comes to dealing with interstate commerce I think the provisions of the Constitution are such and the decisions of the courts are such that there is no way in which a State can overcome the power of the Federal Government under the interstate commerce clause.

"I simply wanted to make my own position clear with reference to that question, for whatever it may be worth.

"Mr. EDMONDSON. Mr. Speaker, will the gentleman yield?

"Mr. SMITH of Virginia. I yield to the gentleman from Oklahoma.

"Mr. EDMONDSON. I thank the distinguished chairman of the Committee on Rules for yielding to me at this point. Would this not mean in effect that about the only kind of train operation in which State laws would prevail would be in the switching of cars involving switch engine operations?

"Mr. SMITH of Virginia. Of course, it is just a question of what is or what constitutes interstate commerce. Now, as you know, the decisions of the courts and the actions of the Congress have gone a long way in putting almost everything under interstate commerce."

109 Cong. Rec. 16122 (1963).

This statement was, of course, correct but it has little relevance as to whether the bill was intended to exercise the power of the Federal Government to supersede state laws.

In the face of the clear congressional history of this Act we could not hold that either the Act itself or the arbitration awards made under it supersede the Arkansas state laws.

II.

The railroads contend that the District Court would have been justified in holding the two Arkansas Acts unconstitutional on the second ground of their motion for summary judgment which is that the two Acts "constitute discriminatory legislation against interstate commerce in favor of intrastate commerce." Aside from the fact that such an argument was apparently rejected in the prior cases upholding the constitutionality of the Arkansas statutes we think it is wholly without merit. The argument is based on the fact that the 1907 state law exempts railroads with less than 50 miles of track and the 1913 law exempts railroads with less than 100 miles of track. None of the State's 17 intrastate railroads have more than 50 miles of track. It turns out that none of them are subject to either of the two state laws while 10 of the 11 interstate railroads are subject to the 1907 Act and eight of them are subject to the 1913 Act. It is impossible for us to say as a matter of law that this difference in treatment by the State, based on the differing mileage of railroads, is without any rational basis as the railroads contend. Certainly some regulations based on different mileage of railroads might be wholly rational, reasonable, and desirable. We cannot say on the record now before us that classification according to the length of mileage in these two statutes constitutes discrimination against interstate commerce in violation of the Com-

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merce Clause or the Equal Protection Clause. See *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U. S. 132, 137.

The judgment of the District Court is reversed and the cause is remanded to that court for consideration of the constitutional issues left undecided by its previous judgment.

It is so ordered.

MR. JUSTICE FORTAS took no part in the consideration or decision of this case.

MR. JUSTICE DOUGLAS, dissenting.

We all agree that Congress has ample power to regulate the number of employees used to man railroad trains operating in interstate commerce. Unlike the majority, however, I believe that Congress has exercised that power, and respectfully dissent from the Court's conclusion to the contrary.

The bargaining impasse which prompted the passage of Public Law 88-108 (77 Stat. 132) represented, in a sense, only the exposed top of a large iceberg. Lurking beneath the surface of the controversy were the twin problems of automation and technological unemployment. Congress was well aware of the developing conflict between innovation and job security. When President Kennedy sought a legislative solution to the pending crisis in the railroad industry, he reminded Congress that:

“ . . . this dispute over railroad work rules is part of a much broader national problem. Unemployment, whether created by so-called automation, by a shift of industry to new areas, or by an overall shortage of market demand, is a major social burden.

“ This problem is particularly but not exclusively acute in the railroad industry. Forty percent fewer

employees than were employed at the beginning of this decade now handle substantially the same volume of rail traffic. The rapid replacement of steam locomotives by diesel engines for 97 percent of all freight tonnage has confronted many firemen, who have spent much of their career in this work, with the unpleasant prospect of human obsolescence. . . . The Presidential Commission was established in part, it said, because of the need to close the gap between technology and work." (See Hearings before Senate Committee on Commerce on S. J. Res. 102, 88th Cong., 1st Sess., 11-12.)

The Presidential Railroad Commission to which President Kennedy referred was established by President Eisenhower's order in 1960,¹ and was charged with investigating the dispute which arose out of the railroads' proposed elimination of firemen on diesel engines, and the reduction of the number of other crew members, in freight and yard service. After an extensive study, the Commission issued its report containing detailed findings on all aspects of the dispute. The Commission's recommendations included the elimination of firemen on diesels in freight service and the reduction of the number of brakemen and switchmen. It recommended financial benefits for those separated from service.

This Presidential Railroad Commission was well aware that, however desirable might be a nationwide solution to the problem, the continued existence of state "full crew" laws made this impossible:

"[M]ost of the legislation of this kind was enacted prior to 1920. These laws apparently fail to envision modern railroad operations. We feel that our recommendations with respect to this issue should have nationwide application. We recognize that

¹ Executive Order No. 10891, Nov. 1, 1960.

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there will be difficulty in applying the rule recommended by us in States where 'full crew' laws have been enacted. How the restriction of those laws may be lifted, however, is a matter which goes beyond our charge." ²

Then came Public Law 88-108, § 3 of which empowers the Board to "resolve the matters on which the parties were not in agreement" and to make a binding award which "shall constitute a complete and final disposition of the . . . issues." Section 7 (a) lays down standards for the Board:

- (1) "[T]he effect of the proposed award upon adequate and safe transportation service";
- (2) "[T]he effect of the proposed award upon . . . the interests of the carrier and employees affected"; and
- (3) "[D]ue consideration to the narrowing of the areas of disagreement which has been accomplished in bargaining and mediation."

Today the Court concludes that Congress sought only to shear off the visible portion of the iceberg, leaving the continued existence of state "full crew" laws as a bar to the resolution of these matters.

That the state statutes in question conflict with the federal arbitration awards is plain. Congress directed the National Arbitration Board to resolve the dispute as to the necessity of firemen on diesel freights and as to the minimum size of train and switching crews. The Board has declared that, in general, firemen are not to be required. And through local boards, the number of brakemen, switchmen, and helpers to be used in various operations is fixed.³ These state laws, however, compel

² Report of the Presidential Railroad Commission (1962), at p. 64.

³ The national award provided for the elimination of 90% of the firemen's jobs in each local seniority district, except that firemen would in all cases be required on yard locomotives lacking a "dead-man" control. In addition, jobs had to be made available to fire-

the use of firemen in virtually all interstate operations and fix the size of train crews at levels usually exceeding those fixed by the local awards.⁴ States lacking such laws are, in light of the Court's decision, free to enact them and thereby, in effect, imperil Public Law 88-108 and the arbitration awards made under it. This Court has held that a state statute must fall in the face of an inconsistent provision in a collective bargaining agreement negotiated pursuant to the command of federal law, *Teamsters Union v. Oliver*, 358 U. S. 283, even though Congress did not prescribe the particular terms of the agreement. And see *California v. Taylor*, 353 U. S. 553. We have here something more than collective bargaining agreements. These arbitration awards are binding directives, resolving a labor-management dispute, issued under the direction and authority of Congress.

The problems submitted to the Arbitration Board concerned primarily two central issues: (1) continued use of firemen on diesel-electric or electric locomotives which do not use steam power, and on which the work of firing

men retained in service pursuant to the employment protective provisions of the award which, in general, provided that any fireman with 10 years' seniority had to be retained either as a fireman or an engineer. Firemen with between two and 10 years' seniority had to be retained in engine service or offered a comparable position.

As for brakemen and switchmen, the award established procedures for binding local arbitration whereby the number of other crew members might be fixed on a local basis, subject to certain employment protective conditions established by the national Board. The applicable local awards for Arkansas railroad operations provide for two brakemen on main-line operations and one brakeman on branch-line operations. In switching operations, the local awards provide, with certain exceptions, for one helper.

⁴ Thus Arkansas law requires a fireman on every train, with certain exceptions, while the arbitration award permits abolition of 90% of the firemen's positions. Arkansas requires three brakemen while the arbitration award requires no more than two. Similar conflicts appear in respect to the yard operations.

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boilers need not be performed; (2) the makeup or "consist" of train service crews in road and yard. These are matters recognized by the Board as governed in some States "by statute or administrative decision." Indeed, a resolution of them in many situations might involve overriding or disregarding conflicting local regulations. Any realistic view of the scope and nature of the impasse the parties had reached would necessarily endow the Board with power to resolve conflicts between what it deemed to be the desirable national policy on the one hand and conflicting state laws on the other.

The issues were far-reaching; they included questions in the realm of economics, of railroad technology, and of sociology. This was a controversy that years of collective bargaining, study, informed analysis, persuasion, and debate had not been able to resolve. The Board's seven members⁵ held 29 days of hearings, received the testimony of more than 40 witnesses recorded in nearly 5,000 pages of transcript, examined more than 200 documentary exhibits, and made inspection trips to four railroad yards in the Chicago area. Its award⁶ was concurred in by the two carrier members and dissented from by the labor members.⁷ The opinion of the neutral members of the Board details the conclusions the panel reached. It states, as to the question of firemen, that:

"although we think it clear that firemen are presently performing useful services, we agree with the

⁵ The Chairman of the Board was Ralph T. Seward. The other two neutral members were Benjamin Aaron and James J. Healy. Representing the carriers were Guy W. Knight and J. E. Wolfe. Representing the labor organizations were H. E. Gilbert and R. H. McDonald.

⁶ See note 3, *supra*.

⁷ The carrier members, while "disappointed with certain of [the] provisions" of the award, noted the "care and diligence" which the Board had displayed in reaching its decision. The labor members contended that the Board had not been true to the congressional command and that its conclusions were erroneous.

[Presidential Railroad] Commission 'that firemen-helpers are not so essential for the safe and efficient operation of road freight and yard diesels that there should continue to be either a national rule or local rules requiring their assignment on all such diesels.' "⁸

The Board found, in respect to the other members of the train crew, that "the consist of crews necessary to assure safety and to prevent undue workloads must be determined primarily by local conditions. A national prescription of crew size would be wholly unrealistic." The Board established procedures for local arbitration of these issues. And, the Board added,

"It is clear from the evidence before us that the myriad of local arrangements has led to numerous inconsistencies in the manning of crews. It is equally clear that some of the existing rules, originating as they did more than a half-century ago, are anachronistic and do not reflect the present state of railroad technology and operating conditions."

⁸ The opinion states that the "lookout function presently assigned to the fireman is also performed by the head brakeman in road freight service and by all members of the train crew in yard service. In the great majority of cases the lack of a fireman to perform the related functions of lookout and signal passing will not endanger safety or impair efficiency because these functions can be, as they are now, performed by other crew members."

The mechanical duties performed by firemen, the Board found, could in large part "be performed by the engineer while the locomotive is in service and by shop maintenance personnel at other times."

Finally, the Board found that relief of the engineer by the fireman is of critical importance only in the event of sudden incapacitation. "In road freight service the usual presence of the head brakeman in the cab obviates the need for a fireman in such an emergency."

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The Board's concern with safety is apparent from a reading of the neutral members' opinion. As that opinion puts it:

"It may be fairly stated that concern with safety has pervaded this entire proceeding. It was apparent in the presentations and arguments by all the organizations and by the carriers, and was further emphasized by the inquiries which members of the Board directed to witnesses and counsel."

We are in no position, of course, to pass judgment on the work of the Arbitration Board, nor is it our function to do so. But it is apparent that this panel had the power and the tools to resolve the controversy. Its award constitutes a national solution to the question of firemen and establishes the procedures, already utilized in respect to these railroads operating in Arkansas, for resolution of the crew consist issue.

I conclude that the effect of Public Law 88-108 and the awards made pursuant to it was to supersede state "full crew" legislation. Of course, were the intent of Congress shown to be otherwise, that would be dispositive. Unlike the majority, I do not think that the bits and pieces of legislative debate cited in the Court's opinion can be regarded as a controlling statement of legislative intent. If anything, the legislative history of Public Law 88-108 suggests that Congress refused to accept the suggestion that, if it wished to avoid the supersession of state "full crew" laws, it should expressly say so.

The majority points to statements made by Congressman Harris, Chairman of the House Committee on Interstate and Foreign Commerce, to the effect that the bill would have no effect on state laws. But when he stated his conclusion on the floor of the House, he was immediately challenged by Congressman Smith, Chairman of the Rules Committee. Under the circumstances, it

seems inappropriate to regard Congressman Harris' views as wholly authoritative. The testimony of Secretary Wirtz, also referred to by the Court, was followed by a legal memorandum submitted by the Secretary. This memorandum suggests that the Interstate Commerce Commission would, under the proposed legislation, have the power to supersede state legislation, and that to avoid this the Commission might expressly provide to the contrary in its orders.⁹

The absence of an express disclaimer of intent to supersede state laws was called to the attention of Congress. Testifying before the House Committee, Secretary Wirtz did so.¹⁰ The General Counsel of the Interstate Commerce Commission told the Committee that if "the Congress wants to be doubly certain, for example, that no such legal consequence follows it could be done" by expressly stating that no supersession is intended.¹¹ To this the Chairman responded:

"I appreciate your very frank response, because I think it has sort of been left up in the air as to what

⁹ See Hearings before House Committee on Interstate and Foreign Commerce on H. J. Res. No. 565, 88th Cong., 1st Sess., 112-113. The reference to the Interstate Commerce Commission was made, of course, because at that stage Congress was considering the legislation in the form proposed by the President, which contemplated resolution of the dispute by the Commission.

The report of the Committee reflects the view of its Chairman and states that state full-crew laws would not be superseded. H. R. Rep. No. 713, 88th Cong., 1st Sess., 14. It bears repeating that this position was challenged by Congressman Smith on the floor of the House. And it is also significant that the report of the Senate Commerce Committee (S. Rep. No. 459, 88th Cong., 1st Sess.) makes no mention of the pre-emption question, despite references to it in the Committee's hearings. See note 13 and accompanying text and note 14, *infra*.

¹⁰ See Hearings before House Committee on Interstate and Foreign Commerce on H. J. Res. 565, 88th Cong., 1st Sess., 111.

¹¹ *Id.*, at p. 614.

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the courts might do. There has been expression as to what is intended and what some might have thought but I think we also have to provide clarity wherever it is necessary in order that the Commission may have guidance in its effort to carry out the responsibility should it so be directed.”¹²

The Commission’s General Counsel testified to the same effect before the Senate Commerce Committee:

“If it were desired to make that absolutely certain, if that is the desire of Congress, it can be done by just a phrase”¹³

Despite this advice, Congress did not include a “saving” clause.¹⁴

¹² *Ibid.*

¹³ Hearings before Senate Committee on Commerce on S. J. Res. No. 102, 88th Cong., 1st Sess., 401.

¹⁴ The possibility that the bill would result in the supersession of state laws was noted at other points in the Senate Commerce Committee hearings. A representative of the Brotherhood of Locomotive Engineers testified:

“Mr. DAVIDSON. Mr. Chairman, I was just handed a note that I would like to read into the record, if I may.

“Senator PASTORE. All right.

“Mr. DAVIDSON. General Counsel for the ICC, at the House hearing today, stated if this bill passes, the Commission would have jurisdiction over States’ minimum crew bills.

“Senator PASTORE. I don’t want to pass any judgment on that. You have read it into the record. I will check that.” *Id.*, at 478.

The General Counsel of the Railway Labor Executives’ Association testified: “I certainly visualize that as a bare minimum the carriers will contend that the effect [of] orders of the Commission authorizing decreases in crew consist—either of enginecrew or traincrew—would operate to overrule full crew laws in those States that have them. Perhaps that explains the alacrity with which the carriers embraced the President’s recommendation and endorsed it.” *Id.*, at 629.

As stated by the District Court: “A complete review of the legislative history will reveal that some members of Congress thought

Congress was faced, at the time it enacted Public Law 88-108, with more than the threat of a crippling strike. It had before it the recommendations of the Presidential Railroad Commission. It had been told by the President of the seriousness of the problem of technological unemployment arising from automation. Congress responded by establishing a procedure for resolution of the railroad industry's pressing economic problem with ample consideration of the "safety" issue. It is inconceivable that Congress intended to solve only part of the problem when it directed the Arbitration Board to make a binding award which "shall constitute a complete and final disposition of the . . . issues."

In sum, I agree with District Court that, "There is nothing in the Act itself or in the history that indicates that the Congress intended to resolve this problem of national magnitude by legislation that would be effective in only some 30 states that do not regulate crew consists by law or administrative regulation." 239 F. Supp. 1, 23.

Although automation was a prime concern of the President and the Congress, the Court holds that the lawmakers cloaked their concern in such weasel-like words as not to reach the roots of the problem. With all respect, I dissent.

that the legislation would pre-empt state crew consist laws, and others thought it would not. It is perfectly clear that the Committees in both Houses had it brought effectively to their attention that the legislation might have a pre-empting effect, and if such pre-emption was not the desire and intention of the Congress, it should so expressly state in the bill. There was no such expression although the bill was amended in many other respects after the hearings before both Committees had been concluded." 239 F. Supp., pp. 22-23.

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UNITED STATES *v.* CALIFORNIA.

No. 5, Original. Decided June 23, 1947, and May 17, 1965.—Order and Decree Entered October 27, 1947.—Supplemental Decree Entered January 31, 1966.

The motion by the United States for the entry of a supplemental decree is granted and a supplemental decree is entered.

Opinions reported: 332 U. S. 19, 381 U. S. 139; order and decree reported: 332 U. S. 804.

Solicitor General Marshall, Louis F. Claiborne and George S. Swarth for the United States.

Thomas C. Lynch, Attorney General of California, *Jay L. Shavelson*, Assistant Attorney General, *Richard H. Keatinge*, Special Assistant Attorney General, and *Warren J. Abbott* and *N. Gregory Taylor*, Deputy Attorneys General, for the State of California.

PER CURIAM.

In accordance with the Court's opinion in *United States v. California*, 381 U. S. 139, proposed decrees have been submitted by the parties. The Court has examined such proposed decrees and the briefs and papers submitted in support thereof, and enters the following decree:

Supplemental Decree.

The United States having moved for entry of a supplemental decree herein, and the matter having been referred to the late William H. Davis as Special Master to hold hearings and recommend answers to certain questions with respect thereto, and the Special Master having held such hearings and having submitted his report, and the issues having been modified by the supplemental complaint of the United States and the answer of the

State of California thereto, and the parties having filed amended exceptions to the report of the Special Master, and the Court having received briefs and heard argument with respect thereto and having by its opinion of May 17, 1965, approved the recommendations of the Special Master, with modifications, it is ORDERED, ADJUDGED AND DECREED that the decree heretofore entered in this cause on October 27, 1947, 332 U. S. 804, be, and the same is hereby, modified to read as follows:

1. As against the State of California and all persons claiming under it, the subsoil and seabed of the continental shelf, more than three geographical miles seaward from the nearest point or points on the coast line, at all times pertinent hereto have appertained and now appertain to the United States and have been and now are subject to its exclusive jurisdiction, control and power of disposition. The State of California has no title thereto or property interest therein.

2. As used herein, "coast line" means—

(a) The line of mean lower low water on the mainland, on islands, and on low-tide elevations lying wholly or partly within three geographical miles from the line of mean lower low water on the mainland or on an island; and

(b) The line marking the seaward limit of inland waters.

The coast line is to be taken as heretofore or hereafter modified by natural or artificial means, and includes the outermost permanent harbor works that form an integral part of the harbor system within the meaning of Article 8 of the Convention on the Territorial Sea and the Contiguous Zone, T. I. A. S. No. 5639.

3. As used herein—

(a) "Island" means a naturally-formed area of land surrounded by water, which is above the level of mean high water;

(b) "Low-tide elevation" means a naturally-formed area of land surrounded by water at mean lower low water, which is above the level of mean lower low water but not above the level of mean high water;

(c) "Mean lower low water" means the average elevation of all the daily lower low tides occurring over a period of 18.6 years;

(d) "Mean high water" means the average elevation of all the high tides occurring over a period of 18.6 years;

(e) "Geographical mile" means a distance of 1852 meters (6076.10333 . . . U. S. Survey Feet or approximately 6076.11549 International Feet).

4. As used herein, "inland waters" means waters landward of the baseline of the territorial sea, which are now recognized as internal waters of the United States under the Convention on the Territorial Sea and the Contiguous Zone. The inland waters referred to in paragraph 2 (b) hereof include—

(a) Any river or stream flowing directly into the sea, landward of a straight line across its mouth;

(b) Any port, landward of its outermost permanent harbor works and a straight line across its entrance;

(c) Any "historic bay," as that term is used in paragraph 6 of Article 7 of the Convention, defined essentially as a bay over which the United States has traditionally asserted and maintained dominion with the acquiescence of foreign nations;

(d) Any other bay (defined as a well-marked coastal indentation having such penetration, in proportion to the width of its entrance, as to contain landlocked waters, and having an area, including islands within the bay, at least as great as the area of a semicircle whose diameter equals the length of the closing line across the entrance of the bay, or the sum of such closing lines if the bay has more than one entrance), landward of a straight line across its entrance or, if the entrance is more than 24

geographical miles wide, landward of a straight line not over 24 geographical miles long, drawn within the bay so as to enclose the greatest possible amount of water. An estuary of a river is treated in the same way as a bay.

5. In drawing a closing line across the entrance of any body of inland water having pronounced headlands, the line shall be drawn between the points where the plane of mean lower low water meets the outermost extension of the headlands. Where there is no pronounced headland, the line shall be drawn to the point where the line of mean lower low water on the shore is intersected by the bisector of the angle formed where a line projecting the general trend of the line of mean lower low water along the open coast meets a line projecting the general trend of the line of mean lower low water along the tributary waterway.

6. Roadsteads, waters between islands, and waters between islands and the mainland are not *per se* inland waters.

7. The inland waters of the Port of San Pedro are those enclosed by the breakwater and by straight lines across openings in the breakwater; but the limits of the port, east of the eastern end of the breakwater, are not determined by this decree.

8. The inland waters of Crescent City Harbor are those enclosed within the breakwaters and a straight line from the outer end of the west breakwater to the southern extremity of Whaler Island.

9. The inland waters of Monterey Bay are those enclosed by a straight line between Point Pinos and Point Santa Cruz.

10. The description of the inland waters of the Port of San Pedro, Crescent City Harbor, and Monterey Bay, as set forth in paragraphs 7, 8, and 9 hereof, does not imply that the three-mile limit is to be measured from the seaward limits of those inland waters in places where

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the three-mile limit is placed farther seaward by the application of any other provision of this decree.

11. The following are not historic inland waters, and do not comprise inland waters except to the extent that they may be enclosed by lines as hereinabove described for the enclosure of inland waters other than historic bays:

- (a) Waters between the Santa Barbara or Channel Islands, or between those islands and the mainland;
- (b) Waters adjacent to the coast between Point Conception and Point Hueneme;
- (c) Waters adjacent to the coast between Point Fermin and Point Lasuen (identified as the bluffs at the end of the Las Bolsas Ridge at Huntington Beach);
- (d) Waters adjacent to the coast between Point Lasuen and the western headland of Newport Bay;
- (e) Santa Monica Bay;
- (f) Crescent City Bay;
- (g) San Luis Obispo Bay.

12. With the exceptions provided by § 5 of the Submerged Lands Act, 67 Stat. 32, 43 U. S. C. § 1313 (1964 ed.), and subject to the powers reserved to the United States by § 3 (d) and § 6 of said Act, 67 Stat. 31, 32, 43 U. S. C. §§ 1311 (d) and 1314 (1964 ed.), the State of California is entitled, as against the United States, to the title to and ownership of the tidelands along its coast (defined as the shore of the mainland and of islands, between the line of mean high water and the line of mean lower low water) and the submerged lands, minerals, other natural resources and improvements underlying the inland waters and the waters of the Pacific Ocean within three geographical miles seaward from the coast line and bounded on the north and south by the northern and southern boundaries of the State of California, including the right and power to manage, administer, lease, develop and use the said lands and natural resources

all in accordance with applicable State law. The United States is not entitled, as against the State of California, to any right, title or interest in or to said lands, improvements and natural resources except as provided by § 5 of the Submerged Lands Act.

13. The parties shall submit to the Court for its approval any stipulation or stipulations that they may enter into, identifying with greater particularity all or any part of the boundary line, as defined by this decree, between the submerged lands of the United States and the submerged lands of the State of California, or identifying any of the areas reserved to the United States by § 5 of the Submerged Lands Act. As to any portion of such boundary line or of any areas claimed to have been reserved under § 5 of the Submerged Lands Act as to which the parties may be unable to agree, either party may apply to the Court at any time for entry of a further supplemental decree.

14. The Court retains jurisdiction to entertain such further proceedings, enter such orders, and issue such writs as may from time to time be deemed necessary or advisable to give proper force and effect to this decree or to effectuate the rights of the parties in the premises.

THE CHIEF JUSTICE, MR. JUSTICE CLARK, and MR. JUSTICE FORTAS took no part in the formulation of this decree.

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UNITED STATES ET AL. v. WILSON & CO., INC.,
ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT.

No. 56. Decided January 31, 1966.

335 F. 2d 788, remanded.

Solicitor General Marshall for the United States et al.
Howard J. Trienens for respondents American Telephone & Telegraph Co. et al.

PER CURIAM.

The joint motion of counsel to remand is granted and the case is remanded to the United States Court of Appeals for the Seventh Circuit in order to permit the entry of a decree of restitution in accordance with the agreement of the parties.

BECK v. McLEOD, ATTORNEY GENERAL OF
SOUTH CAROLINA.APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF SOUTH CAROLINA.

No. 770. Decided January 31, 1966.

240 F. Supp. 708, affirmed.

Samuel C. Craven for appellant.*Daniel R. McLeod*, Attorney General of South Carolina, and *Everett N. Brandon*, Assistant Attorney General, for appellee.

PER CURIAM.

The judgment is affirmed.

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January 31, 1966.

RAINSBERGER *v.* NEVADA.

APPEAL FROM THE SUPREME COURT OF NEVADA.

No. 368, Misc. Decided January 31, 1966.

81 Nev. 92, 399 P. 2d 129, appeal dismissed.

Samuel S. Lionel for appellant.*Paul C. Parraguirre* for appellee.

PER CURIAM.

The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question.

NAWROCKI *v.* MICHIGAN.

APPEAL FROM THE SUPREME COURT OF MICHIGAN.

No. 966, Misc. Decided January 31, 1966.

376 Mich. 252, 136 N. W. 2d 922, appeal dismissed and certiorari denied.

PER CURIAM.

The appeal is dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for a writ of certiorari, certiorari is denied.

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PLATT, CHIEF JUDGE, U. S. DISTRICT
COURT *v.* MINNESOTA MINING &
MANUFACTURING CO.ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

No. 274. Decided January 31, 1966.

Certiorari granted; 345 F. 2d 681, vacated and remanded.

Solicitor General Marshall, former *Solicitor General Cox*, *Acting Assistant Attorney General Wright* and *Lionel Kestenbaum* for petitioner.*John T. Chadwell*, *Glenn W. McGee*, *Allan J. Reniche*, *William H. Abbott* and *John L. Connolly* for respondent.

PER CURIAM.

Upon consideration of the suggestion of mootness filed by the Solicitor General and upon an examination of the entire record, the petition for a writ of certiorari is granted, the judgment of the United States Court of Appeals for the Seventh Circuit is vacated and the case is remanded to that court with instructions to dismiss the mandamus proceeding as moot.

Donald C. Cross for appellant.*Daniel R. McLoud*, *Attorney General of South Carolina*, and *Howard N. Brandon*, *Assistant Attorney General*, for appellee.

Per Curiam.

The judgment is affirmed.

ORDERS FROM END OF OCTOBER TERM, 1962,
THROUGH JANUARY 31, 1963.

Cases Dismissed in Vacation.

No. 321. *Moore, Marvin v. Chester Harrel, C. A. 5th Cir.* Petition for writ of certiorari dismissed July 8, 1963, pursuant to Rule 60 of the Rules of this Court.

Argued Dec. 10, 1962.

REPORTER'S NOTE.

The next page is purposely numbered 801. The numbers between 456 and 801 were intentionally omitted, in order to make it possible to publish the orders in the current advance sheets or preliminary prints of the United States Reports with *permanent* page numbers, thus making the official citations immediately available.

Argued Dec. 10, 1962, and Jan. 10, 1963, before the Court, Attorney General of Missouri, John C. Danforth, and Marshall J. Moore, Assistant Attorney General, and Gould H. Grayson, Special Assistant Attorney General, for defendant.

No. 322. *Missouri Food Stores, Inc. v. Karpowicz, Superintendent, Missouri Department of Justice, et al.* Petition for writ of certiorari dismissed August 2, 1963, pursuant to Rule 60 of the Rules of this Court. *W. Philip Kieran* for petitioner. Reported below 394 F. 2d 513.

No. 323. *M. & J. Dusen, Locomotive Parts Co., et al. v. Barnes et al.* C. A. 7th Cir. Petition for writ of certiorari dismissed August 16, 1963, pursuant to Rule 60 of the Rules of this Court. *Edmund R. Kelleher* for petitioner. Reported below 394 F. 2d 573.

January 31, 1906.

No. 113.

PLATT, CHIEF JUDGE, U. S. DISTRICT COURT, v. MINNESOTA MINING & MANUFACTURING CO.

ON PETITION FOR WRIT OF MANDAMUS TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

No. 279. Dated January 31, 1906.

Petition granted. 348 U. S. 24661, vacated and remanded.

Attorney-General Marshall, former Solicitor-General Cox, Acting Assistant Attorney-General Wright and General Postmaster General Hammill.Attala, Johnson & Moore, Albany, New York, and Marshall, Johnson & Hammill, New York, New York, Respondents in cause, hereby turn over all of their acts during the year 1905, concerning the appeal above, to the Clerk of the Court of Appeals for the Seventh Circuit, to be used by the Solicitor General, and upon an examination of the same, if the petition for a writ of certiorari is granted, the judgment of the United States Court of Appeals for the Seventh Circuit is vacated and the cause remanded to that court with instructions to determine the remaining proceeding as most.Upon reading a statement made by the Clerk of the Court of Appeals for the Seventh Circuit, it is ordered that the cause be remanded to that court with instructions to determine the remaining proceeding as most.

ORDERS FROM END OF OCTOBER TERM, 1964,
THROUGH JANUARY 31, 1966.

CASES DISMISSED IN VACATION.

No. 231, Misc. *MEUNIER v. UNITED STATES*. C. A. 5th Cir. Petition for writ of certiorari dismissed July 8, 1965, pursuant to Rule 60 of the Rules of this Court.

No. 93. *CRANE Co. v. EVANS-HAILEY Co., INC.* Appeal from D. C. M. D. Tenn. dismissed July 21, 1965, pursuant to Rule 60 of the Rules of this Court. *Cecil Sims* for appellant.

No. 20, Original. *KANSAS v. COLORADO*. Motion for leave to file bill of complaint dismissed August 2, 1965, pursuant to Rule 60 of the Rules of this Court. *Robert C. Londerholm*, Attorney General of Kansas, and *Charles N. Henson, Jr.*, Assistant Attorney General, for plaintiff. *Duke W. Dunbar*, Attorney General of Colorado, *James D. Geissinger* and *Raphael J. Moses*, Assistant Attorneys General, and *Donald H. Hamburg*, Special Assistant Attorney General, for defendant.

No. 54. *MILGRAM FOOD STORES, INC. v. KETCHUM, SUPERVISOR, MISSOURI DEPARTMENT OF LIQUOR CONTROL*. Sup. Ct. Mo. Petition for writ of certiorari dismissed August 2, 1965, pursuant to Rule 60 of the Rules of this Court. *F. Philip Kirwan* for petitioner. Reported below: 384 S. W. 2d 510.

No. 326. *M & J DIESEL LOCOMOTIVE FILTER CORP. ET AL. v. BRIGGS ET AL.* C. A. 7th Cir. Petition for writ of certiorari dismissed August 19, 1965, pursuant to Rule 60 of the Rules of this Court. *Edwin A. Rothschild* for petitioners. Reported below: 342 F. 2d 573.

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No. 171, Misc. *STANLEY v. NEW YORK*. Ct. App. N. Y. Petition for writ of certiorari dismissed August 31, 1965, pursuant to Rule 60 of the Rules of this Court.

No. 236. *CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE v. UNITED STATES ET AL.* Appeal from D. C. N. D. Cal. dismissed September 1, 1965, pursuant to Rule 60 of the Rules of this Court. *William H. Dempsey, Jr.*, and *Eugene T. Lüpfert* for appellant. *Solicitor General Cox*, *Assistant Attorney General Turner*, *Lionel Kestenbaum*, *I. Daniel Stewart, Jr.*, *Robert W. Ginnane* and *Robert S. Burk* for the United States. *Earle V. White* for appellee *Everts' Commercial Transport, Inc.* Reported below: 237 F. Supp. 391.

No. 475, Misc. *CRAIG v. NEBRASKA*. C. A. 8th Cir. Petition for writ of certiorari dismissed September 21, 1965, pursuant to Rule 60 of the Rules of this Court.

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Miscellaneous Orders.

No. 38. *ROSENBLATT v. BAER*. Sup. Ct. N. H. (Certiorari granted, 380 U. S. 941.) Motion of American Civil Liberties Union for leave to file brief, as *amicus curiae*, granted. *Osmond K. Fraenkel*, *Edward J. Ennis* and *Melvin L. Wulf* for American Civil Liberties Union, as *amicus curiae*, urging reversal. *Stanley M. Brown* for respondent, in opposition to the motion.

No. 29. *UNITED STATES v. EWELL ET AL.* Appeal from D. C. S. D. Ind. (Probable jurisdiction noted, 381 U. S. 909.) Motion for appointment of counsel granted. It is ordered that *David B. Lockton, Esquire*, of Indianapolis, Indiana, be, and he is hereby, appointed to serve as counsel on behalf of Clarence Ewell, an appellee in this case.

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No. 18, Original. *ILLINOIS v. MISSOURI*. Motion to make complaint more definite and certain granted. *Norman H. Anderson*, Attorney General of Missouri, *Harold L. McFadden*, Assistant Attorney General, and *Stanley M. Rosenblum* on the motion. [For earlier orders herein, see 379 U. S. 952; 380 U. S. 901, 969.]

No. 12. *WESTERN PACIFIC RAILROAD CO. ET AL. v. UNITED STATES ET AL.* D. C. N. D. Cal. (Probable jurisdiction noted, 379 U. S. 956.) Joint motion to remove case from summary calendar and for permission for two attorneys to present oral argument for each side granted. *E. Barrett Prettyman, Jr.*, for appellants; *Acting Solicitor General Spritzer* and *Robert W. Ginnane* for the United States et al., and *Frank S. Farrell* for Northern Pacific Railway Co. et al., appellees, on the motion.

No. 42. *GINZBURG ET AL. v. UNITED STATES*. C. A. 3d Cir. (Certiorari granted, 380 U. S. 961.) Motion of petitioners to remove case from summary calendar denied. *Sidney Dickstein* on the motion.

No. 88. *IN RE MACKAY*. Sup. Ct. Alaska. Motion to defer consideration of the petition for writ of certiorari granted. *Joseph A. Ball* and *Edgar Paul Boyko* on the motion.

No. 104. *KENT v. UNITED STATES*. C. A. D. C. Cir. (Certiorari granted, 381 U. S. 902.) Motion to remove this case from summary calendar granted. *Myron G. Ehrlich* on the motion.

No. 346. *CANADA PACKERS, LTD. v. ATCHISON, TOPEKA & SANTA FE RAILWAY CO. ET AL.* C. A. 7th Cir. The Solicitor General is invited to file a brief expressing the views of the United States.

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No. 355. *LITTELL v. NAKAI*. C. A. 9th Cir. The Solicitor General is invited to file a brief expressing the views of the United States.

No. 308, Misc. *PLUNKETT v. LANE, WARDEN*. Motion for leave to file petition for writ of habeas corpus denied. Treating the papers submitted as a petition for writ of certiorari, certiorari is denied.

No. 177, Misc. *LANGSTON v. KEARNEY, WARDEN*;
No. 179, Misc. *HENDERSON v. MAXWELL, WARDEN*;
No. 195, Misc. *BROWN v. FLORIDA*;
No. 204, Misc. *HUFFMAN v. MARONEY, CORRECTIONAL SUPERINTENDENT*;

No. 245, Misc. *MARTINEZ v. WILSON, WARDEN, ET AL.*;
No. 306, Misc. *CRUZ v. BETO, CORRECTIONS DIRECTOR*;
No. 309, Misc. *SMITH v. CALIFORNIA ET AL.*;
No. 329, Misc. *JAMISON v. KEARNEY, WARDEN*;
No. 330, Misc. *PARKER v. MAXWELL, WARDEN*;
No. 349, Misc. *HAYES v. PATE, WARDEN*;
No. 391, Misc. *BEY v. ANDERSON, JAIL SUPERINTENDENT*;

No. 393, Misc. *MITCHELL v. FLORIDA*;
No. 440, Misc. *SCHACK v. FLORIDA ET AL.*;
No. 447, Misc. *ARCHIE v. NEW MEXICO*;
No. 450, Misc. *DANGLEY v. WAINWRIGHT, CORRECTIONS DIRECTOR, ET AL.*; and

No. 532, Misc. *CLINE v. DUNBAR*. Motions for leave to file petitions for writs of habeas corpus denied.

No. 22, Misc. *DAVIS v. BETO, CORRECTIONS DIRECTOR*. Motion for leave to file petition for writ of habeas corpus denied. Petitioner *pro se*. *Waggoner Carr*, Attorney General of Texas, *Hawthorne Phillips*, First Assistant Attorney General, *Stanton Stone*, Executive Assistant Attorney General, and *Howard M. Fender*, Assistant Attorney General, for respondent.

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No. 260, Misc. *DESIMONE v. CHIEF JUSTICE OF ILLINOIS SUPREME COURT ET AL.* Motion for leave to file petition for writ of mandamus denied.

No. 58, Misc. *LYONS v. KLATTE, STATE HOSPITAL SUPERINTENDENT.* Motion for leave to file petition for writ of habeas corpus denied. Treating the papers submitted as a petition for writ of certiorari, certiorari is denied. Petitioner *pro se*. *Thomas C. Lynch*, Attorney General of California, and *Robert R. Granucci* and *Jay S. Linderman*, Deputy Attorneys General, for respondent.

No. 501, Misc. *ACUFF v. COOK MACHINERY CO., INC.* Motion for leave to file petition for writ of injunction and for other relief denied.

No. 18, Misc. *CALDWELL v. UNDERWOOD, U. S. DISTRICT JUDGE, ET AL.* Motion for leave to file petition for writ of mandamus denied.

No. 19, Misc. *MILLER v. BIGGS, CHIEF JUDGE, U. S. COURT OF APPEALS.* Motion for leave to file petition for writ of mandamus denied. *David H. Kubert* for petitioner. *Philip W. Amram* and *Gilbert Hahn, Jr.*, for respondent. *Emil F. Goldhaber*, Special Assistant Attorney General of Pennsylvania, filed a memorandum for the Commonwealth of Pennsylvania.

No. 232, Misc. *DOSTER v. COASH, CIRCUIT JUDGE, ET AL.* Motion for leave to file petition for writ of mandamus denied.

No. 251, Misc. *GINSBERG, TRUSTEE v. FULTON, U. S. DISTRICT JUDGE.* Motion for leave to file petition for writ of mandamus denied. *Daniel L. Ginsberg* for petitioner. *Solicitor General Cox, Acting Assistant Attorney General Jones, Harold C. Wilkenfeld* and *Crombie J. D. Garrett* for respondent.

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No. 117, Misc. *PARSON v. ANDERSON, JAIL SUPERINTENDENT*. Motion for leave to file petition for writ of habeas corpus denied. Petitioner *pro se*. *Solicitor General Cox* for respondent.

No. 91, Misc. *WALLACH v. CHANDLER, CHIEF JUDGE, U. S. DISTRICT COURT, ET AL.* Motion for leave to file petition for writ of mandamus and/or prohibition denied.

Probable Jurisdiction Noted.

No. 28, Misc. *BUTTS v. HARRISON, GOVERNOR OF VIRGINIA, ET AL.* Appeal from D. C. E. D. Va. Motion for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted and case transferred to appellate docket. The case is consolidated with No. 48 and a total of two hours is allotted for oral argument. *Robert L. Segar, Max Dean, Len W. Holt and J. A. Jordan, Jr.*, for appellant. *Robert Y. Button*, Attorney General of Virginia, and *Richard N. Harris*, Assistant Attorney General, for appellees. Reported below: 240 F. Supp. 270.

No. 303. *UNITED STATES v. VON'S GROCERY CO. ET AL.* Appeal from D. C. S. D. Cal. Probable jurisdiction noted. MR. JUSTICE FORTAS took no part in the consideration or decision of this case. *Solicitor General Cox, Acting Assistant Attorney General Wright, Robert B. Hummel, Elliott H. Moyer and James J. Coyle* for the United States. *William W. Alsup and Warren M. Christopher* for appellees. Reported below: 233 F. Supp. 976.

No. 238. *UNITED STATES v. SEALY, INC.* Appeal from D. C. N. D. Ill. Probable jurisdiction noted. *Solicitor General Cox, Assistant Attorney General Orrick, Robert B. Hummel and Gerald Kadish* for the United States. *John T. Chadwell, Richard W. McLaren and Richard S. Rhodes* for appellee.

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No. 318. BURNS, GOVERNOR OF HAWAII *v.* RICHARDSON ET AL.;

No. 323. CRAVALHO ET AL. *v.* RICHARDSON ET AL.; and

No. 409. ABE ET AL. *v.* RICHARDSON ET AL. Appeals from D. C. Hawaii. Motion of Harold S. Roberts for leave to file brief, as *amicus curiae*, in Nos. 318 and 323, granted. Probable jurisdiction noted. The cases are consolidated and a total of three hours is allotted for oral argument. MR. JUSTICE FORTAS took no part in the consideration or decision of these cases. *Bert T. Kobayashi*, Attorney General of Hawaii, *Bertram T. Kanbara* and *Nobuki Kamida*, Deputy Attorneys General, *Thurman Arnold*, *Abe Fortas* and *Dennis G. Lyons* for appellant in No. 318 and for appellee Burns in Nos. 323 and 409. *James T. Funaki* and *Eugene W. I. Lau* for appellants in No. 323. *Kazuhisa Abe* for appellants in No. 409. *Richard K. Sharpless* on motion of Harold S. Roberts for leave to file brief, as *amicus curiae*, in Nos. 318 and 323. Reported below: 238 F. Supp. 468; 240 F. Supp. 724.

No. 291. UNITED STATES *v.* STANDARD OIL Co. Appeal from D. C. M. D. Fla. Probable jurisdiction noted. *Solicitor General Cox*, *Assistant Attorney General Vinson*, *Ralph S. Spritzer* and *Beatrice Rosenberg* for the United States. *Earl B. Hadlow* and *John H. Wilbur* for appellee.

Certiorari Granted.

No. 106. FEDERAL TRADE COMMISSION *v.* BORDEN Co. C. A. 5th Cir. Certiorari granted. *Solicitor General Cox*, *Assistant Attorney General Orrick*, *Robert B. Hummel*, *Gerald Kadish*, *James McI. Henderson* and *Charles C. Moore, Jr.*, for petitioner. *John E. F. Wood*, *Kent V. Lukingbeal*, *Robert C. Johnston*, *Philip S. Campbell* and *C. Brien Dillon* for respondent. Reported below: 339 F. 2d 133.

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No. 118. FEDERAL TRADE COMMISSION *v.* BROWN SHOE Co., INC. C. A. 8th Cir. Certiorari granted. *Solicitor General Cox, Assistant Attorney General Orrick, Robert B. Hummel, Donald L. Hardison, James McI. Henderson, Thomas F. Howder and Gerald J. Thain* for petitioner. *Robert H. McRoberts* for respondent. Reported below: 339 F. 2d 45.

No. 147. GEORGIA *v.* RACHEL ET AL. C. A. 5th Cir. Certiorari granted. *Eugene Cook, Attorney General of Georgia, Albert Sidney Johnson, Deputy Assistant Attorney General, Lewis R. Slaton, Jr., Solicitor General, and J. Robert Sparks, Assistant Solicitor General*, for petitioner. Reported below: 342 F. 2d 336.

No. 280. ACCARDI ET AL. *v.* PENNSYLVANIA RAILROAD Co. C. A. 2d Cir. Certiorari granted. *Solicitor General Cox, Assistant Attorney General Douglas, Ralph S. Spritzer, Alan S. Rosenthal and Richard S. Salzman* for petitioners. *Edward F. Butler and R. L. Duff* for respondent. Reported below: 341 F. 2d 72.

No. 387. INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW), AFL-CIO *v.* HOOSIER CARDINAL CORP. C. A. 7th Cir. Certiorari granted. *Joseph L. Rauh, Jr., John Silard, Stephen I. Schlossberg and Harriett R. Taylor* for petitioner. *John E. Early* for respondent. Reported below: 346 F. 2d 242.

No. 351. COMMISSIONER OF INTERNAL REVENUE *v.* TELLIER ET UX. C. A. 2d Cir. Certiorari granted. *Solicitor General Cox, Acting Assistant Attorney General Jones, Harry Baum and Robert A. Bernstein* for petitioner. *Michael Kaminsky* for respondents. Reported below: 342 F. 2d 690.

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No. 243. UNITED MINE WORKERS OF AMERICA *v.* GIBBS. C. A. 6th Cir. Certiorari granted. *Willard P. Owens, E. H. Rayson and R. R. Kramer* for petitioner. *Harold E. Brown* for respondent. Reported below: 343 F. 2d 609.

No. 161. SUROWITZ *v.* HILTON HOTELS CORP. ET AL. C. A. 7th Cir. Certiorari granted. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. *Sidney M. Davis, Richard F. Watt and Walter J. Rockler* for petitioner. *Leslie Hodson, Don H. Reuben and Lawrence Gunnels* for Hilton Hotels Corp., and *Albert E. Jenner, Jr., and Samuel W. Block* for Hilton et al., respondents. Reported below: 342 F. 2d 596.

No. 210. STEVENS *v.* MARKS, NEW YORK SUPREME COURT JUSTICE. App. Div., Sup. Ct. N. Y., 1st Jud. Dept.; and

No. 290. STEVENS *v.* McCLOSKEY, SHERIFF. C. A. 2d Cir. Certiorari granted limited to Question 1 presented by the petitions which reads as follows:

“1. Is Article 1, Section 6 of the New York State Constitution and Section 1123 of the New York City Charter repugnant to the United States Constitution in that any public officer who refuses to sign a waiver of immunity and claims a privilege against self-incrimination suffers a penalty of loss of his public position and is barred from public employment for five years under the New York State Constitution and forever under the New York City Charter?”

The cases are consolidated and a total of two hours is allotted for oral argument. *Gerard E. Maloney* for petitioner. *Frank S. Hogan and H. Richard Uviller* for respondents. Reported below: No. 210, 22 App. Div. 2d 683, 253 N. Y. S. 2d 401; No. 290, 345 F. 2d 305.

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No. 127. UNITED STATES *v.* O'MALLEY ET AL., EXECUTORS. C. A. 7th Cir. Certiorari granted. *Solicitor General Cox, Assistant Attorney General Oberdorfer and Loring W. Post* for the United States. *Thomas P. Sullivan* for respondents. Reported below: 340 F. 2d 930.

No. 282. AMELL ET AL. *v.* UNITED STATES. Ct. Cl. Certiorari granted. *Lee Pressman, David Scribner and Joan Stern Kiok* for petitioners. *Solicitor General Cox* for the United States.

No. 341. WALLIS *v.* PAN AMERICAN PETROLEUM CORP. ET AL. C. A. 5th Cir. Certiorari granted. The Solicitor General is invited to file a brief expressing the views of the United States. *Murray F. Cleveland* for petitioner. *Morris Wright and Percy Sandel* for Pan American Petroleum Corp., and *E. L. Brunini* for McKenna, respondents. Reported below: 344 F. 2d 432.

No. 168, Misc. ELFBRANDT *v.* RUSSELL ET AL. Sup. Ct. Ariz. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. The case is transferred to the appellate docket. *W. Edward Morgan* for petitioner. *Darrell F. Smith*, Attorney General of Arizona, *Philip M. Haggerty*, Assistant Attorney General, and *Norman E. Green* for respondents. Reported below: 97 Ariz. 140, 397 P. 2d 944.

No. 99, Misc. BROOKHART *v.* OHIO. Sup. Ct. Ohio. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. The case is transferred to the appellate docket. Petitioner *pro se*. *William B. Saxbe*, Attorney General of Ohio, and *Leo J. Conway*, Assistant Attorney General, for respondent. Reported below: 2 Ohio St. 2d 36, 205 N. E. 2d 911.

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Certiorari Denied. (See also No. 170, *ante*, p. 13; No. 184, *ante*, p. 14; No. 358, *ante*, p. 21; No. 12, *Misc., ante*, p. 20; No. 81, *Misc., ante*, p. 22; No. 137, *Misc., ante*, p. 21; No. 202, *Misc., ante*, p. 23; No. 248, *Misc., ante*, p. 24; No. 281, *Misc., ante*, p. 19; No. 342, *Misc., ante*, p. 17; and *Misc. Nos. 58 and 308, supra.*)

No. 64. *EASTERN AIR LINES, INC. v. FLIGHT ENGINEERS' INTERNATIONAL ASSOCIATION ET AL.* C. A. 5th Cir. Certiorari denied. *E. Smythe Gambrell* and *W. Glen Harlan* for petitioner. *I. J. Gromfine* and *Herman Sternstein* for respondents. *Acting Solicitor General Spritzer*, *Assistant Attorney General Douglas*, *Morton Hollander*, *Sherman L. Cohn* and *John C. Eldridge* for the United States, as *amicus curiae*, in support of the petition. [For earlier order herein, see 381 U. S. 908.] Reported below: 340 F. 2d 104.

No. 66. *LIST v. LERNER, DBA LERNER & CO., ET AL.* C. A. 2d Cir. Certiorari denied. *Arthur F. Driscoll*, *Edward C. Raftery*, *Milton M. Rosenbloom* and *Edmund C. Grainger, Jr.*, for petitioner. *Leonard I. Schreiber* for Lerner, and *William E. Friedman* for *H. Hentz & Co. et al.*, respondents. *Acting Solicitor General Spritzer*, *Philip A. Loomis, Jr.*, *David Ferber* and *Michael Joseph* for the United States, as *amicus curiae*. [For earlier order herein, see 381 U. S. 908.] Reported below: 340 F. 2d 457.

No. 68. *SIGAL v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. *Michael von Moschzisker* for petitioner. *Solicitor General Cox*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 341 F. 2d 837.

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No. 78. ATLANTIC & GULF STEVEDORES, INC. *v.* ELLERMAN LINES, LTD. C. A. 3d Cir. Certiorari denied. *Francis E. Marshall* for petitioner. *Mark D. Alspach* for respondent. Reported below: 339 F. 2d 673.

No. 80. RING *v.* NEW JERSEY. Super. Ct. N. J. Certiorari denied. *Carl E. Ring* for petitioner. *Guy W. Calissi* for respondent. Reported below: 85 N. J. Super. 341, 204 A. 2d 716.

No. 83. CROMBIE *v.* CROMBIE. Dist. Ct. App. Cal., 1st App. Dist. Certiorari denied. *Paul E. Sloane* for petitioner. *Walter E. Hettman* and *Julian D. Brewer* for respondent.

No. 91. WIPER, EXECUTRIX *v.* GREAT LAKES ENGINEERING WORKS. C. A. 6th Cir. Certiorari denied. *Harvey Goldstein* and *Donald C. Miller* for petitioner. *Leroy G. Vandeveer* for respondent. Reported below: 340 F. 2d 727.

No. 95. BERATA ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Albert J. Krieger* for petitioners. *Solicitor General Cox, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 343 F. 2d 469.

No. 96. HALL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. *Edmund D. Campbell* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 342 F. 2d 849.

No. 98. WALKER *v.* FOSTER ET AL. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *John Joseph Leahy* for respondents.

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No. 97. COMMISSIONER OF INTERNAL REVENUE *v.* FENDER SALES, INC. C. A. 9th Cir. Certiorari denied. *Solicitor General Cox, Assistant Attorney General Oberdorfer, Melva M. Graney and David I. Granger* for petitioner. Reported below: 338 F. 2d 924.

No. 99. HENRIQUES *v.* CALIFORNIA. Dist. Ct. App. Cal., 2d App. Dist. Certiorari denied. *Bert B. Rand* for petitioner.

No. 101. SHEPHARD, GUARDIAN *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 6th Cir. Certiorari denied. *William R. Bagby* for petitioner. *Solicitor General Cox, Assistant Attorney General Oberdorfer and Melva M. Graney* for respondent. Reported below: 340 F. 2d 27.

No. 102. ECONOMY FORMS CORP. *v.* TRINITY UNIVERSAL INSURANCE CO. ET AL. C. A. 8th Cir. Certiorari denied. *Harlan J. Thoma and Herbert L. Meschke* for petitioner. *Rodger John Walsh* for respondents. Reported below: 340 F. 2d 613.

No. 103. UNITED DRAPERIES, INC. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 7th Cir. Certiorari denied. *Harold R. Burnstein, John W. Hughes and George Brode* for petitioner. *Solicitor General Cox, Assistant Attorney General Oberdorfer, Meyer Rothwacks and Fred E. Youngman* for respondent. Reported below: 340 F. 2d 936.

No. 107. WALTHAM WATCH CO. ET AL. *v.* FEDERAL TRADE COMMISSION. C. A. D. C. Cir. Certiorari denied. *B. Paul Noble* for petitioners. *Solicitor General Cox, Assistant Attorney General Orrick, Lionel Kestenbaum, James McI. Henderson, Charles C. Moore, Jr., and Lester A. Klaus* for respondent.

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No. 105. *WILLIAMS v. HOWARD JOHNSON'S, INC., OF WASHINGTON.* C. A. 4th Cir. Certiorari denied. Petitioner *pro se*. *James H. Simmonds* and *Richard A. Mehler* for respondent. Reported below: 342 F. 2d 727.

No. 108. *STEPHENSON v. UNITED STATES.* C. C. P. A. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for the United States. Reported below: 52 C. C. P. A. (Cust.) 17.

No. 115. *DUNSCOMBE v. SAYLE, EXECUTRIX.* C. A. 5th Cir. Certiorari denied. *John Wattawa* for petitioner. *C. Robert Burns* for respondent.

No. 116. *HELMS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *Joe B. Goodwin* for petitioner. *Solicitor General Cox, Assistant Attorney General Oberdorfer* and *Joseph M. Howard* for the United States. Reported below: 340 F. 2d 15.

No. 110. *VAN ZANDT ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 5th Cir. Certiorari denied. *R. B. Cannon* for petitioners. *Solicitor General Cox, Assistant Attorney General Oberdorfer, Gilbert E. Andrews* and *Frederick E. Youngman* for respondent. Reported below: 341 F. 2d 440.

No. 113. *U. S. INDUSTRIES, INC., ET AL. v. UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. *Frank D. MacDowell, Gordon Johnson, Jesse R. O'Malley* and *Julian O. Von Kalinowski* for petitioners. *Solicitor General Cox, Assistant Attorney General Orrick, Lionel Kestenbaum* and *Elliott Moyer* for the United States District Court, *Joseph L. Alioto* for No-Joint Concrete Pipe Co. et al., and *John Joseph Hall* for Perovich et al., respondents. Reported below: 345 F. 2d 18.

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No. 109. *ALBRITTON ENGINEERING CORP. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Certiorari denied. *L. G. Clinton, Jr.*, for petitioner. *Solicitor General Cox, Arnold Ordman, Dominick L. Manoli, Norton J. Come and Melvin Pollack* for respondent. Reported below: 340 F. 2d 281.

No. 117. *VOGEL ET AL. v. CORPORATION COMMISSION OF OKLAHOMA ET AL.* Sup. Ct. Okla. Certiorari denied. *Carl L. Shipley* for petitioners. *Ferrill H. Rogers* for Corporation Commission of Oklahoma, respondent. Reported below: 399 P. 2d 474.

No. 120. *CHEYENNE RIVER SIOUX TRIBE OF INDIANS v. UNITED STATES ET AL.* C. A. 8th Cir. Certiorari denied. *William Howard Payne* for petitioner. *Solicitor General Cox* for the United States. Reported below: 338 F. 2d 906.

No. 126. *LIPPI v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. *Edward L. Carey and Walter E. Gillchrist* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 342 F. 2d 218.

No. 129. *CRANCE ET AL. v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. *Edgar Shook* for petitioners. *Solicitor General Cox, Assistant Attorney General Weisl, Roger P. Marquis and Richard N. Countiss* for the United States. Reported below: 341 F. 2d 161.

No. 130. *RUCKER, GUARDIAN v. FIFTH AVENUE COACH LINES, INC., ET AL.* Ct. App. N. Y. Certiorari denied. *Jacob D. Fuchsberg, Irving Malchman and Leo Pfeffer* for petitioner. *Stuart Riedel* for respondents. Reported below: 15 N. Y. 2d 516, 202 N. E. 2d 548.

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No. 133. *HITAI v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 2d Cir. Certiorari denied. *Francis L. Giordano* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson* and *Philip R. Monahan* for respondent. Reported below: 343 F. 2d 466.

No. 134. *DREXEL & CO. ET AL. v. HALL ET AL.* C. A. 2d Cir. Certiorari denied. *Ralph M. Carson* for petitioners. *Wm. Francis Corson* for respondents. Reported below: 340 F. 2d 731.

No. 136. *PAVGOUZAS v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 3d Cir. Certiorari denied. *Jacob J. Kilimnik* and *Gregory G. Lagakos* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for respondent. Reported below: 341 F. 2d 920.

No. 138. *EXCHANGE NATIONAL BANK OF OLEAN v. INSURANCE CO. OF NORTH AMERICA*. C. A. 2d Cir. Certiorari denied. *Robert M. Diggs* for petitioner. *Richard E. Moot* for respondent. Reported below: 341 F. 2d 673.

No. 146. *MILK DRIVERS & DAIRY EMPLOYEES LOCAL UNION NO. 584, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA v. NATIONAL LABOR RELATIONS BOARD*. C. A. 2d Cir. Certiorari denied. *Samuel J. Cohen* for petitioner. *Solicitor General Cox, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 341 F. 2d 29.

No. 142. *FLYING TIGER LINE, INC. v. MERTENS, ADMINISTRATOR, ET AL.* C. A. 2d Cir. Certiorari denied. *Austin P. Magner* and *George N. Tompkins, Jr.*, for petitioner. *Clarence Fried* for respondents. Reported below: 341 F. 2d 851.

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No. 139. *TELLIER ET UX. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 2d Cir. Certiorari denied. *Michael Kaminsky* for petitioners. *Solicitor General Cox, Assistant Attorney General Oberdorfer, Harry Baum* and *Robert A. Bernstein* for respondent. Reported below: 342 F. 2d 690.

No. 148. *TRIMBLE v. TEXAS STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS.* Ct. Civ. App. Tex., 8th Sup. Jud. Dist. Certiorari denied. *John R. Lee* for petitioner. *Waggoner Carr*, Attorney General of Texas, and *Hawthorne Phillips, T. B. Wright, J. C. Davis* and *Pat Bailey*, Assistant Attorneys General, for respondent. Reported below: 388 S. W. 2d 331.

No. 145. *MILLER v. NEW YORK.* Ct. App. N. Y. Certiorari denied. Petitioner *pro se*. *Frank S. Hogan* and *H. Richard Uviller* for respondent.

No. 157. *MARCHESE ET AL. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. *Burton Marks, Russell E. Parsons* and *Sol C. Berenholtz* for petitioners. *Solicitor General Cox, Assistant Attorney General Vinson* and *Philip R. Monahan* for the United States et al. Reported below: 341 F. 2d 782.

No. 162. *JERROLD ELECTRONICS CORP. ET AL. v. WES-COAST BROADCASTING CO., INC.* C. A. 9th Cir. Certiorari denied. *Israel Packel* for petitioners. Reported below: 341 F. 2d 653.

No. 164. *POTTER ET AL., DBA POTTER'S CAMERA STORE v. UNITED STATES.* Ct. Cl. Certiorari denied. *Joseph Goldberg* for petitioners. *Solicitor General Cox, Assistant Attorney General Douglas, Morton Hollander* and *David L. Rose* for the United States. Reported below: 167 Ct. Cl. 28.

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No. 152. *DEMERS v. BROWN ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 343 F. 2d 427.

No. 153. *BANKS v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. *Joseph I. Stone* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States.

No. 165. *McMASTER v. UNITED STATES;* and

No. 166. *WOLFF v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. *Morris A. Shenker and Murry L. Randall* for petitioner in No. 165. *George Gregory Manthro* for petitioner in No. 166. *Solicitor General Cox, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 343 F. 2d 176.

No. 167. *GARDINER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *Robert R. Slaughter* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 341 F. 2d 896.

No. 168. *Mt. MANSFIELD TELEVISION, INC. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. *Charles D. Post* for petitioner. *Solicitor General Cox and Acting Assistant Attorney General Roberts* for the United States. Reported below: 342 F. 2d 994.

No. 171. *VILLAGE OF PORT CHESTER v. CATHERWOOD, INDUSTRIAL COMMISSIONER, ET AL.* App Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. *Charles H. Tuttle and Godfrey P. Schmidt* for petitioner. *Louis J. Lefkowitz, Attorney General of New York, and Paxton Blair, Solicitor General, for Catherwood, and John R. Harold for Bucci et al., respondents.*

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No. 169. SUN RAY DRUG CO. v. LIEBERMAN. Super. Ct. Pa. Certiorari denied. *Samuel Kagle* and *Oscar Brown* for petitioner. Reported below: 204 Pa. Super. 348, 204 A. 2d 783.

No. 172. HOUGHTON v. PIKE. C. A. D. C. Cir. Certiorari denied. *Carleton U. Edwards II* for petitioner. *Francis D. Thomas, Jr.*, for respondent.

No. 173. PINCIOTTI v. UNITED STATES; and

No. 174. GOSSER v. UNITED STATES. C. A. 6th Cir. Certiorari denied. *Russell Morton Brown* for petitioner in No. 173. *Bennett Boskey* and *Merritt W. Green* for petitioner in No. 174. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Kirby W. Patterson* for the United States. Reported below: 339 F. 2d 102.

No. 175. LUSTER ET AL. v. UNITED STATES. C. A. 6th Cir. Certiorari denied. Petitioners *pro se*. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 342 F. 2d 763.

No. 176. JENKINS BROS. v. LOCAL 5623, UNITED STEELWORKERS OF AMERICA, ET AL. C. A. 2d Cir. Certiorari denied. *Morgan P. Ames* and *Clifford R. Oviatt, Jr.*, for petitioner. *Bernard Kleiman, Elliot Bredhoff* and *Michael H. Gottesman* for respondents. Reported below: 341 F. 2d 987.

No. 177. SOUTHWEST ENGINEERING CO. v. UNITED STATES. C. A. 8th Cir. Certiorari denied. *Wallace N. Springer, Jr.*, for petitioner. *Solicitor General Cox, Assistant Attorney General Douglas, Alan S. Rosenthal* and *Jack H. Weiner* for the United States. Reported below: 341 F. 2d 998.

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No. 178. *PAGE ET AL. v. PAN AMERICAN PETROLEUM CORP. ET AL.* Ct. Civ. App. Tex., 13th Sup. Jud. Dist. Certiorari denied. *Willett Wilson* for petitioners. *Cecil N. Cook, Roy L. Merrill, Dwight H. Austin and Joyce Cox* for respondents. Reported below: 381 S. W. 2d 949.

No. 183. *ASSOCIATED PRESS v. TAFT-INGALLS CORP., FORMERLY CINCINNATI TIMES-STAR CO.*; and

No. 185. *TAFT-INGALLS CORP. v. ASSOCIATED PRESS.* C. A. 6th Cir. Certiorari denied. *William P. Rogers, Timothy S. Hogan and H. Allen Lochner* for petitioner in No. 183 and for respondent in No. 185. *Robert T. Keeler* for petitioner in No. 185 and for respondent in No. 183. Reported below: 340 F. 2d 753.

No. 186. *PRICE ET AL. v. PRICE.* Super. Ct. Mass., Norfolk County. Certiorari denied. *John D. O'Reilly, Jr.*, for petitioners. *George Welch* for respondent. Reported below: See 348 Mass. 663, 204 N. E. 2d 902.

No. 187. *DUROVIC v. PALMER ET AL.* C. A. 7th Cir. Certiorari denied. *Julius L. Sherwin* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and William W. Goodrich* for respondents. Reported below: 342 F. 2d 634.

No. 188. *SCHERER & SONS, INC. v. INTERNATIONAL LADIES' GARMENT WORKERS' UNION, LOCAL NO. 415, AFL-CIO, ET AL.* C. A. 5th Cir. Certiorari denied. *Joseph A. Perkins* for petitioner. *Morris P. Glushien* for respondent International Ladies' Garment Workers' Union. Reported below: 341 F. 2d 298.

No. 194. *BAKER v. SIMMONS CO.* C. A. 1st Cir. Certiorari denied. *Maurice Schwartz* for petitioner. *William E. Anderson* for respondent. Reported below: 342 F. 2d 991.

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No. 189. *LICHTENSTEIN, AKA WELLS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *Joseph Aronstein* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Julia P. Cooper* for the United States. Reported below: 341 F. 2d 476.

No. 190. *COIL v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. *Richard J. Bruckner* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Marshall Tamor Golding* for the United States. Reported below: 343 F. 2d 573.

No. 192. *SESSOMS v. UNION SAVINGS & TRUST CO.* C. A. 6th Cir. Certiorari denied. *Ralph Rudd and Charles R. Miller* for petitioner. *Ashley M. Van Duzer, Paul W. Walter and Arthur P. Steinmetz* for respondent. Reported below: 338 F. 2d 752.

No. 193. *DEWEY v. AMERICAN NATIONAL BANK ET AL.* Ct. Civ. App. Tex., 7th Sup. Jud. Dist. Certiorari denied. Petitioner *pro se*. *L. A. White* for American National Bank, and *H. A. Berry* for Owen et al., respondents. Reported below: 382 S. W. 2d 524.

No. 195. *DELUCIA ET AL. v. NEW YORK.* Ct. App. N. Y. Certiorari denied. *William Sonenshine* for petitioners. *Frank D. O'Connor and Benj. J. Jacobson* for respondent. Reported below: 15 N. Y. 2d 294, 206 N. E. 2d 324.

No. 197. *G. L. CHRISTIAN & ASSOCIATES v. UNITED STATES.* Ct. Cl. Certiorari denied. *Gilbert A. Cuneo, Norman R. Crozier, Jr., Chester H. Johnson, O. D. Hite, William Hillyer, Wilson Johnston, Eldon H. Crowell and David V. Anthony* for petitioner. *Solicitor General Cox* for the United States. Reported below: 170 Ct. Cl. 902.

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No. 196. *WOFFORD ET AL. v. NORTH CAROLINA STATE HIGHWAY COMMISSION.* Sup. Ct. N. C. Certiorari denied. *Roy L. Deal* for petitioners. Reported below: 263 N. C. 677, 140 S. E. 2d 376.

No. 198. *STUFF v. E. C. PUBLICATIONS, INC., ET AL.* C. A. 2d Cir. Certiorari denied. *Martin M. Pollak* and *Samuel J. Stoll* for petitioner. *Martin J. Scheiman* for respondents. Reported below: 342 F. 2d 143.

No. 199. *DIAZ ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *G. Wray Gill* and *Paul H. Brinson* for petitioners. *Solicitor General Cox*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 341 F. 2d 912.

No. 200. *BATES, DBA FRATELLI'S RESTAURANT v. BOARD OF LIQUOR CONTROL ET AL.* Sup. Ct. Ohio. Certiorari denied. *Alvin J. Savinell* for petitioner. *William B. Saxbe*, Attorney General of Ohio, for respondents.

No. 201. *PENZIEN ET AL. v. DIELECTRIC PRODUCTS ENGINEERING Co., INC.* Sup. Ct. Mich. Certiorari denied. *Harold A. Cranefield* for petitioners. *Raymond K. Dykema* for respondent. Reported below: 374 Mich. 444, 132 N. W. 2d 130.

No. 208. *MACHINERY, SCRAP IRON, METAL & STEEL CHAUFFEURS, WAREHOUSEMEN, HANDLERS, HELPERS, ALLOY FABRICATORS, THEATRICAL, EXPOSITION, CONVENTION & TRADE SHOW EMPLOYEES, LOCAL UNION No. 714, INTERNATIONAL BROTHERHOOD OF TEAMSTERS v. MADDEN, REGIONAL DIRECTOR, NATIONAL LABOR RELATIONS BOARD.* C. A. 7th Cir. Certiorari denied. *Mayer Goldberg* for petitioner. *Solicitor General Cox*, *Arnold Ordman*, *Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 343 F. 2d 497.

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No. 203. *McCLOSKEY & Co., INC. v. WYMARD ET AL., RECEIVERS.* C. A. 3d Cir. Certiorari denied. *Paul M. Rhodes* and *Frederick Bernays Wiener* for petitioner. *Edward Cohen* for respondents. Reported below: 342 F. 2d 495.

No. 205. *GRENE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *Joseph W. Wyatt* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Kirby W. Patterson* for the United States. Reported below: 341 F. 2d 916.

No. 207. *JACOBS v. TENNESSEE.* Sup. Ct. Tenn. Certiorari denied. *James H. Bateman* and *William C. Wilson* for petitioner. *George F. McCanless, Attorney General of Tennessee, and Thomas E. Fox, Assistant Attorney General*, for respondent.

No. 209. *LOMBARD ET AL. v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. *Byron N. Scott* for petitioners. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Theodore George Gilinsky* for the United States.

No. 214. *HOME NEWS PUBLISHING Co., INC., ET AL. v. WIRTZ, SECRETARY OF LABOR.* C. A. 5th Cir. Certiorari denied. *Irving M. Wolff* for petitioners. *Solicitor General Cox, Charles Donahue, Bessie Margolin* and *Robert E. Nagle* for respondent. Reported below: 341 F. 2d 20.

Nos. 215 and 314. *ADJMI ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *Jacob Kossman* for petitioners. *Solicitor General Cox, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: No. 215, 343 F. 2d 164; No. 314, 346 F. 2d 654.

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No. 216. *MACKEY v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *Frederick Bernays Wiener* and *Robert J. Downing* for petitioner. *Solicitor General Cox*, *Assistant Attorney General Jones* and *Meyer Rothwacks* for the United States. Reported below: 345 F. 2d 499.

No. 217. *PEPPERIDGE FARM, INC. v. BRYAN*, U. S. DISTRICT JUDGE. C. A. 2d Cir. Certiorari denied. *Robert MacCrate* and *Edward W. Keane* for petitioner. *Louis Nizer* for respondent.

No. 220. *SMITH ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. *William F. Hopkins* for petitioners. *Solicitor General Cox*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 343 F. 2d 847.

No. 221. *JOE GRAHAM POST No. 119, AMERICAN LEGION v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *William E. Logan* for petitioner. *Solicitor General Cox* and *Assistant Attorney General Jones* for the United States. Reported below: 340 F. 2d 474.

No. 225. *MIAMI HERALD PUBLISHING CO. v. BOIRE, REGIONAL DIRECTOR, NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Certiorari denied. *D. P. S. Paul* and *Parker D. Thomson* for petitioner. *Solicitor General Cox*, *Arnold Ordman*, *Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 343 F. 2d 17.

No. 239. *UNITED SPECIALTY ADVERTISING CO. ET AL. v. FURR'S, INC., ET AL.* Ct. Civ. App. Tex., 8th Sup. Jud. Dist. Certiorari denied. *Maurice J. Hindin* and *W. B. Browder, Jr.*, for petitioners. *William L. Kerr* for respondents. Reported below: 385 S. W. 2d 456.

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No. 223. *CARTER v. WINTER ET AL.* Sup. Ct. Ill. Certiorari denied. *Robert Weiner* for petitioner. *Alfred F. Newkirk, Montgomery S. Winning* and *Richard W. Galiher* for respondents. Reported below: 32 Ill. 2d 275, 204 N. E. 2d 755.

No. 224. *GAUTIER, TAX ASSESSOR, ET AL. v. FLORIDA GREENHEART CORP.* Sup. Ct. Fla. Certiorari denied. *St. Julien P. Rosemond* for petitioners. *Richard Steel* for respondent. Reported below: 172 So. 2d 589.

No. 228. *BROADWELL ET AL. v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. *Don T. Evans* for petitioners. *Solicitor General Cox, Acting Assistant Attorney General Jones, Joseph Kovner* and *George F. Lynch* for the United States. Reported below: 343 F. 2d 470.

No. 231. *DUN & BRADSTREET, INC. v. NICKLAUS, TRUSTEE IN BANKRUPTCY.* C. A. 8th Cir. Certiorari denied. *Chester Bordeau* and *Robert V. Light* for petitioner. *D. D. Panich* for respondent. Reported below: 340 F. 2d 882.

No. 233. *SPINO v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. *John N. Stanton* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Ronald L. Gainer* for the United States. Reported below: 345 F. 2d 372.

No. 246. *VETERE ET AL. v. ALLEN, COMMISSIONER OF EDUCATION OF NEW YORK, ET AL.* Ct. App. N. Y. Certiorari denied. *C. William Gaylor, Mason L. Hampton, Jr., and James M. Marrin* for petitioners. *Charles A. Brind* for Allen et al., and *Robert L. Carter* for Mitchell et al., respondents. Reported below: 15 N. Y. 2d 259, 206 N. E. 2d 174.

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No. 237. *AVALLONE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *Nicholas J. Capuano* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Philip R. Monahan* for the United States. Reported below: 341 F. 2d 296.

No. 240. *McDANIEL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *Alton F. Curry* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 343 F. 2d 785.

No. 242. *McGUIRE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. *J. Leonard Walker* for petitioner. *Solicitor General Cox, Acting Assistant Attorney General Jones, Meyer Rothwacks and John M. Brant* for the United States. Reported below: 347 F. 2d 99.

No. 244. *NICOLE ET AL. v. BERDECIA ET AL.* Sup. Ct. Puerto Rico. Certiorari denied. *Carlos D. Vazques* for petitioners.

No. 247. *NORTHERN LIGHTS SHOPPING CENTER, INC. v. NEW YORK*. Ct. App. N. Y. Certiorari denied. *Daniel F. Mathews, Sr.*, for petitioner. *Louis J. Lefkowitz, Attorney General of New York, Paxton Blair, Solicitor General, and Julius L. Sackman* for respondent. Reported below: 15 N. Y. 2d 688, 204 N. E. 2d 333.

No. 249. *FIBREBOARD PAPER PRODUCTS CORP. v. EAST BAY UNION OF MACHINISTS, LOCAL 1304, UNITED STEELWORKERS OF AMERICA, AFL-CIO, ET AL.* C. A. 9th Cir. Certiorari denied. *Marion B. Plant* for petitioner. *Bernard Kleiman, Elliot Bredhoff, Michael H. Gottesman and Jay Darwin* for respondents. Reported below: 344 F. 2d 300.

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No. 248. *CENTRAL PACKING CO., INC. v. RYDER TRUCK RENTAL, INC.* C. A. 10th Cir. Certiorari denied. *Edward A. Smith* and *George Schwegler, Jr.*, for petitioner. *Douglas Stripp* and *Russell W. Baker* for respondent. Reported below: 341 F. 2d 321.

No. 252. *ESTATE OF SPERLING v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 2d Cir. Certiorari denied. *Morris Horowitz* for petitioner. *Solicitor General Cox, Assistant Attorney General Jones* and *Robert N. Anderson* for respondent. Reported below: 341 F. 2d 201.

No. 254. *CLEMENTS ET AL. v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. *Charles A. Bellows* and *Julius Lucius Echeles* for petitioners. Reported below: 32 Ill. 2d 232, 204 N. E. 2d 724.

No. 255. *LOCAL 50, AMERICAN BAKERY & CONFEDERATION WORKERS UNION, AFL-CIO v. NATIONAL LABOR RELATIONS BOARD.* C. A. 2d Cir. Certiorari denied. *Howard N. Meyer, Henry Kaiser, George Kaufmann* and *Ronald Rosenberg* for petitioner. *Solicitor General Cox, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 339 F. 2d 324.

No. 257. *CROWN LIFE INSURANCE CO. v. VARAS.* Super. Ct. Pa. Certiorari denied. *John G. Laylin* and *Owen B. Rhoads* for petitioner. *James M. Marsh* and *J. Harry LaBrum* for respondent. *Solicitor General Cox* on the memorandum for the United States transmitting the views of the Government of Canada. Reported below: 204 Pa. Super. 176, 203 A. 2d 505.

No. 259. *TOMASZEK v. ILLINOIS.* App. Ct. Ill., 1st Dist. Certiorari denied. *Frank G. Whalen* for petitioner. Reported below: 54 Ill. App. 2d 254, 204 N. E. 2d 30.

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No. 261. *HAYDEN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Al Matthews* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 343 F. 2d 459.

No. 263. *WAGNER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Moses M. Falk* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States.

No. 264. *MARTIN ET AL. v. NEW YORK*. Ct. App. N. Y. Certiorari denied. *Robert L. Carter* and *Barbara A. Morris* for petitioners. *William Cahn* for respondent.

No. 266. *KNAPP-MONARCH Co. v. CASCO PRODUCTS CORP.* C. A. 7th Cir. Certiorari denied. *Norman Lettvin* for petitioner. *Granger Cook, Jr.*, for respondent. Reported below: 342 F. 2d 622.

No. 267. *MITCHELL ET AL. v. MALVERN GRAVEL Co.* Sup. Ct. Ark. Certiorari denied. *Peyton Ford* for petitioners. *James W. Chesnutt* and *Joe W. McCoy* for respondent. Reported below: 238 Ark. 848, 385 S. W. 2d 144.

No. 268. *JOSEPH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *G. W. Gill* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 343 F. 2d 755.

No. 277. *SILVERSTEIN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Boris Kostelanetz* and *Raymond Rubin* for petitioner. *Solicitor General Cox, Acting Assistant Attorney General Jones, Meyer Rothwacks* and *Burton Berkley* for the United States.

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No. 262. *BURGE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Clifford J. Groh* and *George Kaufmann* for petitioner. *Solicitor General Cox*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Kirby W. Patterson* for the United States. Reported below: 333 F. 2d 210; 342 F. 2d 408.

No. 271. *QUARLES v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 385 S. W. 2d 395.

No. 278. *STUPAK v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. *John E. Evans, Sr.*, for petitioner. *Solicitor General Cox*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Ronald L. Gainer* for the United States.

No. 279. *BLANCHARD, DBA BLANCHARD CONSTRUCTION Co. v. ST. PAUL FIRE & MARINE INSURANCE CO.* C. A. 5th Cir. Certiorari denied. *George E. Morse* for petitioner. *Raymond A. Hepner* for respondent. Reported below: 341 F. 2d 351.

No. 284. *STIRONE v. MARKLEY, WARDEN*. C. A. 7th Cir. Certiorari denied. *Lloyd F. Engle, Jr.*, and *N. George Nasser* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Doar* and *Harold H. Greene* for respondent. Reported below: 345 F. 2d 473.

No. 286. *DiFRONZO v. UNITED STATES*; and

No. 287. *CALZAVARA v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *Charles A. Bellows* for petitioner in No. 286. *George F. Callaghan*, *Julius Lucius Echeles* and *Melvin B. Lewis* for petitioner in No. 287. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson* and *Robert S. Erdahl* for the United States. Reported below: 345 F. 2d 383.

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No. 289. *YENOWINE ET AL. v. STATE FARM MUTUAL AUTOMOBILE INSURANCE CO.* C. A. 6th Cir. Certiorari denied. Petitioners *pro se*. *Joe H. Taylor* for respondent. Reported below: 342 F. 2d 957.

No. 292. *PRIMROSE SUPER MARKET OF SALEM, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 1st Cir. Certiorari denied. *William F. Joy* for petitioner. *Solicitor General Cox, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for respondent.

No. 293. *SHERMAN ET AL., DBA LIVERNOIS AUTO PARTS v. GOERLICH'S, INC., ET AL.* C. A. 6th Cir. Certiorari denied. *Harry S. Stark* for petitioners. *Fred A. Smith* for respondent Goerlich's, Inc. Reported below: 341 F. 2d 988.

No. 295. *WINN-DIXIE STORES, INC., ET AL. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 6th Cir. Certiorari denied. *O. R. T. Bowden* for petitioners. *Solicitor General Cox, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 341 F. 2d 750.

No. 296. *BANKERS BOND CO., INC., ET AL. v. ALL STATES INVESTORS, INC., ET AL.* C. A. 6th Cir. Certiorari denied. *Wilbur Fields* for petitioners. *Gavin H. Cochran* and *Royal H. Brin, Jr.*, for All States Investors, Inc., and *Henry J. Stites* for Dunne et al., respondents. Reported below: 343 F. 2d 618.

No. 297. *J. A. TOBIN CONSTRUCTION CO. ET AL. v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. *F. Philip Kirwan* for petitioners. *Solicitor General Cox, Assistant Attorney General Weisl* and *S. Billingsley Hill* for the United States. Reported below: 343 F. 2d 422.

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No. 294. *MEGGE ET AL. v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. *LuVerne Conway* for petitioners. *Solicitor General Cox* for the United States. Reported below: 344 F. 2d 31.

No. 298. *DANIEL CONSTRUCTION CO., INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 4th Cir. Certiorari denied. *Robert T. Thompson* for petitioner. *Solicitor General Cox, Arnold Ordman, Dominick L. Manoli, Norton J. Come and Melvin Pollack* for respondent. Reported below: 341 F. 2d 805.

No. 299. *JARVIS ET AL. v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. *Raymond K. Kierr* for petitioners. *Solicitor General Cox, Assistant Attorney General Douglas, Morton Hollander and Richard S. Salzman* for the United States et al.

No. 300. *AMBOLD v. SEABOARD AIR LINE RAILROAD CO.* C. A. 4th Cir. Certiorari denied. *Howard I. Legum and Louis B. Fine* for petitioner. *Eppa Hunton IV and Lewis T. Booker* for respondent. Reported below: 345 F. 2d 30.

No. 301. *TEITELBAUM v. UNITED STATES ET AL.* C. A. 7th Cir. Certiorari denied. *Abraham Teitelbaum*, petitioner, *pro se*. *Acting Solicitor General Spritzer and Acting Assistant Attorney General Jones* for the United States et al. Reported below: 342 F. 2d 672.

No. 307. *BENCHEL, ADMINISTRATRIX, ET AL. v. FROST ET AL.* C. A. 3d Cir. Certiorari denied. *Nathan Baker* for petitioners. *Victor C. Hansen* for respondents.

No. 309. *TAYLOR v. BALTIMORE & OHIO RAILROAD CO.* C. A. 2d Cir. Certiorari denied. *Jacob D. Fuchsberg* for petitioner. *Donald M. Dunn and Eugene Z. DuBoise* for respondent. Reported below: 344 F. 2d 281.

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No. 304. TRADEWAYS INC. *v.* CHRYSLER CORP. C. A. 2d Cir. Certiorari denied. *W. Mahlon Dickerson* for petitioner. *Francis S. Bensel* for respondent. Reported below: 342 F. 2d 350.

No. 306. ROCHESTER GAS & ELECTRIC CORP. *v.* FEDERAL POWER COMMISSION. C. A. 2d Cir. Certiorari denied. *Edward F. Huber* and *T. Carl Nixon* for petitioner. *Solicitor General Cox, Richard A. Solomon, Howard E. Wahrenbrock, Joseph B. Hobbs* and *Josephine H. Klein* for respondent. Reported below: 344 F. 2d 594.

No. 310. PEERLESS INSURANCE CO. *v.* UNITED STATES ET AL. C. A. 2d Cir. Certiorari denied. *Morris K. Siegel* and *Murray Brensilber* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Kirby W. Patterson* for the United States. Reported below: 343 F. 2d 759.

No. 311. POOL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Russell E. Parsons* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 344 F. 2d 943.

No. 313. HAMMONS *v.* TEXAS & NEW ORLEANS RAILROAD CO. Ct. Civ. App. Tex., 12th Sup. Jud. Dist. Certiorari denied. *John P. Spiller* for petitioner. *Tom Martin Davis* for respondent. Reported below: 382 S. W. 2d 155.

No. 317. JAMES H. MATTHEWS & Co. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 3d Cir. Certiorari denied. *Nicholas Unkovic* for petitioner. *Acting Solicitor General Spritzer, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 342 F. 2d 129.

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No. 316. *Zobel v. South Dakota*. Sup. Ct. S. D. Certiorari denied. *Daniel J. Andersen* for petitioner. *Frank L. Farrar*, Attorney General of South Dakota, *Walter W. Andre*, Assistant Attorney General, and *Robert A. Miller*, Special Assistant Attorney General, for respondent. Reported below: — S. D. —, 134 N. W. 2d 101.

No. 320. *MASSENGILL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. *R. R. Ryder* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Kirby W. Patterson* for the United States. Reported below: 346 F. 2d 125.

No. 321. *FOTOCHROME, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 2d Cir. Certiorari denied. *Louis Fischoff* for petitioner. *Acting Solicitor General Spritzer*, *Arnold Ordman*, *Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 343 F. 2d 631.

No. 322. *STEVENSON ET AL. v. SILVERMAN ET AL.* Sup. Ct. Pa. Certiorari denied. *Lawrence J. Richette* for petitioners. *Samuel D. Slade* for respondents. Reported below: 417 Pa. 187, 208 A. 2d 786.

No. 324. *WILSON ET AL. v. LOUISIANA*. Sup. Ct. La. Certiorari denied. *Lloyd F. Love* for petitioners. Reported below: 247 La. 405, 171 So. 2d 664.

No. 325. *DEWELLES v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *A. L. Wirin* and *Fred Okrand* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Ronald L. Gainer* for the United States. Reported below: 345 F. 2d 387.

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No. 327. *BUCK v. SUPERIOR COURT OF CALIFORNIA.* Sup. Ct. Cal. Certiorari denied. *Sorrell Trope* and *Eugene L. Trope* for petitioner.

No. 329. *HASBROOK ET UX. v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. *Charles D. Post* for petitioners. *Acting Solicitor General Spritzer* and *Acting Assistant Attorney General Jones* for the United States. Reported below: 343 F. 2d 811.

No. 330. *WADE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *Zach H. Douglas* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 344 F. 2d 1016.

No. 331. *COLEMAN v. McGETTRICK, SHERIFF.* Sup. Ct. Ohio. Certiorari denied. *James R. Willis* for petitioner. *John T. Corrigan* for respondent. Reported below: 2 Ohio St. 2d 177, 207 N. E. 2d 552.

No. 332. *STUDEMAYER v. MACY, CHAIRMAN, U. S. CIVIL SERVICE COMMISSION, ET AL.* C. A. D. C. Cir. Certiorari denied. *Donald M. Murtha* and *Claude L. Dawson* for petitioner. *Acting Solicitor General Spritzer* for respondents. Reported below: 120 U. S. App. D. C. 259, 345 F. 2d 748.

No. 335. *FLORIDA EAST COAST RAILWAY v. MARTIN COUNTY, FLORIDA.* Sup. Ct. Fla. Certiorari denied. *David W. Peck* and *Roy H. Steyer* for petitioner. *Dean Tooker* for respondent. Reported below: 171 So. 2d 873.

No. 342. *PALISI v. LOUISVILLE & NASHVILLE RAILROAD CO., INC.* C. A. 5th Cir. Certiorari denied. *Albert Sidney Johnston, Jr.*, for petitioner. *A. F. Lankford III* for respondent. Reported below: 342 F. 2d 799.

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No. 333. *HULBURT OIL & GREASE CO. OF ILLINOIS v. HULBURT OIL & GREASE CO. OF PENNSYLVANIA.* C. A. 7th Cir. Certiorari denied. *J. Willison Smith, Jr.*, for petitioner. *Norman A. Miller* for respondent. Reported below: 346 F. 2d 260.

No. 334. *NATIONAL MARITIME UNION OF AMERICA, AFL-CIO v. NATIONAL LABOR RELATIONS BOARD.* C. A. 2d Cir. Certiorari denied. *Abraham E. Freedman* for petitioner. *Acting Solicitor General Spritzer, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for respondent. Reported below: 342 F. 2d 538.

No. 339. *VERZI ET AL. v. OHIO.* Sup. Ct. Ohio. Certiorari denied. *Marvin A. Koblenz* for petitioners.

No. 340. *IN-SINK-ERATOR MANUFACTURING CO. v. WASTE KING CORP.* C. A. 7th Cir. Certiorari denied. *Charles B. Cannon and George J. Kuehn* for petitioner. *Ford W. Harris, Jr.*, for respondent. Reported below: 346 F. 2d 248.

No. 344. *MICHIGAN MUTUAL LIABILITY CO. ET AL. v. ARRIEN, DEPUTY COMMISSIONER, BUREAU OF EMPLOYEES COMPENSATION, U. S. DEPARTMENT OF LABOR, ET AL.* C. A. 2d Cir. Certiorari denied. *James B. Magnor and Charles N. Fiddler* for petitioners. *Acting Solicitor General Spritzer, Assistant Attorney General Douglas, Alan S. Rosenthal and David L. Rose* for respondents. Reported below: 344 F. 2d 640.

No. 348. *KRYSTOFORSKI v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. *George F. Mehling* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States.

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No. 350. *RUHL v. RAILROAD RETIREMENT BOARD.* C. A. 7th Cir. Certiorari denied. *Anthony A. DiGrazia, Harry A. Carlson and Hugh M. Matchett* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Douglas, Morton Hollander and Richard S. Salzman* for respondent. Reported below: 342 F. 2d 662.

No. 353. *KOHLER Co. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. D. C. Cir. Certiorari denied. *Lyman C. Conger, Edward J. Hammer and E. Riley Casey* for petitioner. *Acting Solicitor General Spritzer, Arnold Ordman, Dominick L. Manoli, Norton J. Come and Nancy M. Sherman* for the National Labor Relations Board, and *Joseph L. Rauh, Jr., John Silard and Stephen I. Schlossberg* for Local 833, United Automobile, Aircraft and Agricultural Implement Workers, respondents. Briefs of *amici curiae*, in support of the petition, were filed by *Eugene Adams Keeney and Guy Farmer* for the Chamber of Commerce of the United States, by *Lambert H. Miller* for the National Association of Manufacturers of the United States, and by *Walter S. Davis* for the Wisconsin Manufacturers' Association. Reported below: 112 U. S. App. D. C. 107, 300 F. 2d 699; 120 U. S. App. D. C. 259, 345 F. 2d 748.

No. 359. *JOHNSON v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. *L. W. Massey* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 345 F. 2d 457.

No. 360. *MARSHALL ET AL. v. MAYOR AND BOARD OF SELECTMEN, CITY OF McCOMB.* Sup. Ct. Miss. Certiorari denied. *Robert L. Carter, Barbara A. Morris and Jack H. Young* for petitioners. Reported below: 251 Miss. 750, 171 So. 2d 347.

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No. 356. *I. Posner, Inc., et al. v. National Labor Relations Board*. C. A. 2d Cir. Certiorari denied. *Isidore Drimmer* and *Daniel H. Greenberg* for petitioners. *Acting Solicitor General Spritzer, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 342 F. 2d 826.

No. 361. *Kamsler v. H. A. Seinsheimer Co.* C. A. 7th Cir. Certiorari denied. Petitioner *pro se*. *David Jacker* for respondent. Reported below: 347 F. 2d 740.

No. 362. *Matthews, Trustee in Bankruptcy v. James Talcott, Inc.* C. A. 7th Cir. Certiorari denied. *C. Severin Buschmann* for petitioner. *Charles B. Feibleman* and *Gene E. Wilkins* for respondent. Reported below: 345 F. 2d 374.

No. 363. *Perry v. Zysset et al.* C. A. 7th Cir. Certiorari denied. *George B. Christensen* for petitioner. *Albin C. Ahlberg* and *Warren C. Horton* for respondents.

No. 364. *Froehlich et al. v. District Judges, U. S. District Court for the Southern District of New York, et al.* C. A. 2d Cir. Certiorari denied. *Harold Dubriner* for petitioners. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Julia P. Cooper* for respondents.

No. 365. *Lux Art Van Service, Inc. v. Pollard*. C. A. 9th Cir. Certiorari denied. *Sidney Weissberger* for petitioner. *Raymond F. Hayes* for respondent. Reported below: 344 F. 2d 883.

No. 370. *Hammonds et al. v. City of Corpus Christi*. C. A. 5th Cir. Certiorari denied. *Sidney P. Chandler* for petitioners. *I. M. Singer* for respondent. Reported below: 343 F. 2d 162.

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No. 369. *HAMADEH v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 7th Cir. Certiorari denied. *Otto Oplatka* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Daniel H. Benson* for respondent. Reported below: 343 F. 2d 530.

No. 371. *McCarthy et ux. v. Conley, District Director of Internal Revenue*. C. A. 2d Cir. Certiorari denied. *Edward P. J. McCarthy* for petitioners. *Acting Solicitor General Spritzer* and *Acting Assistant Attorney General Jones* for respondent. Reported below: 341 F. 2d 948.

No. 374. *Smith v. Crouch, Sheriff*. Sup. Ct. Tenn. Certiorari denied. *Bernard H. Cantor* for petitioner. *George F. McCanless*, Attorney General of Tennessee, and *Edgar P. Calhoun*, Assistant Attorney General, for respondent.

No. 376. *Paine Drug Co. v. New York*. County Ct., Monroe County, N. Y. Certiorari denied. *Robert L. Beck* for petitioner. Reported below: 39 Misc. 2d 824, 241 N. Y. S. 2d 946.

No. 377. *Angelini v. United States*. C. A. 7th Cir. Certiorari denied. *Anna R. Lavin* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Sidney M. Glazer* for the United States. Reported below: 346 F. 2d 278.

No. 378. *Howard v. United States*. C. A. 1st Cir. Certiorari denied. *Stanley H. Rudman* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Ronald L. Gainer* for the United States. Reported below: 345 F. 2d 126.

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No. 379. *ROBINSON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *Jacob A. Dickinson, Sam A. Crow and Bill G. Honeyman* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Julia P. Cooper* for the United States. Reported below: 345 F. 2d 1006.

No. 380. *ROBINSON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *Jacob A. Dickinson, Sam A. Crow and Bill G. Honeyman* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 345 F. 2d 1007.

No. 381. *RETAIL CLERKS INTERNATIONAL ASSOCIATION, LOCAL UNIONS NOS. 128, 633 AND 954 v. LION DRY GOODS, INC., ET AL.* C. A. 6th Cir. Certiorari denied. *Joseph E. Finley, Sol G. Lippman and Tim L. Bornstein* for petitioners. *Merritt W. Green* for respondents. Reported below: 341 F. 2d 715.

No. 388. *CHISHOLM, ADMINISTRATRIX, ET AL. v. BILLINGS, EXECUTOR, ET AL.* Sup. Ct. Ga. Certiorari denied. *Hamilton Douglas* for petitioners. *George E. C. Hayes* for respondents. Reported below: 220 Ga. 870, 142 S. E. 2d 781.

No. 390. *MACHEL v. CALIFORNIA*. Dist. Ct. App. Cal., 1st App. Dist. Certiorari denied. *James C. Purcell* for petitioner. Reported below: 234 Cal. App. 2d 37, 44 Cal. Rptr. 126.

No. 394. *HESMER FOODS, INC. v. CAMPBELL SOUP CO.* C. A. 7th Cir. Certiorari denied. *John D. Clouse* for petitioner. *Thomas M. Scanlon and Richard E. Deer* for respondent. Reported below: 346 F. 2d 356.

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No. 389. *GARCIA-GONZALES v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied. *Joseph S. Hertogs* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for respondent. Reported below: 344 F. 2d 804.

No. 393. *SILL CORP. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *Roland Boyd, John J. Geraghty and William VanDerCreek* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Weisl, Roger P. Marquis and Raymond N. Zagone* for the United States. Reported below: 343 F. 2d 411.

No. 403. *NATIONAL MARITIME UNION OF AMERICA, AFL-CIO v. NATIONAL LABOR RELATIONS BOARD*. C. A. D. C. Cir. Certiorari denied. *Abraham E. Freedman* for petitioner. *Acting Solicitor General Spritzer, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for respondent. Reported below: 120 U. S. App. D. C. 299, 346 F. 2d 411.

No. 405. *SEMEL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. *Joseph J. Lyman and Josiah Lyman* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 347 F. 2d 228.

No. 128. *WILLHEIM ET AL. v. MURCHISON ET AL., DBA MURCHISON BROTHERS, ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Leonard I. Schreiber* for petitioners. *Stuart N. Updike* for Murchison et al., and *Samuel E. Gates and Robert J. Geniesse* for Investors Diversified Services, Inc., respondents. Reported below: 342 F. 2d 33.

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No. 114. CARLO BIANCHI & Co., Inc. *v.* UNITED STATES. Ct. Cl. Motion to use record in No. 529, October Term, 1962, granted. Certiorari denied. *William H. Matthews* for petitioner. *Solicitor General Cox, Assistant Attorney General Douglas, Morton Hollander* and *David L. Rose* for the United States. Reported below: 167 Ct. Cl. 364.

No. 137. V. L. SMITHERS MANUFACTURING Co. *v.* O'BRIEN ET AL., DBA ILLINOIS WHOLESALE FLORIST. C. A. 7th Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *H. F. McNenny* for petitioner. *John Rex Allen* for respondents. Reported below: 340 F. 2d 952.

No. 160. BROTHERHOOD OF LOCOMOTIVE FIREMEN & ENGINEMEN *v.* CENTRAL OF GEORGIA RAILWAY Co. C. A. 5th Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Harold C. Heiss* and *Russell B. Day* for petitioner. *John B. Miller, Charles J. Bloch, W. Graham Clayton, Jr., and Richard S. Arnold* for respondent. Reported below: 341 F. 2d 213.

No. 182. JACHIMIEC *v.* SCHENLEY INDUSTRIES, INC., ET AL. C. A. 7th Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Milton V. Freeman* and *Sheldon O. Collen* for petitioner. *Sidney R. Zatz, Milton H. Cohen* and *Peyton Ford* for respondents.

No. 265. BRANDANO ET AL. *v.* HANDMAN ET AL. C. A. 1st Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Joseph Zallen* for petitioners. *Diana J. Auger* for respondents.

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No. 155. *HUGHES TOOL Co. v. TRANS WORLD AIRLINES, INC.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Chester C. Davis* for petitioner. *John F. Sonnett, Carl S. Rowe, Dudley B. Tenney, Marshall H. Cox, Jr., and Abraham P. Ordover* for respondent. Reported below: 339 F. 2d 56.

No. 222. *ATLAS-PACIFIC ENGINEERING Co. v. GEO. W. ASHLOCK Co.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Edward B. Gregg and Melvin R. Stidham* for petitioner. *Frank A. Neal and James M. Naylor* for respondent. Reported below: 339 F. 2d 288.

No. 272. *CAPAROTTA, DBA KINGS BRUSH Co. v. AMERICAN TECHNICAL MACHINERY CORP.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Ralph L. Chappell* for petitioner. *John M. Calimafde* for respondent. Reported below: 339 F. 2d 557.

No. 288. *WELSH Co. v. CHERNIVSKY, DBA COMFY BABE Co.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Lawrence H. Cohn and Ewing Laporte* for petitioner. *John Rex Allen* for respondent. Reported below: 342 F. 2d 586.

No. 302. *MORTIMER v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Abe Krash and John F. Kelly* for petitioner. *Solicitor General Cox, Acting Assistant Attorney General Jones and John P. Burke* for the United States. Reported below: 343 F. 2d 500.

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No. 328. SPACE AERO PRODUCTS CO., INC., ET AL. v. R. E. DARLING CO., INC. Ct. App. Md. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Abe Fortas, Dennis G. Lyons, Joseph Sherbow, Edward F. Shea, Jr., and Rourke J. Sheehan* for petitioners. *James P. Donovan and Jack H. Olender* for respondent. Reported below: 238 Md. 93, 208 A. 2d 74.

No. 337. HANSON ET AL. v. NO-JOINT CONCRETE PIPE CO. C. A. 9th Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Charles F. Scanlan* for petitioners. *Jack E. Hursh* for respondent. Reported below: 344 F. 2d 13.

No. 354. S. W. FARBER, INC. v. TEXAS INSTRUMENTS, INC. C. A. 3d Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Hobart N. Durham, John C. Vassil and Thomas N. O'Neill, Jr.*, for petitioner. *Robert F. Davis* for respondent. Reported below: 344 F. 2d 957.

No. 398. DOYLE v. UNITED STATES. C. A. 2d Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Moses Krislov and Arthur H. Christy* for petitioner. *Acting Solicitor General Spritzer* for the United States. Reported below: 348 F. 2d 715.

No. 181. BURCHINAL v. UNITED STATES. C. A. 10th Cir. Motion to dispense with printing the petition granted. Certiorari denied. *Isaac Mellman and Gerald N. Mellman* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 342 F. 2d 982.

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No. 150. *HALUSKA v. GARDNER*, SECRETARY OF HEALTH, EDUCATION AND WELFARE. C. A. 8th Cir. Motion to dispense with printing the petition granted. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for respondent.

No. 163. *LYNCH v. INDUSTRIAL INDEMNITY CO. ET AL.* C. A. 9th Cir. Motion to dispense with printing the petition granted. Certiorari denied.

No. 202. *FRANKLIN ET UX. v. UNITED STATES ET AL.* C. A. 7th Cir. Motion to dispense with printing the petition granted. Certiorari denied. *Harry L. Arkin* for petitioners. *Solicitor General Cox* for the United States et al., and *Newell S. Boardman* and *Jay M. Smyser* for Chicago Helicopter Airways, Inc., et al., respondents. Reported below: 342 F. 2d 581.

No. 232. *MARTH ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Motion to dispense with printing the petition granted. Certiorari denied. Petitioners *pro se*. *Solicitor General Cox*, *Acting Assistant Attorney General Jones* and *Harold C. Wilkenfeld* for respondent. Reported below: 342 F. 2d 417.

No. 273. *CUBAN TRUCK & EQUIPMENT CO. v. UNITED STATES*. Ct. Cl. Motion to dispense with printing the petition granted. Certiorari denied. *Charles Bragman* for petitioner. *Acting Solicitor General Spritzer* for the United States. Reported below: 166 Ct. Cl. 381, 333 F. 2d 873.

No. 401. *TOMIYASU ET AL. v. GOLDEN ET UX.* Sup. Ct. Nev. Motion to dispense with printing the petition granted. Certiorari denied. *Harry E. Claiborne* for petitioners. *Howard W. Babcock* for respondents. Reported below: 81 Nev. 140, 400 P. 2d 415.

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No. 151. *DARGUSCH v. COLUMBUS BAR ASSOCIATION.* Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE STEWART took no part in the consideration or decision of this petition. *Joseph L. Rauh, Jr., John Silard and Carlton S. Dargusch, Jr.*, for petitioner. *John L. Davies, Jr., and Sol Morton Isaac* for respondent. Reported below: 177 Ohio St. 95, 202 N. E. 2d 625.

No. 158. *EASTERN AIR LINES, INC., ET AL. v. NORTHEAST AIRLINES, INC., ET AL.* C. A. 1st Cir. Motion of International Association of Machinists et al. to be named parties respondent granted. Motion for leave to supplement the petition granted. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE FORTAS took no part in the consideration or decision of these motions or the petition. *John W. Cross, E. Smythe Gambrell and Harold L. Russell* for petitioners. *Henry E. Foley and Loyd M. Starrett* for respondent Northeast Airlines, Inc. *Edward J. Hickey, Jr., James L. Highsaw, Jr., and William J. Hickey* for International Association of Machinists et al. Reported below: 345 F. 2d 484, 488.

No. 180. *TATUM ET AL. v. SINGER ET AL.* Sup. Ct. Miss. Motion for abstention denied. Certiorari denied. *Joshua Green and Garner W. Green* for petitioners. *John C. Satterfield* for respondents. Reported below: 251 Miss. 661, 171 So. 2d 134.

No. 213. *SHELTON v. MISSOURI-KANSAS-TEXAS RAILROAD Co.* Ct. Civ. App. Tex., 5th Sup. Jud. Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Charles Gullett, Robert Doss and Russell M. Baker* for petitioner. *William Ralph Elliott* for respondent. Reported below: 383 S. W. 2d 842.

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No. 250. *STITZEL-WELLER DISTILLERY v. DEPARTMENT OF REVENUE OF KENTUCKY*. Ct. App. Ky. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Millard Cox* for petitioner. *William S. Riley*, Assistant Attorney General of Kentucky, for respondent. Reported below: 387 S. W. 2d 602.

No. 315. *FUENTES-TORRES v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Milton T. Simmons* for petitioner. *Solicitor General Cox*, Assistant Attorney General Vinson and *Philip R. Monahan* for respondent. Reported below: 344 F. 2d 911.

No. 338. *MOHR ET AL. v. STATE HIGHWAY COMMISSION OF MISSOURI*. Sup. Ct. Mo. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Hyman G. Stein* for petitioners. *Robert L. Hyder* for respondent. Reported below: 388 S. W. 2d 855, 862.

Nos. 235 and 251. *GRADSKY v. UNITED STATES*. C. A. 5th Cir. Motion of B. J. Gradsky to be added as party petitioner in No. 235 denied. Certiorari denied. *Sidney M. Dubbin* for petitioner in No. 235. *Milton E. Grusmark* for petitioner in No. 251. *Solicitor General Cox*, Assistant Attorney General Vinson, *Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 342 F. 2d 426.

No. 6, Misc. *McCoy v. CALIFORNIA*. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Thomas C. Lynch*, Attorney General of California, and *Albert W. Harris, Jr.*, and *Jay S. Linderman*, Deputy Attorneys General, for respondent.

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No. 253. *MOHASCO INDUSTRIES, INC. v. E. T. BARWICK MILLS, INC., ET AL.* C. A. 5th Cir. Motion for leave to file supplement to the petition granted. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of the motion or the petition. *Stanton T. Lawrence, Jr.*, for petitioner. *Charles H. Walker* for respondents. Reported below: 340 F. 2d 319.

No. 260. *NYYSSONEN, ADMINISTRATRIX v. BENDIX CORP.* C. A. 1st Cir. Motion for leave to supplement the record granted. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this motion and petition. *David Rines* and *Robert H. Rines* for petitioner. *Morris Relson* for respondent. Reported below: 342 F. 2d 531.

No. 7, Misc. *TAYLOR v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for the United States.

No. 8, Misc. *MORRIS v. MISSOURI.* Sup. Ct. Mo. Certiorari denied. Petitioner *pro se*. *Norman H. Anderson*, Attorney General of Missouri, and *William A. Peterson* and *Howard L. McFadden*, Assistant Attorneys General, for respondent.

No. 16, Misc. *BUTLER v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. *Francis Breidenbach* for petitioner. *Solicitor General Cox*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Julia P. Cooper* for the United States. Reported below: 340 F. 2d 63.

No. 17, Misc. *OYLER v. WILLINGHAM, WARDEN.* C. A. 10th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox*, *Assistant Attorney General Doar* and *Harold H. Greene* for respondent. Reported below: 338 F. 2d 260.

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No. 9, Misc. GRAVLEY *v.* CARTER. Super. Ct. Bartow County, Ga. Certiorari denied. Petitioner *pro se*. *Albert Sidney Johnson*, Assistant Attorney General of Georgia, for respondent.

No. 13, Misc. BROWN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox*, Assistant Attorney General *Doar* and *Harold H. Greene* for the United States.

No. 20, Misc. LEBRON *v.* WARDEN OF DETENTION HEADQUARTERS. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox*, Assistant Attorney General *Doar* and *Harold H. Greene* for respondent. Reported below: 339 F. 2d 887.

No. 26, Misc. VATELLI *v.* WILSON, WARDEN. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Thomas C. Lynch*, Attorney General of California, and *Albert W. Harris, Jr.*, and *Derald E. Granberg*, Deputy Attorneys General, for respondent.

No. 27, Misc. GORI *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox*, Assistant Attorney General *Miller* and *Beatrice Rosenberg* for the United States. Reported below: 339 F. 2d 263.

No. 31, Misc. LEWIS *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Petitioner *pro se*. *William G. Clark*, Attorney General of Illinois, and *Richard A. Michael*, Assistant Attorney General, for respondent.

No. 32, Misc. SMITH *v.* TAYLOR, WARDEN. C. A. 10th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox*, Assistant Attorney General *Doar* and *Harold H. Greene* for respondent.

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No. 21, Misc. *SCALZO v. HURNEY*, DISTRICT DIRECTOR, IMMIGRATION AND NATURALIZATION SERVICE. C. A. 3d Cir. Certiorari denied. *Richard R. Ransom* for petitioner. *Solicitor General Cox*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Jerome M. Feit* for respondent. Reported below: 338 F. 2d 339.

No. 33, Misc. *PURIFOY v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Petitioner *pro se*. *Earl Faircloth*, Attorney General of Florida, and *James G. Mahorner*, Assistant Attorney General, for respondent.

No. 34, Misc. *HYDE v. McMANN*, WARDEN. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Louis J. Lefkowitz*, Attorney General of New York, *Samuel A. Hirshowitz*, First Assistant Attorney General, and *Frank J. Panizzo*, Assistant Attorney General, for respondent.

No. 36, Misc. *WILSON v. McGEE*, ADMINISTRATOR, ET AL. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Thomas C. Lynch*, Attorney General of California, *Albert W. Harris, Jr.*, and *Michael R. Marron*, Deputy Attorneys General, for respondents.

No. 39, Misc. *KAUFMAN v. TAXICAB BUREAU*, BALTIMORE CITY POLICE DEPARTMENT. Ct. App. Md. Certiorari denied. *Leonard J. Kerpelman* for petitioner. Reported below: 236 Md. 476, 204 A. 2d 521.

No. 41, Misc. *REED v. UNITED STATES*. Ct. Cl. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for the United States.

No. 42, Misc. *SAMURINE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for the United States. Reported below: 337 F. 2d 857.

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No. 44, Misc. NORRIS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *Frederick R. Tourkow* and *Richard C. Ver Wiebe* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Kirby W. Patterson* for the United States. Reported below: 341 F. 2d 527.

No. 45, Misc. DEGREGORY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. *Eleanor Jackson Piel* for petitioner. *Solicitor General Cox, Assistant Attorney General Miller, Beatrice Rosenberg* and *Daniel H. Benson* for the United States. Reported below: 341 F. 2d 277.

No. 46, Misc. LUCAS *v.* McMANN, WARDEN. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Frank S. Hogan* and *H. Richard Uviller* for respondent.

No. 47, Misc. CURRY *v.* WEAKLEY, REFORMATORY SUPERINTENDENT, ET AL. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox, Assistant Attorney General Doar, Harold H. Greene* and *Gerald P. Choppin* for respondents.

No. 48, Misc. ACOSTA *v.* FITZHARRIS, CORRECTIONAL SUPERINTENDENT. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Thomas C. Lynch*, Attorney General of California, *Albert W. Harris, Jr.*, Assistant Attorney General, and *Robert R. Granucci*, Deputy Attorney General, for respondent.

No. 50, Misc. KLEIN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 340 F. 2d 547.

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No. 49, Misc. *LUACES v. MAY, WARDEN*. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox, Assistant Attorney General Doar, and Harold H. Greene* for respondent.

No. 51, Misc. *PRYSOCK v. WEAKLEY, REFORMATORY SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox, Assistant Attorney General Doar and Harold H. Greene* for respondent.

No. 57, Misc. *DOUB v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 341 F. 2d 572.

No. 61, Misc. *JOHNSON v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *James J. Laughlin and William J. Garber* for petitioner. *Solicitor General Cox, Assistant Attorney General Miller, Beatrice Rosenberg and Sidney M. Glazer* for the United States.

No. 62, Misc. *VON ATZINGER v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied. Petitioner *pro se*. *John G. Thevos* for respondent.

No. 63, Misc. *BARNES v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States.

No. 71, Misc. *RICHARDSON v. MARKLEY, WARDEN*. C. A. 7th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox, Assistant Attorney General Doar and Harold H. Greene* for respondent. Reported below: 339 F. 2d 967.

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No. 64, Misc. *DAVIS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *Russell Morton Brown, Maurice C. Goodpasture and John J. Dwyer* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Julia P. Cooper* for the United States.

No. 67, Misc. *MILLER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for the United States.

No. 73, Misc. *FENNELL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Ronald L. Gainer* for the United States. Reported below: 339 F. 2d 920.

No. 74, Misc. *GRIZZELL v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Petitioner *pro se*. *Earl Faircloth, Attorney General of Florida, and William D. Roth, Special Assistant Attorney General*, for respondent.

No. 76, Misc. *PETERSON v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for the United States.

No. 78, Misc. *BAYLOR v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 120 U. S. App. D. C. 157, 344 F. 2d 542.

No. 83, Misc. *MUENCH v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 340 F. 2d 307.

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No. 82, Misc. *HIGGINBOTHAM v. UNITED STATES CIVIL SERVICE COMMISSION*. C. A. 3d Cir. Certiorari denied. *Paul A. Simmons* for petitioner. *Solicitor General Cox, Assistant Attorney General Douglas, Sherman L. Cohn* and *Richard S. Salzman* for respondent. Reported below: 340 F. 2d 165.

No. 84, Misc. *CRAIN v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Petitioner *pro se*. *Waggoner Carr*, Attorney General of Texas, *Hawthorne Phillips*, First Assistant Attorney General, *T. B. Wright*, Executive Assistant Attorney General, and *Howard M. Fender* and *Charles B. Swanner*, Assistant Attorneys General, for respondent.

No. 86, Misc. *DALY v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *John J. Dwyer* and *Jean F. Dwyer* for petitioner. *Solicitor General Cox* for the United States. Reported below: 119 U. S. App. D. C. 353, 342 F. 2d 932.

No. 88, Misc. *WEARS v. OHIO ET AL.* Sup. Ct. Ohio. Certiorari denied.

No. 89, Misc. *MONTGOMERY v. NEW YORK*. Ct. App. N. Y. Certiorari denied. *Robert Welch Mullen* for petitioner. Reported below: 15 N. Y. 2d 732, 205 N. E. 2d 206.

No. 95, Misc. *WALTREUS v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Morris Lavine* for petitioner. Reported below: 62 Cal. 2d 218, 397 P. 2d 1001.

No. 96, Misc. *STEEENBERGEN v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. *John R. Snively* for petitioner. Reported below: 31 Ill. 2d 615, 203 N. E. 2d 404.

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No. 92, Misc. *BRIDGES v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Petitioner *pro se*. *Earl Faircloth*, Attorney General of Florida, and *John S. Burton*, Assistant Attorney General, for respondent.

No. 94, Misc. *STEN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Osmond K. Fraenkel* for petitioner. *Solicitor General Cox*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Ronald L. Gainer* for the United States. Reported below: 342 F. 2d 491.

No. 98, Misc. *MCABEE v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for the United States.

No. 101, Misc. *DUVAL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Sidney M. Glazer* for the United States.

No. 104, Misc. *BLACK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Julia P. Cooper* for the United States. Reported below: 341 F. 2d 583.

No. 106, Misc. *EVERIST v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. *R. Eugene Pincham* and *Charles B. Evans* for petitioner. *Daniel P. Ward* and *Elmer C. Kissane* for respondent. Reported below: 52 Ill. App. 2d 73, 201 N. E. 2d 655.

No. 109, Misc. *McMULLEN v. GARDNER, SECRETARY OF HEALTH, EDUCATION AND WELFARE*. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for respondent. Reported below: 335 F. 2d 811.

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No. 108, Misc. *THOMAS ET AL. v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. *R. Eugene Pincham* for petitioners. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Marshall Tamor Golding* for the United States. Reported below: 342 F. 2d 132.

No. 110, Misc. *WHITTINGTON v. CAMERON, HOSPITAL SUPERINTENDENT.* C. A. D. C. Cir. Certiorari denied. Petitioner *pro se.* *Acting Solicitor General Spritzer, Assistant Attorney General Doar and Harold H. Greene* for respondent. Reported below: 120 U. S. App. D. C. 179, 344 F. 2d 564.

No. 111, Misc. *LEAK v. NEW YORK.* Ct. App. N. Y. Certiorari denied.

No. 112, Misc. *CERRANO v. FLEISHMAN, CUSTOMS AGENT, ET AL.* C. A. 2d Cir. Certiorari denied. Petitioner *pro se.* *Solicitor General Cox, Assistant Attorney General Douglas, Morton Hollander and Edward Berlin* for respondents. Reported below: 339 F. 2d 929.

No. 113, Misc. *MYARTT v. WISCONSIN.* Sup. Ct. Wis. Certiorari denied.

No. 118, Misc. *VAUGHN v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Petitioner *pro se.* *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States.

No. 119, Misc. *RICHMOND v. WAINWRIGHT, CORRECTIONS DIRECTOR.* Sup. Ct. Fla. Certiorari denied. Petitioner *pro se.* *Earl Faircloth, Attorney General of Florida, and James G. Mahorner, Assistant Attorney General*, for respondent.

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No. 121, Misc. *SILVER v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 122, Misc. *SHELTON ET AL. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *Samuel K. Abrams* for petitioners. *Solicitor General Cox, Beatrice Rosenberg* and *Ronald L. Gainer* for the United States. Reported below: 120 U. S. App. D. C. 65, 343 F. 2d 347.

No. 123, Misc. *CRANE ET AL. v. CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 126, Misc. *DE VAUGHN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Leon B. Polksy* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Jerome M. Feit* for the United States.

No. 127, Misc. *SANCHEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Stephen R. Reinhardt* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Theodore George Gilinsky* for the United States. Reported below: 341 F. 2d 225.

No. 129, Misc. *TAYLOR v. WARD ET AL.* Ct. App. Md. Certiorari denied. *Leonard J. Kerpelman* for petitioner.

No. 133, Misc. *SPIESEL v. CITY OF NEW YORK*. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Leo A. Larkin, Seymour B. Quel* and *Benjamin Offner* for respondent. Reported below: 342 F. 2d 800.

No. 135, Misc. *HAIRSTON v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States.

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No. 132, Misc. *ALLEN v. RUNDLE, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 134, Misc. *WHITWORTH v. FLORIDA*. Sup. Ct. Fla. Certiorari denied.

No. 136, Misc. *DURHAM v. MISSOURI*. Sup. Ct. Mo. Certiorari denied.

No. 138, Misc. *SUMMERS v. CALIFORNIA*. Dist. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 139, Misc. *McKENNA v. MYERS, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied. Reported below: 342 F. 2d 998.

No. 143, Misc. *BALES v. HAYES*. C. A. 9th Cir. Certiorari denied.

No. 144, Misc. *HARRIS v. MYERS, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 145, Misc. *WOODY v. MISSOURI*. Sup. Ct. Mo. Certiorari denied.

No. 146, Misc. *WILLIAMS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for the United States. Reported below: 344 F. 2d 264.

No. 149, Misc. *THOMPSON v. HEINZE, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 150, Misc. *CARTER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for the United States.

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No. 151, Misc. *FIELDS v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 152, Misc. *ELKSNIS v. FAY, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 153, Misc. *OLSON v. TAHASH, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 344 F. 2d 139.

No. 154, Misc. *ARNOLD v. BOSTICK*. C. A. 9th Cir. Certiorari denied. Reported below: 339 F. 2d 879.

No. 156, Misc. *CAPOLINO v. KELLY, COLLECTOR OF CUSTOMS*. C. A. 2d Cir. Certiorari denied. *Leo Otis* for petitioner. *Solicitor General Cox* for respondent. Reported below: 339 F. 2d 1023.

No. 157, Misc. *HUDSON v. ARCENEAUX ET AL*. Sup. Ct. La. Certiorari denied. *J. Minos Simon* for petitioner.

No. 159, Misc. *BURTON v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 202 N. E. 2d 165; — Ind. —, 204 N. E. 2d 218.

No. 160, Misc. *WILLIAMS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 343 F. 2d 472.

No. 161, Misc. *PEARSON ET UX. v. BIRDWELL ET AL*. Sup. Ct. Cal. Certiorari denied. *Edgar Paul Boyko* for petitioners.

No. 163, Misc. *MADDOX v. HOLMAN, WARDEN*. C. A. 5th Cir. Certiorari denied.

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No. 164, Misc. *RIFFLE v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO.* C. A. 6th Cir. Certiorari denied.

No. 165, Misc. *WILLIAMS v. HEINZE, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 166, Misc. *VESAY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Petitioner *pro se.* *Acting Solicitor General Spritzer* for the United States.

No. 167, Misc. *WILLIAMS v. LEVIN, U. S. DISTRICT JUDGE.* C. A. 6th Cir. Certiorari denied. Petitioner *pro se.* *Acting Solicitor General Spritzer* for respondent.

No. 170, Misc. *MIGUEL v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. *Rudolph Lion Zalowitz* and *Frederic A. Johnson* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Ronald L. Gainer* for the United States. Reported below: 340 F. 2d 812.

No. 173, Misc. *RHODES v. NEW YORK.* Ct. App. N. Y. Certiorari denied. Petitioner *pro se.* *Benj. J. Jacobson* for respondent.

No. 178, Misc. *WALKER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Petitioner *pro se.* *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Marshall Tamor Golding* for the United States. Reported below: 342 F. 2d 22.

No. 181, Misc. *JOHNSON v. PENNSYLVANIA ET AL.* C. A. 3d Cir. Certiorari denied.

No. 184, Misc. *OLGUIN v. CALIFORNIA.* Dist. Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 180, Misc. HERMAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for the United States.

No. 186, Misc. BUDNER *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. *Harry Krauss* for petitioner. *Frank S. Hogan* and *H. Richard Uviller* for respondent. Reported below: 15 N. Y. 2d 253, 206 N. E. 2d 171.

No. 188, Misc. RICHTER *v.* MINNESOTA. Sup. Ct. Minn. Certiorari denied. Reported below: 270 Minn. 307, 133 N. W. 2d 537.

No. 189, Misc. SANCHEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for the United States. Reported below: 341 F. 2d 565.

No. 190, Misc. WILSON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 342 F. 2d 782.

No. 192, Misc. BYERS *v.* CROUSE, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 339 F. 2d 550.

No. 193, Misc. KANTON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for the United States. Reported below: 345 F. 2d 427.

No. 198, Misc. SMITH *v.* INDUSTRIAL ACCIDENT COMMISSION OF CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied.

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No. 191, Misc. *CROSSLEY v. TAHASH, WARDEN*. Sup. Ct. Minn. Certiorari denied.

No. 199, Misc. *KERNER v. GARDNER*, SECRETARY OF HEALTH, EDUCATION AND WELFARE. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for respondent. Reported below: 340 F. 2d 736.

No. 200, Misc. *HALEY, ADMINISTRATRIX v. BALTIMORE & OHIO RAILROAD CO. ET AL.* C. A. 7th Cir. Certiorari denied. *Maurice R. Kraines* for petitioner. *John L. Rogers, Jr.*, for respondents. Reported below: 341 F. 2d 732.

No. 208, Misc. *PHEASTER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for the United States.

No. 209, Misc. *SMITH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *Orville A. Harlan* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 343 F. 2d 539.

No. 210, Misc. *MOORE v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 214, Misc. *SAWYER v. RHAY, PENITENTIARY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied. Reported below: 340 F. 2d 990.

No. 215, Misc. *WITHERSPOON v. PATE, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 216, Misc. *GRIMBLE v. BROWN, ADMINISTRATOR, ET AL.* Sup. Ct. La. Certiorari denied. Reported below: 247 La. 376, 171 So. 2d 653.

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No. 218, Misc. *VEGA ET AL. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 1st Cir. Certiorari denied. *Ginoris Vizcarra* for petitioners. *Solicitor General Cox, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 341 F. 2d 576.

No. 220, Misc. *WHALEM v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Julia P. Cooper* for the United States. Reported below: 120 U. S. App. D. C. 331, 346 F. 2d 812.

No. 227, Misc. *LEVY v. UNITED STATES*. Ct. Cl. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for the United States. Reported below: 169 Ct. Cl. 1020.

No. 228, Misc. *OLIVER v. LOUISIANA*. Sup. Ct. La. Certiorari denied. *Maurice R. Woulfe* for petitioner. Reported below: 247 La. 729, 174 So. 2d 509.

No. 229, Misc. *GLOVER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States.

No. 230, Misc. *FAIR v. BRYANT, GOVERNOR OF FLORIDA*. Sup. Ct. Fla. Certiorari denied.

No. 235, Misc. *LUCAS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 343 F. 2d 1.

No. 236, Misc. *FOSTER v. PARKER ET AL.* C. A. 9th Cir. Certiorari denied.

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No. 237, Misc. *LAKE v. CAMERON, HOSPITAL SUPERINTENDENT.* C. A. D. C. Cir. Certiorari denied.

No. 238, Misc. *PETERS v. COX, WARDEN.* C. A. 10th Cir. Certiorari denied. Reported below: 341 F. 2d 575.

No. 239, Misc. *HOWARD v. WISCONSIN.* Sup. Ct. Wis. Certiorari denied. Reported below: 26 Wis. 2d 652, 133 N. W. 2d 284.

No. 240, Misc. *DAWSON v. CITY COUNCIL OF BUTTE, MONTANA, ET AL.* C. A. 9th Cir. Certiorari denied. *Joseph P. Monaghan* for petitioner. *John H. Risken* for respondent Herweg.

No. 241, Misc. *FRACE v. RUSSELL, CORRECTIONAL SUPERINTENDENT.* C. A. 3d Cir. Certiorari denied. Reported below: 341 F. 2d 901.

No. 242, Misc. *McCLENNY v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Petitioner *pro se.* *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Kirby W. Patterson* for the United States. Reported below: 346 F. 2d 125.

No. 243, Misc. *AUTH v. NEW YORK.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied.

No. 244, Misc. *WHITE v. WILSON, WARDEN.* Super. Ct. Cal., County of Marin. Certiorari denied.

No. 247, Misc. *BOWERS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *Joseph H. Davis* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Daniel H. Benson* for the United States. Reported below: 344 F. 2d 124.

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No. 246, Misc. *BENVENISTE v. DENNO, WARDEN*. C. A. 2d Cir. Certiorari denied. *Frances Kahn* for petitioner. *Louis J. Lefkowitz*, Attorney General of New York, and *Mortimer Sattler*, Assistant Attorney General, for respondent.

No. 250, Misc. *STEVENSON v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Petitioner *pro se*. *Benj. J. Jacobson* for respondent.

No. 253, Misc. *WILSON v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *Joel E. Hoffman* and *Monroe H. Freedman* for petitioner. *Solicitor General Cox*, Assistant Attorney General *Vinson*, *Beatrice Rosenberg* and *Sidney M. Glazer* for the United States. Reported below: 120 U. S. App. D. C. 72, 344 F. 2d 166.

No. 259, Misc. *LEPISCOPO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Petitioner *pro se*. *Acting Solicitor General Spritzer*, Assistant Attorney General *Vinson*, *Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 343 F. 2d 474.

No. 261, Misc. *SHOBE v. HEINZE, WARDEN, ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 262, Misc. *NAUTON v. CALIFORNIA*. Dist. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 264, Misc. *STILTNER v. WASHINGTON*. Sup. Ct. Wash. Certiorari denied.

No. 267, Misc. *HARRIS v. PATE, WARDEN*. Sup. Ct. Ill. Certiorari denied.

No. 270, Misc. *CREASON v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied.

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No. 271, Misc. *SWANNER v. THOMAS, WARDEN, ET AL.*
Ct. App. Ky. Certiorari denied.

No. 275, Misc. *D'ANTONIO v. NEW YORK.* Ct. App.
N. Y. Certiorari denied. Petitioner *pro se.* *Frank S.
Hogan* for respondent.

No. 277, Misc. *DASH v. LAVALLEE, WARDEN.* Ct.
App. N. Y. Certiorari denied.

No. 280, Misc. *VENEY v. UNITED STATES.* C. A. D. C.
Cir. Certiorari denied. Petitioner *pro se.* *Acting
Solicitor General Spritzer, Assistant Attorney General Vin-
son, Beatrice Rosenberg and Robert G. Maysack* for the
United States. Reported below: 120 U. S. App. D. C.
157, 344 F. 2d 542.

No. 282, Misc. *FERNANDEZ v. WILSON, WARDEN, ET AL.*
C. A. 9th Cir. Certiorari denied.

No. 284, Misc. *WOOD v. CONNEAUT LAKE PARK, INC.*
Sup. Ct. Pa. Certiorari denied. *George S. Goldstein* for
petitioner. *Stuart A. Culbertson* for respondent. Re-
ported below: 417 Pa. 58, 209 A. 2d 268.

No. 285, Misc. *SMITH v. LAVALLEE, WARDEN.* C. A.
2d Cir. Certiorari denied.

No. 298, Misc. *THACKER v. WARD MARKHAM Co.*
Sup. Ct. N. C. Certiorari denied. Petitioner *pro se.*
John H. Anderson and Willis Smith, Jr., for respondent.
Reported below: 263 N. C. 594, 140 S. E. 2d 23.

No. 291, Misc. *BYRD v. OREGON.* Sup. Ct. Ore. Cer-
tiorari denied. Petitioner *pro se.* *George Van Hoomis-
sen* for respondent. Reported below: 240 Ore. 159, 400
P. 2d 522.

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No. 286, Misc. *CATENA v. GENNETTI, TRUSTEE*. C. A. 3d Cir. Certiorari denied. Petitioner *pro se*. *Pace Reich* for respondent.

No. 294, Misc. *LYONS v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 296, Misc. *GAINES v. UNITED STATES*. Ct. Cl. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for the United States.

No. 301, Misc. *PASSANTE v. HEROLD, STATE HOSPITAL DIRECTOR*. C. A. 2d Cir. Certiorari denied.

No. 302, Misc. *MARTINEZ v. COLORADO*. Sup. Ct. Colo. Certiorari denied. Reported below: — Colo. —, 399 P. 2d 415.

No. 304, Misc. *ROOT v. CUNNINGHAM, PENITENTIARY SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied. Reported below: 344 F. 2d 1.

No. 305, Misc. *HARRIS v. BRUZEE ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 307, Misc. *DAVIS v. WILSON, WARDEN, ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 312, Misc. *DOWNS v. CROUSE, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 313, Misc. *SIMMONS v. OSWALD ET AL.* C. A. 2d Cir. Certiorari denied.

No. 316, Misc. *CRESWELL v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. *D. B. Mauzy* for petitioner. Reported below: 387 S. W. 2d 887.

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No. 322, Misc. HARPER *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied.

No. 325, Misc. THOMPSON *v.* MICHIGAN. Sup. Ct. Mich. Certiorari denied.

No. 326, Misc. ROSS *v.* NEW YORK. C. A. 2d Cir. Certiorari denied. Reported below: 341 F. 2d 823.

No. 328, Misc. OKSTEN *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied.

No. 333, Misc. YOUNG *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. *John Raeburn Green* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 344 F. 2d 1006.

No. 334, Misc. RUNNELS *v.* RHAY, PENITENTIARY SUPERINTENDENT. Sup. Ct. Wash. Certiorari denied. *Francis Conklin* for petitioner.

No. 344, Misc. CANADY *v.* WILKINS, WARDEN. C. A. 2d Cir. Certiorari denied.

No. 347, Misc. HAYES *v.* LAVALLEE, WARDEN. C. A. 2d Cir. Certiorari denied.

No. 351, Misc. BUND *v.* LAVALLEE, WARDEN, ET AL. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Frank S. Hogan* and *Harold Roland Shapiro* for respondents. Reported below: 344 F. 2d 313.

No. 356, Misc. ATKINSON ET AL. *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. *Kenneth K. Simon* for petitioners. *Solicitor General Cox* for the United States. Reported below: 344 F. 2d 97.

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No. 340, Misc. *BRADFORD v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for respondent.

No. 352, Misc. *SCHULTZ v. MULLINS, WARDEN, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 355, Misc. *BRUCE v. PENNSYLVANIA*. C. A. 3d Cir. Certiorari denied.

No. 361, Misc. *WOLENSKI v. SWEENEY, JUDGE*. C. A. 3d Cir. Certiorari denied.

No. 364, Misc. *STRICKLAND v. MYERS, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 365, Misc. *LLUVERAS v. NEW YORK*. Sup. Ct. N. Y., N. Y. County. Certiorari denied.

No. 371, Misc. *FLETCHER v. BETO, CORRECTIONS DIRECTOR*. Ct. Crim. App. Tex. Certiorari denied. *William E. Gray* for petitioner.

No. 374, Misc. *HANOVICH v. MAXWELL, WARDEN*. C. A. 6th Cir. Certiorari denied. *Irving Harris* for petitioner. Reported below: 342 F. 2d 161.

No. 376, Misc. *HOLLAND v. GLADDEN, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 377, Misc. *FARRANT v. BENNETT, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 347 F. 2d 390.

No. 379, Misc. *TALBERT v. KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 195 Kan. 149, 402 P. 2d 810.

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No. 372, Misc. *BENT v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox* for the United States. Reported below: 340 F. 2d 703.

No. 380, Misc. *SEYMORE v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Petitioner *pro se*. *Louis J. Lefkowitz*, Attorney General of New York, *Paxton Blair*, Solicitor General, and *Winifred C. Stanley*, Assistant Attorney General, for respondent.

No. 381, Misc. *OLIVO v. FAY, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 382, Misc. *WELLINGTON v. FLORIDA*. Sup. Ct. Fla. Certiorari denied.

No. 383, Misc. *KEYS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Acting Solicitor General Spritzer*, Assistant Attorney General *Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 120 U. S. App. D. C. 343, 346 F. 2d 824.

No. 385, Misc. *SWANSON v. REINCKE, WARDEN*. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *John D. LaBelle* for respondent. Reported below: 344 F. 2d 260.

No. 398, Misc. *CRUZ v. COLORADO*. Sup. Ct. Colo. Certiorari denied. Petitioner *pro se*. *Duke W. Dunbar*, Attorney General of Colorado, *Frank E. Hickey*, Deputy Attorney General, and *James F. Pamp*, Assistant Attorney General, for respondent. Reported below: — Colo. —, 401 P. 2d 830.

No. 402, Misc. *FJELLMHAMMER v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Acting Solicitor General Spritzer* for the United States.

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No. 395, Misc. GOLENBOCK *v.* WALLACK, WARDEN. C. A. 2d Cir. Certiorari denied.

No. 401, Misc. MUZA *v.* CALIFORNIA ADULT AUTHORITY ET AL. Sup. Ct. Cal. Certiorari denied.

No. 404, Misc. SALZANO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Acting Solicitor General Spritzer* for the United States.

No. 405, Misc. DI SILVESTRO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Joseph W. Di Silvestro*, petitioner, *pro se*. *Acting Solicitor General Spritzer*, *Assistant Attorney General Douglas* and *Morton Hollander* for the United States.

No. 408, Misc. SALGADO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Joseph I. Stone* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 347 F. 2d 216.

No. 409, Misc. JOHNSON *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Acting Solicitor General Spritzer* for the United States.

No. 417, Misc. BATCHELOR *v.* UNITED STATES. Ct. Cl. Certiorari denied. *Carl L. Shipley* and *Thomas A. Ziebarth* for petitioner. *Acting Solicitor General Spritzer* for the United States. Reported below: 169 Ct. Cl. 180.

No. 418, Misc. KRENNRICH *v.* UNITED STATES. Ct. Cl. Certiorari denied. *Carl L. Shipley*, *Thomas A. Ziebarth* and *Samuel Resnicoff* for petitioner. *Acting Solicitor General Spritzer* for the United States. Reported below: 169 Ct. Cl. 6, 340 F. 2d 653.

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No. 426, Misc. *WARRINER v. FINK ET AL.* C. A. 5th Cir. Certiorari denied. Petitioner *pro se*. *Irving B. Levenson* for respondents.

No. 434, Misc. *SCHATZ v. GARDNER, SECRETARY OF HEALTH, EDUCATION AND WELFARE.* C. A. 2d Cir. Certiorari denied. *J. Stanley Shaw* for petitioner. *Acting Solicitor General Spritzer* for respondent. Reported below: 346 F. 2d 685.

No. 444, Misc. *WHITE v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. Petitioner *pro se*. *Acting Solicitor General Spritzer* for the United States. Reported below: 342 F. 2d 379.

No. 445, Misc. *CHOY v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 344 F. 2d 126.

No. 463, Misc. *PHERIBO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 346 F. 2d 559.

No. 29, Misc. *McFADDEN v. ILLINOIS.* Sup. Ct. Ill. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Petitioner *pro se*. *William G. Clark*, Attorney General of Illinois, and *Richard A. Michael*, Assistant Attorney General, for respondent. Reported below: 32 Ill. 2d 101, 203 N. E. 2d 888.

No. 103, Misc. *DAVIS v. OHIO.* Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

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No. 217, Misc. *JACKSON v. NEW YORK*. Ct. App. N. Y. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

No. 219, Misc. *HUGHES ET AL. v. KROPP, WARDEN*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Petitioners *pro se*. *Frank J. Kelley*, Attorney General of Michigan, *Luke Quinn*, Assistant Attorney General, and *Robert A. Derengoski*, Solicitor General, for respondent.

No. 254, Misc. *TUTTLE v. UTAH*. Sup. Ct. Utah. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *George H. Searle* for petitioner. *Phil L. Hansen*, Attorney General of Utah, and *Ronald N. Boyce*, Assistant Attorney General, for respondent. Reported below: 16 Utah 2d 288, 399 P. 2d 580.

No. 90, Misc. *WHALEY v. CAVANAUGH ET AL.* C. A. 9th Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 341 F. 2d 295.

No. 141, Misc. *LEWIS v. ADERHOLDT ET AL.* C. A. D. C. Cir. Motion of National Capital Area Civil Liberties Union for leave to file brief, as *amicus curiae*, granted. Certiorari denied. *Philip Shinberg* for petitioner. *Chester H. Gray*, *Milton D. Korman* and *Hubert B. Pair* for Aderholdt, and *Thomas A. Flannery* and *Stephen A. Trimble* for Washington Terminal Co., respondents. *Monroe H. Freedman* for National Capital Area Civil Liberties Union, as *amicus curiae*, in support of the petition.

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Rehearing Denied.

No. 86, October Term, 1964. *ZEMEL v. RUSK, SECRETARY OF STATE, ET AL.*, 381 U. S. 1;

No. 245, October Term, 1964. *WATERMAN STEAMSHIP CORP. v. UNITED STATES*, 381 U. S. 252;

No. 246, October Term, 1964. *NATIONAL BULK CARRIERS, INC. v. UNITED STATES*, 381 U. S. 933;

No. 292, October Term, 1964. *ATLANTIC REFINING CO. v. FEDERAL TRADE COMMISSION*, 381 U. S. 357;

No. 296, October Term, 1964. *GOODYEAR TIRE & RUBBER CO. v. FEDERAL TRADE COMMISSION*, 381 U. S. 357;

No. 347, October Term, 1964. *JABEN v. UNITED STATES*, 381 U. S. 214;

No. 832, October Term, 1964. *AVGIKOS v. LOUISIANA*, 381 U. S. 924;

No. 972, October Term, 1964. *HOLLAND FURNACE CO. v. SCHNACKENBERG, U. S. CIRCUIT JUDGE, ET AL.*, 381 U. S. 924;

No. 997, October Term, 1964. *STROLLO v. UNITED STATES*, 381 U. S. 912;

No. 1011, October Term, 1964. *SERMAN v. UNITED STATES*, 381 U. S. 912;

No. 1017, October Term, 1964. *INTERLAKE STEAMSHIP CO. v. NIELSEN ET AL.*, 381 U. S. 934;

No. 1053, October Term, 1964. *RANDALL ET AL. v. COMMISSIONER OF INTERNAL REVENUE*, 381 U. S. 935;

No. 1056, October Term, 1964. *TJONAMAN v. A/S GLITTRE ET AL.*, 381 U. S. 925;

No. 1067, October Term, 1964. *W. M. R. WATCH CASE CORP. ET AL. v. FEDERAL TRADE COMMISSION*, 381 U. S. 936;

No. 1106, October Term, 1964. *RATKE ET AL. v. UNITED STATES*, 381 U. S. 939; and

No. 513, Misc., October Term, 1964. *CRAWFORD v. BANNAN, WARDEN*, 381 U. S. 955. Petitions for rehearing denied. MR. JUSTICE FORTAS took no part in the consideration or decision of these petitions.

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No. 612, Misc., October Term, 1964. *BERMAN v. FAY, WARDEN*, 381 U. S. 955;

No. 657, Misc., October Term, 1964. *GRAY v. UNITED STATES*, 381 U. S. 926;

No. 730, Misc., October Term, 1964. *VALCARCEL v. UNITED STATES*, 381 U. S. 926;

No. 743, Misc., October Term, 1964. *LLOYD v. UNITED STATES*, 381 U. S. 952;

No. 890, Misc., October Term, 1964. *CASTLE v. UNITED STATES*, 381 U. S. 953;

No. 998, Misc., October Term, 1964. *WELLS v. UNITED STATES*, 381 U. S. 927;

No. 1047, Misc., October Term, 1964. *GOLDBERG v. OFFICE EMPLOYES INTERNATIONAL UNION, LOCAL 153, ET AL.*, 381 U. S. 939;

No. 1055, Misc., October Term, 1964. *HILBRICH v. UNITED STATES*, 381 U. S. 941;

No. 1159, Misc., October Term, 1964. *USELDING v. UNITED STATES*, 381 U. S. 941;

No. 1058, Misc., October Term, 1964. *HALYSHYN v. UNITED STATES*, 381 U. S. 928;

No. 1117, Misc., October Term, 1964. *MCLEOD v. OHIO*, 381 U. S. 356;

No. 1118, Misc., October Term, 1964. *GUNSTON v. UNITED STATES*, 381 U. S. 930;

No. 1122, Misc., October Term, 1964. *CLARK v. PAYNE*, 381 U. S. 943;

No. 1130, Misc., October Term, 1964. *NELMS v. UNITED STATES*, 381 U. S. 943;

No. 1150 Misc., October Term, 1964. *MACFADDEN v. HEINZE, WARDEN, ET AL.*, 381 U. S. 944; and

No. 1237, Misc., October Term, 1964. *STEWART v. MICHIGAN ET AL.*, 381 U. S. 931. Petitions for rehearing denied. MR. JUSTICE FORTAS took no part in the consideration or decision of these petitions.

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No. 120, October Term, 1964. *GOTTESMAN ET AL. v. GENERAL MOTORS CORP. ET AL.*, 379 U. S. 882, 940. Motion for leave to file second petition for rehearing denied. MR. JUSTICE HARLAN and MR. JUSTICE FORTAS took no part in the consideration or decision of this motion.

No. 256, October Term, 1964. *ESTES v. TEXAS*, 381 U. S. 532. Motion for leave to file petition for rehearing denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this motion.

No. 580, Misc., October Term, 1964. *HALL v. PINTO, PRISON SUPERINTENDENT*, 381 U. S. 930;

No. 968, Misc., October Term, 1964. *WALKER v. SUPERIOR COURT OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO, ET AL.*, 381 U. S. 932; and

No. 1106, Misc., October Term, 1964. *MCINTOSH v. UNITED STATES*, 381 U. S. 947. Petitions for rehearing denied. THE CHIEF JUSTICE and MR. JUSTICE FORTAS took no part in the consideration or decision of these petitions.

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Dismissal Under Rule 60.

No. 586, Misc. *THOMAS v. DAVIS, CLERK OF THE SUPREME COURT OF THE UNITED STATES*. On motion for leave to file petition for writ of mandamus. Dismissed pursuant to Rule 60 of the Rules of this Court.

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Assignment Order.

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Reed (retired) to perform judicial duties in the United States Court of Claims beginning

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November 1, 1965, and ending June 30, 1966, and for such further time as may be required to complete unfinished business, pursuant to 28 U. S. C. § 294 (a), is ordered entered on the minutes of this Court, pursuant to 28 U. S. C. § 295.

Miscellaneous Orders.

No. 14, Original. LOUISIANA *v.* MISSISSIPPI ET AL. The case is set for argument on the Report of the Special Master and the exceptions thereto. Two hours are allotted for oral argument. [For earlier orders herein, see 375 U. S. 803, 950; 377 U. S. 901; 381 U. S. 947.]

No. 345, October Term, 1964. MARYLAND, FOR THE USE OF LEVIN, ET AL. *v.* UNITED STATES, 381 U. S. 41. The respondent is requested to file, within 20 days, a response to the petition for rehearing limited to the question as to whether this case should be remanded to the District Court for further proceedings with respect to the unresolved issues tendered in the petitioners' bill of complaint. MR. JUSTICE FORTAS took no part in the consideration of this petition. *Theodore E. Wolcott* on the petition for rehearing.

No. 57. HAZELTINE RESEARCH, INC., ET AL. *v.* BRENNER, COMMISSIONER OF PATENTS. C. A. D. C. Cir. (Certiorari granted, 380 U. S. 960.) Motion of Irwin M. Aisenberg for leave to file brief, as *amicus curiae*, granted. MR. JUSTICE FORTAS took no part in the consideration or decision of this motion. *Irwin M. Aisenberg* on the motion to file brief, as *amicus curiae*, urging reversal.

No. 575, Misc. EDWARDS *v.* WEAKLEY, REFORMATORY SUPERINTENDENT. Motion for leave to file petition for writ of habeas corpus denied.

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No. 256, Misc. *ELLHAMER v. CALIFORNIA*. Motion for leave to file petition for writ of habeas corpus denied. Treating the papers submitted as a petition for writ of certiorari, certiorari is denied.

Probable Jurisdiction Noted.

No. 396. *DeGREGORY v. ATTORNEY GENERAL OF NEW HAMPSHIRE*. Appeal from Sup. Ct. N. H. Probable jurisdiction noted. *Howard S. Whiteside* for appellant. *William Maynard*, Attorney General of New Hampshire, *R. Peter Shapiro*, Assistant Attorney General, and *Joseph F. Gall*, Special Assistant Attorney General, for appellee. Reported below: 106 N. H. 262, 209 A. 2d 712.

Certiorari Granted. (See No. 919, Oct. Term, 1961, *ante*, p. 25; No. 123, *ante*, p. 32; and No. 23, Misc., *ante*, p. 36.)

Certiorari Denied. (See also No. 281, *ante*, p. 39; and No. 256, Misc., *supra*.)

No. 211. *METROMEDIA, INC. v. AMERICAN SOCIETY OF COMPOSERS, AUTHORS & PUBLISHERS ET AL.* C. A. 2d Cir. Certiorari denied. *Robert A. Dreyer* and *George A. Katz* for petitioner. *Simon H. Rifkind*, *Herman Finkelstein* and *Jay H. Topkis* for the American Society of Composers, Authors & Publishers, and *Acting Solicitor General Spritzer*, *Assistant Attorney General Turner*, *Lionel Kestenbaum* and *I. Daniel Stewart, Jr.*, for the United States, respondents. Reported below: 341 F. 2d 1003.

No. 336. *DELONG CORP. v. OREGON STATE HIGHWAY COMMISSION ET AL.* C. A. 9th Cir. Certiorari denied. *Bert B. Rand*, *Hans A. Nathan* and *George W. Mead* for petitioner. *Robert Y. Thornton*, Attorney General of Oregon, and *George E. Rohde*, *Alan H. Johansen*, *J. Robert Patterson* and *Frank C. McKinney*, Assistant Attorneys General, for respondents. Reported below: 343 F. 2d 911.

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No. 349. *SABENA BELGIAN WORLD AIRWAYS (SOCIETE ANONYME BELGE D'EXPLOITATION DE LA NAVIGATION AERIENNE) v. LEROY, ADMINISTRATOR.* C. A. 2d Cir. Certiorari denied. *George Warner Clark, John D. Calamari and Martin Fogelman* for petitioner. *George W. Herz* for respondent. Reported below: 344 F. 2d 266.

No. 367. *SKAHILL, ADMINISTRATRIX v. CAPITAL AIRLINES, INC., ET AL.* C. A. 2d Cir. Certiorari denied. *Augustine P. Turnbull* for petitioner. *William J. Junkerman* for respondents.

No. 392. *STAGER v. FLORIDA EAST COAST RAILWAY Co.* Sup. Ct. Fla. and/or Dist. Ct. App. Fla., 3d Dist. Certiorari denied. *B. Nathaniel Richter* for petitioner. *George C. Bolles* for respondent. Reported below: 163 So. 2d 15.

No. 399. *SMITH, ADMINISTRATRIX, ET AL. v. UNITED STATES ET AL.* C. A. 4th Cir. Certiorari denied. *Marvin Schwartz and Calvin W. Breit* for petitioners. *Solicitor General Marshall, Assistant Attorney General Douglas, David L. Rose and Robert V. Zener* for respondents. *Louis R. Harolds* for the American Trial Lawyers Association, as *amicus curiae*, in support of the petition. Reported below: 346 F. 2d 449.

No. 400. *OWENS ET AL. v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. *Sam Adam* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Jerome M. Feit* for the United States. Reported below: 346 F. 2d 329.

No. 402. *DEMPSTER BROTHERS, INC. v. COHN, TRUSTEE IN BANKRUPTCY.* C. A. 7th Cir. Certiorari denied. *John H. Wessel* for petitioner. *Irvin B. Charne* for respondent. Reported below: 343 F. 2d 527.

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No. 408. *JANIGAN v. TAYLOR ET AL.* C. A. 1st Cir. Certiorari denied. *Matthew Brown* for petitioner. *Charles C. Cabot, Jr.*, for respondents. Reported below: 344 F. 2d 781.

No. 410. *TRAILWAYS OF NEW ENGLAND, INC. v. AMALGAMATED ASSOCIATION OF STREET, ELECTRIC RAILWAY & MOTOR COACH EMPLOYEES OF AMERICA, AFL-CIO, DIVISION 1318.* C. A. 1st Cir. Certiorari denied. *Morris J. Levin, Betty Southard Murphy and Richard R. Paradise* for petitioner. *Earle W. Putnam* for respondent. Reported below: 343 F. 2d 815.

No. 391. *RAILWAY EXPRESS AGENCY, INC. v. CIVIL AERONAUTICS BOARD ET AL.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *William Q. Keenan and John E. Powell* for petitioner. *Solicitor General Marshall, Assistant Attorney General Turner, Lionel Kestenbaum, Gerald Kadish, O. D. Ozment and Robert L. Toomey* for the Civil Aeronautics Board, and *Alfred V. J. Prather, Warren E. Baker and Robert L. Stern* for American Airlines, Inc., et al., respondents. Reported below: 120 U. S. App. D. C. 228, 345 F. 2d 445.

No. 43, Misc. *LOTT v. MICHIGAN ET AL.* Sup. Ct. Mich. Certiorari denied. Petitioner *pro se*. *Frank J. Kelley*, Attorney General of Michigan, for respondents.

No. 130, Misc. *STURGIS v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. *Herman I. Pollock* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Jerome M. Feit* for the United States. Reported below: 342 F. 2d 328.

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No. 176, Misc. *SMITH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Daniel H. Benson* for the United States. Reported below: 340 F. 2d 953.

No. 182, Misc. *BURKE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox, Assistant Attorney General Vinson and Philip R. Monahan* for the United States. Reported below: 342 F. 2d 593.

No. 283, Misc. *JACKSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Petitioner *pro se*. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 344 F. 2d 922.

No. 314, Misc. *ANDERSON ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Petitioners *pro se*. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Jerome Feit* for the United States. Reported below: 344 F. 2d 792.

No. 335, Misc. *COLLIGAN v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Petitioner *pro se*. *Frank S. Hogan and H. Richard Uviller* for respondent.

No. 358, Misc. *SCHULTZ v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States.

No. 360, Misc. *WRIGHT v. BLACKWELL, WARDEN*. C. A. 3d Cir. Certiorari denied. Petitioner *pro se*. *Acting Solicitor General Spritzer* for respondent.

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No. 410, Misc. *EVANS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States. Reported below: 346 F. 2d 512.

No. 413, Misc. *HURLEY v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States.

No. 415, Misc. *SHISOFF v. NEW YORK*. Ct. App. N. Y. Certiorari denied. *Frances Kahn* for petitioner. *Frank S. Hogan* and *Harold Roland Shapiro* for respondent.

No. 416, Misc. *COLLINS v. KENTUCKY*. Ct. App. Ky. Certiorari denied. Reported below: 392 S. W. 2d 77.

No. 420, Misc. *DAVIS v. CALIFORNIA ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 422, Misc. *BLUNT v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 430, Misc. *LOWTHER v. MAXWELL, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 347 F. 2d 941.

No. 431, Misc. *KELLY v. KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 194 Kan. 258, 398 P. 2d 344.

No. 432, Misc. *RICHARDSON v. HOLMAN, WARDEN*. Sup. Ct. Ala. Certiorari denied.

No. 436, Misc. *LONG v. PATE, WARDEN*. C. A. 7th Cir. Certiorari denied.

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No. 437, Misc. *HENSLEY v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. *Joe F. Ramsey, Jr.*, for petitioner. Reported below: 388 S. W. 2d 424.

No. 438, Misc. *SAULSBURY v. GREEN, CORRECTIONAL SUPERINTENDENT*. C. A. 6th Cir. Certiorari denied. Reported below: 347 F. 2d 828.

No. 439, Misc. *GRIMES v. CROUSE, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 441, Misc. *SCHERCK v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Acting Solicitor General Spritzer* for the United States.

No. 443, Misc. *WILSON v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 449, Misc. *BELL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *Marshall Patner* for petitioner. *Solicitor General Marshall* for the United States. Reported below: 345 F. 2d 354.

No. 464, Misc. *WILLIAMS v. NEW YORK*. Ct. App. N. Y. Certiorari denied.

No. 465, Misc. *RUARK v. COLORADO*. Sup. Ct. Colo. Certiorari denied. Petitioner *pro se*. *Duke W. Dunbar*, Attorney General of Colorado, and *John P. Moore*, Assistant Attorney General, for respondent. Reported below: — Colo. —, 402 P. 2d 637.

No. 468, Misc. *ARWINE v. BANNAN, WARDEN*. C. A. 6th Cir. Certiorari denied. Petitioner *pro se*. *Frank J. Kelley*, Attorney General of Michigan, *Robert A. Derengoski*, Solicitor General, and *Luke Quinn*, Assistant Attorney General, for respondent. Reported below: 346 F. 2d 458.

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No. 472, Misc. *HARGROVE v. BROWN, ADMINISTRATOR, ET AL.* Sup. Ct. La. Certiorari denied. Reported below: 247 La. 689, 174 So. 2d 120.

No. 473, Misc. *DILLARD v. BOMAR, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 342 F. 2d 789.

No. 474, Misc. *PANEITZ v. INDIANA.* Sup. Ct. Ind. Certiorari denied. Reported below: — Ind. —, 204 N. E. 2d 350.

No. 482, Misc. *MARITOTE, ADMINISTRATRIX, ET AL. v. DESILU PRODUCTIONS, INC., ET AL.* C. A. 7th Cir. Certiorari denied. *Harold R. Gordon* for petitioners. *Newell S. Boardman* for respondents. Reported below: 345 F. 2d 418.

No. 485, Misc. *FINFER v. COHEN, COMMISSIONER OF INTERNAL REVENUE.* C. A. 2d Cir. Certiorari denied. *Edwin J. McDermott* for petitioner. *Solicitor General Marshall* for respondent. Reported below: 344 F. 2d 38.

No. 489, Misc. *NEWCOMBE v. NEW YORK.* Ct. App. N. Y. Certiorari denied.

No. 503, Misc. *DAVIS v. BOMAR, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 344 F. 2d 84.

No. 510, Misc. *SHIVELY v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *Vincent P. McCauley* for petitioner. *Solicitor General Marshall* for the United States. Reported below: 345 F. 2d 294.

No. 511, Misc. *IN RE DUARTE.* C. A. 9th Cir. Certiorari denied. Petitioner *pro se.* *Acting Solicitor General Spritzer* for the United States.

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No. 224, Misc. *SIMMONS v. UNION NEWS CO.* C. A. 6th Cir. Certiorari denied. *Dee Edwards* for petitioner. *Frederic S. Glover, Jr.*, for respondent. Reported below: 341 F. 2d 531.

MR. JUSTICE BLACK, with whom THE CHIEF JUSTICE concurs, dissenting.

I would grant certiorari in this case. While petitioner presents other interesting and important questions concerning the right of trial by jury under the Seventh Amendment and concerning the power of a district court to grant summary judgment, my opinion is addressed to the question of whether the courts below were right in denying petitioner Simmons a court trial of her claim that she had been wrongfully discharged without "just cause" in violation of the collective bargaining agreement under which she was employed. The ground for refusing to let her try her case was that her employer and her union had agreed between themselves that her discharge was for "just cause." I think the courts below were wrong. The material facts upon which I base my conclusion are these:

Petitioner was one of about a dozen employees working at the lunch counter in respondent's restaurant in a railway station. For about a year prior to petitioner's discharge, profits at the lunch counter lagged behind those expected by respondent. Respondent suspected that this was due either to the mishandling or to the actual stealing of its funds or goods. The collective bargaining agreement provided that no employee should be discharged without "just cause" and that prospective discharges would be discussed by the employer and the union. Pursuant to the contract, the company's representative went to the union's representative to discuss what could be done in order to improve the profit situation at the lunch counter. The company representative suggested that all of the counter employees be discharged and others take

their places. The union representative objected. After lengthy negotiations, however, a plan was agreed upon by the company and the union under which five of the employees would be immediately laid off for a two-week period. If at the end of the period, records indicated that there was a significant improvement in the company's business at the lunch counter, it was agreed that the five employees were to be discharged. The five were laid off including the petitioner and Gladys Hildreth.¹ When the company convinced the union that the lunch counter profits had increased during the period, the union agreed with respondent that the workers should be discharged permanently. Both petitioner and Miss Hildreth vigorously protested. They urged the union to carry their protest all the way up through the various stages of negotiations leading to arbitration. The union representative, however, refused to give any help to petitioner and Miss Hildreth. Then, petitioner, by herself, took the matter up with the company, endeavoring to settle it as a personal grievance of her own. The company refused to negotiate with petitioner in any way whatever, notwithstanding § 9 (a) of the National Labor Relations Act, as amended,² which states in part, "That any individual employee or a group of employees shall have the right at any time to present grievances to their employer and to have such grievances adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of a collective-bargaining contract or agreement then in effect." Petitioner, out of a job, then brought this action against the company for the alleged breach of contract in discharging her.

¹ See *Union News Co. v. Hildreth*, 295 F. 2d 658; *Hildreth v. Union News Co.*, 315 F. 2d 548, certiorari denied, 375 U. S. 826.

² 61 Stat. 143, 29 U. S. C. § 159 (a) (1964 ed.).

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Although this Court has gone very far in some of its cases with reference to the power of a collective bargaining union to process the personal grievances of its members, it has not yet gone so far as to say that where there is a personal grievance for breach of a collective bargaining agreement, the employee can be deprived of an independent judicial determination of the claim by an agreement between the union and the employer that no breach exists. But this is exactly what was done to petitioner and Miss Hildreth. Though I dissented in *Republic Steel Corp. v. Maddox*, 379 U. S. 650, I was, and still am of the belief that the majority opinion purported to preserve the right of an employee to sue his employer if his union refused to press his grievances. However, I fear that the decisions below in the *Hildreth* case and in this one go a long way toward effectively destroying whatever redress this Court left the individual employee in *Maddox*. The courts below refused to make their own determination of whether Miss Hildreth's and petitioner's discharges were made for "just cause." Instead, they allowed the employer's defense that "just cause" was simply what the employer and the union jointly wanted it to be. While we often say that nothing is decided by a denial of certiorari, all of us know that a denial of certiorari in this case, following the denial of certiorari in the *Hildreth* case, will undoubtedly lead people to believe, and I fear with cause, that this Court is now approving such a forfeiture of contractual claims of individual employees.

This case points up with great emphasis the kind of injustice that can occur to an individual employee when the employer and the union have such power over the employee's claim for breach of contract. Here no one has claimed from the beginning to the end of the *Hildreth* lawsuit or this lawsuit that either of these individuals was guilty of any kind of misconduct justifying her discharge. Each was one of twelve employees engaged in

the operation of a lunch counter. In the *Hildreth* case respondent's supervisor testified that he had no knowledge that any of the employees discharged were in any way responsible for the lunch counter's unsuccessful operation. The manager of the lunch counter stated that he did not know of "one single thing" that Miss Hildreth had done to reduce the counter's profits. We must assume that had petitioner here been given an opportunity to try her case, the same facts would have appeared. Moreover, petitioner alleges that she was prepared to show that subsequent to her discharge, the office girl who counted the money received at the lunch counter was found to be embezzling those funds and was discharged for it. Miss Hildreth had worked for respondent for nine and one-half years, and petitioner for fifteen years, prior to their discharges. There is no evidence that respondent had ever been dissatisfied with their work before the company became disappointed with its lunch counter about a year prior to the discharges. Yet both were discharged for "just cause," as determined not by a court but by an agreement of the company and the union.

I would not construe the National Labor Relations Act as giving a union and an employer any such power over workers. In this case there has been no bargain made on behalf of all the workers represented by the union. Rather there has been a sacrifice of the rights of a group of employees based on the belief that some of them might possibly have been guilty of some kind of misconduct that would reduce the employer's profits. Fully recognizing the right of the collective bargaining representative to make a contract on the part of the workers for the future, I cannot believe that those who passed the Act intended to give the union the right to negotiate away alleged breaches of a contract claimed by individual employees.

The plain fact is that petitioner has lost her job, not because of any guilt on her part, but because there is a

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suspicion that some one of the group which was discharged was guilty of misconduct. The sum total of what has been done here is to abandon the fine, old American ideal that guilt is personal. Our system of jurisprudence should not tolerate imposing on the innocent punishment that should be laid on the guilty. If the construction of the labor law given by the courts below is to stand, it should be clearly and unequivocally announced by this Court so that Congress can, if it sees fit, consider this question and protect the just claims of employees from the joint power of employers and unions.

No. 513, Misc. *HOLMES v. MYERS, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied. Reported below: 347 F. 2d 234.

No. 520, Misc. *CARTER ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Frederic A. Johnson* and *Rudolph Lion Zalowitz* for petitioners. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Sidney M. Glazer* for the United States. Reported below: 347 F. 2d 220.

No. 528, Misc. *FAIR v. CITY OF TAMPA ET AL.* Sup. Ct. Fla. Certiorari denied.

No. 540, Misc. *MILLER v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for respondent.

No. 357, Misc. *PRICE v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Dennis G. Lyons* for petitioner. *Acting Solicitor General Spritzer* for the United States. Reported below: 121 U. S. App. D. C. 62, 348 F. 2d 68.

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No. 553, Misc. *LUJAN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Petitioner *pro se*. *Acting Solicitor General Spritzer* for the United States. Reported below: 348 F. 2d 156.

Rehearing Denied.

No. 5, Original. *UNITED STATES v. CALIFORNIA*, 381 U. S. 139. Petition for rehearing denied. MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS are of the opinion that the rehearing should be granted. THE CHIEF JUSTICE, MR. JUSTICE CLARK and MR. JUSTICE FORTAS took no part in the consideration or decision of this petition.

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Miscellaneous Orders.

No. 23, Original. *UNITED STATES v. ALABAMA*;
No. 24, Original. *UNITED STATES v. MISSISSIPPI*; and
No. 25, Original. *UNITED STATES v. LOUISIANA*. The motions to expedite consideration are granted and the defendants are directed to file responses to the motions for leave to file bills of complaint on or before November 10, 1965. *Attorney General Katzenbach, Solicitor General Marshall, Assistant Attorney General Doar, Ralph S. Spritzer and Louis F. Claiborne* on the motions.

No. 554, Misc. *JOHNSON v. MAXWELL, WARDEN*. Motion for leave to file petition for writ of habeas corpus denied.

Certiorari Granted.

No. 120, Misc. *PERRY v. COMMERCE LOAN CO.* C. A. 6th Cir. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. The case is transferred to the appellate docket. Reported below: 340 F. 2d 588.

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No. 382. *PATE, WARDEN v. ROBINSON*. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. The parties are requested to brief and argue, in addition to the questions presented, the question whether any of the further proceedings contemplated in the opinion of the Court of Appeals should be conducted in the appropriate Illinois courts rather than in the District Court. *William G. Clark*, Attorney General of Illinois, and *Richard A. Michael* and *A. Zola Groves*, Assistant Attorneys General, for petitioner. Respondent *pro se*. Reported below: 345 F. 2d 691.

No. 331, Misc. *COLLIER v. UNITED STATES*. Motion for leave to file petition for writ of mandamus denied. Treating the papers submitted as a petition for writ of certiorari to the United States Court of Appeals for the Sixth Circuit, certiorari is granted. Motion for leave to proceed *in forma pauperis* granted. The case is transferred to the appellate docket. Petitioner *pro se*. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Julia P. Cooper* for the United States.

Certiorari Denied. (See also No. 522, Misc., *ante*, p. 43; and No. 551, Misc., *ante*, p. 42.)

No. 414. *KLEBANOW ET AL., EXECUTORS v. CHASE MANHATTAN BANK ET AL.* C. A. 2d Cir. Certiorari denied. *Max Freund* and *Abraham M. Glickman* for petitioners. *William Eldred Jackson* for respondents. Reported below: 343 F. 2d 726.

No. 427. *JESSE v. WASHINGTON*. Sup. Ct. Wash. Certiorari denied. Reported below: 65 Wash. 2d 510, 397 P. 2d 1018.

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No. 419. *BARNES v. SIND ET AL.* C. A. 4th Cir. Certiorari denied. *Joseph L. Rauh, Jr., John Silard and Daniel H. Pollitt* for petitioner. *Morris D. Schwartz and Leon H. A. Pierson* for respondents. Reported below: 341 F. 2d 676; 347 F. 2d 324.

No. 421. *LOCAL 1291, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO v. NATIONAL LABOR RELATIONS BOARD.* C. A. 3d Cir. Certiorari denied. *Abraham E. Freedman and Martin J. Vigderman* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for respondent. Reported below: 345 F. 2d 4.

No. 426. *BAIN v. NICODEMUS ET AL.* C. A. D. C. Cir. Certiorari denied. *James E. Hogan* for petitioner. *J. Louis Monarch* for respondents. Reported below: 120 U. S. App. D. C. 116, 344 F. 2d 501.

No. 430. *CHUNG LEUNG ET AL. v. ESPERDY, DISTRICT DIRECTOR, IMMIGRATION AND NATURALIZATION SERVICE.* C. A. 2d Cir. Certiorari denied. *Abraham Lebennoff* for petitioners. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, L. Paul Winings and Charles Gordon* for respondent.

No. 418. *BUMB, TRUSTEE IN BANKRUPTCY v. HARTWELL CORP.* C. A. 9th Cir. Certiorari denied. *Waller Taylor II* for petitioner. *John C. Gemmill* for respondent. Reported below: 345 F. 2d 453.

No. 431. *GLICK ET AL. v. BALLENTINE PRODUCE, INC.* C. A. 8th Cir. Certiorari denied. *Elwyn L. Cady, Jr.,* for petitioners. *James W. Benjamin* for respondent. Reported below: 343 F. 2d 839.

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No. 432. *HOLMES ET AL. v. EDDY ET AL.* C. A. 4th Cir. Certiorari denied. Petitioners *pro se*. *Solicitor General Marshall, Assistant Attorney General Douglas, Philip A. Loomis, Jr., and Walter P. North* for Securities and Exchange Commission et al., respondents. Reported below: 341 F. 2d 477.

No. 433. *SHAMROCK OIL & GAS CORP. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 5th Cir. Certiorari denied. *H. A. Berry and W. M. Sutton* for petitioner. *Solicitor General Marshall, Acting Assistant Attorney General Roberts, Melva M. Graney and Thomas L. Stapleton* for respondent. Reported below: 346 F. 2d 377.

No. 435. *BERMAN, TRADING AS SCOTT CONSTRUCTION CO., ET AL. v. HERRICK ET AL., TRADING AS LEWIS TOWER BUILDING.* C. A. 3d Cir. Certiorari denied. *Samuel Sacks* for petitioners. *Louis J. Goffman* for respondents. Reported below: 346 F. 2d 116.

No. 140. *BLAU v. MAX FACTOR & CO. ET AL.* C. A. 9th Cir. Motion of petitioner for leave to submit additional authority granted. Certiorari denied. *Morris J. Levy and Robert W. Kenny* for petitioner. *Carl J. Schuck and Wayne H. Knight* for Max Factor & Co., and *Frederic H. Sturdy* for Factor et al., respondents. Reported below: 342 F. 2d 304.

No. 500. *HALPERN ET AL., DBA BURLINGTON BROADCASTING CO. v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. *Morton H. Wilner* for petitioners. *J. Roger Wollenberg* for West Jersey Broadcasting Co., and *Arthur W. Scharfeld* for Giordano, respondents.

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No. 204. *MID-FLORIDA TELEVISION CORP. v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. D. C. Cir. Motion to use the record in No. 698, October Term, 1963, granted. Motion to direct the Federal Communications Commission and the Solicitor General to file a statement of their position denied. Certiorari denied. *Paul Dobin* for petitioner. *Edward P. Morgan* and *Edward S. O'Neill* for WORZ, Inc., respondent. Reported below: 120 U. S. App. D. C. 191, 345 F. 2d 85.

No. 413. *POLLACK ET AL. v. COMMISSIONER OF PATENTS.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Morris Lavine* for petitioners. *Solicitor General Marshall, Assistant Attorney General Douglas, Sherman L. Cohn* and *Robert V. Zener* for respondent. Reported below: 120 U. S. App. D. C. 318, 346 F. 2d 799.

No. 114, Misc. *PHILLIPS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Petitioner *pro se.* *Solicitor General Marshall* for the United States.

No. 590. *FLORIDA-GEORGIA TELEVISION CO., INC. v. FEDERAL COMMUNICATIONS COMMISSION; and*

No. 678. *JACKSONVILLE BROADCASTING CORP. v. FLORIDA-GEORGIA TELEVISION CO., INC.* C. A. D. C. Cir. Motion of Jacksonville Broadcasting Corp. to be added as a party respondent in No. 590 denied. Certiorari denied. *Warner W. Gardner, Lawrence J. Latto, William H. Dempsey, Jr., Bernard Koteen, Alan Y. Naftalin* and *Richard F. Wolfson* for petitioner in No. 590. *Charles H. Murchison* for petitioner in No. 678. *William H. Dempsey, Jr.*, for respondent in No. 678. Reported below: 121 U. S. App. D. C. 69, 348 F. 2d 75.

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No. 434. *ANDERSON, GOVERNOR OF KANSAS, ET AL. v. HARRIS ET AL.* Sup. Ct. Kan. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Robert C. Londerholm*, Attorney General of Kansas, and *Charles N. Henson, Jr.*, Assistant Attorney General, for petitioners. *William Y. Chalfant* for respondents. Reported below: 194 Kan. 302, 400 P. 2d 25.

No. 276, Misc. *GONZALEZ v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Daniel H. Benson* for the United States.

No. 318, Misc. *SANTOS v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States.

No. 375, Misc. *HUTCHERSON v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. *Aloysius B. McCabe* for petitioner. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Kirby W. Patterson* for the United States. Reported below: 120 U. S. App. D. C. 274, 345 F. 2d 964.

No. 423, Misc. *PRATER v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States.

No. 414, Misc. *GRISHAM v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 344 F. 2d 689.

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No. 394, Misc. BENNETT *v.* ADAMOWSKI ET AL. C. A. 7th Cir. Certiorari denied.

No. 452, Misc. CYRONNE-DE VIRGIN *v.* MISSOURI ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 341 F. 2d 568.

No. 461, Misc. CUMMINGS *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States.

No. 477, Misc. GOLDSTEIN *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied. Reported below: 65 Wash. 2d 901, 400 P. 2d 368.

No. 487, Misc. RISING *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied.

No. 508, Misc. GROZA *v.* LEMMON ET AL. Sup. Ct. Cal. Certiorari denied.

No. 527, Misc. CANTRELL *v.* MAXWELL, WARDEN, ET AL. C. A. 6th Cir. Certiorari denied.

No. 530, Misc. BENNETT *v.* PATE, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 531, Misc. SAYLORS *v.* RHAY, PENITENTIARY SUPERINTENDENT. Sup. Ct. Wash. Certiorari denied.

No. 535, Misc. ROLLINS *v.* HASKINS, CORRECTIONAL SUPERINTENDENT. C. A. 6th Cir. Certiorari denied. Reported below: 348 F. 2d 454.

No. 545, Misc. FERNANDEZ *v.* KLINGER. C. A. 9th Cir. Certiorari denied. Reported below: 346 F. 2d 210.

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No. 560, Misc. *SMART v. HEINZE, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 347 F. 2d 114.

No. 561, Misc. *RATHER v. MARYLAND*. C. A. 4th Cir. Certiorari denied.

No. 565, Misc. *BALES v. HEINZE, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 578, Misc. *TURPIN v. MAXWELL, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 585, Misc. *HADDAD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States. Reported below: 349 F. 2d 511.

No. 588, Misc. *EDWARDS v. WARDEN, MARYLAND PENITENTIARY*. Ct. App. Md. Certiorari denied. Reported below: 238 Md. 646, 210 A. 2d 526.

No. 2, Misc. *MILNE v. MILNE*. Ct. App. Md. Certiorari denied on the representation of the Attorney General of Maryland that there may be an adequate state remedy available to petitioner. Petitioner *pro se*. *Thomas B. Finan*, Attorney General of Maryland, and *Edward L. Blanton, Jr.*, Assistant Attorney General, filed a brief expressing the views of the State of Maryland.

No. 526, Misc. *SNELL v. ALABAMA*. Sup. Ct. Ala. Motion to strike brief of respondent denied. Certiorari denied. Petitioner *pro se*. *Richmond M. Flowers*, Attorney General of Alabama, and *Paul T. Gish, Jr.*, Assistant Attorney General, for respondent. Reported below: 278 Ala. 73, 175 So. 2d 766.

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Dismissals Under Rule 60.

No. 89. JOINT COUNCIL 53, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, ET AL. *v.* MEYER ET AL.; and

No. 94. LOCAL 107, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, ET AL. *v.* MEYER ET AL. Sup. Ct. Pa. Petitions for writs of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. *Edward Davis* for petitioners in No. 89. *Richard H. Markowitz* for petitioners in No. 94. *Paul L. Jaffe* for respondents. Reported below: 416 Pa. 401, 206 A. 2d 382.

NOVEMBER 4, 1965.

Dismissal Under Rule 60.

No. 841, Misc. CEPHUS *v.* UNITED STATES. C. A. D. C. Cir. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. Reported below: 122 U. S. App. D. C. 187, 352 F. 2d 663.

NOVEMBER 5, 1965.

Miscellaneous Orders.

No. 23, Original. UNITED STATES *v.* ALABAMA;

No. 24, Original. UNITED STATES *v.* MISSISSIPPI; and

No. 25, Original. UNITED STATES *v.* LOUISIANA. The motions for leave to file bills of complaint are denied. *Attorney General Katzenbach*, *Solicitor General Marshall*, *Assistant Attorney General Doar*, *Ralph S. Spritzer* and *Louis F. Claiborne* for the United States. *Richmond M. Flowers*, Attorney General of Alabama, and *Gordon Madison*, Assistant Attorney General, for defendant in No. 23, Original. [For earlier order in these cases, see *ante*, p. 889.]

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No. 22, Original. *SOUTH CAROLINA v. KATZENBACH*, ATTORNEY GENERAL OF THE UNITED STATES. The motion for leave to file a bill of complaint is granted. The defendant shall file his answer on or before November 20, 1965. The plaintiff shall file its brief on the merits on or before December 20, 1965. The defendant shall file his brief on the merits on or before January 5, 1966. The case is set for oral argument on Monday, January 17, 1966. Any State may submit a brief, *amicus curiae*, on or before December 20, 1965, and any such State desiring to participate in the oral argument, as *amicus curiae*, shall file with the Clerk of the Court a request for permission to do so on or before December 20, 1965. MR. JUSTICE BLACK, MR. JUSTICE HARLAN and MR. JUSTICE STEWART would deny the motion for leave to file the bill of complaint. *Daniel R. McLeod*, Attorney General of South Carolina, *David W. Robinson* and *David W. Robinson II* for plaintiff. *Solicitor General Marshall* for defendant.

NOVEMBER 8, 1965.

Order Appointing Librarian.

It is Ordered that Henry Charles Hallam, Jr., be, and he is hereby, appointed Librarian of this Court in the place of Miss Helen Newman, deceased.

Miscellaneous Orders.

No. 27. *GUNTHER v. SAN DIEGO & ARIZONA EASTERN RAILWAY Co.* C. A. 9th Cir. (Certiorari granted, 380 U. S. 905.) Motion of the Railway Labor Executives' Association for leave to file a brief, as *amicus curiae*, granted. *Clarence M. Mulholland*, *Edward J. Hickey*, Jr., and *Richard R. Lyman* for the Railway Labor Executives' Association, as *amicus curiae*, urging reversal. *Waldron A. Gregory* and *William R. Denton* for respondent, in opposition.

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No. 411. MARSH, SECRETARY OF STATE OF NEBRASKA, ET AL. *v.* DWORAK ET AL. Appeal from D. C. Neb. Motion of appellants to defer consideration of the motion to dismiss and to defer filing brief in opposition granted. MR. JUSTICE FORTAS took no part in the consideration or decision of this motion. *Clarence A. H. Meyer*, Attorney General of Nebraska, and *Richard H. Williams* and *Robert A. Nelson*, Assistant Attorneys General, for appellants. *August Ross* and *Robert E. O'Connor* for appellees.

No. 657. BROOKHART *v.* OHIO. Sup. Ct. Ohio. (Certiorari granted, *ante*, p. 810.) Motion for the appointment of counsel granted, and it is ordered that *Lawrence Herman, Esquire*, and *Gerald A. Messerman, Esquire*, both of Columbus, Ohio, be, and they are hereby, appointed to serve as counsel for petitioner in this case.

No. 567, Misc. SMITH *v.* GAGNON, WARDEN;
No. 652, Misc. WELLS *v.* UNITED STATES;
No. 653, Misc. DAVIS *v.* KEARNEY, WARDEN, ET AL.;
and

No. 677, Misc. TREW *v.* WAINWRIGHT, CORRECTIONS DIRECTOR. Motions for leave to file petitions for writs of habeas corpus denied.

No. 453, Misc. BOWENS *v.* ALEXANDER, DIRECTOR, BUREAU OF FEDERAL PRISONS, ET AL. Motion for leave to file petition for writ of mandamus denied. Petitioner *pro se*. *Solicitor General Marshall*, Assistant Attorney General *Doar* and *David Rubin* for respondents.

No. 542, Misc. MOORE *v.* RODAK. Motion for leave to file petition for writ of mandamus denied. Petitioner *pro se*. *Solicitor General Marshall* for respondent.

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Probable Jurisdiction Noted.

No. 404. UNITED STATES *v.* PABST BREWING CO. ET AL. Appeal from D. C. E. D. Wis. Probable jurisdiction noted. *Solicitor General Cox, Assistant Attorney General Turner, Frank I. Goodman, Robert B. Hummel and Irwin A. Seibel* for the United States. *John T. Chadwell, Glenn W. McGee, David A. Nelson, Joseph R. Gray and Ray T. McCann* for appellee Pabst Brewing Co. Reported below: 233 F. Supp. 475.

No. 368. A BOOK NAMED "JOHN CLELAND'S MEMOIRS OF A WOMAN OF PLEASURE" *v.* ATTORNEY GENERAL OF MASSACHUSETTS. Appeal from Sup. Jud. Ct. Mass. Probable jurisdiction noted. The motion of the appellant to advance oral argument is granted and the case is set to follow No. 49. *Charles Rembar* for appellant. Reported below: 349 Mass. 69, 206 N. E. 2d 403.

Certiorari Granted. (See also No. 420, *ante*, p. 68; and No. 369, *Misc., ante*, p. 69.)

No. 487. MALAT ET UX. *v.* RIDDELL, DISTRICT DIRECTOR OF INTERNAL REVENUE. C. A. 9th Cir. Certiorari granted. *George T. Altman* for petitioners. *Solicitor General Marshall, Acting Assistant Attorney General Roberts, Melva M. Graney and Carolyn R. Just* for respondent. Reported below: 347 F. 2d 23.

No. 440. UNITED STATES *v.* UTAH CONSTRUCTION & MINING CO. Ct. Cl. Certiorari granted. The case is set for oral argument immediately following No. 439. *Acting Solicitor General Spritzer, Assistant Attorney General Douglas, Morton Hollander and David L. Rose* for the United States. *Gardiner Johnson and Thomas E. Stanton, Jr.*, for respondent. Reported below: 168 Ct. Cl. 522, 339 F. 2d 606.

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No. 439. *UNITED STATES v. ANTHONY GRACE & SONS, INC.* Ct. Cl. Certiorari granted. *Acting Solicitor General Spritzer, Assistant Attorney General Douglas, Morton Hollander and David L. Rose* for the United States. Reported below: 170 Ct. Cl. 688, 345 F. 2d 808.

Certiorari Denied. (See also No. 550, Misc., *ante*, p. 67.)

No. 372. *McCULLOUGH ET UX. v. UNITED STATES.* Ct. Cl. Certiorari denied. *Robert T. Molloy and George E. Bailey* for petitioners. *Solicitor General Marshall, Acting Assistant Attorney General Roberts and Philip R. Miller* for the United States. Reported below: 170 Ct. Cl. 1, 344 F. 2d 383.

No. 437. *GOTTONE v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. *Walter L. Gerash* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 345 F. 2d 165.

No. 441. *DOWNING v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 348 F. 2d 594.

No. 444. *SEVEN-UP CO. v. GET UP CORP.* C. A. 6th Cir. Certiorari denied. *Beverly W. Pattishall* for petitioner. *Walter J. Halliday* for respondent. Reported below: 340 F. 2d 954.

No. 448. *STERNFELS v. BOARD OF REGENTS OF UNIVERSITY OF STATE OF NEW YORK ET AL.* App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. *Kenneth Simon* for petitioner.

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No. 446. SNC MANUFACTURING CO., INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. D. C. Cir. Certiorari denied. *Walter S. Davis* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 122 U. S. App. D. C. 145, 352 F. 2d 361.

No. 450. VIOLET TRAPPING CO., INC. *v.* TENNESSEE GAS TRANSMISSION CO. Sup. Ct. La. Certiorari denied. *John W. Bryan, Jr.*, for petitioner. *Ernest A. Carrere, Jr., Clyde R. Brown* and *H. A. Messmore* for respondent. Reported below: 248 La. 49, 176 So. 2d 425.

No. 451. BOND *v.* TWIN LAKES RESERVOIR & CANAL CO. ET AL. Sup. Ct. Colo. Certiorari denied. *W. David McClain, Edwin A. Williams* and *Eugene A. Bond* for petitioner. *Eugene S. Hames* for respondents. Reported below: — Colo. —, 401 P. 2d 586.

No. 452. RIDGEWAY *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. *Lee Ward* for petitioner. *Bruce Bennett*, Attorney General of Arkansas, and *Beryl Anthony, Jr.*, Assistant Attorney General, for respondent. Reported below: 239 Ark. 377, 389 S. W. 2d 617.

No. 454. BOROUGH OF FORD CITY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. *George P. Cheney, Jr.*, for petitioner. *Solicitor General Marshall, Assistant Attorney General Weisl, Roger P. Marquis* and *Howard O. Sigmond* for the United States. Reported below: 345 F. 2d 645.

No. 455. IN RE ANONYMOUS, AN ATTORNEY *v.* COORDINATING COMMITTEE ON DISCIPLINE. Ct. App. N. Y. Certiorari denied. *Leonard Feldman* for petitioner. *Angelo T. Cometa* for respondent.

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No. 456. *MURPHY v. LARKIN, CORPORATION COUNSEL, CITY OF NEW YORK, ET AL.* Ct. App. N. Y. Certiorari denied. *Francis X. Tucker, Spencer Pinkham and Vernon Murphy, pro se*, for petitioner. *Leo A. Larkin, pro se*, and for other respondents.

No. 457. *IVEY ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *Joseph G. Bramberg* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 346 F. 2d 157.

No. 458. *POLIKOFF v. LEVY ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. *Milton H. Cohen* for petitioner. *Nat M. Kahn* for respondents. Reported below: 55 Ill. App. 2d 229, 204 N. E. 2d 807.

No. 460. *PALMER v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *William F. Walsh* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Daniel H. Benson* for the United States. Reported below: 340 F. 2d 48.

No. 462. *ZAMARONI v. PHILPOTT, DISTRICT DIRECTOR OF INTERNAL REVENUE.* C. A. 7th Cir. Certiorari denied. *Stanley M. Rosenblum and Merle L. Silverstein* for petitioner. *Solicitor General Marshall, Acting Assistant Attorney General Roberts, Joseph M. Howard and Burton Berkley* for respondent. Reported below: 346 F. 2d 365.

No. 465. *TILLAMOOK COUNTY CREAMERY ASSOCIATION v. TILLAMOOK CHEESE & DAIRY ASSOCIATION.* C. A. 9th Cir. Certiorari denied. *J. Pierre Kolisch and Warren A. McMinimee* for petitioner. *Stephen W. Blore* for respondent. Reported below: 345 F. 2d 158.

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No. 459. *JOHNSON v. GOODYEAR TIRE & RUBBER CO. ET AL.* C. A. 9th Cir. Certiorari denied.

No. 463. *J. E. SCHECTER CORP. v. CARRIER CORP. ET AL.* C. A. 2d Cir. Certiorari denied. *Chauncey H. Levy* for petitioner. *Herman N. Schwartz* for respondents. Reported below: 347 F. 2d 153.

No. 464. *LLOYD A. FRY ROOFING CO. v. VOLASCO PRODUCTS CO.* C. A. 6th Cir. Certiorari denied. *Burton Y. Weitzenfeld* for petitioner. *William C. Wilson* for respondent. Reported below: 346 F. 2d 661.

No. 466. *LIPPI v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. *Jacob W. Friedman* for petitioner. *Solicitor General Marshall, Acting Assistant Attorney General Roberts, Joseph M. Howard and John P. Burke* for the United States. Reported below: 347 F. 2d 33.

No. 467. *BROWN v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. *Daniel H. Greenberg and Marvin Margolis* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 348 F. 2d 661.

No. 468. *COLSON CORP. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 8th Cir. Certiorari denied. *James M. Reeves* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for respondent. Reported below: 347 F. 2d 128.

No. 469. *LARGO v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. *Max Cohen* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson and Philip R. Monahan* for the United States. Reported below: 346 F. 2d 253.

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No. 470. *WATWOOD v. MORRISON ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 472. *ADDABBO ET AL. v. DONOVAN ET AL.* Ct. App. N. Y. Certiorari denied. *Bernard Kessler* for petitioners. *Leo A. Larkin, Seymour B. Quel and Sidney P. Nadel* for respondents. Reported below: 16 N. Y. 2d 619, 209 N. E. 2d 112.

No. 473. *ESTWING MANUFACTURING Co., Inc. v. SINGER, GUARDIAN.* Ct. App. N. Y. Certiorari denied. *Herbert Burstein* for petitioner. *Stephen E. Burgio* for respondent. Reported below: 15 N. Y. 2d 443, 209 N. E. 2d 68.

No. 475. *GREAT LAKES CARBON CORP. v. CONTINENTAL OIL Co. ET AL.* C. A. 5th Cir. Certiorari denied. *Earl Babcock, Wayne L. Benedict and S. W. Plauché, Jr.*, for petitioner. *Richard Russell Wolfe and Cullen R. Liskow* for respondents. Reported below: 345 F. 2d 175.

No. 476. *UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, LOCAL 1780, ET AL. v. REYNOLDS ELECTRICAL & ENGINEERING Co., INC.* Sup. Ct. Nev. Certiorari denied. *Morton Galane* for petitioners. *Solicitor General Marshall, Assistant Attorney General Douglas, Morton Hollander and John C. Eldridge* for respondent. Reported below: 81 Nev. 199, 401 P. 2d 60.

No. 479. *MORRISON v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. *Raymond A. Brown and Irving I. Vogelman* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Jerome M. Feit* for the United States. Reported below: 348 F. 2d 1003.

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No. 474. NAUMKEAG THEATRES CO., INC. *v.* NEW ENGLAND THEATRES, INC., ET AL. C. A. 1st Cir. Certiorari denied. *Timothy J. Davern* for petitioner. *Robert W. Meserve, John R. Hally* and *Stuart Aarons* for respondents. Reported below: 345 F. 2d 910.

No. 478. VILLAGE OF ALSIP *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *Solicitor General Marshall, Acting Assistant Attorney General Roberts, Joseph Kovner* and *Herbert Grossman* for the United States. Reported below: 345 F. 2d 365.

No. 481. BABCOCK BOULEVARD LAND CO., INC., ET AL. *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. *John B. Nicklas, Jr.*, for petitioners. *Walter E. Alessandroni*, Attorney General of Pennsylvania, and *George R. Specter* and *Robert W. Cunliffe*, Assistant Attorneys General, for respondent.

No. 485. DAVIS *v.* HOOVER, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION, ET AL. C. A. 7th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for respondents. Reported below: 346 F. 2d 567.

No. 486. GUSOW ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. *O. John Rogge* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Daniel H. Benson* for the United States. Reported below: 347 F. 2d 755.

No. 488. HULLUM, ADMINISTRATRIX *v.* ST. LOUIS SOUTHWESTERN RAILWAY CO. Ct. Civ. App. Tex., 12th Sup. Jud. Dist. Certiorari denied. *Max Garrett* for petitioner. *Clyde W. Fiddes* and *Jack W. Flock* for respondent. Reported below: 384 S. W. 2d 163.

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No. 406. *CROUCH, PROBATE JUDGE v. SHIELDS, GUARDIAN.* Ct. Civ. App. Tex., 5th Sup. Jud. Dist. Motion to strike portions of respondent's brief and motion to defer consideration of petition denied. Certiorari denied. Petitioner *pro se*. *Joseph P. Burt* for respondent. Reported below: 385 S. W. 2d 580.

No. 461. *ARBER ET AL. v. AMERICAN AIRLINES, INC.* C. A. 1st Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *David B. Kaplan* for petitioners. Reported below: 345 F. 2d 130.

No. 482. *ECKEL v. BRENNER, COMMISSIONER OF PATENTS.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *William Douglas Sellers, George A. Brace* and *Munson H. Lane* for petitioner. *Solicitor General Marshall, Assistant Attorney General Douglas, Sherman L. Cohn* and *Jack H. Weiner* for respondent.

No. 480. *FAWCETT, ADMINISTRATRIX v. MISSOURI PACIFIC RAILROAD Co.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *John A. Hickman* for petitioner. *William C. Dowdy, Jr.*, for respondent. Reported below: 347 F. 2d 233.

No. 213, Misc. *BALL v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. *John Frank Dugger* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 344 F. 2d 925.

No. 421, Misc. *SUMMERS v. WASHINGTON ET AL.* Sup. Ct. Wash. Certiorari denied.

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No. 55, Misc. *RICHARD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall*, former *Solicitor General Cox*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 341 F. 2d 475.

No. 225, Misc. *HOBBS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *George L. Saunders* for petitioner. *Solicitor General Marshall*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 340 F. 2d 848.

No. 317, Misc. *CONNER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 345 F. 2d 794.

No. 332, Misc. *POWERS v. CALIFORNIA*. Super. Ct. Cal., City and County of S. F. Certiorari denied.

No. 366, Misc. *STARNES v. MARKLEY, WARDEN*. C. A. 7th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall*, *Assistant Attorney General Doar*, *David Rubin* and *Gerald P. Choppin* for respondent. Reported below: 343 F. 2d 535.

No. 392, Misc. *OLIVER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States.

No. 539, Misc. *RAMIREZ-VILLA v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for respondent. Reported below: 347 F. 2d 985.

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No. 386, Misc. *FRADY ET AL. v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *Henry Lincoln Johnson, Jr.*, for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Kirby W. Patterson* for the United States. Reported below: 121 U. S. App. D. C. 78, 348 F. 2d 84.

No. 411, Misc. *WILLIAMS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States.

No. 469, Misc. *CROWDER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 346 F. 2d 1.

No. 470, Misc. *CHAPMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Abe F. Levy* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Julia P. Cooper* for the United States. Reported below: 346 F. 2d 383.

No. 486, Misc. *SAYLOR v. UNITED STATES BOARD OF PAROLE ET AL.* C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Doar, David Rubin and Gerald P. Choppin* for respondents. Reported below: 120 U. S. App. D. C. 206, 345 F. 2d 100.

No. 515, Misc. *TURNER v. FAY, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 524, Misc. *HERNANDEZ v. CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

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No. 523, Misc. *HALL v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Leon B. Polsky* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Ronald L. Gainer* for the United States. Reported below: 346 F. 2d 875.

No. 533, Misc. *CLARK v. ILLINOIS*. C. A. 7th Cir. Certiorari denied.

No. 541, Misc. *BROWN v. BROUH, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 346 F. 2d 149.

No. 546, Misc. *GOLDEN v. UNITED STATES*. Ct. Cl. Certiorari denied. *Carl L. Shipley and Thomas A. Ziebarth* for petitioner. *Solicitor General Marshall* for the United States. Reported below: 170 Ct. Cl. 904.

No. 549, Misc. *MITCHELL v. FLORIDA*. C. A. 5th Cir. Certiorari denied.

No. 558, Misc. *GOODMAN v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States.

No. 568, Misc. *BUFFINGTON v. MARTIN, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 572, Misc. *MOUNTJOY v. MOUNTJOY*. C. A. D. C. Cir. Certiorari denied. *Isadore B. Katz* for petitioner. *Charles C. Collins* for respondent. Reported below: 121 U. S. App. D. C. 27, 347 F. 2d 811.

No. 623, Misc. *JOHNSON v. EVENING STAR NEWS-PAPER CO. ET AL.* C. A. D. C. Cir. Certiorari denied. *Ira M. Lowe* for petitioner. Reported below: 120 U. S. App. D. C. 122, 344 F. 2d 507.

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No. 570, Misc. *COREY v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. *Russell Morton Brown* and *Maurice C. Goodpasture* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Julia P. Cooper* for the United States. Reported below: 346 F. 2d 65.

No. 574, Misc. *LANG v. ALABAMA*. Sup. Ct. Ala. Certiorari denied. Reported below: 278 Ala. 295, 177 So. 2d 920.

No. 576, Misc. *LEYDE v. RHAY, PENITENTIARY SUPERINTENDENT*. Super. Ct. Wash., Walla Walla County. Certiorari denied.

No. 583, Misc. *REECE v. RHAY, PENITENTIARY SUPERINTENDENT, ET AL.* Sup. Ct. Wash. Certiorari denied.

No. 604, Misc. *CAPSON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 347 F. 2d 959.

No. 629, Misc. *PRIVITERA v. KROSS, CORRECTION COMMISSIONER*. C. A. 2d Cir. Certiorari denied. *Leon B. Polsky* for petitioner. *Frank S. Hogan* and *H. Richard Uviller* for respondent. Reported below: 345 F. 2d 533.

Rehearing Denied.

No. 642, Misc., October Term, 1964. *WALKER v. INTERNAL REVENUE SERVICE ET AL.*, 380 U. S. 926, 989. Motion for leave to file second petition for rehearing denied. THE CHIEF JUSTICE and MR. JUSTICE FORTAS took no part in the consideration or decision of this motion.

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No. 36, Misc. *WILSON v. McGEE, ADMINISTRATOR, ET AL., ante*, p. 849;

No. 220, Misc. *WHALEM v. UNITED STATES, ante*, p. 862;

No. 296, Misc. *GAINES v. UNITED STATES, ante*, p. 866; and

No. 393, Misc. *MITCHELL v. FLORIDA, ante*, p. 804. Petitions for rehearing denied.

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Miscellaneous Orders.

No. 45. *LINN v. UNITED PLANT GUARD WORKERS OF AMERICA, LOCAL 114, ET AL.* C. A. 6th Cir. (Certiorari granted, 381 U. S. 923.) The motion of Schnell Tool & Die Corp. et al. is granted insofar as permission to file a brief, as *amici curiae*, is requested, and is denied insofar as permission to participate in oral argument is requested. *Russell E. Leasure and Ralph Atkinson* on the motion.

No. 492. *McFADDIN EXPRESS, INC., ET AL. v. ADLEY CORP. ET AL.* C. A. 2d Cir. The Solicitor General is invited to file a brief expressing the views of the United States.

No. 281, Misc. *O'CONNOR v. OHIO.* Appeal from Sup. Ct. Ohio. (Appeal dismissed and certiorari denied, *ante*, p. 19.) The appellee is requested to file a response to the petition for rehearing within thirty days.

No. 626, Misc. *PASQUINZO v. UNITED STATES*;

No. 685, Misc. *CONOVER v. HEROLD, STATE HOSPITAL DIRECTOR*;

No. 709, Misc. *TOM v. UNITED STATES*; and

No. 715, Misc. *ADAMS v. RUNDLE, CORRECTIONAL SUPERINTENDENT.* Motions for leave to file petitions for writs of habeas corpus denied.

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No. 689, Misc. WILLIAMS *v.* FLORIDA. Motion for leave to file petition for writ of habeas corpus denied. Treating the papers submitted as a petition for writ of certiorari, certiorari is denied.

Probable Jurisdiction Noted.

No. 445. ILLINOIS CENTRAL RAILROAD CO. ET AL. *v.* NORFOLK & WESTERN RAILWAY CO. ET AL.;

No. 484. CALUMET HARBOR TERMINALS, INC., ET AL. *v.* NORFOLK & WESTERN RAILWAY CO. ET AL.; and

No. 543. UNITED STATES ET AL. *v.* NORFOLK & WESTERN RAILWAY CO. ET AL. Appeal from D. C. N. D. Ohio. Probable jurisdiction noted. Cases consolidated and a total of two hours allotted for oral argument. *William J. O'Brien, Jr., Robert Mitten, Robert H. Bierma, Edmund A. Schroer and John C. Lawyer* for appellants in No. 445. *Charles B. Myers* for appellants in No. 484. *Solicitor General Marshall, Assistant Attorney General Turner, Lionel Kestenbaum, Jerry Z. Pruzansky, Robert W. Ginnane and Robert S. Burk* for the United States et al. in No. 543. *John L. Bordes and Martin L. Cassell* for Chicago, Rock Island & Pacific Railroad Co. et al., appellees in all cases. Reported below: 241 F. Supp. 974.

Certiorari Granted. (See also Nos. 415 and 416, *ante*, p. 103.)

No. 412. SHILLITANI *v.* UNITED STATES. C. A. 2d Cir. Certiorari granted limited to Questions 1 and 2 presented by the petition which read as follows:

"1. Was the appellant denied his constitutional right to indictment and trial by jury?

"2. Does the 'admixture of civil and criminal contempt' invalidate the judgment of conviction?"

Albert J. Krieger for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Sidney M. Glazer* for the United States. Reported below: 345 F. 2d 290.

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No. 383. *NEELY v. MARTIN K. EBY CONSTRUCTION CO., INC.* C. A. 10th Cir. Certiorari granted. In addition to all the questions presented by the petition, counsel are requested to brief and discuss at oral argument the following questions:

"1. Whether the Court of Appeals, after deciding that respondent should have been granted a judgment *n. o. v.*, had power under Rule 50 of the Federal Rules of Civil Procedure and our decisions in *Cone v. West Virginia Pulp & Paper Co.*, 330 U. S. 212; *Globe Liquor Co. v. San Roman*, 332 U. S. 571; and *Weade v. Dichmann, Wright & Pugh*, 337 U. S. 801, to order the case dismissed and thereby deprive petitioner of any opportunity to invoke the trial court's discretion on the issue of whether petitioner should have a new trial?

"2. Whether the Court of Appeals erred in ordering the District Court not merely to enter a judgment *n. o. v.* for respondent but to dismiss plaintiff's case in view of Rule 50 (c)(2) of the Federal Rules of Civil Procedure which gives a party whose verdict has been set aside the right to make a motion for a new trial not later than 10 days after entry of the judgment notwithstanding the verdict?"

Charles A. Friedman for petitioner. *Anthony F. Zareno* and *Joseph S. McCarthy* for respondent. Reported below: 344 F. 2d 482.

No. 489. *UTAH PIE CO. v. CONTINENTAL BAKING CO. ET AL.* C. A. 10th Cir. Certiorari granted. In addition to all the questions presented by the petition, counsel are requested to brief and discuss at oral argument the following questions:

"1. Whether, if this Court affirms the judgment and order of the Court of Appeals directing the District Court to enter judgment for respondents, petitioner can then make a motion for new trial under Rule 50 (c)(2) of

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the Federal Rules of Civil Procedure within 10 days of the District Court's entry of judgment for respondents?

"2. Whether, if under the order of the Court of Appeals, petitioner cannot make a motion for new trial under Rule 50 (c)(2) within 10 days of the District Court's entry of judgment against him, the order of the Court of Appeals directing the District Court to enter judgment for respondents is compatible with Rule 50 (b) as interpreted by this Court in *Cone v. West Virginia Pulp & Paper Co.*, 330 U. S. 212; *Globe Liquor Co. v. San Roman*, 332 U. S. 571; and *Weade v. Dichmann, Wright & Pugh*, 337 U. S. 801?

"3. Whether Rule 50 (d) of the Federal Rules of Civil Procedure provides the Court of Appeals with any authority to direct the entry of judgment for respondents?"

Joseph L. Alioto for petitioner. *John H. Schafer* for Continental Baking Co., *Peter W. Billings* and *James R. Baird, Jr.*, for Carnation Co., and *George P. Lamb* and *Carrington Shields* for Pet Milk Co., respondents. Reported below: 349 F. 2d 122.

No. 502. *DENNIS ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari granted limited to Questions 1, 2, and 3 presented by the petition, which read as follows:

"1. Whether the indictment states the offense of conspiracy to defraud the United States;

"2. Whether, in the comparative light of *American Communications Assn. v. Douds*, 339 U. S. 382, and *United States v. Archie Brown*, 381 U. S. 437, Section 9 (h) of the Taft-Hartley Act is constitutional;

"3. Whether the trial court erred in denying petitioners' motions for the production, to the defense or the Court, of grand jury testimony of prosecution witnesses."

Nathan Witt, George J. Francis and Telford Taylor for petitioners. *Solicitor General Marshall, Assistant Attorney Yeagley* and *George B. Sears* for the United States.

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Gerhard P. Van Arkel, Charles F. Brannan, John F. O'Donnell, Joseph L. Rauh, Jr., Eugene Cotton, Melvin L. Wulf, Jacob Sheinkman, Joseph M. Jacobs and John Ligtenberg for the American Civil Liberties Union et al., in support of the petition. Reported below: 346 F. 2d 10.

No. 442. *PAPPADIO v. UNITED STATES*. C. A. 2d Cir. Certiorari granted limited to Questions 1, 2, and 3 presented by the petition which read as follows:

"1. Whether petitioner should have been granted a trial by jury on a charge of criminal contempt of court where he has been sentenced to two years' imprisonment.

"2. Whether the District Court could legally sentence petitioner to two years' imprisonment for contempt of court following a non-jury hearing under Rule 42 (b) of the Federal Rules of Criminal Procedure.

"3. Whether, assuming *arguendo* that a sentence of two years may be imposed for criminal contempt without a trial by jury, there was an abuse of discretion in sentencing petitioner to two years' imprisonment for refusing to answer five questions where he had answered more than one hundred questions."

Case placed on the summary calendar and set for argument immediately following No. 412.

Jacob Kossman for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 346 F. 2d 5.

No. 490. *SHEPPARD v. MAXWELL, WARDEN*. C. A. 6th Cir. Motion of the American Civil Liberties Union et al. for leave to file brief, as *amici curiae*, granted. Certiorari granted. *F. Lee Bailey and Russell A. Sherman* for petitioner. *William B. Saxbe, Attorney General of Ohio, and David L. Kessler, Assistant Attorney General*, for respondent. *Bernard A. Berkman and Mel-*

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vin L. Wulf for the American Civil Liberties Union et al., as *amici curiae*, in support of the petition. *John T. Corrigan* and *Gertrude Bauer Mahon* for the State of Ohio, as *amicus curiae*, on behalf of respondent. Reported below: 346 F. 2d 707.

No. 67. *CHEFF v. SCHNACKENBERG*, U. S. CIRCUIT JUDGE, ET AL. C. A. 7th Cir. Certiorari granted limited to Question 3 presented by the petition which reads as follows:

“3. Whether, after denial of a demand for jury trial, the sentence of imprisonment of six months imposed upon petitioner is constitutionally permissible under Article III and the Sixth Amendment.”

Case placed on the summary calendar and set for argument immediately following No. 442.

Richard M. Keck for petitioner. *Solicitor General Cox*, *E. K. Elkins* and *Miles J. Brown* for respondents. Reported below: 341 F. 2d 548.

Certiorari Denied. (See also Nos. 497 and 498, *ante*, p. 107; No. 512, *ante*, p. 108; No. 520, *ante*, p. 108; and No. 689, *Misc., supra*.)

No. 493. *HAMMONS v. OREGON*. Sup. Ct. Ore. Certiorari denied. *Milton Heller* for petitioner. *George Van Hoomissen* and *George M. Joseph* for respondent.

No. 504. *SHELTON v. GEORGIA*. Ct. App. Ga. Certiorari denied. *Wesley R. Asinof* for petitioner. *Lewis R. Slaton* and *J. Walter LeCraw* for respondent. Reported below: 111 Ga. App. 351, 141 S. E. 2d 776.

No. 507. *FATA v. Co-ORDINATING COMMITTEE ON DISCIPLINE*. Ct. App. N. Y. Certiorari denied. *Matthew H. Brandenburg* for petitioner. *Angelo T. Cometa* for respondent.

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No. 491. *CROSS, DBA CROSS POULTRY CO. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 4th Cir. Certiorari denied. *Eugene C. Brooks, Jr.*, and *Lucius W. Pullen* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 346 F. 2d 165.

No. 495. *VITASAFE CORP. ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. *Milton A. Bass* and *Solomon H. Friend* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Paul R. Walsh* for the United States. Reported below: 345 F. 2d 864.

No. 509. *A/S SKAUGAAS (I. M. SKAUGEN), AS OWNER OF THE SKAUSTRAND v. DREDGE CARTEGENA ET AL.* C. A. 4th Cir. Certiorari denied. *Charles S. Haight* and *Carlyle Barton, Jr.*, for petitioner. *John F. Gerity* and *John H. Skeen, Jr.*, for respondents. Reported below: 345 F. 2d 275.

No. 513. *HARVEY v. LYONS ET AL.* Sup. Ct. N. J. Certiorari denied. Petitioner *pro se*. *David S. Bate* for respondents.

No. 515. *EWING, EXECUTOR v. ROUNTREE, DISTRICT DIRECTOR OF INTERNAL REVENUE*. C. A. 6th Cir. Certiorari denied. *S. Shepherd Tate* for petitioner. *Solicitor General Marshall, Acting Assistant Attorney General Roberts* and *Gilbert E. Andrews* for respondent. Reported below: 346 F. 2d 471.

No. 514. *DEUTSCH v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. *George J. Malinsky* for petitioner. *Frank S. Hogan* and *H. Richard Uviller* for respondent.

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No. 516. PACIFIC FAR EAST LINE, INC. *v.* JONES STEVEDORING Co. C. A. 9th Cir. Certiorari denied. *John Hays* for petitioner. Reported below: 346 F. 2d 642.

No. 517. HUNTER *v.* TALBOT. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Acting Assistant Attorney General Roberts* and *Joseph M. Howard* for respondent. Reported below: 345 F. 2d 513.

No. 519. GISH *v.* MISSOURI. Sup. Ct. Mo. Certiorari denied.

No. 522. BOUGHNER *v.* SCHULZE, SPECIAL AGENT, INTERNAL REVENUE SERVICE, ET AL. C. A. 7th Cir. Certiorari denied. *William A. Barnett* for petitioner. *Solicitor General Marshall, Acting Assistant Attorney General Roberts, Joseph M. Howard* and *Burton Berkley* for respondent Schulze. Reported below: 350 F. 2d 666.

No. 524. SCHWARTZ, EXECUTRIX *v.* THE NASSAU ET AL. C. A. 2d Cir. Certiorari denied. *Henry Wimpfheimer* for petitioner. *J. Daniel Dougherty* and *Charles N. Fiddler* for respondents. Reported below: 345 F. 2d 465.

No. 587, Misc. SCHLETTE *v.* HALBERT, U. S. DISTRICT JUDGE, ET AL. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Doar* and *David L. Norman* for respondent Halbert.

No. 483. GRAY *v.* WILSON, WARDEN. C. A. 9th Cir. Motion for leave to file supplement to petition granted. Certiorari denied. *Marshall W. Krause* and *Lawrence Speiser* for petitioner. Reported below: 345 F. 2d 282.

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No. 483, Misc. *GOODWIN v. UNITED STATES*; No. 484, Misc. *VAUGHN v. UNITED STATES*; and No. 603, Misc. *WILLIAMS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioners *pro se*. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Ronald L. Gainer* for the United States. Reported below: 121 U. S. App. D. C. 9, 347 F. 2d 793.

No. 529, Misc. *MITCHELL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States. Reported below: 344 F. 2d 935.

No. 566, Misc. *KEATON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States. Reported below: 349 F. 2d 374.

No. 580, Misc. *SCOTT v. MACDOUGALL ET AL.* Sup. Ct. S. C. Certiorari denied. Reported below: 246 S. C. 252, 143 S. E. 2d 457.

No. 599, Misc. *HUNT v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 606, Misc. *TAHTINEN v. CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 622, Misc. *GOMEZ v. COLORADO*. Sup. Ct. Colo. Certiorari denied.

No. 620, Misc. *COLTER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Robert G. Maysack* for the United States.

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No. 617, Misc. *GADSDEN ET AL. v. FRIPP ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 343 F. 2d 824.

No. 634, Misc. *D'AMBROSIO v. FAY, WARDEN.* C. A. 2d Cir. Certiorari denied. Reported below: 349 F. 2d 957.

No. 635, Misc. *BLASETTI v. WARDEN, ATTICA PRISON.* C. A. 2d Cir. Certiorari denied. *Frances Kahn* for petitioner.

No. 641, Misc. *MUZA v. CALIFORNIA ADULT AUTHORITY ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 642, Misc. *POLK v. MINNESOTA COMMISSIONER OF CORRECTIONS ET AL.* C. A. 8th Cir. Certiorari denied.

No. 651, Misc. *WILLIAMS v. JETT, SHERIFF, ET AL.* Sup. Ct. Tenn. Certiorari denied. Petitioner *pro se*. *George F. McCanless*, Attorney General of Tennessee, and *William H. Lassiter, Jr.*, Assistant Attorney General, for respondents.

No. 670, Misc. *FARRELL v. GARDNER, SECRETARY OF HEALTH, EDUCATION AND WELFARE.* C. A. 7th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for respondent.

No. 290, Misc. *BARKSDALE v. LOUISIANA.* Sup. Ct. La. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Jack Greenberg, Michael Meltsner, Robert F. Collins and Nils R. Douglas* for petitioner. *Jack P. F. Gremillion*, Attorney General of Louisiana, *William P. Schuler*, Assistant Attorney General, and *Jim Garrison* for respondent. Reported below: 247 La. 198, 170 So. 2d 374.

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Rehearing Denied.

No. 107. WALTHAM WATCH CO. ET AL. *v.* FEDERAL TRADE COMMISSION, *ante*, p. 813;

No. 174. GOSSEY *v.* UNITED STATES, *ante*, p. 819;

No. 296. BANKERS BOND CO., INC., ET AL. *v.* ALL STATES INVESTORS, INC., ET AL., *ante*, p. 830;

No. 308. MADDOX *v.* WILLIS ET AL., *ante*, p. 18;

No. 41, Misc. REED *v.* UNITED STATES, *ante*, p. 849;

No. 42, Misc. SAMURINE *v.* UNITED STATES, *ante*, p. 849;

No. 101, Misc. DUVAL *v.* UNITED STATES, *ante*, p. 854;

No. 109, Misc. McMULLEN *v.* GARDNER, SECRETARY OF HEALTH, EDUCATION AND WELFARE, *ante*, p. 854;

No. 133, Misc. SPIESEL *v.* CITY OF NEW YORK, *ante*, p. 856;

No. 166, Misc. VESAY *v.* UNITED STATES, *ante*, p. 859;

No. 170, Misc. MIGUEL *v.* UNITED STATES, *ante*, p. 859;

No. 179, Misc. HENDERSON *v.* MAXWELL, WARDEN, *ante*, p. 804;

No. 227, Misc. LEVY *v.* UNITED STATES, *ante*, p. 862;

No. 314, Misc. ANDERSON ET AL. *v.* UNITED STATES, *ante*, p. 880;

No. 342, Misc. HOURIHAN *v.* MAHONEY, *ante*, p. 17;

No. 426, Misc. WARRINER *v.* FINK ET AL., *ante*, p. 871;

No. 431, Misc. KELLY *v.* KANSAS, *ante*, p. 881; and

No. 436, Misc. LONG *v.* PATE, WARDEN, *ante*, p. 881.

Petitions for rehearing denied.

No. 22, Misc. DAVIS *v.* BETO, CORRECTIONS DIRECTOR, *ante*, p. 804. Petition for rehearing denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition.

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NOVEMBER 16, 1965.

Dismissal Under Rule 60.

No. 579. *GENERAL AUTO SUPPLIES, INC., ET AL. v. FEDERAL TRADE COMMISSION.* C. A. 7th Cir. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. *Bernard Mellitz, Malcolm I. Frank and Telford B. Orbison* for petitioners. Reported below: 346 F. 2d 311.

NOVEMBER 19, 1965.

Dismissal Under Rule 60.

No. 573. *FRANK ET AL. v. UNITED STATES.* C. A. D. C. Cir. Petition for writ of certiorari as to petitioner Frank dismissed pursuant to Rule 60 of the Rules of this Court. *Edward L. Carey and Walter E. Gillcrist* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 120 U. S. App. D. C. 392, 347 F. 2d 486.

NOVEMBER 22, 1965.

Miscellaneous Orders.

No. 359. *JOHNSON v. UNITED STATES.* C. A. 6th Cir. (Certiorari denied, *ante*, p. 836.) The Solicitor General is requested to file a response to the petition for a rehearing within thirty days.

No. 718, Misc. *WILLIAMSON ET AL. v. BLANKENSHIP, JUDGE, ET AL.* C. A. 5th Cir. Motion for leave to file petition for writ of certiorari denied.

No. 676, Misc. *WALKER v. SUPERIOR COURT OF CALIFORNIA IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO.* Motion for leave to file petition for writ of prohibition denied. THE CHIEF JUSTICE took no part in the consideration or decision of this motion.

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No. 56, Misc. *IN RE DISBARMENT OF HARRIS.* It having been reported to the Court that Eldon C. Harris of Cut Bank, State of Montana, has been disbarred from the practice of law by the Supreme Court of the State of Montana, duly entered on the 4th day of March, 1965, and this Court by order of March 29, 1965, having suspended the said Eldon C. Harris from the practice of law in this Court and directed that a rule issue requiring him to show cause why he should not be disbarred;

And it appearing that the said rule was duly issued and served upon the respondent, and that the time within which to file a return to the rule has expired;

It is ORDERED that the said Eldon C. Harris be, and he is hereby, disbarred from the practice of law in this Court and that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court.

Probable Jurisdiction Noted.

No. 545. *JOSEPH E. SEAGRAM & SONS, INC., ET AL. v. HOSTETTER, CHAIRMAN, NEW YORK STATE LIQUOR AUTHORITY, ET AL.* Appeal from Ct. App. N. Y. Probable jurisdiction noted. *Herbert Brownell* and *Thomas F. Daly* for appellants. *Louis J. Lefkowitz*, Attorney General of New York, *Ruth Kessler Toch*, Assistant Solicitor General, and *Robert L. Harrison*, Assistant Attorney General, for appellees. Reported below: 16 N. Y. 2d 47, 209 N. E. 2d 701.

Certiorari Granted. (See also No. 543, October Term, 1963, *ante*, p. 158.)

No. 80, Misc. *WESTOVER v. UNITED STATES.* C. A. 9th Cir. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. The case is transferred to the appellate docket and set for oral argument immediately following No. 397, Misc. Petitioner

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pro se. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Jerome M. Feit* for the United States. Reported below: 342 F. 2d 684.

No. 535. *UNITED STATES v. CATTO ET AL.* C. A. 5th Cir. Certiorari granted. *Solicitor General Marshall, Acting Assistant Attorney General Jones, Acting Assistant Attorney General Roberts, Jack S. Levin and Melva M. Graney* for the United States. *Ben F. Foster* for Catto et al., and *Claiborne B. Gregory* for Wardlaw et al., respondents. Reported below: 344 F. 2d 225, 227.

No. 397, Misc. *VIGNERA v. NEW YORK.* Ct. App. N. Y. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. The case is transferred to the appellate docket and set for oral argument immediately following No. 419, Misc. *Robert S. Rifkind* for petitioner. *William I. Siegel* for respondent. Reported below: 15 N. Y. 2d 970, 207 N. E. 2d 527.

No. 419, Misc. *MIRANDA v. ARIZONA.* Sup. Ct. Ariz. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. The case is transferred to the appellate docket. *John P. Frank* for petitioner. *Darrell F. Smith*, Attorney General of Arizona, and *William E. Eubank* and *Gary K. Nelson*, Assistant Attorneys General, for respondent. Reported below: 98 Ariz. 18, 401 P. 2d 721.

No. 205, Misc. *JOHNSON ET AL. v. NEW JERSEY.* Sup. Ct. N. J. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. The case is transferred to the appellate docket and set for oral argument immediately following No. 80, Misc. *M. Gene Haeberle, Stanford Shmukler and Curtis R. Reitz* for petitioners. *Norman Heine* for respondent. Reported below: 43 N. J. 572, 206 A. 2d 737.

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Certiorari Denied. (See also No. 672, Misc., *ante*, p. 161.)

No. 518. *OLING ET AL. v. AIR LINE PILOTS ASSOCIATION ET AL.* C. A. 7th Cir. Certiorari denied. *I. J. Gromfine* and *Herman Sternstein* for petitioners. *Samuel J. Cohen* and *Herbert A. Levy* for Air Line Pilots Association, and *Stuart Bernstein* for United Air Lines, Inc., respondents. Reported below: 346 F. 2d 270.

No. 525. *CAMCO, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 5th Cir. Certiorari denied. *L. G. Clinton, Jr.*, for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli, Norton J. Come* and *Leonard M. Wagman* for respondent. Reported below: 340 F. 2d 803.

No. 526. *WHEELER v. JONES.* Sup. Ct. Ark. Certiorari denied. *G. Thomas Eisele* for petitioner. *Leon B. Catlett* for respondent. Reported below: 239 Ark. 455, 390 S. W. 2d 129.

No. 527. *CONTE v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. *Marvin A. Koblenz* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 349 F. 2d 304.

No. 529. *KING v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. *Peter J. Hughes* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Julia P. Cooper* for the United States. Reported below: 348 F. 2d 814.

No. 533. *A AND B v. C AND D.* Sup. Ct. Ark. Certiorari denied. *James L. Sloan* for petitioners. *Robert V. Light* for respondents. Reported below: 239 Ark. 406, 390 S. W. 2d 116.

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No. 530. *GARDENS OF FAITH, INC., ET AL. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 4th Cir. Certiorari denied. *John Y. Merrell* for petitioners. *Solicitor General Marshall, Acting Assistant Attorney General Roberts* and *Melva M. Graney* for respondent. Reported below: 345 F. 2d 180.

No. 536. *CHICAGO, ROCK ISLAND & PACIFIC RAILROAD CO. v. McCONNELL HEAVY HAULING, INC.* Sup. Ct. Ark. Certiorari denied. *Edward L. Wright* for petitioner. *Jack Holt, Jr.*, for respondent. Reported below: 239 Ark. 373, 390 S. W. 2d 111.

No. 538. *MY STORE, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 7th Cir. Certiorari denied. *Henry E. Seyfarth* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 345 F. 2d 494.

No. 539. *BANK OF AMERICA NATIONAL TRUST & SAVINGS ASSOCIATION v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. *Samuel B. Stewart* and *William D. Donnelly* for petitioner. *Solicitor General Marshall, Acting Assistant Attorney General Roberts, Joseph Kovner* and *Frederick E. Youngman* for the United States. *John P. Austin* for California Bankers Association, as *amicus curiae*, in support of the petition. Reported below: 345 F. 2d 624.

No. 227. *BULLOCK v. VIRGINIA.* Sup. Ct. App. Va. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Calvin H. Childress* for petitioner. *Robert Y. Button*, Attorney General of Virginia, and *D. Gardiner Tyler*, Assistant Attorney General, for respondent. Reported below: 205 Va. 867, 140 S. E. 2d 821.

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No. 149. *MARTIN v. TEXAS*;

Nos. 345 and 508. *McCLELLAND v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Clyde W. Woody* and *Marian S. Rosen* for petitioner in No. 149. *J. Edwin Smith* and *Byron Skelton* for petitioner in Nos. 345 and 508. *Samuel H. Robertson, Jr.*, and *Carl E. F. Dally* for respondent. Reported below: No. 345, 389 S. W. 2d 678; No. 508, 390 S. W. 2d 777.

Memorandum of MR. CHIEF JUSTICE WARREN.

Each of these three cases stems from the following factual setting:

The Grand Jury of Harris County, Texas, was impaneled on May 7, 1962, to investigate irregularities in the administration of the Probate Court. While Grand Jury sessions were proceeding, the District Attorney of the County, in cooperation with the Justice of the Peace, took the virtually unprecedented step of obtaining an order to institute a "Court of Inquiry."

This body, formerly sanctioned by Vernon's Texas Code of Criminal Procedure, Arts. 886, 887, permits a justice of the peace to summon and examine witnesses and take sworn testimony. Those who fail to comply with his summons or refuse to make statements under oath may be fined and imprisoned. From the year of its enactment—1876—to this date, it appears that the procedure had been seldom invoked.

The secret Grand Jury deliberations were postponed while the District Attorney pursued the Court of Inquiry publicly, in front of the press, radio recorders and television cameras. In this inflamed atmosphere, the petitioners were questioned for some four days, although they objected to testifying. They were not permitted to consult with their attorneys during the proceedings, to de-

fend themselves, to cross-examine or confront the witnesses against them, to call witnesses on their behalf, to rebut or to contradict the evidence produced by the prosecution. Two days later, the Grand Jury was reconvened and brought in indictments against the petitioners.

Due to a change of venue and continuances secured by the petitioners, their trials did not take place until more than two years later in a neighboring county. Their pretrial motions to quash the indictments were denied, in two cases without hearings, and they were found guilty of the offenses charged.

The Texas Legislature has since repealed the "Court of Inquiry" proceeding through the adoption of a new Code of Criminal Procedure, Laws 1965, 59th Leg., Reg. Sess., c. 722, to become effective January 1, 1966. Under the new Code, no justice of the peace may convene a Court of Inquiry. Rather, such a court may be conducted only by district judges, and all witnesses are entitled to the same protections as in felony prosecutions. Arts. 52.01-52.06.

It is clear that grave constitutional questions are raised by conducting such a proceeding. See, *e. g.*, *Estes v. Texas*, 381 U. S. 532; *Moore v. Dempsey*, 261 U. S. 86, 90-91. Against the background of the factors mentioned above, the Court has declined review. Our denial of the petitions for certiorari in these cases should not be taken in any way as sanctioning the proceedings or of approving of the judgments below. It means only that for one reason or another these cases did not commend themselves "to at least four members of the Court as falling within those considerations which should lead this Court to exercise its discretion in reviewing a lower court's decision." Memorandum of Mr. Justice Frankfurter, *Sheppard v. Ohio*, 352 U. S. 910, 911; see also, *Maryland v. Baltimore Radio Show, Inc.*, 338 U. S. 912.

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No. 257, Misc. *MONTOYA v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Petitioner *pro se*. *Thomas C. Lynch*, Attorney General of California, and *Robert R. Granucci* and *John F. Kraetzer*, Deputy Attorneys General, for respondent.

No. 320, Misc. *BRYE v. WAINWRIGHT, CORRECTIONS DIRECTOR*. Sup. Ct. Fla. Certiorari denied. Petitioner *pro se*. *Earl Faircloth*, Attorney General of Florida, and *John S. Burton*, Assistant Attorney General, for respondent.

No. 337, Misc. *BOLES v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Petitioner *pro se*. *Waggoner Carr*, Attorney General of Texas, and *Allo B. Crow, Jr.*, *Hawthorne Phillips*, *T. B. Wright* and *Howard M. Fender*, Assistant Attorneys General, for respondent.

No. 451, Misc. *ORTEGA v. THORNTON, U. S. DISTRICT JUDGE*. C. A. 6th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for respondent.

No. 471, Misc. *HAWKES v. WARDEN, MISSOURI PENITENTIARY*. Sup. Ct. Mo. Certiorari denied. Petitioner *pro se*. *Norman H. Anderson*, Attorney General of Missouri, and *Howard L. McFadden*, Assistant Attorney General, for respondent.

No. 517, Misc. *GREEN v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *James J. Laughlin* for petitioner. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Mervyn Hamburg* for the United States. Reported below: 121 U. S. App. D. C. 111, 348 F. 2d 340.

No. 611, Misc. *STEVENSON v. ALTMAN, CLERK OF COOK COUNTY CIRCUIT COURT*. C. A. 7th Cir. Certiorari denied.

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No. 591, Misc. *YATES v. MISSISSIPPI*. Sup. Ct. Miss. Certiorari denied. *Lawrence Speiser and Bernard Roazen* for petitioner. Reported below: 253 Miss. 424, 175 So. 2d 617.

No. 592, Misc. *MASSARI v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Francis Kahn* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 347 F. 2d 725.

No. 602, Misc. *EDELL v. DI PIAZZA ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 345 F. 2d 336.

No. 625, Misc. *CHAPARRO ET AL. v. JACKSON & PERKINS CO. ET AL.* C. A. 2d Cir. Certiorari denied. *Dora Aberlin* for petitioners. *William C. Combs* for respondents. Reported below: 346 F. 2d 677.

No. 636, Misc. *HARRIS v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Acting Assistant Attorney General Roberts and Robert N. Anderson* for respondent.

No. 640, Misc. *EATON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Julia P. Cooper* for the United States. Reported below: 348 F. 2d 919.

No. 644, Misc. *BOOKWALTER v. CALIFORNIA ADULT AUTHORITY*. Dist. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 664, Misc. *ROMANO v. FAY, WARDEN*. C. A. 2d Cir. Certiorari denied. Reported below: 344 F. 2d 702.

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No. 646, Misc. *BURTON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Frances Kahn* for petitioner. *Solicitor General Marshall* for the United States.

No. 649, Misc. *STEPHENS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *Thomas Gilbert Sharpe, Jr.*, for petitioner. *Solicitor General Marshall* for the United States. Reported below: 347 F. 2d 722.

No. 659, Misc. *BRATT v. CROUSE, WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 346 F. 2d 146.

No. 665, Misc. *NEAL v. MYERS, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 680, Misc. *RITTER v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Petitioner *pro se*. *Benj. J. Jacobson* for respondent.

No. 682, Misc. *KELLY v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied. *Lloyd Tasoff* for petitioner. *Solicitor General Marshall* for respondent. Reported below: 349 F. 2d 473.

No. 707, Misc. *SIMON v. CASTILLE ET AL*. Sup. Ct. La. Certiorari denied. *J. Minos Simon* for petitioner.

No. 710, Misc. *BEAZLEY v. ORSINGER*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Joseph G. Dooley* for respondent.

No. 272, Misc. *LAMBERT v. KENTUCKY*. Ct. App. Ky. Motion to strike brief of respondent denied. Certiorari denied. Petitioner *pro se*. *Robert Matthews*, Attorney General of Kentucky, and *David Murrell* and *Holland N. McTyeire*, Assistant Attorneys General, for respondent.

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Rehearing Denied.

No. 66. *LIST v. LERNER, DBA LERNER & CO., ET AL.*, *ante*, p. 811;

No. 80. *RING v. NEW JERSEY*, *ante*, p. 812;

No. 83. *CROMBIE v. CROMBIE*, *ante*, p. 812;

No. 105. *WILLIAMS v. HOWARD JOHNSON'S, INC., OF WASHINGTON*, *ante*, p. 814;

No. 119. *UNITED STATES v. NEW ORLEANS CHAPTER, ASSOCIATED GENERAL CONTRACTORS OF AMERICA, INC., ET AL.*, *ante*, p. 17;

No. 142. *FLYING TIGER LINE, INC. v. MERTENS, ADMINISTRATOR, ET AL.*, *ante*, p. 816;

No. 152. *DEMERS v. BROWN ET AL.*, *ante*, p. 818;

No. 173. *PINCIOTTI v. UNITED STATES*, *ante*, p. 819;

No. 189. *LICHTENSTEIN, AKA WELLS v. UNITED STATES*, *ante*, p. 821;

No. 199. *DIAZ ET AL. v. UNITED STATES*, *ante*, p. 822;

No. 210. *STEVENS v. MARKS, NEW YORK SUPREME COURT JUSTICE*, *ante*, p. 809;

No. 290. *STEVENS v. McCLOSKEY, SHERIFF*, *ante*, p. 809;

No. 278. *STUPAK v. UNITED STATES*, *ante*, p. 829;

No. 330. *WADE v. UNITED STATES*, *ante*, p. 834;

No. 334. *NATIONAL MARITIME UNION OF AMERICA, AFL-CIO v. NATIONAL LABOR RELATIONS BOARD*, *ante*, p. 835;

No. 403. *NATIONAL MARITIME UNION OF AMERICA, AFL-CIO v. NATIONAL LABOR RELATIONS BOARD*, *ante*, p. 840;

No. 405. *SEMEL v. UNITED STATES*, *ante*, p. 840;

No. 45, Misc. *DEGREGORY v. UNITED STATES*, *ante*, p. 850;

No. 186, Misc. *BUDNER v. NEW YORK*, *ante*, p. 860; and

No. 192, Misc. *BYERS v. CROUSE, WARDEN*, *ante*, p. 860. Petitions for rehearing denied.

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No. 253, Misc. WILSON *v.* UNITED STATES, *ante*, p. 864;

No. 298, Misc. THACKER *v.* WARD MARKHAM CO., *ante*, p. 865; and

No. 511, Misc. IN RE DUARTE, *ante*, p. 883. Petitions for rehearing denied.

No. 98. WALKER *v.* FOSTER ET AL., *ante*, p. 812. Motion to dispense with printing petition granted. Petition for rehearing denied.

No. 260. NYSSONEN, ADMINISTRATRIX *v.* BENDIX CORP., *ante*, p. 847; and

No. 319. ROCKEFELLER, GOVERNOR OF NEW YORK, ET AL. *v.* ORANS ET AL., *ante*, p. 10. Petitions for rehearing denied. MR. JUSTICE FORTAS took no part in the consideration or decision of these petitions.

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Dismissal Under Rule 60.

No. 734. McGRAW ET AL. *v.* CITY OF ENGLEWOOD ET AL. Sup. Ct. Colo. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. John R. Barry for petitioners. Charles S. Rhyne, Brice W. Rhyne and Alfred J. Tighe, Jr., for respondents. Reported below: — Colo. —, 404 P. 2d 525.

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Miscellaneous Orders.

No. 368. A BOOK NAMED "JOHN CLELAND'S MEMOIRS OF A WOMAN OF PLEASURE" *v.* ATTORNEY GENERAL OF MASSACHUSETTS. Appeal from Sup. Jud. Ct. Mass. (Probable jurisdiction noted, *ante*, p. 900.) Motion of the Citizens for Decent Literature, Inc., for leave to file brief, as *amicus curiae*, granted. Motion for leave to participate in oral argument, as *amicus curiae*, denied. Charles H. Keating, Jr., on the motions.

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No. 21, Original. *WISCONSIN v. MINNESOTA ET AL.* Motion for leave to file bill of complaint denied. THE CHIEF JUSTICE, MR. JUSTICE STEWART and MR. JUSTICE FORTAS are of the opinion that the motion for leave to file the bill of complaint should be set for oral argument. MR. JUSTICE DOUGLAS took no part in the consideration or decision of this motion. *Bronson C. La Follette*, Attorney General of Wisconsin, *John H. Bowers*, Deputy Attorney General, and *A. J. Feifarek* and *Roy G. Tulane*, Assistant Attorneys General, for plaintiff. *Robert W. Mattson*, Attorney General of Minnesota, and *Perry Voldness*, Deputy Attorney General, for defendant State of Minnesota. *Randall J. LeBoeuf, Jr.*, and *Arthur R. Renquist* for defendant Northern States Power Co.

No. 784. *WATKINS ET AL. v. SUPERIOR COURT, LOS ANGELES COUNTY, ET AL.* Dist. Ct. App. Cal., 2d App. Dist. Motion for stay of injunction or expedited disposition of the petition for writ of certiorari presented to MR. JUSTICE DOUGLAS, and by him referred to the Court, is denied. *Jack Greenberg*, *Raymond L. Johnson* and *Anthony G. Amsterdam* on the motion.

No. 390, Misc. *WHITLOW v. WAINWRIGHT, CORRECTIONS DIRECTOR.* Motion for leave to file petition for writ of habeas corpus denied. Treating the papers submitted as a petition for writ of certiorari, certiorari is denied. Petitioner *pro se*. *Earl Faircloth*, Attorney General of Florida, and *James G. Mahorner*, Assistant Attorney General, for respondent.

No. 185, Misc. *HERRING v. DISTRICT COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT.* Motion for leave to file petition for writ of mandamus denied. Petitioner *pro se*. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *George J. Roth*, Deputy Attorney General, for respondent.

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No. 46. *UNITED STATES v. GENERAL MOTORS CORP. ET AL.* Appeal from D. C. S. D. Cal. (Probable jurisdiction noted, 380 U. S. 940.) Motion of O. M. Scott & Sons Co. et al. for leave to file brief, as *amici curiae*, granted. *Thomas A. Rothwell* and *William C. Hillman* on the motion.

No. 695. *COLLIER v. UNITED STATES.* C. A. 6th Cir. (Certiorari granted, *ante*, p. 890.) Motion for the appointment of counsel granted, and it is ordered that *Dean E. Denlinger, Esquire*, of Dayton, Ohio, be, and he is hereby, appointed to serve as counsel for the petitioner in this case.

Probable Jurisdiction Noted or Postponed.

No. 562. *TIME, INC. v. HILL.* Appeal from Ct. App. N. Y. Probable jurisdiction noted. *Harold R. Medina, Jr.*, and *Victor M. Earle III* for appellant. *Milton Black* for appellee. Reported below: 15 N. Y. 2d 986, 207 N. E. 2d 604.

No. 597. *MILLS v. ALABAMA.* Appeal from Sup. Ct. Ala. Further consideration of the question of jurisdiction in this case is postponed to the hearing of the case on the merits. *Kenneth Perrine* for appellant. *Richmond M. Flowers*, Attorney General of Alabama, and *Leslie Hall*, Assistant Attorney General, for appellee. *James C. Barton* for Alabama Press Association et al., as *amici curiae*, in support of appellant. Reported below: 278 Ala. 188, 176 So. 2d 884.

No. 611. *UNITED STATES v. ARNOLD, SCHWINN & CO. ET AL.* Appeal from D. C. N. D. Ill. Probable jurisdiction noted. The case is set for oral argument immediately following No. 238. *Solicitor General Marshall*, *Assistant Attorney General Turner* and *Lionel Kestenbaum* for the United States. *Harold D. Burgess*, *Robert C. Keck* and *Earl E. Pollock* for appellees. Reported below: 237 F. Supp. 323.

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Certiorari Granted. (See also No. 532, *ante*, p. 198.)

No. 505. NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ET AL. *v.* OVERSTREET. Sup. Ct. Ga. Certiorari granted limited to Question 2 presented by the petition which reads as follows:

“2. Has petitioner National Association for the Advancement of Colored People, a New York corporation, been deprived of its property without due process of law under the Fourteenth Amendment by being held liable in damages for acts performed without its knowledge and by persons beyond its control?”

Donald L. Hollowell, Robert L. Carter and Maria L. Marcus for petitioners. *Hugh P. Futrell, Jr.*, for respondent. Reported below: 221 Ga. 16, 142 S. E. 2d 816.

No. 584. CALIFORNIA *v.* STEWART. Sup. Ct. Cal. Certiorari granted. The case is set for oral argument immediately following No. 762. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *Gordon Ringer*, Deputy Attorney General, for petitioner. Reported below: 62 Cal. 2d 571, 400 P. 2d 97.

No. 594. GOJACK *v.* UNITED STATES. C. A. D. C. Cir. Certiorari granted. *Edward J. Ennis, Osmond K. Fraenkel, Melvin L. Wulf, Frank J. Donner and David Rein* for petitioner. *Solicitor General Marshall, Assistant Attorney General Yeagley, Kevin T. Maroney and Robert L. Keuch* for the United States. Reported below: 121 U. S. App. D. C. 126, 348 F. 2d 355.

Certiorari Denied. (See also No. 595, *ante*, p. 203; No. 614, *ante*, p. 202; and No. 390, Misc., *supra*.)

No. 554. MARTENS *v.* WINDER. C. A. 9th Cir. Certiorari denied. Reported below: 341 F. 2d 197.

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No. 352. *LAURITZEN v. SPANN*. C. A. 3d Cir. Certiorari denied. *J. Ward O'Neill* and *Francis X. Byrn* for petitioner. *Philip Dorfman* and *John Dorfman* for respondent. *Cornelius P. Coughlan*, *J. Steward Garrison* and *Scott H. Elder* for American Merchant Marine Institute, Inc., et al., as *amici curiae*, in support of the petition. Reported below: 344 F. 2d 204.

No. 528. *BUMB, TRUSTEE IN BANKRUPTCY v. SUHL ET AL.* C. A. 9th Cir. Certiorari denied. *Joseph A. Ball* for petitioner. *Martin Gendel* for respondents. Reported below: 348 F. 2d 869.

No. 542. *PISANO v. THE BENNY SKOU ET AL.* C. A. 2d Cir. Certiorari denied. *Harvey Goldstein* for petitioner. *J. Ward O'Neill* for The Benny Skou et al., and *Sidney A. Schwartz* and *Joseph Arthur Cohen* for John T. Clark & Son, respondents. Reported below: 346 F. 2d 993.

No. 547. *WILLOW TERRACE DEVELOPMENT CO., INC., ET AL. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 5th Cir. Certiorari denied. *W. Carloss Morris, Jr.*, and *Robert H. McCanne* for petitioners. *Solicitor General Marshall*, *Acting Assistant Attorney General Roberts*, *Melva M. Graney* and *Robert A. Bernstein* for respondent. *Richard A. Mullens* for the National Association of Home Builders, as *amicus curiae*, in support of the petition. Reported below: 345 F. 2d 933.

No. 552. *CHATSWORTH COOPERATIVE MARKETING ASSOCIATION ET AL. v. INTERSTATE COMMERCE COMMISSION.* C. A. 7th Cir. Certiorari denied. *Norman Miller*, *Earl G. Schneider* and *Michael R. Galasso* for petitioners. *Solicitor General Marshall*, *Robert W. Ginnane* and *Bernard A. Gould* for respondent. Reported below: 347 F. 2d 821.

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No. 546. *CHANCE v. ATCHISON, TOPEKA & SANTA FE RAILWAY Co.* Sup. Ct. Mo. Certiorari denied. *Anthony P. Nugent, Sr.*, for petitioner. *George L. Gordon, Jr.*, for respondent. Reported below: 389 S. W. 2d 774.

No. 549. *KEELING v. OHIO.* Ct. App. Ohio, Cuyahoga County. Certiorari denied. *James R. Willis* for petitioner. *John T. Corrigan* for respondent.

No. 550. *PREZIOSO v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. *Maurice Edelbaum* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Julia P. Cooper* for the United States. Reported below: 348 F. 2d 217.

No. 553. *PUGLIANO ET AL. v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. *F. Lee Bailey* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Kirby W. Patterson* for the United States. Reported below: 348 F. 2d 902.

No. 558. *ATLANTIC REFINING Co. v. FEDERAL TRADE COMMISSION.* C. A. 6th Cir. Certiorari denied. *Edward F. Howrey, Roy W. Johns and Edward J. Kremer, Jr.*, for petitioner. *Solicitor General Marshall, Assistant Attorney General Turner, Robert B. Hummel, James McI. Henderson and Alvin L. Berman* for respondent. Reported below: 344 F. 2d 599.

No. 568. *KIESLING ET AL. v. UNITED STATES ET AL.* C. A. 3d Cir. Certiorari denied. *George D. Rothermel and Samuel Kalikman* for petitioners. *Solicitor General Marshall, Acting Assistant Attorney General Roberts and Meyer Rothwacks* for the United States et al. Reported below: 349 F. 2d 110.

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No. 559. *THOMSON ET AL. v. CARMAN ET AL.* Sup. Ct. Cal. Certiorari denied. *Alexander H. Schullman* for petitioners. *Michael G. Luddy* for Carman et al., *Charles G. Bakaly, Jr.*, for Association of Motion Picture Producers, Inc., et al., respondents.

No. 560. *LAVERICK v. UNITED STATES*; and

No. 563. *SCHAEFFER v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. *George Elias, Jr.*, for petitioner in No. 560. *Frederic C. Ritger, Jr.*, for petitioner in No. 563. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. May-sack* for the United States. Reported below: 348 F. 2d 708.

No. 561. *BROWN v. THOMPSON, JUDGE, ET AL.* Sup. Ct. App. W. Va. Certiorari denied. *Stanley E. Preiser* and *Arthur T. Ciccarello* for petitioner. Reported below: 149 W. Va. 649, 142 S. E. 2d 711.

No. 570. *VICTORIA MUTUAL WATER Co. v. PUBLIC UTILITIES COMMISSION OF CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Murray M. Chotiner* for petitioner. *Mary Moran Pajalich* for respondent.

No. 575. *KEEBLE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. *Harold Gruenberg* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States. Reported below: 347 F. 2d 951.

No. 577. *METAL PRODUCTS WORKERS UNION LOCAL 1645, UAW-AFL-CIO, ET AL. v. TORRINGTON Co.* C. A. 2d Cir. Certiorari denied. *Jerome S. Rubenstein* for petitioners. *William J. Larkin II, Jay S. Siegel* and *C. E. Harwood* for respondent. Reported below: 347 F. 2d 93.

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No. 578. *PITTMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Fred Okrand* for petitioner. *Solicitor General Marshall, Assistant Attorney General Douglas* and *David L. Rose* for the United States. Reported below: 341 F. 2d 739.

No. 580. *CALIFORNIA v. FEDERAL POWER COMMISSION*; and

No. 591. *TURLOCK IRRIGATION DISTRICT ET AL. v. FEDERAL POWER COMMISSION*. C. A. 9th Cir. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, and *J. M. Sanderson*, Deputy Attorney General, for petitioner in No. 580. *Robert L. McCarty* and *Charles F. Wheatley, Jr.*, for petitioners in No. 591. *Solicitor General Marshall, Richard A. Solomon, John C. Mason, Howard E. Wahrenbrock, Joseph B. Hobbs* and *Daniel Goldstein* for respondent. *Robert Matthews*, Attorney General of Kentucky, *Clarence A. H. Meyer*, Attorney General of Nebraska, *Louis J. Lefkowitz*, Attorney General of New York, *Helgi Johanneson*, Attorney General of North Dakota, *Frank L. Farrar*, Attorney General of South Dakota, and *John F. Raper*, Attorney General of Wyoming, filed a brief for their respective States, as *amici curiae*, in support of the petition in No. 591. Reported below: 345 F. 2d 917.

No. 581. *WOLF v. BLAIR ET AL.* C. A. 2d Cir. Certiorari denied. *Paul L. Ross* for petitioner. *Edward N. Sherry* for respondent *Curtis Publishing Co.* Reported below: 348 F. 2d 994.

No. 587. *BILLY MITCHELL VILLAGE, INC. v. NEW YORK LIFE INSURANCE CO.* Ct. Civ. App. Tex., 11th Sup. Jud. Dist. Certiorari denied. *Al M. Heck* for petitioner. *Edward R. Finck, Jr.*, for respondent. Reported below: 388 S. W. 2d 243.

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No. 585. *HAGEL v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. *Albert E. Jenner, Jr.*, for petitioner. Reported below: 32 Ill. 2d 413, 206 N. E. 2d 699.

No. 586. *HENSEL v. CALIFORNIA*. Dist. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 233 Cal. App. 2d 834, 43 Cal. Rptr. 865.

No. 589. *SHAPIRO & SON CURTAIN CORP. v. GLASS*. C. A. 2d Cir. Certiorari denied. *Maximilian Bader* and *I. Walton Bader* for petitioner. *Leon Silverman* for respondent. Reported below: 348 F. 2d 460.

No. 592. *MERNER LUMBER & HARDWARE Co. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 9th Cir. Certiorari denied. *Westerdahl W. Gudmundson* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 345 F. 2d 770.

No. 598. *BRASCH v. STATE COMPENSATION INSURANCE FUND ET AL.* Sup. Ct. Cal. Certiorari denied. Petitioner *pro se*. *T. Groezinger* and *Loton Wells* for respondent State Compensation Insurance Fund.

No. 599. *CIOFALO v. BOARD OF REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK*. Ct. App. N. Y. Certiorari denied. *Maurice Edelbaum* for petitioner. *Louis J. Lefkowitz*, Attorney General of New York, *Robert L. Harrison*, Assistant Attorney General, and *Ruth Kessler Toch*, Assistant Solicitor General, for respondent.

No. 604. *TYSON v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Petitioner *pro se*. *Jack P. F. Gremillion*, Attorney General of Louisiana, and *Ralph L. Roy* for respondent.

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No. 602. *RHODES v. EDWARDS ET AL.* Sup. Ct. Neb. Certiorari denied. Reported below: 178 Neb. 757, 135 N. W. 2d 453.

No. 606. *SNYDER, EXECUTOR, ET AL. v. COTTONWOOD CREEK CONSERVANCY DISTRICT No. 11.* Sup. Ct. Okla. Certiorari denied. *Leslie L. Conner* and *James M. Little* for petitioners. Reported below: 405 P. 2d 17.

No. 608. *MORAN v. PENAN ET AL.* C. A. 1st Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for *Duff et al.*, and *Matthew J. Ryan, Jr.*, for *Bulkley et al.*, respondents.

No. 609. *SIEBRING v. HANSEN ET AL.* C. A. 8th Cir. Certiorari denied. *Robert R. Eidsmoe*, *Donald H. Zarley* and *Bruce W. McKee* for petitioner. *Phillip H. Smith* and *Ralph F. Merchant* for respondents. Reported below: 346 F. 2d 474.

No. 407. *PHELPER v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted. *Charles W. Tessmer* and *Emmett Colvin, Jr.*, for petitioner. *Waggoner Carr*, Attorney General of Texas, *Hawthorne Phillips*, First Assistant Attorney General, *T. B. Wright*, Executive Assistant Attorney General, *Howard M. Fender* and *Charles B. Swanner*, Assistant Attorneys General, and *Henry Wade* for respondent. Reported below: 396 S. W. 2d 396.

No. 551. *TRACY, WARDEN v. MANDUCHI.* C. A. 3d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. *Wilson Bucher* for petitioner. Respondent *pro se*. Reported below: 350 F. 2d 658.

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No. 429. *MAXWELL v. STEPHENS, PENITENTIARY SUPERINTENDENT*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Jack Greenberg, James M. Nabrit III, Michael Meltsner, Anthony G. Amsterdam, George Howard, Jr., and Harold B. Anderson* for petitioner. *Bruce Bennett*, Attorney General of Arkansas, and *Jack L. Lessenberry* for respondent. Reported below: 348 F. 2d 325.

No. 600. *SWAIN v. ALABAMA*. Sup. Ct. Ala. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Jack Greenberg, James M. Nabrit III, Michael Meltsner, Orzell Billingsley, Jr., Peter A. Hall and Anthony G. Amsterdam* for petitioner. *Richmond M. Flowers*, Attorney General of Alabama, and *Leslie Hall*, Assistant Attorney General, for respondent.

No. 521. *PARDO-BOLLAND v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Jonathan L. Rosner* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Daniel H. Benson* for the United States. Reported below: 348 F. 2d 316.

No. 574. *PANHANDLE EASTERN PIPE LINE Co. v. FEDERAL POWER COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE WHITE took no part in the consideration or decision of this petition. *Harry S. Littman and Melvin Richter* for petitioner. *Solicitor General Marshall and Howard E. Wahrenbrock* for respondent Federal Power Commission. Reported below: 121 U. S. App. D. C. 111, 348 F. 2d 340.

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No. 582. RANCE ET AL. *v.* SPERRY & HUTCHINSON CO. Sup. Ct. Okla. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *John H. Cantrell* for petitioners. *Samuel M. Lane, Claus Motulsky* and *G. M. Fuller* for respondent. Reported below: 410 P. 2d 859.

No. 116, Misc. BROOKS *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Petitioner *pro se*. *William G. Clark*, Attorney General of Illinois, and *Richard A. Michael*, Assistant Attorney General, for respondent. Reported below: 32 Ill. 2d 81, 203 N. E. 2d 882.

No. 125, Misc. CALHOUN *v.* PATE, WARDEN. C. A. 7th Cir. Certiorari denied. *Robert Jay Nye* for petitioner. *William G. Clark*, Attorney General of Illinois, *Daniel P. Ward* and *Elmer C. Kissane* for respondent. Reported below: 341 F. 2d 885.

No. 155, Misc. DAVIS *v.* MARYLAND. Ct. App. Md. Certiorari denied. *Raymond S. Smethurst* for petitioner. *Thomas B. Finan*, Attorney General of Maryland, for respondent. Reported below: 237 Md. 97, 205 A. 2d 254.

No. 252, Misc. BROWN *v.* WEST VIRGINIA. Sup. Ct. App. W. Va. Certiorari denied. Petitioner *pro se*. *C. Donald Robertson*, Attorney General of West Virginia, *Leo Catsonis*, Assistant Attorney General, and *Charles M. Walker* for respondent.

No. 427, Misc. SIBLEY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall*, Assistant Attorney General *Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 344 F. 2d 103.

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No. 480, Misc. *PALOMERA v. WILLINGHAM, WARDEN*. C. A. 10th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Doar, David Rubin and Gerald P. Choppin* for respondent. Reported below: 344 F. 2d 937.

No. 516, Misc. *GIULIANO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Frances Kahn* for petitioner. *Solicitor General Marshall* for the United States. Reported below: 348 F. 2d 217.

No. 519, Misc. *KAPSALIS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *Robert L. Day* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 345 F. 2d 392.

No. 559, Misc. *FRIEDMAN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. *Morton N. Wekstein* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Daniel H. Benson* for the United States. Reported below: 347 F. 2d 697.

No. 601, Misc. *BRUCHON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Albert J. Krieger* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Daniel H. Benson* for the United States. Reported below: 348 F. 2d 316.

No. 669, Misc. *COLLINS v. MARKLEY, WARDEN*. C. A. 7th Cir. Certiorari denied. *Sigmund J. Beck* for petitioner. *Solicitor General Marshall* for respondent. Reported below: 346 F. 2d 230.

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No. 627, Misc. *LAMMA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *J. Robert Lunney* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson*, and *Philip R. Monahan* for the United States. Reported below: 349 F. 2d 338.

No. 647, Misc. *TYSON v. NEW YORK*. Ct. App. N. Y. Certiorari denied. *Robert M. Hitchcock* for petitioner. *Michael F. Dillon* for respondent.

No. 667, Misc. *HALL v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Leon B. Polsky* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 348 F. 2d 837.

No. 674, Misc. *BECKER v. MATTEAWAN STATE HOSPITAL SUPERINTENDENT ET AL.* C. A. 2d Cir. Certiorari denied.

No. 699, Misc. *McKINNEY v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 23 App. Div. 2d 812, 258 N. Y. S. 2d 316.

No. 712, Misc. *SIMS v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of S. F. Certiorari denied. *Norman Leonard, Benjamin Dreyfus* and *George Martinez* for petitioner.

No. 721, Misc. *CURTIS v. COBEY ET AL.* C. A. D. C. Cir. Certiorari denied. *Arthur S. Curtis, pro se*. *J. Joseph Barse* for Cobey, *Frederick A. Ballard* for Western Electric Co., and *Ross O'Donoghue* for Great American Insurance Co., Inc., respondents.

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No. 725, Misc. *KEMP v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. *Marco Loffredo* for petitioner. Reported below: 177 So. 2d 58.

No. 726, Misc. *CARPENTER v. KANSAS*. Sup. Ct. Kan. Certiorari denied.

No. 728, Misc. *BOHANON v. NEW YORK CENTRAL RAILROAD* Co. C. A. 7th Cir. Certiorari denied.

No. 768, Misc. *LEVAR v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. *Harold R. Scoville* for petitioner. *Darrell F. Smith*, Attorney General of Arizona, *William E. Eubank*, Chief Assistant Attorney General, and *Gary K. Nelson*, Assistant Attorney General, for respondent. Reported below: 98 Ariz. 217, 403 P. 2d 532.

No. 812, Misc. *MCNALLY ET AL. v. CONNECTICUT*. Sup. Ct. Err. Conn. Certiorari denied. *Harry H. Hefteran, Jr.*, and *Irwin Friedman* for petitioners. *John F. McGowan* for respondent. Reported below: 152 Conn. 598, 211 A. 2d 162.

No. 310, Misc. *BARNARD v. UNITED STATES*;
No. 345, Misc. *LASSITER v. UNITED STATES*; and
No. 346, Misc. *KNIPPEL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. THE CHIEF JUSTICE and MR. JUSTICE FORTAS are of the opinion that certiorari should be granted. *Peter A. Schwabe, Jr.*, for petitioners. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 342 F. 2d 309.

No. 739, Misc. *ROBINSON v. MINNESOTA*. Sup. Ct. Minn. Certiorari denied. Reported below: 271 Minn. 477, 136 N. W. 2d 401.

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No. 733, Misc. MILLWOOD *v.* CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied.

No. 412, Misc. PRICE ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Leon B. Polksky* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 345 F. 2d 256.

Rehearing Denied.

No. 384. STEBBINS *v.* Macy, CHAIRMAN, U. S. CIVIL SERVICE COMMISSION, ET AL., *ante*, p. 41;

No. 488. HULLUM, ADMINISTRATRIX *v.* St. Louis SOUTHWESTERN RAILWAY Co., *ante*, p. 906;

No. 94, Misc. STEN *v.* UNITED STATES, *ante*, p. 854;

No. 366, Misc. STARNES *v.* MARKLEY, WARDEN, *ante*, p. 908;

No. 439, Misc. GRIMES *v.* CROUSE, WARDEN, *ante*, p. 882;

No. 485, Misc. FINFER *v.* COHEN, COMMISSIONER OF INTERNAL REVENUE, *ante*, p. 883;

No. 508, Misc. GROZA *v.* LEMMON ET AL., *ante*, p. 895; and

No. 520, Misc. CARTER ET AL. *v.* UNITED STATES, *ante*, p. 888. Petitions for rehearing denied.

No. 163. LYNCH *v.* INDUSTRIAL INDEMNITY CO. ET AL., *ante*, p. 844. Motion to dispense with printing the petition for rehearing granted. Petition for rehearing denied.

No. 413. POLLACK ET AL. *v.* COMMISSIONER OF PATENTS, *ante*, p. 893. Petition for rehearing denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition.

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Assignment Order.

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Reed (retired) to perform judicial duties in the United States Court of Appeals for the District of Columbia Circuit beginning December 1, 1965, and ending January 31, 1966, and for such further time as may be required to complete unfinished business, pursuant to 28 U. S. C. § 294 (a), is ordered entered on the minutes of this Court, pursuant to 28 U. S. C. § 295.

DECEMBER 13, 1965.

Dismissal Under Rule 60.

No. 569. *BACHE ET AL. v. ENGELMOHR.* Sup. Ct. Wash. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. *Lucien F. Marion* for petitioners. *Edward J. Ennis* and *Jerome Shulkin* for respondent. Reported below: 66 Wash. 2d 103, 401 P. 2d 346.

Miscellaneous Orders.

No. 26, Original. *LOUISIANA v. KATZENBACH, ATTORNEY GENERAL.* Motions for extension of time for argument in No. 22, Original, *South Carolina v. Katzenbach, Attorney General*, and for leave to file a bill of complaint are denied. *Jack P. F. Gremillion*, Attorney General of Louisiana, *Harry J. Kron, Jr.*, Assistant Attorney General, and *Sidney W. Provensal, Jr.*, on the motion. *Solicitor General Marshall* for defendant in opposition.

No. 5, Misc. *EDMONSON v. NASH, WARDEN.* Motion for leave to file petition for writ of habeas corpus denied. Petitioner *pro se*. *Norman H. Anderson*, Attorney General of Missouri, and *William A. Peterson* and *Howard L. McFadden*, Assistant Attorneys General, for respondent.

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No. 42. GINZBURG ET AL. *v.* UNITED STATES. C. A. 3d Cir. (Certiorari granted, *ante*, p. 803);

No. 49. MISHKIN *v.* NEW YORK. Appeal from Ct. App. N. Y. (Probable jurisdiction noted, 380 U. S. 960); and

No. 368. A BOOK NAMED "JOHN CLELAND'S MEMOIRS OF A WOMAN OF PLEASURE" *v.* ATTORNEY GENERAL OF MASSACHUSETTS. Appeal from Sup. Jud. Ct. Mass. (Probable jurisdiction noted, *ante*, p. 900.) Motions of the American Parents Committee, Inc., and the Committee of Religious Leaders of the City of New York for leave to appear, as *amici curiae*, and to adopt as their briefs the briefs *amicus curiae* filed by the Citizens for Decent Literature, Inc., are granted. *Charles H. Keating, Jr.*, and *James J. Clancy* on the motions.

No. 48. HARPER ET AL. *v.* VIRGINIA BOARD OF ELECTIONS ET AL. Appeal from D. C. E. D. Va. (Probable jurisdiction noted, 380 U. S. 930.) Motion of the Solicitor General for leave to participate in oral argument, as *amicus curiae*, granted and thirty minutes are allotted for that purpose. Counsel for appellees are allotted an additional thirty minutes for oral argument. *Solicitor General Marshall* on the motion.

No. 490. SHEPPARD *v.* MAXWELL, WARDEN. C. A. 6th Cir. (Certiorari granted, *ante*, p. 916.) Motion to dispense with the printing of the record granted. *F. Lee Bailey* on the motion.

No. 54, Misc. RUBIO *v.* WILSON, WARDEN, ET AL. Motion for leave to file petition for writ of habeas corpus denied. Petitioner *pro se*. *Thomas C. Lynch*, Attorney General of California, *Albert W. Harris, Jr.*, Assistant Attorney General, and *Clifton R. Jeffers*, Deputy Attorney General, for respondents.

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No. 584. CALIFORNIA *v.* STEWART. Sup. Ct. Cal. (Certiorari granted, *ante*, p. 937.) Motion of respondent for the appointment of counsel granted, and it is ordered that *William A. Norris, Esquire*, of Los Angeles, California, a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for the respondent in this case.

No. 183, Misc. ARANDA *v.* CALIFORNIA;

No. 618, Misc. SANTOS *v.* WILSON;

No. 661, Misc. COLE *v.* RUSSELL, CORRECTIONAL SUPERINTENDENT; and

No. 684, Misc. THOMPSON *v.* MACIEISKI, WARDEN. Motions for leave to file petitions for writs of habeas corpus denied.

No. 93, Misc. STANLEY *v.* FLORIDA. Motion for leave to file petition for writ of habeas corpus denied. Treating the papers submitted as a petition for writ of certiorari, certiorari is denied. Petitioner *pro se*. *Earl Faircloth*, Attorney General of Florida, and *William D. Roth*, Assistant Attorney General, for respondent.

No. 100, Misc. BOAN *v.* IDAHO. Motion for leave to file petition for writ of habeas corpus denied. Treating the papers submitted as a petition for writ of certiorari, certiorari is denied. Petitioner *pro se*. *Allan G. Shepard*, Attorney General of Idaho, and *Thomas G. Nelson*, Deputy Attorney General, for respondent.

No. 174, Misc. MAISONAVE *v.* FLORIDA;

No. 207, Misc. WESTMORE *v.* FLORIDA; and

No. 825, Misc. SMITH *v.* FLORIDA. Motions for leave to file petitions for writs of habeas corpus denied. Treating the papers submitted as petitions for writs of certiorari, certiorari is denied.

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No. 384, Misc. *COOPER v. FLORIDA*. Motion for leave to file petition for writ of habeas corpus denied. Petitioner *pro se*. *Earl Faircloth*, Attorney General of Florida, and *William D. Roth*, Assistant Attorney General, for respondent.

No. 613, Misc. *RICHARDSON v. MISSOURI*;

No. 673, Misc. *HURLEY v. UNITED STATES*; and

No. 703, Misc. *BARNES v. MISSOURI*. Motions for leave to file petitions for writs of mandamus denied.

Probable Jurisdiction Noted.

No. 256. *UNITED STATES v. COOK*. Appeal from D. C. M. D. Tenn. Motion to dispense with printing the motion to dismiss or affirm granted. Probable jurisdiction noted. *Solicitor General Cox*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Jerome M. Feit* for the United States.

Certiorari Granted. (See also No. 523, *ante*, p. 283; No. 610, *ante*, p. 285; No. 11, Misc., *ante*, p. 286; and No. 281, Misc., *ante*, p. 286.)

No. 636. *SECURITIES AND EXCHANGE COMMISSION v. NEW ENGLAND ELECTRIC SYSTEM ET AL.* C. A. 1st Cir. Certiorari granted. *Solicitor General Marshall*, *Philip A. Loomis, Jr.*, *David Ferber* and *Aaron Levy* for petitioner. *John R. Quarles* for respondents. Reported below: 346 F. 2d 399.

No. 37, Misc. *DAVIS v. NORTH CAROLINA*. C. A. 4th Cir. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. The case is transferred to the appellate docket. *Conrad O. Pearson* for petitioner. *T. W. Bruton*, Attorney General of North Carolina, and *James F. Bullock*, Assistant Attorney General, for respondent. Reported below: 339 F. 2d 770.

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Certiorari Denied. (See also Nos. 557 and 654, *ante*, p. 283; and Misc. Nos. 93, 100, 174, 207 and 825, *supra*.)

No. 90. *JORDAN v. LOUISIANA.* Sup. Ct. La. Certiorari denied. *Sam J. D'Amico* for petitioner. *Jack P. F. Gremillion*, Attorney General of Louisiana, and *Ralph L. Roy* for respondent. Reported below: 247 La. 367, 171 So. 2d 650.

No. 92. *GHARIBIANS v. CALIFORNIA.* App. Dept., Super. Ct. Cal., County of L. A. Certiorari denied. *David Arthur Binder* for petitioner.

No. 111. *ACCARDI v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. *Jerome Lewis* for petitioner. *Solicitor General Cox*, Assistant Attorney General *Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 342 F. 2d 697.

No. 121. *BRACER v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. *Abraham Glasser* for petitioner. *Solicitor General Cox*, Assistant Attorney General *Vinson*, *Beatrice Rosenberg* and *Julia P. Cooper* for the United States. Reported below: 342 F. 2d 522.

No. 312. *HUSK v. BUCHANAN, SHERIFF.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. *Milton M. Ferrall* for petitioner. *Earl Faircloth*, Attorney General of Florida, *Herbert P. Benn*, Assistant Attorney General, and *Ellen J. Morphonios* for respondent. Reported below: 167 So. 2d 38.

No. 436. *TIESI v. NEW JERSEY.* Sup. Ct. N. J. Certiorari denied. *David Perskie* for petitioner. *Arthur J. Sills*, Attorney General of New Jersey, and *John W. Hayden, Jr.*, Deputy Attorney General, for respondent.

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No. 305. *DERFUS v. CALIFORNIA*. Dist. Ct. App. Cal., 2d App. Dist. Certiorari denied. *Hyman Gold* for petitioner.

No. 343. *CUDIA ET AL. v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *John R. Snively* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Kirby W. Patterson* for the United States. Reported below: 346 F. 2d 227.

No. 496. *HEAPS v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of L. A. Certiorari denied. *Stephen A. Pace, Jr.*, and *Thomas W. Cochran* for petitioner.

No. 503. *WINTER v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Jerome Lewis* and *Thomas R. Newman* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson and Philip R. Monahan* for the United States. Reported below: 348 F. 2d 204.

No. 534. *BATTAGLIA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Russell E. Parsons* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Jerome M. Feit*, for the United States. Reported below: 349 F. 2d 556.

No. 540. *WIESNER v. MARYLAND*. Cir. Ct. for Baltimore County, Md. Certiorari denied. *L. Robert Evans* for petitioner.

No. 613. *DANFORTH FOUNDATION v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. *Albert E. Jenner, Jr.*, for petitioner. *Solicitor General Marshall, Acting Assistant Attorney General Roberts, Morton K. Rothschild and Robert A. Bernstein* for the United States. Reported below: 347 F. 2d 673.

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No. 564. *DURIRON Co., INC. v. STEPHENSON ET AL.* Sup. Ct. Alaska. Certiorari denied. *P. Eugene Smith, Laidler B. Mackall and John E. Nolan, Jr.*, for petitioner. *Theodore Stevens* for respondent Stephenson. Reported below: 401 P. 2d 423.

No. 607. *ANDREWS v. UNITED STATES*;

No. 703. *POSTELL ET AL. v. UNITED STATES*;

No. 706. *ANDREWS ET AL. v. UNITED STATES*; and

No. 707. *OWENS ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. *Jacob Kossman* for petitioner in No. 607. *Thomas D. Hirschfeld* for petitioners in No. 703. *Walter S. Houston* and *Eugene Smith* for petitioners in No. 706. Petitioners *pro se* in No. 707. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Daniel H. Benson* for the United States. Reported below: 347 F. 2d 207.

No. 615. *DIETZ v. CITY OF TOLEDO*. Sup. Ct. Ohio. Certiorari denied. *Merritt W. Green II* for petitioner. *John A. DeVictor, Jr.*, and *John J. Burkhardt* for respondent. Reported below: 3 Ohio St. 2d 30, 209 N. E. 2d 127.

No. 620. *LUROS ET AL. v. HANSON, U. S. DISTRICT JUDGE, ET AL.* C. A. 8th Cir. Certiorari denied. *Stanley Fleishman* and *Sam Rosenwein* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Jerome M. Feit* for respondents.

No. 621. *HILL v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. *James O. Hewitt* for petitioner. *Solicitor General Marshall, Acting Assistant Attorney General Roberts* and *Joseph M. Howard* for the United States et al. Reported below: 346 F. 2d 175.

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No. 616. *EASTER v. ZIFF ET AL.* Ct. App. Md. Certiorari denied.

No. 624. *CREAMER INDUSTRIES, INC. v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. *R. B. Cannon* for petitioner. *Solicitor General Marshall, Acting Assistant Attorney General Roberts* and *Joseph Kovner* for the United States et al. Reported below: 349 F. 2d 625.

No. 627. *PHIPPS v. OHIO.* Sup. Ct. Ohio. Certiorari denied. *Earl W. Allison* for petitioner. *Everett Burton* for respondent.

No. 628. *MOORMAN, ADMINISTRATOR, ET AL. v. AUSTIN PRESBYTERIAN THEOLOGICAL SEMINARY ET AL.* Sup. Ct. Tex. Certiorari denied. *Hume Cofer* and *John D. Cofer* for petitioners. *William B. Carsow* for respondents. Reported below: 391 S. W. 2d 717.

No. 629. *STEIN ET AL. v. OSHINSKY, PRINCIPAL, PUBLIC SCHOOL 184, WHITESTONE, NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied. *Edward J. Bazarian* and *Thomas J. Ford* for petitioners. *Leo A. Larkin, Seymour B. Quel, Benjamin Offner* and *Sidney P. Nadel* for Oshinsky et al., and *Charles A. Brind* for Board of Regents, respondents. Reported below: 348 F. 2d 999.

No. 630. *IDAHO POWER CO. v. FEDERAL POWER COMMISSION.* C. A. 9th Cir. Certiorari denied. *R. P. Parry* and *A. C. Inman* for petitioner. *Solicitor General Marshall, Richard A. Solomon* and *Howard E. Wahrenbrock* for respondent. Reported below: 346 F. 2d 956.

No. 631. *MERRICK v. ALLSTATE INSURANCE CO.* C. A. 8th Cir. Certiorari denied. *Jerome J. Duff* for petitioner. *John S. Marsalek* for respondent. Reported below: 349 F. 2d 279.

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No. 727. *IVY v. KATZENBACH*, ATTORNEY GENERAL, ET AL. C. A. 7th Cir. Certiorari denied. *Leonard R. Hartenfeld* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Donald I. Bierman* for respondents. Reported below: 351 F. 2d 32.

No. 618. *WINCKLER & SMITH CITRUS PRODUCTS CO. ET AL. v. SUNKIST GROWERS, INC., ET AL.* C. A. 9th Cir. Motion to dispense with printing the petition for writ of certiorari granted. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this motion and petition. *Bernard Reich* for petitioners. *Ross C. Fisher and Herman F. Selvin* for respondents. Reported below: 346 F. 2d 1012.

No. 622. *PACIFIC COAST EUROPEAN CONFERENCE ET AL. v. UNITED STATES ET AL.* C. A. 9th Cir. Motion of Dow Chemical Co. et al. to be added as parties respondent granted. Certiorari denied. *Robert L. Harmon* for petitioners. *Solicitor General Marshall, Assistant Attorney General Turner, Irwin A. Seibel, Milan C. Miskovsky and Walter H. Mayo III* for the United States et al. Reported below: 350 F. 2d 197.

No. 625. *AUERBACH ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Joseph J. Lyman* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Julia P. Cooper* for the United States. Reported below: 347 F. 2d 742.

No. 38, Misc. *CONWAY v. VIRGINIA.* Cir. Ct. Arlington County, Va. Certiorari denied. *Francis G. Molinaro* for petitioner.

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No. 634. FOREMOST DAIRIES, INC. *v.* FEDERAL TRADE COMMISSION. C. A. 5th Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Edgar E. Barton, George W. Milam and Macdonald Flinn* for petitioner. *Solicitor General Marshall, Assistant Attorney General Turner, Lionel Kestenbaum, Jerry Z. Pruzansky and James McI. Henderson* for respondent. Reported below: 348 F. 2d 674.

No. 726. GIANCANA *v.* UNITED STATES. C. A. 7th Cir. Motion to stay execution of commitment for contempt and petition for writ of certiorari denied. *Edward Bennett Williams and Richard E. Gorman* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Sidney M. Glazer* for the United States. Reported below: 352 F. 2d 921.

No. 10, Misc. LAW *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. *Weldon Funderburk* for petitioner. *Waggoner Carr, Attorney General of Texas, and Hawthorne Phillips, Stanton Stone, Howard M. Fender and Allo B. Crow, Jr.*, Assistant Attorneys General, for respondent.

No. 14, Misc. PERRY *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Richard T. Conway* for petitioner. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Theodore George Gilinsky* for the United States. Reported below: 121 U. S. App. D. C. 29, 347 F. 2d 813.

No. 30, Misc. MILLER *v.* NEW MEXICO. Sup. Ct. N. M. Certiorari denied. Petitioner *pro se*. *Boston E. Witt, Attorney General of New Mexico, and Thomas O. Olson, Special Assistant Attorney General*, for respondent.

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No. 25, Misc. *LOVE v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied.

No. 35, Misc. *MENACHO v. CALIFORNIA ET AL.* Sup. Ct. Cal. Certiorari denied. Petitioner *pro se*. *Thomas C. Lynch*, Attorney General of California, *John T. Murphy*, Deputy Attorney General, *Arlo E. Smith*, Chief Assistant Attorney General, and *Albert W. Harris, Jr.*, Assistant Attorney General, for respondents.

No. 40, Misc. *BURNS v. HARRIS, WARDEN*. C. A. 8th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox*, *Assistant Attorney General Doar* and *Harold H. Greene* for respondent. Reported below: 340 F. 2d 383.

No. 65, Misc. *MCDONALD v. RHAY, PENITENTIARY SUPERINTENDENT*. Sup. Ct. Wash. Certiorari denied. Petitioner *pro se*. *John J. O'Connell*, Attorney General of Washington, and *Stephen C. Way*, Assistant Attorney General, for respondent.

No. 69, Misc. *SNIPE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Theodore Wieseman* for the United States. Reported below: 343 F. 2d 25.

No. 72, Misc. *SEGARS v. BOMAR, WARDEN*. C. A. 6th Cir. Certiorari denied. Petitioner *pro se*. *George F. McCanless*, Attorney General of Tennessee, and *Henry C. Foutch*, Assistant Attorney General, for respondent.

No. 105, Misc. *BERTRAND v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Petitioner *pro se*. *Jack P. F. Gremillion*, Attorney General of Louisiana, for respondent.

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No. 52, Misc. *TILLETT v. MISSOURI*. Sup. Ct. Mo. Certiorari denied.

No. 75, Misc. *SMITH v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Petitioner *pro se*. *William G. Clark*, Attorney General of Illinois, and *Richard A. Michael*, Assistant Attorney General, for respondent.

No. 107, Misc. *DRAPER ET AL. v. WASHINGTON ET AL.* Sup. Ct. Wash. Certiorari denied. Petitioners *pro se*. *George A. Kain* for respondents. Reported below: 65 Wash. 2d 303, 396 P. 2d 990.

No. 124, Misc. *DAVIS v. WILSON, WARDEN, ET AL.* Sup. Ct. Cal. Certiorari denied. Petitioner *pro se*. *Thomas C. Lynch*, Attorney General of California, and *Robert R. Granucci* and *Charles W. Rumph*, Deputy Attorneys General, for respondents.

No. 211, Misc. *SYVERSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Petitioner *pro se*. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Julia P. Cooper* for the United States. Reported below: 342 F. 2d 780.

No. 233, Misc. *ROBINS v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. *William E. Gray* for petitioner. *Waggoner Carr*, Attorney General of Texas, *Hawthorne Phillips*, *T. B. Wright*, *Howard M. Fender* and *Gilbert J. Pena*, Assistant Attorneys General, for respondent.

No. 255, Misc. *WILLIAMS v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied. Petitioner *pro se*. *George F. McCanless*, Attorney General of Tennessee, and *Edgar P. Calhoun*, Assistant Attorney General, for respondent. Reported below: — Tenn. —, 390 S. W. 2d 234.

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No. 234, Misc. *REYNOLDS v. LANGLOIS, WARDEN*.
Sup. Ct. R. I. Certiorari denied. Reported below: —
R. I. —, 209 A. 2d 237.

No. 269, Misc. *BROWN v. BROUH, WARDEN*. Ct.
App. Md. Certiorari denied.

No. 299, Misc. *WILLIAMS v. UNITED STATES*. C. A.
D. C. Cir. Certiorari denied. *Bruce E. Clubb* for peti-
tioner. *Solicitor General Cox, Assistant Attorney Gen-
eral Vinson, Beatrice Rosenberg and Ronald L. Gainer*
for the United States. Reported below: 120 U. S. App.
D. C. 244, 345 F. 2d 733.

No. 315, Misc. *MEYES v. CALIFORNIA*. Sup. Ct. Cal.
Certiorari denied.

No. 323, Misc. *GREEN v. NEW YORK*. App. Div.,
Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. *David
J. Mountan, Jr.*, for petitioner. *Aaron E. Koota and
Frank Di Lalla* for respondent.

No. 324, Misc. *WOODSON v. IOWA*. C. A. 8th Cir.
Certiorari denied.

No. 353, Misc. *RHODES v. TINSLEY, WARDEN*. C. A.
10th Cir. Certiorari denied. Petitioner *pro se*. *Duke
W. Dunbar*, Attorney General of Colorado, *Frank E.
Hickey*, Deputy Attorney General, and *John E. Bush*,
Assistant Attorney General, for respondent. Reported
below: 343 F. 2d 135.

No. 359, Misc. *IRVING v. CALIFORNIA*. Sup. Ct. Cal.
Certiorari denied.

No. 363, Misc. *TILLMAN v. CALIFORNIA*. Sup. Ct.
Cal. Certiorari denied.

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No. 350, Misc. *YOUNG v. WASHINGTON*. Sup. Ct. Wash. Certiorari denied. Reported below: 65 Wash. 2d 938, 400 P. 2d 374.

No. 403, Misc. *POSTELL v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 435, Misc. *BAILEY v. RHAY, PENITENTIARY SUPERINTENDENT*. Sup. Ct. Wash. Certiorari denied.

No. 456, Misc. *WRIGHT v. RHAY, PENITENTIARY SUPERINTENDENT*. Sup. Ct. Wash. Certiorari denied.

No. 491, Misc. *BARNOSKY v. MARONEY, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 496, Misc. *WHITE v. GRANT, U. S. DISTRICT JUDGE*. C. A. 7th Cir. Certiorari denied.

No. 497, Misc. *WILLIAMS v. FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 174 So. 2d 97.

No. 506, Misc. *BROOKS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States.

No. 518, Misc. *BIRDSSELL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *O. Don Chapoton* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Jerome M. Feit* for the United States. Reported below: 346 F. 2d 775.

No. 534, Misc. *STAHLMAN v. RHAY, PENITENTIARY SUPERINTENDENT*. Sup. Ct. Wash. Certiorari denied.

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No. 548, Misc. *WILLIAMS v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied. *Jacob Wysoker* for petitioner.

No. 571, Misc. *YOUNG v. WEST VIRGINIA*. Sup. Ct. App. W. Va. Certiorari denied.

No. 600, Misc. *NOONKESTER v. WASHINGTON ET AL.* Sup. Ct. Wash. Certiorari denied.

No. 607, Misc. *WILLIAMS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States. Reported below: 342 F. 2d 425.

No. 614, Misc. *FENTON v. HEINZE, WARDEN*. Sup. Ct. Cal. Certiorari denied.

No. 616, Misc. *WHITE v. UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 637, Misc. *ATKINS v. KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 195 Kan. 182, 403 P. 2d 962.

No. 638, Misc. *NELSON v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 346 F. 2d 73.

No. 654, Misc. *GLOVER v. LAVALLEE, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 656, Misc. *SALAZAR v. Cox, WARDEN*; and

No. 657, Misc. *LUCERO v. Cox, WARDEN*. Sup. Ct. N. M. Certiorari denied.

No. 658, Misc. *BATES v. WILSON, WARDEN*. Sup. Ct. Cal. Certiorari denied.

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No. 691, Misc. ARMENTA *v.* DUNBAR, CORRECTIONS DIRECTOR. Sup. Ct. Cal. Certiorari denied.

No. 692, Misc. MAGETTE *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Petitioner *pro se*. Frank S. Hogan and H. Richard Uviller for respondent.

No. 693, Misc. HURLEY *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Daniel H. Benson for the United States.

No. 695, Misc. LYONS ET AL. *v.* BAILEY, DIRECTOR, JUVENILE COURT FACILITIES. Sup. Ct. Cal. Certiorari denied.

No. 697, Misc. BOWDEN *v.* CALIFORNIA ADULT AUTHORITY ET AL. Sup. Ct. Cal. Certiorari denied.

No. 698, Misc. SANCHEZ *v.* COX, WARDEN. Sup. Ct. N. M. Certiorari denied.

No. 702, Misc. CAGLE *v.* HARRIS, WARDEN. C. A. 8th Cir. Certiorari denied. Petitioner *pro se*. Solicitor General Marshall, Assistant Attorney General Doar and David L. Norman for respondent. Reported below: 349 F. 2d 404.

No. 704, Misc. LITTERIO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Petitioner *pro se*. Solicitor General Marshall for the United States.

No. 708, Misc. VANHOOK *v.* EKLUND, PRISON SUPERINTENDENT. C. A. 9th Cir. Certiorari denied. Reported below: 348 F. 2d 920.

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No. 729, Misc. *PEGUESE v. FAY, WARDEN.* C. A. 2d Cir. Certiorari denied.

No. 734, Misc. *Ross v. DELTA DRILLING Co.* C. A. 5th Cir. Certiorari denied.

No. 737, Misc. *DE LUCIA v. YEAGER, WARDEN.* C. A. 3d Cir. Certiorari denied. Reported below: 346 F. 2d 569.

No. 763, Misc. *SHIELDS v. MISSOURI.* Sup. Ct. Mo. Certiorari denied. *Julian C. Jaeckel* for petitioner. Reported below: 391 S. W. 2d 909.

No. 780, Misc. *PUCKETT v. TENNESSEE.* Sup. Ct. Tenn. Certiorari denied. Petitioner *pro se.* *George F. McCanless*, Attorney General of Tennessee, and *Edgar P. Calhoun*, Assistant Attorney General, for respondent.

No. 786, Misc. *MATLOCK v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Petitioner *pro se.* *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Julia P. Cooper* for the United States. Reported below: 350 F. 2d 261.

No. 801, Misc. *CORCORAN v. YORTY ET AL.* C. A. 9th Cir. Certiorari denied. Petitioner *pro se.* *Roger Arnebergh* and *Bourke Jones* for respondents. Reported below: 347 F. 2d 222.

Rehearing Denied.

No. 533, Misc. *CLARK v. ILLINOIS*, *ante*, p. 910. Petition for rehearing denied.

No. 281. *SHAKESPEARE ET AL. v. CITY OF PASADENA*, *ante*, p. 39. Motion to dispense with printing petition for rehearing granted. Petition for rehearing denied.

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JANUARY 5, 1966.

Dismissal Under Rule 60.

No. 637. JAHNCKE SERVICE, INC., ET AL. *v.* GREATER NEW ORLEANS EXPRESSWAY COMMISSION ET AL. C. A. 5th Cir. Petition for writ of certiorari as to petitioner Home Insurance Co. dismissed pursuant to Rule 60 of the Rules of this Court. *Eberhard P. Deutsch* and *René H. Himel, Jr.*, for petitioners. *George B. Matthews* for respondent Greater New Orleans Expressway Commission. Reported below: 341 F. 2d 956.

JANUARY 17, 1966.

Dismissal Under Rule 60.

No. 1039, Misc. *WELLS v. WASHINGTON*. Sup. Ct. Wash. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court.

Miscellaneous Orders.

No. 22, Original. *SOUTH CAROLINA v. KATZENBACH, ATTORNEY GENERAL*. (Motion for leave to file bill of complaint granted, *ante*, p. 898.) Motion by the State of Alabama for leave to intervene denied. *Francis J. Mizell, Jr.*, and *Reid B. Barnes* on the motion.

No. 210. *STEVENS v. MARKS, NEW YORK SUPREME COURT JUSTICE*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept.; and

No. 290. *STEVENS v. McCLOSKEY, SHERIFF*. C. A. 2d Cir. (Certiorari granted, *ante*, p. 809.) Motion of Superior Officers Council of City of New York Police Department for leave to file brief, as *amicus curiae*, granted. *Abraham Glasser* on the motion. *Frank S. Hogan* and *H. Richard Uviller* for respondents in both cases in opposition.

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No. 219. *BAXSTROM v. HEROLD, STATE HOSPITAL DIRECTOR.* Ct. App. N. Y. (Certiorari granted, 381 U. S. 949.) Motion of respondent for leave to file brief after argument granted. *Louis J. Lefkowitz*, Attorney General of New York, *Ruth Kessler Toch*, Acting Solicitor General, and *Anthony J. Lokot*, Assistant Attorney General, on the motion.

No. 368. *A BOOK NAMED "JOHN CLELAND'S MEMOIRS OF A WOMAN OF PLEASURE" v. ATTORNEY GENERAL OF MASSACHUSETTS.* Appeal from Sup. Jud. Ct. Mass. (Probable jurisdiction noted, *ante*, p. 900.) Motion for leave to file supplemental brief by Citizens for Decent Literature, Inc., as *amicus curiae*, denied. *Charles J. Keating, Jr.*, and *James J. Clancy* on the motion. *Charles Rembar* for appellant in opposition.

No. 535. *UNITED STATES v. CATTO ET AL.* C. A. 5th Cir. (Certiorari granted, *ante*, p. 925.) Motions of respondents to remove case from summary calendar granted and a total of one and one-half hours is allotted for oral argument. *Ben F. Foster* for Catto et al., and *Claiborne B. Gregory* for Wardlaw et al., respondents, on the motions.

No. 657. *BROOKHART v. OHIO.* Sup. Ct. Ohio. (Certiorari granted, *ante*, p. 810.) Motion of petitioner to substitute Martin A. Janis, Director of the Ohio Department of Mental Hygiene and Correction, as party respondent in place of the State of Ohio granted. *Lawrence Herman* on the motion.

No. 711. *UNITED STATES v. KALISHMAN, TRUSTEE IN BANKRUPTCY.* C. A. 8th Cir. The respondent is invited to file a brief expressing his views, as *amicus curiae*, in No. 650.

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No. 584. CALIFORNIA *v.* STEWART. Sup. Ct. Cal. (Certiorari granted, *ante*, p. 937.) Motion of petitioner to dispense with printing the record granted. Motion of respondent for leave to proceed *in forma pauperis* granted. Motion of petitioner to remove case from summary calendar granted and a total of one and one-half hours is allotted for oral argument. *Thomas C. Lynch*, Attorney General of California, and *Gordon Ringer*, Deputy Attorney General, for petitioner. *William A. Norris* for respondent.

No. 722. BARRIOS ET AL. *v.* FLORIDA. Appeal from Sup. Ct. Fla. The Solicitor General is invited to file a brief expressing the views of the United States.

No. 761. WESTOVER *v.* UNITED STATES. C. A. 9th Cir. (Certiorari granted, *ante*, p. 924.) Motion for leave to amend the petition denied.

No. 813, Misc. EVANS *v.* KENNEDY, ATTORNEY GENERAL, ET AL. Motion for leave to file petition for writ of certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for respondents. Reported below: 343 F. 2d 913.

No. 805, Misc. CEPHAS *v.* BOLES, WARDEN;

No. 831, Misc. WHITTINGTON *v.* WEAKLEY, REFORMATORY SUPERINTENDENT;

No. 876, Misc. WILLIAMS *v.* FOLLETTE, WARDEN;

No. 891, Misc. MADDEN *v.* CALIFORNIA;

No. 897, Misc. TYNAN *v.* EYMAN, WARDEN, ET AL.;

No. 911, Misc. EARNSHAW *v.* KATZENBACH, ATTORNEY GENERAL, ET AL.; and

No. 925, Misc. ORTEGA *v.* WARDEN, MICHIGAN STATE PRISON. Motions for leave to file petitions for writs of habeas corpus denied.

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No. 593, Misc. *MURRAY v. FLORIDA*. Motion for leave to file petition for writ of habeas corpus denied. Treating the papers submitted as a petition for writ of certiorari, certiorari is denied. Petitioner *pro se*. *Earl Faircloth*, Attorney General of Florida, and *George R. Georgieff*, Assistant Attorney General, for respondent.

No. 778, Misc. *TRUSLOW v. BOLES, WARDEN*; and

No. 895, Misc. *SHEFTIC v. BOLES, WARDEN*. Motions for leave to file petitions for writs of habeas corpus denied. Treating the papers submitted as petitions for writs of certiorari, certiorari is denied.

Probable Jurisdiction Noted or Postponed.

No. 79. *CASCADE NATURAL GAS CORP. v. EL PASO NATURAL GAS CO. ET AL.*;

No. 82. *CALIFORNIA v. EL PASO NATURAL GAS CO. ET AL.*; and

No. 596. *SOUTHERN CALIFORNIA EDISON CO. v. EL PASO NATURAL GAS CO. ET AL.* Appeals from D. C. Utah. Probable jurisdiction noted. The cases are consolidated and a total of two hours is allotted for oral argument. MR. JUSTICE WHITE and MR. JUSTICE FORTAS took no part in the consideration or decision of these cases. *H. B. Jones, Jr.*, for appellant in No. 79. *William M. Bennett* for appellant in No. 82. *Rollin E. Woodbury, Harry W. Sturges, Jr., William E. Marx* and *Raymond T. Senior* for appellant in No. 596. *Gregory A. Harrison, Atherton Phleger* and *Leon M. Payne* for El Paso Natural Gas Co., appellee in all cases. Former Solicitor General *Cox*, Assistant Attorney General *Orrick, Lionel Kestenbaum* and *Donald L. Hardison* for the United States, appellee in Nos. 79 and 82; and Solicitor General *Marshall, Assistant Attorney General Turner* and *Lionel Kestenbaum* for the United States, appellee in No. 596.

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No. 531. UNITED STATES *v.* BLUE. Appeal from D. C. S. D. Cal. Further consideration of the question of jurisdiction in this case postponed to the hearing of the case on the merits. *Solicitor General Marshall, Acting Assistant Attorney General Roberts and Joseph M. Howard* for the United States. *Ernest R. Mortenson* for appellee.

Certiorari Granted. (See also No. 87, *ante*, p. 366; No. 100, *ante*, p. 367; No. 593, *ante*, p. 362; and No. 663, *ante*, p. 374.)

No. 471. CITY OF GREENWOOD *v.* PEACOCK ET AL.; and No. 649. PEACOCK ET AL. *v.* CITY OF GREENWOOD. C. A. 5th Cir. Certiorari granted. The cases are consolidated and a total of two hours is allotted for oral argument. The cases are set for oral argument immediately following No. 147. *Aubrey H. Bell* for petitioner in No. 471 and for respondent in No. 649. *Benjamin E. Smith* and *Claudia Shropshire* for petitioners in No. 649 and for respondents in No. 471. Reported below: 347 F. 2d 679, 986.

No. 619. ASHTON *v.* KENTUCKY. Ct. App. Ky. Certiorari granted. *Ephraim London* and *Dan Jack Combs* for petitioner. *Robert Matthews*, Attorney General of Kentucky, and *John B. Browning*, Assistant Attorney General, for respondent.

No. 650. NICHOLAS, TRUSTEE *v.* UNITED STATES. C. A. 5th Cir. Certiorari granted. *John H. Gunn* for petitioner. *Solicitor General Marshall, Acting Assistant Attorney General Roberts* and *I. Henry Kutz* for the United States. Reported below: 346 F. 2d 32.

No. 658. SCHMERBER *v.* CALIFORNIA. App. Dept., Super. Ct. Cal., County of L. A. Certiorari granted. *Thomas M. McGurkin* for petitioner. *Roger Arnebergh, Philip E. Grey* and *Wm. E. Doran* for respondent.

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No. 645. UNITED STATES *v.* EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES. Sup. Ct. N. J. Certiorari granted. *Solicitor General Marshall, Acting Assistant Attorney General Roberts, Joseph Kovner and George F. Lynch* for the United States. Reported below: 45 N. J. 206, 212 A. 2d 25.

No. 692. PURE OIL Co. *v.* SUAREZ. C. A. 5th Cir. Certiorari granted. *Eberhard P. Deutsch, René H. Himel, Jr., and Joaquin Campoy* for petitioner. *Arthur Roth, S. Eldridge Sampliner and Charlotte J. Roth* for respondent. Reported below: 346 F. 2d 890.

Certiorari Denied. (See also No. 679, *ante*, p. 366; No. 690, *ante*, p. 367; No. 699, *ante*, p. 371; No. 732, *ante*, p. 370; and Misc. Nos. 593, 778 and 895, *supra*.)

No. 70. AIRCRAFT & ENGINE MAINTENANCE & OVERHAUL, BUILDING, CONSTRUCTION, MANUFACTURING, PROCESSING & DISTRIBUTION & ALLIED INDUSTRIES EMPLOYEES, LOCAL 290, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA *v.* I. E. SCHILLING Co., INC. C. A. 5th Cir. Certiorari denied. *David Previant, L. N. D. Wells, Jr., and Charles J. Morris* for petitioner. *John Bacheller, Jr.*, for respondent. Reported below: 340 F. 2d 286.

No. 86. AIRCRAFT & ENGINE MAINTENANCE & OVERHAUL, BUILDING, CONSTRUCTION, MANUFACTURING, PROCESSING & DISTRIBUTION & ALLIED INDUSTRIES EMPLOYEES, LOCAL 290, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA *v.* OOLITE CONCRETE Co. C. A. 5th Cir. Certiorari denied. *David Previant, L. N. D. Wells, Jr., and Charles J. Morris* for petitioner. *John Bacheller, Jr.*, for respondent. Reported below: 341 F. 2d 210.

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No. 245. *BLOOMBAUM v. MARYLAND*. Ct. App. Md. Certiorari denied. *Joseph S. Kaufman* for petitioner. *Thomas B. Finan*, Attorney General of Maryland, and *Robert F. Sweeney*, Assistant Attorney General, for respondent. Reported below: 237 Md. 663, 207 A. 2d 651.

No. 601. *GOODYEAR TIRE & RUBBER Co. ET AL. v. COMMISSIONER OF PATENTS*. C. A. D. C. Cir. Certiorari denied. *Francis C. Browne* for petitioners. *Solicitor General Marshall*, *Assistant Attorney General Douglas*, *David L. Rose* and *Frederick B. Abramson* for respondent. Reported below: 121 U. S. App. D. C. 275, 349 F. 2d 710.

No. 617. *BORST v. BRENNER, COMMISSIONER OF PATENTS*. C. C. P. A. Certiorari denied. *Richard Whiting* for petitioner. *Solicitor General Marshall*, *Assistant Attorney General Douglas*, *Morton Hollander* and *Edward Berlin* for respondent. Reported below: 52 C. C. P. A. (Pat.) 554, 345 F. 2d 851.

No. 623. *GEORGIA RAILROAD & BANKING Co. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *Paul R. Russell* and *William J. Cooney* for petitioner. *Solicitor General Marshall* and *Acting Assistant Attorney General Roberts* for the United States. Reported below: 348 F. 2d 278.

No. 632. *SCALZA v. UNITED STATES*; and

No. 701. *HYMAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Richard Lipsitz* and *Eugene Gressman* for petitioner in No. 632. *Sidney O. Raphael* for petitioner in No. 701. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg*, *Kirby W. Patterson* and *Mervyn Hamburg* for the United States. Reported below: 350 F. 2d 171.

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No. 637. *JAHNCKE SERVICE, INC. v. GREATER NEW ORLEANS EXPRESSWAY COMMISSION ET AL.* C. A. 5th Cir. Certiorari denied. *Eberhard P. Deutsch* and *René H. Himel, Jr.*, for petitioner. *George B. Matthews* for respondent Greater New Orleans Expressway Commission. Reported below: 341 F. 2d 956.

No. 638. *STANDARD-TRIUMPH MOTOR CO., INC. v. CITY OF HOUSTON ET AL.* C. A. 5th Cir. Certiorari denied. *Joyce Cox* for petitioner. *John Wildenthal, Jr.*, and *Homer T. Bouldin* for respondents. Reported below: 347 F. 2d 194.

No. 639. *BROADNAX v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. *James A. Jameson* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 346 F. 2d 119.

No. 640. *MIDWEST LAUNDRY EQUIPMENT CORP. v. BERG ET UX.* Sup. Ct. Neb. Certiorari denied. *Joseph E. Dean, Jr.*, for petitioner. Reported below: 178 Neb. 770, 135 N. W. 2d 457.

No. 641. *AUTOMATION DEVICES, INC. v. SMALEN-BERGER, DBA AUTOMATIC FEEDER CO.* C. A. 7th Cir. Certiorari denied. *Jack E. Dominik* for petitioner. *Warren C. Horton* for respondent. Reported below: 346 F. 2d 288.

No. 644. *HEIDER ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. *William E. Dougherty* for petitioners. *Solicitor General Marshall, Acting Assistant Attorney General Roberts, Joseph M. Howard* and *John P. Burke* for the United States. Reported below: 347 F. 2d 695.

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No. 646. *ADAMS ET AL. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *Chris Dixie, David E. Feller and Jerry D. Anker* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States. Reported below: 347 F. 2d 665.

No. 648. *GRANT v. NEW YORK.* Ct. App. N. Y. Certiorari denied. *Max J. Rubin* for petitioner. *Frank S. Hogan and H. Richard Uviller* for respondent.

No. 651. *MONTANA EASTERN PIPE LINE Co. v. SHELL OIL Co. ET AL.* C. A. 9th Cir. Certiorari denied. *Daryl E. Engebregson* for petitioner. *J. T. Lamb* for respondents.

No. 653. *RAHMOELLER v. CALIFORNIA.* App. Dept., Super. Ct. Cal., County of L. A. Certiorari denied. *Ernest George Williams* for petitioner.

No. 660. *JONES, ADMINISTRATOR v. UNITED STATES.* Ct. Cl. Certiorari denied. Petitioner *pro se.* *Solicitor General Marshall* for the United States.

No. 664. *LILLO ET AL. v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. *Frederic C. Ritger, Jr.*, for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Ronald L. Gainer* for the United States.

No. 666. *J. C. MARTIN CORP. v. FEDERAL TRADE COMMISSION.* C. A. 3d Cir. Certiorari denied. *Miles Warner and Walter D. Hansen* for petitioner. *Solicitor General Marshall, Assistant Attorney General Turner, Robert B. Hummel and James McI. Henderson* for respondent. Reported below: 346 F. 2d 147.

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No. 665. *RUDICK v. SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES ET AL.* Dist. Ct. App. Cal., 2d App. Dist. Certiorari denied. *Phill Silver* for petitioner.

No. 667. *KATSCHKE ET AL. v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. *Maurice J. Walsh* and *Edward J. Calihan, Jr.*, for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Donald I. Bierman* for the United States. Reported below: 350 F. 2d 587.

No. 668. *WATSON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *Jacob Rassner* for petitioner. *Solicitor General Marshall* for the United States. Reported below: 346 F. 2d 52.

No. 669. *RITACCO ET AL. v. UNITED STATES.* C. A. 8th Cir. Certiorari denied. *Paul A. Skjervold* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Sidney M. Glazer* for the United States. Reported below: 349 F. 2d 907.

No. 670. *TECON ENGINEERS, INC., ET AL. v. UNITED STATES.* Ct. Cl. Certiorari denied. *William C. Battle* and *James E. Fahey* for petitioners. *Solicitor General Marshall, Acting Assistant Attorney General Roberts* and *Philip R. Miller* for the United States. Reported below: 170 Ct. Cl. 389, 343 F. 2d 943.

No. 685. *PINEDO v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. *Morris Lavine* for petitioner. *Solicitor General Marshall, Acting Assistant Attorney General Roberts, Joseph M. Howard* and *John M. Brant* for the United States. Reported below: 347 F. 2d 142.

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No. 671. NORTH TEXAS PRODUCERS ASSOCIATION *v.* METZGER DAIRIES, INC. C. A. 5th Cir. Certiorari denied. *Ashton Phelps* for petitioner. *Charles P. Storey* for respondent. Reported below: 348 F. 2d 189.

No. 672. FIELDSMITH *v.* TEXAS STATE BOARD OF DENTAL EXAMINERS. Ct. Civ. App. Tex., 5th Sup. Jud. Dist. Certiorari denied. *Curtis E. Hill* for petitioner. Reported below: 386 S. W. 2d 305.

No. 674. HULSENBUSCH *v.* DAVIDSON RUBBER Co. C. A. 8th Cir. Certiorari denied. *Victor W. Klein* for petitioner. *Robert B. Russell* for respondent. Reported below: 344 F. 2d 730.

No. 683. TEXAS LIQUOR CONTROL BOARD ET AL. *v.* AMMEX WAREHOUSE Co., INC., ET AL. Ct. Civ. App. Tex., 3d Sup. Jud. Dist. Certiorari denied. *Waggoner Carr*, Attorney General of Texas, *Howard M. Fender*, Assistant Attorney General, and *J. Sam Winters* for petitioners. *Dean Moorhead* for respondents. Reported below: 384 S. W. 2d 768.

No. 687. CHANDLER ET AL. *v.* DAVID ET AL. C. A. 5th Cir. Certiorari denied. *Ashley Sellers*, *John D. Conner* and *George C. Davis* for petitioners. *Solicitor General Marshall*, *Assistant Attorney General Douglas*, *Alan S. Rosenthal* and *Edward Berlin* for respondents. Reported below: 350 F. 2d 669.

No. 686. MELCHER ET AL. *v.* RIDDELL, DISTRICT DIRECTOR OF INTERNAL REVENUE. C. A. 9th Cir. Certiorari denied. *Jerome B. Rosenthal* and *Harland N. Green* for petitioners. *Solicitor General Marshall*, *Acting Assistant Attorney General Roberts* and *Harold C. Wilkenfeld* for respondent. Reported below: 350 F. 2d 291.

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No. 680. *ANDREWS v. CITY OF SAN BERNARDINO ET AL.*
Dist Ct. App. Cal., 4th App. Dist. Certiorari denied.
Manuel Ruiz for petitioner. *Waldo Willhoft* for re-
spondents.

No. 675. *STEVENS, EXECUTRIX, ET AL. v. HUMBLE*
Oil & Refining Co. C. A. 5th Cir. Certiorari denied.
Arthur C. Reuter and *Herbert J. Garon* for petitioners.
Reported below: 346 F. 2d 43.

No. 689. *MANHATTAN-BRONX POSTAL UNION ET AL.*
v. O'BRIEN, POSTMASTER GENERAL. C. A. D. C. Cir.
Certiorari denied. *Roy C. Frank* for petitioners. *Solicitor General Marshall, Assistant Attorney General Douglas, Morton Hollander* and *Robert V. Zener* for respondent.
Reported below: 121 U. S. App. D. C. 321, 350 F. 2d 451.

No. 693. *MOORE v. P. W. PUBLISHING Co., INC.*
Sup. Ct. Ohio. Certiorari denied. *James R. Hinton* for petitioner. *W. Howard Fort* for respondent.
Reported below: 3 Ohio St. 2d 183, 209 N. E. 2d 412.

No. 696. *DILLON v. UNITED STATES.* C. A. 9th Cir.
Certiorari denied. *Robert S. Miller* for petitioner. *Solicitor General Marshall, Assistant Attorney General Douglas, Morton Hollander* and *Robert V. Zener* for the United States.
Reported below: 346 F. 2d 633.

No. 710. *CONTINENTAL GRAIN Co. v. WASHINGTON.*
Sup. Ct. Wash. Certiorari denied. *Arthur A. Goldsmith* and *Dwight L. Schwab* for petitioner. *John J. O'Connell*, Attorney General of Washington, and *James A. Furber* and *Henry W. Wager*, Assistant Attorneys General, for respondent.
Reported below: 66 Wash. 2d 194, 401 P. 2d 870.

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No. 697. CARPENTER BODY WORKS, INC. *v.* McCULLLEY ET AL. Ct. Civ. App. Tex., 1st Sup. Jud. Dist. Certiorari denied. *Wiley B. Thomas, Jr.*, for petitioner. *Leland B. Kee* for respondents. Reported below: 389 S. W. 2d 331.

No. 708. AETNA INSURANCE CO. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. *James M. Marsh* and *J. Harry LaBrum* for petitioner. *Solicitor General Marshall* and *Acting Assistant Attorney General Roberts* for the United States. Reported below: 346 F. 2d 985.

No. 713. WINDHAM CREAMERY, INC., ET AL. *v.* FREEMAN, SECRETARY OF AGRICULTURE. C. A. 3d Cir. Certiorari denied. *Edward W. Currie* for petitioners. *Solicitor General Marshall*, *Assistant Attorney General Douglas*, *Alan S. Rosenthal* and *Frederick B. Abramson* for respondent. Reported below: 350 F. 2d 978.

No. 714. PAGE, GUARDIAN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. *Paul N. Cotro-Manes* for petitioner. *Solicitor General Marshall*, *Assistant Attorney Douglas* and *Alan S. Rosenthal* for the United States. Reported below: 350 F. 2d 28.

No. 715. ST. LOUIS MAILERS' UNION LOCAL NO. 3 *v.* GLOBE-DEMOCRAT PUBLISHING CO. C. A. 8th Cir. Certiorari denied. *Jerome J. Duff* for petitioner. *Lon Hocker* for respondent. Reported below: 350 F. 2d 879.

No. 728. HENNINGER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. *Edward S. Barlock* and *Walter L. Gerash* for petitioner. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 350 F. 2d 849.

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No. 716. *SCHATTEN-CYPRESS Co. v. LEE SHOPS, INC.* C. A. 6th Cir. Certiorari denied. *Thomas Wardlaw Steele* and *Cecil Sims* for petitioner. *Maclin P. Davis, Jr.*, for respondent. Reported below: 350 F. 2d 12.

No. 717. *WALSTON v. LAMBERTSEN*. C. A. 9th Cir. Certiorari denied. *John W. Riley* for petitioner. *Robert V. Holland* for respondent. Reported below: 349 F. 2d 660.

No. 720. *ROLLINS v. PENNSYLVANIA RAILROAD Co.* Super. Ct. N. J. Certiorari denied. *Francis Sorin* for petitioner. *Francis X. Kennelly* for respondent.

No. 721. *DEROSA v. AETNA INSURANCE Co.* C. A. 7th Cir. Certiorari denied. *John G. Phillips* for petitioner. *Peter Fitzpatrick* for respondent. Reported below: 346 F. 2d 245.

No. 723. *KOUNTIS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *Daniel C. Ahern* for petitioner. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Ronald L. Gainer* for the United States. Reported below: 350 F. 2d 869.

No. 725. *SCHWARTZ v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. *Edward Brodsky* for petitioner. *Louis J. Lefkowitz*, Attorney General of New York, *Samuel A. Hirshowitz*, First Assistant Attorney General, *David Clurman* and *Alan L. Kazlow*, Special Assistant Attorneys General, and *Barry Mahoney*, Assistant Attorney General, for respondent.

No. 729. *COE v. HELMERICH & PAYNE, INC.* C. A. 10th Cir. Certiorari denied. *Joseph P. Jenkins* for petitioner. *J. D. Lysaught* for respondent. Reported below: 348 F. 2d 1.

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No. 730. *SMAYDA ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. *Evander C. Smith* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Robert S. Erdahl* and *Daniel H. Benson* for the United States. Reported below: 352 F. 2d 251.

No. 731. *HARRIGAN ET AL. v. HAMM, COMMISSIONER OF REVENUE OF ALABAMA.* Sup. Ct. Ala. Certiorari denied. *Charles B. Arendall, Jr.*, and *M. Roland Nachman, Jr.*, for petitioners. *Richmond Flowers*, Attorney General of Alabama, and *Willard W. Livingston* and *Herbert I. Burson, Jr.*, Assistant Attorneys General, for respondent. Reported below: 278 Ala. 521, 179 So. 2d 154.

No. 737. *CARROLL ET AL. v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. *Sidney Gordon* for petitioners. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for the National Labor Relations Board. *Francis Heisler* for certain real parties in interest. *Richard Ernst* for Pacific Maritime Association.

No. 738. *CHERRIN CORP. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 6th Cir. Certiorari denied. *Marvin W. Cherrin* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 349 F. 2d 1001.

No. 739. *GIBRALTOR AMUSEMENTS, LTD. v. WURLITZER CO. ET AL.* C. A. 2d Cir. Certiorari denied. *Frances Mechta* for petitioner. *Edward R. Neaher* for Wurlitzer Co. et al., and *Joseph Jaspan* for Christ, Trustee, respondents.

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No. 736. REPUBLIC OF IRAQ *v.* FIRST NATIONAL BANK OF CHICAGO. C. A. 7th Cir. Certiorari denied. *Carl L. Shipley* for petitioner. Reported below: 350 F. 2d 645.

No. 740. ABBAMONTE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Irwin Klein* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. May-sack* for the United States. Reported below: 348 F. 2d 700.

No. 742. CITY OF CLEVELAND *v.* PUBLIC UTILITIES COMMISSION OF OHIO ET AL. Sup. Ct. Ohio. Certiorari denied. *William T. McKnight and James L. Harkens, Jr.*, for petitioner. *William Saxbe, Attorney General of Ohio, and Theodore K. High, Assistant Attorney General, for Public Utilities Commission of Ohio, and John Lansdale* for Cleveland Electric Illuminating Co., respondents. Reported below: 3 Ohio St. 2d 82, 209 N. E. 2d 424.

No. 744. AMERICAN COMPRESS WAREHOUSE, DIVISION OF FROST-WHITED CO., INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 5th Cir. Certiorari denied. *Thomas E. Shroyer* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli, Norton J. Come and Herman M. Levy* for respondent. Reported below: 350 F. 2d 365.

No. 749. SUN OIL CO. *v.* FEDERAL TRADE COMMISSION. C. A. 7th Cir. Certiorari denied. *Leonard J. Emmerglick, Henry A. Frye and Richard L. Freeman* for petitioner. *Solicitor General Marshall, Assistant Attorney General Turner, Robert B. Hummel, James McI. Henderson and Alvin L. Berman* for respondent. Reported below: 350 F. 2d 624.

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No. 745. *Moskow et al. v. Boston Redevelopment Authority et al.* Sup. Jud. Ct. Mass. Certiorari denied. *James W. Kelleher* and *Edgar L. Kelley* for petitioners. *Lewis H. Weinstein* and *Loyd M. Starrett* for Boston Redevelopment Authority; *William H. Kerr* for the City of Boston et al.; *Edward W. Brooke*, Attorney General of Massachusetts, and *David Berman*, Assistant Attorney General, for the Director of the Division of Urban Renewal; and *Richard Wait* for New England Merchants National Bank of Boston et al., respondents. Reported below: 349 Mass. 553, 210 N. E. 2d 699.

No. 746. *Rainey et al. v. George A. Fuller Co. et al.* Sup. Ct. Cal. Certiorari denied. *Phill Silver* for petitioners.

No. 747. *Mack v. Brenner, Commissioner of Patents.* C. C. P. A. Certiorari denied. *Henry Gifford Hardy* for petitioner. *Solicitor General Marshall*, *Assistant Attorney General Douglas*, *Alan S. Rosenthal* and *Harvey L. Zuckman* for respondent. Reported below: 52 C. C. P. A. (Pat.) 394, 344 F. 2d 719.

No. 748. *Berner et al., Executors v. British Commonwealth Pacific Airlines, Ltd., et al.* C. A. 2d Cir. Certiorari denied. *T. Roland Berner*, *M. Victor Leventritt* and *Aaron Lewittes* for petitioners. *Austin P. Magner* and *George N. Tompkins, Jr.*, for respondents. Reported below: 346 F. 2d 532.

No. 756. *David et ux. v. Phinney, District Director of Internal Revenue.* C. A. 5th Cir. Certiorari denied. *Fentress Bracewell* and *John M. Robinson* for petitioners. *Solicitor General Marshall* and *Acting Assistant Attorney General Roberts* for respondent. Reported below: 350 F. 2d 371.

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No. 753. 93 COURT CORP. ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Albert Foreman* for petitioners. *Acting Solicitor General Spritzer, Assistant Attorney General Douglas* and *David L. Rose* for the United States. Reported below: 350 F. 2d 386.

No. 757. GORANSON, ADMINISTRATOR *v.* CAPITAL AIRLINES, INC., ET AL. C. A. 6th Cir. Certiorari denied. *Fred A. Smith* for petitioner. *Wayne E. Stichter* for respondents. Reported below: 345 F. 2d 750.

No. 771. BATES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Raymond E. Sutton* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Mervyn Hamburg* for the United States. Reported below: 352 F. 2d 399.

No. 774. WORLD AIRWAYS, INC. *v.* NORTHEAST AIRLINES, INC. C. A. 1st Cir. Certiorari denied. *Jerrold Scoult, Jr.*, and *Raymond J. Rasenberger* for petitioner. *Laurence S. Fordham* for respondent. Reported below: 349 F. 2d 1007.

No. 780. RELEFORD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *John F. Dugger* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Julia P. Cooper* for the United States. Reported below: 352 F. 2d 36.

No. 787. BANK OF AMERICA NATIONAL TRUST & SAVINGS ASSOCIATION *v.* FEDERAL RESERVE BANK OF SAN FRANCISCO. C. A. 9th Cir. Certiorari denied. *Robert H. Fabian* and *Harris B. Taylor* for petitioner. *Solicitor General Marshall, Assistant Attorney General Douglas, Morton Hollander* and *Richard S. Salzman* for respondent. Reported below: 349 F. 2d 565.

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No. 769. CALIFORNIA CO. v. KUCHENIG. C. A. 5th Cir. Certiorari denied. *Lawrence K. Benson* for petitioner. Reported below: 350 F. 2d 551.

No. 790. SIGNAL MANUFACTURING CO. v. NATIONAL LABOR RELATIONS BOARD. C. A. 1st Cir. Certiorari denied. *Maurice Epstein* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli, Norton J. Come and Warren M. Davison* for respondent. Reported below: 351 F. 2d 471.

No. 798. KING v. UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Orie Seltzer* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States.

No. 34. FRANKEL ET AL. v. FEDERAL POWER COMMISSION ET AL.;

No. 35. J. RAY McDERMOTT & CO., INC. v. FEDERAL POWER COMMISSION ET AL.; and

No. 36. SUPERIOR OIL CO. v. FEDERAL POWER COMMISSION ET AL. C. A. 5th Cir. Motion of United Gas Pipe Line Co. to be added as a party respondent in No. 36 granted. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this motion and these petitions. *H. H. Hillyer, Jr.*, for petitioners in Nos. 34 and 35. *Murray Christian, Herbert W. Varner and R. B. Voight* for petitioner in No. 36. *Solicitor General Cox, Richard A. Solomon, Howard A. Wahrenbrock and Josephine H. Klein* for the Federal Power Commission, respondent in all cases. *Kent H. Brown and Morton L. Simons* for Public Service Commission of New York, respondent in Nos. 34 and 35. *Vernon W. Woods and Saunders Gregg* for United Gas Pipe Line Co., respondent in No. 36. Reported below: 335 F. 2d 1004.

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No. 800. *MOBIL OIL Co. v. LOCAL 7-644, OIL, CHEMICAL & ATOMIC WORKERS INTERNATIONAL UNION, AFL-CIO.* C. A. 7th Cir. Certiorari denied. *William H. Armstrong* and *Robert L. Broderick* for petitioner. *Harold Gruenberg* for respondent. Reported below: 350 F. 2d 708.

No. 355. *LITTELL v. NAKAI.* C. A. 9th Cir. Motion to dispense with printing respondent's brief granted. Certiorari denied. *Frederick Bernays Wiener* and *John F. Doyle* for petitioner. *Harold E. Mott* for respondent. *Solicitor General Marshall* for the United States, as *amicus curiae*, in opposition. Reported below: 344 F. 2d 486.

No. 566. *HOOPER v. UNITED STATES.* C. A. 6th Cir. Motion for leave to file a supplement to the petition granted. Motion to dispense with printing petition granted. Certiorari denied. *Charles Orlando Pratt* and *Hamilton W. Kenner* for petitioner. *Solicitor General Marshall* and *Charles J. McCarthy* for the United States.

No. 603. *ENGLAND ET UX. v. UNITED STATES.* C. A. 7th Cir. Certiorari denied. Mr. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Ernest Rubenstein* for petitioners. *Solicitor General Marshall*, *Acting Assistant Attorney General Roberts* and *I. Henry Kutz* for the United States. Briefs of *amici curiae*, in support of the petition, were filed by *Graham W. McGowan* for the Electronic Industries Association; by *John R. Turney, Jr.*, for the Manufacturing Chemists' Association, Inc.; by *George R. Fearon* and *Richard B. Barker* for the Associated Industries of New York State, Inc.; and by *Lambert H. Miller* for the National Association of Manufacturers of the United States. Reported below: 345 F. 2d 414.

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No. 643. *THOMPSON v. KAWASAKI KISEN, K. K., ET AL.* C. A. 1st Cir. Motion of the American Trial Lawyers Association for leave to file brief, as *amicus curiae*, granted. Certiorari denied. *Eugene X. Giroux* for petitioner. *Seymour P. Edgerton* for Kawasaki Kisen, K. K., and *C. Keefe Hurley* for Bay State Stevedoring Co., respondents. *Harvey Goldstein* for American Trial Lawyers Association, as *amicus curiae*, in support of the petition. Reported below: 348 F. 2d 879.

No. 647. *SOUTH FLORIDA TELEVISION CORP. v. FEDERAL COMMUNICATIONS COMMISSION ET AL.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Scott W. Lucas* and *Joseph B. Friedman* for petitioner. *Solicitor General Marshall, Assistant Attorney General Turner, Lionel Kestenbaum* and *Henry Geller* for Federal Communications Commission, and *Robert A. Marmet, Edwin R. Schneider, Jr., Paul A. Porter* and *Reed Miller* for L. B. Wilson, Inc., respondents. Reported below: 121 U. S. App. D. C. 293, 349 F. 2d 971.

No. 691. *LIGGETT & MYERS TOBACCO CO. v. PRITCHARD, ADMINISTRATRIX.* C. A. 3d Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Bethuel M. Webster, Donald J. Cohn, William H. Eckert* and *Francis K. Decker, Jr.*, for petitioner. *James E. McLaughlin* and *Charles Alan Wright* for respondent. Reported below: 350 F. 2d 479.

No. 735. *GAMBLE-SKOGMO, INC. v. WESTERN AUTO SUPPLY CO. ET AL.* C. A. 8th Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Edward J. Callahan* for petitioner. *Hayner N. Larson* for respondents. Reported below: 348 F. 2d 736.

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No. 682. *OVERLAKES CORP. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE BRENNAN took no part in the consideration or decision of this petition. *William L. Hanaway* and *Thomas R. Moore* for petitioner. *Acting Solicitor General Spritzer*, *Acting Assistant Attorney General Roberts*, *Harry Baum* and *Loring W. Post* for respondent. Reported below: 348 F. 2d 462.

No. 688. *GRIFFITH ET AL. v. BOARD OF COMMISSIONERS OF THE ALABAMA STATE BAR*. Sup. Ct. Ala. Certiorari denied. MR. JUSTICE BLACK is of the opinion that certiorari should be granted. *Fred Blanton, Jr.*, for petitioners. *M. Ronald Nachman, Jr.*, for respondent. Reported below: 278 Ala. 330, 178 So. 2d 156; 278 Ala. 344, 178 So. 2d 169.

No. 755. *FRAZIER v. CALIFORNIA*. Dist. Ct. App. Cal., 4th App. Dist. Certiorari denied. MR. JUSTICE BLACK is of the opinion that certiorari should be granted. *George Kaufmann* for petitioner.

No. 709. *MUTH, ADMINISTRATRIX v. ATLOSS ET AL., EXECUTORS*; and

No. 733. *DARR, ADMINISTRATRIX v. ATLOSS ET AL., EXECUTORS*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE BLACK is of the opinion that certiorari should be granted, the Court of Appeals' judgment reversed, and the District Court's judgment affirmed. *G. Kent Yowell* for petitioner in No. 709. *Harold A. Liebenson* and *Edward G. Raszus* for petitioner in No. 733. *Edward B. Hayes* for respondents in both cases. Reported below: 350 F. 2d 592.

No. 1, Misc. *STELLO v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. Reported below: 415 Pa. 572, 202 A. 2d 71.

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No. 741. *GRAY ET AL. v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of L. A. Motion to dispense with printing petition granted. Certiorari denied. *David Arthur Binder* for petitioners. *Roger Arnebergh* and *Philip E. Grey* for respondent.

No. 803. *COLORADO MILLING & ELEVATOR CO. v. TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS*. C. A. 8th Cir. Certiorari denied. Mr. Justice White took no part in the consideration or decision of this petition. *George E. Heneghan* for petitioner. *Lyman J. Bishop* for respondent. Reported below: 350 F. 2d 273.

No. 140, Misc. *CLARK v. WAINWRIGHT, CORRECTIONS DIRECTOR*. Sup. Ct. Fla. Certiorari denied. Petitioner *pro se*. *Earl Faircloth*, Attorney General of Florida, and *John S. Burton*, Assistant Attorney General, for respondent.

No. 148, Misc. *KIRK v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Petitioner *pro se*. *Thomas C. Lynch*, Attorney General of California, and *Raymond M. Momboisse* and *Richard K. Turner*, Deputy Attorneys General, for respondent.

No. 221, Misc. *NEWMAN v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Petitioner *pro se*. *Louis J. Lefkowitz*, Attorney General of New York, *Ruth Kessler Toch*, Assistant Solicitor General, and *Winifred C. Stanley*, Assistant Attorney General, for respondent.

No. 249, Misc. *DEGROAT v. NEW YORK STATE SUPREME COURT ET AL.* Ct. App. N. Y. Certiorari denied. Petitioner *pro se*. *Louis J. Lefkowitz*, Attorney General of New York, and *Lester Esterman*, Assistant Attorney General, for respondents.

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No. 212, Misc. *SULLIVAN v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied. Petitioner *pro se*. *Leo Kaplowitz* and *Ralph de Vita* for respondent.

No. 278, Misc. *BRYANT v. WARDEN*. Ct. App. N. Y. Certiorari denied. Petitioner *pro se*. *Louis J. Lefkowitz*, Attorney General of New York, and *Frederick E. Weeks, Jr.*, Assistant Attorney General, for respondent.

No. 279, Misc. *AMARAL v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Petitioner *pro se*. *Earl Fairecloth*, Attorney General of Florida, and *George R. Georgieff*, Assistant Attorney General, for respondent.

No. 287, Misc. *MILLER v. CALIFORNIA ET AL.* Dist. Ct. App. Cal., 2d App. Dist. Certiorari denied. Petitioner *pro se*. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *Jack K. Weber*, Deputy Attorney General, for respondents. Reported below: 230 Cal. App. 2d 876, 41 Cal. Rptr. 431.

No. 293, Misc. *BEASLEY v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. *William E. Gray* for petitioner. *Waggoner Carr*, Attorney General of Texas, and *Hawthorne Phillips*, *T. B. Wright*, *Howard M. Fender* and *Allo B. Crow, Jr.*, Assistant Attorneys General, for respondent. Reported below: 389 S. W. 2d 299.

No. 297, Misc. *CONOVER v. HEROLD, STATE HOSPITAL DIRECTOR*. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Louis J. Lefkowitz*, Attorney General of New York, *Samuel A. Hirshowitz*, First Assistant Attorney General, and *Frank J. Pannizzo*, Assistant Attorney General, for respondent.

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No. 295, Misc. *ARMSTRONG v. ALABAMA*. Sup. Ct. Ala. Certiorari denied. Petitioner *pro se*. *Richmond M. Flowers*, Attorney General of Alabama, and *Leslie Hall* and *W. Mark Anderson III*, Assistant Attorneys General, for respondent.

No. 367, Misc. *SAVINO v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Petitioner *pro se*. *Aaron E. Koota* and *Frank Di Lalla* for respondent.

No. 373, Misc. *ANDERSON ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Petitioners *pro se*. *Solicitor General Marshall*, Assistant Attorney General *Vinson*, *Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 345 F. 2d 28.

No. 428, Misc. *KNIGHT v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Petitioner *pro se*. *Earl Faircloth*, Attorney General of Florida, and *John S. Burton*, Assistant Attorney General, for respondent.

No. 442, Misc. *WALKER v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Petitioner *pro se*. *John J. Dillon*, Attorney General of Indiana, and *Douglas B. McFadden*, Deputy Attorney General, for respondent. Reported below: — Ind. —, 204 N. E. 2d 850.

No. 460, Misc. *RICE v. LANE, WARDEN*. Sup. Ct. Ind. Certiorari denied. Petitioner *pro se*. *John J. Dillon*, Attorney General of Indiana, and *Douglas B. McFadden*, Deputy Attorney General, for respondent.

No. 495, Misc. *ROGERS v. LANE, WARDEN*. C. A. 7th Cir. Certiorari denied. Petitioner *pro se*. *John J. Dillon*, Attorney General of Indiana, and *Kenneth M. Waterman*, Deputy Attorney General, for respondent. Reported below: 345 F. 2d 357.

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No. 478, Misc. *WILSON v. MARONEY, CORRECTIONAL SUPERINTENDENT.* C. A. 3d Cir. Certiorari denied. Petitioner *pro se.* *William A. Peiffer* for respondent.

No. 500, Misc. *GONZALES v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. *Warren P. McKenney* for petitioner. *Waggoner Carr*, Attorney General of Texas, and *Hawthorne Phillips, T. B. Wright* and *Howard M. Fender*, Assistant Attorneys General, for respondent. Reported below: 389 S. W. 2d 306.

No. 521, Misc. *DE MONGE ET AL. v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. *Henry F. Lerch* for petitioners. *Solicitor General Marshall* for the United States.

No. 552, Misc. *CUNNINGHAM v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. Petitioner *pro se.* *Solicitor General Marshall, Assistant Attorney General Doar* and *David L. Norman* for the United States et al.

No. 573, Misc. *QUILES v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Petitioner *pro se.* *Solicitor General Marshall, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 344 F. 2d 490.

No. 662, Misc. *CLOSE v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. *Lewis T. Booker* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Donald I. Bierman* for the United States. Reported below: 349 F. 2d 841.

No. 679, Misc. *DI PIERO v. PENNSYLVANIA.* Sup. Ct. Pa. Certiorari denied. Petitioner *pro se.* *A. Alfred Delduco* and *John S. Halsted* for respondent.

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No. 509, Misc. *REED v. UNITED STATES ET AL.* Sup. Ct. Mo. Certiorari denied.

No. 666, Misc. *LIPSCOMB v. STEVENS, WARDEN.* C. A. 6th Cir. Certiorari denied. Petitioner *pro se.* *Solicitor General Marshall, Assistant Attorney General Doar, David L. Norman and Gerald P. Choppin* for respondent. Reported below: 349 F. 2d 997.

No. 668, Misc. *TRANTINO v. NEW JERSEY.* Sup. Ct. N. J. Certiorari denied. *Frances Kahn* for petitioner. *Guy W. Calissi* for respondent. Reported below: 44 N. J. 358, 209 A. 2d 117.

No. 681, Misc. *DAVIS v. DUNBAR, CORRECTIONS DIRECTOR, ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 683, Misc. *WRIGHT v. NEW JERSEY.* Sup. Ct. N. J. Certiorari denied.

No. 686, Misc. *ALEXANDER v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Petitioner *pro se.* *Solicitor General Marshall, Assistant Attorney General Vinson and Philip R. Monahan* for the United States. Reported below: 346 F. 2d 561.

No. 687, Misc. *WILSON v. MARONEY, CORRECTIONAL SUPERINTENDENT.* C. A. 3d Cir. Certiorari denied.

No. 713, Misc. *MACIAS v. CALIFORNIA.* Dist. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 740, Misc. *GREEN ET AL. v. CALIFORNIA.* App. Dept., Super. Ct. Cal., County of L. A. Certiorari denied. *Laurence R. Sperber, A. L. Wirin and Fred Okrand* for petitioners. Reported below: 234 Cal. App. 2d 871, 44 Cal. Rptr. 438.

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No. 694, Misc. *BUTLER v. WEAKLEY ET AL.* C. A. 4th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Doar* and *David L. Norman* for respondents.

No. 711, Misc. *BEASLEY v. TEXAS CASUALTY INSURANCE CO.* Sup. Ct. Tex. Certiorari denied. *Thomas C. Ferguson* for petitioner. *Coleman Gay* for respondent. Reported below: 391 S. W. 2d 33.

No. 727, Misc. *GALLAGHER v. CALIFORNIA.* Dist. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 746, Misc. *ELDRIDGE v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. *Jean F. Dwyer* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Ronald L. Gainer* for the United States.

No. 750, Misc. *HUNT ET AL. v. NEBRASKA.* Sup. Ct. Neb. Certiorari denied. *Vincent J. Kirby* for petitioners. Reported below: 178 Neb. 783, 135 N. W. 2d 475.

No. 751, Misc. *WHITE v. CALIFORNIA.* Sup. Ct. Cal. Certiorari denied.

No. 754, Misc. *WHITE v. CLEMMONS, SHERIFF, ET AL.* C. A. 5th Cir. Certiorari denied. Petitioner *pro se*. *Jack P. F. Gremillion*, Attorney General of Louisiana, and *Ralph L. Roy* for respondents.

No. 760, Misc. *FLOWERS v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Douglas* and *David L. Rose* for the United States. Reported below: 348 F. 2d 910.

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No. 755, Misc. *WARD v. PEYTON*, PENITENTIARY SUPERINTENDENT. C. A. 4th Cir. Certiorari denied. Reported below: 349 F. 2d 359.

No. 758, Misc. *CURLEY v. McMANN*, WARDEN. C. A. 2d Cir. Certiorari denied.

No. 759, Misc. *TIMMONS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Sidney M. Glazer* for the United States. Reported below: 120 U. S. App. D. C. 28, 343 F. 2d 310.

No. 761, Misc. *LYONS v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 762, Misc. *REID v. CALIFORNIA*. Dist. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 233 Cal. App. 2d 163, 43 Cal. Rptr. 379.

No. 764, Misc. *ORLANDO v. MARONEY*, CORRECTIONAL SUPERINTENDENT. C. A. 3d Cir. Certiorari denied.

No. 769, Misc. *BUSH v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States. Reported below: 347 F. 2d 231.

No. 770, Misc. *TRAGANZA v. CALIFORNIA*. Dist. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 771, Misc. *BENTLEY v. KENTUCKY*. Ct. App. Ky. Certiorari denied.

No. 774, Misc. *CARREON v. CALIFORNIA*. Dist. Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 772, Misc. *VIDA v. ROTH*, U. S. DISTRICT JUDGE. C. A. 6th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for respondent.

No. 773, Misc. *SKOLNICK v. HALLETT ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 350 F. 2d 861.

No. 777, Misc. *WILLIAMS v. DUNCANSON*. C. A. 9th Cir. Certiorari denied.

No. 783, Misc. *JOHNSON v. RUSSELL, CORRECTIONAL SUPERINTENDENT*. Super. Ct. Pa. Certiorari denied.

No. 784, Misc. *MOOTS v. SECRETARY OF HEALTH, EDUCATION AND WELFARE*. C. A. 4th Cir. Certiorari denied. *Samuel Goldblatt* for petitioner. *Solicitor General Marshall* for respondent. Reported below: 349 F. 2d 518.

No. 787, Misc. *DRAPER v. RHAY, PENITENTIARY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied.

No. 788, Misc. *LOUX v. RHAY, PENITENTIARY SUPERINTENDENT*. Sup. Ct. Wash. Certiorari denied.

No. 794, Misc. *ESKRIDGE v. RHAY, PENITENTIARY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied. Reported below: 345 F. 2d 778.

No. 795, Misc. *FAIR v. BURNS, GOVERNOR OF FLORIDA*. Sup. Ct. Fla. Certiorari denied.

No. 796, Misc. *CAMPBELL v. KERNER, GOVERNOR OF ILLINOIS, ET AL.* Sup. Ct. Ill. Certiorari denied.

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No. 797, Misc. RECTOR *v.* HEINZE, WARDEN. Sup. Ct. Cal. Certiorari denied.

No. 798, Misc. ROBINSON *v.* FAY, WARDEN. C. A. 2d Cir. Certiorari denied. *Leon B. Polksky* for petitioner. *Louis J. Lefkowitz*, Attorney General of New York, *Samuel A. Hirshowitz*, First Assistant Attorney General, and *Brenda Soloff*, Deputy Assistant Attorney General, for respondent. Reported below: 348 F. 2d 705.

No. 799, Misc. RIVERA *v.* REEVES ET AL. C. A. 2d Cir. Certiorari denied. *Leon B. Polksky* for petitioner.

No. 800, Misc. BYRNES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States. Reported below: 348 F. 2d 918.

No. 802, Misc. BRANCH, DBA DREAM SHELL HOMES *v.* MILLS & LUPTON SUPPLY CO., INC. C. A. 6th Cir. Certiorari denied. *John S. Wrinkle* for petitioner. Reported below: 348 F. 2d 991.

No. 803, Misc. STILTNER *v.* RHAY, PENITENTIARY SUPERINTENDENT. Sup. Ct. Wash. Certiorari denied.

No. 807, Misc. FURTAK *v.* NEW YORK. Ct. App. N. Y. Certiorari denied.

No. 809, Misc. COLLINS *v.* KLINGER, MENS COLONY SUPERINTENDENT. C. A. 9th Cir. Certiorari denied.

No. 810, Misc. BRABSON *v.* WILKINS, WARDEN. C. A. 2d Cir. Certiorari denied.

No. 816, Misc. ORTEGA *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied.

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No. 808, Misc. *RUSSELL v. MAXWELL, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 348 F. 2d 908.

No. 822, Misc. *HOBBS v. MARYLAND*. C. A. 4th Cir. Certiorari denied.

No. 826, Misc. *HENSLEY v. KANSAS*. Sup. Ct. Kan. Certiorari denied.

No. 827, Misc. *MEYES v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 828, Misc. *ROBINSON v. NEW YORK*. C. A. 2d Cir. Certiorari denied.

No. 830, Misc. *BROWN v. ZUCKERT, SECRETARY OF THE AIR FORCE, ET AL.* C. A. 7th Cir. Certiorari denied. *Fleetwood M. McCoy, William R. Ming, Jr., and Ellis E. Reid* for petitioner. *Solicitor General Marshall* for respondents. Reported below: 349 F. 2d 461.

No. 832, Misc. *JEFFERSON v. McGEE ET AL.* C. A. 9th Cir. Certiorari denied.

No. 835, Misc. *Ross v. CALIFORNIA ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 839, Misc. *GRENFELL v. GLADDEN, WARDEN*. Sup. Ct. Ore. Certiorari denied. Reported below: 241 Ore. 190, 405 P. 2d 532.

No. 843, Misc. *SMITH v. ELLINGTON ET AL.* C. A. 6th Cir. Certiorari denied. *John S. Wrinkle* for petitioner. *W. D. Spears* for Ellington, and *Richmond M. Flowers*, Attorney General of Alabama, and *Robert P. Bradley*, Assistant Attorney General, for Patterson et al., respondents. Reported below: 348 F. 2d 1021.

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No. 845, Misc. *CHAPMAN v. RUSSELL, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 847, Misc. *ANDREWS v. MURPHY*. C. A. 6th Cir. Certiorari denied. Petitioner *pro se*. *Robert E. Sullivan* for respondent. Reported below: 349 F. 2d 114.

No. 853, Misc. *LEE v. WILSON, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 855, Misc. *JOHNSON v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 857, Misc. *FIERRO v. CALIFORNIA*. Dist. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 862, Misc. *WYNDER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *Roland S. Homet, Jr.*, for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Sidney M. Glazer* for the United States. Reported below: 122 U. S. App. D. C. 186, 352 F. 2d 662.

No. 868, Misc. *BECKER ET AL. v. CALIFORNIA*. App. Dept., Super. Ct. Cal., County of L. A. Certiorari denied. *David Arthur Binder* for petitioners. *Roger Arnebergh and Philip E. Grey* for respondent.

No. 15, Misc. *HERR ET AL. v. UNITED STATES*. C. A. 7th Cir. Motion for leave to amend petition for writ of certiorari granted. Certiorari denied. *Daniel W. Gray* for petitioners. *Solicitor General Cox, Assistant Attorney General Vinson, Beatrice Rosenberg and Marshall Tamor Golding* for the United States. Reported below: 338 F. 2d 607.

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No. 926, Misc. LOSINGER *v.* MICHIGAN. Sup. Ct. Mich. Certiorari denied.

No. 815, Misc. CRIDER *v.* ZURICH INSURANCE CO. C. A. 5th Cir. Motion for leave to use the record in No. 116, October Term, 1964, granted. Certiorari denied. Robert S. Vance for petitioner. Foster Etheredge for respondent. Reported below: 348 F. 2d 211.

Rehearing Denied.

No. 57. HAZELTINE RESEARCH, INC., ET AL. *v.* BRENNER, COMMISSIONER OF PATENTS, *ante*, p. 252;

No. 165. McMaster *v.* UNITED STATES, *ante*, p. 818;

No. 166. WOLFF *v.* UNITED STATES, *ante*, p. 818;

No. 227. BULLOCK *v.* VIRGINIA, *ante*, p. 927;

No. 352. LAURITZEN *v.* SPANN, *ante*, p. 938;

No. 359. JOHNSON *v.* UNITED STATES, *ante*, pp. 836, 923;

No. 429. MAXWELL *v.* STEPHENS, PENITENTIARY SUPERINTENDENT, *ante*, p. 944;

No. 519. GISH *v.* MISSOURI, *ante*, p. 919;

No. 523. ALBANESE *v.* N. V. NEDERL. AMERIK STOOMV. MAATS. ET AL., *ante*, p. 283;

No. 539. BANK OF AMERICA NATIONAL TRUST & SAVINGS ASSOCIATION *v.* UNITED STATES, *ante*, p. 927;

No. 550. PREZIOSO *v.* UNITED STATES, *ante*, p. 939;

No. 552. CHATSWORTH COOPERATIVE MARKETING ASSOCIATION ET AL. *v.* INTERSTATE COMMERCE COMMISSION, *ante*, p. 938;

No. 558. ATLANTIC REFINING CO. *v.* FEDERAL TRADE COMMISSION, *ante*, p. 939;

No. 598. BRASCH *v.* STATE COMPENSATION INSURANCE FUND ET AL., *ante*, p. 942; and

No. 608. MORAN *v.* PENAN ET AL., *ante*, p. 943. Petitions for rehearing denied.

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No. 481, October Term, 1963. *VIKING THEATRE CORP. v. PARAMOUNT FILM DISTRIBUTING CORP. ET AL.*, 378 U. S. 123; 379 U. S. 872. Motion for leave to file second petition for rehearing denied. MR. JUSTICE DOUGLAS and MR. JUSTICE FORTAS took no part in the consideration or decision of this motion.

No. 543, October Term, 1963. *UNITED STATES v. MARYLAND FOR THE USE OF MEYER ET AL.*, *ante*, p. 158. Petition for rehearing denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. [For earlier orders herein, see 375 U. S. 954; 379 U. S. 925.]

No. 4. *LEH ET AL. v. GENERAL PETROLEUM CORP. ET AL.*, *ante*, p. 54. Petition for rehearing denied. MR. JUSTICE HARLAN and MR. JUSTICE FORTAS took no part in the consideration or decision of this petition.

No. 21. *UNITED GAS IMPROVEMENT CO. ET AL. v. CALLERY PROPERTIES, INC., ET AL.*;

No. 22. *PUBLIC SERVICE COMMISSION OF NEW YORK v. CALLERY PROPERTIES, INC., ET AL.*; and

No. 32. *FEDERAL POWER COMMISSION v. CALLERY PROPERTIES, INC., ET AL.*, *ante*, p. 223. Petition for rehearing of *Superior Oil Co. et al.* denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition.

No. 676, Misc. *WALKER v. SUPERIOR COURT OF CALIFORNIA IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO*, *ante*, p. 923. Petition for rehearing denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition.

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No. 501. ROSENBLATT *v.* AMERICAN CYANAMID CO., *ante*, p. 110. Petition for rehearing denied. MR. JUSTICE HARLAN took no part in the consideration or decision of this petition.

No. 125, Misc. CALHOUN *v.* PATE, WARDEN, *ante*, p. 945;

No. 219, Misc. HUGHES ET AL. *v.* KROPP, WARDEN, *ante*, p. 872;

No. 310, Misc. BARNARD *v.* UNITED STATES, *ante*, p. 948;

No. 320, Misc. BRYE *v.* WAINWRIGHT, CORRECTIONS DIRECTOR, *ante*, p. 930;

No. 345, Misc. LASSITER *v.* UNITED STATES, *ante*, p. 948;

No. 346, Misc. KNIPPEL *v.* UNITED STATES, *ante*, p. 948;

No. 592, Misc. MASSARI *v.* UNITED STATES, *ante*, p. 931;

No. 602, Misc. EDELL *v.* DI PIAZZA ET AL., *ante*, p. 931;

No. 617, Misc. GADSDEN ET AL. *v.* FRIPP ET AL., *ante*, p. 921;

No. 637, Misc. ATKINS *v.* KANSAS, *ante*, p. 964;

No. 674, Misc. BECKER *v.* MATTEAWAN STATE HOSPITAL SUPERINTENDENT ET AL., *ante*, p. 947;

No. 801, Misc. CORCORAN *v.* YORTY ET AL., *ante*, p. 966; and

No. 852, Misc. MOODY *v.* UNITED MINE WORKERS LOCAL FOR THE UNITED STATES ET AL., *ante*, p. 285. Petitions for rehearing denied.

No. 477. HAINSWORTH *v.* MARTIN, SECRETARY OF STATE OF TEXAS, ET AL., *ante*, p. 109. Petition for rehearing denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition.

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No. 513. *HARVEY v. LYONS ET AL.*, *ante*, p. 918. Petition for rehearing and for other relief denied.

No. 477, Misc. *GOLDSTEIN v. WASHINGTON*, *ante*, p. 895;

No. 501, Misc. *ACUFF v. COOK MACHINERY CO., INC.*, *ante*, p. 805; and

No. 532, Misc. *CLINE v. DUNBAR*, *ante*, p. 804. Motions for leave to file petitions for rehearing denied.

JANUARY 21, 1966.

Miscellaneous Order.

No. 1111, Misc. *CHANDLER, U. S. DISTRICT JUDGE v. JUDICIAL COUNCIL OF THE TENTH CIRCUIT OF THE UNITED STATES*. Application for stay of order. *Thomas J. Kenan* for petitioner. *Solicitor General Marshall* for respondent.

Petitioner applied to MR. JUSTICE WHITE, Circuit Justice for the Tenth Circuit, for "Stay of Order of Judicial Council of the Tenth Circuit of the United States" in the above matter, and the application was by him referred to the Court for its consideration and action.

It appearing to the Court from the response of the Solicitor General to the application that the order from which relief is sought is entirely interlocutory in character pending prompt further proceedings inquiring into the administration of Judge Chandler of judicial business in the Western District of Oklahoma, and that at such proceedings Judge Chandler will be permitted to appear before the Council, with counsel, and that after such proceedings the Council will, as soon as possible, undertake to decide what use, if any, should be made of such powers as it may have in the premises, it is hereby ordered that the application for stay be denied pending

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this contemplated prompt action of the Judicial Council. The Court expresses no opinion concerning the propriety of the interlocutory action taken.

MR. JUSTICE BLACK, with whom MR. JUSTICE DOUGLAS joins, dissenting.

United States District Judge Stephen S. Chandler here asks for a stay of an "Order" of the Judicial Council of the Tenth Circuit directing that until further order of the Council, Judge Chandler "take no action whatsoever in any case or proceeding now or hereafter pending" in his court, that cases now assigned to him be assigned to other judges, and that no new actions filed be assigned to him. If this order is not stayed and if the Judicial Council has some way to enforce it, the order means that Judge Chandler is completely barred from performing any of his official duties and in effect is removed or ousted from office pending further orders of the Council. The reason given by the Council for this drastic action is that it "finds that Judge Chandler is presently unable, or unwilling, to discharge efficiently the duties of his office" By refusing to stay the Council's order, the Court necessarily acts on the premise that the Council has a legal right to remove Judge Chandler from office at least temporarily. Though the Court tries to soft-pedal its refusal to stay the order by referring to it as "interlocutory in character," the stark fact which cannot be disguised is that a United States District Judge, duly appointed by the President and approved by the Senate, is with this Court's imprimatur locked out of his office pending "further proceedings" by the Judicial Council. I think the Council is completely without legal authority to issue any such order, either temporary or permanent, with or without a hearing, that no statute purports to authorize it, and that the Constitution forbids it. Nor

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can the effect of the order be softened by asserting that Judge Chandler will be permitted to have a lawyer represent him before his fellow judges. Assuming that we have jurisdiction to stay an order from a governmental agency that has no power at all to do what this Council has done, I would stay this "Order" *instanter*.

The Council states that its order was made "pursuant to the power and authority vested in the Judicial Council by the Act of June 25, 1948, c. 646, § 332, 62 Stat. 902, 28 U. S. C. § 332." That section so far as relevant reads:

"Each judicial council shall make all necessary orders for the effective and expeditious administration of the business of the courts within its circuit. The district judges shall promptly carry into effect all orders of the judicial council."

There is no language whatever in this or any other Act which can by any reasonable interpretation be read as giving the Council a power to pass upon the work of district judges, declare them inefficient and strip them of their power to act as judges. The language of Congress indicates a purpose to vest the Judicial Council with limited *administrative* powers; nothing in this language, or the history behind it, indicates that a Council of Circuit Court Judges was to be vested with power to discipline district judges, and in effect remove them from office. This is clearly and simply a proceeding by circuit judges to inquire into the fitness of a district judge to hold his office and to remove him if they so desire. I do not believe Congress could, even if it wished, vest any such power in the circuit judges.

One of the great advances made in the structure of government by our Constitution was its provision for an independent judiciary—for judges who could do their duty as they saw it without having to account to superior

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court judges or to anyone else except the Senate sitting as a court of impeachment. Article II, § 4, of the Constitution provides that "Officers of the United States," which includes judges, "shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors," and Art. I, §§ 2 and 3, state that impeachment can be instituted only on recommendation of the House of Representatives and that trial can be held only by the Senate. To hold that judges can do what this Judicial Council has tried to do to Judge Chandler here would in my judgment violate the plan of our Constitution to preserve, as far as possible, the liberty of the people by guaranteeing that they have judges wholly independent of the Government or any of its agents with the exception of the United States Congress acting under its limited power of impeachment. We should stop in its infancy, before it has any growth at all, this idea that the United States district judges can be made accountable for their efficiency or lack of it to the judges just over them in the federal judicial system. The only way to do that is to grant this stay and I am in favor of granting it.

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Miscellaneous Orders.

No. 945, Misc. GREEN, dba JIM GREEN'S TRUCKING Co. v. PUBLIC UTILITIES COMMISSION OF CALIFORNIA. Motion for leave to file petition for writ of certiorari denied. *Thomas S. Tobin* for petitioner. *Mary Moran Pajalich* for respondent.

No. 990, Misc. IN RE TUCKER. Motion for leave to file petition for writ of mandamus denied.

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No. 77, Misc. *GARVEY v. EYMAN, WARDEN*. Motion for leave to file petition for writ of habeas corpus denied. Petitioner *pro se*. *Darrell F. Smith*, Attorney General of Arizona, for respondent.

No. 804, Misc. *O'BRIEN v. UNITED STATES*; and
No. 838, Misc. *McGANN v. RICHARDSON, WARDEN, ET AL.* Motions for leave to file petitions for writs of habeas corpus denied.

No. 870, Misc. *WILLIAMS v. CALIFORNIA*. Motion for leave to file petition for writ of habeas corpus denied. Treating the papers submitted as a petition for writ of certiorari, certiorari is denied.

Probable Jurisdiction Noted.

No. 847. *KATZENBACH, ATTORNEY GENERAL, ET AL. v. MORGAN ET UX.*; and

No. 877. *NEW YORK CITY BOARD OF ELECTIONS v. MORGAN ET UX.* Appeals from D. C. D. C. Probable jurisdiction noted. The cases are consolidated and a total of two hours is allotted for oral argument. *Solicitor General Marshall* for appellants in No. 847. *Leo A. Larkin* for appellant in No. 877. Reported below: 247 F. Supp. 196.

No. 537, Misc. *RINALDI v. YEAGER, WARDEN, ET AL.* Appeal from D. C. N. J. Motion for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. The case is transferred to the appellate docket. *Donald A. Robinson* for appellant. *Arthur J. Sills*, Attorney General of New Jersey, and *Eugene T. Urbaniak*, Deputy Attorney General, for appellees. Reported below: 238 F. Supp. 960.

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No. 673. *CARDONA v. POWER ET AL.* Appeal from Ct. App. N. Y. Probable jurisdiction noted. The case is set for oral argument immediately following Nos. 847 and 877. *Paul O'Dwyer* and *W. Bernard Richland* for appellant. *Louis J. Lefkowitz*, Attorney General of New York, *Samuel A. Hirshowitz*, First Assistant Attorney General, *George C. Mantzoros* and *Barry J. Lipson*, Assistant Attorneys General, and *Brenda Soloff*, Deputy Assistant Attorney General, for appellees. Reported below: 16 N. Y. 2d 639, 708, 827, 209 N. E. 2d 119, 556, 210 N. E. 2d 458.

Certiorari Granted. (See also No. 87, Misc., *ante*, p. 420.)

No. 750. *BROTHERHOOD OF RAILWAY & STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS & STATION EMPLOYEES, AFL-CIO, ET AL. v. FLORIDA EAST COAST RAILWAY CO.*;

No. 782. *UNITED STATES v. FLORIDA EAST COAST RAILWAY CO.*; and

No. 783. *FLORIDA EAST COAST RAILWAY CO. v. UNITED STATES.* C. A. 5th Cir. Certiorari granted. The cases are consolidated and a total of two hours is allotted for oral argument. The United States is to open the argument and direct itself first to issues raised in No. 782. MR. JUSTICE FORTAS took no part in the consideration or decision of these petitions. *Lester P. Schoene*, *Neal Rutledge* and *Allan Milledge* for petitioners in No. 750. *Solicitor General Marshall*, *Assistant Attorney General Douglas* and *David L. Rose* for the United States in No. 782. *William B. Devaney* and *George B. Mickum III* for petitioner in No. 783. *Solicitor General Marshall* for the United States in No. 783. Reported below: 348 F. 2d 682.

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Certiorari Denied. (See also No. 824, Misc., *ante*, p. 421; No. 849, Misc., *ante*, p. 421; and No. 870, Misc., *supra*.)

No. 269. *PORTELLI v. NEW YORK*; and

No. 270. *ROSENBERG v. NEW YORK*. Ct. App. N. Y. Certiorari denied. *William Sonenshine* for petitioner in No. 269. *Maurice Edelbaum* for petitioner in No. 270. *Aaron E. Koota* and *Aaron Nussbaum* for respondent in both cases. Reported below: 15 N. Y. 2d 235, 205 N. E. 2d 857.

No. 565. *MONROE AUTO EQUIPMENT Co. v. FEDERAL TRADE COMMISSION*. C. A. 7th Cir. Certiorari denied. *Harold T. Halfpenny* and *Mary M. Shaw* for petitioner. *James McI. Henderson* and *Thomas F. Howder* for respondent. *Solicitor General Marshall* and *Assistant Attorney General Turner* for the United States, as *amicus curiae*. Reported below: 347 F. 2d 401.

No. 661. *FIELD ENTERPRISES, INC. v. UNITED STATES*. Ct. Cl. Certiorari denied. *James B. Lewis* and *Alan N. Cohen* for petitioner. *Solicitor General Marshall*, *Acting Assistant Attorney General Roberts*, *I. Henry Kutz* and *David D. Rosenstein* for the United States. Reported below: 172 Ct. Cl. 77, 348 F. 2d 485.

No. 766. *PARADA-GONZALEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Allen S. Stim* and *Albert Felix* for petitioner. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Robert G. Maysack* for the United States.

No. 775. *GREEN, DBA JIM GREEN'S TRUCKING Co. v. PUBLIC UTILITIES COMMISSION OF CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Thomas S. Tobin* for petitioner. *Mary Moran Pajalich* for respondent.

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No. 778. NATURAL RESOURCES, INC., ET AL. *v.* WINERBERG. C. A. 9th Cir. Certiorari denied. *James C. Dezendorf* for petitioners. Reported below: 349 F. 2d 685.

No. 779. GEORGE ET UX. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Charles Koozman* and *Burton M. Weinstein* for petitioners. *Solicitor General Marshall*, *Assistant Attorney General Douglas*, *Alan S. Rosenthal* and *Richard S. Salzman* for the United States.

No. 784. WATKINS ET AL. *v.* SUPERIOR COURT, LOS ANGELES COUNTY, ET AL. Dist. Ct. App. Cal., 2d App. Dist. Certiorari denied. *Jack Greenberg*, *Raymond L. Johnson* and *Anthony G. Amsterdam* for petitioners. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, *Harold W. Kennedy*, *George W. Wakefield* and *Evelle J. Younger* for respondents.

No. 799. MARSHALL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Raymond E. Sutton* for petitioner. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Theodore George Gilinsky* for the United States. Reported below: 352 F. 2d 1013.

No. 801. ATOMIC OIL CO. OF OKLAHOMA, INC. *v.* BARDAHL OIL CO. ET AL. C. A. 10th Cir. Certiorari denied. *Lawrence A. G. Johnson* and *Robert J. Woolsey* for petitioner. Reported below: 351 F. 2d 148.

No. 802. BETTILYON'S, INC., ET AL. *v.* UTAH, BY AND THROUGH ITS ROAD COMMISSION. Sup. Ct. Utah. Certiorari denied. *F. Burton Howard* for petitioners. Reported below: 17 Utah 2d 135, 405 P. 2d 420.

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No. 785. *HALKO v. ANDERSON*. C. A. 3d Cir. Certiorari denied. *Joseph Nissley* for petitioner.

No. 804. *NATIONAL LABOR RELATIONS BOARD v. ADAMS DAIRY, INC.* C. A. 8th Cir. Certiorari denied. *Solicitor General Marshall, Dominick L. Manoli* and *Norton J. Come* for petitioner. *J. Leonard Schermer* for respondent. Reported below: 350 F. 2d 108.

No. 805. *SYLVESTER ET AL. v. MESSLER, ADMINISTRATRIX*. C. A. 6th Cir. Certiorari denied. *Paul B. Mayrand* for petitioners. *William J. Eggenberger* for respondent. Reported below: 351 F. 2d 472.

No. 806. *CLARK MARINE CORP. v. CARGILL, INC., ET AL.* C. A. 5th Cir. Certiorari denied. *Edward Donald Moseley* for petitioner. *Robert L. Stern, Erwin C. Heininger* and *Laurance W. Brooks* for respondents. Reported below: 345 F. 2d 79.

No. 807. *INTERSTATE COMMERCE COMMISSION v. NORTHWEST AGRICULTURAL COOPERATIVE ASSOCIATION, INC.* C. A. 9th Cir. Certiorari denied. *Solicitor General Marshall, Robert W. Ginnane* and *Bernard A. Gould* for petitioner. *Frank E. Nash* for respondent. Reported below: 350 F. 2d 252.

No. 809. *WINCHESTER DRIVE-IN THEATRE, INC., ET AL. v. TWENTIETH CENTURY-FOX FILM CORP. ET AL.* C. A. 9th Cir. Certiorari denied. *Joseph L. Alioto* for petitioners. *Thomas E. Haven* and *Robert D. Raven* for respondents. Reported below: 351 F. 2d 925.

No. 817. *TANSEL v. PHOTON, INC.* C. A. 1st Cir. Certiorari denied. *Earl Babcock* and *Elliott I. Pollock* for petitioner. *Melvin R. Jenney* for respondent. Reported below: 349 F. 2d 856.

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No. 813. *ESTATE OF GEIGER ET AL. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 8th Cir. Certiorari denied. *Phillip Steve Dandos* and *James M. McNally* for petitioners. *Solicitor General Marshall, Acting Assistant Attorney General Roberts* and *Harold C. Wilkenfeld* for respondent. Reported below: 352 F. 2d 221.

No. 819. *REOUX v. FIRST NATIONAL BANK OF GLENS FALLS, EXECUTOR.* Ct. App. N. Y. Certiorari denied. *Peyton Ford* for petitioner. *Carl O. Olson* for respondent. Reported below: 16 N. Y. 2d 685, 209 N. E. 2d 546.

No. 767. *SMALDONE v. COLORADO.* Sup. Ct. Colo. Certiorari denied. THE CHIEF JUSTICE and MR. JUSTICE BLACK are of the opinion that certiorari should be granted. *Edward S. Barlock* for petitioner. *Duke W. Dunbar*, Attorney General of Colorado, *Frank E. Hickey*, Deputy Attorney General, and *John E. Bush*, Assistant Attorney General, for respondent. Reported below: — Colo. —, 405 P. 2d 208.

No. 768. *SALARDINO v. COLORADO.* Sup. Ct. Colo. Certiorari denied. THE CHIEF JUSTICE and MR. JUSTICE BLACK are of the opinion that certiorari should be granted. *Edward S. Barlock* for petitioner. *Duke W. Dunbar*, Attorney General of Colorado, *Frank E. Hickey*, Deputy Attorney General, and *John E. Bush*, Assistant Attorney General, for respondent. Reported below: — Colo. —, 405 P. 2d 211.

No. 102, Misc. *SHIPP v. WILSON, WARDEN.* Sup. Ct. Cal. Certiorari denied. Reported below: 62 Cal. 2d 547, 399 P. 2d 571.

No. 169, Misc. *STILTNER v. RHAY, PENITENTIARY SUPERINTENDENT.* Sup. Ct. Wash. Certiorari denied.

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No. 788. *QUINTANA v. COLORADO*. Sup. Ct. Colo. Certiorari denied. THE CHIEF JUSTICE and MR. JUSTICE BLACK are of the opinion that certiorari should be granted. *Edward S. Barlock* for petitioner. *Duke W. Dunbar*, Attorney General of Colorado, *Frank E. Hickey*, Deputy Attorney General, and *John E. Bush*, Assistant Attorney General, for respondent. Reported below: — Colo. —, 405 P. 2d 212.

No. 70, Misc. *COOR v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Cox*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Jerome M. Feit* for the United States. Reported below: 119 U. S. App. D. C. 259, 340 F. 2d 784.

No. 85, Misc. *SELZ v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Petitioner *pro se*. *Thomas C. Lynch*, Attorney General of California, and *Edsel W. Haws* and *Raymond M. Momboisse*, Deputy Attorneys General, for respondent.

No. 274, Misc. *JOHNSON v. MARYLAND*. Ct. App. Md. Certiorari denied. *Charles P. Howard, Jr.*, for petitioner. Reported below: 238 Md. 140, 207 A. 2d 643.

No. 311, Misc. *GROSSI v. HEINZE, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Thomas C. Lynch*, Attorney General of California, and *Doris H. Maier*, Assistant Attorney General, for respondents.

No. 348, Misc. *NUOLE v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Petitioner *pro se*. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *Jack K. Weber*, Deputy Attorney General, for respondent.

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No. 396, Misc. *MELTON v. COLORADO*. Sup. Ct. Colo. Certiorari denied. Petitioner *pro se*. *Duke W. Dunbar*, Attorney General of Colorado, *Frank E. Hickey*, Deputy Attorney General, and *John P. Moore*, Assistant Attorney General, for respondent. Reported below: — Colo. —, 401 P. 2d 605.

No. 429, Misc. *RUUD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Daniel H. Benson* for the United States. Reported below: 347 F. 2d 321.

No. 448, Misc. *CUEVAS v. SDRALES, DBA SEVENTY-THREE INN, ET AL.* C. A. 10th Cir. Certiorari denied. *George H. Searle* for petitioner. *Gerald R. Miller* and *Shirley P. Jones* for respondents. Reported below: 344 F. 2d 1019.

No. 454, Misc. *WATTS v. MARONEY, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 476, Misc. *WHITE v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Mervyn Hamburg* for the United States. Reported below: 120 U. S. App. D. C. 319, 346 F. 2d 800.

No. 494, Misc. *UNSWORTH v. OREGON*. Sup. Ct. Ore. Certiorari denied. Reported below: 240 Ore. 453, 402 P. 2d 507.

No. 512, Misc. *PONTON v. OREGON*. Sup. Ct. Ore. Certiorari denied. *Howard R. Lonergan* for petitioner. *George Van Hoomissen* for respondent. Reported below: 240 Ore. 30, 399 P. 2d 30.

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No. 514, Misc. *GARDNER v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *Charles L. Decker* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Sidney M. Glazer* for the United States. Reported below: 347 F. 2d 405.

No. 525, Misc. *WRIGHT v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States.

No. 536, Misc. *AUBEL v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States.

No. 589, Misc. *GIRAUD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Charles P. Scully* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Julia P. Cooper* for the United States. Reported below: 348 F. 2d 820.

No. 632, Misc. *BROOKS v. FLORIDA*. Sup. Ct. Fla. Certiorari denied.

No. 650, Misc. *LESCO v. KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 194 Kan. 555, 400 P. 2d 695.

No. 663, Misc. *SCHANTZ v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. *John P. Frank* for petitioner. *Darrell F. Smith, Attorney General of Arizona, and Paul G. Rosenblatt, Assistant Attorney General*, for respondent. Reported below: 98 Ariz. 200, 403 P. 2d 521.

No. 716, Misc. *CIMINO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States.

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No. 688, Misc. *NICHOLS v. RANDOLPH, WARDEN*. C. A. 7th Cir. Certiorari denied. Petitioner *pro se*. *William G. Clark*, Attorney General of Illinois, and *Richard A. Michael* and *Philip J. Rock*, Assistant Attorneys General, for respondent.

No. 696, Misc. *BRADLEY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall*, Assistant Attorney General *Vinson*, *Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 347 F. 2d 121.

No. 749, Misc. *GRANT v. FLORIDA*. Sup. Ct. Fla. Certiorari denied.

No. 775, Misc. *COPESTICK v. WASHINGTON*. Sup. Ct. Wash. Certiorari denied.

No. 776, Misc. *SCHACK v. FLORIDA*. C. A. 5th Cir. Certiorari denied.

No. 781, Misc. *JOHNSON v. TINSLEY, WARDEN*. C. A. 10th Cir. Certiorari denied. *Isaac Mellman* and *Gerald N. Mellman* for petitioner.

No. 806, Misc. *DAVIS v. PEYTON, PENITENTIARY SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied.

No. 811, Misc. *MARCELLA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall*, Assistant Attorney General *Vinson*, *Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 344 F. 2d 876.

No. 814, Misc. *LEHMAN v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied.

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No. 819, Misc. ROBBINS *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 820, Misc. STEWART *v.* SMITH, U. S. DISTRICT JUDGE. C. A. 6th Cir. Certiorari denied.

No. 823, Misc. SCOTT *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States.

No. 840, Misc. O'CALLAHAN *v.* ATTORNEY GENERAL OF THE UNITED STATES. C. A. 1st Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Doar and David L. Norman* for respondent. Reported below: 351 F. 2d 43.

No. 866, Misc. COGGINS *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States.

No. 871, Misc. CARDARELLA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States. Reported below: 351 F. 2d 272.

No. 880, Misc. GILMORE *v.* CALIFORNIA. Dist. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 881, Misc. FINLEY *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 888, Misc. FREEMAN *v.* MAXWELL, WARDEN. Sup. Ct. Ohio. Certiorari denied.

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No. 885, Misc. *TREST v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Kirby W. Patterson* for the United States. Reported below: 122 U. S. App. D. C. 11, 350 F. 2d 794.

No. 893, Misc. *Moss v. CALIFORNIA ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 899, Misc. *HAFIZ v. MAXWELL, WARDEN*. Sup. Ct. Ohio. Certiorari denied.

No. 900, Misc. *DECKERT v. MARONEY, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 905, Misc. *KOUSICK v. KLINGER ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 906, Misc. *TWYMAN v. MYERS, CORRECTIONAL SUPERINTENDENT*. Sup. Ct. Pa. Certiorari denied.

No. 914, Misc. *AUSTIN v. MAINE ET AL.* Sup. Jud. Ct. Me. Certiorari denied. Petitioner *pro se*. *John W. Benoit, Assistant Attorney General of Maine*, for respondents.

No. 920, Misc. *CROOM v. FOLLETTE, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 927, Misc. *JODON v. RUSSELL, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 946, Misc. *CONERLY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States. Reported below: 350 F. 2d 679.

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No. 944, Misc. *MUNDT ET AL. v. HOME FEDERAL SAVINGS & LOAN ASSOCIATION ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 349 F. 2d 938.

No. 930, Misc. *WILSON v. MARONEY, CORRECTIONAL SUPERINTENDENT.* C. A. 3d Cir. Certiorari denied.

No. 934, Misc. *CASTILLO v. FAY, WARDEN.* C. A. 2d Cir. Certiorari denied. *Leon B. Polksy* for petitioner. *Frank S. Hogan, H. Richard Uviller* and *Malvina H. Guggenheim* for respondent. Reported below: 350 F. 2d 400.

No. 941, Misc. *CORCORAN v. CALIFORNIA.* C. A. 9th Cir. Certiorari denied.

No. 943, Misc. *FINLEY v. CALIFORNIA.* C. A. 9th Cir. Certiorari denied.

No. 948, Misc. *CHANCE v. KANSAS.* Sup. Ct. Kan. Certiorari denied. Reported below: 195 Kan. 430, 407 P. 2d 236.

No. 949, Misc. *POWELL v. MAXWELL, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 350 F. 2d 353.

No. 952, Misc. *CERVANTES v. RHAY, PENITENTIARY SUPERINTENDENT.* Sup. Ct. Wash. Certiorari denied.

No. 953, Misc. *MICKELS v. RHAY, PENITENTIARY SUPERINTENDENT.* Sup. Ct. Wash. Certiorari denied.

No. 955, Misc. *GORMAN v. KINGS MERCANTILE CO., INC., ET AL.* Ct. App. N. Y. Certiorari denied. *Jacob Rassner* for petitioner. *John J. Boyle* for respondent Title Guarantee Co.

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No. 954, Misc. *HOLLIS v. BETO*, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. Reported below: 352 F. 2d 550.

No. 959, Misc. *CARDARELLA v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States. Reported below: 351 F. 2d 443.

No. 960, Misc. *MERRILL v. ALASKA*. Sup. Ct. Alaska. Certiorari denied.

No. 965, Misc. *BELL v. KENTUCKY*. Ct. App. Ky. Certiorari denied. Reported below: 395 S. W. 2d 784.

No. 972, Misc. *MILLIGAN v. WILSON, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 978, Misc. *ZANCA v. MAIMONIDES HOSPITAL*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 79, Misc. *WARNER v. KENTUCKY*. Ct. App. Ky. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Petitioner *pro se*. *Robert Matthews*, Attorney General of Kentucky, and *Joseph H. Eckert*, Assistant Attorney General, for respondent. Reported below: 386 S. W. 2d 455.

No. 481, Misc. *ALFORD v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. Petitioner *pro se*. *Darrell F. Smith*, Attorney General of Arizona, and *Paul G. Rosenblatt*, Assistant Attorney General, for respondent. Reported below: 98 Ariz. 124, 402 P. 2d 551.

No. 981, Misc. *COPESTICK v. RHAY, PENITENTIARY SUPERINTENDENT*. Sup. Ct. Wash. Certiorari denied.

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No. 988, Misc. *TAYLOR v. WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 1110, Misc. *HUTCHINS v. DUNBAR, CORRECTIONS DIRECTOR*. C. A. 9th Cir. Certiorari denied.

Rehearing Denied.

No. 305. *DERFUS v. CALIFORNIA*, *ante*, p. 955;
No. 343. *CUDIA ET AL. v. UNITED STATES*, *ante*, p. 955;
No. 520. *WILSON v. COMMISSIONER OF INTERNAL REVENUE*, *ante*, p. 108;

No. 534. *BATTAGLIA v. UNITED STATES*, *ante*, p. 955;
No. 607. *ANDREWS v. UNITED STATES*, *ante*, p. 956;
No. 703. *POSTELL ET AL. v. UNITED STATES*, *ante*, p. 956;

No. 706. *ANDREWS ET AL. v. UNITED STATES*, *ante*, p. 956;

No. 707. *OWENS ET AL. v. UNITED STATES*, *ante*, p. 956;

No. 621. *HILL v. UNITED STATES ET AL.*, *ante*, p. 956; and

No. 211, Misc. *SYVERSON v. UNITED STATES*, *ante*, p. 961. Petitions for rehearing denied.

JANUARY 26, 1966.

Dismissal Under Rule 60.

No. 411. *MARSH, SECRETARY OF STATE OF NEBRASKA, ET AL. v. DWORAK ET AL.* Appeal from D. C. Neb. Appeal dismissed pursuant to Rule 60 of the Rules of this Court. *Clarence A. H. Meyer*, Attorney General of Nebraska, *Richard H. Williams*, Assistant Attorney General, and *Robert A. Nelson*, Special Assistant Attorney General, for appellants. *August Ross* and *Robert E. O'Connor* for appellees. Reported below: 242 F. Supp. 357.

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Miscellaneous Orders.

No. 18, Original. *ILLINOIS v. MISSOURI*. The amended complaint is filed and the State of Missouri is allotted 60 days to answer the complaint, as amended. *William G. Clark*, Attorney General of Illinois, *Richard A. Michael*, Assistant Attorney General, and *Terence F. MacCarthy*, Special Assistant Attorney General, for plaintiff. [For earlier orders herein, see 379 U. S. 952; 380 U. S. 901, 969; *ante*, p. 803.]

No. 1023, Misc. *JAMES v. CALIFORNIA*; and

No. 1040, Misc. *LISHEY v. WILSON, WARDEN*. Motions for leave to file petitions for writs of habeas corpus denied.

No. 1050, Misc. *GORHAM v. FITZHARRIS, CORRECTIONAL SUPERINTENDENT*. Motion for leave to file petition for writ of habeas corpus and for other relief denied.

No. 984, Misc. *HERB v. FLORIDA*. Motion for leave to file petition for writ of habeas corpus denied. Treating the papers submitted as a petition for writ of certiorari, certiorari is denied.

No. 1044, Misc. *MORRISON v. DAVIS, CLERK OF THE UNITED STATES SUPREME COURT*. Motion for leave to file petition for writ of mandamus denied.

Probable Jurisdiction Postponed.

No. 273, Misc. *SPENCER v. TEXAS*. Appeal from Ct. Crim. App. Tex. Motion for leave to proceed *in forma pauperis* granted and further consideration of the question of jurisdiction in this case postponed to the hearing

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of the case on the merits. The case is transferred to the appellate docket and set for oral argument immediately following No. 128, Misc. *Louis V. Nelson* for appellant. *Waggoner Carr*, Attorney General of Texas, *Hawthorne Phillips*, First Assistant Attorney General, *T. B. Wright*, Executive Assistant Attorney General, and *Howard M. Fender*, *Charles B. Swanner* and *Gilbert J. Pena*, Assistant Attorneys General, for appellee. Reported below: 389 S. W. 2d 304.

Certiorari Granted. (See also No. 274, *ante*, p. 456.)

No. 506. *ADDERLEY ET AL. v. FLORIDA.* Dist Ct. App. Fla., 1st Dist. Certiorari granted. *Richard Yale Feder* and *Tobias Simon* for petitioners. *Earl Faircloth*, Attorney General of Florida, and *William D. Roth*, Assistant Attorney General, for respondent.

No. 128, Misc. *BELL v. TEXAS.* Ct. Crim. App. Tex. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. The case is transferred to the appellate docket. Petitioner *pro se*. *Waggoner Carr*, Attorney General of Texas, *Hawthorne Phillips*, First Assistant Attorney General, *T. B. Wright*, Executive Assistant Attorney General, and *Howard M. Fender*, *Gilbert J. Pena* and *Charles B. Swanner*, Assistant Attorneys General, for respondent. Reported below: 387 S. W. 2d 411.

No. 724. *OSBORN v. UNITED STATES.* C. A. 6th Cir. Certiorari granted. MR. JUSTICE WHITE and MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Jacob Kossman* for petitioner. *Solicitor General Marshall*, Assistant Attorney General *Vinson*, *Beatrice Rosenberg* and *Kirby W. Patterson* for the United States. Reported below: 350 F. 2d 497.

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No. 794. *HOFFA v. UNITED STATES*;
No. 795. *PARKS v. UNITED STATES*;
No. 796. *CAMPBELL v. UNITED STATES*; and
No. 797. *KING v. UNITED STATES*. C. A. 6th Cir.
Motion of the Criminal Courts Bar Association of Los
Angeles for leave to file a brief, as *amicus curiae* in No.
794, granted. The petitions for writs of certiorari are
also granted limited to the following question:

"Whether evidence obtained by the Government by
means of deceptively placing a secret informer in the
quarters and councils of a defendant during one criminal
trial so violates the defendant's Fourth, Fifth and Sixth
Amendment rights that suppression of such evidence is
required in a subsequent trial of the same defendant on
a different charge."

The cases are consolidated and a total of three hours
is allotted for oral argument. MR. JUSTICE WHITE and
MR. JUSTICE FORTAS took no part in the consideration or
decision of this motion or these petitions.

Morris A. Shenker and *Joseph A. Fanelli* for petitioner
in No. 794. *Jacques M. Schiffer* for petitioner in No.
795. *Cecil D. Branstetter* for petitioner in No. 796.
P. D. Maktos, John Maktos, Moses Krislov and *Harold
E. Brown* for petitioner in No. 797. *Solicitor General
Marshall, Assistant Attorney General Vinson, Nathan
Lewin* and *Robert S. Erdahl* for the United States.
Morris Levine for Criminal Courts Bar Association of
Los Angeles, as *amicus curiae*, in support of the petition
in No. 794. Reported below: 349 F. 2d 20.

No. 811. *LEWIS v. UNITED STATES*. C. A. 1st Cir.
Certiorari granted. *S. Myron Klafeld* for petitioner.
*Solicitor General Marshall, Assistant Attorney General
Vinson* and *Beatrice Rosenberg* for the United States.
Reported below: 352 F. 2d 799.

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No. 831. SWITZERLAND CHEESE ASSOCIATION, INC., ET AL. v. E. HORNE'S MARKET, INC. C. A. 1st Cir. Certiorari granted. *John J. McGlew* and *Alfred E. Page* for petitioners. Reported below: 351 F. 2d 552.

No. 268, Misc. REED v. BETO, CORRECTIONS DIRECTOR. C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. The case is transferred to the appellate docket and set for oral argument immediately following No. 273, Misc. *Charles W. Tessmer*, *Clyde W. Woody* and *Emmett Colvin, Jr.*, for petitioner. *Waggoner Carr*, Attorney General of Texas, *Hawthorne Phillips*, First Assistant Attorney General, *T. B. Wright*, Executive Assistant Attorney General, and *Gilbert J. Pena*, *Charles B. Swanner* and *Howard M. Fender*, Assistant Attorneys General, for respondent. Reported below: 343 F. 2d 723.

Certiorari Denied. (See also No. 966, Misc., *ante*, p. 455; and No. 984, Misc., *supra*.)

No. 712. VELSICOL CHEMICAL CORP. v. GOLDEN GATE HOP RANCH, INC. Sup. Ct. Wash. Certiorari denied. *William A. Helsell* for petitioner. *C. W. Halverson* for respondent. Reported below: 66 Wash. 2d 469, 403 P. 2d 351.

No. 773. SOCIEDAD MARITIMA SAN NICHOLAS, S. A., ET AL. v. BOUAS. C. A. 2d Cir. Certiorari denied. *Melvin J. Tublin* for petitioners. *Isaac Salem* for respondent.

No. 810. SIMPSON ET AL. v. UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Edward L. Carey* and *Walter E. Gillcrist* for petitioners. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Robert G. Maysack* for the United States.

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No. 492. *McFADDIN EXPRESS, INC., ET AL. v. ADLEY CORP. ET AL.* C. A. 2d Cir. Certiorari denied. *Tobias Weiss* for petitioners. *Joseph P. Cooney* for Adley Corp. et al., and *Solicitor General Marshall* for the United States, respondents. Reported below: 346 F. 2d 424.

No. 659. *Ross v. STANLEY ET AL.* C. A. 5th Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *William E. Haudek* for petitioner. *M. W. Wells* for Stanley et al.; *David W. Hedrick* for Midwestern Constructors, Inc., et al.; *John Bingham* for Harbert Construction Corp.; and *Robert F. Campbell* and *R. Y. Patterson, Jr.*, for Florida Gas Co. et al., respondents. Reported below: 346 F. 2d 645.

No. 816. *GOVERNMENT EMPLOYEES INSURANCE CO. v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. *Lowell White* for petitioner. *Solicitor General Marshall, Assistant Attorney General Douglas* and *Alan S. Rosenthal* for the United States. Reported below: 349 F. 2d 83.

No. 827. *UNITED STATES FIDELITY & GUARANTY CO. v. WINKLER ET AL.* C. A. 8th Cir. Certiorari denied. *Roy F. Carter* for petitioner. *Charles L. Bacon* and *Vincent E. Baker* for respondents. Reported below: 351 F. 2d 685.

No. 833. *HOUSTON CHAPTER, ASSOCIATED GENERAL CONTRACTORS OF AMERICA, INC., ET AL. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 5th Cir. Certiorari denied. *L. G. Clinton, Jr.*, and *Tom M. Davis* for petitioners. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 349 F. 2d 449.

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No. 743. INDIANA BROADCASTING CORP. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 7th Cir. Certiorari denied. *Whitman Knapp* and *Martin F. Richman* for petitioner. *Solicitor General Marshall*, *Acting Assistant Attorney General Roberts* and *Robert A. Bernstein* for respondent. *Douglas A. Anello* for National Association of Broadcasters, as *amicus curiae*, in support of the petition. Reported below: 350 F. 2d 580.

No. 828. LICHOTA ET UX. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *Sumner Canary* for petitioners. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Julia P. Cooper* for the United States. Reported below: 351 F. 2d 81.

No. 835. REPUBLIC OF IRAQ *v.* FIRST NATIONAL CITY BANK, ADMINISTRATOR. C. A. 2d Cir. Certiorari denied. *Leo C. Fennelly* for petitioner. *Herbert Brownell* and *Woodson D. Scott* for respondent. Reported below: 353 F. 2d 47.

No. 844. MILLER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Burton Marks* for petitioner. *Solicitor General Marshall*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 351 F. 2d 598.

No. 732, Misc. VASQUEZ-OCHOA *v.* UNITED STATES ET AL. C. A. 9th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States et al.

No. 872. DEXTER ET AL. *v.* UNITED STATES. C. A. 5th Cir. Motion to dispense with printing the petition granted. Certiorari denied. *David Goldman* for petitioners. *Solicitor General Marshall* for the United States. Reported below: 351 F. 2d 461.

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No. 883, Misc. *STREETER v. ALABAMA*. Sup. Ct. Ala. Certiorari denied. *Crampton Harris* for petitioner. Reported below: 278 Ala. 272, 177 So. 2d 826.

No. 865. *FRANK v. TOMLINSON, DISTRICT DIRECTOR OF INTERNAL REVENUE*. C. A. 5th Cir. Certiorari denied. *Arthur B. Cunningham* and *Philip T. Weinstein* for petitioner. *Solicitor General Marshall, Acting Assistant Attorney General Roberts, Joseph M. Howard* and *John M. Brant* for respondent. Reported below: 351 F. 2d 384.

No. 820. *UNITED STATES v. INTERNATIONAL BUSINESS MACHINES CORP.* Ct. Cl. Motion of counsel in No. 922 to defer consideration of the petition in No. 820 denied. Certiorari denied. *Solicitor General Marshall, Acting Assistant Attorney General Roberts, Jack S. Levin, Harry Baum* and *Robert A. Bernstein* for the United States. *Daniel M. Gribbon, William H. Allen* and *Brice M. Clagett* for respondent. *William Lee McLane* on the motion. *William H. Allen* in opposition to the motion. Reported below: 170 Ct. Cl. 357, 343 F. 2d 914.

No. 848, Misc. *BEATTY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 350 F. 2d 287.

No. 873, Misc. *BROWN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *Thomas B. McNeill* for petitioner. *Solicitor General Marshall, Assistant Attorney General Doar* and *David L. Norman* for the United States. Reported below: 351 F. 2d 564.

No. 834, Misc. *WILLIAMS v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

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No. 886, Misc. *CHASE v. ROBBINS, WARDEN*. C. A. 1st Cir. Certiorari denied.

No. 887, Misc. *HACKETT v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 348 F. 2d 883.

No. 890, Misc. *CASTRO v. UNITED STATES*. Sup. Ct. Cal. Certiorari denied.

No. 898, Misc. *McINTOSH v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States.

No. 971, Misc. *BAKER v. ILLINOIS*. Cir. Ct. Ill., Marion County. Certiorari denied.

No. 910, Misc. *SHORES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Kirby W. Patterson* for the United States. Reported below: 352 F. 2d 485.

No. 940, Misc. *LEWIS v. LAVALLEE, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 977, Misc. *ANDREWS v. SMITH ET AL.* App. Ct. Ill., 2d Dist. Certiorari denied. *John R. Snively* for petitioner. *William W. Peterson and Russell E. Smith* for respondents. Reported below: 54 Ill. App. 2d 51, 203 N. E. 2d 160.

No. 958, Misc. *COOPER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 997, Misc. *WELLMAN v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

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No. 968, Misc. *HATCHER v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *Robert Reed Gray* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 122 U. S. App. D. C. 148, 352 F. 2d 364.

No. 907, Misc. *KENNEY ET AL. v. TRINIDAD CORP.* C. A. 5th Cir. Certiorari denied. *Benjamin E. Smith* and *Arthur Mandell* for petitioners. *Benjamin W. Yancey* for respondent. Reported below: 349 F. 2d 832.

No. 976, Misc. *FEIST v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 1000, Misc. *McFARLAND v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Petitioner *pro se*. *Solicitor General Marshall* for the United States.

No. 1026, Misc. *JOHNSON ET AL. v. LLOYD*. C. A. D. C. Cir. Certiorari denied. *Thurman L. Dodson* for petitioners. *James F. Temple* for respondent.

No. 931, Misc. *PARKER v. BOARD OF EDUCATION, PRINCE GEORGE'S COUNTY, MARYLAND*. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Robert H. Reiter* for petitioner. Reported below: 348 F. 2d 464.

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No. 557. *INTERNATIONAL TERMINAL OPERATING Co., INC. v. N. V. NEDERL. AMERIK STOOMV. MAATS.*, *ante*, p. 283. Petition for rehearing denied.

No. 718, Misc. *WILLIAMSON ET AL. v. BLANKENSHIP, JUDGE, ET AL.*, *ante*, p. 923. Motion for leave to file petition for rehearing denied.

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SUPERVISORS. See **National Labor Relations Act**, 1-2.

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1. Resignation of Mr. Justice Goldberg, p. vii.
2. Appointment of MR. JUSTICE FORTAS, p. xi.
3. Presentation of the Solicitor General, p. xv.
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TRIAL. See *Bankruptcy Act*, 1; *Constitutional Law*, V; *Statutory Presumptions*.

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UNFAIR COMPETITION. See *Federal Trade Commission*.

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UNPATENTABILITY. See **Patent Applications.**

UNRECORDED LIENS. See **Bankruptcy Trustee.**

VAGUENESS. See **Constitutional Law, I, 1.**

VIRGINIA. See **Constitutional Law, II, 3.**

WARRANTS. See **Constitutional Law, IV; Evidence.**

WILLS. See **Constitutional Law, II, 1-2.**

WISCONSIN. See **National Labor Relations Act, 1-2.**

WITNESSES. See **Contempt, 1-2.**

WORDS.

1. "*Based in whole or in part on any matter complained of.*"—Clayton Act, § 5 (b), 15 U. S. C. § 16 (b). *Leh v. General Petroleum Corp.*, p. 54.

2. "*Connecting lines.*"—Interstate Commerce Act § 3 (4), 49 U. S. C. § 3 (4). *Western Pac. R. Co. v. United States*, p. 237.

3. "*Consistent with the public interest.*"—Interstate Commerce Act § 5 (2)(b), 49 U. S. C. § 5 (2)(b). *Seaboard Air Line R. Co. v. U. S.*, p. 154.

4. "*Judgment creditor.*"—Internal Revenue Code § 6323, 26 U. S. C. § 6323. *United States v. Speers*, p. 266.

5. "*Prior art.*"—35 U. S. C. § 103. *Hazeltine Research v. Brenner*, p. 252.

6. "*Property.*"—§ 70a (5), Bankruptcy Act, 11 U.S.C. § 110 (a)(5). *Segal v. Rochelle*, p. 375.

7. "*Transferred.*"—§ 70a (5), Bankruptcy Act, 11 U. S. C. § 110 (a)(5). *Segal v. Rochelle*, p. 375.

WORKMEN'S COMPENSATION. See **Judgments; Rules.**















