

ORDERS FROM END OF OCTOBER TERM, 1966,  
THROUGH JANUARY 15, 1968.

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CASES DISMISSED IN VACATION.

No. 159, Misc. *QUINN v. MOBIL OIL Co., A DIVISION OF SOCONY MOBIL OIL Co., INC.* C. A. 1st Cir. Petition for writ of certiorari dismissed July 28, 1967, pursuant to Rule 60 of the Rules of this Court. *Conrad W. Oberdorfer* for respondent. Reported below: 375 F. 2d 273.

No. 262, Misc. *GOODMAN v. PATE, WARDEN.* Sup. Ct. Ill. Petition for writ of certiorari dismissed August 16, 1967, pursuant to Rule 60 of the Rules of this Court.

No. 49, Misc. *BRECKENRIDGE v. PATTERSON, WARDEN.* C. A. 10th Cir. Petition for writ of certiorari dismissed August 29, 1967, pursuant to Rule 60 of the Rules of this Court. *Duke W. Dunbar*, Attorney General of Colorado, *Frank E. Hickey*, Deputy Attorney General, and *John P. Moore*, Assistant Attorney General, for respondent. Reported below: 374 F. 2d 857.

No. 224. *GOLDFARB NOVELTY Co., INC., ET AL. v. UNEEDA DOLL Co., INC.* C. A. 2d Cir. Petition for writ of certiorari dismissed September 21, 1967, pursuant to Rule 60 of the Rules of this Court. *Thomas R. Farrell, Jr.*, for Goldfarb Novelty Co., Inc., and *Clarence Fried* for Walgreen Eastern Co., Inc., petitioners. *Eugene H. Zimmerman* for respondent. Reported below: 373 F. 2d 851.

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*Miscellaneous Orders.*

No. 339, October Term, 1958. *SPEVACK v. STRAUSS ET AL.*, 359 U. S. 115. Motion for confirmation of conclusive effect of executed order denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Carleton U. Edwards II* and *Joseph Y. Houghton* on the motion.

No. —, October Term, 1966. *IN RE WERNER*. James Lee Werner, Esquire, of Cincinnati, Ohio, having resigned as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to practice in this Court. MR. JUSTICE MARSHALL took no part in this matter.

No. 624, October Term, 1966. *MOODY ET AL. v. FLOWERS ET AL.*, 387 U. S. 97. Motion of appellees to retax costs granted and the costs are equally divided. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Truman Hobbs* on the motion. *Cyrus R. Lewis* for appellants, in opposition.

No. 118, October Term, 1966. *DOMBROWSKI ET AL. v. EASTLAND ET AL.*, 387 U. S. 82. Motion of respondent J. G. Sourwine to retax costs denied. MR. JUSTICE BLACK and MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

No. 21. *ZSCHERNIG ET AL. v. MILLER, ADMINISTRATOR, ET AL.* Appeal from Sup. Ct. Ore. (Probable jurisdiction noted, 386 U. S. 1030.) Motion of Slaff, Mosk & Rudman for leave to file brief, as *amicus curiae*, granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Edward Mosk* on the motion.

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No. 16. MEMPA *v.* RHAY, PENITENTIARY SUPERINTENDENT; and

No. 22. WALKLING *v.* RHAY, PENITENTIARY SUPERINTENDENT. Sup. Ct. Wash. Motion of National Legal Aid and Defender Association for leave to file a brief, as *amicus curiae*, granted. Motion in No. 22 to substitute Washington State Board of Prison Terms and Paroles in place of B. J. Rhay, Superintendent, Washington State Penitentiary, as the party respondent granted. *Patrick J. Hughes, Jr.*, for National Legal Aid and Defender Association, as *amicus curiae*, in both cases. *Evan L. Schwab* for petitioner, and *John J. O'Connell*, Attorney General of Washington, and *Stephen C. Way*, Assistant Attorney General, for respondent, on the motion in No. 22. [For earlier orders herein, see 386 U. S. 907, 953.]

No. 27. FEDERAL TRADE COMMISSION *v.* FRED MEYER, INC., ET AL. C. A. 9th Cir. (Certiorari granted, 386 U. S. 907.) Motion of Atlantic Coast Independent Distributors Association, Inc., for leave to file brief, as *amicus curiae*, granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Morris B. Abram* on the motion. *Edward F. Howrey*, *Terrence C. Sheehy* and *George W. Mead* for respondents in opposition.

No. 49. NATIONAL LABOR RELATIONS BOARD *v.* FLEETWOOD TRAILER CO., INC. C. A. 9th Cir. (Certiorari granted, 386 U. S. 990.) Motion of American Federation of Labor & Congress of Industrial Organizations for leave to file brief, as *amicus curiae*, granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *J. Albert Woll*, *Laurence Gold* and *Thomas E. Harris* on the motion.

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No. 33. UNITED MINE WORKERS OF AMERICA, DISTRICT 12 *v.* ILLINOIS STATE BAR ASSOCIATION ET AL. Sup. Ct. Ill. (Certiorari granted, 386 U. S. 941.) Motions of American Federation of Labor & Congress of Industrial Organizations, National Lawyers Guild and State Bar of California for leave to file briefs, as *amici curiae*, granted. Motion of NAACP Legal Defense & Educational Fund, Inc., et al. for leave to file brief, as *amici curiae*, granted. Motions of NAACP Legal Defense & Educational Fund, Inc., et al. and State Bar of California for leave to participate in oral argument, as *amici curiae*, denied. *J. Albert Woll, Laurence Gold and Thomas E. Harris* for American Federation of Labor & Congress of Industrial Organizations, *Victor Rabinowitz, Allan Brotsky and Donald L. A. Kerson* for National Lawyers Guild, *Joseph A. Ball, John J. Goldberg and Samuel O. Pruitt, Jr.*, for State Bar of California, *Jack Greenberg, James M. Nabrit III and Melvyn Zarr* for NAACP Legal Defense & Educational Fund, Inc., et al., on the motions. *Edmund Burke, Edward L. Carey, Harrison Combs, Willard P. Owens and M. E. Boiarsky* for petitioner, and *Bernard H. Bertrand* for respondents, in opposition.

No. 67. TERRY ET AL. *v.* OHIO. Sup. Ct. Ohio. (Certiorari granted, 387 U. S. 929.) Motions of petitioner Terry for leave to proceed further herein *in forma pauperis* and to dispense with printing record granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of these motions. *Jack G. Day* on the motions.

No. 386, Misc. SIMS *v.* GARDNER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE. C. A. 6th Cir. Motion of American Trial Lawyers Association for leave to file brief, as *amicus curiae*, granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Israel Steingold* on the motion.

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No. 43. ALBRECHT *v.* HERALD Co., DBA GLOBE-DEMOCRAT PUBLISHING Co. C. A. 8th Cir. (Certiorari granted, 386 U. S. 941.) Further consideration of motion of respondent to dismiss writ of certiorari postponed to hearing of case on the merits. *Lon Hocker* on the motion. *Donald S. Siegel* and *Gray L. Dorsey* for petitioner in opposition.

No. 85. UNITED STATES *v.* JACKSON ET AL. Appeal from D. C. Conn. (Probable jurisdiction noted, 387 U. S. 929.) Motion of appellee Jackson for leave to proceed further herein *in forma pauperis* granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Steven Duke* and *Stephen I. Traub* on the motion.

No. 86. UNITED STATES *v.* THIRD NATIONAL BANK IN NASHVILLE ET AL. Appeal from D. C. M. D. Tenn. (Probable jurisdiction noted, 388 U. S. 905.) Motion of Comptroller of the Currency to remove case from summary calendar granted. MR. JUSTICE FORTAS and MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Joseph J. O'Malley* on the motion for appellee Comptroller of the Currency.

No. 90 et al. PERMIAN BASIN AREA RATE CASES. C. A. 10th Cir. (Certiorari granted, 388 U. S. 906.) Motion of Associated Gas Distributors Group for leave to file brief, as *amicus curiae*, granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *J. David Mann, Jr.*, and *John E. Holtzinger, Jr.*, on the motion.

No. 147. K-91, INC. *v.* GERSHWIN PUBLISHING CORP. ET AL. C. A. 9th Cir. The Solicitor General is invited to file a brief expressing the views of the United States.

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No. 246. *MOSES ET AL. v. WASHINGTON ET AL.* Appeal from Sup. Ct. Wash.;

No. 247. *PUYALLUP TRIBE v. DEPARTMENT OF GAME OF WASHINGTON ET AL.* Sup. Ct. Wash.;

No. 319. *KAUTZ ET AL. v. DEPARTMENT OF GAME OF WASHINGTON ET AL.* Sup. Ct. Wash.; and

No. 387. *ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK INDIAN RESERVATION v. NORDWICK, EXECUTOR, ET AL.* C. A. 9th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States. MR. JUSTICE MARSHALL took no part in the consideration or decision of this order.

No. 241, Misc. *NEVADA TAX COMMISSION v. THOMPSON, U. S. DISTRICT JUDGE, ET AL.* C. A. 9th Cir. and D. C. Nev. Motion for leave to file petition for writ of certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Harvey Dickerson*, Attorney General of Nevada, for petitioner. *Solicitor General Marshall*, *Assistant Attorney General Rogovin* and *Harold C. Wilkenfeld* for respondent Thompson et al.

No. 196, Misc. *VNUK, AKA ANTHONY v. PITCHESS, SHERIFF.* Motion for leave to file petition for writ of habeas corpus denied. *G. G. Baumen* on the motion.

No. 54, Misc. *NELMS v. UNITED STATES*; and

No. 391, Misc. *DOW, AKA COREY v. ATTORNEY GENERAL OF THE UNITED STATES.* Motions for leave to file petitions for writs of habeas corpus denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of these motions. *Solicitor General Marshall*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States, in opposition in both cases.

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No. 179, Misc. IN RE DISBARMENT OF LOMBARD. It having been reported to the Court that Earl J. Lombard of Washington, District of Columbia, has been disbarred from the practice of law by the United States Court of Appeals for the District of Columbia Circuit, duly entered on the eighteenth day of May, 1967, and this Court by order of June 5, 1967, having suspended the said Earl J. Lombard from the practice of law in this Court and directing 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 Earl J. Lombard 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.

No. 156, Misc. KENNEDY *v.* COMMANDANT, UNITED STATES DISCIPLINARY BARRACKS, FORT LEAVENWORTH. Motion for leave to file petition for writ of habeas corpus and other relief denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for respondent in opposition.

No. 221, Misc. UTICA MUTUAL INSURANCE CO. *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK ET AL. Motion for leave to file petition for writ of mandamus denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Charles J. Barnhill* on the motion. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for National Labor Relations Board in opposition.

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- No. 152, Misc. *WELSH v. CALIFORNIA ET AL.*;  
No. 172, Misc. *GAITO v. DUGGAN, DISTRICT ATTORNEY, ET AL.*;  
No. 186, Misc. *HECTOR v. UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT*;  
No. 228, Misc. *IN RE BARASH*;  
No. 243, Misc. *BAKER v. MCNAUL*;  
No. 270, Misc. *BLACKBURN v. FLORIDA*;  
No. 289, Misc. *McGARRITY v. NELSON, ACTING WARDEN*;  
No. 293, Misc. *MASON v. WARDEN, SOUTHERN MICHIGAN STATE PRISON*;  
No. 354, Misc. *MEYER v. FIELD, MENS COLONY SUPERINTENDENT*;  
No. 381, Misc. *DENSON v. LANE, WARDEN*;  
No. 400, Misc. *COTTLO v. CALIFORNIA ET AL.*;  
No. 401, Misc. *SPEARMINT v. OHIO ET AL.*;  
No. 458, Misc. *BAKER v. BENNETT, WARDEN*; and  
No. 522, Misc. *OUGHTON v. MEIER, WARDEN*. Motions for leave to file petitions for writs of habeas corpus denied.
- No. 145, Misc. *FISK v. CURRIE, CHIEF JUSTICE, SUPREME COURT OF WISCONSIN*;  
No. 178, Misc. *CHOPE v. THORNTON, U. S. DISTRICT JUDGE*;  
No. 239, Misc. *BLACKWELL v. CURRIE, CHIEF JUSTICE, SUPREME COURT OF WISCONSIN, ET AL.*;  
No. 321, Misc. *BALLOU v. ALDRICH ET AL., U. S. CIRCUIT JUDGES*;  
No. 340, Misc. *LUOMALA v. KUNZEL, U. S. DISTRICT JUDGE*; and  
No. 419, Misc. *RUCKER v. CALIFORNIA DEPARTMENT OF CORRECTIONS ET AL.* Motions for leave to file petitions for writs of mandamus denied.

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No. 240, Misc. WORKMAN *v.* TURNER, WARDEN; and No. 416, Misc. FORESTER *v.* FIELD, MENS COLONY SUPERINTENDENT, ET AL. Motions for leave to file petitions for writs of habeas corpus denied. Treating the papers submitted as petitions for writs of certiorari, certiorari denied.

No. 368, Misc. BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS ET AL. *v.* GOLDBERG, U. S. CIRCUIT JUDGE, ET AL. Motion for leave to file petition for writ of mandamus and/or prohibition denied. *Crawford C. Martin*, Attorney General of Texas, *George M. Cowden*, First Assistant Attorney General, *J. C. Davis*, *W. O. Shultz II* and *James C. McCoy*, Assistant Attorneys General, and *A. J. Carubbi, Jr.*, on the motion. *David R. Richards* for Gilmore et al., in opposition.

*Probable Jurisdiction Noted or Postponed.*

No. 111, Misc. CAMERON ET AL. *v.* JOHNSON, GOVERNOR OF MISSISSIPPI, ET AL. Appeal from D. C. S. D. Miss. Motion for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted and case transferred to appellate docket. *Arthur Kinoy*, *William M. Kunstler*, *Benjamin E. Smith*, *Bruce C. Waltzer* and *Morton Stavis* for appellants. *Joe T. Patterson*, Attorney General of Mississippi, and *Will S. Wells* and *William A. Allain*, Assistant Attorneys General, for appellees. Reported below: 262 F. Supp. 873.

No. 410. DUNCAN *v.* LOUISIANA. Appeal from Sup. Ct. La. Probable jurisdiction noted and case set for oral argument immediately following No. 52 (386 U. S. 1003). *Richard B. Sobol*, *Alvin J. Bronstein* and *Anthony G. Amsterdam* for appellant. Reported below: 250 La. 253, 195 So. 2d 142.

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No. 405. *POWELL v. TEXAS*. Appeal from County Court at Law No. 1, Travis County. Probable jurisdiction noted. *Lawrence Speiser* for appellant. *Crawford C. Martin*, Attorney General of Texas, *George M. Cowden*, First Assistant Attorney General, *Robert L. Lattimore*, Assistant Attorney General, and *A. J. Carubbi, Jr.*, for appellee.

No. 196. *SCHNEIDER v. SMITH, COMMANDANT, UNITED STATES COAST GUARD*. Appeal from D. C. W. D. Wash. Motion to dispense with printing the jurisdictional statement granted. Further consideration of the question of jurisdiction in this case is postponed to the hearing of the case on the merits. MR. JUSTICE MARSHALL took no part in the consideration or decision of this case. *John Caughlan* for appellant. *Solicitor General Marshall*, *Assistant Attorney General Yeagley*, *Kevin T. Maroney* and *Lee B. Anderson* for appellee. Reported below: 263 F. Supp. 496.

No. 107. *UNITED STATES v. HABIG ET AL.* Appeal from D. C. S. D. Ind. Probable jurisdiction noted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this case. *Solicitor General Marshall*, *Assistant Attorney General Rogovin* and *Joseph M. Howard* for the United States. *Lester M. Ponder* for appellees. Reported below: 270 F. Supp. 929.

No. 324. *NORFOLK & WESTERN RAILWAY CO. ET AL. v. MISSOURI STATE TAX COMMISSION ET AL.* Appeal from Sup. Ct. Mo. Probable jurisdiction noted. *William H. Allen*, *Christopher S. Bond* and *Charles L. Bacon* for appellants. *Norman H. Anderson*, Attorney General of Missouri, and *John H. Denman*, Assistant Attorney General, for appellees. Reported below: 426 S. W. 2d 362.

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*Certiorari Granted.* (See also No. 26, Misc., *ante*, p. 10; and No. 51, Misc., *ante*, p. 12.)

No. 276. *HOPKINS v. GARDNER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE.* C. A. 7th Cir. *Certiorari granted.* MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Allen Sharp* for petitioner. *Solicitor General Marshall* for respondent. Reported below: 374 F. 2d 726.

No. 187. *MENOMINEE TRIBE OF INDIANS v. UNITED STATES.* Ct. Cl. *Certiorari granted.* MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Charles A. Hobbs* and *Angelo A. Iadarola* for petitioner. *Solicitor General Marshall* for the United States. Reported below: 179 Ct. Cl. 496, 388 F. 2d 998.

No. 60. *FEDERAL POWER COMMISSION v. SUNRAY DX OIL Co. ET AL.;*

No. 61. *UNITED GAS IMPROVEMENT Co. v. SUNRAY DX OIL Co. ET AL.;*

No. 62. *BROOKLYN UNION GAS Co. ET AL. v. FEDERAL POWER COMMISSION ET AL.;*

No. 80. *FEDERAL POWER COMMISSION v. STANDARD OIL Co. OF TEXAS, A DIVISION OF CHEVRON OIL Co., ET AL.;*

No. 97. *UNITED GAS IMPROVEMENT Co. v. SUNRAY DX OIL Co.* C. A. 10th Cir.;

No. 111. *SHELL OIL Co. v. PUBLIC SERVICE COMMISSION OF NEW YORK;*

No. 143. *SKELLY OIL Co. ET AL. v. PUBLIC SERVICE COMMISSION OF NEW YORK ET AL.;*

No. 144. *FEDERAL POWER COMMISSION v. PUBLIC SERVICE COMMISSION OF NEW YORK ET AL.;* and

No. 231. *SUPERIOR OIL Co. v. FEDERAL POWER COMMISSION ET AL.* C. A. D. C. Cir. *Certiorari granted.* The cases are consolidated and a total of nine hours is

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allotted for oral argument. MR. JUSTICE MARSHALL took no part in the consideration or decision of these petitions.

*Solicitor General Marshall, Ralph S. Spritzer, Richard A. Posner, Richard A. Solomon, Howard E. Wahrenbrock and Cyril S. Wofsy* for petitioner in No. 60.

*William T. Coleman, Jr., Robert W. Maris, Richardson Dilworth and Harold E. Kohn* for petitioner in Nos. 61 and 97.

*Edwin F. Russell, Harry G. Hill, Jr., and Barbara M. Suchow* for Brooklyn Union Gas Co.; *Bertram D. Moll and Morton L. Simons* for Long Island Lighting Co.; *Samuel Graff Miller* for Philadelphia Electric Co., and *Kent H. Brown* for Public Service Commission of New York, petitioners in No. 62.

*Solicitor General Marshall and Mr. Solomon* for petitioner in No. 80.

*Oliver L. Stone and Thomas G. Johnson* for petitioner in No. 111.

*Sherman S. Poland* for Skelly Oil Co.; *Martin N. Erck* for Humble Oil & Refining Co., and *Bernard A. Foster, Jr.*, for Dougherty et al., petitioners in No. 143.

*Solicitor General Marshall, Mr. Solomon, Peter H. Schiff and Joel Yohalem* for petitioner in No. 144.

*Herbert W. Varner and Murray Christian* for petitioner in No. 231.

*Homer E. McEwen, Jr.*, for Sunray DX Oil Co.; *Mr. Erck* for Humble Oil & Refining Co.; *Vernon W. Woods* for Union Producing Co.; *Richard F. Remmers* for Sohio Petroleum Co.; *William K. Tell, Jr.*, and *James D. Annett* for Texaco Inc.; *Warren M. Sparks* for Gulf Oil Corp.; *Kiel Boone* for Cox; *Phillip D. Endom, Robert E. May and Francis H. Caskin* for Sun Oil Co., and *Thomas G. Crouch, Robert W. Henderson and Donald K. Young* for Hunt, respondents in Nos. 60, 61 and 62. *Solicitor*

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*General Marshall* and *Mr. Solomon* for the Federal Power Commission, respondent in Nos. 61 and 62.

*Francis R. Kirkham* and *Justin R. Wolf* for respondent Standard Oil Co. of Texas in No. 80. *Mr. McEwen* for Sunray DX Oil Co.; *Messrs. Tell* and *Annett* for Texaco Inc.; *Messrs. Endom, May* and *Caskin* for Sun Oil Co.; *Mr. Remmers* for Sohio Petroleum Co.; *Mr. Erck* for Humble Oil & Refining Co.; *Robert V. Smith* for Patchin-Wilmoth Industries, Inc.; *J. Evans Attwell* and *W. H. Drushel, Jr.*, for Clark Fuel Producing Co.; *Mr. Boone* for Cox; *Messrs. Crouch, Henderson* and *Young* for Hunt; and *Mr. Poland* for Coates, respondents in Nos. 80 and 97.

*Messrs. Simons, Brown* and *Moll* for respondents in Nos. 111, 143 and 144.

*Solicitor General Marshall, Messrs. Solomon, Schiff* and *Yohalem* for the Federal Power Commission; *Messrs. Brown* and *Simons* for Public Service Commission of New York; and *Mr. Moll* for Long Island Lighting Co., respondents in No. 231.

Reported below: Nos. 60, 61 and 62, 370 F. 2d 181; Nos. 80 and 97, 376 F. 2d 578; Nos. 111, 143, 144 and 231, 126 U. S. App. D. C. 26, 373 F. 2d 816.

No. 59. *BANKS v. CHICAGO GRAIN TRIMMERS ASSOCIATION, INC., ET AL.* C. A. 7th Cir. Motion of petitioner for leave to intervene granted. Certiorari granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition. *Harold A. Liebenson* for petitioner. *Thomas P. Smith* for respondents. *Solicitor General Marshall* for the Deputy Commissioner (Department of Labor). Reported below: 369 F. 2d 344. [For earlier orders herein, see 386 U. S. 1002, 387 U. S. 939.]

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No. 65. *POAFPYBITTY ET AL. v. SKELLY OIL Co.* Sup. Ct. Okla. Certiorari granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Charles Hill Johns* and *Houston Bus Hill* for petitioners. *John H. Cantrell* and *S. W. Wells* for respondent. *Solicitor General Marshall* for the United States, as *amicus curiae*.

No. 219. *PEORIA TRIBE OF INDIANS OF OKLAHOMA ET AL. v. UNITED STATES.* Ct. Cl. Certiorari granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Jack Joseph* and *Louis L. Rochmes* for petitioners. *Solicitor General Marshall*, *Assistant Attorney General Weisl* and *S. Billingsley Hill* for the United States. Reported below: 177 Ct. Cl. 762, 369 F. 2d 1001.

No. 232. *UNITED STATES v. O'BRIEN*; and

No. 233. *O'BRIEN v. UNITED STATES.* C. A. 1st Cir. Certiorari granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of these petitions. *Solicitor General Marshall* for the United States in No. 232. *Marvin M. Karpatkin*, *Howard S. Whiteside* and *Melvin L. Wulf* for petitioner in No. 233. *Solicitor General Marshall*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States in No. 233. Reported below: 376 F. 2d 538.

No. 267. *UNITED STATES v. NEIFERT-WHITE Co.* C. A. 9th Cir. Certiorari granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Solicitor General Marshall*, *Acting Assistant Attorney General Eardley*, *Alan S. Rosenthal* and *Richard S. Salzman* for the United States. *Michael J. Hughes* for respondent. Reported below: 372 F. 2d 372.

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No. 339. *NEWMAN ET AL. v. PIGGIE PARK ENTERPRISES, INC., ET AL.* C. A. 4th Cir. Certiorari granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Matthew J. Perry, Lincoln C. Jenkins, Jr., Jack Greenberg, James M. Nabrit III and Michael Meltsner* for petitioners. Reported below: 377 F. 2d 433.

No. 73. *IN RE RUFFALO.* C. A. 6th Cir. Certiorari granted. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Craig Spangenberg* for petitioner. *Henry C. Robinson* for Mahoning County Bar Association, and *Samuel T. Gaines and P. Paul Pusateri* for Ohio State Bar Association. Reported below: 370 F. 2d 447.

No. 178. *NATIONAL LABOR RELATIONS BOARD v. UNITED INSURANCE CO. OF AMERICA ET AL.; and*

No. 179. *INSURANCE WORKERS INTERNATIONAL UNION, AFL-CIO v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 7th Cir. Certiorari granted. Cases are consolidated. MR. JUSTICE MARSHALL took no part in the consideration or decision of these petitions. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for petitioner in No. 178. *Bernard G. Segal and Irving R. Segal* for respondent United Insurance Co. of America in both cases. *Isaac N. Groner and Alan Y. Cole* for petitioner in No. 179. Reported below: 371 F. 2d 316.

No. 149. *DYKE ET AL. v. TAYLOR IMPLEMENT MANUFACTURING Co., INC.* Sup. Ct. Tenn. Certiorari granted and case set for oral argument immediately following No. 92 (386 U. S. 1003). *Bernard Kleiman, Elliot Bredhoff, Michael Gottesman and Tom J. Taylor* for petitioners. *Foster D. Arnett* for respondent. Reported below: 219 Tenn. 472, 410 S. W. 2d 881.

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No. 305. SECURITIES AND EXCHANGE COMMISSION *v.* NEW ENGLAND ELECTRIC SYSTEM ET AL. C. A. 1st Cir. Certiorari granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Former Solicitor General Marshall, Acting Solicitor General Spritzer, Richard A. Posner, Philip A. Loomis, Jr., and Roger S. Foster* for petitioner. *John R. Quarles, Richard B. Dunn, Richard W. Southgate and John J. Glessner III* for respondents. Reported below: 376 F. 2d 107.

No. 257. FEDERAL MARITIME COMMISSION ET AL. *v.* AKTIEBOLAGET SVENSKA AMERIKA LINIEN (SWEDISH AMERICAN LINE) ET AL.; and

No. 258. AMERICAN SOCIETY OF TRAVEL AGENTS, INC. *v.* AKTIEBOLAGET SVENSKA AMERIKA LINIEN (SWEDISH AMERICAN LINE) ET AL. C. A. D. C. Cir. Certiorari granted. Cases are consolidated. MR. JUSTICE MARSHALL took no part in the consideration or decision of these petitions. *Solicitor General Marshall, Assistant Attorney General Turner, Irwin A. Seibel, Robert N. Katz and Walter H. Mayo III* for petitioners Federal Maritime Commission et al. in No. 257. *Robert J. Sisk, Harold S. Barron, Neil Peck and Glen A. Wilkinson* for petitioner American Society of Travel Agents, Inc., in both cases. *Edward R. Neaher and Carl S. Rowe* for respondents in both cases. Reported below: 125 U. S. App. D. C. 359, 372 F. 2d 932.

No. 291, Misc. JOHNSON *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. Case transferred to appellate docket. *John M. Harrington, Jr.*, for petitioner. *Elliot L. Richardson*, Attorney General of Massachusetts, and *Brian E. Concannon*, Special Assistant Attorney General, for respondent. Reported below: 352 Mass. 311, 225 N. E. 2d 360.

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No. 261. CITY AND COUNTY OF SAN FRANCISCO *v.* SKELLY OIL CO. ET AL.;

No. 262. CITY OF SAN DIEGO *v.* SKELLY OIL CO. ET AL.;

No. 266. STANDARD OIL CO. OF TEXAS, A DIVISION OF CHEVRON OIL CO. *v.* FEDERAL POWER COMMISSION; and

No. 388. MOBIL OIL CORP. ET AL. *v.* FEDERAL POWER COMMISSION. C. A. 10th Cir. Certiorari granted. Cases are consolidated with other "Permian Basin Area Rate Cases" (388 U. S. 906; *supra*, at 805) and set for argument on Monday, December 4, 1967. Briefs of those parties supporting the order of the Federal Power Commission shall be filed on or before November 1, 1967, and of those attacking said order shall be filed on or before November 20, 1967. MR. JUSTICE MARSHALL took no part in the consideration or decision of these petitions. *Thomas M. O'Connor* for petitioner in No. 261. *Edward T. Butler* for petitioner in No. 262. *Francis R. Kirkham* and *Justin R. Wolf* for petitioner in No. 266. *Tom P. Hamill, William H. Tabb* and *Carroll L. Gilliam* for petitioners in No. 388. Reported below: 375 F. 2d 6.

No. 309. AMERICAN FEDERATION OF MUSICIANS OF THE UNITED STATES AND CANADA ET AL. *v.* CARROLL ET AL.; and

No. 310. CARROLL ET AL. *v.* AMERICAN FEDERATION OF MUSICIANS OF THE UNITED STATES AND CANADA ET AL. C. A. 2d Cir. Certiorari granted. The cases are consolidated and two hours are allotted for oral argument. THE CHIEF JUSTICE and MR. JUSTICE MARSHALL took no part in the consideration or decision of these petitions. *Henry Kaiser, Eugene Gressman, George Kaufmann, Ronald Rosenberg* and *David I. Ashe* for petitioners in No. 309 and respondents in No. 310. *Godfrey P. Schmidt* for respondents in No. 309 and petitioners in No. 310. Reported below: 372 F. 2d 155.

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No. 325. WATTS ET AL. *v.* SEWARD SCHOOL BOARD ET AL. Sup. Ct. Alaska. Motion to dispense with printing the petition granted. Certiorari granted. *George Kaufmann* for petitioners. *Theodore M. Pease, Jr.*, for respondents. Reported below: 421 P. 2d 586; 423 P. 2d 678.

No. 335. HANOVER SHOE, INC. *v.* UNITED SHOE MACHINERY CORP.; and

No. 463. UNITED SHOE MACHINERY CORP. *v.* HANOVER SHOE, INC. C. A. 3d Cir. Certiorari granted. The cases are consolidated and two hours are allotted for oral argument. MR. JUSTICE MARSHALL took no part in the consideration or decision of these petitions. *James V. Hayes, Breck P. McAllister* and *Robert F. Morten* for petitioner in No. 335 and respondent in No. 463. *Ralph M. Carson, Robert D. Salinger, Philip C. Potter, Jr.*, and *Roland W. Donnem* for respondent in No. 335 and petitioner in No. 463. Reported below: 377 F. 2d 776.

No. 109, Misc. BRUTON *v.* UNITED STATES. C. A. 8th Cir. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. Case transferred to appellate docket and set for oral argument immediately following No. 66, Misc. (*infra*). MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition. *Solicitor General Marshall, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 375 F. 2d 355.

No. 66, Misc. GARNER *v.* YEAGER, WARDEN, ET AL. C. A. 3d Cir. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. Case transferred to appellate docket.

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No. 19, Misc. ANDERSON *v.* JOHNSON, WARDEN. C. A. 6th Cir. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. Case transferred to appellate docket. *George F. McCanless*, Attorney General of Tennessee, and *Henry C. Foutch*, Assistant Attorney General, for respondent. Reported below: 371 F. 2d 84.

No. 36, Misc. IN RE WHITTINGTON. Ct. App. Ohio, Fairfield County. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. Case transferred to appellate docket. *Judson C. Kistler* for petitioner. *E. Raymond Morehart* for the State of Ohio. [For earlier order herein, see 387 U. S. 940.] Reported below: 13 Ohio App. 2d 11, 233 N. E. 2d 333.

No. 445. AVCO CORP. *v.* AERO LODGE NO. 735, INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, ET AL. C. A. 6th Cir. Certiorari granted. *William Waller* and *John B. Hollister* for petitioner. Reported below: 376 F. 2d 337.

No. 55, Misc. BARBER *v.* PAGE, WARDEN. C. A. 10th Cir. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. Case transferred to appellate docket. *G. T. Blankenship*, Attorney General of Oklahoma, and *Charles L. Owens*, Assistant Attorney General, for respondent. Reported below: 381 F. 2d 479.

*Certiorari Denied.* (See also No. 170, *ante*, p. 7; Nos. 176 and 177, *ante*, p. 14; No. 235, *ante*, p. 8; No. 273, *ante*, p. 8; No. 327, *ante*, p. 9; No. 57, Misc., *ante*, p. 13; No. 74, Misc., *ante*, p. 13; No. 190, Misc., *ante*, p. 11; No. 269, Misc., *ante*, p. 6; and Misc. Nos. 240 and 416, *supra*.)

No. 112. GIAN-CURSIO ET AL. *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. *F. Lee Bailey* for petitioners.

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No. 116. *HALLINAN v. ROMAN CATHOLIC ARCHBISHOP OF SAN FRANCISCO ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied. *Vincent Hallinan* for petitioner. *John F. Duff* for respondent Roman Catholic Archbishop of San Francisco, and *Noel J. Dyer* for respondent University of San Francisco. Reported below: 247 Cal. App. 2d 410, 55 Cal. Rptr. 542.

No. 118. *COMPANIA ANONIMA VENEZOLANO DE NAVEGACION v. MATTHEWS ET AL.* C. A. 5th Cir. Certiorari denied. *Leon Sarpy* and *Paul A. Nalty* for petitioner. *John P. Dowling* for respondent Matthews. Reported below: 371 F. 2d 971.

No. 125. *GENERAL PLYWOOD CORP. v. UNITED STATES PLYWOOD CORP.*; and

No. 140. *UNITED STATES PLYWOOD CORP. v. GENERAL PLYWOOD CORP.* C. A. 6th Cir. Certiorari denied. *John A. Blair* and *Everett R. Casey* for petitioner in No. 125 and respondent in No. 140. *Morris Relson* and *James M. Heilman* for petitioner in No. 140 and respondent in No. 125. Reported below: 370 F. 2d 500.

No. 128. *DOFF ET AL. v. BRUNSWICK CORP.* C. A. 9th Cir. Certiorari denied. *Marcus Mattson* for respondent. Reported below: 372 F. 2d 801.

No. 132. *RODERICK, TRUSTEE, ET AL. v. CHUGACH ELECTRIC ASSOCIATION.* C. A. 9th Cir. Certiorari denied. *Edgar Paul Boyko* for petitioners. *Robert W. Graham* for respondent. Reported below: 370 F. 2d 441.

No. 136. *MINICHELLO v. ROYAL BUSINESS FUNDS CORP.* Ct. App. N. Y. Certiorari denied. *Reginald Leo Duff* for petitioner. *Morton L. Ginsberg* and *David W. Peck* for respondent. Reported below: 18 N. Y. 2d 521, 223 N. E. 2d 793.

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No. 137. LEE *v.* ST. JOE PAPER CO. C. A. 2d Cir. Certiorari denied. *Reginald Leo Duff* for petitioner. *David W. Peck* and *Irving Rozen* for respondent. Reported below: 371 F. 2d 797.

No. 142. PACIFIC SPORTFISHING, INC., ET AL. *v.* BERRY. C. A. 9th Cir. Certiorari denied. *Carl J. Schuck* for petitioners. *Ben Margolis* and *William B. Murrish* for respondent. Reported below: 372 F. 2d 213.

No. 146. RING *v.* STRELECKI, DIRECTOR OF MOTOR VEHICLES, ET AL. Super. Ct. N. J. Certiorari denied. *Carl E. Ring* for petitioner. *Arthur J. Sills*, Attorney General of New Jersey, *Alan B. Handler*, First Assistant Attorney General, and *Alan D. Kirby* and *Richard Newman*, Deputy Attorneys General, for respondents.

No. 150. FISHER *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. *Fletcher Jackson* for petitioner. *Joe Purcell*, Attorney General of Arkansas, and *R. D. Smith III*, Assistant Attorney General, for respondent. Reported below: 241 Ark. 545, 408 S. W. 2d 894.

No. 152. LAHITTE ET VIR *v.* ACME REFRIGERATION SUPPLIES, INC., ET AL. Sup. Ct. La. Certiorari denied.

No. 153. KIMBRELL *v.* PERRY ET AL. Sup. Ct. Tenn. Certiorari denied. *W. A. Harwell* for respondents. Reported below: 219 Tenn. 548, 411 S. W. 2d 538.

No. 162. TIDEWATER PATENT DEVELOPMENT CO., INC. *v.* KITCHEN ET AL., TRADING AS K. M. KITCHEN BEAUTY SUPPLY CO. C. A. 4th Cir. Certiorari denied. *George B. Finnegan, Jr.*, and *William D. Denson* for petitioner. *Samuel J. Stoll* for respondents. Reported below: 371 F. 2d 1004.

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No. 157. SMITH *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. *Edward V. Dylla* for petitioner. Reported below: 409 S. W. 2d 408, 409.

No. 161. COHEN, TRUSTEE IN BANKRUPTCY *v.* JAMES TALCOTT, INC., ET AL. C. A. 3d Cir. Certiorari denied. *Aaron Cohen, pro se*, and *Harry R. Levy* for petitioner. *Morris M. Wexler* for respondents. Reported below: 369 F. 2d 439.

No. 175. PROVIDENT SECURITY LIFE INSURANCE CO. ET AL. *v.* DEPINTO ET AL.; and

No. 191. DEPINTO ET AL. *v.* PROVIDENT SECURITY LIFE INSURANCE CO. ET AL. C. A. 9th Cir. Certiorari denied. *William Lee McLane* and *Nola McLane* for petitioners in No. 175, and together with *Thaddeus Rojek, Harold E. Kohn* and *William T. Coleman, Jr.*, for respondents in No. 191. *Denison Kitchel* and *John P. Frank* for respondents in No. 175 and petitioners in No. 191. Reported below: 374 F. 2d 37.

No. 182. KLIGERMAN ET AL. *v.* LYNCH, PRESIDENT OF THE SENATE OF NEW JERSEY, ET AL. Sup. Ct. N. J. Certiorari denied. *Patrick T. McGahn, Jr.*, for petitioners. *Thomas F. Connery, Jr.*, for respondents.

No. 184. RIFFE *v.* WILSHIRE OIL CO. OF TEXAS. C. A. 10th Cir. Certiorari denied. *Gerald G. Stamper* for petitioner. *Richard H. Shaw* for respondent. Reported below: 381 F. 2d 646.

No. 185. COYNE, ADMINISTRATOR *v.* JOHN MOHR & SONS, INC. C. A. 3d Cir. Certiorari denied. *Edward J. Balzarini* and *Joseph W. Conway* for petitioner. *Norman J. Cowie* for respondent. Reported below: 372 F. 2d 36.

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No. 186. HENSLEY *v.* FORT WORTH & DENVER RAILWAY Co. Ct. Civ. App. Tex., 2d Sup. Jud. Dist. Certiorari denied. *Denning Schattman* for petitioner. *Thos. H. Law* for respondent. Reported below: 408 S. W. 2d 761.

No. 189. NOVO INDUSTRIAL CORP. *v.* STANDARD SCREW Co. C. A. 7th Cir. Certiorari denied. *Thomas F. McWilliams* for petitioner. *Thomas A. Reynolds, Jr., Robert F. Davis* and *John H. Lewis, Jr.*, for respondent. Reported below: 374 F. 2d 824.

No. 206. COE MANUFACTURING Co. *v.* JEDDELOH BROTHERS SWEED MILLS, INC., ET AL. C. A. 9th Cir. Certiorari denied. *James T. Hoffmann* for petitioner. *J. Pierre Kolisch* for respondents. Reported below: 375 F. 2d 85.

No. 207. JACKSON ET AL. *v.* WESTERN GEOTHERMAL, INC., ET AL. Sup. Ct. Nev. Certiorari denied. *Roy B. Woolsey* and *Gilbert W. Boyne* for petitioners. *Owen Jameson* for respondent Western Geothermal, Inc. Reported below: 83 Nev. 31, 422 P. 2d 551.

No. 210. CONTINENTAL CASUALTY Co. *v.* FLOAT-AWAY DOOR Co. ET AL. C. A. 5th Cir. Certiorari denied. *E. Smythe Gambrell* and *Charles A. Moye, Jr.*, for petitioner. *Edward E. Dorsey* for respondent Float-Away Door Co. Reported below: 372 F. 2d 701.

No. 214. TROY CANNON CONSTRUCTION Co., INC. *v.* JOB ET AL. C. A. 8th Cir. Certiorari denied. *J. M. Costello* and *William G. Porter* for petitioner. *Walter J. Bradsky* for respondent Job, and *Robert W. Gunderson* for respondent Grand Electric Cooperative, Inc. Reported below: 370 F. 2d 633.

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No. 211. UNITED BOND & MORTGAGE CORP. v. CROWN CENTRAL PETROLEUM CORP. C. A. 4th Cir. Certiorari denied. *N. Welch Morrisette, Jr.*, for petitioner. *Irvine F. Belser* for respondent. Reported below: 374 F. 2d 510.

No. 213. CAHN v. NICHOLAS, TRUSTEE. C. A. 5th Cir. Certiorari denied. *Richard R. Booth* for petitioner.

No. 218. PUREX CORP., LTD., ET AL. v. ST. LOUIS NATIONAL STOCKYARDS CO. C. A. 7th Cir. Certiorari denied. *Lon Hocker* for petitioners. *John C. Shepherd* for respondent. Reported below: 374 F. 2d 998.

No. 220. WALKER v. CALIFORNIA. Ct. App. Cal., 3d App. Dist. Certiorari denied. *Clarence H. Pease* for petitioner. Reported below: 247 Cal. App. 2d 554, 55 Cal. Rptr. 726.

No. 222. SISCO v. SOUTHERN RESIN & FIBERGLASS CORP. C. A. 5th Cir. Certiorari denied. *Francis D. Thomas, Jr.*, and *George N. Hibben* for petitioner. *Charles Buchanan Smith* for respondent. Reported below: 373 F. 2d 866.

No. 226. COLLINS ET AL. v. TENNESSEE. Sup. Ct. Tenn. Certiorari denied. *William Earl Badgett* for petitioners. *George F. McCanless*, Attorney General of Tennessee, and *Thomas E. Fox*, Assistant Attorney General, for respondent.

No. 238. TAX REVIEW BOARD OF PHILADELPHIA v. ESSO STANDARD DIVISION OF HUMBLE OIL & REFINING Co. Sup. Ct. Pa. Certiorari denied. *Levy Anderson* for petitioner. *Park B. Dilks, Jr.*, for respondent. Reported below: 424 Pa. 355, 227 A. 2d 657.

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No. 228. NICHOLSON *v.* LOWENSTEIN. Sup. Ct. Ill. Certiorari denied. *William A. Cain* for petitioner.

No. 230. SORENSEN *v.* SWANSON. Sup. Ct. Neb. Certiorari denied. *Ralph R. Bremers* and *William L. Walker* for petitioner. Reported below: 181 Neb. 312, 148 N. W. 2d 197.

No. 239. ISAACS ET AL. *v.* CITY OF OKLAHOMA CITY ET AL. Sup. Ct. Okla. Certiorari denied. *Ted R. Fisher* for petitioners. *Roy H. Semtner* and *Walter Powell* for City of Oklahoma City, *James B. White* for Oklahoma City Urban Renewal Authority, *Finis Smith* and *Darven Brown* for Tulsa Urban Renewal Authority, and *Charles E. Norman* for City of Tulsa, respondents.

No. 240. ARKWRIGHT MUTUAL INSURANCE Co. *v.* BARGAIN CITY, U. S. A., INC. C. A. 3d Cir. Certiorari denied. *George E. Beechwood* for petitioner. *Paul L. Jaffe* for respondent. Reported below: 373 F. 2d 701.

No. 244. NATOLI *v.* HAMILTON ET AL. Sup. Ct. Pa. Certiorari denied. *Jacob J. Kilimnik* for petitioner. *Brady O. Bryson* for respondents. Reported below: 424 Pa. 643, 227 A. 2d 501.

No. 245. GROGAN ET AL. *v.* WACHTER. Sup. Ct. Mo. Certiorari denied. *Harry H. Craig* for petitioners. *Harold I. Elbert* for respondent.

No. 248. O'BRIEN *v.* SOCONY MOBIL OIL Co. (SUCCESSOR TO VIRGINIA-CAROLINA CHEMICAL CORP.). Sup. Ct. N. J. and/or Sup. Ct. App. Va. Certiorari denied. *James F. X. O'Brien* for petitioner. *John S. Battle, Jr.*, for respondent. Reported below: 44 N. J. 25, 206 A. 2d 878; 207 Va. 707, 152 S. E. 2d 278.

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No. 249. ANCHOR HOCKING GLASS CORP. *v.* CORNING GLASS WORKS. C. A. 3d Cir. Certiorari denied. *Arthur G. Connolly, Edmund P. Wood and William J. Wier, Jr.*, for petitioner. *Clair John Killoran and Clarence R. Patty, Jr.*, for respondent. Reported below: 374 F. 2d 473.

No. 251. COLLINS *v.* TENNESSEE. Sup. Ct. Tenn. Certiorari denied. *William Earl Badgett* for petitioner. *George F. McCanless*, Attorney General of Tennessee, and *Thomas E. Fox*, Assistant Attorney General, for respondent.

No. 264. FRAZIER *v.* NORTH CAROLINA STATE BAR. Sup. Ct. N. C. Certiorari denied. *Samuel S. Mitchell, Romallus O. Murphy, Moses Burt, Jr., Herman L. Taylor, John H. Wheeler and Charles Morgan, Jr.*, for petitioner. *John H. Anderson* for respondent. Reported below: 269 N. C. 625, 153 S. E. 2d 367.

No. 277. JACK NEILSON, INC. *v.* THOMAS JORDAN, INC. C. A. 5th Cir. Certiorari denied. *Nathan Greenberg* for petitioner. Reported below: 374 F. 2d 508.

No. 280. KENNEY *v.* PANCAKE KITCHENS, INC., ET AL. Sup. Ct. App. Va. Certiorari denied. *Robert M. Alexander* for petitioner.

No. 285. DELL *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. *Julius Lucius Echeles* for petitioner. Reported below: 77 Ill. App. 2d 318, 222 N. E. 2d 357.

No. 286. FLORMAN *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. *Julius Lucius Echeles* for petitioner. Reported below: 77 Ill. App. 2d 158, 222 N. E. 2d 191.

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No. 289. ALVAREZ ET AL. *v.* PAN AMERICAN LIFE INSURANCE CO. C. A. 5th Cir. Certiorari denied. *Joseph A. McGowan* for petitioners. *James A. Dixon* and *Sam Daniels* for respondent. Reported below: 375 F. 2d 992.

No. 295. CALLIS ET AL. *v.* LONG ISLAND RAILROAD CO. C. A. 2d Cir. Certiorari denied. *Lee S. Kreindler* and *Paul S. Edelman* for petitioners. *William L. F. Gardiner* for respondent. Reported below: 372 F. 2d 442.

No. 304. NORTHWEST AIRLINES, INC. *v.* AIR LINE PILOTS ASSOCIATION, INTERNATIONAL, ET AL. C. A. 8th Cir. Certiorari denied. *Henry Halladay* for petitioner. *Edward M. Glennon* and *Allen E. Gramza* for respondents. Reported below: 373 F. 2d 136.

No. 308. HOELSKEN ET AL., DBA ACTIVE RUBBISH SERVICE *v.* PUBLIC UTILITIES COMMISSION OF COLORADO ET AL. Sup. Ct. Colo. Certiorari denied. *Anthony F. Zarlengo* for petitioners. *Duke W. Dunbar*, Attorney General of Colorado, *Frank E. Hickey*, Deputy Attorney General, and *Robert Lee Kessler*, Assistant Attorney General, for Public Utilities Commission of Colorado, and *Thomas F. Kilroy* for Schlagel, respondents. Reported below: — Colo. —, 425 P. 2d 39.

No. 312. LUGASH ET AL. *v.* SANTA ANITA MANUFACTURING CORP. C. A. 9th Cir. Certiorari denied. *Fredrick E. Mueller* and *Robert W. Fulwider* for petitioners. *C. A. Miketta* and *William Poms* for respondent. Reported below: 369 F. 2d 964.

No. 314. SOUTHERN RAILWAY CO. *v.* BRYAN. C. A. 5th Cir. Certiorari denied. *Charles J. Bloch* and *Richard S. Arnold* for petitioner. Reported below: 375 F. 2d 155.

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No. 294. WILLIAMS *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. *R. Eugene Pincham* for petitioner. Reported below: 36 Ill. 2d 505, 224 N. E. 2d 225.

No. 329. OVE SKOU REDERI A/S ET AL. *v.* MARSHALL ET AL. C. A. 5th Cir. Certiorari denied. *Robert F. Adams* for petitioners. *Michael J. Salmon* for respondents. Reported below: 378 F. 2d 193.

No. 331. SIMON *v.* WEINGOLD, PUBLIC ADMINISTRATOR. C. A. 2d Cir. Certiorari denied. *J. Stanley Shaw* for petitioner. *Paul J. Reid* for respondent.

No. 333. SEVILLE SYNDICATE, INC., ET AL. *v.* KOZLOWSKI. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. *Irving Anolik* for petitioners. *Isadore Nathanson* for respondent.

No. 340. NIVENS ET AL. *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. *Walter B. Nivens, pro se, Charles V. Bell* and *Calvin Brown* for petitioners. *T. W. Bruton*, Attorney General of North Carolina, and *Ralph Moody*, Deputy Attorney General, for respondent. Reported below: 270 N. C. 1, 153 S. E. 2d 749.

No. 341. VLASAK *v.* OHIO. Ct. App. Ohio, Cuyahoga County. Certiorari denied. *Robert R. Disbro* and *Richard M. Markus* for petitioner. *John T. Corrigan* for respondent.

No. 364. ST. JOE PAPER CO. *v.* HARTFORD ACCIDENT & INDEMNITY CO. ET AL. C. A. 5th Cir. Certiorari denied. *Chester Bedell* and *C. Harris Dittmar* for petitioner. *Charles Cook Howell, Jr.*, for Hartford Accident & Indemnity Co., and *Earl B. Hadlow* for Fidelity & Casualty Co. of New York, respondents. Reported below: 359 F. 2d 579; 376 F. 2d 33.

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No. 342. BLAIR MANUFACTURING CO. *v.* HAMPTON ET AL. C. A. 8th Cir. Certiorari denied. *James J. Fitzgerald, Jr.*, for petitioner. *John J. Hanley* for respondents. Reported below: 374 F. 2d 969.

No. 351. FALLA Y ALVAREZ *v.* PAN-AMERICAN LIFE INSURANCE Co. C. A. 5th Cir. Certiorari denied. *Samuel Sheradsky* for petitioner. *James A. Dixon* and *Sam Daniels* for respondent. Reported below: 374 F. 2d 92.

No. 355. ALL CONCESSIONS, INC. *v.* CITY OF PEABODY. Sup. Jud. Ct. Mass. Certiorari denied. *Edward J. Davis* for petitioner. Reported below: 351 Mass. 706, 222 N. E. 2d 686.

No. 360. HOFF RESEARCH & DEVELOPMENT LABORATORIES, INC. *v.* PHILIPPINE NATIONAL BANK ET AL. Ct. App. N. Y. Certiorari denied. *Arnold Davis* for petitioner. *Matthew E. McCarthy* for respondents.

No. 367. ATKINS *v.* SCHMUTZ MANUFACTURING Co., INC. C. A. 6th Cir. Certiorari denied. *Frank C. Maloney III* for petitioner. *John P. Sandidge* for respondent. Reported below: 372 F. 2d 762.

No. 369. EPHRAIM FREIGHTWAYS, INC. *v.* RED BALL MOTOR FREIGHT, INC. C. A. 10th Cir. Certiorari denied. *Thomas F. Kilroy* and *John H. Lewis* for petitioner. *Harry C. Ames, Jr.*, for respondent. Reported below: 376 F. 2d 40.

No. 377. ZILK ET AL. *v.* DEATON'S FOUNTAIN SERVICE. C. A. 9th Cir. Certiorari denied. *Carl Hoppe* for petitioners. *James M. Naylor* and *Frank A. Neal* for respondent. Reported below: 377 F. 2d 545.

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No. 366. AMERICAN INVESTORS FUND, INC. *v.* FOGEL ET AL. C. A. 2d Cir. Certiorari denied. *Clendon H. Lee* for petitioner.

No. 375. LICAVOLI *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. *Moses Krislov, P. D. Maktos* and *John Maktos* for petitioner.

No. 381. LOCAL UNION No. 721, UNITED PACKINGHOUSE, FOOD & ALLIED WORKERS, AFL-CIO *v.* NEEDHAM PACKING CO., DBA SIOUX CITY DRESSED BEEF. Sup. Ct. Iowa. Certiorari denied. *Eugene Cotton, Richard F. Watt* and *Harry H. Smith* for petitioner. *Stuart Rothman, Robert D. Larsen, Jesse E. Marshall* and *James A. Gilker* for respondent. Reported below: — Iowa —, 151 N. W. 2d 540.

No. 392. BRUSH ET AL., DBA BRUSH & BLOCH *v.* REPUBLIC OF CUBA ET AL. C. A. 2d Cir. Certiorari denied. *Jac M. Wolff* for petitioners. *Leonard B. Boudin* and *Victor Rabinowitz* for respondents. Reported below: 375 F. 2d 1011.

No. 395. MOTOROLA, INC. *v.* ARMSTRONG, EXECUTRIX. C. A. 7th Cir. Certiorari denied. *Foorman L. Mueller, Eugene Gressman* and *Francis G. Cole* for petitioner. *Dana M. Raymond, George B. Turner* and *George N. Hibben* for respondent. Reported below: 374 F. 2d 764.

No. 403. SOUTHERN RAILWAY Co. *v.* CHAMBERS ET AL. C. A. 6th Cir. Certiorari denied. *Charles A. Horsky* for petitioner. *Frank J. Dougherty, Jr.*, for respondents. Reported below: 376 F. 2d 815.

No. 404. DESTASIO *v.* NEW JERSEY. Sup. Ct. N. J. Certiorari denied. *Michael A. Querques* for petitioner. Reported below: 49 N. J. 247, 229 A. 2d 636.

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No. 398. THOR-DAHL A/S *v.* CRESCENT WHARF & WAREHOUSE Co. Ct. App. Cal., 2d App. Dist. Certiorari denied. *L. Robert Wood* for petitioner. *Henry E. Kappler* for respondent. Reported below: 248 Cal. App. 2d 812, 57 Cal. Rptr. 73.

No. 408. MONROE SANDER CORP. *v.* LIVINGSTON, PRESIDENT OF DISTRICT 65, RETAIL, WHOLESALE & DEPARTMENT STORE UNION, AFL-CIO. C. A. 2d Cir. Certiorari denied. *Julius Weiss* and *Winthrop A. Johns* for petitioner. Reported below: 377 F. 2d 6.

No. 409. STANDARD ELECTRICA, S. A. *v.* HAMBURG SUDAMERIKANISCHE DAMPFSCIFFFAHRTS-GESELLSCHAFT. C. A. 2d Cir. Certiorari denied. *Seymour Simon* for petitioner. *James M. Estabrook* for respondent. Reported below: 375 F. 2d 943.

No. 413. ROGERS *v.* ZINGHEIM. Ct. App. Cal., 4th App. Dist. Certiorari denied. *Edward R. Minor* for petitioner. Reported below: 249 Cal. App. 2d 736, 57 Cal. Rptr. 809.

No. 414. BUMGARNER ET AL. *v.* JOE BROWN Co., INC. C. A. 10th Cir. Certiorari denied. *George Camp* for petitioners. *Robert J. Emery* for respondent. Reported below: 376 F. 2d 749.

No. 420. GLAZER ET AL. *v.* GLAZER. C. A. 5th Cir. Certiorari denied. *John W. Douglas*, *Alfred H. Moses* and *Edward J. Grenier, Jr.*, for petitioners. *R. Emmett Kerrigan* and *René H. Himel, Jr.*, for respondent. Reported below: 374 F. 2d 390.

No. 422. GOLDSMITH *v.* GOLDSMITH. Ct. App. N. Y. Certiorari denied. *Clifton F. Weidlich* for petitioner. *Gerald I. Lustig* for respondent.

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No. 424. *TAYLOR v. KENTUCKY*. Ct. App. Ky. Certiorari denied. *David Kaplan* for petitioner. Reported below: 413 S. W. 2d 614.

No. 426. *SCOTT, AKA MONTAGUE v. WKJG, INC., ET AL.* C. A. 7th Cir. Certiorari denied. *Albert L. Jeffers* for petitioner. *Eugene L. Girden* for respondents. Reported below: 376 F. 2d 467.

No. 429. *TRAVELERS INDEMNITY CO. v. GREYHOUND LINES, INC., ET AL.* C. A. 5th Cir. Certiorari denied. *John A. Hickman* for petitioner. *W. James Kronzer* for respondents Craig et al. Reported below: 377 F. 2d 325.

No. 431. *CONTINENTAL CASUALTY CO. v. PFEIFER*. Ct. App. Md. Certiorari denied. *William A. Mann* for petitioner. *Jerrold V. Powers* for respondent. Reported below: 246 Md. 628, 229 A. 2d 422.

No. 435. *SATERIALE v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 247 Cal. App. 2d 314, 55 Cal. Rptr. 500.

No. 438. *RHINEHART v. WASHINGTON*. Sup. Ct. Wash. Certiorari denied. *Arval A. Morris* for petitioner. Reported below: 70 Wash. 2d 649, 424 P. 2d 906.

No. 440. *BAPTIST v. BANKERS INDEMNITY CO.* C. A. 2d Cir. Certiorari denied. *Frank F. Ober* for petitioner. Reported below: 377 F. 2d 211.

No. 473. *SOUTHERN RAMBLER SALES, INC. v. AMERICAN MOTORS CORP. ET AL.* C. A. 5th Cir. Certiorari denied. *Charles A. O'Niell, Jr.*, for petitioner. *C. Murphy Moss, Jr.*, for respondents. Reported below: 375 F. 2d 932.

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MR. JUSTICE MARSHALL took no part in the consideration or decision of the petitions in the following cases (beginning with No. 76 on this page and extending through No. 453 on p. 846):

No. 76. *BENN v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 5th Cir. Certiorari denied. *Eugene Gressman* for petitioner. *Solicitor General Marshall, Assistant Attorney General Rogovin and Thomas L. Stapleton* for respondent. Reported below: 366 F. 2d 778.

No. 81. *TOMASZCK ET AL. v. UNITED STATES*;

No. 84. *LAJOY v. UNITED STATES*; and

No. 114. *SCHANG v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *Frank G. Whalen* for petitioners in No. 81. *Maurice J. Walsh* for petitioner in No. 84. *Eugene T. Devitt* for petitioner in No. 114. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Ronald L. Gainer* for the United States in all three cases. Reported below: 373 F. 2d 307.

No. 83. *CROWE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. *John Merwin Bader* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Julia P. Cooper* for the United States. Reported below: 373 F. 2d 797.

No. 94. *AIKEN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *George W. Shadoan and Frederick T. Stant, Jr.*, for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States. Reported below: 373 F. 2d 294.

No. 96. *JERSEY STATE BANK v. ROYAL INDEMNITY CO. ET AL.* Ct. Cl. Certiorari denied. *Louis S. Papa* for petitioner. *William F. Kelly and Richard H. Nicolaidis* for respondent Royal Indemnity Co. Reported below: 178 Ct. Cl. 46, 371 F. 2d 462.

No. 103. *RAY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *James D. Sparks* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson and*

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*Beatrice Rosenberg* for the United States. Reported below: 374 F. 2d 638.

No. 119. *TI TI PEAT HUMUS Co., INC. v. WIRTZ, SECRETARY OF LABOR*. C. A. 4th Cir. Certiorari denied. *Huger Sinkler* for petitioner. *Solicitor General Marshall, Charles Donahue, Bessie Margolin* and *Robert E. Nagle* for respondent. Reported below: 373 F. 2d 209.

No. 120. *EDWARDS, EXECUTOR v. PHILLIPS, DISTRICT DIRECTOR OF INTERNAL REVENUE*. C. A. 10th Cir. Certiorari denied. *Barnabas F. Sears* for petitioner. *Solicitor General Marshall, Assistant Attorney General Rogovin* and *Jeanine Jacobs* for respondent. Reported below: 373 F. 2d 616.

No. 124. *ESTATE OF BERRY ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 6th Cir. Certiorari denied. *Charles D. Savage, Thomas A. Roach* and *Robert D. Larsen* for petitioners. *Solicitor General Marshall* and *Assistant Attorney General Rogovin* for respondent. Reported below: 372 F. 2d 476.

No. 126. *MURRAY ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 4th Cir. Certiorari denied. *Scott P. Crampton, Stanley Worth* and *Joseph A. McMenamin* for petitioners. *Solicitor General Marshall* and *Assistant Attorney General Rogovin* for respondent. Reported below: 370 F. 2d 568.

No. 133. *KOLOD ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *Edward Bennett Williams, Harold Ungar* and *W. H. Erickson* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Sidney M. Glazer* for the United States. Reported below: 371 F. 2d 983.

No. 134. *PHILLIPS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *R. Eugene Pincham, Charles B. Evins, Earl E. Strayhorn* and *Sam Adam* for petitioner. *Solicitor General Marshall, Assistant Attorney General*

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*Vinson and Beatrice Rosenberg* for the United States. Reported below: 375 F. 2d 75.

No. 135. *JONES v. UNITED STATES*; and

No. 223. *MITTELMAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Herbert Monte Levy* for petitioner in No. 135. *Solicitor General Marshall, Assistant Attorney General Vinson and Philip R. Monahan* for the United States in both cases. Reported below: 374 F. 2d 414.

No. 138. *BLANE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 375 F. 2d 249.

No. 151. *ZWICK ET AL. v. FREEMAN, SECRETARY OF AGRICULTURE, ET AL.* C. A. 2d Cir. Certiorari denied. *Arthur Slavin* for petitioners. *Solicitor General Marshall, Acting Assistant Attorney General Eardley, Morton Hollander and Harvey L. Zuckman* for respondents. Reported below: 373 F. 2d 110.

No. 156. *AKINS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. *W. S. Moore* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Marshall Tamor Golding* for the United States. Reported below: 372 F. 2d 291.

No. 159. *B & L FARMS Co. ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *William Gresham Ward* for petitioners. *Solicitor General Marshall, Assistant Attorney General Rogovin and Crombie J. D. Garrett* for the United States. Reported below: 368 F. 2d 571.

No. 160. *D. R. SMALLEY & SONS, INC. v. UNITED STATES*. Ct. Cl. Certiorari denied. *Donald A. Moon* for petitioner. *Solicitor General Marshall, Acting Assistant Attorney General Eardley and Morton Hollander* for the United States. Reported below: 178 Ct. Cl. 593, 372 F. 2d 505.

No. 165. *KROL v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *George F. Callaghan and Julius*

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*Lucius Echeles* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 374 F. 2d 776.

No. 166. *KAPATOS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Frank A. Lopez* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States.

No. 167. *SCHERER & SONS, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Certiorari denied. *Joseph A. Perkins* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for respondent. Reported below: 370 F. 2d 12.

No. 171. *MURPHY ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Moses L. Kove* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Julia P. Cooper* for the United States. Reported below: 374 F. 2d 651.

No. 173. *ROBERTS ET AL. v. UNITED STATES*; and

No. 192. *UNITED STATES v. SANDRA & DENNIS FISHING CORP. ET AL.* C. A. 1st Cir. Certiorari denied. *Harry Kisloff* for petitioners in No. 173. *Solicitor General Marshall, Acting Assistant Attorney General Eardley, Morton Hollander and Richard S. Salzman* for the United States in both cases. *Robert J. Hallisey* for Sandra & Dennis Fishing Corp. (P & I Insurer), and *Mr. Kisloff* for individual respondents in No. 192. Reported below: 372 F. 2d 189.

No. 183. *ROY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Burton Marks* for petitioner. *Solicitor General Marshall, Assistant Attorney General Rogovin, Joseph M. Howard and Richard B. Buhrman* for the United States. Reported below: 377 F. 2d 544.

No. 188. *PAN CARGO SHIPPING CORP. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Nicholas J.*

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*Healy* for petitioner. *Solicitor General Marshall, Acting Assistant Attorney General Eardley and Morton Hollander* for the United States. Reported below: 373 F. 2d 525.

No. 194. LOCAL UNION NO. 12, UNITED RUBBER, CORK, LINOLEUM & PLASTIC WORKERS OF AMERICA, AFL-CIO *v.* NATIONAL LABOR RELATIONS BOARD ET AL.; and

No. 212. LOCAL 1367, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO, ET AL. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 5th Cir. Certiorari denied. *Clarence F. Rhea* for petitioner in No. 194. *Warner F. Brock and Arthur Mandell* for petitioners in No. 212. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for the National Labor Relations Board in both cases, and *Robert L. Carter and Barbara A. Morris* for respondents Business League of Gadsden et al., in No. 194. Reported below: No. 194, 368 F. 2d 12; No. 212, 368 F. 2d 1010.

No. 195. BIRNBAUM *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Ben Herzberg and David W. Peck* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States. Reported below: 373 F. 2d 250.

No. 198. LEWIS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Thaddeus D. Williams* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Marshall Tamor Golding* for the United States. Reported below: 376 F. 2d 98.

No. 200. BLUE CAB CO. ET AL. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. D. C. Cir. Certiorari denied. *Charles L. Bucy and Paul Levenfeld* for petitioners. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for respondent. *Sheldon M. Charone* for Local 782, International Brotherhood of

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Teamsters, Chauffeurs, Warehousemen & Helpers of America, intervenor below. Reported below: 126 U. S. App. D. C. 1, 373 F. 2d 661.

No. 202. *DiMICHELE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. *Lester J. Schaffer* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 375 F. 2d 959.

No. 203. *AYOTTE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. *Gerald M. Franklin* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States.

No. 208. *LIPSITZ v. PEREZ, COMMANDING GENERAL, FORT JACKSON*. C. A. 4th Cir. Certiorari denied. *Theodore W. Law, Jr.*, for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for respondent. Reported below: 372 F. 2d 468.

No. 209. *UNION PETROLEUM CORP. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *Hugh Q. Buck* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Ronald L. Gainer* for the United States. Reported below: 376 F. 2d 569.

No. 215. *OVERNITE TRANSPORTATION Co. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 4th Cir. Certiorari denied. *Whiteford S. Blakeney* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for National Labor Relations Board, and *David Previant and Hugh J. Beins* for Chauffeurs, Teamsters & Helpers Local 171, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, respondents. Reported below: 372 F. 2d 765.

No. 217. *SCHAFITZ v. FEDERAL COMMUNICATIONS COMMISSION*. C. A. D. C. Cir. Certiorari denied. *Carl*

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*L. Shipley* for petitioner. *Solicitor General Marshall* and *Henry Geller* for respondent.

No. 234. CONTINENTAL OIL CO. *v.* UDALL, SECRETARY OF THE INTERIOR, ET AL. C. A. D. C. Cir. Certiorari denied. *Samuel W. McIntosh* and *A. T. Smith* for petitioner. *Solicitor General Marshall*, *Assistant Attorney General Weisl*, *Roger P. Marquis* and *S. Billingsley Hill* for Udall, and *Henry P. Sailer* for Phillips Petroleum Co. et al., respondents.

No. 241. SARKES TARZIAN, INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 7th Cir. Certiorari denied. *Joseph Alton Jenkins* for petitioner. *Solicitor General Marshall*, *Arnold Ordman*, *Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 374 F. 2d 734.

No. 242. UTICA MUTUAL INSURANCE CO. *v.* VINCENT, REGIONAL DIRECTOR, NATIONAL LABOR RELATIONS BOARD. C. A. 2d Cir. Certiorari denied. *Charles J. Barnhill* for petitioner. *Solicitor General Marshall*, *Arnold Ordman*, *Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 375 F. 2d 129.

No. 253. McCOWAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Russell E. Parsons* for petitioner. *Solicitor General Marshall*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 376 F. 2d 122.

No. 254. KAPLAN ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Maurice C. Inman, Jr.*, and *Arthur L. Martin* for petitioners. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 375 F. 2d 895.

No. 255. UNITED STATES *v.* U. S. THERMO CONTROL CO. ET AL. Ct. Cl. Certiorari denied. *Solicitor General Marshall*, *Assistant Attorney General Rogovin* and *Philip R. Miller* for the United States. *Daniel M. Gribbon* and

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*William H. Allen* for respondents. Reported below: 178 Ct. Cl. 561, 372 F. 2d 964.

No. 250. *REMLER CO. v. UNITED STATES*. Ct. Cl. Certiorari denied. *Manuel Auerbach* and *Michael Leo Looney* for petitioner. *Solicitor General Marshall* for the United States. Reported below: 179 Ct. Cl. 459.

No. 256. *CADDO PARISH SCHOOL BOARD ET AL. v. UNITED STATES ET AL.*;

No. 282. *EAST BATON ROUGE PARISH SCHOOL BOARD ET AL. v. DAVIS ET AL.*; and

No. 301. *BOARD OF EDUCATION OF THE CITY OF BESSEMER ET AL. v. UNITED STATES ET AL.* C. A. 5th Cir. Certiorari denied. *Jack P. F. Gremillion*, Attorney General of Louisiana, *William P. Schuler*, Second Assistant Attorney General, and *Albin P. Lassiter* for petitioners in No. 256. *John F. Ward, Jr.*, for petitioners in No. 282. *Reid B. Barnes*, *William G. Somerville, Jr.*, and *John C. Satterfield* for petitioners in No. 301. *Solicitor General Marshall*, *Assistant Attorney General Doar*, *Louis F. Claiborne* and *David L. Norman* for the United States in Nos. 256 and 301. *Jack Greenberg*, *James M. Nabrit III*, *Michael Meltsner*, *Norman C. Amaker*, *Charles H. Jones, Jr.*, *Demetrius C. Newton*, *A. P. Tureaud*, *Oscar W. Adams, Jr.*, *Orzell Billingsley, Jr.*, *David H. Hood* and *Johnnie A. Jones* for individual respondents in all three cases. Reported below: 372 F. 2d 836, 949, 380 F. 2d 385.

No. 270. *FURR'S, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 10th Cir. Certiorari denied. *William L. Kerr* for petitioner. *Solicitor General Marshall*, *Arnold Ordman*, *Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 381 F. 2d 562.

No. 263. *FLORENCE PRINTING CO. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 4th Cir. Certiorari denied. *D. Laurence McIntosh* for petitioner. *Solicitor General Marshall*, *Arnold Ordman*, *Dominick L. Manoli*

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and *Norton J. Come* for National Labor Relations Board, and *Gerhard P. Van Arkel* and *George Kaufmann* for Charleston Typographical Union No. 43, respondents. Reported below: 376 F. 2d 216.

No. 265. *CHARLES TOWN, INC. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 4th Cir. Certiorari denied. *George T. Altman* for petitioner. *Solicitor General Marshall, Assistant Attorney General Rogovin, Gilbert E. Andrews* and *Albert J. Beveridge III* for respondent. Reported below: 372 F. 2d 415.

No. 269. *SOLITE CORP. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. *T. Howard Spainhour* for petitioner. *Solicitor General Marshall, Assistant Attorney General Rogovin, Grant W. Wiprud* and *Thomas L. Stapleton* for the United States. Reported below: 375 F. 2d 684.

No. 274. *K. B. & J. YOUNG'S SUPER MARKETS, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 9th Cir. Certiorari denied. *Ralston Lercara Courtney* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 377 F. 2d 463.

No. 292. *REINACH v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 2d Cir. Certiorari denied. *Jerome Kamerman* for petitioner. *Solicitor General Marshall, Assistant Attorney General Rogovin, Harry Baum* and *Elmer J. Kelsey* for respondent. Reported below: 373 F. 2d 900.

No. 297. *SMITH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *P. Walter Jones* for petitioner. *Solicitor General Marshall* for the United States. Reported below: 375 F. 2d 243.

No. 299. *BORDEN CABINET CORP. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 7th Cir. Certiorari denied. *Arthur C. Nordhoff* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli* and *Nor-*

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*ton J. Come* for respondent. Reported below: 375 F. 2d 891.

No. 278. *J. GORDON TURNBULL, INC. v. COMMISSIONER OF INTERNAL REVENUE*; and

No. 279. *TURNBULL, INC. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 5th Cir. Certiorari denied. *Wentworth T. Durant* for petitioners in each case. *Solicitor General Marshall, Assistant Attorney General Rogovin* and *Crombie J. D. Garrett* for respondent in both cases. Reported below: No. 278, 373 F. 2d 87; No. 279, 373 F. 2d 91.

No. 300. *POLLOCK v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Robert Kasanof* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States.

No. 303. *CINCINNATI GAS & ELECTRIC Co. ET AL. v. FEDERAL POWER COMMISSION*. C. A. 6th Cir. Certiorari denied. *Walter E. Beckjord* for petitioners. *Solicitor General Marshall, Richard A. Solomon, Peter H. Schiff, Drexel D. Journey* and *Israel Convisser* for respondent. Reported below: 376 F. 2d 506.

No. 307. *PERRY PUBLICATIONS, INC., ET AL. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Certiorari denied. *Harrison C. Thompson, Jr.*, for petitioners. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli, Norton J. Come* and *Nancy M. Sherman* for respondent. Reported below: 375 F. 2d 118.

No. 311. *PERMA-HOME CORP. ET AL. v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. *Paul T. Smith* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 378 F. 2d 641.

No. 318. *HILL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Paul Gordon* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson,*

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*Beatrice Rosenberg and Julia P. Cooper* for the United States. Reported below: 374 F. 2d 871.

No. 315. SNYDER *v.* TURLEY, WARDEN. C. A. 3d Cir. Certiorari denied. *Louis Lipschitz* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for respondent.

No. 320. SERMAN ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *Dan W. Duffy* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Ronald L. Gainer* for the United States.

No. 321. OGLE PROTECTION SERVICE, INC., ET AL. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 6th Cir. Certiorari denied. *David E. Burgess* for petitioners. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for respondent. Reported below: 375 F. 2d 497.

No. 343. MALTYBY *v.* UNITED STATES. Ct. Cl. Certiorari denied. *Robert Vogel* for petitioner. *Solicitor General Marshall* for the United States.

No. 349. HOFFMAN *v.* UNITED STATES. Ct. Cl. Certiorari denied. *Thomas H. King* for petitioner. *Solicitor General Marshall* for the United States. Reported below: 175 Ct. Cl. 457.

No. 350. LOCAL UNION No. 742, UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA *v.* NATIONAL LABOR RELATIONS BOARD. C. A. D. C. Cir. Certiorari denied. *Bernard M. Mamet* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli, Norton J. Come and Nancy M. Sherman* for respondent. Reported below: 126 U. S. App. D. C. 290, 377 F. 2d 929.

No. 352. DISTRICT LODGE No. 15, INTERNATIONAL ASSOCIATION OF MACHINISTS, AFL-CIO, ET AL. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 2d Cir. Certiorari denied. *Stephen C. Vladeck and Judith P. Vladeck*

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for petitioners. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for respondent. Reported below: 376 F. 2d 52.

No. 354. *IMHOFF v. UNITED STATES*. Ct. Cl. Certiorari denied. *John I. Heise, Jr.*, for petitioner. *Solicitor General Marshall* for the United States. Reported below: 177 Ct. Cl. 1.

No. 356. *PROVENZANO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. *Joseph F. Walsh* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Kirby W. Patterson* for the United States.

No. 358. *INTRAVAIA ET AL. v. WIRTZ, SECRETARY OF LABOR*. C. A. 9th Cir. Certiorari denied. *Solicitor General Marshall* for respondent. Reported below: 375 F. 2d 62.

No. 359. *EASTMAN v. GARDNER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 6th Cir. Certiorari denied. *Bernard I. Rosen* for petitioner. *Solicitor General Marshall* for respondent. Reported below: 373 F. 2d 481.

No. 361. *LIONBERGER, DBA LIONBERGER'S AUTO PARTS v. UNITED STATES*. Ct. Cl. Certiorari denied. *William T. Stephens and Grant R. Sykes* for petitioner. *Solicitor General Marshall and Assistant Attorney General Rogovin* for the United States. Reported below: 178 Ct. Cl. 151, 371 F. 2d 831.

No. 365. *MOORE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. *Charles E. Gray* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 375 F. 2d 877.

No. 396. *CALIFORNIA CITIZENS BAND ASSOCIATION, INC. v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. *Clifton Hildebrand* for petitioner. *Solicitor General Marshall, Assistant Attorney General Turner,*

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*Henry Geller and John H. Conlin* for the United States et al. Reported below: 375 F. 2d 43.

No. 376. FISHER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *Fred Elledge, Jr.*, for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Julia P. Cooper* for the United States. Reported below: 377 F. 2d 285.

No. 379. SOSA *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *Sam Adam* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States. Reported below: 379 F. 2d 525.

No. 389. TYNAN ET AL. *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Myron G. Ehrlich* for Tynan, and *Charles B. Murray* for Hanrahan et al., petitioners. *Solicitor General Marshall* for the United States. Reported below: 126 U. S. App. D. C. 206, 376 F. 2d 761.

No. 390. MASS *v.* BRENNER, COMMISSIONER OF PATENTS. C. A. D. C. Cir. Certiorari denied. *Robert J. Patch* for petitioner. *Solicitor General Marshall* for respondent.

No. 407. KRAKOVER, TRUSTEE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. *Fred M. Winner and Warren O. Martin* for petitioner. *Solicitor General Marshall* for the United States. Reported below: 377 F. 2d 104.

No. 412. RUNDLE *v.* UDALL, SECRETARY OF THE INTERIOR. C. A. D. C. Cir. Certiorari denied. *Moses Davis* for petitioner. *Solicitor General Marshall* for respondent. Reported below: 126 U. S. App. D. C. 335, 379 F. 2d 112.

No. 470. BOARD OF MANAGERS OF THE ARKANSAS TRAINING SCHOOL FOR BOYS ET AL. *v.* GEORGE ET AL. C. A. 8th Cir. Certiorari denied. *Joe Purcell*, Attorney General of Arkansas, *R. D. Smith III*, Assistant Attorney General, and *Jack L. Lessenberry*, Special Assistant At-

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torney General, for petitioners. Reported below: 377 F. 2d 228.

No. 411. *AMINO BROTHERS CO., INC. v. UNITED STATES*. Ct. Cl. Certiorari denied. *John A. Biersmith* for petitioner. *Solicitor General Marshall* for the United States. Reported below: 178 Ct. Cl. 515, 372 F. 2d 485.

No. 423. *NIGHTINGALE ET AL. v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. *Vincent M. Casey* for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 378 F. 2d 896.

No. 425. *MATTIA v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. *Frederick B. Lacey* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States. Reported below: 379 F. 2d 725.

No. 447. *INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION, LOCAL 12 v. NATIONAL LABOR RELATIONS BOARD*. C. A. 9th Cir. Certiorari denied. *Norman Leonard* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for respondent. Reported below: 378 F. 2d 125.

No. 453. *GRIMES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *Charles W. Tessmer* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson and Philip R. Monahan* for the United States. Reported below: 379 F. 2d 791.

MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted in the following cases (beginning with No. 110 on this page and extending through No. 468 on p. 849):

No. 110. *WORRELL v. MATTERS ET AL.* Sup. Ct. Pa. Certiorari denied. *William P. Thorn, Marvin Karpatkin and Leo Pfeffer* for petitioner. *William C. Sennett, Attorney General of Pennsylvania, John P. McCord,*

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Deputy Attorney General, and *Edward Friedman* for respondent the Commonwealth of Pennsylvania; *David Berger* for respondent the School District of Philadelphia, and *William B. Ball* for respondents Grubb et al. Reported below: 424 Pa. 202, 226 A. 2d 53.

No. 129. AMP INC. *v.* GENERAL MOTORS, INC. C. C. P. A. Certiorari denied. *William J. Keating* and *Truman S. Safford* for petitioner. *Warren E. Finken* and *George E. Frost* for respondent. Reported below: 54 C. C. P. A. (Pat.) 917, 367 F. 2d 436.

No. 131. DEAL ET AL. *v.* CINCINNATI BOARD OF EDUCATION ET AL. C. A. 6th Cir. Certiorari denied. *Norris Muldrow* and *Robert L. Carter* for petitioners. *C. R. Beirne* and *William A. McClain* for respondents. Reported below: 369 F. 2d 55.

No. 139. SOUTH SHORE PACKING CORP. *v.* CITY OF VERMILION. Sup. Ct. Ohio. Certiorari denied. *John B. Otero* for petitioner. *David C. George* for respondent.

No. 168. CARABBIA *v.* OHIO. Ct. App. Ohio, Mahoning County. Certiorari denied. *Don L. Hanni* for petitioner. *Thomas R. Zebrasky* for respondent.

No. 190. VAIARELLA *v.* JAMES F. SHANAHAN CORP. Super. Ct. Mass., Essex County. Certiorari denied. *Morris D. Katz* for petitioner. *Solomon Sandler* for respondent.

No. 193. WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION *v.* D. C. TRANSIT SYSTEM, INC. C. A. D. C. Cir. Certiorari denied. *Russell W. Cunningham* for petitioner. *Harvey M. Spear* and *Manuel J. Davis* for respondent. Reported below: 126 U. S. App. D. C. 210, 376 F. 2d 765.

No. 199. NOWELL *v.* NOWELL. Ct. Civ. App. Tex., 5th Sup. Jud. Dist. Certiorari denied. *Edgar W. Bas-sick III* for petitioner. *Lawrence W. Anderson* for respondent. Reported below: 408 S. W. 2d 550.

No. 243. BLOUNT BROTHERS CONSTRUCTION CO. *v.* J. P. GREATHOUSE STEEL ERECTORS, INC. C. A. D. C.

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Cir. Certiorari denied. *Frederick A. Ballard* for petitioner. *Edward M. Statland* for respondent. Reported below: 126 U. S. App. D. C. 110, 374 F. 2d 324.

No. 252. *SUAREZ v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. *Angus M. Stephens, Jr.*, and *Barry L. Garber* for petitioner. Reported below: 189 So. 2d 656.

No. 275. *WILLIS v. O'BRIEN, JUDGE*. Sup. Ct. App. W. Va. Certiorari denied. *Jeremy C. McCamic* for petitioner. Reported below: 151 W. Va. 628, 153 S. E. 2d 178.

No. 287. *ABBOUD v. NEBRASKA*. Sup. Ct. Neb. Certiorari denied. *Richard J. Bruckner* for petitioner. Reported below: 181 Neb. 84, 147 N. W. 2d 152.

No. 288. *FOY v. NORFOLK & WESTERN RAILWAY CO. ET AL.* C. A. 4th Cir. Certiorari denied. *Howard I. Legum* and *Louis B. Fine* for petitioner. *Thomas R. McNamara* for Norfolk & Western Railway Co., and *Robert R. MacMillan* for Brotherhood of Railroad Trainmen et al., respondents. Reported below: 377 F. 2d 243.

No. 291. *METHODIST RIVER OAKS APARTMENTS, INC. v. CITY OF WACO ET AL.* Ct. Civ. App. Tex., 10th Sup. Jud. Dist. Certiorari denied. *Thomas P. Brown III* for petitioner. *William Earl Bracken, Jr.*, for respondents. Reported below: 409 S. W. 2d 485.

No. 293. *BUCCIERI ET AL. v. ILLINOIS CRIME INVESTIGATING COMMISSION*. Sup. Ct. Ill. Certiorari denied. *Charles A. Bellows*, *John Powers Crowley* and *Anna Lavin* for petitioners. *William G. Clark*, Attorney General of Illinois, and *John J. O'Toole* and *Donald J. Veverka*, Assistant Attorneys General, for respondent. Reported below: 36 Ill. 2d 556, 224 N. E. 2d 236.

No. 362. *NIEDZIEJKO ET AL. v. BOARD OF FIRE AND POLICE COMMISSIONERS OF THE CITY OF MILWAUKEE*. Sup. Ct. Wis. Certiorari denied. *Dominick H. Frinzi* for petitioners. *Harry G. Slater* for respondent. Re-

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ported below: 33 Wis. 2d 488, 148 N. W. 2d 44, 149 N. W. 2d 547.

No. 437. OCEAN DRILLING & EXPLORATION Co. v. BERRY BROTHERS OIL FIELD SERVICE, INC. C. A. 5th Cir. Certiorari denied. *George B. Matthews* and *Daniel Huttenbrauck* for petitioner. *J. J. Davidson, Jr.*, for respondent. Reported below: 377 F. 2d 511.

No. 451. NOWELL v. NOWELL. Sup. Ct. Conn. Certiorari denied. *John T. Bonner* for petitioner. *Edgar W. Bassick III* for respondent. Reported below: 155 Conn. 713, 229 A. 2d 701.

No. 468. SMITH v. OREGON. Sup. Ct. Ore. Certiorari denied. *Howard R. Lonergan* for petitioner. *George Van Hoomissen* and *Jacob B. Tanzer* for respondent. Reported below: 248 Ore. 56, 426 P. 2d 463.

No. 93. PUBLIC SERVICE ELECTRIC & GAS Co. v. FEDERAL POWER COMMISSION ET AL. C. A. 3d Cir. Motion of Northwest Jersey Natural Gas, Inc., et al. for leave to file brief, as *amici curiae*, granted. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition. *Edward S. Kirby* for petitioner. *Solicitor General Marshall*, *Richard A. Solomon*, *Peter H. Schiff* and *William H. Arkin* for the Federal Power Commission; *Richard J. Connor*, *Thomas F. Ryan, Jr.*, *Thomas F. Brosnan*, *Lawrence H. Gall* and *William N. Bonner, Jr.*, for Transcontinental Gas Pipe Line Corp., and *William K. Tell, Jr.*, and *James D. Annett* for Texaco Inc., respondents. *William T. Coleman, Jr.*, *Robert W. Maris*, *Vincent P. McDevitt*, *Samuel G. Miller*, *David K. Kadane*, *Bertram D. Moll*, *Arthur J. Sills*, Attorney General of New Jersey, *William Gural*, Deputy Attorney General, *Scott Scammell*, *John R. Sailer* and *Robert C. Koury* on the motion. Reported below: 371 F. 2d 1.

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No. 122. CUSTER CHANNEL WING CORP. ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. MR. JUSTICE BLACK is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Keith L. Seegmiller* for petitioners. *Solicitor General Marshall* and *Philip A. Loomis, Jr.*, for the United States. Reported below: 376 F. 2d 675.

No. 148. SUDDUTH *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted. *Morris Lavine* for petitioner. *Roger Arnebergh, Philip E. Grey* and *Michael T. Sauer* for respondent. Reported below: 65 Cal. 2d 543, 421 P. 2d 401.

No. 169. KITCHEN *v.* REESE ET AL. Sup. Ct. La. Motion of Kenneth Franzheim II et al. to be added as parties respondent and motion of Lillie Weir Franzheim McCullar to be added as a party respondent granted. Certiorari denied. *H. Alva Brumfield* and *Sylvia Roberts* for petitioner. *Morris Wright* and *Joseph V. Ferguson II* for respondent Reese. *John L. Toler* on the motions. Reported below: 250 La. 177, 195 So. 2d 114.

No. 180. EDWARDS ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. THE CHIEF JUSTICE and MR. JUSTICE STEWART are of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *William H. Dempsey, Jr.*, and *Wade H. Sides, Jr.*, for petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 374 F. 2d 24.

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No. 141. FOWLER ET AL. *v.* BENTON. Ct. App. Md. Motion to dispense with printing the petition granted. Certiorari denied. Reported below: 245 Md. 540, 226 A. 2d 556.

No. 172. MERRITT-CHAPMAN & SCOTT CORP. *v.* UNITED STATES. Ct. Cl. Certiorari denied. MR. JUSTICE FORTAS and MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Leslie A. Hynes* for petitioner. *Solicitor General Marshall, Acting Assistant Attorney General Eardley* and *John C. Eldridge* for the United States. Reported below: 178 Ct. Cl. 883.

No. 268. ATLANTIC COAST LINE RAILROAD CO. *v.* GEORGIA, SOUTHERN & FLORIDA RAILWAY CO. C. A. 5th Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *William H. Manness, Prime F. Osborn, Phil C. Beverly* and *Albert B. Russ, Jr.*, for petitioner. *W. Graham Claytor, Jr., James A. Bistline* and *Henry P. Sailer* for respondent. Reported below: 373 F. 2d 493.

No. 290. SPINDEL *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Motion of petitioner to supplement the record granted. Certiorari denied. *Abraham Glasser* for petitioner. *Elliot L. Richardson*, Attorney General of Massachusetts, and *Robert A. Greeley*, Special Assistant Attorney General, for respondent. Reported below: 351 Mass. 673, 223 N. E. 2d 511.

No. 296. WINFIELD ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 7th Cir. Motion to dispense with printing the petition granted. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition. *Solicitor General Marshall* for respondent.

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No. 302. REDERI A/B DISA *v.* CUNARD STEAMSHIP Co., LTD. C. A. 2d Cir. Certiorari denied. *William P. Kain, Jr.*, and *Thomas F. Molanphy* for petitioner. *Herbert Brownell* for respondent. Reported below: 376 F. 2d 125.

MR. JUSTICE BLACK, with whom MR. JUSTICE DOUGLAS joins, dissenting.

This contractual controversy is bound in the end to be resolved either by arbitration or by a judicial trial, but the court below has required the parties to go through the inconvenience and expense of arbitration before they can obtain a binding decision that the arbitration forum is in fact the proper one. Since this gross waste of time and effort is neither required by the applicable statutes nor consistent with fair and efficient judicial procedure, I would grant certiorari and reverse.

The dispute over which tribunal should determine the merits of this case arises in this way. Cunard, the respondent, chartered a ship owned by petitioner and also acted as stevedore in unloading the ship when it reached New York. A longshoreman employee of Cunard was injured during Cunard's stevedoring operation and sued petitioner, the ship's owner. Petitioner owner then claimed that Cunard was liable to indemnify it for any damages it might have to pay Cunard's employee. If the claim of indemnity is considered to be a dispute arising under the charter contract, that contract governs and the controversy must be arbitrated in London. If, however, the controversy arises, not under the charter, but under the stevedore's warranty of workmanlike service implied by law, *Ryan Stevedoring Co. v. Pan-Atlantic Steamship Corp.*, 350 U. S. 124 (1956), then the case must be tried by the District Court in New York. The District Judge decided that the dispute arose under the charter and stayed the judicial proceedings pending

arbitration. The Court of Appeals, while expressing considerable doubt as to whether arbitration was in fact proper, nevertheless followed what it considered to be the requirements of *Schoenamsgruber v. Hamburg Line*, 294 U. S. 454 (1935), and ruled that the District Judge's order was not yet appealable. I think decent and expeditious judicial procedure requires that the principles governing appealability announced in *Schoenamsgruber* be repudiated and that the Court of Appeals be held obligated to determine the proper tribunal now, either on the ground that the order is a "final" judgment and appealable as such, 28 U. S. C. § 1291, or on the ground that it is an interlocutory decision amounting in all substance and effect to an "injunction" and therefore appealable under 28 U. S. C. § 1292 (a)(1).

Section 1292 (a)(1) permits appeals from "[i]nterlocutory orders . . . granting, continuing, modifying, refusing or dissolving injunctions . . . ." An order should be appealable within the meaning of this statute if in substantial effect it is equivalent to an injunction, and as a matter of fact we have so held. *Ettelson v. Metropolitan Insurance Co.*, 317 U. S. 188 (1942). It is true that some doubt has been cast on the *Ettelson* test by *City of Morgantown v. Royal Insurance Co.*, 337 U. S. 254 (1949), and *Baltimore Contractors v. Bodinger*, 348 U. S. 176 (1955). But these more recent cases have introduced confusion and technicality into the law, requiring resolution of this statutory question in terms of the fiction of separate law, equity, and admiralty "sides" of the United States District Court. I think the time has come to abandon this outmoded fiction about "sides" of the court and return to the sound principles announced in *Ettelson*, *supra*. Here as in *Ettelson* petitioner is "in no different position than if a state equity court had restrained [it] from proceeding in [a] law action." *Ettelson*, *supra*, at 192. Since the stay entered

in this case was an injunction in every practical sense, I would hold that it was an injunction in the statutory sense and allow the present appeal.

I also think this order was "final" within the meaning of 28 U. S. C. § 1291. Our cases dealing with the meaning of finality have provided no satisfactory definition of this term, as this Court has itself repeatedly recognized. *McGourkey v. Toledo & Ohio R. Co.*, 146 U. S. 536 (1892); *Dickinson v. Petroleum Conversion Corp.*, 338 U. S. 507 (1950). Certainly we have time and again departed from the statement in *Catlin v. United States*, 324 U. S. 229, 233 (1945), that the decision to be final and appealable must be one which "leaves nothing for the court to do but execute the judgment," and we have held numerous orders final and appealable which had left open major questions in litigation but were nevertheless "in that small class which finally determine claims of right separable from, and collateral to, rights asserted in the action, too important to be denied review and too independent of the cause itself to require that appellate consideration be deferred until the whole case is adjudicated." *Cohen v. Beneficial Loan Corp.*, 337 U. S. 541, 546 (1949). See also *Roberts v. U. S. District Court*, 339 U. S. 844 (1950); *Brown Shoe Co. v. United States*, 370 U. S. 294 (1962). The same practical test of finality has been applied to determine whether the judgment of a state court is "final" within the meaning of 28 U. S. C. § 1257. *Construction Laborers v. Curry*, 371 U. S. 542 (1963); *Mercantile National Bank v. Langdeau*, 371 U. S. 555 (1963).

Accordingly, I do not regard as conclusive the fact that in cases of this kind "[t]he parties are still before the court and further proceedings may be moved after the arbitrators have acted." Compare *Lowry & Co. v. S. S. Le Moyne D'Iberville*, 372 F. 2d 123, 124 (C. A. 2d Cir. 1967). The order in the present case stayed the

judicial proceedings petitioner had commenced in New York and required the parties to go to London and conduct an arbitration that may prove costly and time consuming. Under these circumstances the question whether petitioner had a right to prompt determination of its claim in a judicial forum is "too important to be denied review and too independent of the cause itself to require that appellate consideration be deferred until the whole case is adjudicated." *Cohen, supra*. The court below was correct, of course, in noting that if the arbitration award proves satisfactory to petitioner, the question of arbitrability will then be moot, but in that event petitioner's right—if it has one—to avoid the costs and inconveniences incident to a foreign arbitration will have been irretrievably lost. It was this very danger that was the controlling consideration in *Cohen, supra*, 337 U. S., at 546.

It is also true that postponing review will prove to have been the more efficient approach if the District Judge's ruling is ultimately affirmed. But the probability of such an outcome can never be assessed from the present vantage point. There is at least a strong possibility that when review is finally had, the ruling will be found erroneous by the United States courts. In that case it will be necessary to proceed at long last to trial. At the moment all we can say is that we must risk either an unnecessary appeal or an unnecessary arbitration. The former may be somewhat bothersome for the appellate courts, but the latter will be such a serious burden for both the parties that I would unhesitatingly choose to avoid it. I would grant the writ, reverse the judgment below, and require a ruling now on the only controversy between the parties that is ripe for decision at this time—should the case be arbitrated or tried in court?

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No. 272. *ROSE v. McNAMARA, SECRETARY OF DEFENSE*. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Warren E. Magee, Hans A. Nathan, William H. Quasha, Howard B. McClellan, Stuart H. Robeson and Roger E. Brooks* for petitioner. *Solicitor General Marshall, Acting Assistant Attorney General Eardley and Morton Hollander* for respondent. Reported below: 126 U. S. App. D. C. 179, 375 F. 2d 924.

No. 281. *WING WA LEE v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Milton T. Simmons* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Julia P. Cooper* for respondent. Reported below: 375 F. 2d 723.

No. 283. *KNOX v. OHIO*. Sup. Ct. Ohio. Motion to defer consideration of the petition and other relief denied. Certiorari denied.

No. 336. *LOCAL 254, BUILDING SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO v. NATIONAL LABOR RELATIONS BOARD*. C. A. 1st Cir. Certiorari denied. MR. JUSTICE BLACK is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Arthur V. Getchell* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for respondent. Reported below: 376 F. 2d 131.

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No. 316. GENERAL MOTORS CORP. *v.* INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW) ET AL. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE HARLAN and MR. JUSTICE STEWART are of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Aloysius F. Power, Harry S. Benjamin, Jr., Eugene L. Hartwig, George Cherpelis and K. Douglas Mann* for petitioner. *Stephen I. Schlossberg, John A. Fillion, Bernard F. Ashe, Jordan Rossen, Joseph L. Rauh, Jr., and John Silard* for International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW), and *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for the National Labor Relations Board, respondents. Reported below: 127 U. S. App. D. C. 97, 381 F. 2d 265.

No. 347. ROBERTS *v.* FLORIDA; and

No. 371. NASH *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied without prejudice to applications for writs of habeas corpus in the appropriate United States District Courts. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted in No. 347. *Stanley Jay Bartel* for petitioner in No. 347. *Milton E. Grusmark* for petitioner in No. 371. *Earl Faircloth, Attorney General of Florida, and James T. Carlisle, Assistant Attorney General, for respondent* in both cases. Reported below: No. 347, 188 So. 2d 392; No. 371, 188 So. 2d 391.

No. 419. KING *v.* UNITED BENEFIT FIRE INSURANCE Co. C. A. 10th Cir. Certiorari denied. MR. JUSTICE BLACK is of the opinion that certiorari should be granted. *Jefferson G. Greer* for petitioner. *Clayton B. Pierce* for respondent. Reported below: 377 F. 2d 728.

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No. 326. *LOWE v. TAYLOR STEEL PRODUCTS CO. ET AL.* C. A. 8th Cir. Motion for leave to file a substituted petition for certiorari granted. Certiorari denied. Reported below: 373 F. 2d 65.

No. 382. *DANIELSON ET AL. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 3d Cir. Certiorari denied. MR. JUSTICE STEWART is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Sidney B. Gambill* for petitioners. *Solicitor General Marshall* and *Assistant Attorney General Rogovin* for respondent. Reported below: 378 F. 2d 771.

No. 417. *LEMONGELLO v. NEW JERSEY.* Sup. Ct. N. J. Certiorari denied. THE CHIEF JUSTICE and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted on the issues of double jeopardy and the propriety of declaring a mistrial in these circumstances. *Frederick Klaessig* for petitioner.

No. 427. *BRADICK v. ISRAEL ET AL.* C. A. 2d Cir. Motion of respondent Israel to dispense with printing brief granted. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Nicholas Atlas* and *Anthony H. Atlas* for petitioner. Reported below: 377 F. 2d 262.

No. 446. *GAMAGE v. BROWN, SECRETARY OF THE AIR FORCE.* C. A. D. C. Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Alfred L. Scanlan* and *Roger Kent* for petitioner. *Acting Solicitor General Spritzer*, *Acting Assistant Attorney General Eardley* and *John C. Eldridge* for respondent. Reported below: 126 U. S. App. D. C. 269, 377 F. 2d 154.

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No. 432. *HOFFA ET AL. v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE WHITE and MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Morris A. Shenker, Joseph A. Fanelli, Daniel B. Maher and Bernard J. Mellman* for Hoffa, *Jacques M. Schiffer* for Parks, *Cecil D. Branstetter* for Campbell, and *Harold E. Brown* for King, petitioners. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Julia P. Cooper* for the United States. Reported below: 376 F. 2d 1020.

No. 443. *COULTER ELECTRONICS, INC. v. A. B. LARS LJUNGBERG & Co.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEWART is of the opinion that certiorari should be granted. *Myron C. Cass and I. Irving Silverman* for petitioner. *Anthony R. Chiara* for respondent. Reported below: 376 F. 2d 743.

No. 449. *MOONEY AIRCRAFT, INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 5th Cir. Motion to dispense with printing the petition granted. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition. *Hal Rachal* for petitioner. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli, Norton J. Come and Herman M. Levy* for respondent. Reported below: 375 F. 2d 402.

No. 454. *MORGAN v. HAYS, JUDGE OF THE SUPERIOR COURT OF ARIZONA, ET AL.* Sup. Ct. Ariz. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted. *Mark Wilmer* for petitioner. *Rex E. Lee* for respondents. Reported below: 102 Ariz. 150, 426 P. 2d 647.

No. 5, Misc. *GARRETT v. LARSEN, SHERIFF*. Sup. Ct. Utah. Certiorari denied. *Phil L. Hansen*, Attorney General of Utah, for respondent.

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No. 6, Misc. *MACLEOD v. VIRGINIA*. Sup. Ct. App. Va. Certiorari denied. *Harry P. Friedlander* for petitioner. *William J. Hassan* for respondent.

No. 7, Misc. *COLLINS v. FIELD, MENS COLONY SUPERINTENDENT*. Sup. Ct. Cal. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *Jack K. Weber*, Deputy Attorney General, for respondent.

No. 8, Misc. *MARICHEZ v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. *Gerald W. Getty* and *James J. Doherty* for petitioner. *William G. Clark*, Attorney General of Illinois, and *Richard A. Michael* and *John J. O'Toole*, Assistant Attorneys General, for respondent.

No. 9, Misc. *ESPARZA v. DUNBAR, CORRECTIONS DIRECTOR, ET AL.* C. A. 9th Cir. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, and *Robert R. Granucci* and *George R. Nock*, Deputy Attorneys General, for respondents.

No. 11, Misc. *JONES ET AL. v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. *Aaron Kravitch* for petitioners. *Andrew J. Ryan, Jr.*, for respondent.

No. 17, Misc. *ADELL v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. *Gerald W. Getty* and *James J. Doherty* for petitioner. *William G. Clark*, Attorney General of Illinois, and *Richard A. Michael*, Assistant Attorney General, for respondent.

No. 41, Misc. *COX v. BURKE, WARDEN*. Sup. Ct. Wis. Certiorari denied. *Bronson C. La Follette*, Attorney General of Wisconsin, and *William A. Platz*, Assistant Attorney General, for respondent.

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No. 22, Misc. CLARK *v.* LOUISIANA; and

No. 23, Misc. HOWARD *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. *Guy Johnson* for petitioner in No. 22, Misc. *Jack P. F. Gremillion*, Attorney General of Louisiana, *William P. Schuler*, Assistant Attorney General, and *Jim Garrison* for respondent in both cases. Reported below: 249 La. 1061, 193 So. 2d 246.

No. 24, Misc. SPANBAUER *v.* BURKE, WARDEN. C. A. 7th Cir. Certiorari denied. *Bronson C. La Follette*, Attorney General of Wisconsin, and *William A. Platz*, Assistant Attorney General, for respondent. Reported below: 374 F. 2d 67.

No. 37, Misc. MOORE *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. *William G. Clark*, Attorney General of Illinois, and *John J. O'Toole* and *Donald J. Veverka*, Assistant Attorneys General, for respondent. Reported below: 35 Ill. 2d 399, 220 N. E. 2d 443.

No. 39, Misc. RIDEAU *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. *Fred H. Sievert, Jr.*, for petitioner. *Jack P. F. Gremillion*, Attorney General of Louisiana, *William P. Schuler*, Assistant Attorney General, and *Frank T. Salter, Jr.*, for respondent. Reported below: 249 La. 1111, 193 So. 2d 264.

No. 40, Misc. PUCHALSKI *v.* YEAGER, WARDEN. C. A. 3d Cir. Certiorari denied. *Guy W. Calissi* for respondent. Reported below: 372 F. 2d 96.

No. 47, Misc. BUCHANAN *v.* OKLAHOMA ET AL. C. A. 10th Cir. Certiorari denied. *Richard A. Procter* for petitioner. *G. T. Blankenship*, Attorney General of Oklahoma, and *Charles L. Owens*, Assistant Attorney General, for respondents. Reported below: 370 F. 2d 199.

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No. 46, Misc. ALBRIGHT *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. *Earl Faircloth*, Attorney General of Florida, and *William D. Roth*, Assistant Attorney General, for respondent.

No. 56, Misc. SMITH *v.* VIRGINIA. Sup. Ct. App. Va. Certiorari denied. *Stephen D. Martin, Jr.*, for petitioner. *Robert Y. Button*, Attorney General of Virginia, and *Reno S. Harp III*, Assistant Attorney General, for respondent.

No. 59, Misc. JONES *v.* SWENSON, WARDEN. Sup. Ct. Mo. Certiorari denied.

No. 61, Misc. MONTAGUE *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. *Peter P. Rosato* for petitioner. *Jerome K. Karver* for respondent. Reported below: 19 N. Y. 2d 121, 224 N. E. 2d 873.

No. 62, Misc. McLAUGHLIN *v.* BURKE, WARDEN. Sup. Ct. Wis. Certiorari denied. *Bronson C. La Follette*, Attorney General of Wisconsin, and *William A. Platz* and *Betty R. Brown*, Assistant Attorneys General, for respondent.

No. 67, Misc. BURTON *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, and *Elizabeth Miller*, Deputy Attorney General, for respondent.

No. 68, Misc. MUELLER *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. Reported below: 32 Wis. 2d 70, 145 N. W. 2d 84.

No. 69, Misc. SCHAKE *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied.

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No. 81, Misc. *McCRIMMON v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 37 Ill. 2d 40, 224 N. E. 2d 822.

No. 83, Misc. *WYLEY v. WARDEN, MARYLAND PENITENTIARY*. C. A. 4th Cir. Certiorari denied. *Mathias J. DeVito* for petitioner. *Francis B. Burch*, Attorney General of Maryland, *Robert F. Sweeney*, Deputy Attorney General, and *Carville M. Downes* for respondent. Reported below: 372 F. 2d 742.

No. 85, Misc. *WEBER v. OREGON*. Sup. Ct. Ore. Certiorari denied. *Charles O. Porter* for petitioner. Reported below: 246 Ore. 312, 423 P. 2d 767.

No. 86, Misc. *BOSTIC v. JOHNSON, JUSTICE OF THE PEACE, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 89, Misc. *CLEMMONS v. CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 90, Misc. *BENNETT v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied. *David Kanner* for petitioner. Reported below: 424 Pa. 650, 227 A. 2d 823.

No. 94, Misc. *LAW v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. *Joseph L. Tita* for petitioner. Reported below: 370 F. 2d 369.

No. 95, Misc. *ANAYA v. RODRIGUEZ, ACTING WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 372 F. 2d 683.

No. 97, Misc. *FRONTUTO v. CALIFORNIA*; and  
No. 236, Misc. *BERNAL v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

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No. 98, Misc. *McKee v. Pate, Warden*. C. A. 7th Cir. Certiorari denied. *Marshall Patner* for petitioner. *William G. Clark*, Attorney General of Illinois, and *John J. O'Toole* and *Philip J. Rock*, Assistant Attorneys General, for respondent. Reported below: 371 F. 2d 405.

No. 100, Misc. *Walker v. National Maritime Union et al.* C. A. 2d Cir. Certiorari denied. *Abraham E. Freedman* for respondent National Maritime Union.

No. 103, Misc. *Colvin v. Beto, Corrections Director*. C. A. 5th Cir. Certiorari denied.

No. 104, Misc. *Opheim v. Nichol, Chief Judge, U. S. District Court*. C. A. 8th Cir. Certiorari denied.

No. 105, Misc. *Sumida et al. v. James et al.* Sup. Ct. Hawaii. Certiorari denied. *Joseph A. Ryan* for petitioners *Sumida et al.* *J. Harold Hughes* for respondents. Reported below: 49 Haw. 508 and 519, 421 P. 2d 296 and 299.

No. 106, Misc. *Wall v. Wainwright, Corrections Director*. C. A. 5th Cir. Certiorari denied.

No. 108, Misc. *Zamorano v. Oliver, Warden*. Sup. Ct. Cal. Certiorari denied.

No. 112, Misc. *Johnson v. Ohio*. Ct. Common Pleas of Ohio, Hamilton County. Certiorari denied. *Melvin G. Rueger* for respondent.

No. 113, Misc. *Tillman v. North Carolina*. Sup. Ct. N. C. Certiorari denied. *Thomas Wade Bruton*, Attorney General of North Carolina, for respondent. Reported below: 269 N. C. 276, 152 S. E. 2d 159.

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No. 114, Misc. *MANNING v. NORTH CAROLINA*. Sup. Ct. N. C. Certiorari denied.

No. 115, Misc. *WHISMAN v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. *Reuben A. Garland* for petitioner. *Arthur K. Bolton*, Attorney General of Georgia, *G. Ernest Tidwell*, Executive Assistant Attorney General, and *Marion O. Gordon*, Assistant Attorney General, for respondent. Reported below: 223 Ga. 124, 153 S. E. 2d 548.

No. 119, Misc. *COX v. CROUSE, WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 376 F. 2d 824.

No. 120, Misc. *ARGO v. ALABAMA*. Sup. Ct. Ala. Certiorari denied.

No. 122, Misc. *CUNNINGHAM v. MARONEY, CORRECTIONAL SUPERINTENDENT*. C. A. 3d Cir. Certiorari denied.

No. 125, Misc. *FLETCHER v. PENNSYLVANIA*. C. A. 3d Cir. Certiorari denied.

No. 128, Misc. *FOY v. ALABAMA*. Ct. App. Ala. Certiorari denied. *MacDonald Gallion*, Attorney General of Alabama, and *John C. Tyson III*, Assistant Attorney General, for respondent. Reported below: 43 Ala. App. 524, 194 So. 2d 856.

No. 129, Misc. *ROBBINS v. NEW MEXICO*. Sup. Ct. N. M. Certiorari denied. *James M. H. Cullender* for petitioner. Reported below: 77 N. M. 644, 427 P. 2d 10.

No. 134, Misc. *IVORY v. FLORIDA*. C. A. 5th Cir. Certiorari denied.

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No. 130, Misc. *WILLIAMS v. DUNBAR, CORRECTIONS DIRECTOR, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 377 F. 2d 505.

No. 136, Misc. *PEOPLES v. NEVADA.* Sup. Ct. Nev. Certiorari denied. *Harvey Dickerson*, Attorney General of Nevada, for respondent. Reported below: 83 Nev. 115, 423 P. 2d 883.

No. 137, Misc. *LESTER v. PENNSYLVANIA.* Sup. Ct. Pa. Certiorari denied.

No. 140, Misc. *JUPITER v. CALIFORNIA ADULT AUTHORITY ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 142, Misc. *LENTZ v. NORTH CAROLINA.* Sup. Ct. N. C. Certiorari denied. *Clyde C. Randolph, Jr.*, for petitioner. *Thomas Wade Bruton*, Attorney General of North Carolina, and *Theodore C. Brown, Jr.*, for respondent. Reported below: 270 N. C. 122, 153 S. E. 2d 864.

No. 149, Misc. *STANLEY v. MANCUSI, WARDEN.* C. A. 2d Cir. Certiorari denied.

No. 150, Misc. *WILLIAMS v. CALIFORNIA ADULT AUTHORITY ET AL.* C. A. 9th Cir. Certiorari denied.

No. 151, Misc. *RICHARDSON v. INGRAM CORP. ET AL.* C. A. 3d Cir. Certiorari denied. *Harry Alan Sherman* and *S. Eldridge Sampliner* for petitioner. *Edmund K. Trent* for respondents. Reported below: 374 F. 2d 502.

No. 154, Misc. *SAUNDERS v. ARIZONA ET AL.* Sup. Ct. Ariz. Certiorari denied. *Jose del Castillo* for petitioner. *Darrell F. Smith*, Attorney General of Arizona, and *James S. Tegart*, Assistant Attorney General, for respondents.

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No. 157, Misc. BERRY *v.* OLIVER, WARDEN. Sup. Ct. Cal. Certiorari denied.

No. 158, Misc. MCGEE *v.* SECOND DISTRICT CRIMINAL COURT OF DALLAS COUNTY ET AL. Ct. Crim. App. Tex. Certiorari denied.

No. 161, Misc. SIRES *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied. Reported below: 70 Wash. 2d 572, 424 P. 2d 897.

No. 167, Misc. DEDMON *v.* OLIVER, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 169, Misc. CARTER *v.* BURKE, WARDEN. Sup. Ct. Wis. Certiorari denied.

No. 170, Misc. COCHRAN *v.* HUNT, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 173, Misc. LYONS *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 177, Misc. PEDERSON ET AL. *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. *Sydney W. Goff* for petitioners. *Darrell F. Smith*, Attorney General of Arizona, and *Gary K. Nelson*, Assistant Attorney General, for respondent. Reported below: 102 Ariz. 60, 424 P. 2d 810.

No. 182, Misc. BRYANT *v.* PEYTON, PENITENTIARY SUPERINTENDENT. Sup. Ct. App. Va. Certiorari denied.

No. 192, Misc. LAVERGNE *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, and *Edward P. O'Brien* and *John T. Murphy*, Deputy Attorneys General, for respondent.

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No. 185, Misc. *PECK v. TORONTO ET AL.* Ct. App. Md. Certiorari denied. Reported below: 246 Md. 268, 228 A. 2d 252.

No. 187, Misc. *FREDERICK v. RODRIGUEZ, ACTING WARDEN.* C. A. 10th Cir. Certiorari denied.

No. 188, Misc. *LINKER v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 189, Misc. *THOMAS v. CALIFORNIA.* Sup. Ct. Cal. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *Norman H. Sokolow*, Deputy Attorney General, for respondent. Reported below: 65 Cal. 2d 698, 423 P. 2d 233.

No. 191, Misc. *ROBERTS v. CALIFORNIA.* Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 195, Misc. *BAKER v. NEW JERSEY.* Sup. Ct. N. J. Certiorari denied. Reported below: 49 N. J. 103, 228 A. 2d 339.

No. 203, Misc. *HUBBARD v. PATTERSON, WARDEN.* C. A. 10th Cir. Certiorari denied. Reported below: 374 F. 2d 856.

No. 204, Misc. *BERRY v. NEW YORK.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied.

No. 206, Misc. *WHITE v. COOPER ET AL.* C. A. 9th Cir. Certiorari denied.

No. 210, Misc. *HIZEL v. NEBRASKA.* Sup. Ct. Neb. Certiorari denied. Reported below: 181 Neb. 680, 150 N. W. 2d 217.

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No. 211, Misc. *BEAVERS v. BETO*, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. Reported below: 373 F. 2d 95.

No. 212, Misc. *HALL v. KENTUCKY*. Ct. App. Ky. Certiorari denied.

No. 216, Misc. *LEE v. GRAUBERGER, DEPUTY COUNTY ATTORNEY, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 218, Misc. *ANTOINE v. LYKES BROTHERS STEAMSHIP Co., INC., ET AL.* C. A. 5th Cir. Certiorari denied. *William R. Tete* for petitioner. Reported below: 376 F. 2d 443.

No. 223, Misc. *AGARD v. WILKINS, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 224, Misc. *BARRERA v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 373 F. 2d 333.

No. 225, Misc. *WILKS v. OLIVER, WARDEN*. Sup. Ct. Cal. Certiorari denied.

No. 226, Misc. *FINLEY v. CHANDLER*. C. A. 9th Cir. Certiorari denied. Reported below: 377 F. 2d 548.

No. 227, Misc. *SANTOS v. NELSON, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 229, Misc. *WAMPLER v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied. *William Earl Badgett* for petitioner. *George F. McCannless*, Attorney General of Tennessee, and *Robert F. Hedgepath*, Assistant Attorney General, for respondent.

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No. 232, Misc. *NEWSTROM v. RODRIGUEZ*, ACTING WARDEN. C. A. 10th Cir. Certiorari denied.

No. 235, Misc. *LoPICCOLO v. LAVALLEE*, WARDEN. C. A. 2d Cir. Certiorari denied. Reported below: 377 F. 2d 221.

No. 238, Misc. *HARSHAW v. JOHNSON*, CLERK, U. S. DISTRICT COURT. C. A. 6th Cir. Certiorari denied.

No. 242, Misc. *BECKUS v. MAINE*. Sup. Jud. Ct. Me. Certiorari denied. *Robert G. Pelletier* for petitioner. *James S. Erwin*, Attorney General of Maine, and *John W. Benoit*, Assistant Attorney General, for respondent. Reported below: 229 A. 2d 316.

No. 245, Misc. *KAHAFFER v. KENTUCKY*. Ct. App. Ky. Certiorari denied.

No. 246, Misc. *HICKMAN v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 249, Misc. *KEELEY v. NEW YORK*. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 252, Misc. *GASPERO v. PENNSYLVANIA*. C. A. 3d Cir. Certiorari denied. *James J. Orlow* for petitioner. Reported below: 378 F. 2d 372.

No. 253, Misc. *OKSANEN v. MINNESOTA*. Sup. Ct. Minn. Certiorari denied. Reported below: 276 Minn. 103, 149 N. W. 2d 27.

No. 276, Misc. *THOMPSON v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. *Sam Adam, R. Eugene Pincham, Charles B. Evins* and *Earl E. Strayhorn* for petitioner. Reported below: 36 Ill. 2d 478, 224 N. E. 2d 264.

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No. 258, Misc. BUNDY *v.* NEBRASKA. Sup. Ct. Neb. Certiorari denied. Reported below: 181 Neb. 160, 147 N. W. 2d 500.

No. 259, Misc. MCKELVEY *v.* WILSON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 263, Misc. GRAVES *v.* EYMAN, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 373 F. 2d 324.

No. 264, Misc. DIXON *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 37 Ill. 2d 416, 226 N. E. 2d 608.

No. 271, Misc. SMITH *v.* KANSAS. C. A. 10th Cir. Certiorari denied.

No. 272, Misc. MOORE *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. *Joe Purcell*, Attorney General of Arkansas, and *R. D. Smith III*, Assistant Attorney General, for respondent. Reported below: 241 Ark. 745, 410 S. W. 2d 399.

No. 274, Misc. TAYLOR ET AL. *v.* GULF STATES UTILITIES CO. ET AL. C. A. 5th Cir. Certiorari denied. *Fred G. Benton, Sr.*, for petitioners. *Frank S. Normann* for respondents *W. R. Meadows, Inc.*, et al. Reported below: 375 F. 2d 949.

No. 282, Misc. AHRENS *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 250 La. 391, 196 So. 2d 250.

No. 283, Misc. SILVERS *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied. Reported below: 70 Wash. 2d 430, 423 P. 2d 539.

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No. 284, Misc. ALEXANDER *v.* GREEN, CORRECTIONAL SUPERINTENDENT. C. A. 6th Cir. Certiorari denied.

No. 287, Misc. KONVALIN *v.* NEBRASKA. Sup. Ct. Neb. Certiorari denied. Reported below: 181 Neb. 554, 149 N. W. 2d 755.

No. 290, Misc. PARLER *v.* SCHNECKLOTH, CONSERVATION CENTER SUPERINTENDENT. C. A. 9th Cir. Certiorari denied.

No. 298, Misc. CHARLES *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 66 Cal. 2d 330, 425 P. 2d 545.

No. 299, Misc. BELTON *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. *Elliot L. Richardson*, Attorney General of Massachusetts, and *Willie J. Davis*, Assistant Attorney General, for respondent. Reported below: 352 Mass. 263, 225 N. E. 2d 53.

No. 303, Misc. ABEL *v.* BETO, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied.

No. 304, Misc. SHIPP *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 308, Misc. VAZQUEZ *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. *Frank S. Hogan*, *H. Richard Uviller* and *Eric A. Seiff* for respondent.

No. 310, Misc. BERRY *v.* CHAGAS ET AL. C. A. 5th Cir. Certiorari denied. *Stephen L. Mayo* for petitioner. *Ernest May* for respondent Chagas. Reported below: 369 F. 2d 637.

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No. 302, Misc. *FOX v. HIGGINS ET AL.* Sup. Ct. N. D. Certiorari denied. *Robert Vogel* for respondents. Reported below: 149 N. W. 2d 369.

No. 311, Misc. *McCoy v. WASHINGTON.* Sup. Ct. Wash. Certiorari denied. Reported below: 70 Wash. 2d 964, 425 P. 2d 874.

No. 312, Misc. *TINSLEY v. KENTUCKY.* Ct. App. Ky. Certiorari denied.

No. 313, Misc. *SMITH v. KENTUCKY.* Ct. App. Ky. Certiorari denied. *Edwin W. Paul* for petitioner. *Robert Matthews*, Attorney General of Kentucky, and *David Murrell* and *Holland N. McTyeire*, Assistant Attorneys General, for respondent. Reported below: 412 S. W. 2d 256.

No. 317, Misc. *HUDGENS v. ARIZONA.* Sup. Ct. Ariz. Certiorari denied. *W. Edward Morgan* for petitioner. *Darrell F. Smith*, Attorney General of Arizona, and *Carl Waag*, Assistant Attorney General, for respondent. Reported below: 102 Ariz. 1, 423 P. 2d 90.

No. 320, Misc. *HARGROVE v. MARONEY, CORRECTIONAL SUPERINTENDENT.* C. A. 3d Cir. Certiorari denied. Reported below: 375 F. 2d 1015.

No. 323, Misc. *FAIR v. DE LA PARTE, STATE SENATOR, ET AL.* Sup. Ct. Fla. Certiorari denied.

No. 324, Misc. *DANIELSEN v. MINNESOTA.* Sup. Ct. Minn. Certiorari denied. Reported below: 276 Minn. 428, 150 N. W. 2d 567.

No. 326, Misc. *ANGLIN v. MARYLAND.* Ct. App. Md. Certiorari denied.

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No. 327, Misc. SCHOMPert *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 19 N. Y. 2d 300, 226 N. E. 2d 305.

No. 331, Misc. OLSHEN *v.* McMANN, WARDEN. C. A. 2d Cir. Certiorari denied. Reported below: 378 F. 2d 993.

No. 335, Misc. PRATT, CONSERVATOR *v.* BAKER, EXECUTOR. Sup. Ct. Ill. Certiorari denied.

No. 336, Misc. LABARTH *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 19 N. Y. 2d 649, 859, 862, 225 N. E. 2d 213, 227 N. E. 2d 404, 408.

No. 339, Misc. RUSSELL ET AL. *v.* CATHOLIC CHARITIES ET AL. Sup. Ct. Wash. Certiorari denied. Reported below: 70 Wash. 2d 451, 423 P. 2d 640.

No. 342, Misc. ALEXANDER *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. *John T. Corrigan* and *Charles W. Fleming* for respondent.

No. 345, Misc. SHAK *v.* HAWAII. Sup. Ct. Hawaii. Certiorari denied. *Joseph A. Ryan* for petitioner.

No. 348, Misc. YANITY ET AL. *v.* BENWARE ET AL. C. A. 2d Cir. Certiorari denied. *Lauren D. Rachlin* for petitioners. *Richard Lipsitz* for respondents. Reported below: 376 F. 2d 197.

No. 350, Misc. RIVERS *v.* PEYTON, PENITENTIARY SUPERINTENDENT. C. A. 4th Cir. Certiorari denied.

No. 363, Misc. NICHOLSON ET AL. *v.* SIGLER, WARDEN. Sup. Ct. Neb. Certiorari denied. Reported below: 181 Neb. 690, 150 N. W. 2d 251.

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No. 351, Misc. *TIPSY v. WARDEN, SAN QUENTIN STATE PRISON, ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 352, Misc. *JARRELS v. NEW YORK.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 353, Misc. *BISHOP v. PENNSYLVANIA.* Sup. Ct. Pa. Certiorari denied. *Edwin B. Barnett* for petitioner. *Arlen Specter* for respondent. Reported below: 425 Pa. 175, 228 A. 2d 661.

No. 355, Misc. *FURTAK v. NEW YORK.* Ct. App. N. Y. Certiorari denied.

No. 356, Misc. *PECK v. MANCUSI, WARDEN.* C. A. 2d Cir. Certiorari denied.

No. 357, Misc. *WATROBA v. OLIVER, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 358, Misc. *MENDEZ v. OLIVER, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 361, Misc. *FURTAK v. NEW YORK.* Ct. App. N. Y. Certiorari denied.

No. 362, Misc. *KIPER v. KENTUCKY.* Ct. App. Ky. Certiorari denied.

No. 364, Misc. *MOUNT v. RUNDLE, CORRECTIONAL SUPERINTENDENT.* Sup. Ct. Pa. Certiorari denied. *Stephen M. Feldman* for petitioner. *Arlen Specter* for respondent. Reported below: 425 Pa. 312, 228 A. 2d 640.

No. 367, Misc. *McFARLAND v. WILSON, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 376 F. 2d 852.

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No. 365, Misc. *ANDREWS v. SIMPSON, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 369, Misc. *BOSLEY v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. *John Cutler* for petitioner. Reported below: 414 S. W. 2d 468.

No. 370, Misc. *NELSON v. DARLING SHOP OF BIRMINGHAM, INC., ET AL.* Sup. Ct. Ala. Certiorari denied. *W. H. Collier* for petitioner.

No. 371, Misc. *ALLISON v. NELSON, WARDEN, ET AL.* Sup. Ct. Cal. Certiorari denied. Reported below: 66 Cal. 2d 282, 425 P. 2d 193.

No. 372, Misc. *LEE v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 249 Cal. App. 2d 234, 57 Cal. Rptr. 281.

No. 374, Misc. *O'NEILL v. BURKE, WARDEN*. C. A. 7th Cir. Certiorari denied. Reported below: 379 F. 2d 656.

No. 376, Misc. *SADDLER ET UX. v. SAFEWAY STORES, INC.* C. A. D. C. Cir. Certiorari denied. *King David* for petitioners.

No. 377, Misc. *JACKSON v. OLIVER, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 380, Misc. *BARQUERA v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 374 F. 2d 177.

No. 383, Misc. *MOORE v. RODRIGUEZ, ACTING WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 376 F. 2d 817.

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No. 378, Misc. CAREY *v.* GEORGE WASHINGTON UNIVERSITY. C. A. D. C. Cir. Certiorari denied.

No. 384, Misc. ARMSTRONG *v.* NEW YORK. Ct. App. N. Y. Certiorari denied.

No. 385, Misc. CARR *v.* ALABAMA. Ct. App. Ala. Certiorari denied. *Fred Blanton, Jr.*, for petitioner. *MacDonald Gallion*, Attorney General of Alabama, *John G. Bookout*, Chief Assistant Attorney General, and *Robert F. Miller*, Assistant Attorney General, for respondent. Reported below: 43 Ala. App. 642, 198 So. 2d 791.

No. 388, Misc. ROBERTS *v.* PEPERSACK, CORRECTIONS COMMISSIONER, ET AL. C. A. 4th Cir. Certiorari denied.

No. 389, Misc. THOMAS *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 392, Misc. SALTON *v.* BETO, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. Reported below: 380 F. 2d 25.

No. 396, Misc. MICKEL *v.* SOUTH CAROLINA STATE EMPLOYMENT SERVICE ET AL. C. A. 4th Cir. Certiorari denied. *Donald James Sampson* for petitioner. *Robert T. Thompson* for respondent Exide Battery Co. Reported below: 377 F. 2d 239.

No. 403, Misc. HANFORD *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 405, Misc. VILLA *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 412, Misc. TURNER *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist. Certiorari denied.

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No. 409, Misc. *GOGERTY v. GLADDEN, WARDEN*. Sup. Ct. Ore. Certiorari denied. *Lawrence A. Aschenbrenner* for petitioner.

No. 411, Misc. *BANDHAUER v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: 66 Cal. 2d 524, 426 P. 2d 900.

No. 413, Misc. *SILVER v. PROCUNIER, CORRECTIONS DIRECTOR*. Sup. Ct. Cal. Certiorari denied.

No. 418, Misc. *COHEN v. NEWSWEEK, INC.* C. A. 8th Cir. Certiorari denied. Reported below: 374 F. 2d 470.

No. 427, Misc. *SALGADO v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 429, Misc. *KAPSALIS v. NELSON, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 430, Misc. *PILLOWS v. FIELD, MENS COLONY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied.

No. 433, Misc. *ALEXANDER v. MICHIGAN*. C. A. 6th Cir. Certiorari denied.

No. 441, Misc. *JENKINS v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 250 Cal. App. 2d 460, 58 Cal. Rptr. 401.

No. 444, Misc. *MANNING v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. *Thomas C. Ryan* for petitioner. Reported below: 378 F. 2d 357.

No. 455, Misc. *OUTTEN v. VIRGINIA*. C. A. 4th Cir. Certiorari denied.

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No. 465, Misc. RUSSEL *v.* OLIVER, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 476, Misc. FURTAK *v.* McMANN, WARDEN, ET AL. Sup. Ct. N. Y. Certiorari denied.

No. 513, Misc. FURTAK *v.* APPELLATE DIVISION OF THE SUPREME COURT OF NEW YORK, FOURTH JUDICIAL DEPARTMENT. C. A. 2d Cir. Certiorari denied.

MR. JUSTICE MARSHALL took no part in the consideration or decision of the petitions in the following cases (beginning with No. 12, Misc., on this page and extending through No. 489, Misc., on p. 887):

No. 12, Misc. WALKS ON TOP *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 372 F. 2d 422.

No. 13, Misc. WASHINGTON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States.

No. 20, Misc. AMATA *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Rogovin, Joseph M. Howard and John P. Burke* for the United States.

No. 25, Misc. PEREZ *v.* UNITED STATES; and

No. 33, Misc. URQUIDI *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States in both cases. Reported below: 371 F. 2d 654.

No. 38, Misc. CODUTO *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *Solicitor General Marshall* for the United States.

No. 29, Misc. PILARSKI *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Solicitor General Marshall,*

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*Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States. Reported below: 372 F. 2d 128.

No. 32, Misc. WILLIAMS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *John Powers Crowley* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Jerome M. Feit* for the United States. Reported below: 372 F. 2d 76.

No. 44, Misc. NEWMAN *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Alvin D. Edelson* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson and Philip R. Monahan* for the United States.

No. 48, Misc. LOFLAND *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Solicitor General Marshall* for the United States.

No. 60, Misc. LEWIS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *James M. Murphy* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Kirby W. Patterson* for the United States. Reported below: 373 F. 2d 576.

No. 63, Misc. ADAMS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 375 F. 2d 635.

No. 71, Misc. SPENCER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 373 F. 2d 529.

No. 72, Misc. WOOTEN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Julia P. Cooper* for the United States.

No. 76, Misc. HAILEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. *Solicitor General Marshall,*

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*Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 374 F. 2d 889.

No. 75, Misc. CHAPMAN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Jay Goldberg* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 376 F. 2d 705.

No. 79, Misc. KING *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 373 F. 2d 813.

No. 82, Misc. BROOKS *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Solicitor General Marshall* for the United States.

No. 84, Misc. BELL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 375 F. 2d 763.

No. 87, Misc. THOMAS *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States.

No. 88, Misc. BEUFVE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Joe L. Harrell* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States. Reported below: 374 F. 2d 123.

No. 96, Misc. AGY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 374 F. 2d 94.

No. 99, Misc. STEPHENS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosen-*

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berg for the United States. Reported below: 376 F. 2d 23.

No. 107, Misc. GILLESPIE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 376 F. 2d 414.

No. 110, Misc. SHAW *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 374 F. 2d 888.

No. 126, Misc. CARDARELLA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Marshall Tamor Golding* for the United States. Reported below: 375 F. 2d 222.

No. 127, Misc. ROSS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 374 F. 2d 97.

No. 131, Misc. BARNES *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 133, Misc. MINOR *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. *Harold B. Anderson* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 375 F. 2d 170.

No. 147, Misc. HINGUANZO *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *J. Edward Day* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States.

No. 135, Misc. HILBRICH *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *George L. Saunders, Jr.*, for petitioner. *Solicitor General Marshall, Assistant Attor-*

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*ney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 371 F. 2d 826.

No. 138, Misc. STEWARD *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Solicitor General Marshall* for the United States.

No. 144, Misc. RICE *v.* STOEPLER, DISTRICT DIRECTOR OF INTERNAL REVENUE. C. A. 6th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Rogovin and Harry Marselli* for respondent.

No. 153, Misc. HUNTER *v.* UNITED STATES ET AL. C. A. 8th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States.

No. 184, Misc. SCURRY *v.* SARD, CORRECTIONS DIRECTOR, ET AL. C. A. D. C. Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Julia P. Cooper* for respondents.

No. 201, Misc. GRAY *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States.

No. 205, Misc. SCOTT *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. *Stephen F. Lichtenstein* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States. Reported below: 374 F. 2d 1003.

No. 207, Misc. WHITFIELD *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 376 F. 2d 5.

No. 250, Misc. WILLIS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *Solicitor General Marshall* for the United States.

No. 208, Misc. ADAMS ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. *Leroy Nesbitt* for peti-

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tioners. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 376 F. 2d 824.

No. 209, Misc. *WHITE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. *James P. Mozingo III* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 377 F. 2d 908.

No. 213, Misc. *DERENGOWSKI v. UNITED STATES MARSHAL ET AL.* C. A. 8th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for respondent United States Marshal. Reported below: 377 F. 2d 223.

No. 219, Misc. *HILL v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 378 F. 2d 44.

No. 231, Misc. *MONTANEZ 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: 371 F. 2d 79.

No. 233, Misc. *RONAN v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 1st Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Rogovin and Jeanine Jacobs* for respondent. Reported below: 374 F. 2d 511.

No. 278, Misc. *STEVENSON v. UNITED STATES ET AL.* C. A. 6th Cir. Certiorari denied. *Solicitor General Marshall* for the United States.

No. 292, Misc. *SCHMIDT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. *Solicitor General Marshall* for the United States. Reported below: 376 F. 2d 751.

No. 254, Misc. *GROLEAU ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Bea-*

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*trice Rosenberg* for the United States. Reported below: 375 F. 2d 882.

No. 257, Misc. *BURICH v. UNITED STATES*. Ct. Cl. Certiorari denied. *Morris Lavine* for petitioner. *Solicitor General Marshall* for the United States. Reported below: 177 Ct. Cl. 139, 366 F. 2d 984.

No. 265, Misc. *WOODRING v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *Solicitor General Marshall*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 376 F. 2d 619.

No. 275, Misc. *BRAVERMAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *H. Elliot Wales* for petitioner. *Solicitor General Marshall*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 376 F. 2d 249.

No. 277, Misc. *GUNZBURGER v. GARDNER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 2d Cir. Certiorari denied. *Solicitor General Marshall* for respondent.

No. 280, Misc. *DEARINGER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Solicitor General Marshall*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 378 F. 2d 346.

No. 285, Misc. *JONES v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. *Solicitor General Marshall*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 377 F. 2d 742.

No. 296, Misc. *STIGALL v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. *Solicitor General Marshall*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 374 F. 2d 854.

No. 328, Misc. *GUFFEY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg*

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and *Robert G. Maysack* for the United States. Reported below: 377 F. 2d 991.

No. 297, Misc. TOMAIOLO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Acting Solicitor General Spritzer* for the United States. Reported below: 378 F. 2d 26.

No. 300, Misc. CRUZ *v.* GARDNER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE. C. A. 7th Cir. Certiorari denied. *Harvey L. McCormick* for petitioner. *Solicitor General Marshall* for respondent. Reported below: 375 F. 2d 453.

No. 315, Misc. TOLES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States.

No. 322, Misc. BOYDEN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States.

No. 325, Misc. POPE *v.* PARKER, WARDEN. C. A. 3d Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Mervyn Hamburg* for respondent.

No. 333, Misc. HAMANN ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 6th Cir. Certiorari denied. *Solicitor General Marshall* and *Assistant Attorney General Rogovin* for respondent.

No. 346, Misc. GRAVENMIER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 380 F. 2d 30.

No. 347, Misc. NORMAN *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Milton A. Kallis* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United

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States. Reported below: 126 U. S. App. D. C. 387, 379 F. 2d 164.

No. 334, Misc. *PETERSON v. CLARK*, ATTORNEY GENERAL. C. A. D. C. Cir. Certiorari denied. *Solicitor General Marshall* for respondent.

No. 360, Misc. *VIDA v. SARTWELL*, WARDEN. C. A. 6th Cir. Certiorari denied. *Solicitor General Marshall*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for respondent.

No. 390, Misc. *MORTON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Robert G. Maysack* for the United States. Reported below: 376 F. 2d 606.

No. 410, Misc. *HELTON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. *Solicitor General Marshall*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States.

No. 489, Misc. *WALTENBERG v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. *Solicitor General Marshall*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States.

MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted in the following cases (beginning with No. 21, Misc., on this page and extending through No. 164, Misc., on p. 888):

No. 21, Misc. *EVANS ET AL. v. LOUISIANA*. Sup. Ct. La. Certiorari denied. *G. Wray Gill, Sr.*, for petitioners. *Jack P. F. Gremillion*, Attorney General of Louisiana, *William P. Schuler*, Assistant Attorney General, and *Jim Garrison* for respondent. Reported below: 249 La. 861, 192 So. 2d 103.

No. 52, Misc. *LITTLETON v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. *Crawford C. Martin*, Attorney General of Texas, *George Cowden*, First Assistant Attorney General, *Robert Lattimore* and *Howard M. Fender*,

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Assistant Attorneys General, and *A. J. Carubbi, Jr.*, for respondent. Reported below: 419 S. W. 2d 355.

No. 101, Misc. *MEARS, AKA SCOTT v. NEVADA*. Sup. Ct. Nev. Certiorari denied. *Melvin Schaengold* for petitioner. *Harvey Dickerson*, Attorney General of Nevada, and *William J. Raggio* for respondent. Reported below: 83 Nev. 3, 422 P. 2d 230.

No. 164, Misc. *ELI v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Daniel B. Hunter* for petitioner. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *S. Clark Moore*, Deputy Attorney General, for respondent. Reported below: 66 Cal. 2d 63, 424 P. 2d 356.

No. 77, Misc. *HANSEN v. BURKE, WARDEN*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE STEWART would grant certiorari, vacate the judgment, and remand the case to the District Court for consideration of petitioner's claims in light of *Klopfer v. North Carolina*, 386 U. S. 213.

No. 116, Misc. *SILVERS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Sigmund J. Beck* for petitioner. *Solicitor General Marshall*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 374 F. 2d 828.

No. 118, Misc. *TUCKER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Thomas M. Collins* for petitioner. *Solicitor General Marshall*, *Assistant Attorney General*

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*Vinson and Philip R. Monahan* for the United States.  
Reported below: 375 F. 2d 363.

No. 338, Misc. *STARNER v. RUSSELL*, CORRECTIONAL SUPERINTENDENT. C. A. 3d Cir. Certiorari denied. MR. JUSTICE STEWART is of the opinion that certiorari should be granted. Reported below: 378 F. 2d 808.

*Rehearing Denied.*

No. 37, October Term, 1966. *CURTIS PUBLISHING Co. v. BUTTS*, 388 U. S. 130;

No. 57, October Term, 1966. *AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL. v. ATCHISON, TOPEKA & SANTA FE RAILWAY Co. ET AL.*, 387 U. S. 397;

No. 59, October Term, 1966. *NATIONAL AUTOMOBILE TRANSPORTERS ASSOCIATION OF DETROIT v. ATCHISON, TOPEKA & SANTA FE RAILWAY Co. ET AL.*, 387 U. S. 397;

No. 60, October Term, 1966. *UNITED STATES ET AL. v. ATCHISON, TOPEKA & SANTA FE RAILWAY Co. ET AL.*, 387 U. S. 397;

No. 150, October Term, 1966. *ASSOCIATED PRESS v. WALKER*, 388 U. S. 130;

No. 616, October Term, 1966. *WENZLER v. PITCHESS, SHERIFF, ET AL.*, 388 U. S. 912;

No. 1093, October Term, 1966. *ORDER OF RAILWAY CONDUCTORS & BRAKEMEN ET AL. v. UNITED STATES ET AL.*, 388 U. S. 455;

No. 1112, October Term, 1966. *FOSTER v. LYKES BROS. STEAMSHIP Co., INC.*, 387 U. S. 908;

No. 1164, October Term, 1966. *LANDAU v. FORDING, CHIEF OF POLICE, ET AL.*, 388 U. S. 456; and

No. 1190, October Term, 1966. *NUCCIO ET AL. v. UNITED STATES*, 387 U. S. 906. Petitions for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of these petitions.

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No. 1216, October Term, 1966. *ALLYN v. FLANNERY ET AL.*, 388 U. S. 912;

No. 1237, October Term, 1966. *CORSON ET AL. v. COMMISSIONER OF INTERNAL REVENUE*, 387 U. S. 919;

No. 1239, October Term, 1966. *JACKSON COUNTY PUBLIC WATER SUPPLY DISTRICT, No. 1 v. ONG AIRCRAFT CORP. ET AL.*, 387 U. S. 919;

No. 1242, October Term, 1966. *GREEN v. ILLINOIS*, 387 U. S. 930;

No. 1243, October Term, 1966. *JACKSON v. NEW YORK*, 387 U. S. 930;

No. 1256, October Term, 1966. *DULAINE v. UNITED STATES*, 387 U. S. 920;

No. 1303, October Term, 1966. *CITY OF NEW ORLEANS ET AL. v. UNITED STATES ET AL.*, 387 U. S. 944;

No. 1319, October Term, 1966. *BROOKS v. HUNTER ET AL.*, 388 U. S. 910;

No. 1325, October Term, 1966. *GROSSMAN ET AL. v. STUBBS ET AL.*, 388 U. S. 910;

No. 1339, October Term, 1966. *SPEVACK v. PIKE*, 388 U. S. 913;

No. 514, Misc., October Term, 1966. *POTTER ET AL. v. CALIFORNIA*, 388 U. S. 924;

No. 939, Misc., October Term, 1966. *KUSHMER v. UNITED STATES*, 387 U. S. 914;

No. 1178, Misc., October Term, 1966. *BELTOWSKI v. MINNESOTA*, 387 U. S. 911;

No. 1194, Misc., October Term, 1966. *FERGUSON ET AL. v. UNITED STATES*, 388 U. S. 922;

No. 1267, Misc., October Term, 1966. *MOCCIO v. NEW YORK*, 387 U. S. 946; and

No. 1319, Misc., October Term, 1966. *HAYES, AKA HASAN v. HENDRICK, COUNTY PRISONS SUPERINTENDENT*, 387 U. S. 935. Petitions for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of these petitions.

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No. 1337, Misc., October Term, 1966. THOMPSON *v.* THOMPSON ET AL., 388 U. S. 914;

No. 1471, Misc., October Term, 1966. HALL *v.* UNITED STATES, 387 U. S. 923;

No. 1494, Misc., October Term, 1966. HENDRICKS *v.* WAINWRIGHT, CORRECTIONS DIRECTOR, 386 U. S. 1041;

No. 1509, Misc., October Term, 1966. BELTOWSKI *v.* LARSON, JUDGE, 387 U. S. 912;

No. 1523, Misc., October Term, 1966. OSBORNE *v.* UNITED STATES, 387 U. S. 946;

No. 1547, Misc., October Term, 1966. BROWN *v.* UNITED STATES, 387 U. S. 947;

No. 1563, Misc., October Term, 1966. BROWN *v.* INDIANA, 387 U. S. 925;

No. 1565, Misc., October Term, 1966. CEPERO *v.* INDUSTRIAL COMMISSION OF PUERTO RICO, 387 U. S. 424;

No. 1572, Misc., October Term, 1966. PATTERSON ET AL. *v.* VIRGINIA ELECTRIC & POWER Co., 387 U. S. 426;

No. 1576, Misc., October Term, 1966. LLANES *v.* UNITED STATES, 388 U. S. 917;

No. 1600, Misc., October Term, 1966. GILMORE *v.* REAGAN ET AL., 387 U. S. 937;

No. 1606, Misc., October Term, 1966. CEPERO *v.* COLON ET AL., 387 U. S. 425;

No. 1624, Misc., October Term, 1966. WILLIAMS *v.* WILSON, WARDEN, 387 U. S. 939;

No. 1633, Misc., October Term, 1966. LUXEM *v.* CALIFORNIA, 388 U. S. 923;

No. 1674, Misc., October Term, 1966. HENSLEY ET AL. *v.* UNITED STATES, 388 U. S. 923; and

No. 1677, Misc., October Term, 1966. SKOLNICK *v.* FEDERAL CIRCUIT JUDGES OF SEVENTH JUDICIAL CIRCUIT, 387 U. S. 928. Petitions for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of these petitions.

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No. 1678, Misc., October Term, 1966. *SKOLNICK v. CUMMINGS ET AL.*, 387 U. S. 928;

No. 1742, Misc., October Term, 1966. *LADD v. SUPERIOR COURT OF THE COUNTY OF LOS ANGELES*, 388 U. S. 921; and

No. 1766, Misc. October Term, 1966. *McKINNEY v. WILSON, WARDEN, ET AL.*, 388 U. S. 903. Petitions for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of these petitions.

No. 8, October Term, 1966. *CHICAGO & NORTH WESTERN RAILWAY CO. ET AL. v. ATCHISON, TOPEKA & SANTA FE RAILWAY CO. ET AL.*; and

No. 23, October Term, 1966. *UNITED STATES ET AL. v. ATCHISON, TOPEKA & SANTA FE RAILWAY CO. ET AL.*, 387 U. S. 326. Motion of Atchison, Topeka & Santa Fe Railway Co. et al. for leave to file supplement to petition granted. Petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition.

No. 216, October Term, 1966. *NATIONAL LABOR RELATIONS BOARD v. ALLIS-CHALMERS MANUFACTURING CO. ET AL.*, 388 U. S. 175. Motion of Aerojet-General Corp. for leave to file brief, as *amicus curiae*, in support of petition granted. Petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition. *Roderick M. Hills, Norbert A. Schlei* and *James N. Adler* on the motion.

No. 993, October Term, 1966. *TANNENBAUM v. NEW YORK*, 388 U. S. 439. Motion of New York Civil Liberties Union for leave to file brief, as *amicus curiae*, in support of petition for rehearing, granted. Rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition. *Marvin M. Karpatkin* on the motion.

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No. 911, October Term, 1966. *DAVANT ET AL. v. COMMISSIONER OF INTERNAL REVENUE*, 386 U. S. 1022;

No. 953, October Term, 1966. *MILLER v. COUNTY OF LOS ANGELES*, 386 U. S. 990;

No. 1228, October Term, 1966. *TOOL RESEARCH & ENGINEERING CORP. v. HONCOR CORP.*, 387 U. S. 919;

No. 1298, October Term, 1966. *HEIDRICH v. UNITED STATES*, 387 U. S. 943;

No. 1015, Misc., October Term, 1966. *WINGFIELD v. PEYTON, PENITENTIARY SUPERINTENDENT*, 388 U. S. 922;

No. 1306, Misc., October Term, 1966. *CALLOWAY v. OHIO ET AL.*, 386 U. S. 998; and

No. 1308, Misc., October Term, 1966. *STILTNER v. WASHINGTON ET AL.*, 387 U. S. 922. Motions for leave to file petitions for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of these motions.

No. 1101, October Term, 1966. *EVANSON ET AL. v. NORTHWEST HOLDING Co.*, 386 U. S. 1004, 387 U. S. 938;

No. 557, Misc., October Term, 1965. *PISCITELLO v. NEW YORK*, 384 U. S. 1022, 385 U. S. 894; and

No. 1264, Misc., October Term, 1966. *KNOLL ET AL. v. SOCONY MOBIL OIL Co., INC., ET AL.*, 386 U. S. 977, 1043. Motions for leave to file second petitions for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of these motions.

No. 1186, October Term, 1966. *SCHACKMAN ET AL. v. ARNEBERGH, CITY ATTORNEY FOR THE CITY OF LOS ANGELES, ET AL.*, 387 U. S. 427; and

No. 385, Misc., October Term, 1966. *SMITH v. CALIFORNIA*, 388 U. S. 913. Motions for leave to supplement petitions for rehearing granted. Rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of these motions and petitions.

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No. 249, October Term, 1966. *WALKER ET AL. v. CITY OF BIRMINGHAM*, 388 U. S. 307. Motions of American Jewish Congress and American Federation of Labor & Congress of Industrial Organizations for leave to file briefs, as *amici curiae*, in support of petition granted. Petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of these motions and petition. *Joseph B. Robison* for American Jewish Congress; *J. M. Breckenridge* and *Earl McBee* for respondent in opposition. *J. Albert Woll*, *Laurence Gold* and *Thomas E. Harris* for American Federation of Labor & Congress of Industrial Organizations.

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*Miscellaneous Orders.*

No. 69. *VOLKSWAGENWERK AKTIENGESELLSCHAFT v. FEDERAL MARITIME COMMISSION ET AL.* C. A. D. C. Cir. (Certiorari granted, 388 U. S. 909.) Joint motion to remove case from summary calendar granted and a total of one and one-half hours allotted for oral argument. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Walter Herzfeld* for petitioner. *Robert N. Katz* for Federal Maritime Commission, *Acting Solicitor General Spritzer* for the United States, *R. Frederic Fisher* for Pacific Maritime Commission, and *Owen Jameson* for Marine Terminals Corp., respondents.

No. 577, Misc. *JONES v. REAGAN, GOVERNOR OF CALIFORNIA, ET AL.*;

No. 605, Misc. *GREAR v. MAXWELL, WARDEN*; and

No. 644, Misc. *WAITE v. BURKE, WARDEN*. Motions for leave to file petitions for writs of habeas corpus denied.

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No. 425, Misc. BURFORD *v.* DAUGHERTY, U. S. DISTRICT JUDGE, ET AL. Motion for leave to file petition for writ of mandamus and/or prohibition denied. *Charles R. Nesbitt* on the motion. *Irvine E. Ungerman* for respondent Stuart et al. in opposition.

No. 529, Misc. TRUESDALE *v.* CHIEF JUDGE, U. S. DISTRICT COURT. Motion for leave to file petition for writ of mandamus denied. *Clement Theodore Cooper* on the motion. *Acting Solicitor General Spritzer* filed a memorandum in opposition.

*Probable Jurisdiction Noted.*

No. 416. FLAST ET AL. *v.* GARDNER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ET AL. Appeal from D. C. S. D. N. Y. Motion of National Council of Churches for leave to file brief, as *amicus curiae*, granted. Probable jurisdiction noted. *Norman Dorsen* and *Charles H. Tuttle* on the motion. *Leo Pfeiffer* and *Joseph B. Robison* for appellants. *Acting Solicitor General Spritzer* for respondents. Reported below: 271 F. Supp. 1.

*Certiorari Granted.* (See also No. 201, *ante*, p. 15; No. 306, *ante*, p. 28; No. 330, *ante*, p. 18; No. 27, Misc., *ante*, p. 20; No. 162, Misc., *ante*, p. 22; and No. 174, Misc., *ante*, p. 24.)

No. 127. READING Co. *v.* BROWN, TRUSTEE IN BANKRUPTCY, ET AL. C. A. 3d Cir. *Certiorari* granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Thomas Raeburn White, Jr.*, for petitioner. *Owen B. Rhoads* for Brown, and *Solicitor General Marshall*, *Assistant Attorney General Rogovin*, *Crombie J. D. Garrett* and *Edward Lee Rogers* for the United States, respondents. Reported below: 370 F. 2d 624.

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No. 71. *CARAFAS v. LAVALLEE, WARDEN*. C. A. 2d Cir. Certiorari granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *James J. Cally* for petitioner. *Louis J. Lefkowitz*, Attorney General of New York, *Samuel A. Hirshowitz*, First Assistant Attorney General, and *Barry Mahoney*, Assistant Attorney General, for respondent.

No. 286, Misc. *MATHIS v. UNITED STATES*. C. A. 5th Cir. Motion for leave to proceed *in forma pauperis* and petition for writ of certiorari granted. Case transferred to appellate docket. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition and motion. *Nicholas J. Capuano* for petitioner. *Solicitor General Marshall*, *Assistant Attorney General Rogovin*, *Joseph M. Howard* and *John M. Brant* for the United States. Reported below: 376 F. 2d 595.

*Certiorari Denied*. (See also No. 572, Misc., *ante*, p. 26.)

No. 346. *PARSONS v. GULF & SOUTH AMERICAN STEAMSHIP Co., INC.* Sup. Ct. La. Certiorari denied. *H. Alva Brumfield* for petitioner. *Benjamin W. Yancey*, *William E. Wright* and *G. Edward Merritt* for respondent.

No. 357. *MIRRO-DYNAMICS CORP. v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Robert H. Wyshak* and *Lillian W. Wyshak* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Rogovin*, *Harold C. Wilkenfeld* and *Thomas Silk* for the United States. Reported below: 374 F. 2d 14.

No. 370. *INTER-AMERICAN CITIZENS FOR DECENCY COMMITTEE ET AL. v. McBEATH*. C. A. 5th Cir. Certiorari denied. *David Hume* for petitioners. *Robert S. Trotti* for respondent. Reported below: 374 F. 2d 359.

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No. 386. STEWART-WARNER CORP. *v.* BISHMAN MANUFACTURING CO. ET AL. C. A. 7th Cir. Certiorari denied. *Dugald S. McDougall* and *Augustus G. Douvas* for petitioner. *Andrew E. Carlsen* and *Walther E. Wyss* for respondents. Reported below: 380 F. 2d 336.

No. 391. JOSEPH BANCROFT & SONS CO. *v.* SHELLEY KNITTING MILLS, INC. C. A. 3d Cir. Certiorari denied. *Thomas N. O'Neill, Jr.*, and *C. Brewster Rhoads* for petitioner. *Harry Shapiro* for respondent. Reported below: 374 F. 2d 28.

No. 397. COHEN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Richard H. Foster* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 378 F. 2d 751.

No. 418. STUYVESANT INSURANCE CO. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Henry B. Rothblatt* and *Emma A. Rothblatt* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 379 F. 2d 277.

No. 421. CAMPBELL, CHIEF JUDGE, U. S. DISTRICT COURT *v.* SOUTHERN RAILWAY Co. C. A. 7th Cir. Certiorari denied. *Philip H. Corboy* for petitioner. *Charles A. Horsky* and *Norman J. Gundlach* for respondent.

No. 455. STIEF *v.* J. A. SEXAUER MANUFACTURING Co., INC., ET AL. C. A. 2d Cir. Certiorari denied. *B. Nathaniel Richter*, *Charles A. Lord* and *Seymour I. Toll* for petitioner. *Benjamin H. Siff* for J. A. Sexauer Manufacturing Co., Inc., and *S. Hazard Gillespie* and *J. Roger Carroll* for Diamond Alkali Co., respondents. Reported below: 380 F. 2d 453.

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No. 441. WALLACE *v.* BRENNER, COMMISSIONER OF PATENTS. C. C. P. A. Certiorari denied. *Acting Solicitor General Spritzer* for respondent. Reported below: 54 C. C. P. A. (Pat.) 1312, 376 F. 2d 968.

No. 448. FLEMMING *v.* ADAMS ET AL. C. A. 10th Cir. Certiorari denied. *Robert A. Schiff* for petitioner. Reported below: 377 F. 2d 975.

No. 450. LOGAN LANES, INC. *v.* BRUNSWICK CORP. C. A. 9th Cir. Certiorari denied. *Dennis McCarthy* for petitioner. *Robert L. Stern* and *Louis F. Racine, Jr.*, for respondent. Reported below: 378 F. 2d 212.

No. 93, Misc. CHAMLEY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *John J. Cleary* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 376 F. 2d 57.

No. 132, Misc. FORD *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Robert G. Maysack* for the United States.

No. 143, Misc. LEPISCOPO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Kirby W. Patterson* for the United States. Reported below: 376 F. 2d 846.

No. 222, Misc. RAYMOND *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Julia P. Cooper* for the United States. Reported below: 376 F. 2d 581.

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No. 237, Misc. *KAYTON v. WAINWRIGHT*, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied.

No. 247, Misc. *TRUJILLO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *Acting Solicitor General Spritzer* for the United States. Reported below: 377 F. 2d 266.

No. 337, Misc. *JALBERT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Kirby W. Patterson* for the United States. Reported below: 375 F. 2d 125.

No. 426, Misc. *WEIS v. ARIZONA*. Sup. Ct. Ariz. Certiorari denied. Reported below: 92 Ariz. 254, 375 P. 2d 735.

No. 435, Misc. *PETERMAN v. WISCONSIN*. Sup. Ct. Wis. Certiorari denied. Reported below: 35 Wis. 2d 790, 151 N. W. 2d 677.

No. 445, Misc. *CRAIG v. BOLSINGER, PROTHONOTARY*. C. A. 3d Cir. Certiorari denied.

No. 449, Misc. *SIFRE v. DELGADO, WARDEN*. Sup. Ct. P. R. Certiorari denied.

No. 466, Misc. *SHIKARA v. COMMISSIONER OF MENTAL HEALTH OF MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied.

No. 471, Misc. *SWIERE v. HARMS MARINE SERVICE, INC.* Sup. Ct. Tex. Certiorari denied. *John T. Lindsey* for petitioner. *Clarence S. Eastham* for respondent. Reported below: See 411 S. W. 2d 602.

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MR. JUSTICE MARSHALL took no part in the consideration or decision of the petitions in the following cases (beginning with No. 106 on this page and extending through No. 478, Misc., on p. 901):

No. 106. OBER ET AL. *v.* NAGY ET AL. Sup. Ct. Ohio. Certiorari denied. *John R. Vintilla* for petitioners. *Ellis V. Rippner* and *Richard W. Schwartz* for respondents. *Solicitor General Marshall* for the United States, as *amicus curiae*.

No. 221. IOWA TRIBE OF THE IOWA RESERVATION IN OKLAHOMA ET AL. *v.* UNITED STATES; and

No. 457. UNITED STATES *v.* SAC AND FOX TRIBE OF INDIANS OF OKLAHOMA ET AL. Ct. Cl. Certiorari denied. *Nicholas Conover English* for petitioners, and *Solicitor General Marshall*, *Assistant Attorney General Weisl*, *Roger P. Marquis* and *Edmund B. Clark* for the United States in No. 221. *Solicitor General Marshall*, *Assistant Attorney General Weisl*, *S. Billingsley Hill* and *Edmund B. Clark* for the United States, and *George B. Pletsch* for respondents in No. 457. Reported below: 179 Ct. Cl. 8, 383 F. 2d 991.

No. 334. FRANK IX & SONS VIRGINIA CORP. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 3d Cir. Certiorari denied. *Benjamin Nadel* and *Norman Nadel* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Rogovin* and *Gilbert E. Andrews* for respondent. Reported below: 375 F. 2d 867.

No. 439. BUTCHERS UNION LOCAL NO. 127, AMALGAMATED MEAT CUTTERS & BUTCHER WORKMEN OF NORTH AMERICA, AFL-CIO *v.* NATIONAL LABOR RELATIONS BOARD; and

No. 525. CAMPBELL SOUP CO. ET AL. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 9th Cir. Certiorari denied. *Charles P. Scully* for petitioner in No. 439. *Gilford G. Rowland* for petitioner Campbell Soup Co. in No. 525. *Acting Solicitor General Spritzer*, *Arnold*

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*Ordman, Dominick L. Manoli and Norton J. Come* for respondent in both cases. Reported below: 378 F. 2d 259.

No. 444. COMMISSIONER OF INTERNAL REVENUE *v.* FREDERICK STEEL CO. C. A. 6th Cir. Certiorari denied. *Solicitor General Marshall* for petitioner. *Ralph P. Wanlass* for respondent. Reported below: 375 F. 2d 351.

No. 591. BIANCHI ET AL. *v.* GRIFFING ET AL., BOARD OF SUPERVISORS OF SUFFOLK COUNTY. C. A. 2d Cir. Certiorari denied. *Frederic Block* for Bianchi, and *Richard C. Cahn* for Sammis et al., petitioners.

No. 194, Misc. CAPSON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Marshall Tamor Golding* for the United States. Reported below: 376 F. 2d 814.

No. 404, Misc. SCHAWARTZBERG *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States. Reported below: 379 F. 2d 551.

No. 478, Misc. BIVENS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States.

No. 457, Misc. MEYER *v.* OHIO. Sup. Ct. Ohio. Certiorari denied.

No. 109. DOKES ET UX. *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Jack Greenberg, James M. Nabrit III, Michael Meltsner and Anthony G. Amsterdam* for petitioners. *Joe Purcell, Attorney General of Arkansas, and R. D. Smith III, Assistant Attorney General*, for respondent. Reported below: 241 Ark. 720, 409 S. W. 2d 827.

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No. 115. *HELLER v. CONNECTICUT*. Sup. Ct. Conn. Certiorari denied. *David M. Reilly* for petitioner. *William I. Mark* for respondent. Reported below: 154 Conn. 743, 226 A. 2d 521.

MR. JUSTICE FORTAS, with whom MR. JUSTICE DOUGLAS joins, dissenting.

A policeman saw petitioner seated in an improperly parked car at 1:50 a. m. The policeman spoke to petitioner, but received no reply. He detected a strong odor of alcohol on petitioner's breath. He took petitioner to a nearby police station. Petitioner requested permission to call an attorney. The request was refused. He was questioned, but refused to answer. He said he would answer questions if he could call a lawyer.

According to the police, petitioner was unsteady on his feet and his clothes were disarranged. No medical or chemical test for drunkenness was administered to petitioner or requested by him. Petitioner refused, in the absence of counsel, to submit to the performance tests routinely used by police in such cases.

Petitioner was placed in a cell. He was awakened at 7:05 a. m. and signed a form to the effect that he had been warned of his right to counsel, to remain silent, and to be free on bail. Ten minutes later, he telephoned his attorney.

Petitioner was thereafter brought to trial before a judge of the Seventh Circuit Court of Connecticut. He was represented by counsel. He demanded and was denied a jury trial. He also asserted that his rights under the Sixth and Fourteenth Amendments to the United States Constitution had been violated because he was denied counsel at the time of his detention and examination at the police station. These claims were denied, and judgment was entered that defendant was guilty of the crime

of being "found intoxicated." Conn. Gen. Stat. Rev. § 53-246.

The maximum penalty for this offense under Connecticut law is a \$20 fine or a jail sentence of 30 days. Petitioner was sentenced to a fine of \$20 and a jail sentence of 10 days. Execution of the jail sentence was suspended. On appeal, the judgment was affirmed by the Appellate Division of the Circuit Court of Connecticut (4 Conn. Cir. 174, 228 A. 2d 815), and a petition for certification to the Supreme Court of Connecticut was denied by that court (154 Conn. 743, 226 A. 2d 521). A petition for certiorari was duly filed with this Court, limited to the right-to-counsel question.

We should grant the petition. Sharply and clearly it presents the following important questions: (1) Whether a prosecution for being "found intoxicated," subjecting the defendant to as much as 30 days' imprisonment, is within the category of serious state criminal prosecutions to which the federal constitutional guarantee of assistance of counsel applies, under the decisions of this Court. See *Gideon v. Wainwright*, 372 U. S. 335 (1963); (2) Whether, if the answer to this question is in the negative, we should now hold that the constitutional guarantee of counsel applies to the present case and to other relatively "minor" offenses or misdemeanors carrying significant penalties for their violation; and (3) Whether denial of a request for counsel in the circumstances here presented, after arrest and without reference to police interrogation or to any admission by the accused, violates the Constitution and invalidates a conviction.

In connection with this last point, we should consider whether a person who is arrested and jailed is entitled to telephone his lawyer and to consult with him, even in the absence of a showing that denial of a request to this effect has resulted in specific prejudice. In our

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society, we reject the theory that the police may seize and hold a citizen *incommunicado*. This is fundamental to our constitutional system. I would think that a person, plucked from the streets and put in a cell, is entitled—as of right—to let his family know that he is in jail and to call for assistance. Cf. *Haynes v. Washington*, 373 U. S. 503 (1963).

The present case, however, does not depend upon establishing an absolute right to call a lawyer after arrest. Petitioner's lawyer, had petitioner's request to call him been granted, might have performed an important function, which was not capable of performance five or six hours later. He might have insisted upon medical or chemical tests; he might have summoned a private physician. At the very least, he could have informed the arrested person's family and friends that the accused had not disappeared without a trace, but was held, safely if unhappily, in jail.

In contrast with petitioner's need for an attorney is the absence of any legitimate state interest in forbidding petitioner to call one. I believe the issue thus posed is both important and certain to recur. I would grant certiorari to resolve that issue now.

No. 528, Misc. *OQUENDO v. NEW YORK*. Ct. App. N. Y. Certiorari denied.

No. 313. *SELINGER v. BIGLER, SPECIAL AGENT, INTERNAL REVENUE SERVICE, ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *David R. Frazer* for petitioner. *Solicitor General Marshall, Assistant Attorney General Rogovin, Joseph M. Howard and Burton Berkley* for respondents. Reported below: 377 F. 2d 542.

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No. 372. *MAIUS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *William J. Dammarell* for petitioner. *Solicitor General Marshall, Assistant Attorney General Rogovin and Joseph M. Howard* for the United States. Reported below: 378 F. 2d 716.

No. 317. *RODRIGUEZ v. ALCOA STEAMSHIP CO., INC.* C. A. 1st Cir. Certiorari denied. MR. JUSTICE BLACK is of the opinion that certiorari should be granted and the judgment reversed. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Harvey B. Nachman* and *Stanley L. Feldstein* for petitioner. *Antonio M. Bird, J. Ward O'Neill and Francis X. Byrn* for respondent. Reported below: 376 F. 2d 35.

No. 337. *EASTON, DBA GEORGE EASTON FURNITURE CO. v. WEIR ET AL.* Dist. Ct. App. Fla., 2d Dist. Motion to dispense with printing petition granted. Certiorari denied. *Ross H. Stanton, Jr.*, for respondents. Reported below: 188 So. 2d 1.

No. 430. *G. I. DISTRIBUTORS, INC. v. NEW YORK*. Ct. App. N. Y. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted and the judgment reversed on the basis of *Redrup v. New York*, 386 U. S. 767. MR. JUSTICE BRENNAN and MR. JUSTICE STEWART would deny certiorari upon the sole ground that the issues in this case have become moot. See *Jacobs v. New York*, 388 U. S. 431; *Tannenbaum v. New York*, 388 U. S. 439. *Osmond K. Fraenkel* for petitioner. *Thomas J. Mackell* and *Peter J. O'Connor* for respondent. Reported below: 20 N. Y. 2d 104, 228 N. E. 2d 787.

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No. 163, Misc. NASH *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. *George L. Saunders, Jr.*, for petitioner. *William G. Clark*, Attorney General of Illinois, and *John J. O'Toole* and *Donald J. Veverka*, Assistant Attorneys General, for respondent. Reported below: 36 Ill. 2d 275, 222 N. E. 2d 473.

MR. JUSTICE FORTAS, with whom THE CHIEF JUSTICE and MR. JUSTICE DOUGLAS join, dissenting.

Petitioner was convicted of murder on the testimony of William Triplett, an accomplice in the crime. The prosecutor promised Triplett leniency if he testified against the petitioner. Triplett, however, testified that he had not been promised anything. The prosecutor knew this testimony was false, and the jury heard Triplett's entire testimony under the erroneous impression that he had not received promises of leniency. Later in the trial, and over the prosecutor's objection, petitioner called Triplett's lawyer and the prosecutor as witnesses. Both admitted that the prosecutor promised Triplett leniency if he would testify.

I think this case is governed by the principle of *Napue v. Illinois*, 360 U. S. 264 (1959).\* It is true that in the present case, the prosecutor was called by the defense and compelled to admit that he offered leniency to the witness if he testified. So, here, the jury ultimately

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\*In response to a question by the prosecutor, a principal state witness in *Napue* testified that he had received no promise of consideration in return for his testimony. In fact, the prosecutor had promised him consideration but did nothing to correct the false testimony. (Earlier, the witness had been forced by defense counsel to admit that someone, tentatively described as a public defender, "was going to do what he could" to help the witness.) The Court held that the prosecutor's knowing acquiescence in the witness' lie deprived the defendant of a fair trial under the Fourteenth Amendment even though the jury had been apprised that the witness might have been lying about whether he had any interest in testifying.

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knew not only that the witness lied, but also that the prosecutor knew he was lying.

It may be that upon hearing the prosecutor's admission, the jury could properly discount Triplett's testimony. However, the jury heard him under the impression that he was not receiving benefit for his testimony, and the subsequent admission by the prosecutor, later in the trial, might not adequately overcome the jury's initial impression of the testimony. Accordingly, in these circumstances, I must conclude that petitioner was prejudiced by the prosecutor's acquiescence in the misrepresentation by his witness.

In any event, it is by no means clear that petitioner must show that the prosecutor's knowing acquiescence in a material falsehood prejudiced him. There is no place in our system of criminal justice for prosecutorial misconduct. See *Giles v. Maryland*, 386 U. S. 66 (1967) (opinion of BRENNAN, J.); *Miller v. Pate*, 386 U. S. 1 (1967); *Napue v. Illinois, supra*; *Alcorta v. Texas*, 355 U. S. 28 (1957); *White v. Ragen*, 324 U. S. 760 (1945); *Pyle v. Kansas*, 317 U. S. 213 (1942); and *Mooney v. Holohan*, 294 U. S. 103 (1935). See also *Giles v. Maryland, supra*, at 96 (opinion of FORTAS, J.); and *Brady v. Maryland*, 373 U. S. 83 (1963). Especially in a capital case, a false denial by the critical State's witness that he was promised leniency in return for his testimony, knowingly acquiesced in by the prosecutor, requires reversal of a state conviction, even though the prosecutor was later compelled to admit that the denial was untrue.

I would grant certiorari and reverse. *Napue v. Illinois, supra*.

No. 428, Misc. ALLEN *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. MR. JUSTICE BLACK is of the opinion that certiorari should be granted. *Paul Levenfeld* for petitioner. Reported below: 37 Ill. 2d 167, 226 N. E. 2d 1.

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No. 318, Misc. *GRENE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 376 F. 2d 993.

No. 332, Misc. *FERRARA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE BLACK is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Leon B. Polsky* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States. Reported below: 377 F. 2d 16.

*Rehearing Denied.*

No. 513, October Term, 1966. *IMMIGRATION AND NATURALIZATION SERVICE v. LAVOIE*, 387 U. S. 572. Rehearing denied. The *per curiam* opinion heretofore issued in this case on June 5, 1967, is hereby amended to provide that the judgment of the United States Court of Appeals for the Ninth Circuit be vacated rather than reversed, and that the case be remanded to that court in order that it may pass upon the issues in the case not covered by its prior opinion.\* MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition and order.

No. 1385, Misc., October Term, 1966. *WILLIAMS v. UNITED STATES*, 386 U. S. 1038. Rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition.

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\*[REPORTER'S NOTE: The opinion is reported as so amended at 387 U. S. 572.]

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No. 1335, October Term, 1966. *PARKS v. SIMPSON TIMBER CO. ET AL.*, 388 U. S. 459. Rehearing denied. The *per curiam* opinion issued in this case on June 12, 1967, is hereby amended to provide that the judgment of the United States Court of Appeals for the Ninth Circuit be vacated rather than reversed, and that the case be remanded to that court in order that it may pass upon the issues in the case not covered by its prior opinion.\* The judgment heretofore entered in this case is hereby amended in the same maner. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition and order.

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*Miscellaneous Orders.*

No. 31, Orig. *UTAH v. UNITED STATES*. Motion of Morton International, Inc., for leave to intervene and file an answer is referred to the Special Master. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *L. M. McBride, Frank A. Wollaeger, Myer Feldman and Martin Jacobs* on the motion. [For earlier orders herein, see 387 U. S. 902, 388 U. S. 902.]

No. 163. *NATIONAL SMALL SHIPMENTS TRAFFIC CONFERENCE, INC., ET AL. v. RINGSBY TRUCK LINES, INC., ET AL.* Appeal from D. C. Colo. The United States and the Interstate Commerce Commission requested to address themselves further to issue of mootness in this case, in particular to statement in their memorandum that the issue with respect to restraining order entered by the District Court "is not moot because it would affect appellants' claims for restitution of charges paid under the increased rates." MR. JUSTICE MARSHALL took no part in the consideration or decision of this order.

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\*[REPORTER'S NOTE: The opinion is reported as so amended at 388 U. S. 459.]

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No. 39. *AVERY v. MIDLAND COUNTY ET AL.* Sup. Ct. Tex. (Certiorari granted, 388 U. S. 905.) Motion of Solicitor General for leave to participate in oral argument, as *amicus curiae*, granted and thirty minutes allotted for that purpose. Counsel for respondents allotted an additional thirty minutes for oral argument. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Acting Solicitor General Spritzer* on the motion.

No. 43. *ALBRECHT v. HERALD Co., DBA GLOBE-DEMOCRAT PUBLISHING Co.* C. A. 8th Cir. (Certiorari granted, 386 U. S. 941; see also, *ante*, p. 805.) Motion of respondent to remove case from summary calendar denied. *Lon Hocker* on the motion.

No. 703. *BARBER v. PAGE, WARDEN.* C. A. 10th Cir. (Certiorari granted, *ante*, p. 819.) Motion of petitioner for appointment of counsel granted. It is ordered that *Ira C. Rothgerber, Jr., Esquire*, of Denver, Colorado, a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for petitioner in this case.

No. 168, Misc. *ELLIOTT, ADMINISTRATOR v. SIERZENGA ET AL.* Motion for leave to file petition for writ of certiorari denied.

No. 424, Misc. *CULLY v. PENNSYLVANIA.* Motion for leave to file petition for writ of habeas corpus denied.

*Probable Jurisdiction Noted.*

No. 482. *UNITED STATES v. JOHNSON ET AL.* Appeal from D. C. N. D. Ga. Probable jurisdiction noted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this case. *Solicitor General Marshall, Assistant Attorney General Doar* and *David L. Norman* for the United States. Reported below: 269 F. Supp. 706.

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*Certiorari Granted.* (See also No. 164, *ante*, p. 47; No. 259, *ante*, p. 48; No. 284, *ante*, p. 31; No. 338, *ante*, p. 45; No. 368, *ante*, p. 50; No. 50, Misc., *ante*, p. 53; No. 92, Misc., *ante*, p. 35; and No. 193, Misc., *ante*, p. 40.)

No. 478. AMALGAMATED FOOD EMPLOYEES UNION LOCAL 590 ET AL. *v.* LOGAN VALLEY PLAZA, INC., ET AL. Sup. Ct. Pa. *Certiorari* granted. *Lester Asher* and *Bernard Dunau* for petitioners. *Robert Lewis* for respondents. Reported below: 425 Pa. 382, 227 A. 2d 874.

No. 363. UNITED STATES ET AL. *v.* SOUTHWESTERN CABLE CO. ET AL.; and

No. 428. MIDWEST TELEVISION, INC., ET AL. *v.* SOUTHWESTERN CABLE CO. ET AL. C. A. 9th Cir. *Certiorari* granted. Cases are consolidated and two hours are allotted for oral argument. MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL took no part in the consideration or decision of these petitions. *Solicitor General Marshall*, *Assistant Attorney General Turner*, *Ralph S. Spritzer*, *Howard E. Shapiro*, *Henry Geller* and *Daniel R. Ohlbaum* for the United States et al. in No. 363. *Ernest W. Jennes* and *Charles A. Miller* for petitioners in No. 428. *Morton H. Wilner*, *Arthur Scheiner* and *Harold F. Reis* for Southwestern Cable Co., and *Frank U. Fletcher*, *Robert L. Heald* and *Edward F. Kenehan* for Mission Cable TV, Inc., et al., respondents in both cases. Reported below: 378 F. 2d 118.

No. 486. STERN *v.* SOUTH CHESTER TUBE CO. C. A. 3d Cir. *Certiorari* granted. *David Freeman* and *Richard H. Wels* for petitioner. *Richard P. Brown, Jr.*, and *Ralph Earle II* for respondent. Reported below: 378 F. 2d 205.

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No. 465. EDWARDS *v.* PACIFIC FRUIT EXPRESS CO. C. A. 9th Cir. Certiorari granted. *David S. Levinson* for petitioner. *Alan C. Furth* for respondent. Reported below: 378 F. 2d 54.

*Certiorari Denied.* (See also No. 393, *ante*, p. 51; No. 460, *ante*, p. 46; and No. 481, *ante*, p. 52.)

No. 344. MENSİK ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 7th Cir. Certiorari denied. *Kinsey T. James* for petitioners. *Acting Solicitor General Spritzer*, *Assistant Attorney General Rogovin* and *Carolyn R. Just* for respondent.

No. 434. AERONAUTICAL RADIO, INC. *v.* NATIONAL MEDIATION BOARD ET AL. C. A. D. C. Cir. Certiorari denied. *Charles R. Cutler* for petitioner. *Acting Solicitor General Spritzer*, *Acting Assistant Attorney General Eardley* and *John C. Eldridge* for the National Mediation Board, and *David Previant* and *Herbert S. Thatcher* for the International Brotherhood of Teamsters, respondents. Reported below: 127 U. S. App. D. C. 77, 380 F. 2d 624.

No. 458. ENGLAND *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *George T. Williams* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Rogovin* and *Joseph M. Howard* for the United States. Reported below: 376 F. 2d 381.

No. 461. HARDY SALT CO. *v.* ILLINOIS ET AL. C. A. 8th Cir. Certiorari denied. *John L. Davidson, Jr.*, for petitioner. *William G. Clark*, Attorney General of Illinois, *C. Donald Robertson*, Attorney General of West Virginia, and *Lee A. Freeman* for respondents. Reported below: 377 F. 2d 768.

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No. 459. AIRDO *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *Charles A. Bellows* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 380 F. 2d 103.

No. 462. FAIN ET AL. *v.* DUNCAN. C. A. 6th Cir. Certiorari denied. *Cecil D. Branstetter* for petitioners. *Maclin P. Davis, Jr.*, for respondent. Reported below: 377 F. 2d 49.

No. 464. BIAZEVICH ET AL., DBA M. V. LIBERATOR, ET AL. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 9th Cir. Certiorari denied. *Stanley E. Tobin* and *Carl M. Gould* for Boat Owners and Individuals, and *Robert W. Gilbert* for Seine & Line Fishermen's Union of San Pedro, petitioners. *Acting Solicitor General Spritzer*, *Arnold Ordman*, *Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 374 F. 2d 974.

No. 466. DIESEL TANKER, A. C. DODGE, INC. *v.* STEWART ET AL. C. A. 2d Cir. Certiorari denied. *Christopher E. Heckman* for petitioner. *Wilbur H. Hecht* for respondents. Reported below: 376 F. 2d 850.

No. 469. COASTAL PETROLEUM Co. *v.* KIRK, GOVERNOR OF FLORIDA, ET AL. Sup. Ct. Fla. Certiorari denied. *Frank Bezoni*, *C. Dean Reasoner* and *E. Tillman Stirling* for petitioner. *Earl Faircloth*, Attorney General of Florida, and *T. T. Turnbull*, Assistant Attorney General, for respondents.

No. 477. MORRILL *v.* FREEMAN, SECRETARY OF AGRICULTURE, ET AL. C. A. 6th Cir. Certiorari denied. *Farland Robbins* for petitioner. *Acting Solicitor General Spritzer*, *Acting Assistant Attorney General Eardley*, *Morton Hollander* and *Robert V. Zener* for respondents.

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No. 476. DAVIS ET AL., EXECUTORS *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 9th Cir. Certiorari denied. *Arthur A. Armstrong* for petitioners. *Acting Solicitor General Spritzer* and *Assistant Attorney General Rogovin* for respondent. Reported below: 375 F. 2d 517.

No. 484. CARBONE ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Albert J. Krieger* and *Robert Kasanof* for petitioners. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson* and *Philip R. Monahan* for the United States. Reported below: 378 F. 2d 420.

No. 406, Misc. HARRIS *v.* KENTUCKY. Ct. App. Ky. Certiorari denied. Reported below: 414 S. W. 2d 131.

No. 487. AMERICANA CORP. *v.* HABER ET AL. C. A. 9th Cir. Certiorari denied. *Henry E. Kappler* for petitioner. *Howard I. Friedman* for respondents. Reported below: 378 F. 2d 854.

No. 80, Misc. THOMAS *v.* PATE, WARDEN. C. A. 7th Cir. Certiorari denied. *William G. Clark*, Attorney General of Illinois, and *John J. O'Toole* and *Donald J. Veverka*, Assistant Attorneys General, for respondent.

No. 273, Misc. CHATTERTON *v.* DUTTON, WARDEN. Sup. Ct. Ga. Certiorari denied. *David L. Lomenick* for petitioner. *Arthur K. Bolton*, Attorney General of Georgia, *G. Ernest Tidwell*, Executive Assistant Attorney General, and *Marion O. Gordon*, Assistant Attorney General, for respondent. Reported below: 223 Ga. 243, 154 S. E. 2d 213.

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No. 307, Misc. *GARRISON v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *Ronald M. George*, Deputy Attorney General, for respondent. Reported below: 246 Cal. App. 2d 343, 54 Cal. Rptr. 731.

No. 397, Misc. *COSBY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. *Robert A. Maloney* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson* and *Philip R. Monahan* for the United States. Reported below: 377 F. 2d 559.

No. 399, Misc. *WOODARD v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *Richard S. T. Marsh* and *Donald B. Robertson* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Robert G. Maysack* for the United States.

No. 485. *GOFF v. GOFF*. Sup. Ct. Tenn. Certiorari denied. *Marvin Brooks Norfleet* for petitioner. *Tom P. Mitchell* for respondent.

No. 423, Misc. *CREPEAULT v. VERMONT*. Sup. Ct. Vt. Certiorari denied. *James L. Oakes*, Attorney General of Vermont, and *Alan W. Cheever* and *Frank G. Mahady*, Assistant Attorneys General, for respondent. Reported below: 126 Vt. 338, 229 A. 2d 245.

No. 431, Misc. *IRONS v. PENNSYLVANIA*. Sup. Ct. Pa. Certiorari denied.

No. 436, Misc. *HANEY v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 249 Cal. App. 2d 810, 58 Cal. Rptr. 36.

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No. 485, Misc. *ANDERSON v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 469, Misc. *McLAUGHLIN v. MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied. *F. Lee Bailey* for petitioner. *Elliot L. Richardson*, Attorney General of Massachusetts, and *Willie J. Davis*, Assistant Attorney General, for respondent. Reported below: 352 Mass. 218, 224 N. E. 2d 444.

No. 452, Misc. *GILDAY v. MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied. *John Kuttas* for petitioner. *John P. S. Burke* for respondent. Reported below: 351 Mass. 655, 223 N. E. 2d 391.

No. 486, Misc. *KERRY v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 249 Cal. App. 2d 246, 57 Cal. Rptr. 289.

No. 488, Misc. *REED v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 499, Misc. *SOSA ET AL. v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. *Caryl Warner* for petitioners. Reported below: 251 Cal. App. 2d 9, 58 Cal. Rptr. 912.

No. 521, Misc. *LEWIS v. OHIO*. Ct. App. Ohio, 8th Jud. Dist. Certiorari denied. *James R. Willis* for petitioner. *John T. Corrigan* for respondent.

No. 621, Misc. *CREIGHTON v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. *Anthony F. Marra* for petitioner. *Frank S. Hogan*, *H. Richard Uviller* and *Michael Juviler* for respondent.

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No. 507, Misc. JACKSON *v.* WILSON, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

MR. JUSTICE MARSHALL took no part in the consideration or decision of the petitions in the following cases (beginning with No. 456 and extending through No. 448, Misc., on this page):

No. 456. NATIONAL LABOR RELATIONS BOARD *v.* BATA SHOE CO., INC., ET AL. C. A. 4th Cir. Certiorari denied. *Solicitor General Marshall, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for petitioner. *Madeline Balk and Frederick T. Gray* for Bata Shoe Co., Inc., and *Joseph L. Rauh, Jr., and John Silard* for United Shoe Workers of America, AFL-CIO, respondents. Reported below: 377 F. 2d 821.

No. 165, Misc. BARNES ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *David O. Belew, Jr.*, for petitioners. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 374 F. 2d 126.

No. 214, Misc. THOMAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States. Reported below: 377 F. 2d 118.

No. 244, Misc. PETTETT *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *Paul W. Steer and James J. Ryan* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Sidney M. Glazer* for the United States.

No. 341, Misc. DANIEL *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States.

No. 448, Misc. WHITE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States.

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No. 91. FORT *v.* CITY OF MIAMI. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. *Irma Robbins Feder* and *Richard Yale Feder* for petitioner. *Jack R. Rice, Jr.*, for respondent.

MR. JUSTICE STEWART, with whom MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS join, dissenting.

The petitioner created six fiberglass statues which he offered for sale in his backyard. Two police officers approached his home, confiscated the statues, and arrested him for violating a municipal ordinance that prohibits the knowing possession of obscene figures or images for sale.<sup>1</sup>

The petitioner was convicted, his conviction was affirmed, and the Florida District Court of Appeal denied certiorari. Unable to obtain review in any higher Florida court,<sup>2</sup> he brought to this Court the federal

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<sup>1</sup> Section 38 of Chapter 43 of the Miami Code provides that it shall be unlawful for any person to commit an act which is recognized by the laws of the State as a misdemeanor. Under c. 61-7, Laws 1961, Fla. Stat. § 847.011 (1)(a), it is a misdemeanor to have in one's "possession, custody, or control with intent to sell . . . any obscene, lewd, lascivious, filthy, indecent, [or] immoral . . . figure [or] image."

<sup>2</sup> The Florida Supreme Court may review by certiorari a decision of a district court of appeal "in direct conflict with a decision of another district court of appeal or of the supreme court on the same point of law." Fla. Const., Art. V, § 4 (2); Fla. App. R. 4.5c (6). Although the State suggests that the petitioner might have invoked this "conflict jurisdiction" in order to obtain review of his conviction in the Florida Supreme Court, the petitioner states that no Florida decision of which he is aware conflicts with that of the District Court of Appeal, and the State's response to the petition for certiorari refers to no decision that even purports to pass upon the issues here involved. Under these circumstances, I am satisfied that the judgment of the District Court of Appeal in this case was "rendered by the highest court of a State in which a decision could be had," as required by 28 U. S. C. § 1257.

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constitutional claims he had unsuccessfully advanced at every stage of the state litigation.

It is clear that the ordinance under which he was convicted is unconstitutional on its face. That ordinance adopts the definition of obscenity embodied in a Florida statute:<sup>3</sup>

“For the purposes of this section, the test of whether or not material is obscene is: Whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interest.”

Members of this Court have expressed differing views as to the extent of a State's power to suppress “obscene” material through criminal or civil proceedings. But it is at least established that a State is without power to do so upon the sole ground that the material “appeals to prurient interest.”<sup>4</sup>

The petitioner in this case was charged, tried, and convicted under a statutory provision which contains no

<sup>3</sup> Chapter 61-7, Laws 1961; Fla. Stat. § 847.011 (10).

<sup>4</sup> The “prurient interest” language of the Florida statute may be traced to a sentence in this Court's opinion in *Roth v. United States*, 354 U. S. 476, 489. That language, however, cannot be taken to establish a constitutionally sufficient “test” of obscenity. The prevailing opinion by MR. JUSTICE BRENNAN in *Memoirs v. Massachusetts*, 383 U. S. 413, recognized that a State may not suppress matter as “obscene” unless “(a) the dominant theme of the material taken as a whole appeals to a prurient interest in sex; (b) the material is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters; and (c) the material is utterly without redeeming social value,” stressing that the “three elements must coalesce.” 383 U. S., at 418. MR. JUSTICE WHITE dissented in that case, nonetheless expressing the opinion that a legislature is not free to ban works of art or literature “simply because they deal with sex or because they appeal to the prurient interest.” *Id.*, at 462. See *Redrup v. New York*, 386 U. S. 767.

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other criterion of "obscenity." This conviction therefore rests upon a law incompatible with the guarantees of the First and Fourteenth Amendments of the United States Constitution.

I would grant the petition for certiorari and reverse the judgment.

No. 436. *SCHLINSKY v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. MR. JUSTICE DOUGLAS and MR. JUSTICE FORTAS are of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *David M. Scheffer* for petitioner. *Solicitor General Marshall, Assistant Attorney General Rogovin and Joseph M. Howard* for the United States. Reported below: 379 F. 2d 735.

No. 442. *FEASTER ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *MacDonald Gallion, Attorney General of Alabama, and Willis C. Darby, Jr.*, for petitioners. *Acting Solicitor General Spritzer* for the United States. Reported below: 376 F. 2d 147.

No. 198, Misc. *LAWRENCE v. TEXAS*. Sup. Ct. Tex. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN and MR. JUSTICE STEWART are of the opinion that certiorari should be granted. *Sam Houston Clinton, Jr.*, for petitioner. *Crawford C. Martin, Attorney General of Texas, George M. Cowden, First Assistant Attorney General, R. L. Lattimore, Howard M. Fender and Lonny F. Zwiener, Assistant Attorneys General, and A. J. Carubbi, Jr.*, for respondent. Reported below: 412 S. W. 2d 40.

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No. 30, Misc. HAMILTON *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, and *Edsel W. Haws* and *Daniel J. Kremer*, Deputy Attorneys General, for respondent.

MR. JUSTICE FORTAS, with whom MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL join, dissenting.

While petitioner was in custody on a murder charge, he sent a note to an inspector in the District Attorney's office requesting a meeting. The inspector met petitioner in a room on the mezzanine of the county jail. Faced with a possible death penalty,<sup>1</sup> petitioner said he would give some information "if he were allowed to plead guilty [before a certain judge] and receive a life sentence." The inspector testified and recounted this offer of compromise to the jury.<sup>2</sup>

Before the inspector's evidence was introduced, but while the inspector was on the stand, petitioner asked

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<sup>1</sup> Petitioner was charged with two counts of murder. At his first trial he was sentenced to death on both counts. The California Supreme Court reversed the conviction. *People v. Hamilton*, 55 Cal. 2d 881, 362 P. 2d 473 (1961). At his second trial he was found guilty on both counts again and sentenced to death on one and life imprisonment on the other. The California Supreme Court upheld the conviction and the life sentence but reversed the death penalty. *People v. Hamilton*, 60 Cal. 2d 105, 383 P. 2d 412 (1963). Subsequently, petitioner was sentenced to life imprisonment on both counts. He filed two petitions for habeas corpus in the California Supreme Court. Both were denied without opinion. This petition for certiorari seeks review of the second denial.

<sup>2</sup> At a subsequent point in the trial, petitioner's counsel read to the jury a transcript of an interrogation of petitioner by the police, conducted on the night he was apprehended. In his statement petitioner said he was going to "plead guilt" but that he "never intended to kill neither one of them." The California Supreme Court did not refer to this statement or rely upon it in determining that the admission of petitioner's offer to plead guilty made to the inspector almost three months later was harmless error.

for an offer of proof by the prosecutor out of the jury's presence. The request was denied. Immediately after the inspector told about the offer to plead guilty, petitioner moved to strike the evidence. The motion was denied.

It is not uncommon for defendants or their lawyers to negotiate with prosecutors about pleading guilty. It is entirely possible that, in the hopelessness and loneliness of jail, faced with a charge of murder, a prisoner may discuss a bargain-deal with the prosecutor even if he is not guilty of the offense. In any event, the defendant's attempt to negotiate may well be accepted by the jury as a convincing admission of guilt. There is, in reality, no way in which the jury can be persuaded that the ugly inference of guilt is not to be drawn from his statement, however equivocal may have been his intent in making it. Usually, the accused cannot take the stand to explain the circumstances without peril.

We should consider whether we should not, in any event, prohibit the use of a statement made for bargaining purposes. We should not attach such a penalty to discussion of the possibility of a guilty plea. The general rule is that such evidence would not be admissible in a civil suit even where the stake is as little as a few dollars.<sup>3</sup> We should at least consider the bearing of the practice upon the constitutional guarantee of a fair trial where the issue is murder and the possible penalty is death.<sup>4</sup>

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<sup>3</sup> 4 Wigmore, Evidence §§ 1061-1062 (3d ed. 1940). See also Fed. Rule Civ. Proc. 68 and 7 Moore, Federal Practice §§ 68.01-68.06 (1966).

<sup>4</sup> The California Supreme Court agreed that petitioner's offer to plead guilty was inadmissible by analogy with a provision of the California Code making inadmissible evidence of guilty pleas which were withdrawn. Nonetheless, the Supreme Court held that this was "harmless error" because it thought a different result would not have been "reasonably probable" without the error. Therefore the conviction was not reversed. *People v. Hamilton*, 60 Cal. 2d, at

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There is another important issue here. Although the prosecutor used the offer to plead guilty as he would have used a confession, there was no separate hearing on the question of voluntariness. Nor did the trial judge make a specific finding that the statement was voluntary. I think we should consider whether the procedure outlined in *Jackson v. Denno*, 378 U. S. 368 (1964), and *Sims v. Georgia*, 385 U. S. 538 (1967), was required in this case.

No. 452. *MARTIN MARIETTA CORP. v. FEDERAL TRADE COMMISSION*. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Terrence C. Sheehy* and *Clark C. Vogel* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Turner*, *Irwin A. Seibel*, *James McI. Henderson* and *Charles C. Moore, Jr.*, for respondent. Reported below: 376 F. 2d 430.

No. 301, Misc. *BAILEY v. DEQUEVEDO*. C. A. 3d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Peter O. Clauss* for petitioner. *Solicitor General Marshall*, *Acting Assistant Attorney General Eardley*, *John C. Eldridge* and *Robert V. Zener* for respondent. Reported below: 375 F. 2d 72.

No. 479. *HILTON HOTELS (U. K.) LTD. v. FRUMMER*. Ct. App. N. Y. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. *Sidney H. Willner* for petitioner. *Irving A. Scheinberg* for respondent. Reported below: 19 N. Y. 2d 533, 227 N. E. 2d 851.

112-114, 119-121, 383 P. 2d, at 415-416, 420-421. The admission of the evidence here in violation of the Fourteenth Amendment would be critically important to the trial, and the error could not be considered harmless under the standards announced by the Court in *Chapman v. California*, 386 U. S. 18 (1967).

October 30, November 6, 1967.

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*Dismissal Under Rule 60.*

No. 588, Misc. *YATES v. PEYTON, PENITENTIARY SUPERINTENDENT*. C. A. 4th Cir. Petition for writ of certiorari dismissed October 30, 1967, pursuant to Rule 60 of the Rules of this Court. Reported below: 378 F. 2d 57.

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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 October 30, 1967, and ending June 30, 1968, 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. 498. *COLORADO RIVER WATER CONSERVATION DISTRICT ET AL. v. FOUR COUNTIES WATER USERS ASSOCIATION ET AL.* Sup. Ct. Colo. The Solicitor General is invited to file a brief in this case expressing the views of the United States. MR. JUSTICE MARSHALL took no part in the consideration or decision of this order.

No. 882, Misc. *IN RE DISBARMENT OF POWELL*. It is ordered that Diana Kearny Powell of Washington, District of Columbia, be suspended from the practice of law in this Court and that a rule issue, returnable within forty days, requiring her to show cause why she should not be disbarred from the practice of law in this Court.

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No. 548. SNOHOMISH COUNTY *v.* SEATTLE DISPOSAL CO. ET AL. Sup. Ct. Wash. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 580, Misc. SAUNDERS *v.* KROPP, WARDEN; and No. 595, Misc. WOOLLASTON *v.* PENNSYLVANIA. Motions for leave to file petitions for writs of habeas corpus denied.

No. 528. BERGUIDO ET AL., EXECUTORS *v.* EASTERN AIRLINES, INC. C. A. 3d Cir. Motion of petitioners for consolidation with *Alitalia-Linee Aeree Italiane, S. p. A. v. Lisi et al.*, No. 70 (see *post*, p. 926) denied. *B. Nathaniel Richter* and *Seymour I. Toll* on the motion. *Owen B. Rhoads*, *F. Hastings Griffin, Jr.*, *Daniel L. Stonebridge* and *John J. Martin* for respondent in opposition. *Theodore E. Wolcott* for respondents in No. 70 in opposition.

*Probable Jurisdiction Noted.*

No. 508. LEVY, ADMINISTRATRIX *v.* LOUISIANA THROUGH THE CHARITY HOSPITAL OF LOUISIANA AT NEW ORLEANS BOARD OF ADMINISTRATORS ET AL. Appeal from Sup. Ct. La. Probable jurisdiction noted. *Norman Dorsen*, *Adolph J. Levy*, *Lawrence J. Smith* and *Melvin L. Wulf* for appellant. *Jack P. F. Gremillion*, Attorney General of Louisiana, and *William A. Porteous, Jr.*, for appellees. Reported below: 250 La. 25, 193 So. 2d 530.

No. 510. PICKERING *v.* BOARD OF EDUCATION OF TOWNSHIP HIGH SCHOOL DISTRICT 205, WILL COUNTY. Appeal from Sup. Ct. Ill. Probable jurisdiction noted. Case set for oral argument immediately following No. 325 (see *ante*, p. 818). Reported below: 36 Ill. 2d 568, 225 N. E. 2d 1.

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*Certiorari Granted.* (See also No. 467, *ante*, p. 81; and No. 306, *Misc.*, *ante*, p. 89.)

No. 70. ALITALIA-LINEE AEREE ITALIANE, S. P. A. v. LISI ET AL. C. A. 2d Cir. Motions of International Air Transport Association, Air Transport Association of America, Republic of Italy, and United Kingdom of Great Britain and Northern Ireland for leave to file briefs, as *amici curiae*, granted. *Certiorari granted.* MR. JUSTICE MARSHALL took no part in the consideration or decision of these motions and petition. *Austin P. Magner* and *George N. Tompkins, Jr.*, for petitioner. *Theodore E. Wolcott* for respondents. *Harold L. Warner, Jr.*, *Carl S. Rowe* and *Paul G. Pennoyer, Jr.*, for International Air Transport Association, *John E. Stephen* and *Joseph F. Healy, Jr.*, for Air Transport Association of America, *Alfred C. Clapp* for Republic of Italy, and *Edwin Longcope* for United Kingdom of Great Britain and Northern Ireland, as *amici curiae*, in support of the petition. *Solicitor General Marshall*, *Acting Assistant Attorney General Eardley*, *J. Nicholas McGrath, Jr.*, *Morton Hollander* and *Richard S. Salzman* for the United States, as *amicus curiae*, in opposition to the petition. Reported below: 370 F. 2d 508.

No. 497. HANNER v. DEMARCUS ET UX. Sup. Ct. Ariz. *Certiorari granted.* *Philip M. Haggerty* for petitioner. *Robert John Walton* for respondents. Reported below: 102 Ariz. 105, 425 P. 2d 837.

*Certiorari Denied.*

No. 492. HEFFELMAN v. UDALL, SECRETARY OF THE INTERIOR. C. A. 10th Cir. *Certiorari denied.* *Jess Larson* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Weisl* and *Roger P. Marquis* for respondent. Reported below: 378 F. 2d 109.

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No. 298. *MALE v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. *Earl Faircloth*, Attorney General of Florida, and *Wallace E. Allbritton*, Assistant Attorney General, for respondent.

No. 472. *WATSON v. GULF STEVEDORE CORP.* C. A. 5th Cir. Certiorari denied. *Bill Allen* for petitioner. *Carl O. Bue, Jr.*, for respondent. Reported below: 374 F. 2d 946.

No. 474. *GORDON v. UNITED STATES*; and

No. 571. *SCATA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Morris Berick* for petitioner in No. 474, and *W. Paul Flynn* for petitioner in No. 571. *Solicitor General Griswold*, *Ralph S. Spritzer*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States in both cases. Reported below: 379 F. 2d 788.

No. 488. *BAY ET AL. v. MECOM, TRUSTEE, ET AL.* Sup. Ct. Tex. Certiorari denied. *Joseph W. Cash* for petitioners. *G. Kibby Munson* for respondents. Reported below: 393 S. W. 2d 819.

No. 490. *LEE v. RITSCH ET AL.* C. A. 5th Cir. Certiorari denied.

No. 499. *BROTHERHOOD OF RAILROAD TRAINMEN v. ST. LOUIS SOUTHWESTERN RAILWAY CO. ET AL.* C. A. D. C. Cir. Certiorari denied. *Francis M. Shea*, *Richard T. Conway*, *James R. Wolfe* and *Charles I. Hopkins, Jr.*, for St. Louis Southwestern Railway Co., and *Acting Solicitor General Spritzer*, *Acting Assistant Attorney General Eardley* and *John C. Eldridge* for Seward, respondents. Reported below: 127 U. S. App. D. C. 56, 380 F. 2d 603.

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No. 493. *ORIGONI v. BULLETIN CO., INC.* C. A. D. C. Cir. Certiorari denied. *Michael F. X. Dolan* for petitioner. *William J. Curtin* and *John R. McConnell* for respondent.

No. 494. *CARNES v. GEORGIA.* Ct. App. Ga. Certiorari denied. *Charles Robinson* for petitioner. Reported below: 115 Ga. App. 387, 154 S. E. 2d 781.

No. 495. *WRIGHT v. IMMIGRATION AND NATURALIZATION SERVICE.* C. A. 6th Cir. Certiorari denied. *Thomas C. Binkley* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for respondent. Reported below: 379 F. 2d 275.

No. 500. *BROTHERHOOD OF RAILROAD TRAINMEN v. MISSOURI PACIFIC RAILROAD CO. ET AL.*; and

No. 501. *BROTHERHOOD OF RAILROAD TRAINMEN v. CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO. ET AL.* C. A. D. C. Cir. Certiorari denied. *John H. Haley, Jr., Milton Kramer* and *Clifton Hildebrand* for petitioner in No. 500. *David Leo Uelmen* and *Mr. Kramer* for petitioner in No. 501. *Francis M. Shea, Richard T. Conway, James R. Wolfe, Charles I. Hopkins, Jr.,* and *Robert W. Yost* for Missouri Pacific Railroad Co. et al., and *Acting Solicitor General Spritzer, Acting Assistant Attorney General Eardley* and *John C. Eldridge* for Seward et al., respondents in No. 500. *Messrs. Shea, Conway, Wolfe, Hopkins* and *James P. Reedy* for respondent Chicago, Milwaukee, St. Paul & Pacific Railroad Co. in No. 501. Reported below: 127 U. S. App. D. C. 58, 380 F. 2d 605.

No. 521. *HOOPER v. OHIO.* Sup. Ct. Ohio. Certiorari denied. *Allan Sherry* for petitioner.

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No. 505. WOLCOFF ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *Anna R. Lavin* for petitioners. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 379 F. 2d 521.

No. 506. COMTEL CORP. ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 2d Cir. Certiorari denied. *George G. Tyler* for petitioners. *Acting Solicitor General Spritzer, Assistant Attorney General Rogovin, Crombie J. D. Garrett and Elmer J. Kelsey* for respondent. Reported below: 376 F. 2d 791.

No. 507. BUCKLEY ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *Julius Lucius Echeles* for petitioners. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 379 F. 2d 424.

No. 509. IN RE STECKER. C. A. 3d Cir. Certiorari denied. *M. Gene Haeberle* for petitioner. *A. Morton Shapiro* for the State of New Jersey. Reported below: 381 F. 2d 379.

No. 512. PIONEER PLASTICS CORP. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 1st Cir. Certiorari denied. *Vernon C. Stoneman* for petitioner. *Acting Solicitor General Spritzer, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for respondent. Reported below: 379 F. 2d 301.

No. 514. McCARTY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Maria Louisa Green* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States. Reported below: 379 F. 2d 285.

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No. 519. MILLER ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *Max Cohen* for petitioners. *Acting Solicitor General Spritzer* for the United States. Reported below: 379 F. 2d 483.

No. 524. CORRINGTON *v.* WEBB, ADMINISTRATOR, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, ET AL. C. A. 9th Cir. Certiorari denied. *Herbert M. Ansell* for petitioner. *Acting Solicitor General Spritzer* for respondents. Reported below: 375 F. 2d 298.

No. 527. AHO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Charles R. Maloney* for petitioner. *Acting Solicitor General Spritzer* for the United States. Reported below: 374 F. 2d 885.

No. 529. PROTECTION MUTUAL INSURANCE Co. *v.* PLANTERS MANUFACTURING Co. C. A. 5th Cir. Certiorari denied. *Ronald A. Jacks* for petitioner. *William H. Maynard* for respondent. Reported below: 380 F. 2d 869.

No. 535. MARCHESE ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Burton Marks* for Marchese, and *Russell E. Parsons* for Del Bono, petitioners. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Kirby W. Patterson* for the United States. Reported below: 378 F. 2d 16.

No. 537. LOCAL 1291, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 3d Cir. Certiorari denied. *Abraham E. Freedman* and *Martin J. Vigderman* for petitioner. *Acting Solicitor General Spritzer*, *Arnold Ordman*, *Dominick L. Manoli* and *Norton J. Come* for respondent National Labor Relations Board. Reported below: 375 F. 2d 1011.

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No. 530. *FRANCOSTEEL CORP. v. N. V. NEDERLANDSCH AMERIKAANSCH, STOOMVART-MAATSCHAPPIJ.* Ct. App. Cal., 1st App. Dist. Certiorari denied. *Lyman Henry* for petitioner. *R. Frederic Fisher* for respondent. Reported below: 249 Cal. App. 2d 880, 57 Cal. Rptr. 867.

No. 531. *BESSENYEY v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 2d Cir. Certiorari denied. *Orrin G. Judd* and *Earle K. Moore* for petitioner. *Acting Solicitor General Spritzer* and *Assistant Attorney General Rogovin* for respondent. Reported below: 379 F. 2d 252.

No. 533. *RIFKIN TEXTILES CORP. v. UNITED STATES.* C. C. P. A. Certiorari denied. *Menahem Stim* and *Allen S. Stim* for petitioner. *Acting Solicitor General Spritzer* for the United States. Reported below: 54 C. C. P. A. (Cust.) 138.

No. 536. *PRESTON CORP. ET AL. v. RAESE.* C. A. 4th Cir. Certiorari denied. *William H. Arkin* for petitioners. Reported below: 377 F. 2d 263.

No. 538. *CARTER v. FLORIDA.* Dist. Ct. App. Fla., 4th Dist. Certiorari denied. *Errol S. Willes* for petitioner. *Earl Faircloth*, Attorney General of Florida, and *Fred T. Gallagher*, Assistant Attorney General, for respondent. Reported below: 193 So. 2d 215.

No. 540. *UNITED STATES v. INGHAM, EXECUTRIX, ET AL.* C. A. 2d Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Solicitor General Marshall*, *Carl Eardley*, *John C. Eldridge* and *Richard S. Salzman* for the United States. *Lee S. Kreindler* for Ingham, and *John J. Martin* for Eastern Air Lines, Inc., respondents. Reported below: 373 F. 2d 227.

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No. 541. *DAVENPORT v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. *Norman D. Lane* for petitioner. *Acting Solicitor General Spritzer* for the United States.

No. 543. *DETROIT EDISON CO. ET AL. v. EAST CHINA TOWNSHIP SCHOOL DISTRICT NO. 3 ET AL.* C. A. 6th Cir. Certiorari denied. *Harvey Fischer, Richard Ford, P. W. McQuillen* and *P. M. Brown* for petitioners. *Richard B. Gushee* for respondents. Reported below: 378 F. 2d 225.

No. 545. *GRAIN ELEVATOR, FLOUR & FEED MILL WORKERS, INTERNATIONAL LONGSHOREMEN ASSOCIATION, LOCAL 418, AFL-CIO v. NATIONAL LABOR RELATIONS BOARD*. C. A. D. C. Cir. Certiorari denied. *Henry Kaiser, George Kaufmann, Ronald Rosenberg, Irving M. Friedman* and *Harold A. Katz* for petitioner. *Acting Solicitor General Spritzer, Arnold Ordman, Dominick L. Manoli, Norton J. Come, Solomon I. Hirsh* and *Eugene B. Granof* for respondent. Reported below: 126 U. S. App. D. C. 219, 376 F. 2d 774.

No. 547. *NORTHWEST ENGINEERING CO. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. D. C. Cir. Certiorari denied. *Walter S. Davis* for petitioner. *Acting Solicitor General Spritzer, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for National Labor Relations Board, and *Bernard Kleiman, Elliot Bredhoff, Michael Gottesman* and *George Cohen* for United Steelworkers of America, AFL-CIO, respondents. Reported below: 126 U. S. App. D. C. 215, 376 F. 2d 770.

No. 549. *SIEGELSON v. NEW YORK*. Ct. App. N. Y. Certiorari denied. *Fred Queller* and *Robert L. Cohen* for petitioner. *Frank S. Hogan* and *Michael Juviler* for respondent.

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No. 550. SIMPSON *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. *Vincent P. DiGiorgio* for petitioner.

No. 551. TEXAS *v.* CENTRAL POWER & LIGHT CO. Ct. Civ. App. Tex., 13th Sup. Jud. Dist. Certiorari denied. *Crawford C. Martin*, Attorney General of Texas, *George M. Cowden*, First Assistant Attorney General, *J. C. Davis* and *W. O. Shultz II*, Assistant Attorneys General, and *A. J. Carubbi, Jr.*, for petitioner. *H. K. Howard* for respondent. *Arthur J. Sills*, Attorney General, *Alan B. Handler*, First Assistant Attorney General, and *Elias Abelson* and *William J. Walsh*, Deputy Attorneys General, for the State of New Jersey, as *amicus curiae*, in support of the petition. Reported below: 410 S. W. 2d 18.

No. 552. ZIMMER *v.* KANSAS. Sup. Ct. Kan. Certiorari denied. *Melvin L. Wulf* and *Elwaine F. Pomeroy* for petitioner. *Robert C. Londerholm*, Attorney General of Kansas, *Richard H. Seaton*, Assistant Attorney General, and *Robert D. Hecht* for respondent. Reported below: 198 Kan. 479, 426 P. 2d 267.

No. 620. BROTHERHOOD OF RAILROAD TRAINMEN *v.* CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO. ET AL. C. A. D. C. Cir. Certiorari denied. *David Leo Uelman* and *Milton Kramer* for petitioner. *Francis M. Shea*, *Richard T. Conway*, *Benjamin W. Boley*, *James R. Wolfe*, *Charles I. Hopkins, Jr.*, and *James P. Reedy* for respondent Chicago, Milwaukee, St. Paul & Pacific Railroad Co., and *Acting Solicitor General Spritzer* for respondent Seward. Reported below: 127 U. S. App. D. C. 289, 383 F. 2d 216.

No. 480, Misc. EBELL *v.* MCGEE, ADMINISTRATOR, ET AL. C. A. 9th Cir. Certiorari denied.

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No. 401. MORA ET AL. v. McNAMARA, SECRETARY OF DEFENSE, ET AL. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Stanley Faulkner* and *Selma W. Samols* for petitioners. *Solicitor General Marshall* for respondents. Reported below: — U. S. App. D. C. —, 387 F. 2d 862.

MR. JUSTICE STEWART, with whom MR. JUSTICE DOUGLAS joins, dissenting.

The petitioners were drafted into the United States Army in late 1965, and six months later were ordered to a West Coast replacement station for shipment to Vietnam. They brought this suit to prevent the Secretary of Defense and the Secretary of the Army from carrying out those orders, and requested a declaratory judgment that the present United States military activity in Vietnam is "illegal." The District Court dismissed the suit, and the Court of Appeals affirmed.

There exist in this case questions of great magnitude. Some are akin to those referred to by MR. JUSTICE DOUGLAS in *Mitchell v. United States*, 386 U. S. 972. But there are others:

- I. Is the present United States military activity in Vietnam a "war" within the meaning of Article I, Section 8, Clause 11, of the Constitution?
- II. If so, may the Executive constitutionally order the petitioners to participate in that military activity, when no war has been declared by the Congress?
- III. Of what relevance to Question II are the present treaty obligations of the United States?
- IV. Of what relevance to Question II is the Joint Congressional ("Tonkin Gulf") Resolution of August 10, 1964?

- (a) Do present United States military operations fall within the terms of the Joint Resolution?
- (b) If the Joint Resolution purports to give the Chief Executive authority to commit United States forces to armed conflict limited in scope only by his own absolute discretion, is the Resolution a constitutionally impermissible delegation of all or part of Congress' power to declare war?

These are large and deeply troubling questions. Whether the Court would ultimately reach them depends, of course, upon the resolution of serious preliminary issues of justiciability. We cannot make these problems go away simply by refusing to hear the case of three obscure Army privates. I intimate not even tentative views upon any of these matters, but I think the Court should squarely face them by granting certiorari and setting this case for oral argument.

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE STEWART concurs, dissenting.

The questions posed by MR. JUSTICE STEWART cover the wide range of problems which the Senate Committee on Foreign Relations recently explored,<sup>1</sup> in connection with the SEATO Treaty of February 19, 1955,<sup>2</sup> and the Tonkin Gulf Resolution.<sup>3</sup>

Mr. Katzenbach, representing the Administration, testified that he did not regard the Tonkin Gulf Resolution to be "a declaration of war"<sup>4</sup> and that while the Resolution was not "constitutionally necessary" it was "polit-

<sup>1</sup> Hearings on S. Res. No. 151, 90th Cong., 1st Sess. (1967).

<sup>2</sup> [1955] 6 U. S. T. 81, T. I. A. S. No. 3170.

<sup>3</sup> 78 Stat. 384.

<sup>4</sup> Hearings on S. Res. No. 151, *supra*, n. 1, at 87.

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ically, from an international viewpoint and from a domestic viewpoint, extremely important.”<sup>5</sup> He added:

“The use of the phrase ‘to declare war’ as it was used in the Constitution of the United States had a particular meaning in terms of the events and the practices which existed at the time it was adopted . . . .

“[I]t was recognized by the Founding Fathers that the President might have to take emergency action to protect the security of the United States, but that if there was going to be another use of the armed forces of the United States, that was a decision which Congress should check the Executive on, which Congress should support. It was for that reason that the phrase was inserted in the Constitution.

“Now, over a long period of time, . . . there have been many uses of the military forces of the United States for a variety of purposes without a congressional declaration of war. But it would be fair to say that most of these were relatively minor uses of force . . . .

“A declaration of war would not, I think, correctly reflect the very limited objectives of the United States with respect to Vietnam. It would not correctly reflect our efforts there, what we are trying to do, the reasons why we are there, to use an outmoded phraseology, to declare war.”<sup>6</sup>

The view that Congress was intended to play a more active role in the initiation and conduct of war than the above statements might suggest has been espoused by Senator Fulbright (Cong. Rec., Oct. 11, 1967, pp. 14683-14690), quoting Thomas Jefferson who said:

<sup>5</sup> *Id.*, at 145.

<sup>6</sup> *Id.*, at 80-81.

“We have already given in example one effectual check to the Dog of war by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay.”<sup>7</sup>

These opposed views are reflected in the *Prize Cases*, 2 Black 635, a five-to-four decision rendered in 1863. Mr. Justice Grier, writing for the majority, emphasized the arguments for strong presidential powers. Mr. Justice Nelson, writing for the minority of four, read the Constitution more strictly, emphasizing that what is war in actuality may not constitute war in the constitutional sense. During all subsequent periods in our history—through the Spanish-American War, the Boxer Rebellion, two World Wars, Korea, and now Vietnam—the two points of view urged in the *Prize Cases* have continued to be voiced.

A host of problems is raised. Does the President's authority to repel invasions and quiet insurrections, do his powers in foreign relations and his duty to execute faithfully the laws of the United States, including its treaties, justify what has been threatened of petitioners? What is the relevancy of the Gulf of Tonkin Resolution and the yearly appropriations in support of the Vietnam effort?

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<sup>7</sup> 15 Papers of Jefferson 397 (Boyd ed., Princeton 1958). In The Federalist No. 69, at 465 (Cooke ed. 1961), Hamilton stated:

“[T]he President is to be Commander in Chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the King of Great-Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first General and Admiral of the confederacy; while that of the British King extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies; all which by the Constitution under consideration would appertain to the Legislature.”

The London Treaty (59 Stat. 1546), the SEATO Treaty (6 U. S. T. 81, 1955), the Kellogg-Briand Pact (46 Stat. 2343), and Article 39 of Chapter VII of the UN Charter deal with various aspects of wars of "aggression."

Do any of them embrace hostilities in Vietnam, or give rights to individuals affected to complain, or in other respects give rise to justiciable controversies?

There are other treaties or declarations that could be cited. Perhaps all of them are wide of the mark. There are sentences in our opinions which, detached from their context, indicate that what is happening is none of our business:

"Certainly it is not the function of the Judiciary to entertain private litigation—even by a citizen—which challenges the legality, the wisdom, or the propriety of the Commander-in-Chief in sending our armed forces abroad or to any particular region."  
*Johnson v. Eisentrager*, 339 U. S. 763, 789.

We do not, of course, sit as a committee of oversight or supervision. What resolutions the President asks and what the Congress provides are not our concern. With respect to the Federal Government, we sit only to decide actual cases or controversies within judicial cognizance that arise as a result of what the Congress or the President or a judge does or attempts to do to a person or his property.

In *Ex parte Milligan*, 4 Wall. 2, the Court relieved a person of the death penalty imposed by a military tribunal, holding that only a civilian court had power to try him for the offense charged. Speaking of the purpose of the Founders in providing constitutional guarantees, the Court said:

"They knew . . . the nation they were founding, be its existence short or long, would be involved in war;

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how often or how long continued, human foresight could not tell; and that unlimited power, wherever lodged at such a time, was especially hazardous to freemen. For this, and other equally weighty reasons, they secured the inheritance they had fought to maintain, by incorporating in a written constitution the safeguards which *time* had proved were essential to its preservation. Not one of these safeguards can the President, or Congress, or the Judiciary disturb, except the one concerning the writ of *habeas corpus*." *Id.*, 125.

The fact that the political branches are responsible for the threat to petitioners' liberty is not decisive. As Mr. Justice Holmes said in *Nixon v. Herndon*, 273 U. S. 536, 540:

"The objection that the subject matter of the suit is political is little more than a play upon words. Of course the petition concerns political action but it alleges and seeks to recover for private damage. That private damage may be caused by such political action and may be recovered for in a suit at law hardly has been doubted for over two hundred years, since *Ashby v. White*, 2 Ld. Raym. 938, 3 *id.* 320, and has been recognized by this Court."

These petitioners should be told whether their case is beyond judicial cognizance. If it is not, we should then reach the merits of their claims, on which I intimate no views whatsoever.

No. 513. GRANZA ET AL. *v.* UNITED STATES. C. A. 5th Cir. Motion to dispense with printing petition granted. Certiorari denied. *Clyde W. Woody* and *Marian S. Rosen* for petitioners. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 377 F. 2d 746.

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No. 496. WIEN ALASKA AIRLINES, INC. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. MR. JUSTICE STEWART is of the opinion that certiorari should be granted. *Phillip D. Bostwick* and *Lawrence R. Schneider* for petitioner. *Acting Solicitor General Spritzer*, *Acting Assistant Attorney General Eardley* and *Morton Hollander* for the United States. Reported below: 375 F. 2d 736.

No. 502. BROTHERHOOD OF RAILROAD TRAINMEN *v.* TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS. C. A. D. C. Cir. Certiorari denied. THE CHIEF JUSTICE is of the opinion that certiorari should be granted. *John H. Haley, Jr.*, *Milton Kramer* and *Clifton Hildebrand* for petitioner. *Francis M. Shea*, *Richard T. Conway*, *Ralph J. Moore, Jr.*, *James R. Wolfe* and *Charles I. Hopkins, Jr.*, for respondent. Reported below: 127 U. S. App. D. C. 37, 380 F. 2d 584.

No. 532. WELCH *v.* AMERICAN PRESIDENT LINES, LTD. C. A. 9th Cir. Motion of American Trial Lawyers Association, Admiralty Section, for leave to file a brief, as *amicus curiae*, granted. Certiorari denied. *Martin J. Jarvis* for petitioner. *Graydon S. Staring* for respondent. *Paul S. Edelman* for American Trial Lawyers Association, Admiralty Section, as *amicus curiae*, in support of the petition. Reported below: 377 F. 2d 501.

No. 402, Misc. HACKATHORN *v.* DECKER, SHERIFF. C. A. 5th Cir. Certiorari denied. *Fred S. Abney* for petitioner. *Henry Wade* for respondent. Reported below: 369 F. 2d 150.

No. 473, Misc. BARONE *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 250 Cal. App. 2d 776, 58 Cal. Rptr. 783.

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No. 544. MOUTON, COLLECTOR OF REVENUE OF LOUISIANA, ET AL. *v.* UNITED STATES ET AL. C. A. 5th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Chapman L. Sanford* and *Emmett E. Batson* for petitioners. *Acting Solicitor General Spritzer*, *Assistant Attorney General Rogovin* and *Harold C. Wilkenfeld* for the United States, and *Eugene D. Saunders* for Chrysler Corp., respondents. Reported below: 378 F. 2d 350.

No. 542. HAYES *v.* CITY OF COLUMBUS. Sup. Ct. Ohio. Certiorari denied. MR. JUSTICE FORTAS dissents for the reasons stated in his dissent from the denial of certiorari in *Heller v. Connecticut*, *ante*, p. 902. *James C. Britt* for petitioner. *Alba L. Whiteside* for respondent.

No. 28, Misc. BRADSHAW *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied. *W. S. Moore* for petitioner. *Joe T. Patterson*, Attorney General of Mississippi, and *G. Garland Lyell, Jr.*, Assistant Attorney General, for respondent. Reported below: 192 So. 2d 387.

No. 73, Misc. TARRANCE *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. *Jack P. F. Gremillion*, Attorney General of Louisiana, and *William P. Schuler*, Assistant Attorney General, for respondent. Reported below: 250 La. 491, 196 So. 2d 804.

No. 294, Misc. DENMAN ET AL. *v.* WERTZ ET AL. C. A. 3d Cir. Certiorari denied. *David Stahl* and *Robert E. Dauer* for respondent Schoettle et al., and *Maurice Louik* and *Craig T. Stockdale* for respondent Brown. Reported below: 372 F. 2d 135.

No. 481, Misc. BRUNETTE *v.* ANDERSON, JUDGE. Dist. Ct. Idaho, 6th Jud. Dist. Certiorari denied.

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No. 305, Misc. TAHL *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *Ronald M. George*, Deputy Attorney General, for respondent. Reported below: 65 Cal. 2d 719, 423 P. 2d 246.

No. 437, Misc. WOOTEN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Jerome M. Feit* for the United States. Reported below: 380 F. 2d 230.

No. 475, Misc. HISQUIERDO *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 477, Misc. FARLEY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 381 F. 2d 357.

No. 483, Misc. MYLES *v.* NELSON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 484, Misc. ELLIOTT *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 490, Misc. NAWROCKI *v.* MICHIGAN. Sup. Ct. Mich. Certiorari denied.

No. 496, Misc. POSEY *v.* BETO, CORRECTIONS DIRECTOR. Ct. Crim. App. Tex. Certiorari denied.

No. 497, Misc. TATREAU *v.* NEBRASKA. Sup. Ct. Neb. Certiorari denied.

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No. 506, Misc. ADAMS *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 37 Ill. 2d 489, 229 N. E. 2d 519.

No. 509, Misc. MARTINEZ *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 512, Misc. KULIS *v.* MANCUSI, WARDEN. C. A. 2d Cir. Certiorari denied. Reported below: 383 F. 2d 405.

No. 519, Misc. LEWIS *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 525, Misc. AGUILAR *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 533, Misc. BROWN *v.* SWENSON, WARDEN. Sup. Ct. Mo. Certiorari denied.

No. 536, Misc. PERRY *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Leon B. Polsky* and *Phylis Skloot Bamberger* for petitioner. *Acting Solicitor General Spritzer* for the United States. Reported below: 380 F. 2d 356.

No. 545, Misc. SEITERLE *v.* NELSON, WARDEN. Sup. Ct. Cal. Certiorari denied. *Earl Klein* for petitioner. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *Norman H. Sokolow*, Deputy Attorney General, for respondent.

No. 583, Misc. POOL *v.* LEONE, DBA DOMINIC LEONE CONSTRUCTION Co., ET AL. C. A. 10th Cir. Certiorari denied. *Michael A. Williams* for petitioner. *John C. Mott* for respondents. Reported below: 374 F. 2d 961.

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No. 538, Misc. *DENTO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. *Acting Solicitor General Spritzer* for the United States. Reported below: 382 F. 2d 361.

No. 574, Misc. *BILOTTI ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *H. Elliot Wales* for Bilotti and *Albert H. Buschmann* for Wasser, petitioners. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson* and *Jerome M. Feit* for the United States. Reported below: 380 F. 2d 649.

No. 556, Misc. *DOVICO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *F. Lee Bailey* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson* and *Jerome M. Feit* for the United States. Reported below: 380 F. 2d 325.

No. 467, Misc. *RUBIO v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 9th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for respondent. Reported below: 380 F. 2d 29.

No. 295, Misc. *O'BRIEN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Solicitor General Marshall*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Mervyn Hamburg* for the United States. Reported below: 377 F. 2d 541.

No. 534, Misc. *MENDOZA v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 619, Misc. *REID ET AL. v. WEST VIRGINIA*. Sup. Ct. App. W. Va. Certiorari denied.

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No. 635, Misc. *GARCIA v. NEW YORK*. Sup. Ct. N. Y., New York County. Certiorari denied. *Frank S. Hogan* and *Michael Juviler* for respondent.

No. 555, Misc. *NOLAND v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *Acting Solicitor General Spritzer* for the United States. Reported below: 380 F. 2d 1016.

No. 640, Misc. *McCHAREN v. L & A CONSTRUCTION Co. ET AL.* Sup. Ct. Miss. Certiorari denied. *Dixon L. Pyles* for petitioner. Reported below: 198 So. 2d 240.

No. 602, Misc. *PLATTS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Jerome M. Feit* and *Robert G. Maysack* for the United States. Reported below: 378 F. 2d 396.

No. 671, Misc. *BANKS v. OHIO*. Sup. Ct. Ohio. Certiorari denied. *Irwin W. Barkan* for petitioner.

*Rehearing Denied.*

No. 7, Misc. *COLLINS v. FIELD, MENS COLONY SUPERINTENDENT*, *ante*, p. 860;

No. 101, Misc. *MEARS AKA SCOTT v. NEVADA*, *ante*, p. 888;

No. 115, Misc. *WHISMAN v. GEORGIA*, *ante*, p. 865;

No. 125, Misc. *FLETCHER v. PENNSYLVANIA*, *ante*, p. 865;

No. 355, Misc. *FURTAK v. NEW YORK*, *ante*, p. 875;

No. 361, Misc. *FURTAK v. NEW YORK*, *ante*, p. 875;

No. 476, Misc. *FURTAK v. McMANN, WARDEN, ET AL.*, *ante*, p. 879; and

No. 513, Misc. *FURTAK v. APPELLATE DIVISION OF THE SUPREME COURT OF NEW YORK, FOURTH JUDICIAL DEPARTMENT*, *ante*, p. 879. Petitions for rehearing denied.

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No. 1067, October Term, 1966. MILLER BREWING Co. v. JONES, DIRECTOR OF REVENUE OF ILLINOIS, 386 U. S. 684, 387 U. S. 938. Motion for leave to file second petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

## NOVEMBER 9, 1967.

Nos. 778, 779, 830-836. PENN-CENTRAL MERGER AND N & W INCLUSION CASES. Appeal from D. C. S. D. N. Y.

Applications for a stay of enforcement of an order of the Interstate Commerce Commission<sup>1</sup> authorizing a merger of the Pennsylvania R. Co. and the New York Central R. Co., pending this Court's determination of appeals from a decision of a three-judge court in the Southern District of New York, 279 F. Supp. 316, sustaining both the Commission's order authorizing the merger and its order<sup>2</sup> directing the Norfolk & Western R. Co. to include in its system the Erie-Lackawanna R. Co., the Delaware & Hudson R. Corp., and the Boston & Maine Corp., have been submitted to MR. JUSTICE HARLAN as the Associate Justice assigned to the Second Circuit. The applicants for a stay include four railroad companies,<sup>3</sup> holders of New York, New Haven & Hartford R. Co. bonds,<sup>4</sup> a Pennsylvania city,<sup>5</sup> and a Pennsylvania R. Co. stockholder.<sup>6</sup>

MR. JUSTICE HARLAN, pursuant to our Rule 50 (6), has referred these applications to the Court for disposition.

<sup>1</sup> Order of June 9, 1967, 330 I. C. C. 328.

<sup>2</sup> Order of June 9, 1967, 330 I. C. C. 780, as modified by Order of September 1, 1967, 331 I. C. C. 22.

<sup>3</sup> Baltimore & Ohio R. Co.; Chesapeake & Ohio R. Co.; Norfolk & Western R. Co.; Western Maryland R. Co.

<sup>4</sup> Oscar Gruss & Son; New York, New Haven & Hartford R. Co. First Mortgage 4% Bondholders Committee.

<sup>5</sup> City of Scranton.

<sup>6</sup> Milton J. Shapp, who also appears as a citizen of Pennsylvania.

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Papers supporting the stay applications have been submitted by the Delaware & Hudson R. Corp. and the Erie-Lackawanna R. Co. In addition, the Baltimore & Ohio R. Co. for itself and certain other railroad carriers<sup>7</sup> has docketed an appeal from the part of the Southern District of New York judgment which upheld the Commission's order authorizing the Penn-Central merger. Similarly, the Norfolk & Western R. Co. has docketed an appeal from that part of the judgment which upheld the order directing it to include in its system the three railroads named above.<sup>8</sup> These appellants have filed a joint motion to accelerate consideration of their appeals. Motions to consolidate and to accelerate consideration of the appeals have been filed by the Delaware & Hudson Corp. and the Erie-Lackawanna R. Co. The United States and the Interstate Commerce Commission and various other parties<sup>9</sup> have indicated that they do not oppose a stay of the merger if consideration of the appeals is substantially accelerated.

Upon consideration of these applications, motions, and other papers, a stay of enforcement of the order of the Interstate Commerce Commission, and the motions to consolidate and accelerate, are hereby granted subject to and in accordance with the following expedited schedule. See *Hannah v. Larche*, 361 U. S. 910; *Erie-Lackawanna R. Co. v. United States*, 385 U. S. 914. Any parties to the proceedings below who desire to appeal and have not already done so shall file notices of appeal and shall docket their cases on or before November 17, 1967.

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<sup>7</sup> Chesapeake & Ohio R. Co.; Norfolk & Western R. Co.; Western Maryland R. Co.

<sup>8</sup> The Boston & Maine Corp. has also filed a notice of appeal with respect to this part of the judgment.

<sup>9</sup> Pennsylvania R. Co.; New York Central R. Co.; Boston & Maine Corp.; Trustees of the New York, New Haven & Hartford R. Co.; States of Connecticut and Rhode Island.

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Appellants who have filed notices of appeal but who have not perfected such appeals shall docket their cases on or before the same date. Appellees shall file their motions in response to the jurisdictional statements on or before November 27, 1967. Appellants shall file their replies to those motions on or before November 30, 1967. All appeals will be consolidated, and all matters involved are set for oral argument on December 4, 1967, without further exchange of briefs beyond that indicated hereafter. A total of four hours is allotted for argument, with two hours allotted to those supporting the judgment below and two hours to those attacking that judgment. Four attorneys will be permitted to participate in the oral argument on each side, the division of time to be settled among counsel. The case is to be submitted upon the oral arguments, the jurisdictional papers before the Court, the briefs filed below (copies to be filed in this Court on or before November 20, 1967), and the typewritten record.

MR. JUSTICE MARSHALL took no part in the consideration or decision of this matter.

*Howard J. Trienens, Richard J. Flynn, George L. Saunders, Jr., Lloyd N. Cutler, Daniel K. Mayers, Edward K. Wheeler, Robert B. Claytor, Kenneth H. Ekin, Norman C. Melvin and John S. Shannon* for Baltimore & Ohio Railroad Co. et al.; *Myron S. Isaacs and Homer Kripke* for Oscar Gruss & Son; *Lawrence W. Pollack* for New York, New Haven & Hartford Railroad Co. First Mortgage 4% Bondholders Committee and *Harvey Gelb, Israel Packel and Gordon P. MacDougall* for the City of Scranton and *Milton J. Shapp* on the Applications for Stay. *Messrs. Trienens, Flynn, Saunders, Cutler, Mayers and Wheeler* and *Albert Ritchie* for appellants on the Motion to Advance. *Harry G. Silleck, Jr.*, for Delaware & Hudson Railroad Corp., and *Thomas D. Barr and Eldon Olson* for Erie-Lackawanna Railroad Co. on

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Motions to Consolidate and to Advance. *Solicitor General Griswold* and *Robert W. Ginnane* for the United States and the Interstate Commerce Commission; *Henry P. Sailer* for Pennsylvania Railroad Co. and New York Central Railroad Co.; *James A. Belson* for Boston & Maine Corp.; *Joseph Auerbach*, *James Wm. Moore*, *Robert W. Blanchette*, *Arthur Blasberg, Jr.*, *Robert G. Bleakney, Jr.*, and *Morris Raker* for Trustees of New York, New Haven & Hartford Railroad Co.; and *Samuel Kanell*, Special Assistant to the Attorney General of Connecticut, for the States of Connecticut and Rhode Island in response to Applications for Stay and Motions to Advance.

Reported below: 279 F. Supp. 316. [See 386 U. S. 372.]

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No. —. *McSURELY ET AL. v. RATLIFF*. The application for emergency relief presented to MR. JUSTICE STEWART, and by him referred to the Court, granted to the extent that the seized documents shall remain in their present custody pending further proceedings in the United States District Court for the Eastern District of Kentucky.

This order is conditioned upon the applicants' presentation, within five days, to such District Court of any objections they may have to the validity of the subpoena *duces tecum* issued by the Permanent Subcommittee on Investigations of the Committee on Government Operations of the United States Senate and shall remain in effect pending the ruling of such District Court upon any such objections as may be presented. *Arthur Kinoy*, *William M. Kunstler*, *Morton Stavis* and *Dan Jack Combs* for applicants. *Solicitor General Griswold* for the United States in opposition.

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*Assignment Order.*

An order of THE CHIEF JUSTICE designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Customs and Patent Appeals beginning December 5, 1967, and ending December 6, 1967, 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. —. STASSI *v.* UNITED STATES. Motion to fix place of custody of petitioner denied. *C. Anthony Frieloux, Jr.*, on the motion.

No. 63. SIBRON *v.* NEW YORK. Appeal from Ct. App. N. Y. (probable jurisdiction noted, 386 U. S. 954);

No. 67. TERRY ET AL. *v.* OHIO. Sup. Ct. Ohio (certiorari granted, 387 U. S. 929); and

No. 74. PETERS *v.* NEW YORK. Appeal from Ct. App. N. Y. (probable jurisdiction noted, 386 U. S. 980). Motion of NAACP Legal Defense & Educational Fund, Inc., for leave to participate in the oral argument, as *amicus curiae*, denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Jack Greenberg, James M. Nabrit III, Michael Meltsner, Melvyn Zarr* and *Anthony Amsterdam* on the motion.

No. 528. BERGUIDO ET AL., EXECUTORS *v.* EASTERN AIRLINES, INC. C. A. 3d Cir. The Solicitor General is invited to file a brief expressing the views of the United States. MR. JUSTICE MARSHALL took no part in the consideration or decision of this matter.

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No. 90 et al. PERMIAN BASIN AREA RATE CASES. C. A. 10th Cir. (Certiorari granted, 388 U. S. 906; see also, *ante*, pp. 805, 817.) Motion of Philadelphia Electric Co. for leave to file brief, as *amicus curiae*, granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Vincent P. McDevitt* and *Samuel Graff Miller* on the motion.

No. 694, Misc. *MUIR v. FLORIDA*; and

No. 907, Misc. *ELI v. NELSON, WARDEN*. Motions for leave to file petitions for writs of habeas corpus denied.

No. 456, Misc. *PHILLIPS ET VIR v. KINGSLEY ET AL.*; and

No. 460, Misc. *SHEA v. UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT*. Motions for leave to file petitions for writs of mandamus denied.

*Certiorari Denied*. (See also No. 35, Misc., *ante*, p. 154; and No. 503, Misc., *ante*, p. 154.)

No. 546. *SILVER v. UNITED STATES*. Ct. Cl. Certiorari denied. *Carl L. Shipley, Rufus W. Peckham, Jr.*, and *Samuel Resnicoff* for petitioner. *Solicitor General Griswold* for the United States.

No. 553. *MIDWEST-RALEIGH, INC., ET AL. v. EASTERN GAS & FUEL ASSOCIATES*. C. A. 4th Cir. Certiorari denied. *George B. Mickum III* and *John E. Nolan, Jr.*, for petitioners. *Russell L. Furbee* for respondent. Reported below: 374 F. 2d 451.

No. 558. *LANFRANCONI v. TIDEWATER OIL CO.* C. A. 2d Cir. Certiorari denied. *John P. Connarn* for petitioner. *John T. Fey* for respondent. Reported below: 376 F. 2d 91.

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No. 554. UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, CARPENTERS DISTRICT COUNCIL OF DENVER & VICINITY, AFL-CIO *v.* HENSEL PHELPS CONSTRUCTION Co. C. A. 10th Cir. Certiorari denied. *Wayne D. Williams* and *Howard E. Erickson* for petitioner. *Charles E. Grover* for respondent. Reported below: 376 F. 2d 731.

No. 556. MCINTYRE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Howard R. Lonergan* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Jerome M. Feit* for the United States. Reported below: 380 F. 2d 746.

No. 557. V. E. B. CARL ZEISS JENA ET AL. *v.* CLARK, ATTORNEY GENERAL. C. A. D. C. Cir. Certiorari denied. *Harry I. Rand* for petitioners. *Acting Solicitor General Spritzer*, *Acting Assistant Attorney General Eardley* and *John C. Eldridge* for respondent.

No. 560. WINN-DIXIE GREENVILLE, INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 4th Cir. Certiorari denied. *O. R. T. Bowden* for petitioner. *Acting Solicitor General Spritzer*, *Arnold Ordman*, *Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 379 F. 2d 958.

No. 573. MICHUNOVICH, TREASURER OF YELLOWSTONE COUNTY, ET AL. *v.* WESTERN AIR LINES, INC. Sup. Ct. Mont. Certiorari denied. *Forrest H. Anderson*, Attorney General of Montana, *Donald A. Garrity*, Assistant Attorney General, and *William A. Douglas*, Special Assistant Attorney General, for petitioners. *Art Jardine* for respondent. Reported below: 149 Mont. 347, 428 P. 2d 3.

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No. 561. MARINE INSURANCE CO., LTD. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Joseph T. McGowan* for petitioner. *Acting Solicitor General Spritzer, Acting Assistant Attorney General Eardley, John C. Eldridge* and *Robert E. Kopp* for the United States. Reported below: 378 F. 2d 812.

No. 563. HENDERSON, EXECUTOR *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Wright Matthews* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Rogovin, Meyer Rothwacks* and *Elmer J. Kelsey* for the United States. Reported below: 375 F. 2d 36.

No. 565. FRIEDMAN ET AL. *v.* WALLACH ET AL. Sup. Ct. Mo. Certiorari denied. *David K. Breed* for petitioners. Reported below: 420 S. W. 2d 289.

No. 566. ROYAL AMERICAN INDUSTRIES, INC., ET AL. *v.* MURPHY ET AL. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. *Robert M. Ervin* for petitioners. *Phillip Goldman* for respondents. Reported below: 188 So. 2d 884.

No. 569. CHINA UNION LINES, LTD. *v.* STATES STEAMSHIP Co. C. A. 9th Cir. Certiorari denied. *Francis L. Tetreault* for petitioner. *Graydon S. Staring* for respondent. Reported below: 378 F. 2d 356.

No. 577. ALLIS *v.* ALLIS ET AL. C. A. 5th Cir. Certiorari denied. *Allen Butler* for petitioner. *Paul Carrington* for respondents. Reported below: 378 F. 2d 721.

No. 578. BOSWELL, TRUSTEE *v.* SOSEBEE ET AL. Sup. Ct. Ark. Certiorari denied. *Griffin Smith* for petitioner. *William J. Smith* for respondents. Reported below: 242 Ark. 396, 414 S. W. 2d 380.

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No. 197. *KAPLAN ET AL. v. LEHMAN BROTHERS ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Anthony Bradley Eben* and *Peyton Ford* for petitioners. *Hammond E. Chaffetz* for respondents *Lehman Brothers et al.*, and *John T. Chadwell* and *Richard M. Keck* for respondent New York Stock Exchange. Reported below: 371 F. 2d 409.

MR. CHIEF JUSTICE WARREN, dissenting.

This is no ordinary case. It is of utmost importance to millions of investors, and concerns practices which have an impact on the entire economy of the Nation. It presents for consideration basic principles of antitrust law not previously decided by this Court, and, consequently, is not controlled by precedent. It comes here without representation of the public interest by an agency charged with enforcement of the antitrust laws.

This case draws into question the legality under the Sherman Act of the practice of the New York Stock Exchange in adopting rules fixing minimum rates for the commissions charged by Exchange members for the purchase and sale of securities on the Exchange. Petitioners brought this action pursuant to § 4 of the Clayton Act, 38 Stat. 731, 15 U. S. C. § 15, derivatively on behalf of five mutual fund investment companies of which they are shareholders and representatively on behalf of other shareholders against the New York Stock Exchange and five of its member firms. Their complaint charges that the practice of the Exchange in fixing minimum commission rates for transactions in securities listed on the Exchange constitutes a price-fixing conspiracy under § 1 of the Sherman Act, 26 Stat. 209, as amended, 15 U. S. C. § 1. They sought treble damages, a declaratory judgment, and an injunction, the effect of which would be to restrain the Exchange from interfering with the rights of individual Exchange members to set their

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own competitive rates of commission. The District Court granted summary judgment for the Exchange and member firms. The Court of Appeals for the Seventh Circuit affirmed.

Members of the New York Stock Exchange transact over 90% of all brokerage business in stocks in the United States. Based on the current trading volume, the investing public is now paying over \$1,200,000,000 annually, at the uniform minimum rate, for the privilege of trading on the Exchange. More than 12,000,000 persons own shares listed on the Exchange. Mutual investment funds pay about \$100,000,000 annually in commissions to trade on the Exchange, and over 3,000,000 persons own shares in mutual funds.

Only members can trade on the New York Stock Exchange, and its constitution severely limits membership. Exchange rules set uniform minimum commission rates to be charged by members for transactions on the Exchange. The same commission rate is charged, based on the value of the round lot (100 shares), for each transaction regardless of size; the commission on an order for 10,000 shares is 100 times that on an order for 100 shares. Exchange rules prohibit any "member, allied member, member firm or member corporation" from making "a proposition for the transaction of business at less than the minimum rates of commission." Before a member is allowed trading privileges he must sign a pledge to abide by the constitution and rules of the Exchange, and any member or allied member adjudged guilty of violating the constitution or a rule may be suspended or expelled by the Board of Governors.

This Court has long held that rates fixed by agreement are unreasonable *per se*. *United States v. National Assn. of Real Estate Boards*, 339 U. S. 485, 489 (1950); *United States v. Socony-Vacuum Oil Co.*, 310 U. S. 150, 218 (1940); *United States v. Trenton Potteries Co.*, 273 U. S.

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392, 396-398 (1927). Therefore, the Exchange practice here attacked, just as that in *Silver v. New York Stock Exchange*, 373 U. S. 341 (1963), would, "had it occurred in a context free from other federal regulation, constitute a *per se* violation of § 1 of the Sherman Act." *Id.*, at 347. Here, as in *Silver*, the other federal regulatory scheme is the Securities Exchange Act of 1934, and the clear question presented is whether there is anything "built into the regulatory scheme which performs the antitrust function . . ." *Id.*, at 358.

Section 19 (b) of the Securities Exchange Act, 48 Stat. 898, 15 U. S. C. § 78s (b), authorizes the SEC by certain procedures "to alter or supplement the rules" of the Exchange "in respect of such matters as . . . (9) the fixing of reasonable rates of commission . . ." Respondents contend that this provision sufficiently demonstrates the SEC performs a supervisory function in respect of the Exchange's rate-fixing to exempt the practice from review under the antitrust laws. Petitioners claim that for many reasons the possibility of SEC review is an insufficient substitute for application of the antitrust laws. For example, the SEC's review of rates is discretionary. Further, the regulatory scheme fails specifically to enjoin the SEC, in determining what rates are reasonable, to "enforce the competitive standard," *United States v. Philadelphia National Bank*, 374 U. S. 321, 351 (1963), and furthermore neither the SEC nor the Exchange has ever articulated any standard of reasonableness. Petitioners also claim that the underlying data used by the SEC in reviewing each of the five rate increases since 1934 have been essentially those supplied by the Exchange, and have been very limited in scope and content. Finally, they claim that if and when the SEC exercises its discretion to review rates, it is not required to hold a hearing, and because the matter is committed to the

SEC's discretion, there is no effective judicial remedy to require it to initiate a rate proceeding.

If, as petitioners claim, the regulatory scheme provides no assurance that antitrust policy will be implemented, perhaps a repeal of the antitrust law may be implied "if necessary to make the Securities Exchange Act work, and even then only to the minimum extent necessary." *Silver v. New York Stock Exchange, supra*, at 357. However, "[r]epeals of the antitrust laws by implication from a regulatory statute are strongly disfavored." *United States v. Philadelphia National Bank, supra*, at 350. Moreover, petitioners claim that nothing about the Securities Exchange Act or the workings of the Exchange requires that the Exchange set minimum rates.

The court below, in a two-page opinion, held that a repeal of the antitrust laws was required to make the Securities Exchange Act work, and that "the self-regulatory function of the exchange has been exercised by virtue of § 19 (b)," 371 F. 2d, at 411. In my view, this blunderbuss approach falls far short of the close analysis and delicate weighing process mandated by this Court's opinion in *Silver*.

The importance of the New York Stock Exchange in the functioning and livelihood of this Nation cannot be gainsaid. Ever-increasing millions of persons and billions of dollars are affected by the Exchange's practices. Without expressing any final view on the merits of the controversy, I am concerned that the law on this subject is to be permitted to lie where it has aimlessly fallen by virtue of the scanty opinion below. In my judgment, the claims advanced by petitioners raise important questions not only as to the compatibility of the Exchange's rate-fixing practice with this Nation's commitment, embodied in the antitrust laws, to competitive pricing,

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but also as to the fulfillment of the goal of investor protection embodied in the securities laws.

I would grant certiorari and invite the Solicitor General to participate in argument so that the public interest may be fully explored.

No. 579. *FERRELL v. FULTON*, U. S. DISTRICT JUDGE. C. A. 5th Cir. Certiorari denied. *Hilton R. Carr, Jr., Herbert A. Warren, Jr., and E. David Rosen* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Rogovin, Joseph M. Howard and John P. Burke* for respondent.

No. 580. *TENNESSEE PACKERS, INC., FROSTY MORN DIVISION v. NATIONAL LABOR RELATIONS BOARD*. C. A. 6th Cir. Certiorari denied. *George V. Gardner* for petitioner. *Acting Solicitor General Spritzer, Arnold Ordman, Dominick L. Manoli, Norton J. Come and George B. Driesen* for respondent. Reported below: 379 F. 2d 172.

No. 511. *BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA v. SOUTHERN RAILWAY Co.* C. A. 4th Cir. Certiorari denied. *THE CHIEF JUSTICE, MR. JUSTICE FORTAS, and MR. JUSTICE MARSHALL* would grant the writ for the reasons stated in the dissent in *Transportation-Communication Employees Union v. Union Pacific R. Co.*, 385 U. S. 157, 168 (1966). *Charles T. Boyd, Harold C. Heiss and Donald W. Bennett* for petitioner. *Charles A. Horsky* for respondent. Reported below: 380 F. 2d 59.

No. 641. *HALL v. NATIONAL FARMERS ORGANIZATION, INC.* C. A. 7th Cir. Certiorari denied. *William D. Hall*, petitioner, *pro se.* *Lee D. Sinclair and Alan W. Boyd* for respondent.

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No. 582. TRIPLE "AAA" Co., INC., ET AL. v. WIRTZ, SECRETARY OF LABOR. C. A. 10th Cir. Certiorari denied. *John B. Ogden* for petitioners. *Acting Solicitor General Spritzer, Charles Donahue, Bessie Margolin and Robert E. Nagle* for respondent. Reported below: 378 F. 2d 884.

No. 564. GEAREY v. UNITED STATES. C. A. 2d Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Marvin M. Karpatkin, Rhoda H. Karpatkin, Melvin L. Wulf and Alan H. Levine* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Jerome M. Feit and Ronald L. Gainer* for the United States. Reported below: 379 F. 2d 915.

No. 572. MOORMAN ET UX. v. THOMAS ET AL. Sup. Ct. Fla. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *David R. Lewis* for petitioners. *W. Warren Cole, Jr.*, for respondents. Reported below: 199 So. 2d 719.

No. 575. NATIONAL LABOR RELATIONS BOARD v. PURITY FOOD STORES, INC. (SAV-MORE FOOD STORES). C. A. 1st Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Acting Solicitor General Spritzer, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for petitioner. *Harold Katz* for respondent. Reported below: 376 F. 2d 497.

No. 268, Misc. CHERO v. NEW YORK. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied.

No. 316, Misc. BROWN v. MAXWELL, WARDEN. Sup. Ct. Ohio. Certiorari denied. *John T. Corrigan* for respondent.

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No. 576. *LEVY v. CORCORAN*, U. S. DISTRICT JUDGE. C. A. D. C. Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Charles Morgan, Jr., Melvin L. Wulf, Alan H. Levine, Lawrence Speiser, Ralph J. Temple and Anthony G. Amsterdam* for petitioner. *Acting Solicitor General Spritzer* for respondent. Reported below: — U. S. App. D. C. —, 389 F. 2d 929.

No. 609. *MOIST ET AL. v. BELK*, RECEIVER FOR BROOKDALE CEMETERY ASSOCIATION, ET AL. C. A. 6th Cir. Motion for security for costs and for supersedeas bond denied. Certiorari denied. *August F. Brandt* for petitioners. *A. Albert Sugar* for respondent Belk, *Arthur M. Lang* for respondents Lewis et al., *Robert E. Plunkett* for respondent Beattie; and *Constantine A. Tsangadas, John R. Starrs and Ralph W. McKenney*, respondents, *pro se*. Reported below: 380 F. 2d 721.

No. 16, Misc. *WATSON ET AL. v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. *Earl Faircloth*, Attorney General of Florida, and *George R. Georgieff*, Assistant Attorney General, for respondent. Reported below: 190 So. 2d 161.

No. 199, Misc. *DESIMONE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Frank A. Lopez* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Mervyn Hamburg* for the United States.

No. 454, Misc. *SCHACK v. MEADOWS*, U. S. ATTORNEY. C. A. 5th Cir. Certiorari denied.

No. 472, Misc. *NEELY v. CAVELL*, CORRECTIONAL SUPERINTENDENT. C. A. 3d Cir. Certiorari denied.

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No. 319, Misc. *STONE v. HALL*, U. S. DISTRICT JUDGE. C. A. 9th Cir. Certiorari denied. *Acting Solicitor General Spritzer* for respondent.

No. 394, Misc. *CORDLE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. *Acting Solicitor General Spritzer* for the United States. Reported below: 377 F. 2d 522.

No. 395, Misc. *WOODY v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *Justin R. Wolf* for petitioner. *Acting Solicitor General Spritzer* for the United States. Reported below: 126 U. S. App. D. C. 353, 379 F. 2d 130.

No. 504, Misc. *GAINES v. CALIFORNIA*. Super. Ct. Cal., County of Contra Costa. Certiorari denied.

No. 505, Misc. *THOMPSON v. CALIFORNIA ET AL.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 508, Misc. *BEY v. PATE, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 510, Misc. *BRUNETTE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Acting Solicitor General Spritzer* for the United States. Reported below: 378 F. 2d 18.

No. 531, Misc. *REALMUTO v. WALLACK, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 537, Misc. *FALGOUT v. COLORADO*. C. A. 10th Cir. Certiorari denied.

No. 581, Misc. *JOHNSON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *Acting Solicitor General Spritzer* for the United States. Reported below: 363 F. 2d 333.

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No. 539, Misc. GALLEGOS ET AL. *v.* PATTERSON, WARDEN. C. A. 10th Cir. Certiorari denied.

No. 544, Misc. KENNER *v.* WAYNE COUNTY PROSECUTOR ET AL. C. A. 6th Cir. Certiorari denied.

No. 549, Misc. BANAS *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. Reported below: 34 Wis. 2d 468, 149 N. W. 2d 571.

No. 560, Misc. LADUTKO *v.* GREEN, CORRECTIONAL SUPERINTENDENT. C. A. 6th Cir. Certiorari denied.

No. 561, Misc. L'ITALIEN *v.* MASSACHUSETTS. Super. Ct. Mass. Certiorari denied. *David B. Kaplan* for petitioner. *John P. S. Burke* for respondent.

No. 562, Misc. WEAVER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 379 F. 2d 799.

No. 567, Misc. FITZGERALD *v.* OLIVER, WARDEN. Sup. Ct. Cal. Certiorari denied.

No. 568, Misc. STEVENSON *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 380 F. 2d 590.

No. 601, Misc. LEWIS *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Sol Zalel Rosen* for petitioner. *Acting Solicitor General Spritzer* for the United States. Reported below: 127 U. S. App. D. C. 269, 382 F. 2d 817.

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No. 570, Misc. *GOBIE v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 380 F. 2d 57.

No. 571, Misc. *TURNER v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 249 Cal. App. 2d 909, 57 Cal. Rptr. 854.

No. 579, Misc. *TILLMAN v. OLIVER, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 582, Misc. *BOLES v. BETO, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied. Reported below: 379 F. 2d 614.

No. 586, Misc. *HUARNECK v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. *Frank S. Hogan* and *Michael Juviler* for respondent.

No. 587, Misc. *DIAMOND v. RUNDLE, WARDEN, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 590, Misc. *FARRELL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 381 F. 2d 368.

No. 598, Misc. *DORSEY v. NELSON, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 599, Misc. *KNIGHTEN v. FIELD, MENS COLONY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied.

No. 604, Misc. *SCHACK v. FLORIDA*. C. A. 5th Cir. Certiorari denied.

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No. 606, Misc. *STILTNER v. RHAY*, PENITENTIARY SUPERINTENDENT. C. A. 9th Cir. Certiorari denied.

No. 608, Misc. *SATERFIELD v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: 65 Cal. 2d 752, 423 P. 2d 266.

No. 609, Misc. *CHERO v. NEW YORK*. Ct. App. N. Y. Certiorari denied.

No. 266, Misc. *NELSON v. OREGON*. Sup. Ct. Ore. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *George Van Hoomissen* and *Jacob B. Tanzer* for respondent. Reported below: 246 Ore. 321, 424 P. 2d 223.

No. 379, Misc. *WILKINS ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Fred Blanton, Jr.*, for petitioners. *Solicitor General Marshall*, *Assistant Attorney General Doar*, *Louis F. Claiborne* and *David L. Norman* for the United States. Reported below: 376 F. 2d 552.

*Rehearing Denied.*

No. 169. *KITCHEN v. REESE ET AL.*, *ante*, p. 850;

No. 287. *ABBOUD v. NEBRASKA*, *ante*, p. 848;

No. 362. *NIEDZIEJKO ET AL. v. BOARD OF FIRE AND POLICE COMMISSIONERS OF THE CITY OF MILWAUKEE*, *ante*, p. 848;

No. 185, Misc. *PECK v. TORONTO ET AL.*, *ante*, p. 868;

No. 331, Misc. *OLSHEN v. McMANN*, WARDEN, *ante*, p. 874;

No. 372, Misc. *LEE v. CALIFORNIA*, *ante*, p. 876; and

No. 378, Misc. *CAREY v. GEORGE WASHINGTON UNIVERSITY*, *ante*, p. 877. Petitions for rehearing denied.

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No. 427, Misc. SALGADO *v.* CALIFORNIA, *ante*, p. 878;  
and

No. 522, Misc. OUGHTON *v.* MEIER, WARDEN, *ante*,  
p. 808. Petitions for rehearing denied.

No. 282. EAST BATON ROUGE PARISH SCHOOL BOARD  
ET AL. *v.* DAVIS ET AL., *ante*, p. 840. Petition for rehear-  
ing denied. MR. JUSTICE MARSHALL took no part in the  
consideration or decision of this petition.

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*Miscellaneous Orders.*

No. 47. GINSBERG *v.* NEW YORK. Appeal from App.  
Term, Sup. Ct. N. Y., 2d Jud. Dept. (probable jurisdic-  
tion noted, 388 U. S. 904); and

No. 64. UNITED ARTISTS CORP. *v.* CITY OF DALLAS.  
Appeal from Ct. Civ. App. Tex., 5th Sup. Jud. Dist.  
(probable jurisdiction noted, 387 U. S. 903). Motion  
for leave to file brief of American Civil Liberties Union  
et al., as *amici curiae*, granted. Motion of Authors  
League of America, Inc., for leave to file brief, as *amicus*  
*curiae*, in No. 64 granted. *Osmond K. Fraenkel, Edward*  
*J. Ennis, Melvin L. Wulf* and *Alan H. Levine* for Amer-  
ican Civil Liberties Union et al. on the motion urging  
reversal in both cases. *Irwin Karp* for Authors League  
of America, Inc., on the motion urging reversal in No. 64.  
*N. Alex Bickley* and *Ted P. MacMaster* for the City of  
Dallas in opposition to the motions in No. 64.

No. 995, Misc. IN RE DISBARMENT OF ELLIS. It is  
ordered that John Flather Ellis of Washington, District  
of Columbia, be suspended from the practice of law in  
this Court and that a rule issue, returnable within forty  
days, requiring him to show cause why he should not  
be disbarred from the practice of law in this Court.

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No. 133. KOLOD ET AL. *v.* UNITED STATES, *ante*, p. 834. The Solicitor General is requested to file a response to petition for rehearing within thirty days. MR. JUSTICE MARSHALL took no part in the consideration or decision of this order.

The Solicitor General is invited to file a brief in each of the following cases expressing the views of the United States:

No. 378. O'REILLY *v.* BOARD OF MEDICAL EXAMINERS OF THE STATE OF CALIFORNIA. Sup. Ct. Cal.;

No. 661. ALLEN ET AL. *v.* STATE BOARD OF ELECTIONS ET AL. Appeal from D. C. E. D. Va.; and

No. 665. PAUL H. ASCHKAR & Co. *v.* KAMEN & Co. ET AL. C. A. 9th Cir.

No. 726. MATHIS *v.* UNITED STATES. C. A. 5th Cir. (Certiorari granted, *ante*, p. 896.) Motion of petitioner for the appointment of counsel granted. It is ordered that *Nicholas J. Capuano, Esquire*, of Miami, Florida, a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for petitioner in this case. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

No. 408, Misc. STEPPE *v.* FLORIDA. Motion for leave to file petition for writ of habeas corpus denied. *Earl Faircloth*, Attorney General of Florida, and *Jesse J. McCrary, Jr.*, Assistant Attorney General, for respondent.

No. 690, Misc. BLAIR *v.* KROPP, WARDEN;

No. 711, Misc. SMITH *v.* PATE, WARDEN;

No. 713, Misc. BOWMAN *v.* RHAY, PENITENTIARY SUPERINTENDENT, ET AL.;

No. 741, Misc. BARTZ *v.* FLORIDA; and

No. 756, Misc. BAILEY *v.* KROPP, WARDEN. Motions for leave to file petitions for writs of habeas corpus denied.

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No. 75. LEE, CORRECTIONS COMMISSIONER, ET AL. v. WASHINGTON ET AL. Appeal from D. C. M. D. Ala. Motion of appellants for leave to file supplemental brief after argument granted. *MacDonald Gallion*, Attorney General of Alabama, *Gordon Madison*, Assistant Attorney General, *Nicholas S. Hare*, Special Assistant Attorney General, for Lee et al., and *J. M. Breckenridge* for Austin, appellants, on the motion. [For earlier order, see 387 U. S. 928.]

No. 661, Misc. BOSTON & PROVIDENCE RAILROAD STOCKHOLDERS DEVELOPMENT GROUP v. UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT ET AL. (See No. 624, *infra*, p. 974.) Motion to dispense with printing extra copies of Appendix C to petition granted. Motion for leave to file petition for writ of mandamus denied. *Armistead B. Rood* on the motions. Briefs in opposition to the latter motion were filed by *James Garfield*, *James Wm. Moore* and *Robert W. Blanchette* for Smith et al., Trustees of the property of New York, New Haven & Hartford Railroad Co.; *Robert W. Meserve* for Boston & Providence Railroad Corp. Stockholders Committee; *Acting Solicitor General Spritzer* for the United States; and by *Charles Y. Wadsworth* for Boston & Providence Railroad Corp. Reported below: See 260 F. Supp. 415.

*Probable Jurisdiction Noted.*

No. 597. UNITED STATES v. UNITED SHOE MACHINERY CORP. Appeal from D. C. Mass. Probable jurisdiction noted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this case. *Acting Solicitor General Spritzer*, *Assistant Attorney General Turner*, *Howard E. Shapiro* and *Margaret H. Brass* for the United States. *Ralph M. Carson*, *Conrad W. Oberdorfer*, *Taggart Whipple*, *Robert D. Salinger* and *Louis L. Stanton, Jr.*, for appellee. Reported below: 266 F. Supp. 328.

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*Certiorari Granted.* (See also No. 4, Misc., *ante*, p. 214.)

No. 600. RED LION BROADCASTING Co., INC., ET AL. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL. C. A. D. C. Cir. *Certiorari granted.* *Roger Robb* and *H. Donald Kistler* for petitioners. *Solicitor General Griswold*, *Assistant Attorney General Turner*, *Henry Geller* and *Robert D. Hadl* for respondents. *Amicus curiae* briefs were filed by *Lawrence J. McKay*, *Raymond L. Falls, Jr.*, and *Thomas E. Ervin* for National Broadcasting Co., Inc., and *Lloyd N. Cutler*, *J. Roger Wollenberg*, *Timothy B. Dyk*, *Leon R. Brooks* and *Herbert Wechsler* for Columbia Broadcasting System, Inc. Reported below: 127 U. S. App. D. C. 129, 381 F. 2d 908.

No. 154. MILLER *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist. *Certiorari granted limited to Questions 1 and 2 presented by the petition which read as follows:*

"1. Whether the introduction of admissions made to an undercover agent planted in petitioner's jail cell constituted a violation of petitioner's constitutional rights to counsel and against self-incrimination.

"2. Whether inculpatory admissions, obtained under circumstances like those here involved, can ever constitute harmless error."

*F. Lee Bailey* and *Alan M. Dershowitz* for petitioner. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *Philip C. Griffin*, Deputy Attorney General, for respondent. Reported below: 245 Cal. App. 2d 112, 53 Cal. Rptr. 720.

No. 645. JONES ET UX. *v.* ALFRED H. MAYER CO. ET AL. C. A. 8th Cir. *Certiorari granted.* *Sol Rabkin*, *Joseph B. Robison*, *Robert L. Carter* and *Paul Hartman* for petitioners. *Acting Solicitor General Spritzer*, *Assistant Attorney General Doar*, *Louis F. Claiborne* and *Richard A. Posner* for the United States, as *amicus curiae*, in support of the petition. Reported below: 379 F. 2d 33.

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No. 616. JOINT INDUSTRY BOARD OF THE ELECTRICAL INDUSTRY ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari granted. *Harold Stern* for petitioners. *Solicitor General Griswold, Acting Assistant Attorney General Pugh* and *Crombie J. D. Garrett* for the United States. Reported below: 379 F. 2d 211.

No. 563, Misc. HARRISON *v.* UNITED STATES. C. A. D. C. Cir. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted and case transferred to appellate docket. *Alfred V. J. Prather* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson* and *Jerome M. Feit* for the United States. Reported below: — U. S. App. D. C. —, 387 F. 2d 203.

No. 639. GLONA *v.* AMERICAN GUARANTEE & LIABILITY INSURANCE CO. ET AL. C. A. 5th Cir. Certiorari granted and case set for oral argument immediately following No. 508 (see *ante*, p. 925). *Benjamin E. Smith* for petitioner. *Frank S. Normann* for respondents. Reported below: 379 F. 2d 545.

No. 618. FORTNIGHTLY CORP. *v.* UNITED ARTISTS TELEVISION, INC. C. A. 2d Cir. Motion of National Community Television Association, Inc., for leave to file a brief, as *amicus curiae*, granted. Certiorari granted and case set for oral argument immediately following Nos. 363 and 428 (see *ante*, p. 911). The Solicitor General is invited to file a brief expressing the views of the United States. MR. JUSTICE MARSHALL took no part in the consideration or decision of this case. *Robert C. Barnard, R. Michael Duncan* and *E. Stratford Smith* for petitioner. *Louis Nizer, Gerald Meyer* and *Lawrence S. Lesser* for respondent. *Bruce E. Lovett* for National Community Television Association, Inc., as *amicus curiae*, in support of the petition. Reported below: 377 F. 2d 872.

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No. 630. UNITED STATES ET AL. *v.* COLEMAN ET AL. C. A. 9th Cir. Certiorari granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Acting Solicitor General Spritzer, Assistant Attorney General Weisl, Robert S. Rifkind, Roger P. Marquis and George R. Hyde* for the United States et al. *George W. Nilsson, W. Howard Gray, Howard A. Twitty and Edward A. McCabe* for respondents. Reported below: 363 F. 2d 190 and 379 F. 2d 555.

*Certiorari Denied.* (See also No. 353, *ante*, p. 327; and No. 619, *ante*, p. 214.)

No. 348. BENEFICIAL FINANCE CO., INC. *v.* VINE. C. A. 2d Cir. Certiorari denied. *Wilkie Bushby and Joseph Schreiber* for petitioner. *Lawrence M. Powers* for respondent. Reported below: 374 F. 2d 627.

No. 353.\* BROTHERHOOD OF LOCOMOTIVE FIREMEN & ENGINEMEN ET AL. *v.* BANGOR & AROOSTOOK RAILROAD CO. ET AL. C. A. D. C. Cir. Certiorari denied. *Joseph L. Rauh, Jr., John Silard, Harriett R. Taylor, Isaac N. Groner, Harold C. Heiss, Donald W. Bennett, Alex Elson, Willard J. Lassers and Aaron S. Wolff* for petitioners. *Francis M. Shea, Richard T. Conway, James R. Wolfe and Charles I. Hopkins, Jr.*, for respondents. Reported below: 127 U. S. App. D. C. 23, 380 F. 2d 570.

No. 534. BENCOMO *v.* BENCOMO. Sup. Ct. Fla. Certiorari denied. *Daniel L. Ginsberg* for petitioner. *Sam I. Silver* for respondent. Reported below: 200 So. 2d 171.

No. 589. SALARDINO ET AL. *v.* CITY AND COUNTY OF DENVER. Sup. Ct. Colo. Certiorari denied. *William Hurt Erickson* for petitioners. *Max P. Zall* for respondent.

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\*[REPORTER'S NOTE: For *per curiam* opinion vacating this order, see *ante*, p. 327.]

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No. 581. JAPANESE WAR NOTES CLAIMANTS ASSOCIATION OF THE PHILIPPINES, INC. *v.* UNITED STATES. Ct. Cl. Certiorari denied. *Lawrence C. Moore* for petitioner. *Solicitor General Griswold* for the United States. Reported below: 178 Ct. Cl. 630, 373 F. 2d 356.

No. 583. GRAHAM ET UX. *v.* HODGES ET AL.; and

No. 584. FELTON *v.* HODGES ET AL. C. A. 5th Cir. Certiorari denied. *Henry R. Carr* and *Phillip A. Hubbard* for petitioners in each case. *Earl Faircloth*, Attorney General of Florida, and *Robert A. Chastain*, Assistant Attorney General, for respondents in both cases. Reported below: No. 583, 374 F. 2d 340; No. 584, 374 F. 2d 337.

No. 585. SCHWEITZER ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 3d Cir. Certiorari denied. *Nicholas R. Doman* for petitioners. *Acting Solicitor General Spritzer*, *Assistant Attorney General Rogovin*, *Harold C. Wilkenfeld* and *Jeanine Jacobs* for respondent. Reported below: 376 F. 2d 30.

No. 586. WOOD, WIRE & METAL LATHERS INTERNATIONAL UNION, AFL-CIO, ET AL. *v.* DUNLOP ET AL. C. A. D. C. Cir. Certiorari denied. *Mozart G. Ratner* for petitioner Wood, Wire & Metal Lathers International Union, AFL-CIO, and *Jerome H. Simonds* for petitioner Employing Lathers Association of Greater New York & Vicinity et al. Reported below: 127 U. S. App. D. C. 227, 382 F. 2d 176.

No. 587. LITTON *v.* VIRGINIA. Sup. Ct. App. Va. Certiorari denied. *H. E. Widener, Jr.*, for petitioner.

No. 595. GARVIN ET AL. *v.* CHILDERS. C. A. 6th Cir. Certiorari denied. *Marshall Funk* for petitioners. *Maxey B. Harlin* for respondent.

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No. 590. GRAY *v.* PORTER. Ct. App. Md. Certiorari denied. Reported below: 245 Md. 713, 228 A. 2d 441.

No. 592. SWANSON *v.* FLORIDA BAR ET AL. C. A. 5th Cir. Certiorari denied. *Will O. Murrell* for petitioner. *William H. Adams III* for respondents. Reported below: 381 F. 2d 730.

No. 598. LINCOLN MANUFACTURING Co., INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 7th Cir. Certiorari denied. *Burton Y. Weitzenfeld* for petitioner. *Acting Solicitor General Spritzer, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for respondent. Reported below: 382 F. 2d 411.

No. 599. COUNTY OF WAYNE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *Aloysius J. Suchy and William F. Koney* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Rogovin, Joseph Kovner and Edward Lee Rogers* for the United States. *Frank J. Kelley, Attorney General, Robert A. Derengoski, Solicitor General, and T. Carl Holbrook and William D. Dexter, Assistant Attorneys General, for the State of Michigan, and Julius C. Pliskow for the City of Detroit, as amici curiae,* in support of the petition. Reported below: 378 F. 2d 671.

No. 603. SANTOS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Henry Rothblatt and Emma Alden Rothblatt* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Jerome M. Feit and Kirby W. Patterson* for the United States. Reported below: 381 F. 2d 993.

No. 612. DEL GUERCIO *v.* JAMES. Ct. App. N. Y. Certiorari denied. *John C. Marbach* for petitioner. *Reuben Sirlin* for respondent.

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No. 605. *HOBAN v. UNITED STATES*. Ct. Cl. Certiorari denied. *Carl L. Shipley, Rufus W. Peckham, Jr., and Samuel Resnicoff* for petitioner. *Solicitor General Griswold* for the United States.

No. 606. *WILKIN v. SUNBEAM CORP.* C. A. 10th Cir. Certiorari denied. *Dale M. Stucky* for petitioner. *Walther E. Wyss, George R. Clark and Malcolm Miller* for respondent. Reported below: 377 F. 2d 344.

No. 607. *PRECISE IMPORTS CORP. ET AL. v. KELLY, COLLECTOR OF CUSTOMS OF THE PORT OF NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied. *Jacob W. Friedman* for petitioners. *Acting Solicitor General Spritzer* for respondents. Reported below: 378 F. 2d 1014.

No. 608. *KNOHL v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Murray I. Gurfein* for petitioner. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg and Kirby W. Patterson* for the United States. Reported below: 379 F. 2d 427.

No. 610. *LINCOLN NATIONAL LIFE INSURANCE CO. v. RATAY*. C. A. 3d Cir. Certiorari denied. *Alexander Black* for petitioner. *Samuel J. Goldstein* for respondent. Reported below: 378 F. 2d 209.

No. 613. *GEORGE EPCAR CO. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *Edwin Jason Dryer* for petitioner. *Acting Solicitor General Spritzer, Acting Assistant Attorney General Eardley and John C. Eldridge* for the United States. Reported below: 377 F. 2d 225.

No. 615. *ARO CORP. v. CITRON*. C. A. 3d Cir. Certiorari denied. *George B. Newitt and J. Robert Maxwell* for petitioner. *Eugene F. Buell* for respondent. Reported below: 377 F. 2d 750.

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No. 617. GENERAL PRECISION, INC. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. 3d Cir. Certiorari denied. *David L. Benetar* for petitioner. *Acting Solicitor General Spritzer, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 381 F. 2d 61.

No. 621. BARBATO, TRUSTEE IN BANKRUPTCY *v.* LIVINGSTON NATIONAL BANK. C. A. 3d Cir. Certiorari denied. *Allan L. Tumarkin* for petitioner. *Herman D. Michels* and *Roger L. Toner* for respondent. Reported below: 380 F. 2d 116.

No. 622. BRANDYWINE-MAIN LINE RADIO, INC., ET AL. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL. C. A. D. C. Cir. Certiorari denied. *Roger Robb* and *H. Donald Kistler* for petitioners. *Acting Solicitor General Spritzer* and *Henry Geller* for respondents.

No. 624. BOSTON & PROVIDENCE RAILROAD STOCKHOLDERS DEVELOPMENT GROUP *v.* BARTLETT, TRUSTEE IN BANKRUPTCY, ET AL. C. A. 1st Cir. (See No. 661, Misc., *supra*, p. 967.) Certiorari denied. *Armistead B. Rood* for petitioner. *James Garfield, James Wm. Moore* and *Robert W. Blanchette* for respondents Smith et al., Trustees of the property of New York, New Haven & Hartford Railroad Co., *Robert W. Meserve* for respondent Boston & Providence Railroad Corp. Stockholders Committee, *Charles Y. Wadsworth* for respondent Boston & Providence Railroad Corp., and *Acting Solicitor General Spritzer* for respondent United States. Reported below: See 260 F. Supp. 415.

No. 625. DREW *v.* LAWRIEMORE ET AL. C. A. 4th Cir. Certiorari denied. *E. N. Zeigler* for petitioner. *Solicitor General Griswold* for respondents. Reported below: 380 F. 2d 479.

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No. 626. DEANE HILL COUNTRY CLUB, INC. *v.* CITY OF KNOXVILLE ET AL. C. A. 6th Cir. Certiorari denied. *William Earl Badgett* for petitioner. *Milton P. Rice*, Assistant Attorney General of Tennessee, for respondent *McCanless*. Reported below: 379 F. 2d 321.

No. 631. LOUISIANA POWER & LIGHT CO. *v.* CITY OF THIBODAUX. C. A. 5th Cir. Certiorari denied. *Malcolm L. Monroe* and *Andrew P. Carter* for petitioner. *Paul M. Hebert* for respondent. Reported below: 373 F. 2d 870.

No. 634. BRENNAN *v.* UDALL, SECRETARY OF THE INTERIOR. C. A. 10th Cir. Certiorari denied. *John J. Wilson* for petitioner. *Acting Solicitor General Spritzer*, *Acting Assistant Attorney General Williams*, *Roger P. Marquis* and *S. Billingsley Hill* for respondent. Reported below: 379 F. 2d 803.

No. 640. PORTLAND CEMENT CO. OF UTAH *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. *Gerald R. Miller* for petitioner. *Acting Solicitor General Spritzer*, *Acting Assistant Attorney General Pugh* and *Grant W. Wiprud* for the United States. Reported below: 378 F. 2d 91.

No. 642. ZUSMANN, TRUSTEE IN BANKRUPTCY *v.* NATIONAL ACCEPTANCE CO. C. A. 5th Cir. Certiorari denied. *Morris W. Macey* for petitioner. *Nolan B. Harmon* for respondent. Reported below: 379 F. 2d 351.

No. 647. GOON MEE HEUNG *v.* IMMIGRATION AND NATURALIZATION SERVICE. C. A. 1st Cir. Certiorari denied. *Joseph F. O'Neil* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Paul C. Summitt* for respondent. Reported below: 380 F. 2d 236.

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No. 633. CROSBY VALVE & GAGE CO., FORMERLY CROSBY STEAM GAGE & VALVE CO. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 1st Cir. Certiorari denied. *Matthew Brown* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Rogovin, Harry Baum* and *Albert J. Beveridge III* for respondent. Reported below: 380 F. 2d 146.

No. 643. AGAJAN ET AL. *v.* CLARK, ATTORNEY GENERAL. C. A. D. C. Cir. Certiorari denied. *A. Noble McCartney* for petitioners. *Acting Solicitor General Spritzer* for respondent. Reported below: 127 U. S. App. D. C. 158, 381 F. 2d 937.

No. 644. FROHMANN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. *Albert J. Haller* for petitioner. *Solicitor General Griswold, Assistant Attorney General Rogovin* and *Joseph M. Howard* for the United States. Reported below: 380 F. 2d 832.

No. 646. HELMSLEY *v.* CITY OF DETROIT ET AL. C. A. 6th Cir. Certiorari denied. *James P. Mattimoe* for petitioner. *Julius C. Pliskow* for City of Detroit et al., and *Aloysius J. Suchy* and *William F. Koney* for County of Wayne et al., respondents. Reported below: 380 F. 2d 169.

No. 650. MANION *v.* HOLZMAN ET AL. C. A. 7th Cir. Certiorari denied. *Francis D. Morrissey* for petitioner. Reported below: 379 F. 2d 843.

No. 651. GLADSTONE ET AL. *v.* BOARD OF EDUCATION OF THE CITY OF NEW YORK. Ct. App. N. Y. Certiorari denied. *Morris Weissberg* for petitioners. *J. Lee Rankin* and *Stanley Buchsbaum* for respondent. Reported below: 19 N. Y. 2d 1004, 228 N. E. 2d 821.

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No. 652. *BARD ET AL. v. DASHO ET AL.* C. A. 7th Cir. Certiorari denied. *Allen E. Throop* for Bard et al., and *Samuel Weisbard* for Lauhoff, petitioners. *Malcolm M. Gaynor* for respondents. Reported below: 380 F. 2d 262.

No. 654. *FARKAS v. TEXAS INSTRUMENTS, INC., ET AL.* C. A. 5th Cir. Certiorari denied. *William D. Neary* for respondent Texas Instruments, Inc. Reported below: 375 F. 2d 629.

No. 655. *LONE STAR STEEL CO. v. MCGEE.* C. A. 5th Cir. Certiorari denied. *Spencer C. Relyea III* for petitioner. *Franklin Jones, Sr.*, for respondent. Reported below: 380 F. 2d 640.

No. 662. *ETS-HOKIN & GALVAN, INC. v. MAAS TRANSPORT, INC., ET AL.* C. A. 8th Cir. Certiorari denied. *Jesse Feldman* for petitioner. *Dean Winkjer* for Maas Transport, Inc., and *Frank F. Jestrab* for Lawrence Transportation, respondents. Reported below: 380 F. 2d 258.

MR. JUSTICE MARSHALL took no part in the consideration or decision of the petitions in the following cases (beginning with No. 88 on this page and extending through No. 603, Misc., on p. 978):

No. 88. *BROWN v. UNITED STATES.* C. A. D. C. Cir. Certiorari denied. *Raymond W. Bergon* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States.

No. 471. *PEELER ET UX. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *J. René Hawkins* for petitioners. *Acting Solicitor General Spritzer, Assistant Attorney General Rogovin, Grant W. Wiprud* and *Thomas L. Stapleton* for the United States. Reported below: 377 F. 2d 531.

No. 475. *WOOD ET UX. v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. *Clarence P. Brazill, Jr.*, for peti-

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tioners. *Acting Solicitor General Spritzer, Assistant Attorney General Rogovin, Grant W. Wiprud and Thomas L. Stapleton* for the United States. Reported below: 377 F. 2d 300.

No. 604. ROYALTON STONE CORP. ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE; and

No. 750. COMMISSIONER OF INTERNAL REVENUE *v.* ROYALTON STONE CORP. ET AL. C. A. 2d Cir. Certiorari denied. *John G. Putnam, Jr.*, for petitioners in No. 604. *Acting Solicitor General Spritzer, Assistant Attorney General Rogovin and Grant W. Wiprud* for petitioner in No. 750 and for respondent in No. 604. Reported below: 379 F. 2d 298.

No. 683. GREEN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *William R. Frazier* for petitioner. *Solicitor General Griswold, Acting Assistant Attorney General Pugh and Grant W. Wiprud* for the United States. Reported below: 377 F. 2d 550.

No. 43, Misc. KENT *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Solicitor General Marshall, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States.

No. 70, Misc. BLACKWELL *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *William J. Garber* for petitioner. *Solicitor General Marshall, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States.

No. 540, Misc. O'BERY *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 126 U. S. App. D. C. 387, 379 F. 2d 164.

No. 603, Misc. SCHACK *v.* BOARDMAN, U. S. ATTORNEY. C. A. 5th Cir. Certiorari denied. *Solicitor General Griswold* for respondent.

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No. 145. BECKER ET AL. v. PHILCO CORP. C. A. 4th Cir. Certiorari denied. *Robert Sheriffs Moss* for petitioners. *Laidler B. Mackall* and *Karl E. Wolf* for respondent. Reported below: 372 F. 2d 771.

MR. CHIEF JUSTICE WARREN, dissenting.

This is an important case affecting the rights of millions of workers to vindicate their reputations and to make a living in the military-private industrial complex. See *Greene v. McElroy*, 360 U. S. 474, 507, n. 31 (1959).

According to petitioners, this case presents the following question:

"Is a government contractor endowed with the attributes of a Federal Agency and is it and are its employees clothed with unqualified or absolute privilege to falsely and maliciously defame other employees in reporting a loss, compromise, or suspected compromise of classified information, solely by reason of (1) having contracted with the United States Government to furnish it with supplies or services which are required and necessary to the National Defense, and (2) in connection therewith having entered into a security agreement with the United States Government under the terms of which it has agreed to report the *loss, compromise, or suspected compromise* of classified information." Petition for Cert., p. 2.

Petitioners brought this action against respondent Philco Corporation, their employer, for an alleged defamation made in a report to the Department of Defense under the terms of a contract for the manufacture of defense items. The complaint alleged that the report contained both false and malicious statements concerning petitioners and resulted in the withdrawal of their security clearances and thus the loss of their jobs. On re-

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spondent's motion for summary judgment, the District Court dismissed the complaint, holding the communication absolutely privileged. 234 F. Supp. 10 (D. C. E. D. Va. 1964). Placing unjustified reliance on the authority of the principal opinion in *Barr v. Matteo*, 360 U. S. 564 (1959), the Court of Appeals for the Fourth Circuit affirmed. 372 F. 2d 771 (1967). In granting an absolute privilege to government employees at the expense of the individual's right to be free from defamation, *Barr v. Matteo* extended the earlier decisions of this Court to what I and others considered to be the breaking point. That opinion did not command a majority of this Court then, and only one of those who joined it is on this Court today. The conclusion there was reached by balancing

“on the one hand, the protection of the individual citizen against pecuniary damage caused by oppressive or malicious action on the part of officials of the Federal Government; and on the other, the protection of the public interest by shielding responsible governmental officers against the harassment and inevitable hazards of vindictive or ill-founded damages suits brought on account of action taken in the exercise of their official responsibilities.” *Barr v. Matteo, supra*, at 565.

The deprivation of the employees' rights in the present case is justified in the following manner: By Executive Order, the Secretary of Defense is empowered through regulations to safeguard classified information.<sup>1</sup> Pursuant to that power, the Secretary has issued an Industrial Security Manual which requires contractors to protect all classified information by maintaining a system of

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<sup>1</sup> Exec. Order No. 10865, 3 CFR 1959-1963 Comp., p. 398, as amended by Exec. Order No. 10909, 3 CFR 1959-1963 Comp., p. 437.

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security controls and to report any loss, compromise, or suspected compromise of that information to the Department of Defense.<sup>2</sup> The Secretary enters into a Security Agreement with his contractors to implement the provisions of the Manual. The Secretary does not attempt to clothe the contractor with any immunity from a civil action for damages caused by defamatory reports.

From this scheme to protect classified information, the court below took the additional and unwarranted step of conferring an absolute privilege on the corporation:

“So it was that the company and such of its employees as were confidants were answerable for keeping the nation’s secrets, as fully as if they were

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<sup>2</sup> The Department of Defense Industrial Security Manual for Safeguarding Classified Information (Sept. 21, 1956, rev. Dec. 31, 1962) provides in part:

“6. Reports

“The contractor shall submit immediately to the cognizant security officer—

“b. A report, classified if appropriate, of any loss, compromise or suspected compromise of classified information.

“14.1. Loss, Compromise or Suspected Compromise of Classified Information

“d. In the event of loss, compromise, or suspected compromise of classified information outside of a facility the contractor shall establish procedures requiring that the person discovering the loss, compromise or suspected compromise shall immediately—

“(1) Notify the local office of the Federal Bureau of Investigation and furnish sufficient information to assist in identification of the information (if the loss, compromise or suspected compromise occurs outside the United States, the nearest United States authorities shall be notified in lieu of the Federal Bureau of Investigation); and

“(2) Report the loss to the contractor by the fastest means of communication.

“e. The military department assigned security cognizance shall conduct such further inquiry as may be required.”

governed by the oath of a Federal official. Closely performing his duties and charged with equal responsibility and loyalty, we think the company and its trusted personnel were imbued with the official's character, and partake of his immunity to liability, whenever and wherever he would enjoy the absolute privilege." 372 F. 2d 771, 774.

No authority is quoted for this statement for the obvious reason that there is none.

I do not cast any doubt on the general powers of the Secretary of Defense in safeguarding classified information, nor on the Executive Order, nor on the Industrial Security Manual, nor on the Security Agreement entered into in this case. None of these are pertinent to our decision. Nor is the truth or falsity of the allegation that Philco maliciously or falsely defamed the petitioners of any relevance.<sup>3</sup> All the case involves is whether a private corporation under a Security Agreement with the Government is entitled to an absolute privilege to report with "actual malice" information to the Government that results in the deprivation of the workers' employment and reputation.

We have not granted to private citizens a blanket immunity from legal liability for defaming public officials. Instead, we have held that a public official may recover for defamatory falsehoods relating to his official conduct if he can prove the statement was made with "actual malice." *New York Times Co. v. Sullivan*, 376 U. S. 254 (1964). I can see absolutely no justification for granting to a corporation contracting with the Government a greater privilege to defame than we have accorded to private citizens in commenting upon the

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<sup>3</sup> However, since this matter arises on motion for summary judgment, we are required to take the allegations of the complaint as true.

conduct of public officials. This seems to me to be a complete inversion of First Amendment rights. A qualified privilege is clearly sufficient in both situations to protect the paramount public interest in the free flow of information.

I disagreed with *Barr v. Matteo*, but even in that case it was said there were "other sanctions than civil tort suits available to deter the executive official" from making defamatory statements in press releases. 360 U. S. 564, 576. None of those "other sanctions" are present in the instant case. While a defamatory press release might subject the government official to both public censure and internal discipline from his superiors, the secrecy surrounding Philco's communication insulates the defamer from such sanctions. Since the Department of Defense has no disciplinary power over the employees of a private corporation for defamatory statements, internal sanctions are unlikely. It will also be much more difficult for the Department of Defense to recognize a malicious and false libel prepared by a private concern doing business with the Government. It follows then that even assuming, *arguendo*, that internal reports made by a governmental employee to his superior should have an absolute privilege since the superior will be able to evaluate the accuracy of a statement concerning conditions within his own department, this does not justify extending the privilege to communications from private corporations. Thus, the privilege has been conferred in this case without the normal concomitants of such protection, leaving the employees' reputation highly vulnerable to injury by a corporate executive who has no direct responsibility to the public.

It is difficult for me to understand why the importance of this case is not apparent to the Court. Personally, I cannot countenance this indiscriminate extension of

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*Barr v. Matteo.* I would grant certiorari and invite the Government to make known its opinion of what the national interest might be.

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I agree with THE CHIEF JUSTICE that this is an important case which warrants the attention of the Court. It puts into focus several important issues, among them an aspect of the modern corporation which has become vital in the Federal Government's procurement program. Professor Galbraith has referred to it in his recent book *The New Industrial State*:

"Increasingly it will be recognized that the mature corporation, as it develops, becomes part of the larger administrative complex associated with the state. In time the line between the two will disappear. Men will look back in amusement at the pretense that once caused people to refer to General Dynamics and North American Aviation and A. T. & T. as *private* business.

"Though this recognition will not be universally welcomed, it will be healthy. There is always a presumption in social matters in favor of reality as opposed to myth. The autonomy of the technostructure is, to repeat yet again, a functional necessity of the industrial system. But the goals this autonomy serves allow some range of choice. If the mature corporation is recognized to be part of the penumbra of the state, it will be more strongly in the service of social goals. It cannot plead its inherently private character or its subordination to the market as cover for the pursuit of different goals of particular interest to itself. The public agency has an unquestioned tendency to pursue goals that reflect its own interest and convenience and to adapt social objective thereto. But it cannot plead this as a superior right. There may well be danger in

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this association of public and economic power. But it is less if it is recognized." *Id.*, at 393-394.

I think the time has come for us to explore this problem; and the setting of the present case shows how pressing the problem is.

No. 657. KANSAS CITY SOUTHERN RAILWAY Co. v. JOHNSTON. Sup. Ct. Okla. Certiorari denied. *Clyde J. Watts* for petitioner. *Payne H. Ratner* for respondent.

No. 664. BALL ET AL. v. EASTERN COAL CORP. ET AL. Ct. App. Ky. Certiorari denied. *Jean L. Auxier* for petitioners. *Albert S. Kemper, Jr.*, for Eastern Coal Corp., and *Edward L. Carey, Harrison Combs* and *M. E. Boiarsky* for United Mine Workers of America et al., respondents. Reported below: 415 S. W. 2d 620.

MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted in the following cases (beginning with No. 323 on this page and extending through No. 314, Misc., on p. 986):

No. 323. BENNETT ET AL. v. CALIFORNIA. Sup. Ct. Cal. Certiorari denied. *Hiram W. Kwan* for petitioners.

No. 394. HALE v. TOWN OF VINTON. Sup. Ct. App. Va. Certiorari denied. *Stuart A. Barbour, Jr.*, for petitioner.

No. 588. JACKSON ET AL. v. UNITED STATES. Ct. Cl. Certiorari denied. *James J. Bierbower* and *Harry A. Inman* for petitioners. *Acting Solicitor General Spritzer, Acting Assistant Attorney General Eardley* and *Alan S. Rosenthal* for the United States. Reported below: 179 Ct. Cl. 29.

No. 601. WYOMING ET AL. v. UDALL, SECRETARY OF THE INTERIOR, ET AL. C. A. 10th Cir. Certiorari denied. *James E. Barrett*, Attorney General, and *Sterling C. Case*, First Assistant Attorney General, for the State of Wyoming, and *A. G. McClintock* and *James B. Diggs*

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for Gulf Oil Corp., petitioners. *Acting Solicitor General Spritzer, Assistant Attorney General Weisl, Roger P. Marquis and Edmund B. Clark* for Udall et al., and *James H. Anderson and E. T. Lazear* for Union Pacific Railroad Co., respondents. Reported below: 379 F. 2d 635.

No. 596. BRULAY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Peter J. Hughes* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Jerome M. Feit* for the United States. Reported below: 383 F. 2d 345.

No. 629. BOLES, WARDEN *v.* SHEFTIC ET AL. C. A. 4th Cir. Certiorari denied. *C. Donald Robertson, Attorney General of West Virginia, and Morton I. Taber and Leo Catsonis, Assistant Attorneys General,* for petitioner. Reported below: 377 F. 2d 423.

No. 636. WARNER *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. *Joseph Smith* for petitioner.

No. 197, Misc. HILLERY *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. *Thomas C. Lynch, Attorney General of California, Doris H. Maier, Assistant Attorney General, and Edsel W. Haws, Deputy Attorney General,* for respondent. Reported below: 65 Cal. 2d 795, 423 P. 2d 208.

No. 314, Misc. DUNN *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. *Thomas C. Lynch, Attorney General of California, Derald E. Granberg and Gloria F. DeHart, Deputy Attorneys General,* for respondent.

No. 593. ARCENEUX ET AL. *v.* PFISTER. C. A. 5th Cir. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *W. Scott Wilkinson* for petitioners. *C. Ellis Henican and C. Ellis Henican, Jr.,* for respondent. Reported below: 376 F. 2d 821.

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No. 483. DETENBER ET AL., ADMINISTRATRICES *v.* AMERICAN UNIVERSAL INSURANCE Co. C. A. 6th Cir. Certiorari denied. *Josephine P. Hughett* and *Henry G. Fischer* for petitioners. *John P. Sandidge* for respondent. Reported below: 372 F. 2d 50.

MR. JUSTICE BLACK, dissenting.

I would grant certiorari here and reverse the action of the District Court and the Court of Appeals for rendering a summary judgment against petitioners in flagrant disregard of the right to trial by jury guaranteed by the Seventh Amendment to the Constitution. The case arose in this way. Two children riding in a car were killed in a collision with a bus. The car was driven by one Clark, who was protected by a policy of liability insurance issued by the respondent, American Universal Insurance Company. The insurance company undertook the defense of Clark in a suit for damages brought by petitioners on behalf of the deceased children. Clark claimed that the lawyer for the insurance company conducted his defense in bad faith and assigned to petitioners his claim for damages against the company.

During the settlement negotiations prior to the suit against Clark and the bus company, the insurance company lawyer urged lack of actionable negligence by Clark, and Clark later testified (in depositions taken in relation to the present action) that he went to trial with the understanding that his defense would be lack of negligence. On the day of trial of the action for damages against Clark a lawyer appeared for the insurance company and filed an amended answer in which the lawyer—on behalf of his client Clark—asserted the defense of assumption of risk, charging that the deceased children had known Clark was drunk and should not have ridden with him. The insurance company lawyer never discussed with his client Clark the alternative defenses available to him or

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the significance of the filing of the amended complaint. Indeed Clark was never even advised of the fact that an amended complaint had been filed, in which he was pleading his own drunkenness in an effort to escape liability for damages. As the Court of Appeals noted in the present case, no satisfactory explanation has ever been offered for these omissions. At trial, the lawyer not only abandoned the position that the accident had been caused solely by the negligence of the bus driver but made every effort to put Clark in the worst possible light. He offered evidence that Clark had been speeding and had gone through a stop sign at the intersection, and in his summation he urged the jury to disbelieve his own client's testimony to the contrary. In addition, he permitted Clark's guilty plea in a related criminal action to be introduced without objection, and he gave Clark no opportunity to explain it. This was contrary to a specific agreement between insurance company counsel and Clark's personal lawyer (who did not take part in the trial of the civil case). The general tenor of this so-called "defense" is indicated by the insurance company lawyer's closing argument to the jury:

"I have attempted to prove that this young man was drunk when he was driving that car on Saturday night, the 15th of April. I have attempted to prove that he was operating it recklessly, and that doesn't sound like a lawyer on a man's side to try to prove his own client is drunk, does it?"

"[N]o one has come to this boy's aid and told you that he stopped at that stop sign. . . . David Oursler gave a statement and he said, 'I am sure Michael didn't stop.' These things I knew and they convinced me, as they must you, that this young man was at fault in that accident."

“The thing that is bothering me worse than anything else in trying to defend him was a judgment of the Jefferson Circuit Court. Right here across the street Judge Knight entered a judgment, for this young man in person, being charged with wilful, felonious, negligent, reckless, careless and wanton operation of an automobile, . . . and there in person [Clark] pleaded guilty to that offense. . . . [T]his young man was found guilty of negligent homicide. Now, presented with that situation, believing as I do believe, I felt then and I feel now that a jury of twelve honest people is going to reach the conclusion that this young man, by witnesses and by his own admissions, caused this accident.”

This defense was theoretically in Clark's interest since it purported to offer him hope of avoiding liability entirely. But it was a dangerous defense for Clark since if the jury refused to charge the plaintiffs with assumption of the risk, the damages would certainly be higher—and the amount apportioned against Clark rather than against the bus company would certainly be greater—than if the no-negligence defense had been attempted. The insurance company's interest, however, was obviously different since from its point of view the assumption-of-risk approach had no disadvantages. Its liability was limited to \$10,000 under the policy and if the strategy inflated the damages above this figure, Clark would be responsible to pay the additional amount out of his own pocket.

I agree with the courts below that this is a cause of action created by the law of Kentucky, and I accept the finding that under the law of Kentucky bad faith “is not simply bad judgment. It is not merely negligence. . . . It implies conscious doing of wrong. . . . It partakes of the nature of fraud.” *Harrod v. Meridian Mutual Insurance Co.*, 389 S. W. 2d 74, 76 (Ky. 1964). The basis

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for my disagreement is that I cannot see how this evidence of bad faith on the part of the insurance company lawyer can be considered insufficient to make a case for the jury.

This record establishes for me a rather convincing case of bad faith; at the very least I think a jury of 12 ordinary men, with a common-sense understanding of such matters, could reasonably conclude that the insurance company's conduct in this case amounted to conscious wrongdoing. By ordering summary judgment for the defendant, the courts below simply imposed their own notions as to the most plausible inference to be drawn from this record, thereby denying the petitioners their constitutionally protected right to have their case decided by 12 ordinary citizens.

No. 602. JONES, TUTRIX *v.* AETNA CASUALTY & SURETY Co. Sup. Ct. La. Motions of Louisiana Trial Lawyers Association and American Trial Lawyers Association for leave to file briefs, as *amici curiae*, in support of the petition granted. Certiorari denied. *Samuel C. Gainsburgh* for petitioner. *Richard H. Switzer* for respondent. *Raymond H. Kierr* for Louisiana Trial Lawyers Association, and *Samuel Langerman* for American Trial Lawyers Association on the motions. Reported below: 250 La. 932, 199 So. 2d 926.

No. 18, Misc. GRANT *v.* NEW YORK. C. A. 2d Cir. Certiorari denied. *Louis J. Lefkowitz*, Attorney General of New York, *Samuel A. Hirshowitz*, First Assistant Attorney General, and *Brenda Soloff*, Assistant Attorney General, for respondent.

No. 656. GATES *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Motion for leave to dispense with printing petition granted. Certiorari denied.

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No. 614. R. A. HOLMAN & CO., INC., ET AL. *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. 2d Cir. Certiorari denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition. *Milton V. Freeman, Edgar H. Brenner, Daniel A. Rezneck and Sidney P. Howell, Jr.*, for petitioners. *Acting Solicitor General Spritzer, Philip A. Loomis, Jr., David Ferber and Edward B. Wagner* for respondent. Reported below: 366 F. 2d 446; 377 F. 2d 665.

No. 160, Misc. ELDRIDGE *v.* KANSAS. Sup. Ct. Kan. Certiorari denied. *Robert C. Londerholm*, Attorney General of Kansas, for respondent. Reported below: 197 Kan. 694, 421 P. 2d 170.

No. 53, Misc. ROGERS *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. *Elliot L. Richardson*, Attorney General of Massachusetts, and *Willie J. Davis*, Assistant Attorney General, for respondent. Reported below: 351 Mass. 522, 222 N. E. 2d 766.

No. 146, Misc. HOLLAND *v.* WEAKLEY, REFORMATORY SUPERINTENDENT, ET AL. C. A. D. C. Cir. Certiorari denied.

No. 260, Misc. WILLIAMS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States.

No. 382, Misc. GARCIA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Leon B. Polsky and Phylis Skloot Bamberger* for petitioner. *Solicitor General Griswold, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 377 F. 2d 321.

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No. 281, Misc. *INDIA v. NEW YORK*. Ct. App. N. Y. Certiorari denied. *Sam Polur* for petitioner. *Aaron E. Koota* and *William I. Siegel* for respondent.

No. 398, Misc. *COYOTE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Paul C. Summitt* for the United States.

No. 439, Misc. *PETERSON v. HOOVER, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION*. C. A. D. C. Cir. Certiorari denied. *Acting Solicitor General Spritzer* for respondent.

No. 446, Misc. *KENNEDY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 377 F. 2d 989.

No. 450, Misc. *DAY v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied. *James H. Bateman* and *William C. Wilson* for petitioner. *George F. McCanless*, Attorney General of Tennessee, and *Robert F. Hedgepath*, Assistant Attorney General, for respondent.

No. 470, Misc. *ROBINSON v. TENNESSEE*. Sup. Ct. Tenn. Certiorari denied. *James H. Epps III* for petitioner. *George F. McCanless*, Attorney General of Tennessee, and *Thomas E. Fox* and *Paul E. Jennings*, Assistant Attorneys General, for respondent.

No. 532, Misc. *MCINTYRE v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. *Acting Solicitor General Spritzer* for the United States. Reported below: 380 F. 2d 822.

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No. 474, Misc. ADAMS *v.* CAMERON, HOSPITAL SUPERINTENDENT. C. A. D. C. Cir. Certiorari denied. *Acting Solicitor General Spritzer* for respondent.

No. 493, Misc. BLACK *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. *Calvin L. Brown* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 381 F. 2d 380.

No. 498, Misc. SMITH *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *Marshall Patner* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Jerome M. Feit* for the United States. Reported below: 379 F. 2d 628.

No. 500, Misc. WRIGHT *v.* MISSOURI. Sup. Ct. Mo. Certiorari denied.

No. 515, Misc. SAUNDERS *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. *J. Perry Langford* for petitioner. *Thomas C. Lynch, Attorney General of California, William E. James, Assistant Attorney General, and Philip C. Griffin, Deputy Attorney General,* for respondent. Reported below: 66 Cal. 2d 536, 426 P. 2d 908.

No. 516, Misc. HENRY *v.* GARDNER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE. C. A. 6th Cir. Certiorari denied. *H. H. Gearinger* for petitioner. *Acting Solicitor General Spritzer* for respondent. Reported below: 381 F. 2d 191.

No. 535, Misc. RUIZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *George W. Jansen* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Jerome M. Feit and Kirby W. Patterson* for the United States. Reported below: 380 F. 2d 17.

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No. 541, Misc. POWERS *v.* KENTUCKY. Ct. App. Ky. Certiorari denied.

No. 542, Misc. BRAUN *v.* NELSON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 543, Misc. PENRICE *v.* OLIVER, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 550, Misc. LEWIS *v.* SECRETARY OF HEALTH, EDUCATION, AND WELFARE. C. A. 7th Cir. Certiorari denied. *Acting Solicitor General Spritzer* for respondent.

No. 551, Misc. WHITE *v.* LANSON CHEMICAL CORP. ET AL. C. A. 7th Cir. Certiorari denied.

No. 552, Misc. FAIR *v.* DEKLE, SUPERVISOR OF ELECTIONS. C. A. 5th Cir. Certiorari denied.

No. 564, Misc. HENNESSY *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 198 So. 2d 37.

No. 575, Misc. DICKERSON *v.* ALABAMA. Sup. Ct. Ala. Certiorari denied.

No. 591, Misc. PEEBLES *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 592, Misc. SCOTT *v.* CALIFORNIA SUPREME COURT ET AL. C. A. 9th Cir. Certiorari denied.

No. 610, Misc. BENNER *v.* BENNER. Sup. Ct. Pa. Certiorari denied.

No. 613, Misc. HOLLAND *v.* PENNSYLVANIA. C. A. 3d Cir. Certiorari denied.

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No. 614, Misc. *JORDAN v. WILSON, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 615, Misc. *JORDAN v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 616, Misc. *ORTEGA v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 623, Misc. *JOHNSON v. NORFOLK & WESTERN RAILWAY Co.* Sup. Ct. App. Va. Certiorari denied. *Henry E. Howell, Jr.*, for petitioner. *Thomas R. Mc-Namara* for respondent. Reported below: 207 Va. 980, 154 S. E. 2d 134.

No. 626, Misc. *CASSESE v. PEYTON, PENITENTIARY SUPERINTENDENT*. C. A. 4th Cir. Certiorari denied.

No. 631, Misc. *MCNEAL v. OLIVER, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 632, Misc. *KING v. WAINWRIGHT, CORRECTIONS DIRECTOR*. C. A. 5th Cir. Certiorari denied.

No. 636, Misc. *RUCKER v. PARKER ET AL.* C. A. 6th Cir. Certiorari denied.

No. 639, Misc. *FINLEY v. CRAVEN, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 643, Misc. *TAYLOR v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 250 Cal. App. 2d 367, 58 Cal. Rptr. 269.

No. 645, Misc. *WEED v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *Acting Solicitor General Spritzer* for the United States. Reported below: 380 F. 2d 914.

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No. 633, Misc. *SAMS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson and Jerome M. Feit* for the United States.

No. 654, Misc. *WEEKS v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. *Clyde W. Woody and Marian S. Rosen* for petitioner. Reported below: 417 S. W. 2d 716.

No. 662, Misc. *DEWELLES v. UNITED STATES ET AL.* C. A. 9th Cir. Certiorari denied. *Robert H. Wyshak and Lillian W. Wyshak* for petitioner. *Solicitor General Griswold, Assistant Attorney General Rogovin, Crombie J. D. Garrett and Benjamin M. Parker* for the United States et al. Reported below: 378 F. 2d 37.

No. 123, Misc. *REESE v. LOUISIANA*. Sup. Ct. La. Certiorari denied. MR. JUSTICE DOUGLAS, MR. JUSTICE FORTAS and MR. JUSTICE MARSHALL are of the opinion that certiorari should be granted. *Sam J. D'Amico* for petitioner. *Jack P. F. Gremillion, Attorney General of Louisiana, and Ralph L. Roy* for respondent.

No. 124, Misc. *WHITE v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. MR. JUSTICE FORTAS is of the opinion that certiorari should be granted. *Earl Faircloth, Attorney General of Florida, and Fred T. Gallagher, Assistant Attorney General, for respondent.*

*Rehearing Denied.*

No. 141. *FOWLER ET AL. v. BENTON*, ante, p. 851;

No. 148. *SUDDUTH v. CALIFORNIA*, ante, p. 850; and

No. 491. *SAYLES v. WIEGAND, PRESIDENT, BOARD OF DIRECTORS OF METROPOLIS BUILDING ASSOCIATION, ET AL.*, ante, p. 45. Motions to dispense with printing petitions for rehearing granted. Petitions for rehearing denied.

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- No. 91. FORT *v.* CITY OF MIAMI, *ante*, p. 918;
- No. 115. HELLER *v.* CONNECTICUT, *ante*, p. 902;
- No. 139. SOUTH SHORE PACKING CORP. *v.* CITY OF VERMILION, *ante*, p. 847;
- No. 176. PRICE, DBA HOWARD PRICE & Co. *v.* STATE ROAD COMMISSION OF WEST VIRGINIA ET AL., *ante*, p. 14;
- No. 177. WETHERALL ET AL. *v.* STATE ROAD COMMISSION OF WEST VIRGINIA ET AL., *ante*, p. 14;
- No. 207. JACKSON ET AL. *v.* WESTERN GEOTHERMAL, INC., ET AL., *ante*, p. 823;
- No. 275. WILLIS *v.* O'BRIEN, JUDGE, *ante*, p. 848;
- No. 284. PINTO, PRISON FARM SUPERINTENDENT *v.* PIERCE, *ante*, p. 31;
- No. 306. ASSOCIATED PRESS *v.* WALKER, *ante*, p. 28;
- No. 395. MOTOROLA, INC. *v.* ARMSTRONG, EXECUTRIX, *ante*, p. 830;
- No. 455. STIEF *v.* J. A. SEXAUER MANUFACTURING CO., INC., ET AL., *ante*, p. 897;
- No. 83, Misc. WYLEY *v.* WARDEN, MARYLAND PENITENTIARY, *ante*, p. 863;
- No. 100, Misc. WALKER *v.* NATIONAL MARITIME UNION ET AL., *ante*, p. 864;
- No. 167, Misc. DEDMON *v.* OLIVER, WARDEN, ET AL., *ante*, p. 867;
- No. 338, Misc. STARNER *v.* RUSSELL, CORRECTIONAL SUPERINTENDENT, *ante*, p. 889;
- No. 485, Misc. ANDERSON *v.* CALIFORNIA, *ante*, p. 916;
- No. 507, Misc. JACKSON *v.* WILSON, WARDEN, ET AL., *ante*, p. 917;
- No. 509, Misc. MARTINEZ *v.* CALIFORNIA, *ante*, p. 943; and
- No. 538, Misc. DENTO *v.* UNITED STATES, *ante*, p. 944.  
Petitions for rehearing denied.

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- No. 106. OBER ET AL. *v.* NAGY ET AL., *ante*, p. 900;  
No. 122. CUSTER CHANNEL WING CORP. ET AL. *v.* UNITED STATES, *ante*, p. 850;  
No. 124. ESTATE OF BERRY ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE, *ante*, p. 834;  
No. 138. BLANE *v.* UNITED STATES, *ante*, p. 835;  
No. 313. SELINGER *v.* BIGLER, SPECIAL AGENT, INTERNAL REVENUE SERVICE, ET AL., *ante*, p. 904;  
No. 320. SERMAN ET AL. *v.* UNITED STATES, *ante*, p. 843;  
No. 376. FISHER *v.* UNITED STATES, *ante*, p. 845;  
No. 257, Misc. BURICH *v.* UNITED STATES, *ante*, p. 885;  
No. 277, Misc. GUNZBURGER *v.* GARDNER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, *ante*, p. 885;  
No. 301, Misc. BAILEY *v.* DEQUEVEDO, *ante*, p. 923;  
No. 318, Misc. GRENE *v.* UNITED STATES, *ante*, p. 908;  
and  
No. 325, Misc. POPE *v.* PARKER, WARDEN, *ante*, p. 886.  
Petitions for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of these petitions.

No. 381. LOCAL UNION NO. 721, UNITED PACKINGHOUSE, FOOD & ALLIED WORKERS, AFL-CIO *v.* NEEDHAM PACKING Co., DBA SIOUX CITY DRESSED BEEF, *ante*, p. 830. Motion of United Steelworkers of America, AFL-CIO, et al., for leave to file a brief, as *amici curiae*, in support of rehearing granted. Petition for rehearing denied. *Elliot Bredhoff, Michael H. Gottesman, George H. Cohen, Bernard Kleiman and Stephen I. Schlossberg* on the motion.

No. 21, Misc. EVANS ET AL. *v.* LOUISIANA, *ante*, p. 887;  
and

No. 52, Misc. LITTLETON *v.* TEXAS, *ante*, p. 887.  
Motions for leave to file petitions for rehearing denied.

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No. 406. *MERCER ET AL. v. HEMMINGS ET AL.*, *ante*, p. 46. Motions of American Institute of Certified Public Accountants, Inc., Howard Johnson Co., Equitable Securities Corp., W. R. Grace & Co., and General Foods Corp., for leave to file briefs, as *amici curiae*, in support of petition for rehearing granted. Petition for rehearing denied. *David B. Isbell* for American Institute of Certified Public Accountants, Inc., *John T. Noonan* for Howard Johnson Co., *Marvin Schwartz* for Equitable Securities Corp., *Leo A. Larkin* for W. R. Grace & Co., and *Robert MacCrate* for General Foods Corp.

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*Dismissals Under Rule 60.*

No. 624, Misc. *STOTTS v. UNITED STATES*. C. A. 10th Cir. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. *Solicitor General Griswold*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States.

No. 769, Misc. *RABURN v. NASH, JUDGE*. Sup. Ct. N. M. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. Reported below: 78 N. M. 385, 431 P. 2d 874.

No. 796, Misc. *MOORE v. CALIFORNIA ET AL.* Super. Ct. Cal., County of Ventura. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. *DeWitt F. Blase* for petitioner.

*Miscellaneous Orders.*

No. 359, Misc. *SANCHEZ v. CALIFORNIA*. Sup. Ct. Cal. Motion to defer consideration of petition for writ of certiorari granted. *Charles F. Prael* on the motion. Reported below: 65 Cal. 2d 814, 423 P. 2d 800.

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No. 29, Orig. TEXAS ET AL. *v.* COLORADO. Motion for leave to file bill of complaint granted and the State of Colorado allowed sixty days to answer. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Waggoner Carr*, Attorney General, *Hawthorne Phillips*, First Assistant Attorney General, *T. B. Wright*, Executive Assistant Attorney General, and *J. Arthur Sandlin*, *Vince Taylor* and *Roger Tyler*, Assistant Attorneys General, for the State of Texas, and *Boston E. Witt*, Attorney General, *F. Harlan Flint*, *Claud S. Mann* and *Paul L. Bloom*, Special Assistant Attorneys General, for the State of New Mexico, on the motion. *Duke W. Dunbar*, Attorney General of Colorado, *James D. Geissinger*, Assistant Attorney General, and *Raphael J. Moses*, *Glenn G. Saunders*, *John M. Dickson*, *Donald H. Hamburg* and *George A. Brown*, Special Assistant Attorneys General, for defendant in opposition. Former *Solicitor General Marshall* and *Solicitor General Griswold* filed memoranda for the United States. [For earlier order herein, see 387 U. S. 939.]

No. 70. ALITALIA-LINEE AEREE ITALIANE, S. P. A. *v.* LISI ET AL. C. A. 2d Cir. (Certiorari granted, *ante*, p. 926.) Motion of *Arnold Holtzman* for leave to file brief, as *amicus curiae*, granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Stuart M. Speiser* on the motion. *Austin P. Magner* and *George N. Tompkins, Jr.*, for petitioner in opposition to the motion.

No. 773, Misc. WALTON *v.* NELSON, WARDEN;

No. 779, Misc. DEUEL *v.* GIRARD, YOUTH CAMP SUPERINTENDENT; and

No. 835, Misc. STEELE *v.* NELSON, WARDEN, ET AL. Motions for leave to file petitions for writs of habeas corpus denied.

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No. 32, Orig. MISSOURI *v.* NEBRASKA. Motion for leave to file bill of complaint granted and the State of Nebraska allowed sixty days to answer.

IT IS ORDERED that Honorable Gilbert H. Jertberg, Senior Judge for the United States Court of Appeals for the Ninth Circuit be, and he is hereby, appointed Special Master in this case with authority to fix the time and conditions for the filing of additional pleadings and to direct subsequent proceedings, and with authority to summon witnesses, issue subpoenas, and take such evidence as may be introduced and such as he may deem it necessary to call for. The Master is directed to submit such reports as he may deem appropriate.

The Master shall be allowed his actual expenses. The allowances to him, the compensation paid to his technical, stenographic, and clerical assistants, the cost of printing his report, and all other proper expenses shall be charged against and be borne by the parties in such proportion as the Court hereafter may direct.

IT IS FURTHER ORDERED that if the position of Special Master in this case becomes vacant during a recess of the Court, THE CHIEF JUSTICE shall have authority to make a new designation which shall have the same effect as if originally made by the Court herein.

*Norman H. Anderson*, Attorney General of Missouri, and *Brick P. Storts III* and *Howard L. McFadden*, Assistant Attorneys General, on the motion. *Clarence A. H. Meyer*, Attorney General of Nebraska, and *Howard H. Moldenhauer* and *Joseph R. Moore*, Special Assistant Attorneys General, for defendant in opposition.

No. 689, Misc. JACKOVICK *v.* RHAY, PENITENTIARY SUPERINTENDENT. D. C. E. D. Wash. Motion for leave to file petition for writ of certiorari and other relief denied.

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No. 227. FEDERAL POWER COMMISSION *v.* PAN AMERICAN PETROLEUM CORP. ET AL. C. A. 10th Cir. Motion for consecutive oral arguments denied. (See *ante*, p. 811, where consolidation ordered and certiorari granted in No. 60 et al.) MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Cecil N. Cook* and *Neal Powers, Jr.*, for respondent Cockrell et al., *Bruce R. Merrill* and *Thomas H. Burton* for respondent Continental Oil Co., and *Cecil E. Munn* for respondent General American Oil Co. of Texas on the motion. Reported below: 376 F. 2d 161.

No. 876. HARRISON *v.* UNITED STATES. C. A. D. C. Cir. (Certiorari granted, *ante*, p. 969.) Motion of petitioner for appointment of counsel granted. It is ordered that *Alfred V. J. Prather, Esquire*, of Washington, D. C., a member of the Bar of this Court, be, and he is hereby, appointed to serve as counsel for petitioner in this case.

No. 386, Misc. SIMS *v.* GARDNER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE. C. A. 6th Cir. Motion to consolidate this case with *Hopkins v. Gardner, Secretary of Health, Education, and Welfare*, No. 276 (see *ante*, p. 811), denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *H. H. Gearinger* on the motion. Reported below: 378 F. 2d 70. [For earlier order herein, see *ante*, p. 804.]

No. 829, Misc. RYAN *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 denied.

No. 659, Misc. HILL *v.* WERT. Motion for leave to file petition for writ of mandamus denied.

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*Certiorari Granted.* (See also No. 384, *ante*, p. 329; No. 632, *ante*, p. 320; and No. 659, *ante*, p. 323.)

No. 637. CHAN KWAN CHUNG *v.* IMMIGRATION AND NATURALIZATION SERVICE. C. A. 3d Cir. *Certiorari* granted. *William H. Dempsey, Jr., Esquire*, a member of the Bar of this Court, is invited to appear and present oral argument, as *amicus curiae*, in support of the judgment below. *Abraham Lebenkoff* for petitioner. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Julia P. Cooper* for respondent. Reported below: 381 F. 2d 542.

No. 695. GREEN ET AL. *v.* COUNTY SCHOOL BOARD OF NEW KENT COUNTY ET AL. C. A. 4th Cir. *Certiorari* granted. *Jack Greenberg, James M. Nabrit III, S. W. Tucker* and *Henry L. Marsh III* for petitioners. *Frederrick T. Gray* for respondents. Reported below: 382 F. 2d 338.

No. 566, Misc. SABBATH *v.* UNITED STATES. C. A. 9th Cir. Motion for leave to proceed *in forma pauperis* and petition for writ of *certiorari* granted. Case transferred to appellate docket. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Kirby W. Patterson* for the United States. Reported below: 380 F. 2d 108.

*Certiorari Denied.* (See also No. 675, *ante*, p. 331; No. 650, Misc., *ante*, p. 330; and No. 829, Misc., *supra*.)

No. 666. TRIWAY INVESTMENT CO. ET AL. *v.* OREGON, BY AND THROUGH ITS STATE HIGHWAY COMMISSION, ET AL. Sup. Ct. Ore. *Certiorari* denied. *Donald C. Walker* for petitioner Triway Investment Co., and petitioner *Reuben G. Lenske, pro se*. Reported below: 247 Ore. 253, 427 P. 2d 419.

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No. 205. *Ross v. VIRGINIA*. Sup. Ct. App. Va. Certiorari denied. *Roland D. Ealey* for petitioner. *Reno S. Harp III* for respondent.

No. 663. *NATIONAL SURETY CORP. v. UNITED STATES FOR THE USE OF WAY PANAMA, S. A.* C. A. 5th Cir. Certiorari denied. *Dayton G. Wiley* for petitioner. *Fred Much* for respondent. Reported below: 378 F. 2d 294.

No. 667. *INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION ET AL. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 9th Cir. Certiorari denied. *Norman Leonard* for petitioners. *Acting Solicitor General Spritzer, Arnold Ordman, Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 378 F. 2d 33.

No. 672. *CHIODO ET AL. v. GENERAL WATERWORKS CORP.* C. A. 10th Cir. Certiorari denied. *Calvin A. Behle, George W. Latimer, Keith E. Taylor* and *Adam M. Duncan* for petitioners. *Peter W. Billings* and *Peter Keber* for respondent. Reported below: 380 F. 2d 860.

No. 674. *THOMAS ET AL. v. CONSOLIDATION COAL CO. (POCAHONTAS FUEL CO. DIVISION) ET AL.* C. A. 4th Cir. Certiorari denied. *D. Grove Moler* for petitioners. *Harry G. Camper, Jr.*, for Consolidation Coal Co., and *Edward L. Carey, Harrison Combs* and *M. E. Boiarsky* for International Union, United Mine Workers of America, et al., respondents. Reported below: 380 F. 2d 69.

No. 676. *DETROIT & TOLEDO SHORE LINE RAILROAD CO. ET AL. v. COURT OF COMMON PLEAS OF LUCAS COUNTY ET AL.* Sup. Ct. Ohio. Certiorari denied. *John M. Curphey* for petitioners. *Charles H. Brady* for respondents. Reported below: 11 Ohio St. 2d 193, 228 N. E. 2d 313.

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No. 677. *TIGHE v. ROECKER ET AL.* C. A. 5th Cir. Certiorari denied. *Bowman Stirling Tighe* for petitioner. Reported below: 379 F. 2d 400.

No. 681. *FIDUCIARY COUNSEL, INC. v. WIRTZ, SECRETARY OF LABOR.* C. A. D. C. Cir. Certiorari denied. *Carl L. Shipley* for petitioner. *Solicitor General Griswold, Assistant Attorney General Weisl, Morton Hollander, Jack H. Weiner, Charles Donahue and George T. Avery* for respondent. Reported below: 127 U. S. App. D. C. 276, 383 F. 2d 203.

No. 684. *J. P. STEVENS & CO., INC. v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 2d Cir. Certiorari denied. *Whiteford S. Blakeney* for petitioner. *Solicitor General Griswold, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for respondent National Labor Relations Board. Reported below: 380 F. 2d 292.

No. 687. *SCHREFFLER v. PRUDENTIAL INSURANCE CO. OF AMERICA.* C. A. 5th Cir. Certiorari denied. *Thomas H. Anderson* for petitioner. *James A. Dixon* for respondent. Reported below: 376 F. 2d 397.

No. 692. *BYRNE v. CHICAGO TITLE & TRUST CO. ET AL.* C. A. 7th Cir. Certiorari denied. *Frank L. Paul* for respondent First National Bank of Chicago et al., *Frank A. Karaba, pro se*, and for respondent Hendricks, and *Thomas B. Gilmore* for respondent MacKinnon.

No. 696. *ALPHA ENTERPRISES, INC. v. CITY OF HOUSTON ET AL.* Ct. Civ. App. Tex., 1st Sup. Jud. Dist. Certiorari denied. *Presley E. Werlein, Jr., Charles A. Easterling and F. Joseph Donohue* for petitioner. *Homer T. Bouldin* for respondents. Reported below: 411 S. W. 2d 417.

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No. 697. TURNER ET AL., DBA ATLANTA'S PLAYBOY CLUB v. HMH PUBLISHING CO., INC., ET AL. C. A. 5th Cir. Certiorari denied. *Henry M. Hatcher, Jr.*, for petitioners. *Milton I. Shadur, Abner J. Mikva, William H. Klein* and *R. Howard Goldsmith* for respondents. Reported below: 380 F. 2d 224.

No. 123. LYNN v. NEW JERSEY. Sup. Ct. N. J. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Harry Steiner* for petitioner. *Thomas P. Ford, Jr.*, for respondent.

No. 649. ADLER v. UNITED STATES. C. A. 2d Cir. Certiorari denied. MR. JUSTICE BLACK is of the opinion that certiorari should be granted. *Daniel H. Greenberg* for petitioner. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Ronald L. Gainer* for the United States. Reported below: 380 F. 2d 917.

No. 682. BOEDEKER v. ABRAMSON, TRUSTEE IN BANKRUPTCY, ET AL. C. A. 5th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Robert F. Ritchie* for petitioner. *Philip I. Palmer* for Abramson, and *Solicitor General Griswold, Assistant Attorney General Rogovin* and *Crombie J. D. Garrett* for the United States, respondents. Reported below: 379 F. 2d 741.

No. 387, Misc. COCKRELL ET AL. v. CALIFORNIA. Sup. Ct. Cal. Certiorari denied. *Burton Marks* for petitioners. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *Rose-Marie Gruenwald*, Deputy Attorney General, for respondent.

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No. 690. *CARABBIA v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *John F. Ray, Jr.*, for petitioner. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg and Paul C. Summitt* for the United States. Reported below: 381 F. 2d 133.

No. 685. *UNGAR v. ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted. *Morton Liftin* for petitioner. *John G. Bonomi* for respondent. Reported below: 26 App. Div. 2d 544, 282 N. Y. S. 2d 158.

No. 693. *DECOSTA v. COLUMBIA BROADCASTING SYSTEM, INC., ET AL.* C. A. 1st Cir. Certiorari denied. THE CHIEF JUSTICE and MR. JUSTICE FORTAS are of the opinion that certiorari should be granted. *Eugene Gressman* for petitioner. *Eugene L. Girden, Knight Edwards and Roland R. Lagueux* for respondents. Reported below: 377 F. 2d 315.

No. 181, Misc. *LEONTI v. NEW YORK*. Ct. App. N. Y. Certiorari denied. *Irving Tenenbaum* for petitioner. *William Cahn* for respondent. Reported below: 18 N. Y. 2d 384, 222 N. E. 2d 591.

No. 366, Misc. *ORR v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. *Isidore Dollinger and Daniel J. Sullivan* for respondent.

No. 607, Misc. *WHITE v. LANE, WARDEN*. C. A. 7th Cir. Certiorari denied.

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No. 511, Misc. *MANIGO v. NEW YORK CITY HOUSING AUTHORITY*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. *Nancy E. LeBlanc* for petitioner. *Harry Levy* and *Harold Weintraub* for respondent.

Nos. 414, Misc., and 422, Misc. *JUVERA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Jerome M. Feit* and *Marshall Tamor Golding* for the United States in both cases. Reported below: 378 F. 2d 433.

No. 559, Misc. *TERLIKOWSKI v. UNITED STATES*; and No. 716, Misc. *SLAWEK v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Vinson* and *Philip R. Monahan* for the United States in both cases. Reported below: 379 F. 2d 501.

No. 594, Misc. *BROWN v. CIRCUIT COURT OF ST. LOUIS COUNTY*. Sup. Ct. Mo. Certiorari denied.

No. 600, Misc. *WULAND v. FREY*. C. A. 7th Cir. Certiorari denied.

No. 630, Misc. *SIMPSON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Acting Solicitor General Spritzer* for the United States.

No. 634, Misc. *O'MALLEY v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. *Robert H. Reiter* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Jerome Feit* and *Robert G. Maysack* for the United States. Reported below: 378 F. 2d 401.

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No. 651, Misc. *MATLACK v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied. Reported below: 49 N. J. 491, 231 A. 2d 369.

No. 647, Misc. *CAUEFIELD ET AL. v. FIDELITY & CASUALTY CO. OF NEW YORK ET AL.* C. A. 5th Cir. Certiorari denied. *J. D. DeBlieux* for petitioners. Reported below: 378 F. 2d 876.

No. 648, Misc. *THOMPSON v. NEW YORK*. Ct. App. N. Y. Certiorari denied.

No. 656, Misc. *HENRY v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 658, Misc. *HILL v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. Reported below: 67 Cal. 2d 105, 429 P. 2d 586.

No. 660, Misc. *FEIST v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 665, Misc. *SAWYER v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 674, Misc. *MODESTO v. NELSON, WARDEN*. Sup. Ct. Cal. Certiorari denied. *Russell E. Parsons* for petitioner. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *Norman H. Sokolow*, Deputy Attorney General, for respondent. Reported below: 66 Cal. 2d 695, 427 P. 2d 788.

No. 637, Misc. *BASKIN v. BASKIN ET AL.* C. A. 7th Cir. Certiorari denied. MR. JUSTICE BLACK is of the opinion that certiorari should be granted.

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No. 667, Misc. *ANDREWS v. FIELD, MENS COLONY SUPERINTENDENT*. C. A. 9th Cir. Certiorari denied.

No. 675, Misc. *HILL v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 679, Misc. *DUMAS v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 676, Misc. *BANKS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Kirby W. Patterson* for the United States.

No. 687, Misc. *FALGOUT v. TRUJILLO, SHERIFF, ET AL.* C. A. 10th Cir. Certiorari denied.

No. 251, Misc. *BANKS v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Albert Datz* for petitioner. *Earl Faircloth*, Attorney General of Florida, and *Wallace E. Allbritton*, Assistant Attorney General, for respondent.

*Rehearing Denied.*

No. 564. *GEAREY v. UNITED STATES*, *ante*, p. 959;

No. 168, Misc. *ELLIOTT, ADMINISTRATOR v. SIERZENGA ET AL.*, *ante*, p. 910;

No. 452, Misc. *GILDAY v. MASSACHUSETTS*, *ante*, p. 916; and

No. 577, Misc. *JONES v. REAGAN, GOVERNOR OF CALIFORNIA, ET AL.*, *ante*, p. 894. Petitions for rehearing denied.

No. 271, Misc. *SMITH v. KANSAS*, *ante*, p. 871. Motion for leave to file petition for rehearing denied.

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*Dismissal Under Rule 60.*

No. 774. UNITED STATES *v.* BECKHAM. Ct. Cl. Petition for writ of certiorari dismissed pursuant to Rule 60 of the Rules of this Court. *Solicitor General Griswold, Assistant Attorney General Weisl, John C. Eldridge and Robert V. Zener* for the United States. *Paul R. Harmel* for respondent. Reported below: 179 Ct. Cl. 539, 375 F. 2d 782.

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*Miscellaneous Orders.*

No. 21. ZSCHERNIG ET AL. *v.* MILLER, ADMINISTRATOR, ET AL. Appeal from Sup. Ct. Ore. Motion of appellants for leave to file supplemental memorandum after argument granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Peter A. Schwabe, Jr.*, on the motion. [For earlier order herein, see 386 U. S. 1030.]

No. 237. BIGGERS *v.* TENNESSEE. Sup. Ct. Tenn. (Certiorari granted, 388 U. S. 909.) Motion of respondent for leave to file supplemental brief granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *George F. McCannless*, Attorney General of Tennessee, and *Thomas E. Fox*, Deputy Attorney General, for respondent.

No. 618. FORTNIGHTLY CORP. *v.* UNITED ARTISTS TELEVISION, INC. C. A. 2d Cir. (Certiorari granted, *ante*, p. 969.) Motion of the United States, as *amicus curiae*, to postpone oral argument denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Solicitor General Griswold* on the motion. *Louis Nizer, Gerald Meyer and Lawrence S. Lesser* for respondent in opposition.

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No. 405. *POWELL v. TEXAS*. Appeal from County Court at Law No. 1, Travis County. (Probable jurisdiction noted, *ante*, p. 810.) Motions of American Civil Liberties Union et al. and Philadelphia Diagnostic & Relocation Services Corp. for leave to file briefs, as *amici curiae*, granted. *Peter Barton Hutt* on the motion for American Civil Liberties Union et al.

No. 305. *SECURITIES AND EXCHANGE COMMISSION v. NEW ENGLAND ELECTRIC SYSTEM ET AL.* C. A. 1st Cir. (Certiorari granted, *ante*, p. 816.) Motion of Municipal Electric Association of Massachusetts for leave to file a brief, as *amicus curiae*, granted. Its motion to present oral argument, as *amicus curiae*, denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this matter. *George Spiegel* and *Worth Rowley* on the motions. *John R. Quarles*, *Richard B. Dunn*, *Richard W. Southgate* and *John J. Glessner III* for respondents in opposition.

No. 478. *AMALGAMATED FOOD EMPLOYEES UNION LOCAL 590 ET AL. v. LOGAN VALLEY PLAZA, INC., ET AL.* Sup. Ct. Pa. (Certiorari granted, *ante*, p. 911.) Motion of Retail Clerks International Association, AFL-CIO, for leave to file a brief, as *amicus curiae*, granted. *S. G. Lippman* and *Tim Bornstein* on the motion. *Robert Lewis* for respondents in opposition.

No. 155, Misc. *IN RE DISBARMENT OF QUIMBY*. It is hereby ordered, in light of the order of the United States District Court for the District of Columbia, dated November 13, 1967, that Charles H. Quimby III file by January 17, 1968, a further response to the order to show cause heretofore entered by this Court on May 29, 1967 [see 387 U. S. 927].

No. 728, Misc. *OYLER v. PENNSYLVANIA*. Motion for leave to file petition for writ of mandamus denied.

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No. 1038, Misc. *IN RE DISBARMENT OF O'MALLEY*. It is ordered that William R. O'Malley of Wickliffe, Ohio, be suspended from the practice of law in this Court and that a rule issue, returnable within forty days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 261, Misc. *HOMER v. BETO, CORRECTIONS DIRECTOR, ET AL.* Motion for leave to file petition for writ of habeas corpus denied.

*Certiorari Granted.* (See also No. 216, *ante*, p. 425; No. 678, *ante*, p. 404; and No. 14, Misc., *ante*, p. 413.)

No. 247. *PUYALLUP TRIBE v. DEPARTMENT OF GAME OF WASHINGTON ET AL.*; and

No. 319. *KAUTZ ET AL. v. DEPARTMENT OF GAME OF WASHINGTON ET AL.* Sup. Ct. Wash. Motion to dispense with printing petition in No. 319 granted. *Certiorari* granted. Cases are consolidated and a total of two hours is allotted for oral argument. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and these petitions. *Arthur Knodel* for petitioner in No. 247. *John J. O'Connell*, Attorney General of Washington, *Joseph L. Coniff*, Special Assistant Attorney General, and *Mike Johnson* and *Ed Mackie*, Assistant Attorneys General, for respondents in both cases. Briefs *amicus curiae*, in support of the petitions in both cases, were filed by *Allan G. Shepard*, Attorney General of Idaho, and *T. J. Jones III*, Special Counsel, for Idaho Fish & Game Department, and *Solicitor General Griswold* for the United States. Briefs *amicus curiae*, in support of the petition in No. 247, were filed by *Robert Y. Thornton*, Attorney General, for the State of Oregon, and *Arthur Lazarus, Jr.*, for Association on American Indian Affairs, Inc. Reported below: No. 247, 70 Wash. 2d 245, 422 P. 2d 754; No. 319, 70 Wash. 2d 275, 422 P. 2d 771. [For earlier order herein, see *ante*, p. 806.]

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*Certiorari Denied.* (See also No. 246, *ante*, p. 428; No. 670, *ante*, p. 427; and No. 708, Misc., *ante*, p. 427.)

No. 658. *TYREE v. NEW YORK CENTRAL RAILROAD CO.* C. A. 6th Cir. *Certiorari denied.* *Marshall I. Nurenberg* for petitioner. *John F. Dolan* for respondent. Reported below: 382 F. 2d 524.

No. 698. *FARMERS CO-OPERATIVE ELEVATOR ASSOCIATION NON-STOCK OF BIG SPRINGS, NEBRASKA v. STRAND.* C. A. 8th Cir. *Certiorari denied.* *William Craig, Paul D. Wilson* and *Jack E. Horsley* for petitioner. *James R. Stoner* for respondent. Reported below: 382 F. 2d 224.

No. 706. *SMITH v. TENNESSEE.* Sup. Ct. Tenn. *Certiorari denied.* *Bernard H. Cantor* for petitioner. *George F. McCanless*, Attorney General of Tennessee, and *Thomas E. Fox*, Deputy Attorney General, for respondent.

No. 708. *SHINALL v. MISSISSIPPI.* Sup. Ct. Miss. *Certiorari denied.* *Robert L. Carter, Barbara A. Morris, Jack H. Young* and *Raymond A. Brown* for petitioner. *Joe T. Patterson*, Attorney General of Mississippi, and *Guy N. Rogers*, Assistant Attorney General, for respondent. Reported below: 199 So. 2d 251.

No. 709. *PLISCO v. UNION RAILROAD CO.* C. A. 3d Cir. *Certiorari denied.* *James E. McLaughlin* and *John J. Hickton* for petitioner. Reported below: 379 F. 2d 15.

No. 713. *BREAULT ET AL. v. FEIGENHOLTZ, EXECUTOR, ET AL.* C. A. 7th Cir. *Certiorari denied.* *John J. Yowell, G. Kent Yowell* and *Philip B. Kurland* for petitioners. *Hirsch E. Soble* for respondent Feigenholtz. Reported below: 380 F. 2d 90.

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No. 712. MALINOU, PUBLIC ADMINISTRATOR *v.* CAIRNS ET AL. Sup. Ct. R. I. Certiorari denied. *Martin Malinou*, petitioner, *pro se.* *Henry M. Swan* for respondents. Reported below: — R. I. —, 231 A. 2d 785.

No. 714. JONES LUMBER CO. *v.* DEL NORTE COUNTY. Ct. App. Cal., 1st App. Dist. Certiorari denied. *Jonathan U. Newman* for petitioner. *Louis R. Baker* for respondent. Reported below: 251 Cal. App. 2d 645, 59 Cal. Rptr. 644.

No. 715. KAHN *v.* UNITED STATES; and

No. 718. SACHS ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *Richard E. Gorman* for petitioner in No. 715. *Don H. Reuben*, *Lawrence Gunnels*, *Alan M. Dershowitz* and *William T. Kirby* for petitioners in No. 718. *Solicitor General Griswold*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Julia P. Cooper* for the United States in both cases. Reported below: 381 F. 2d 824.

No. 716. JACKSON ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 6th Cir. Certiorari denied. *Richard P. Jahn* for petitioners. *Solicitor General Griswold* and *Assistant Attorney General Rogovin* for respondent. Reported below: 380 F. 2d 661.

No. 723. MANSFIELD *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. *Julius Lucius Echeles* and *Max Reinstein* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Rogovin* and *Joseph M. Howard* for the United States. Reported below: 381 F. 2d 961.

No. 730. BACSKO *v.* NEW JERSEY. Sup. Ct. N. J. Certiorari denied. *Frederick Klaessig* for petitioner. Reported below: 50 N. J. 49, 231 A. 2d 811.

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No. 548. SNOHOMISH COUNTY *v.* SEATTLE DISPOSAL Co. ET AL. Sup. Ct. Wash. Certiorari denied. *John Wilson* for petitioner. *Orville H. Mills* for respondents. *Solicitor General Griswold* filed a memorandum for the United States, by invitation of the Court, *ante*, p. 925. Reported below: 70 Wash. 2d 668, 425 P. 2d 22.

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE WHITE concurs, dissenting.

The Supreme Court of Washington held in a 6-3 decision that the State lacks power to apply a local zoning ordinance for control of garbage dumps and sewage landfills to respondent Seattle Disposal Company, a non-Indian lessee of two parcels of land within the Tulalip Tribes Reservation.

One section of the Act relevant to our problem—now codified as 28 U. S. C. § 1360—gave civil jurisdiction over Indians and Indian lands to California, Minnesota, Nebraska, Oregon, and Wisconsin<sup>1</sup> with the following proviso:

“Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property . . . belonging to any Indian or any Indian tribe . . . that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute . . .”

The federal question arises in the following manner. By Public Law 280, c. 505, § 7, 67 Stat. 590, Congress

<sup>1</sup> These five States—and Alaska by later amendment—are the only States specifically given jurisdiction without the need for state legislation. Washington obtained jurisdiction by way of the “any other State” clause in § 7 of the Act, quoted in part in text below, which was not codified.

gave consent "to any other State not having jurisdiction with respect to criminal offenses or civil causes of action [involving Indians and Indian lands], or with respect to both, *as provided for in this Act,*<sup>2</sup> to assume jurisdiction . . . by affirmative legislative action . . . ." (Italics added.)

Pursuant to Public Law 280, the State of Washington undertook to assume jurisdiction over Indians and their lands upon their consent. In the state enactment, jurisdiction was limited by Wash. Rev. Code § 37.12.060, which incorporated verbatim the restrictions quoted above that are found in 28 U. S. C. § 1360.

In the case before us the Washington Supreme Court held that the Tulalip Tribes' lands in issue were either held in trust or subject to a restraint against alienation imposed by 25 U. S. C. §§ 403a and 403a-2, which limit the length of leases made by the Tulalip Tribes and require approval of the Secretary of the Interior of leasing practices.<sup>3</sup> The majority then held that under both 28 U. S. C. § 1360 and the state statute incorporating language from § 1360, zoning regulations were "encumbrances" on Indian lands because they limit the use thereof. One Washington state court decision, our decision in *Squire v. Capoman*, 351 U. S. 1, and opinions of the Department of Interior were relied on by the majority in formulating this definition of "encumbrance."

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<sup>2</sup> The italicized language is a reference to the proviso in § 1360, quoted in this opinion.

<sup>3</sup> One of the arguments petitioner makes is that that parcel of Indian land not held in trust by the Government was not, as held below, subject to restraint against alienation. I have found little merit in this contention, since the Tulalip Tribes purchased the parcel in question after 1956, with the effect that 25 U. S. C. § 403a-2 is controlling and indirectly restricts the power to make leases.

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The majority also held that since 25 U. S. C. §§ 403a, 403b, and 415 authorized the Tulalip Tribes to make leases, their non-Indian lessees were entitled to the benefit of the restriction on state jurisdiction. Otherwise, reasoned the majority, the State would be interfering with the Indians' right to make leases, and the State could not accomplish indirectly—by subjecting respondent Disposal Company to zoning regulations—what it was prohibited from doing by acting directly on the Indians. For this proposition one South Dakota decision and our decision in *United States v. Allegheny County*, 322 U. S. 174, were relied on.

The dissent was of the view that a zoning regulation directed at protecting public health and welfare was not an "encumbrance" as that term is used in § 1360 and the state equivalent. In that view, Indian activities which directly injure the citizenry of the State at large, or reasonably appear to do so, should be subjected to state control. Otherwise, state programs to check stagnation of water supply and pollution of the air would be frustrated. The dissent thought that the term "encumbrance" in § 1360 should be construed in conjunction with 25 U. S. C. § 231, which provides, *inter alia*, that the Secretary of the Interior permit state agents to enter on Indian lands to enforce sanitation and quarantine regulations. Finally, said the dissent, the non-Indian lessee could not rely on any immunity from state regulations which the Indians themselves might enjoy. *Oklahoma Tax Comm'n v. Texas Co.*, 336 U. S. 342, where a non-Indian lessee of mineral rights on Indian lands was held not immune from state taxation of gross production, was cited.

A substantial federal question is presented. It is apparent from a reading of the opinion of the Washington Supreme Court that the State has assumed juris-

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diction over Indians as extensive as permitted by Public Law 280. There is nothing to suggest that when the State copied the limitation on state jurisdiction found in § 1360 into the state statute, the State intended to impose greater restrictions than § 1360 imposes. The questions presented, then, are whether zoning controls over burning or dumping of garbage constitute an "encumbrance" on Indian lands under § 1360 and whether a non-Indian lessee can enjoy any immunity from state zoning that the Indians enjoy.

Subjecting respondent lessee to state regulations on garbage and sewage disposal seems no more a burden or encumbrance on the Indians' right to lease their lands than the state tax on oil production of the non-Indian lessee in *Oklahoma Tax Comm'n* was a burden or encumbrance on the rights of the Indians there involved to make oil leases. In *Oklahoma Tax Comm'n* we said: "These cases present no question concerning the immunity of the Indian lands themselves from state taxation. There is no possibility that ultimate liability for the taxes may fall upon the owner of the land." 336 U. S., at 353. The same proposition, in a different context, may be true here, since all petitioner demands is that respondent Disposal Company obtain a refuse disposal use permit before commencing operations.

There may also be merit to the dissent's view that the immunity of Indian lands to a state "encumbrance" cannot frustrate state programs to check air and water pollution. The States should, perhaps, be able to prevent sewage dumped on Indians' lands from draining into streams which flow into water supplies outside Indian lands. The same is true of smoke from garbage burned on Indian lands that contributes to smog over nearby cities. State controls in this area may be permissible by virtue of 25 U. S. C. § 231, whether or not

they are achieved under the label "zoning" rather than "sanitation regulations."

The Solicitor General, in a memorandum expressing the views of the United States, asserts that the decision below was correct because it accorded with an administrative regulation of the Department of the Interior. This regulation <sup>4</sup> provides that no local zoning ordinance shall be applicable to land leased from an Indian tribe where, as here, the land is held in trust by or is subjected to a restriction against alienation by the United States. The Supreme Court of Washington did not rely on this regulation,<sup>5</sup> and whether it is valid or unduly restricts the state authority conferred by Public Law 280 and 25 U. S. C. § 231 is an important federal question this Court should decide. I would grant certiorari.

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<sup>4</sup> 25 CFR § 1.4 provides:

"(a) Except as provided in paragraph (b) of this section, none of the laws, ordinances, codes, resolutions, rules or other regulations of any State or political subdivision thereof limiting, zoning or otherwise governing, regulating, or controlling the use or development of any real or personal property, including water rights, shall be applicable to any such property leased from or held or used under agreement with and belonging to any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

"(b) The Secretary of the Interior or his authorized representative may in specific cases or in specific geographic areas adopt or make applicable to Indian lands all or any part of such laws, ordinances, codes, resolutions, rules or other regulations referred to in paragraph (a) of this section as he shall determine to be in the best interest of the Indian owner or owners in achieving the highest and best use of such property. . . ."

<sup>5</sup> The court below did rely on a 1942 decision of the Department of the Interior, 58 I. D. 52, holding that a Minnesota county could not apply a nonresidential zoning ordinance to certain Indian lands. But this decision was rendered before Public Law 280 was enacted.

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No. 725. JULIAN, TRUSTEE IN BANKRUPTCY *v.* FARMERS BANK OF CLINTON, MISSOURI. C. A. 8th Cir. Certiorari denied. *Phineas Rosenberg* for petitioner. *Dick H. Woods* for respondent. Reported below: 383 F. 2d 314.

No. 727. EALEY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Milton Lorenzo McGhee* for petitioner. *Solicitor General Griswold, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States.

No. 719. SCHERER *v.* BRENNAN ET AL. C. A. 7th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *Julius L. Sherwin and Theodore R. Sherwin* for petitioner. *Solicitor General Griswold* for respondents. Reported below: 379 F. 2d 609.

No. 720. HENRY *v.* DELHI-TAYLOR OIL CORP. Sup. Ct. Tex. Certiorari denied. MR. JUSTICE BLACK is of the opinion that certiorari should be granted. *B. R. Chastain* for petitioner. *William H. Keys* for respondent. Reported below: 416 S. W. 2d 390.

No. 721. DUGAS *v.* NIPPON YUSEN KAISHA. C. A. 5th Cir. Motion of American Trial Lawyers Association for leave to file a brief, as *amicus curiae*, granted. Certiorari denied. *H. Alva Brumfield* for petitioner. *Arthur J. Mandell* for American Trial Lawyers Association, as *amicus curiae*, in support of the petition. Reported below: 378 F. 2d 271.

No. 461, Misc. MILONE *v.* GARDNER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE. C. A. 7th Cir. Certiorari denied. *Marshall Patner* for petitioner. *Solicitor General Griswold* for respondent.

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No. 722. *NOYD v. MCNAMARA, SECRETARY OF DEFENSE, ET AL.* C. A. 10th Cir. Application for stay presented to MR. JUSTICE WHITE, and by him referred to the Court, denied. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this case. *Marvin M. Karpatkin, Ernest Angell, Melvin L. Wulf, Norman Dorsen and Rhoda H. Karpatkin* for petitioner. *Solicitor General Griswold* for respondents. *Tolbert H. McCarroll* for American Humanist Association, as *amicus curiae*, in support of the petition. Reported below: 378 F. 2d 538.

No. 724. *MIRRA v. UNITED STATES.* C. A. 2d Cir. Motion to dispense with printing opinion of the District Court in petition granted. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition. *Jerome Lewis and Abraham Glasser* for petitioner. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg and Kirby W. Patterson* for the United States. Reported below: 379 F. 2d 782.

No. 728. *GRANEY ET UX. v. UNITED STATES.* C. A. 4th Cir. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *William H. Deck* for petitioners. *Solicitor General Griswold, Assistant Attorney General Rogovin and Robert H. Solomon* for the United States. Reported below: 377 F. 2d 992.

No. 330, Misc. *HARRIS v. PITCHESS, SHERIFF.* C. A. 9th Cir. Certiorari denied. *Thomas C. Lynch, Attorney General of California, William E. James, Assistant Attorney General, and Andrea Sheridan Ordin, Deputy Attorney General,* for respondent.

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No. 202, Misc. *CURRIE v. NEW YORK*. Ct. App. N. Y. Certiorari denied. *Isidore Dollinger* and *Daniel J. Sullivan* for respondent.

No. 373, Misc. *ALLEN v. WILSON, WARDEN*. C. A. 9th Cir. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, and *Derald E. Granberg* and *William D. Stein*, Deputy Attorneys General, for respondent.

No. 523, Misc. *YOUNG v. CROCKER, CHIEF JUDGE, U. S. DISTRICT COURT, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 530, Misc. *BLAKEY v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson*, *Jerome M. Feit* and *Robert G. Maysack* for the United States.

No. 558, Misc. *WINHOVEN ET AL. v. PITCHESS, SHERIFF*. C. A. 9th Cir. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *Bradley A. Stoutt*, Deputy Attorney General, for respondent.

No. 612, Misc. *GREEN, AKA YOUNGBLOOD v. WASHINGTON*. Sup. Ct. Wash. Certiorari denied. Reported below: 70 Wash. 2d 955, 425 P. 2d 913.

No. 673, Misc. *TAYLOR v. PAGE, WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 381 F. 2d 717.

No. 680, Misc. *ALVIDREZ v. CALIFORNIA ADULT AUTHORITY*. Sup. Ct. Cal. Certiorari denied.

No. 684, Misc. *NADOLSKI v. MARYLAND*. Ct. App. Md. Certiorari denied.

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No. 685, Misc. PATSKANICK ET VIR *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 2d Cir. Certiorari denied. *Acting Solicitor General Spritzer, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for respondent National Labor Relations Board.

No. 688, Misc. GARZA *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 693, Misc. ROSE *v.* CALIFORNIA. Super. Ct. Cal., County of Los Angeles. Certiorari denied.

No. 706, Misc. BUTTERFIELD *v.* GAZELLE. C. A. D. C. Cir. Certiorari denied.

No. 707, Misc. HAGGARD *v.* HENDERSON, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 382 F. 2d 288.

No. 710, Misc. WILKERSON *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist. Certiorari denied.

No. 712, Misc. ROWLAND *v.* NORTH CAROLINA. C. A. 4th Cir. Certiorari denied.

No. 738, Misc. KAUFFMAN *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. *Richard S. Lowe* for respondent.

No. 751, Misc. SINGLETON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Harvey Erickson* for petitioner. *Acting Solicitor General Spritzer, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 381 F. 2d 1.

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No. 58, Misc. *VELA v. BETO*, CORRECTIONS DIRECTOR. C. A. 5th Cir. Certiorari denied. *Crawford C. Martin*, Attorney General of Texas, *George M. Cowden*, First Assistant Attorney General, *R. L. Lattimore*, *Howard M. Fender* and *Lonny F. Zwiener*, Assistant Attorneys General, and *A. J. Carubbi, Jr.*, for respondent.

THE CHIEF JUSTICE, with whom MR. JUSTICE DOUGLAS joins, dissenting.

This case is another further extension of *Spencer v. Texas*, 385 U. S. 554, in which the error is more egregious. For the reasons stated in my concurring opinion in *Burgett v. Texas*, *ante*, p. 116, I would grant the petition for writ of certiorari.

*Rehearing Denied.*

No. 152. *LAHITTE ET VIR v. ACME REFRIGERATION SUPPLIES, INC., ET AL.*, *ante*, p. 821;

No. 535. *MARCHESE ET AL. v. UNITED STATES*, *ante*, p. 930;

No. 402, Misc. *HACKATHORN v. DECKER, SHERIFF*, *ante*, p. 940;

No. 418, Misc. *COHEN v. NEWSWEEK, INC.*, *ante*, p. 878;

No. 572, Misc. *RAYMOND v. TOFFANY, COMMISSIONER OF MOTOR VEHICLES OF NEW YORK*, *ante*, p. 26; and

No. 606, Misc. *STILTNER v. RHAY, PENITENTIARY SUPERINTENDENT*, *ante*, p. 964. Petitions for rehearing denied.

No. 41. *UMANS v. UNITED STATES*, *ante*, p. 80; and

No. 401. *MORA ET AL. v. MCNAMARA, SECRETARY OF DEFENSE, ET AL.*, *ante*, p. 934. Petitions for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of these petitions.

JANUARY 15, 1968.

*Miscellaneous Orders.*

No. 33, Orig. ARKANSAS *v.* TENNESSEE. Motion for leave to file bill of complaint granted and the State of Tennessee allowed sixty days to answer.

IT IS ORDERED that the Honorable Gunnar H. Nordbye, Senior Judge of the United States District Court for the District of Minnesota, be, and he is hereby, appointed Special Master in this case with authority to fix the time and conditions for the filing of additional pleadings and to direct subsequent proceedings, and with authority to summon witnesses, issue subpoenas, and take such evidence as may be introduced and such as he may deem it necessary to call for. The Master is directed to submit such reports as he may deem appropriate.

The Master shall be allowed his actual expenses. The allowances to him, the compensation paid to his technical, stenographic, and clerical assistants, the cost of printing his report, and all other proper expenses shall be charged against and be borne by the parties in such proportion as the Court hereafter may direct.

IT IS FURTHER ORDERED that if the position of Special Master in this case becomes vacant during a recess of the Court, THE CHIEF JUSTICE shall have authority to make a new designation which shall have the same effect as if originally made by the Court herein.

*Joe Purcell*, Attorney General of Arkansas, and *Don Langston*, Assistant Attorney General, on the motion. *George F. McCanless*, Attorney General of Tennessee, *C. Hayes Cooney*, Assistant Attorney General, and *Harry W. Laughlin*, *James L. Garthright, Jr.*, and *J. Martin Regan*, Special Counsel, for defendant.

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No. 60. FEDERAL POWER COMMISSION *v.* SUNRAY DX OIL Co. ET AL.;

No. 61. UNITED GAS IMPROVEMENT Co. *v.* SUNRAY DX OIL Co. ET AL.;

No. 62. BROOKLYN UNION GAS Co. ET AL. *v.* FEDERAL POWER COMMISSION ET AL.;

No. 80. FEDERAL POWER COMMISSION *v.* STANDARD OIL Co. OF TEXAS, A DIVISION OF CHEVRON OIL Co., ET AL.; and

No. 97. UNITED GAS IMPROVEMENT Co. *v.* SUNRAY DX OIL Co. C. A. 10th Cir. (Certiorari granted, *ante*, p. 811.) Motion of Pan American Petroleum Corp. for leave to file a brief, as *amicus curiae*, granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *J. P. Hammond, Harold H. Young, Jr., Wm. J. Grove, Carroll L. Gilliam* and *Phillip R. Ehrenkranz* on the motion.

No. 70. ALITALIA-LINEE AEREE ITALIANE, S. P. A. *v.* LISI ET AL. C. A. 2d Cir. Motions of United Kingdom of Great Britain and Northern Ireland, Republic of Italy, and Canada for leave to file briefs, as *amici curiae*, granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of these motions. *Edwin Longcope* for United Kingdom of Great Britain and Northern Ireland, *Alfred C. Clapp* for Republic of Italy, and *Robert MacCrate* for Canada, on the motions. [For earlier orders herein, see *ante*, pp. 926, 1000.]

No. 73. IN RE RUFFALO. C. A. 6th Cir. (Certiorari granted, *ante*, p. 815.) Motion of Ohio State Bar Association and Mahoning County Bar Association for leave to argue orally granted. MR. JUSTICE FORTAS took no part in the consideration or decision of this motion. *Thomas V. Koykka* on the motion.

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No. 127. *READING Co. v. BROWN, TRUSTEE IN BANKRUPTCY, ET AL.* C. A. 3d Cir. (Certiorari granted, *ante*, p. 895.) Motion of the United States to remove case from summary calendar granted and a total of one and one-half hours allotted for oral argument. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Solicitor General Griswold* for the United States on the motion.

No. 149. *DYKE ET AL. v. TAYLOR IMPLEMENT MANUFACTURING Co., INC.* Sup. Ct. Tenn. (Certiorari granted, *ante*, p. 815.) Motion of petitioners to remove case from summary calendar denied. *Bernard Kleiman* on the motion.

No. 154. *MILLER v. CALIFORNIA.* Ct. App. Cal., 4th App. Dist. (Certiorari granted, *ante*, p. 968.) Motions of petitioner for leave to proceed further herein *in forma pauperis* and to dispense with printing appendix granted. *F. Lee Bailey* on the motions.

No. 178. *NATIONAL LABOR RELATIONS BOARD v. UNITED INSURANCE Co. OF AMERICA ET AL.*; and

No. 179. *INSURANCE WORKERS INTERNATIONAL UNION, AFL-CIO v. NATIONAL LABOR RELATIONS BOARD ET AL.* C. A. 7th Cir. (Certiorari granted, *ante*, p. 815.) Motion of American Retail Federation for leave to file a brief, as *amicus curiae*, granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Shayle P. Fox* on the motion.

No. 405. *POWELL v. TEXAS.* Appeal from County Court at Law No. 1, Travis County. (Certiorari granted, *ante*, p. 810.) Motion of National Council on Alcoholism for leave to file a brief, as *amicus curiae*, granted. *Paul O'Dwyer* on the motion.

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No. 232. UNITED STATES *v.* O'BRIEN; and

No. 233. O'BRIEN *v.* UNITED STATES. C. A. 1st Cir. (Certiorari granted, *ante*, p. 814.) Motion to remove cases from summary calendar granted and a total of one and one-half hours allotted for oral argument. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion. *Marvin Karpatkin, Howard S. Whiteside* and *Melvin L. Wulf* on the motion for respondent in No. 232 and for petitioner in No. 233.

No. 363. UNITED STATES ET AL. *v.* SOUTHWESTERN CABLE CO. ET AL.; and

No. 428. MIDWEST TELEVISION, INC., ET AL. *v.* SOUTHWESTERN CABLE CO. ET AL. (Certiorari granted, *ante*, p. 911.) C. A. 9th Cir. Motion of All-Channel Television Society for leave to file a brief, as *amicus curiae*, granted. Motion of San Diego Telecasters, Inc., to substitute Western Telecasters, Inc., as a party petitioner in No. 428 granted. MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL took no part in the consideration or decision of these motions. *Michael Finkelstein* on the motion for All-Channel Television Society. *Arthur Scheiner* for Southwestern Cable Co., and *Robert L. Heald* for Mission Cable TV, Inc., et al. in opposition. *Ernest W. Jennes, Charles A. Miller, Arthur H. Schroeder* and *John P. Bankson, Jr.*, on the motion for San Diego Telecasters, Inc.

No. 508. LEVY, ADMINISTRATRIX *v.* LOUISIANA THROUGH THE CHARITY HOSPITAL OF LOUISIANA AT NEW ORLEANS BOARD OF ADMINISTRATORS ET AL. Appeal from Sup. Ct. La. (Probable jurisdiction noted, *ante*, p. 925.) Motion of NAACP Legal Defense & Educational Fund, Inc., et al. for leave to file a brief, as *amici curiae*, granted. *Harry D. Krause, Jack Greenberg* and *Leroy D. Clark* on the motion.

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No. 465. EDWARDS *v.* PACIFIC FRUIT EXPRESS CO. C. A. 9th Cir. (Certiorari granted, *ante*, p. 912.) Motion of Brotherhood of Railway Carmen of America, et al., for leave to file a brief, as *amici curiae*, granted. *Clifton Hildebrand* on the motion for Brotherhood of Railway Carmen of America.

No. 479, Misc. PACK *v.* BUNNELL, STATE HOSPITAL SUPERINTENDENT. Motion for leave to file petition for writ of habeas corpus denied. Treating the papers submitted as a petition for a writ of certiorari, certiorari denied. *John J. O'Connell*, Attorney General of Washington, and *Paul J. Murphy* and *Stephen C. Way*, Assistant Attorneys General, for respondent.

No. 840, Misc. HARRIS *v.* PATE, WARDEN;

No. 845, Misc. KNOWLES *v.* LEE, COMMISSIONER, STATE BOARD OF CORRECTIONS, ET AL.;

No. 862, Misc. DAVIS *v.* FLORIDA; and

No. 898, Misc. VAN NEWKIRK *v.* DISTRICT ATTORNEY, RICHMOND COUNTY, NEW YORK. Motions for leave to file petitions for writs of habeas corpus denied.

No. 698, Misc. MARCELIN *v.* NEW YORK;

No. 737, Misc. AUSTIN *v.* NELSON, WARDEN, ET AL.;  
and

No. 745, Misc. MCCRAY *v.* ARRAJ, CHIEF JUDGE, U. S. DISTRICT COURT. Motions for leave to file petitions for writs of mandamus denied.

No. 718. SACHS ET AL. *v.* UNITED STATES, *ante*, p. 1015. The United States is requested to file, within thirty days, a response to petition for rehearing. MR. JUSTICE MARSHALL took no part in the consideration or decision of this order.

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No. 478. AMALGAMATED FOOD EMPLOYEES UNION LOCAL 590 ET AL. *v.* LOGAN VALLEY PLAZA, INC., ET AL. Sup. Ct. Pa. (Certiorari granted, *ante*, p. 911.) Motions of American Federation of Labor & Congress of Industrial Organizations, and American Civil Liberties Union for leave to file briefs, as *amici curiae*, granted. *J. Albert Woll, Laurence Gold and Thomas E. Harris* on the motion for American Federation of Labor & Congress of Industrial Organizations. *Marvin M. Karpatkin and Melvin L. Wulf* on the motion for American Civil Liberties Union. *Robert Lewis* for respondents in opposition.

*Probable Jurisdiction Noted.*

No. 660. BOARD OF EDUCATION OF CENTRAL SCHOOL DISTRICT NO. 1 ET AL. *v.* ALLEN, COMMISSIONER OF EDUCATION OF NEW YORK, ET AL. Appeal from Ct. App. N. Y. Probable jurisdiction noted. *Marvin E. Pollock* and *Alan H. Levine* for appellants. *Louis J. Lefkowitz*, Attorney General of New York, *Ruth Kessler Toch*, Solicitor General, and *Jean M. Coon*, Assistant Attorney General, for Allen, and *Porter R. Chandler* and *Richard E. Nolan* for Rock et al., appellees. Reported below: 20 N. Y. 2d 109, 228 N. E. 2d 791.

No. 742. MARYLAND ET AL. *v.* WIRTZ, SECRETARY OF LABOR, ET AL. Appeal from D. C. Md. Probable jurisdiction noted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this case. *Francis B. Burch*, Attorney General of Maryland, *Thomas A. Garland, Loring E. Hawes* and *Alan M. Wilner*, Assistant Attorneys General; *Crawford C. Martin*, Attorney General of Texas, *George Cowden* and *Hawthorne Phillips*, Assistant Attorneys General, *A. J. Carubbi, Jr.*, and *Cecil Morgan* for appellants. *Solicitor General Griswold* for appellees. Reported below: 269 F. Supp. 826.

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No. 797. AMERICAN COMMERCIAL LINES, INC., ET AL. v. LOUISVILLE & NASHVILLE RAILROAD CO. ET AL.;

No. 804. AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL. v. LOUISVILLE & NASHVILLE RAILROAD CO. ET AL.;

No. 808. AMERICAN WATERWAYS OPERATORS, INC. v. LOUISVILLE & NASHVILLE RAILROAD CO. ET AL.; and

No. 809. INTERSTATE COMMERCE COMMISSION v. LOUISVILLE & NASHVILLE RAILROAD CO. ET AL. Appeal from D. C. W. D. Ky. Probable jurisdiction noted. Cases are consolidated and two hours allotted for oral argument.

*T. Randolph Buck, Robert E. Webb, J. Raymond Clark and Harry C. Ames, Jr.*, for appellants in No. 797; *Peter T. Beardsley, Bryce Rea, Jr.*, and *Thomas M. Knebel* for appellants in No. 804; *A. Alvis Layne and Robert L. Wright* for appellant in No. 808; and *Robert W. Ginnane, Fritz R. Kahn and Leonard S. Goodman* for appellant in No. 809.

*Stanfield Johnson, Elbert R. Leigh, James H. McGlothlin, James A. Bistline, Thormund A. Miller, William M. Maloney, Harry J. Breithaupt, Donal L. Turkal, Carl Helmetag, Jr., Joseph E. Stopher and R. Lee Blackwell* for appellee railroads.

*Solicitor General Griswold* filed a memorandum for the United States in all four cases.

Reported below: 268 F. Supp. 71.

No. 813. SHAPIRO, COMMISSIONER OF WELFARE OF THE STATE OF CONNECTICUT v. THOMPSON. Appeal from D. C. Conn. Motion of appellee for leave to proceed *in forma pauperis* granted. Probable jurisdiction noted. *Harold M. Mulvey*, Attorney General of Connecticut, and *Francis J. MacGregor*, Assistant Attorney General, for appellant. *Thomas C. Lynch*, Attorney General, and *Elizabeth Palmer*, Deputy Attorney General, for the State of California, as *amicus curiae*, in support of appellant. Reported below: 270 F. Supp. 331.

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No. 755. FIRST AGRICULTURAL NATIONAL BANK OF BERKSHIRE COUNTY *v.* STATE TAX COMMISSION. Appeal from Sup. Jud. Ct. Mass. Motion of Colorado Bankers Association for leave to file a brief, as *amicus curiae*, granted. Probable jurisdiction noted. *John P. Weitzel* for appellant. *James Lawrence White* on the motion. Reported below: 353 Mass. 172, 229 N. E. 2d 245.

*Certiorari Granted.* (See also No. 130, *ante*, p. 575; No. 400, *ante*, p. 577; No. 480, *ante*, p. 568; and No. 825, *ante*, p. 581.)

No. 174. LEE ET AL. *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. *Certiorari* granted. *Edward R. Kirkland* for petitioners. *Earl Faircloth*, Attorney General of Florida, and *Wallace E. Allbritton*, Assistant Attorney General, for respondent. Reported below: 191 So. 2d 84.

No. 517. ST. AMANT *v.* THOMPSON. Sup. Ct. La. *Certiorari* granted. *Moses C. Scharff* for petitioner. Reported below: 250 La. 405, 196 So. 2d 255.

No. 760. COMMISSIONER OF INTERNAL REVENUE *v.* GORDON ET UX. C. A. 2d Cir. *Certiorari* granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Acting Solicitor General Spritzer*, *Assistant Attorney General Rogovin*, *Harris Weinstein*, *Gilbert E. Andrews* and *Martin T. Goldblum* for petitioner. *Harry R. Horrow* for respondents. Reported below: 382 F. 2d 499.

No. 740. MONROE ET AL. *v.* BOARD OF COMMISSIONERS OF THE CITY OF JACKSON ET AL. C. A. 6th Cir. *Certiorari* granted and case set for oral argument immediately following No. 695, *ante*, p. 1003. *Jack Greenberg*, *James M. Nabrit III*, *Avon N. Williams, Jr.*, and *Z. Alexander Looby* for petitioners. *Russell Rice, Sr.*, for respondents. Reported below: 380 F. 2d 955.

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No. 733. PERMA LIFE MUFFLERS, INC., ET AL. *v.* INTERNATIONAL PARTS CORP. ET AL. C. A. 7th Cir. Certiorari granted. *Raymond R. Dickey* and *Bernard Gordon* for petitioners. *John T. Chadwell*, *Glenn W. McGee* and *David Silbert* for respondents. Reported below: 376 F. 2d 692.

No. 796. NATIONAL LABOR RELATIONS BOARD *v.* INDUSTRIAL UNION OF MARINE & SHIPBUILDING WORKERS OF AMERICA, AFL-CIO, ET AL. C. A. 3d Cir. Certiorari granted. *Solicitor General Griswold*, *Arnold Ordman*, *Dominick L. Manoli* and *Norton J. Come* for petitioner. Reported below: 379 F. 2d 702.

No. 781. BAAN ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 9th Cir. Certiorari granted and case set for oral argument immediately following No. 760, *supra*. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Harry R. Horrow* for petitioners. *Solicitor General Griswold* for respondent. Reported below: 382 F. 2d 485.

No. 805. RANEY ET AL. *v.* BOARD OF EDUCATION OF THE GOULD SCHOOL DISTRICT ET AL. C. A. 8th Cir. Certiorari granted and case set for oral argument immediately following No. 740, *supra*. *Jack Greenberg* and *Michael Meltsner* for petitioners. *Robert V. Light* and *Herschel H. Friday* for respondents. Reported below: 381 F. 2d 252.

No. 678, Misc. BUMPER *v.* NORTH CAROLINA. Sup. Ct. N. C. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted and case transferred to appellate docket. *T. W. Bruton*, Attorney General of North Carolina, and *Harry W. McGalliard*, Deputy Attorney General, for respondent. Reported below: 270 N. C. 521, 155 S. E. 2d 173.

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No. 802. PEYTON, PENITENTIARY SUPERINTENDENT *v.* ROWE ET AL. C. A. 4th Cir. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari granted and case set for oral argument immediately following No. 71, *ante*, p. 896. *Robert Y. Button*, Attorney General of Virginia, and *Reno S. Harp III*, Assistant Attorney General, for petitioner. *Thomas S. Currier* for respondents. Reported below: 383 F. 2d 709.

No. 344, Misc. WITHERSPOON *v.* ILLINOIS ET AL. Sup. Ct. Ill. Motion of Illinois Division, American Civil Liberties Union, for leave to file a brief, as *amicus curiae*, granted. Motion for leave to proceed *in forma pauperis* granted. Certiorari granted and case transferred to appellate docket, limited to the following question: Whether the operation of the Illinois statute providing that the State could challenge for cause all prospective jurors who were opposed to, or had conscientious scruples against, capital punishment deprived the petitioner of a jury which fairly represented a cross section of the community, and assured the State of a jury whose members were partial to the prosecution on the issue of guilt or innocence, in violation of the petitioner's rights under the Sixth and Fourteenth Amendments to the United States Constitution.

*Elmer Gertz* on the motion for Illinois Division, American Civil Liberties Union. *Albert E. Jenner, Jr.*, *Thomas P. Sullivan* and *John C. Tucker* for petitioner. *William G. Clark*, Attorney General, and *John J. O'Toole* and *Donald J. Veverka*, Assistant Attorneys General, for the State of Illinois, and *John J. Stamos*, *Elmer C. Kissane* and *Joel M. Flaum*, for Woods, respondents. Reported below: 36 Ill. 2d 471, 224 N. E. 2d 259.

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*Certiorari Denied.* (See also No. 730, Misc., *ante*, p. 568; and No. 479, Misc., *supra*.)

No. 518. *STEPS v. ARKANSAS*. Sup. Ct. Ark. *Certiorari* denied. *Jack Holt, Jr.*, for petitioner. *Joe Purcell*, Attorney General of Arkansas, for respondent. Reported below: 242 Ark. 587, 414 S. W. 2d 620.

No. 668. *AMPLEX OF MARYLAND, INC. v. OUTBOARD MARINE CORP.* C. A. 4th Cir. *Certiorari* denied. *Harold Buchman* for petitioner. *Roberts B. Owen* and *Nestor S. Foley* for respondent. *Solicitor General Griswold*, *Assistant Attorney General Turner* and *Robert S. Rifkind* for the United States, as *amicus curiae*, in support of the petition. Reported below: 380 F. 2d 112.

No. 680. *BREGMAN, VOCCO & CONN, INC. v. DONALDSON PUBLISHING Co.* C. A. 2d Cir. *Certiorari* denied. *Frederick W. R. Pride*, *Leo P. Larkin, Jr.*, *Max Chopnick*, *Jerome E. Malino* and *Theodore R. Jackson* for petitioner. *Lewis A. Dreyer* for respondent. Reported below: 375 F. 2d 639.

No. 731. *CROUSE v. GARDNER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE.* C. A. 4th Cir. *Certiorari* denied. *Clay S. Crouse*, petitioner, *pro se*. *Solicitor General Griswold*, *Assistant Attorney General Weisl* and *Kathryn H. Baldwin* for respondent.

No. 734. *GLADNEY v. REVIEW COMMITTEE.* C. A. 5th Cir. *Certiorari* denied. *Paul K. Kirkpatrick, Jr.*, for petitioner. *Solicitor General Griswold* for respondent. Reported below: 380 F. 2d 929.

No. 744. *WALKER v. UNITED STATES.* Ct. Cl. *Certiorari* denied. *Lawrence J. Simmons* for petitioner. *Solicitor General Griswold* for the United States. Reported below: 179 Ct. Cl. 723.

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No. 735. *KLEIN ET AL. v. UNITED STATES*. Ct. Cl. Certiorari denied. *Bert A. Bandstra* for petitioners. *Solicitor General Griswold* and *Acting Assistant Attorney General Williams* for the United States. Reported below: 179 Ct. Cl. 910, 375 F. 2d 825.

No. 739. *METLOX MANUFACTURING CO. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 9th Cir. Certiorari denied. *Frank Simpson* for petitioner. *Solicitor General Griswold*, *Arnold Ordman*, *Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 378 F. 2d 728.

No. 741. *DOYLE ET AL. v. BRENNER, COMMISSIONER OF PATENTS*. C. A. D. C. Cir. Certiorari denied. *Albert L. Jacobs* for petitioners. *Solicitor General Griswold* for respondent. Reported below: 127 U. S. App. D. C. 283, 383 F. 2d 210.

No. 743. *BAY COUNTIES DISTRICT COUNCIL OF CARPENTERS, AFL-CIO, ET AL. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 9th Cir. Certiorari denied. *Victor Van Bourg* for petitioners. *Solicitor General Griswold*, *Arnold Ordman*, *Dominick L. Manoli* and *Norton J. Come* for respondent. Reported below: 382 F. 2d 593.

No. 745. *ROBERGE v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Rogovin*, *Gilbert E. Andrews* and *Loring W. Post* for respondent. Reported below: 377 F. 2d 558.

No. 746. *GLIMCO v. PARSONS, U. S. DISTRICT JUDGE*. C. A. 7th Cir. Certiorari denied. *Edward J. Calihan, Jr.*, for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for respondent.

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No. 747. *McLANE ET UX. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. *Thaddeus Rojek* for petitioners. *Solicitor General Griswold, Assistant Attorney General Rogovin and Gilbert E. Andrews* for respondent. Reported below: 377 F. 2d 557.

No. 751. *KOHLER ET AL. v. WASHINGTON*. Super. Ct. Wash., County of King and/or Sup. Ct. Wash. Certiorari denied. *Clarence W. Pierce and Michael R. Alfieri* for petitioners. Reported below: 70 Wash. 2d 599, 424 P. 2d 656.

No. 753. *BIRNS v. OHIO*. Sup. Ct. Ohio. Certiorari denied. *Jack G. Day* for petitioner. *John T. Corrigan, Harvey R. Monck and Charles W. Fleming* for respondent.

No. 758. *GATES v. P. F. COLLIER, INC.* C. A. 9th Cir. Certiorari denied. *Wilbur K. Watkins, Jr.*, for petitioner. *Peter Megargee Brown* for respondent. Reported below: 378 F. 2d 888.

No. 761. *INTERNATIONAL ATLAS SERVICES, INC., A DIVISION OF ATLAS CORP., FORMERLY INTERNATIONAL AIRCRAFT SERVICES, INC. v. TWENTIETH CENTURY AIRCRAFT CO. ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied. *John D. Gray* for petitioner. *Leonard H. Monroe* for respondents. Reported below: 251 Cal. App. 2d 434, 59 Cal. Rptr. 495.

No. 763. *HOUSING AUTHORITY OF THE CITY OF LOS ANGELES v. HOLTZENDORFF ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied. *Jack E. Hildreth and Richard R. Rogan* for petitioner. *Herman F. Selvin* for respondents. Reported below: 250 Cal. App. 2d 596, 58 Cal. Rptr. 886.

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No. 762. *LOWE v. MONK, ADMINISTRATOR, ET AL.* C. A. 5th Cir. Certiorari denied. *Charles E. Muskett* for petitioner. Reported below: 379 F. 2d 555.

No. 767. *SANDERS ET AL. v. ERRECA ET AL.* C. A. 9th Cir. Certiorari denied. *Hyman Goldman* for petitioners. *Harry S. Fenton, R. B. Pegram and Joseph A. Montoya* for respondents. Reported below: 377 F. 2d 960.

No. 769. *SKYLINE HOMES, INC. v. NATIONAL LABOR RELATIONS BOARD.* C. A. 5th Cir. Certiorari denied. *Larry S. Davidow* for petitioner. *Solicitor General Griswold, Arnold Ordman, Dominick L. Manoli, Norton J. Come and Leonard M. Wagman* for respondent. Reported below: 381 F. 2d 706.

No. 770. *AMERADA PETROLEUM CORP. v. MARSHALL.* C. A. 5th Cir. Certiorari denied. *Joseph W. Morris and Cecil E. Munn* for petitioner. Reported below: 381 F. 2d 661.

No. 771. *CAMERON v. HAUCK.* C. A. 5th Cir. Certiorari denied. *John D. Cofer, Hume Cofer and Luther E. Jones* for petitioner. Reported below: 383 F. 2d 966.

No. 772. *INTERNATIONAL TELEPHONE & TELEGRAPH CORP. v. NATIONAL LABOR RELATIONS BOARD ET AL.*; and

No. 773. *PROFESSIONAL EMPLOYEES OF I. T. T. FEDERAL LABORATORIES ET AL. v. McCULLOCH ET AL.* C. A. 3d Cir. Certiorari denied. *Thomas L. Morrissey* for petitioner in No. 772, and *Merritt T. Viscardi* for petitioners in No. 773. *Solicitor General Griswold, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for respondents National Labor Relations Board et al., and *Sidney Reitman* for respondent Local 400, International Union of Electrical, Radio & Machine Workers of America, AFL-CIO, in both cases. Reported below: 382 F. 2d 366, 374.

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No. 775. CHEMICAL CLEANING, INC., ET AL. *v.* DOW CHEMICAL CO. C. A. 5th Cir. Certiorari denied. *M. Ted Raptas* for petitioners. *Charles J. Merriam* for respondent. Reported below: 379 F. 2d 294.

No. 777. BILLINGSLEY *v.* MACKAY. C. A. 5th Cir. Certiorari denied. *William D. Neary* for petitioner. *Philip I. Palmer* for respondent. Reported below: 382 F. 2d 290.

No. 780. LOFFLAND BROTHERS CO. *v.* ROBERTS ET AL. C. A. 5th Cir. Certiorari denied. *Robert B. Acomb, Jr.*, for petitioner. Reported below: 386 F. 2d 540.

No. 782. INTERNATIONAL CABLE T. V. CORP. *v.* PUBLIC UTILITIES COMMISSION OF CALIFORNIA ET AL. Sup. Ct. Cal. Certiorari denied. *Dirks B. Foster* for petitioner. *Mary Moran Pajalich* and *J. Thomasan Phelps* for Public Utilities Commission of California, and *William E. Mussman* for Pacific Telephone & Telegraph Co., respondents.

No. 783. CITY OF HAMMOND *v.* McLEAN, TRUSTEE, ET AL.; and

No. 784. WOODMAR REALTY CO. *v.* McLEAN, TRUSTEE, ET AL. C. A. 7th Cir. Certiorari denied. *G. Edward McHie* for petitioner in No. 783, and *Owen W. Crum-packer*, *Harold Abrahamson* and *Milton K. Joseph* for petitioner in No. 784. *Porter R. Draper* for respondents in both cases. Reported below: 384 F. 2d 776.

No. 786. BARNES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. *Harris A. Gilbert* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Ronald L. Gainer* for the United States. Reported below: 383 F. 2d 287.

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No. 789. *KRIEGER-RAGSDALE & Co., INC. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 7th Cir. Certiorari denied. *Harry P. Dees* for petitioner. *Solicitor General Griswold, Arnold Ordman, Dominick L. Manoli, Norton J. Come* and *George B. Driesen* for respondent. Reported below: 379 F. 2d 517.

No. 792. *CRAWFORD ET AL. v. UNITED STATES*. Ct. Cl. Certiorari denied. *Alan Y. Cole, Isaac N. Groner, Jerry D. Anker* and *Earl C. Berger* for petitioners. *Solicitor General Griswold* for the United States. *Harry N. Rosenfield* for National Education Association, as *amicus curiae*, in support of the petition. Reported below: 179 Ct. Cl. 128, 376 F. 2d 266.

No. 794. *CARGILL v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *Edward Bennett Williams* and *Robert L. Weinberg* for petitioner. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg* and *Jerome M. Feit* for the United States. Reported below: 381 F. 2d 849.

No. 799. *BOARD OF PARDONS AND PAROLES OF TEXAS ET AL. v. BLACK*. C. A. 5th Cir. Certiorari denied. *Crawford C. Martin*, Attorney General of Texas, *George M. Cowden*, First Assistant Attorney General, *R. L. Lattimore, Howard M. Fender, Robert E. Owen, Gilbert J. Pena* and *Lonny F. Zwiener*, Assistant Attorneys General, and *A. J. Carubbi, Jr.*, for petitioners. Reported below: 382 F. 2d 758.

No. 811. *LANNOM v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Peter J. Hughes* for petitioner. *Solicitor General Griswold, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 381 F. 2d 858.

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No. 785. *STUMO v. UNITED AIR LINES, INC., ET AL.* C. A. 7th Cir. Certiorari denied. *George F. Archer* for petitioner. *Stuart Bernstein* for respondents United Air Lines, Inc., et al. Reported below: 382 F. 2d 780.

No. 803. *UNITED STATES GYPSUM Co. v. UNITED STEELWORKERS OF AMERICA, AFL-CIO.* C. A. 5th Cir. Certiorari denied. *Harold D. Burgess* for petitioner. *Bernard Kleiman, Elliot Bredhoff, Michael H. Gottesman, George H. Cohen* and *Jerome A. Cooper* for respondent. Reported below: 384 F. 2d 38.

No. 806. *PAGE ET AL. v. PAN AMERICAN PETROLEUM CORP. ET AL.* Ct. Civ. App. Tex., 1st Sup. Jud. Dist. Certiorari denied. *Sam J. Lee* for petitioners. Reported below: 412 S. W. 2d 797.

No. 814. *PHILLIPS PETROLEUM Co. v. BRENNER, COMMISSIONER OF PATENTS, ET AL.* C. A. D. C. Cir. Certiorari denied. *Sidney Neuman, Robert L. Austin* and *Paul L. Gomory* for petitioner. *Solicitor General Griswold* for Brenner, *Harry L. Kirkpatrick* for Goodrich-Gulf Chemicals, Inc., and *John D. Upham, L. Bruce Stevens, Jr.,* and *Ellsworth H. Mosher* for Monsanto Co., respondents. Reported below: 127 U. S. App. D. C. 319, 383 F. 2d 514.

No. 819. *WEINBERG v. BOARD OF COMMISSIONERS OF THE ALABAMA STATE BAR ET AL.* Sup. Ct. Ala. Certiorari denied. *M. Roland Nachman, Jr.,* for respondents. Reported below: 281 Ala. 200, 201 So. 2d 38.

No. 821. *BELL ET UX. v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. *Robert J. Woolsey* for petitioners. *Solicitor General Griswold* for the United States. Reported below: 380 F. 2d 682.

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No. 810. *ROGERS v. OHIO*. Sup. Ct. Ohio. Certiorari denied. *Bernard Cohen* for petitioner.

No. 822. *JEMISON v. BROWN ET AL.* Sup. Ct. Ala. Certiorari denied. *Charles S. Conley* for petitioner. *W. McLean Pitts* for respondents. Reported below: 281 Ala. 281, 202 So. 2d 44.

No. 827. *FLORIDICE CO., INC., ET AL. v. WIRTZ, SECRETARY OF LABOR*. C. A. 5th Cir. Certiorari denied. *Charles W. Pittman* for petitioners. *Solicitor General Griswold* for respondent. Reported below: 381 F. 2d 613.

No. 829. *AETNA CASUALTY & SURETY CO. ET AL. v. OSBORNE-McMILLAN ELEVATOR CO., INC.* Sup. Ct. Wis. Certiorari denied. *Donald N. Clausen* for petitioners. *Peter Dorsey* and *William A. Whitlock* for respondent. Reported below: 35 Wis. 2d 517, 151 N. W. 2d 113.

No. 843. *RUTHERFORD ET AL. v. AMERICAN MEDICAL ASSOCIATION, INC., ET AL.* C. A. 7th Cir. Certiorari denied. *Frank O. Walther* for petitioners. *Don H. Reuben* and *Lawrence Gunnels* for respondents American Medical Association, Inc., et al., *James J. Costello* for respondents Board of Trustees of the University of Illinois et al., and *Solicitor General Griswold*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for respondent employees of the United States. Reported below: 379 F. 2d 641.

No. 837. *AIKEN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. *James J. Hanrahan* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 383 F. 2d 437.

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No. 828. BROTHMAN ET AL. *v.* MICHIGAN. Ct. App. Mich. Certiorari denied. *Ernest Goodman* and *Chester J. Antieau* for petitioners. *Thomas F. Shea* for respondent.

No. 838. SMOLEN *v.* CONNECTICUT. Sup. Ct. Conn. Certiorari denied. *Melvin L. Wulf* for petitioner. Reported below: See 4 Conn. Cir. 385, 232 A. 2d 339.

No. 847. MARCELLO ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 5th Cir. Certiorari denied. *Jack Wasserman* for petitioners. *Solicitor General Griswold*, *Assistant Attorney General Rogovin* and *Loring W. Post* for respondent. Reported below: 380 F. 2d 499.

No. 848. GAILLARD ET UX. *v.* FIELD, ADMINISTRATRIX. C. A. 10th Cir. Certiorari denied. *William Walter Hentz, Jr.*, for petitioners. *George L. Verity* for respondent. Reported below: 381 F. 2d 25.

No. 852. COX, ADMINISTRATRIX *v.* NORTHWEST AIRLINES, INC.; and

No. 853. NORTHWEST AIRLINES, INC. *v.* COX, ADMINISTRATRIX. C. A. 7th Cir. Certiorari denied. *James A. Dooley* for petitioner in No. 852 and for respondent in No. 853. *Owen Rall* for petitioner in No. 853 and for respondent in No. 852. Reported below: 379 F. 2d 893.

No. 854. FEINBERG *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Jay Leo Rothschild* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Vinson*, *Beatrice Rosenberg* and *Paul C. Summitt* for the United States. Reported below: 383 F. 2d 60.

No. 873. COSTA *v.* CONNECTICUT. Sup. Ct. Conn. Certiorari denied. *F. Lee Bailey* for petitioner. Reported below: 155 Conn. 304, 232 A. 2d 913.

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No. 865. *E. W. BUSCHMAN Co. v. NATIONAL LABOR RELATIONS BOARD*. C. A. 6th Cir. Certiorari denied. *Edward Statland* for petitioner. *Solicitor General Griswold, Arnold Ordman, Dominick L. Manoli and Norton J. Come* for respondent. Reported below: 380 F. 2d 255.

No. 870. *STATE FARM MUTUAL AUTOMOBILE INSURANCE CO. v. WALKER ET AL.* C. A. 7th Cir. Certiorari denied. *Frederick P. Bamberger* for petitioner. Reported below: 382 F. 2d 548.

No. 881. *SHUE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg and Kirby W. Patterson* for the United States. Reported below: 385 F. 2d 416.

No. 7. *PUROLATOR PRODUCTS, INC. v. FEDERAL TRADE COMMISSION*. C. A. 7th Cir. Motion to amend petition for writ of certiorari granted. Certiorari denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition. *Sumner S. Kittelle and Allan Trumbull* for petitioner. *James McI. Henderson and Charles C. Moore, Jr.*, for respondent. *Solicitor General Marshall and Assistant Attorney General Turner* for the United States, as *amicus curiae*. Reported below: 352 F. 2d 874.

No. 147. *K-91, INC. v. GERSHWIN PUBLISHING CORP. ET AL.* C. A. 9th Cir. Certiorari denied. MR. JUSTICE BLACK is of the opinion that certiorari should be granted. *Richard F. Wolfson* for petitioner. *Simon H. Rifkind and Jay H. Topkis* for respondents. *Solicitor General Griswold, Assistant Attorney General Turner and Howard E. Shapiro* for the United States, as *amicus curiae*, in opposition to the petition. Reported below: 372 F. 2d 1.

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MR. JUSTICE MARSHALL took no part in the consideration or decision of the petitions in the following cases (beginning with No. 155 on this page and extending through No. 883 on p. 1047):

No. 155. *BAGLEY v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. *Stanton E. Tefft* for petitioner. *Solicitor General Marshall, Assistant Attorney General Rogovin, Gilbert E. Andrews and Edward Lee Rogers* for the United States. Reported below: 374 F. 2d 204.

No. 387. *ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK INDIAN RESERVATION v. NORDWICK, EXECUTOR, ET AL.* C. A. 9th Cir. Certiorari denied. *Marvin J. Sonosky, Frederick Bernays Wiener and John M. Schiltz* for petitioners. *Otis L. Packwood* for respondents. *Solicitor General Griswold* filed a memorandum for the United States, by invitation of the Court, *ante*, p. 806. Reported below: 378 F. 2d 426.

No. 732. *BRAMLETT ET AL. v. LEBER, GOVERNOR OF THE CANAL ZONE AND PRESIDENT, PANAMA CANAL CO.* C. A. 5th Cir. Certiorari denied. *Thomas Morton Gittings, Jr.*, for petitioners. *Solicitor General Griswold, Assistant Attorney General Weisl, Alan S. Rosenthal and Richard S. Salzman* for respondent. Reported below: 383 F. 2d 110.

No. 737. *CITIZEN BAND OF POTAWATOMI INDIANS OF OKLAHOMA ET AL. v. UNITED STATES*. Ct. Cl. Certiorari denied. *Louis L. Rochmes* for petitioners. *Solicitor General Griswold, Acting Assistant Attorney General Williams, Roger P. Marquis and A. Donald Mileur* for the United States. Reported below: 179 Ct. Cl. 473.

No. 752. *ALABAMA, FOR AND IN BEHALF OF AND AS TRUSTEE FOR THE DEPARTMENT OF PENSIONS AND SECURITY OF ALABAMA, ET AL. v. GARDNER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*. C. A. 5th Cir. Certiorari denied. *MacDonald Gallion, Attorney General of Alabama, Gordon Madison, Assistant Attorney Gen-*

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eral, *Reid B. Barnes*, Special Assistant Attorney General, and *William G. Somerville, Jr.*, for petitioners. *Solicitor General Griswold*, Assistant Attorney General *Doar* and *David L. Rose* for respondent. Reported below: 385 F. 2d 804.

No. 812. TRANSOCEAN AIR LINES, INC., ET AL. v. UNITED STATES. C. A. 5th Cir. Certiorari denied. *Jeptha P. Marchant*, pro se, *Joseph A. Perkins*, pro se, and *John H. Gunn* for petitioners. *Solicitor General Griswold* for the United States. Reported below: 386 F. 2d 79.

No. 883. ATLANTIC COAST LINE RAILROAD CO. ET AL. v. BROTHERHOOD OF RAILROAD TRAINMEN. C. A. D. C. Cir. Certiorari denied. *Francis M. Shea*, *Richard T. Conway* and *James R. Wolfe* for petitioners. *Milton Kramer*, *Martin W. Fingerhut* and *John H. Haley, Jr.*, for respondent. Reported below: 127 U. S. App. D. C. 298, 383 F. 2d 225.

No. 756. WEGER v. CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. *A. L. Wirin*, *Fred Okrand* and *Laurence Sperber* for petitioner. Reported below: 251 Cal. App. 2d 584, 59 Cal. Rptr. 661.

No. 736. ZERINGUE ET AL. v. TEXAS & PACIFIC RAILWAY CO. ET AL. Sup. Ct. La. Motion to dispense with printing petition granted. Certiorari denied. *Albert Russell Roberts* for petitioners. Reported below: 250 La. 749, 199 So. 2d 183.

No. 807. SEAY v. UNITED STATES. C. A. 5th Cir. Motion to dispense with printing petition granted. Certiorari denied. *Albert Sidney Johnston, Jr.*, for petitioner. *Solicitor General Griswold*, Assistant Attorney General *Vinson*, *Beatrice Rosenberg* and *Julia P. Cooper* for the United States. Reported below: 380 F. 2d 358.

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MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted in the following cases (beginning with No. 594 and extending through No. 795 on this page):

No. 594. LEVIN *v.* MARYLAND. Ct. App. Md. Certiorari denied. *Frank B. Cahn II* and *Paul A. Dorf* for petitioner. *Francis B. Burch*, Attorney General of Maryland, and *Fred Oken*, Assistant Attorney General, for respondent.

No. 710. GREEN *v.* BOARD OF ELECTIONS OF THE CITY OF NEW YORK ET AL. C. A. 2d Cir. Certiorari denied. *Leonard B. Boudin*, *Victor Rabinowitz* and *David Rein* for petitioner. *Louis J. Lefkowitz*, Attorney General of New York, *pro se*, *Samuel A. Hirshowitz*, First Assistant Attorney General, and *Brenda Soloff*, Assistant Attorney General, for respondents. Reported below: 380 F. 2d 445.

No. 717. INMAN *v.* CITY OF MIAMI ET AL. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. *Tobias Simon* and *Alfred I. Hopkins* for petitioner. *S. R. Sterbenz* for respondent City of Miami. Reported below: 197 So. 2d 50.

No. 795. KAUFMAN *v.* ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. *Morton Liftin* for petitioner. *John G. Bonomi* and *Michael Franck* for respondent. Reported below: See 25 App. Div. 2d 48, 266 N. Y. S. 2d 958.

No. 776. NATIONAL COMMITTEE OF GIBRAN *v.* SHIYA. C. A. 2d Cir. Motion of Republic of Lebanon for leave to file a brief, as *amicus curiae*, granted. Certiorari denied. *William H. Dempsey* and *James F. Sams* for petitioner. *Joseph M. Cunningham* for respondent. *Lenox G. Cooper* and *Worth Rowley* for Republic of Lebanon, as *amicus curiae*, in support of the petition. Reported below: 381 F. 2d 602.

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No. 498. COLORADO RIVER WATER CONSERVATION DISTRICT ET AL. *v.* FOUR COUNTIES WATER USERS ASSOCIATION ET AL. Sup. Ct. Colo. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE FORTAS are of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Kenneth Balcomb, Edward Mulhall, Jr., and Robert L. McCarty* for petitioners. *Clarence L. Ireland* for Four Counties Water Users Association, and *J. Fred Schneider* for Matheson, respondents. *Solicitor General Griswold* filed a memorandum for the United States, by invitation of the Court, *ante*, p. 924. Reported below: — Colo. —, —, 425 P. 2d 259, 262.

No. 766. MILLER *v.* SHELL OIL Co. C. A. 10th Cir. Motion to strike respondent's brief in opposition denied. Certiorari denied. *William R. Federici* for respondent.

No. 851. PACIFIC SCIENTIFIC Co. *v.* AEROTEC INDUSTRIES OF CALIFORNIA ET AL. C. A. 9th Cir. Motion of Strategic Industries Association for leave to file a brief, as *amicus curiae*, granted. Certiorari denied. *Francis R. Kirkham, Francis N. Marshall* and *C. Russell Hale* for petitioner. *Casimir A. Miketta* for respondents. Reported below: 381 F. 2d 795.

No. 860. LEVY *v.* RESOR, SECRETARY OF THE ARMY, ET AL. C. A. 4th Cir. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition. *Charles Morgan, Jr., Anthony G. Amsterdam, Alan H. Levine* and *Melvin L. Wulf* for petitioner. *Solicitor General Griswold, Assistant Attorney General Vinson* and *Beatrice Rosenberg* for respondents. Reported below: 384 F. 2d 689.

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No. 788. *McCOLLOUGH v. TRAVELERS INSURANCE Co. ET AL.* C. A. 5th Cir. Motion of American Trial Lawyers Association, Admiralty Section, for leave to file a brief, as *amicus curiae*, granted. Certiorari denied. *Ward Stephenson* for petitioner. *Louis V. Nelson* for respondents. *Paul S. Edelman* for American Trial Lawyers Association, Admiralty Section, as *amicus curiae*, in support of the petition. Reported below: 382 F. 2d 344.

No. 102, Misc. *OCHOA v. CALIFORNIA.* Ct. App. Cal., 1st App. Dist. Certiorari denied. *Aidan R. Gough* for petitioner. *Thomas C. Lynch*, Attorney General of California, and *Robert R. Granucci* and *Michael Buzzell*, Deputy Attorneys General, for respondent.

No. 215, Misc. *PHILLIPS v. MISSISSIPPI.* Sup. Ct. Miss. Certiorari denied. *Joe T. Patterson*, Attorney General of Mississippi, and *Guy N. Rogers*, Assistant Attorney General, for respondent. Reported below: 197 So. 2d 241.

No. 220, Misc. *KILLMON v. OREGON.* Sup. Ct. Ore. Certiorari denied. *George Van Hoomissen* and *Jacob B. Tanzer* for respondent. Reported below: 246 Ore. 465, 425 P. 2d 746.

No. 267, Misc. *CANTRELL v. CALIFORNIA ADULT AUTHORITY ET AL.* Sup. Ct. Cal. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *Stanton Price*, Deputy Attorney General, for respondents.

No. 421, Misc. *PERALES ET AL. v. HOUSING AUTHORITY OF TULARE COUNTY.* Super. Ct. Cal., County of Tulare. Certiorari denied. *William M. Lewers* for petitioners.

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No. 791. *SOBELL v. UNITED STATES*. C. A. 2d Cir. Motion for leave to file copies of petitioner's Appendix in the Court of Appeals granted. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted. MR. JUSTICE WHITE and MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion and petition. *Marshall Perlin, William M. Kunstler, Arthur Kinoy, Benjamin O. Dreyfus and Vern Countryman* for petitioner. *Solicitor General Griswold, Assistant Attorney General Yeagley, Kevin T. Maroney and Robert L. Keuch* for the United States. Reported below: 378 F. 2d 674.

No. 877. *NICHOLSON v. CALBECK, DEPUTY COMMISSIONER, ET AL.* C. A. 5th Cir. Motion of American Trial Lawyers Association, Admiralty Section, for leave to file a brief, as *amicus curiae*, granted. Certiorari denied. *Arthur J. Mandell* for petitioner. *Solicitor General Griswold* for Calbeck, and *Carl G. Stearns* for Crown Stevedoring Co. et al., respondents. *Paul S. Edelman* for American Trial Lawyers Association, Admiralty Section, as *amicus curiae*, in support of the petition. Reported below: 385 F. 2d 221.

No. 309, Misc. *VASQUEZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg and Kirby W. Patterson* for the United States. Reported below: 378 F. 2d 61.

No. 589, Misc. *CUEVAS v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. *S. E. Gramer* for petitioner. *Thomas C. Lynch, Attorney General of California, William E. James, Assistant Attorney General, and Edward J. Horowitz, Deputy Attorney General*, for respondent. Reported below: 250 Cal. App. 2d 901, 59 Cal. Rptr. 6.

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No. 415, Misc. *CONSTAS v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *James H. Kline*, Deputy Attorney General, for respondent.

No. 432, Misc. *BARNES v. KENTUCKY*. Ct. App. Ky. Certiorari denied. *Robert Matthews*, Attorney General of Kentucky, and *John B. Browning*, Assistant Attorney General, for respondent.

No. 462, Misc. *GONZALES v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. *Gene Richie* for petitioner. *Crawford C. Martin*, Attorney General of Texas, *George M. Cowden*, First Assistant Attorney General, *R. L. Lattimore* and *Howard M. Fender*, Assistant Attorneys General, and *A. J. Carubbi, Jr.*, for respondent. Reported below: 414 S. W. 2d 181.

No. 487, Misc. *CROW v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, *Doris H. Maier*, Assistant Attorney General, and *Roger E. Venturi*, Deputy Attorney General, for respondent.

No. 491, Misc. *WHITE v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. *George B. Newitt* for petitioner. *Acting Solicitor General Spritzer*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States. Reported below: 382 F. 2d 445.

No. 617, Misc. *FITZSIMMONS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *John E. Archibold* for petitioner. *Solicitor General Griswold*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States.

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No. 453, Misc. PHILLIPS *v.* ALABAMA. Sup. Ct. Ala. Certiorari denied. *MacDonald Gallion*, Attorney General of Alabama, and *David W. Clark* and *Walter S. Turner*, Assistant Attorneys General, for respondent.

No. 514, Misc. GREER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States.

No. 597, Misc. MALRY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. *Acting Solicitor General Spritzer* for the United States.

No. 611, Misc. HOLMES *v.* KENTUCKY. Ct. App. Ky. Certiorari denied. *Robert Matthews*, Attorney General of Kentucky, and *David Murrell*, Assistant Attorney General, for respondent.

No. 620, Misc. EPPS *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Solicitor General Griswold* for the United States.

No. 625, Misc. LUSK *v.* UNITED STATES. Ct. Cl. Certiorari denied. *Acting Solicitor General Spritzer* for the United States.

No. 666, Misc. PERRY *v.* UNITED STATES;

No. 669, Misc. MCGUIRE *v.* UNITED STATES; and

No. 670, Misc. BLUMNER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Anthony F. Marra* for petitioner in No. 666, Misc., *Jerome J. Londin* for petitioner in No. 669, Misc., and *Eugene P. Souther* for petitioner in No. 670, Misc. *Solicitor General Griswold*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States in all three cases. Reported below: 381 F. 2d 306.

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No. 622, Misc. HACKWORTH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. *G. Wray Gill, Sr.*, for petitioner. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg and Jerome M. Feit* for the United States. Reported below: 380 F. 2d 19.

No. 681, Misc. WALDRON *v.* PATE, WARDEN. C. A. 7th Cir. Certiorari denied. *William G. Clark*, Attorney General of Illinois, and *John J. O'Toole and Robert F. Nix*, Assistant Attorneys General, for respondent. Reported below: 380 F. 2d 94.

No. 682, Misc. STUART ET UX. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Acting Solicitor General Spritzer* for the United States.

No. 686, Misc. IACAPONI *v.* NEW AMSTERDAM CASUALTY Co. C. A. 3d Cir. Certiorari denied. *Harry Alan Sherman* for petitioner. *David J. Armstrong* for respondent. Reported below: 379 F. 2d 311.

No. 691, Misc. MOSER ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 381 F. 2d 363.

No. 696, Misc. PILLIS *v.* PILLIS. C. A. 4th Cir. Certiorari denied.

No. 699, Misc. MELENDEZ *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 718, Misc. DAVIS *v.* NEW JERSEY. Sup. Ct. N. J. Certiorari denied. *Leo Kaplowitz* for respondent. Reported below: 50 N. J. 16, 231 A. 2d 793.

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No. 701, Misc. *AYERS v. CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 702, Misc. *ROGERS v. STANLEY, STATE HOSPITAL DIRECTOR*. C. A. 2d Cir. Certiorari denied.

No. 703, Misc. *MALBRUE v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 704, Misc. *JORDAN v. KAMP ET AL.* C. A. 9th Cir. Certiorari denied.

No. 715, Misc. *BROWN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. *John M. Hollis* for petitioner. *Solicitor General Griswold, Assistant Attorney General Vinson and Beatrice Rosenberg* for the United States. Reported below: 383 F. 2d 781.

No. 719, Misc. *GIULIANO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. *Thomas F. Champion* for petitioner. *Solicitor General Griswold, Assistant Attorney General Vinson and Philip R. Monahan* for the United States. Reported below: 383 F. 2d 30.

No. 720, Misc. *DISPENZA v. LAVALLEE, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 724, Misc. *SUMRALL ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. *Emmett Colvin, Jr.*, for petitioners. *Solicitor General Griswold, Assistant Attorney General Vinson, Beatrice Rosenberg and Robert G. Maysack* for the United States. Reported below: 382 F. 2d 651.

No. 725, Misc. *SWILLING v. SOUTH CAROLINA*. Sup. Ct. S. C. Certiorari denied. Reported below: 249 S. C. 541, 155 S. E. 2d 607.

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No. 721, Misc. *LANA v. FOLLETTE, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 726, Misc. *KOTKA v. MINNESOTA*. Sup. Ct. Minn. Certiorari denied. Reported below: 277 Minn. 331, 152 N. W. 2d 445.

No. 729, Misc. *BOGART v. CALIFORNIA ET AL.* Ct. App. Cal., 2d App. Dist. Certiorari denied. *Peter D. Bogart* for petitioner.

No. 732, Misc. *MESA v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied. Reported below: 251 Cal. App. 2d 575, 59 Cal. Rptr. 607.

No. 733, Misc. *ALBINI v. MANCUSI, WARDEN*. C. A. 2d Cir. Certiorari denied.

No. 734, Misc. *PRATHER v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 1 Md. App. 478, 231 A. 2d 726.

No. 735, Misc. *SWITZER v. OLIVER, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 736, Misc. *TURNER v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. *Frank S. Hogan* for respondent.

No. 739, Misc. *LITTLE v. SWENSON, WARDEN*. Sup. Ct. Mo. Certiorari denied.

No. 748, Misc. *ASHBY v. HAUGH, WARDEN*. Sup. Ct. Iowa. Certiorari denied. *Luther L. Hill, Jr.*, for petitioner. *Richard C. Turner*, Attorney General of Iowa, and *David A. Elderkin* and *William A. Claerhout*, Assistant Attorneys General, for respondent. Reported below: — Iowa —, 152 N. W. 2d 228.

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No. 743, Misc. SMITH *v.* MAXWELL, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 750, Misc. MAXWELL ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. *Leon B. Polsky* and *Harry C. Batchelder, Jr.*, for petitioners. Reported below: 383 F. 2d 437.

No. 752, Misc. MICHAEL *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist. Certiorari denied. *Thomas C. Lynch*, Attorney General of California, *William E. James*, Assistant Attorney General, and *Thomas Kerrigan* and *Robert P. Samoian*, Deputy Attorneys General, for respondent.

No. 755, Misc. LUCAS *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 763, Misc. HURLEY *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. *Solicitor General Griswold*, *Assistant Attorney General Vinson* and *Beatrice Rosenberg* for the United States.

No. 774, Misc. McDANIEL *v.* THYER MANUFACTURING CORP. ET AL. Sup. Ct. Miss. Certiorari denied. *Dixon L. Pyles* for petitioner. *John F. Bodle* and *Bruce C. Aultman* for respondents. Reported below: 200 So. 2d 447.

No. 789, Misc. WARNER ET UX. *v.* UNITED STATES. C. C. P. A. Certiorari denied. *Solicitor General Griswold* for the United States. Reported below: 54 C. C. P. A. (Pat.) 1628, 379 F. 2d 1011.

No. 802, Misc. STEINPREIS ET UX. *v.* SHOOK ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 377 F. 2d 282.

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No. 760, Misc. CROOK *v.* CRAVEN, WARDEN, ET AL. Sup. Ct. Cal. Certiorari denied.

No. 761, Misc. WILLIAMS *v.* CALIFORNIA. C. A. 9th Cir. Certiorari denied.

No. 248, Misc. MURRAY *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. *Earl Faircloth*, Attorney General of Florida, and *Wallace E. Allbritton*, Assistant Attorney General, for respondent.

MR. JUSTICE DOUGLAS, dissenting.

For the reasons stated in my dissenting opinion in *Whitney v. Florida*, *ante*, p. 138, and particularly in light of the increasing burden on federal courts caused by habeas corpus petitions of state prisoners who are unable to obtain hearings in state courts, I would grant the writ of certiorari and remand the case to Florida with directions to give petitioner an evidentiary hearing.

No. 434, Misc. JACOBS *v.* BROUGH, WARDEN. C. A. 4th Cir. Certiorari denied. MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS are of the opinion that certiorari should be granted. *William W. Greenhalgh* for petitioner. *Francis B. Burch*, Attorney General of Maryland, and *Edward F. Borgerding*, Assistant Attorney General, for respondent. Reported below: 375 F. 2d 606.

No. 468, Misc. VANDERHORST *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. THE CHIEF JUSTICE and MR. JUSTICE BLACK are of the opinion that certiorari should be granted. *Leon B. Polsky* for petitioner. *Isidore Dollinger* and *Daniel J. Sullivan* for respondent.

No. 705, Misc. WILLIAMS *v.* IOWA. Sup. Ct. Iowa. Certiorari denied. MR. JUSTICE DOUGLAS is of the opinion that certiorari should be granted.

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*Rehearing Denied.*

No. 1217, October Term, 1966. INTERNATIONAL RAILWAYS OF CENTRAL AMERICA *v.* UNITED FRUIT CO., 387 U. S. 921. Motion for leave to file petition for rehearing denied. MR. JUSTICE STEWART and MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

No. 1324, Misc., October Term, 1966. OPPENHEIM ET AL. *v.* STERLING ET AL., 386 U. S. 1011, 388 U. S. 925. Motion for leave to file second petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

No. 9, Orig. UNITED STATES *v.* LOUISIANA ET AL., *ante*, p. 155. Petition for rehearing denied. THE CHIEF JUSTICE and MR. JUSTICE MARSHALL took no part in the consideration or decision of this petition.

No. 344. MENSIK ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE, *ante*, p. 912;

No. 441. WALLACE *v.* BRENNER, COMMISSIONER OF PATENTS, *ante*, p. 898;

No. 590. GRAY *v.* PORTER, *ante*, p. 972;

No. 674. THOMAS ET AL. *v.* CONSOLIDATION COAL CO. (POCAHONTAS FUEL CO. DIVISION) ET AL., *ante*, p. 1004;

No. 58, Misc. VELA *v.* BETO, CORRECTIONS DIRECTOR, *ante*, p. 1025;

No. 124, Misc. WHITE *v.* FLORIDA, *ante*, p. 996;

No. 199, Misc. DESIMONE *v.* UNITED STATES, *ante*, p. 960;

No. 408, Misc. STEPPE *v.* FLORIDA, *ante*, p. 966; and

No. 474, Misc. ADAMS *v.* CAMERON, HOSPITAL SUPERINTENDENT, *ante*, p. 993. Petitions for rehearing denied.

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No. 503, Misc. *NIELSEN v. NEBRASKA EX REL. NEBRASKA STATE BAR ASSOCIATION*, *ante*, p. 154;

No. 516, Misc. *HENRY v. GARDNER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE*, *ante*, p. 993;

No. 552, Misc. *FAIR v. DEKLE, SUPERVISOR OF ELECTIONS*, *ante*, p. 994;

No. 555, Misc. *NOLAND v. UNITED STATES*, *ante*, p. 945;

No. 613, Misc. *HOLLAND v. PENNSYLVANIA*, *ante*, p. 994;

No. 630, Misc. *SIMPSON v. UNITED STATES*, *ante*, p. 1008;

No. 660, Misc. *FEIST v. CALIFORNIA ET AL.*, *ante*, p. 1009; and

No. 688, Misc. *GARZA v. CALIFORNIA*, *ante*, p. 1024. Petitions for rehearing denied.

No. 194. *LOCAL UNION No. 12, UNITED RUBBER, CORK, LINOLEUM & PLASTIC WORKERS OF AMERICA, AFL-CIO v. NATIONAL LABOR RELATIONS BOARD ET AL.*, *ante*, p. 837; and

No. 659. *EAGAR ET AL. v. MAGMA COPPER Co.*, *ante*, p. 323. Petitions for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of these petitions.

No. 523. *HACKIN v. ARIZONA ET AL.*, *ante*, p. 143. Motion to dispense with printing petition for rehearing granted. Petition for rehearing denied.

No. 614. *R. A. HOLMAN & Co., INC., ET AL. v. SECURITIES AND EXCHANGE COMMISSION*, *ante*, p. 991. Petition for rehearing denied. MR. JUSTICE FORTAS took no part in the consideration or decision of this petition.

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No. 244, Misc. *PETTETT v. UNITED STATES*, *ante*, p. 917. Motion for leave to file petition for rehearing denied. MR. JUSTICE MARSHALL took no part in the consideration or decision of this motion.

No. 266, Misc. *NELSON v. OREGON*, *ante*, p. 964; and  
No. 303, Misc. *ABEL v. BETO, CORRECTIONS DIRECTOR*,  
*ante*, p. 872. Motions for leave to file petitions for  
rehearing denied.

